



NOW, THEREFORE, Declarant hereby declares that the real property described in Exhibit "A" hereof, is and shall be held, transferred, sold, conveyed and occupied, and used subject to the covenants, restrictions, conditions, easements, agreements, charges and liens (sometimes hereinafter referred to as the "covenants and restrictions"), hereinafter set forth. Every grantee of any interest in any lots in the subdivision now made subject to this Declaration, by acceptance of a deed or other conveyance of such interest, whether or not it shall be expressed in any such deed or other conveyance, whether or not such deed or other conveyance shall be signed by such person or whether or not such person shall otherwise consent in writing, shall take subject to this Declaration and all of the terms and conditions hereof, and shall be deemed to have consent to all of said terms and conditions.

## ARTICLE I

### Definitions

Section 1.1 "Association" shall mean and refer to Rollingwood Property, Inc., a South Carolina not for profit corporation, its successors and assigns.

Section 1.2 "Common Area" shall mean all real property to be owned by the Association for the common use and enjoyment of all members or designated classes of members of the Association and including, but not limited to, all greenways, median strips, planted areas, easements and recreational amenities. The Common Area intended to be conveyed to the Association by Declarant by separate deed consist of a parcel or parcels of property more particularly described in Exhibit "B" attached hereto and made a part hereof.

Section 1.3 "Declarant" shall mean and refer to Peoples Trust Company, a South Carolina corporation and those of its successors and assigns, if any, to whom the rights of Declarant hereunder are expressly or by necessary implication, transferred hereinafter, in whole or in part, and subject to such terms and conditions as Declarant may impose.

Section 1.4 "Lot" shall mean and refer to any parcel of land shown upon any recorded subdivision map of the Subdivision with the exception of any and all Common Area or Areas.

Section 1.5 "Lot in Use" shall mean and refer to any Lot which has been conveyed to an owner other than Declarant.

Section 1.6 "Member" shall mean and refer to every person or entity who hold membership in the Association.

Section 1.7 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple

title to any lot, including contract sellers, but excluding contract buyers and those having an interest merely as security for the performance of an obligation.

Section 1.8 "Recreational Amenities" shall mean the facilities constructed, erected, maintained, installed and operated on the Common Area for the use, benefit and enjoyment of members.

## ARTICLE II

### Property Subject to this Declaration and Within the Jurisdiction of the Association

Section 2.1 Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, and within the jurisdiction of the Association, is located in York County, South Carolina, and is more particularly described in Exhibit "A" attached hereto and made a part hereof.

Section 2.2 Additional Property. Declarant may construct additional phases of the Subdivision and upon filing an amendment to this Declaration, the property in such phases shall become a part of the Subdivision to the same extent as having been developed at the same time as a part thereof.

## ARTICLE III

### Membership and Voting Rights

Section 3.1 Every owner (whether one or more), of a Lot shall be a single Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to the assessment. The directors of the Association may make reasonable rules relating to the proof of any Lot.

Section 3.2 The Association shall have two classes of voting membership:

- (a) Class A: Class A member shall be all Owners with the exception of the Class B and shall be entitled to one (1) vote for each Lot owned. When more than one person is an "Owner" of any Lot, all such persons shall be members, but, collectively, shall have only one vote. 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 one Lot. Fractional voting will not be allowed.

- (b) Class B: The Class B Member shall be the Declarant. Declarant shall be entitled to five (5) votes for each Lot in which it holds a fee or undivided fee interest. Except as stated in (c) below, upon the conveyance of a Lot from Declarant to an Owner other than Declarant, the membership classification for the Lot shall automatically be converted from Class B to Class A. Class B membership status for all lots owned by Declarant shall cease and be converted on such date as Declarant shall elect to abolish Class B membership by delivery to the Association written notice to such effect.

Section 3.3 The right of a Member to vote may be suspended by the Board of Directors of the Association for just cause pursuant to its rules and regulations and according to the provisions of Section 4.1(e) of this Declaration.

#### ARTICLE IV

##### Property Rights

Section 4.1 Member's Easement of Enjoyment. Every Member shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to such Member's Lot, subject to the following provision:

- (a) The right of the Association to charge reasonable admission, membership or other fees for the use of any Recreational Amenity situated upon the Common Area;
- (b) The right of the Association, in accordance with its articles and bylaws, to borrow money for the purpose of improving the Common Area and Recreational Amenities and in connection therewith to mortgage the Common Area or any portion thereof; provided, however, if the Common Area is mortgaged while the Class B membership is in existence, the execution and delivery of such mortgage shall require the same approval of the Members as is required for special assessments for capital improvements as set forth in Section 5.4 of this Declaration;
- (c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes 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 each class of members of the Association agreeing to such dedication or

transfer has been recorded; provided, however, that a simple majority of the Board of Directors may authorize and execute customary utility, CATV or other such easements;

- (d) The right of the Association to formulate, publish and enforce reasonable rules and regulations for the use of the Common Area and Recreational Amenities;
- (e) The right of the Association to suspend the voting rights and right to use the Common Area and Recreational Amenities of a Member (or any person to whom a Member has delegated his right of enjoyment) for any period during which any assessment against such Member's Lot remains unpaid; and for a period not exceed thirty (30) days for any infraction of the Association's published rules and regulations.

Section 4.2 Delegation of Use.

- (a) Any Member may delegate to members of his family, tenants or contract purchasers who reside at such Members's Lot, in accordance with the By-Laws of the Association, such Member's right to use the Common Area.
- (b) Recreational Amenities situated upon the Properties may be utilized by family members, guests, tenants or contract purchasers of a Member subject to the rules and regulations established by the Board of Directors of the Association governing their use.

Section 4.3 Title to the Common Area. The Association shall hold fee simple title to such tracts of land as may be deeded to it by Declarant as Common Area. Declarant does not hereby commit to the conveyance of the Common Area other than that generally described in Section 1.2 hereof.

ARTICLE V

Covenant for Assessments

Section 5.1 Creation of the Lien and Person Obligations of Assessments.

- (a) Notwithstanding any provision or inference in this Declaration to the contrary, a Lot shall not be subject to any annual or special assessments until fee simple title to the Common Area generally described in Section 1.2 hereof has been conveyed to the Association by Declarant and such Lot becomes a Lot in Use.

- (b) Declarant, for each Lot in Use owned within the subdivision, hereby imposes upon each owner of each Lot in Use, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, is 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 on Lots in Use together with such interest thereon and costs of collection thereof, as hereinafter provided, including, without limitation, reasonable attorney's fees, shall be a charge and continuing lien on real property and improvements thereon against which each such assessment is made and shall be the personal obligation of the person who was the owner of such property at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to successors-in-title unless expressly assumed by them.
- (c) Notwithstanding the foregoing, the Declarant may, at its election, postpone, in whole or in part, the date on which assessments shall commence provided that the Declarant maintains the Common Area for which no assessment is being collected during the period of such postponement.

Section 5.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the beautification of the Property, the recreation, health, safety and welfare of residents of the Property, the enforcement of these covenants and restrictions, and the rules of the Association, and for the improvement and enhancement of the Property and providing the services and facilities devoted to this purpose and relating to the maintenance, expenses of operation (including insurance and ad valorem taxes) use and enjoyment of the Common Area provided, however, that nothing herein shall mean that assessments may not be used for the beautification of areas within other areas of the subdivision but which are not a part of the Common Area, such as entrance signs, access easements crossing private property, median strips in public streets, or the interior of cul-de-sacs.

Section 5.3 Maximum Annual Assessments.

- (a) Until January 1, 2000 the maximum annual assessment shall not be in excess of One Hundred Dollars (\$100.00) Dollars, per Lot in Use, except as otherwise provided herein, the exact amount of which shall be determined from time to time, as provided in subsection (d) of this Section 5.3

- (b) From and after January 1, 2000 and each year thereafter, the maximum annual assessment for each Lot in Use may be increased by the Board of Directors of the Association without a vote of the membership, by a percentage which may not exceed the greater of five percent (5%) per annum, or the percentage increase of the level of the consumer Price Index for Urban Wage Earners published by the Bureau of Labor Statistics of the United States Department of Labor (or similar standards) over the preceding calendar year. Such percentage increase shall be determined by comparing the index level for December of the year immediately preceding the year of adjustment with the Index level for the previous December.
- (c) From and after January 1, 2000 the maximum annual assessment may be increased by any amount approved by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for such purpose in accordance with Section 5.5.
- (d) After consideration of the current expenses and future needs of the Association, the Board of Directors shall fix the annual assessments at any amount not in excess of the maximum as determined pursuant to the previous subsections of this Section 5.3.

Section 5.4 Special Assessments for Capital Improvements. 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 new construction, reconstruction or described capital improvements or unexpected repair or replacement of described capital improvements upon the Common Area, including the necessary fixtures and personal property related thereto; provided that any such assessments shall be adopted by a two-thirds (2/3) affirmative vote of each class of Members voting in person or by proxy at a meeting duly called for such purpose in accordance with Section 5.5.

Section 5.5 Notice and Quorum for Any Action Authorized Under Section 5.3 and 5.4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 5.3 and 5.4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At any such meeting called, the presence of members or proxies entitled to cast one-half (1/2) of all votes of each class of membership shall constitute a quorum.

Section 5.6 Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots

in Use. Annual Assessments shall be collected on a semi-annual basis in advance, and shall be paid to any collection agent as may be appointed by the Board of Directors of the Association. Special assessments shall be collected as determined by the Board of Directors.

Section 5.7 Date of Commencement of Annual- Assessments; Due Date. The annual assessments provided for hereinafter shall be fixed on a calendar year basis and shall be due and payable semi-annually in advance beginning on such date as may be determined by the Board of Directors. Payment of the assessment shall be past due on the tenth (10th) day after the due date of each semi-annual installment. The Board of Directors of the Association shall fix the amount of the annual assessment of each Lot in Use at least thirty (30) days prior to the beginning of the year for which the assessment is applicable. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due date of any special assessment under Section 5.3 hereof shall be fixed in the resolution authorizing such assessment. 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 in Use have been paid.

Section 5.8 Effect of Nonpayment of Assessment; Remedies of the Association. Any assessment not paid within ten (10) days after the due date shall bear interest from the due date at the maximum of eighteen (18) percent per annum, or any successor statute governing contract interest rates generally. The association may bring personally an action at law against the Owner personally obligated to pay the assessment or foreclose the lien granted to it hereunder and charge the costs of collection, including attorney's fees, to the Owner. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot. For purpose of this Section, the amount of delinquent assessments plus accrued interest and collection costs shall be considered evidenced by this paragraph, and this Declaration shall be considered an evidence of indebtedness.

Section 5.9 Subordination of Lien to Mortgages. The lien of the assessments provided for herein shall automatically be subordinate to the lien of any first mortgage. The 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 proceeding in lien thereof shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer; provided, however, that the Association must be made a party to the mortgage foreclosure or other proceedings in lieu thereof, in order to claim this benefit. No sale or transfer shall release such Lot from



liability for any assessments thereafter coming due or from the lien thereof.

## ARTICLE VI

### Architectural Control.

#### Section 6.1 General Requirements

(a) No improvements or structure of any kind (including, but not limited to, dwellings, buildings, pools, decks, porches, garages, fences, walls, mail boxes, outbuildings, or other accessory structures) shall be commenced, erected or Contained upon the Property, nor shall any addition to any existing structure or a change or alteration therein be permitted, until complete site plans and specifications therefor showing the nature, kind, shape, height, materials, basic exterior finishes and colors, location of floor plan therefore, and showing front, side and rear elevations have been submitted in duplicate to and approved by the Architectural Control Committee of the Association described In Section 6.6 below as to the harmony of exterior design and general. quality standards of the area and the community generally, and as to location In relation to surrounding structures and topography. Also the Committee may, in its discretion require appropriate landscaping plans and specifications.

(b) In order to assure that location of houses will be staggered where practical. and appropriate, the structure will be located with regard to the ecological constraints and topography of each individual Lot, taking into consideration topography, location of large trees and similar considerations. The Association, through the Architectural Control Committee, reserves the right to control absolutely and solely to decide the precise site and location of any house or dwelling or other structure upon all Lots; provided, however, that such location shall be determined only after reasonable opportunity is afforded the Lot Owner to recommend a specific site. Furthermore, the Architectural Control Committee shall have the right to review and standardize any exterior, architectural or accessory feature and all landscaping plans.

Section 6.2 Review Procedures. If the Architectural Control Committee fails to approve or disapprove plans or specifications submitted to It within fifteen (15) days after receipt of written notice delivering such plans and specifications to it together with a request for approval, the Association shall be conclusively deemed to have approved said plans and specifications. Refusal or approval of plans, specifications,

builder or location may be based upon any grounds, including purely aesthetic considerations which in the sole discretion of the Architectural Control Committee shall be deemed sufficient. The approval of the Architectural Control Committee shall in no event constitute or be construed as all approval or warranty by the Association of the stability, design or quality of any improvement.

Section 6.3 Builder Qualifications. Any builder performing any work in the subdivision must be approved by the Architectural Control Committee as to financial stability, building experience, and ability to build structures of a class and type of those which are to be built on the Property.

Section 6.4 Completion of Improvements. Exterior portions of all houses and other structures and site work and landscaping must be completed within one (1) year after the construction of same has commenced, except where completion is impossible or would result in great hardship to the Owner of builder due to strikes, fires, national emergencies, Acts of God, natural calamities other catastrophic circumstances beyond the control of the Owner or builder.

Section 6.5 Remedies of Association. In the event any Owner violates the terms of this Article VI, the Association or its duly appointed agents shall, after thirty (30) days written notice to the last known address of the Owner to cure such violation, and the failure of Owner to so cure, be entitled to enter upon the property of the owner and cure such defect, including removal of any structure built in violation thereon, all at the cost and expense of the Owner, including reasonable attorneys fees, if necessary. This right of the Association or its duly authorized agents shall be in addition to all other general enforcement rights which the Association may have for a breach or violation of the terms of the covenants and restrictions, and shall not be deemed a trespass by the Association or its agents.

Section 6.6 Composition of Architectural Control Committee. So long as Declarant or any entity with which Declarant is associated (an associated entity to be only one with respect to which the deed conveying ownership of any portion of the Properties makes specific reference to such Association by language reading substantially as follows: "For purposes of Section 6.6 of the Declaration of Covenants, Conditions and Restrictions to which the above property is subject, this conveyance is to be all entity with which Declarant is associated as defined in such Section", owns any portion of the Subdivision, Declarant shall have the right to appoint the Architectural Control Committee which shall be composed of three persons designated by Declarant. At such time as Declarant or any associated entity shall no longer own any interest in the

Subdivision, the Architectural Control Committee shall be appointed by the Board of Directors of the Association in accordance with the Bylaws of the Association.

Section 6.7 Death, Disability or Resignation of Member. In case of death, disability or resignation of one or more members of the Committee, a successor or successors may be appointed by the same authority responsible for initial appointments. Unless otherwise stated, the term of all appointments will be indefinite.

Section 6.8 Removal of Members. Any or all members of the Committee may be removed, with or without cause, by the same authority responsible for Initial appointments. Such removals will be evidenced by a written instrument, signed by the proper authority, stating when the removal is to be effective, and delivered to the Chairman of the Committee.

## ARTICLE VII

### General Residential Covenants

Section 7.1 Land Use and Building Type. Lots in the tract shall be known and described as residential lots. No improvements or structures shall be erected, altered, placed or permitted to remain on any parcel of property (whether composed of one or more Lots or parts of Lots) other than one detached single family dwelling, not to exceed two and one-half (2-1/2) stories in height (or two (2) stories and a basement), and a private carport for not more than three (3) cars and other outbuildings incidental to residential use of the parcel.

Section 7.2 Lot Area and Dwelling Size.

- (a) No residential structure shall be erected or placed on any parcel of property (whether composed of one or more Lots or parts of Lots) having all area of less than nine thousand (9,000) square feet.
- (b) No single family dwelling having heated square footage of less than one thousand six hundred (1,600), square feet (exclusive of unfinished basements, attached garages and/or storage areas) shall be erected on any parcel of property designated as a part of the Subdivision. As a part of its plan review process, the Architectural Control Committee reserves the right to determine the manner in which the square footage is to be proportioned, with specific attention given to the allocation of space to each living level, and to require exterior elevation appearance to be in conjunction with the entire streetscape, as determined in the sole discretion of the Committee.

Section 7.3 Building Setback, Waivers.

- (a) Except as provided In (b) below, no structures shall be erected on any Lot nearer to any street line than twenty-five (25) feet as shown on the recorded maps, nor shall any building be erected on any easement described within this Declaration or shown upon the recorded maps. No structure, including a residence, shall be located nearer than six (6) feet to any side Lot line. For purposes of this paragraph, eaves, steps and uncovered porches or terraces shall not constitute part of a structure; provided, however, this exception shall not be construed to permit encroachment upon all easement shown on a recorded map or described within this Declaration. The foregoing shall not be construed to prevent the construction of driveways and sidewalks up to any side lot line or over easements shown on a recorded map.
- (b) Declarant reserves the right, by written agreement by waiver, to waive any setback requirement of twenty (20%) percent or less.

Section 7.4 Nuisances. No noxious or offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereon which may be or become all annoyance or nuisance to the neighborhood. No animals, livestock, or poultry of any kind shall be kept or maintained oil any Lot or In any dwelling except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes. The number of household pets generally considered to be outdoor pets such as dogs, cats, et cetera, shall not exceed three (3) in number except for newborn offspring of such household pets which are under nine (9) months in age.

Section 7.5 Fences, Walls and Hedges. No fence, wall, obstruction shall be erected or hedge, mass planting or similar obstructions placed in that portion of any Lot lying to the front of the residence oil such Lot nor shall any fence, wall, hedge, mass planting or similar obstruction exceeding eight (8) feet in height be erected or placed In that portion of any Lot lying to the rear of the front of the residence on such Lot; provided however, the Architectural Control. Committee shall have the authority to approve variances from the above requirements. Chain link or other metal fencing is not permitted, except that 2" X 4" mesh may be used with split rail fencing to contain animals within the yard. Perimeter fencing shall not have more than fifty (50) percent of any of its surface closed as viewed from a point on a line of sight perpendicular to the line formed by the line of the fence. A wall constructed of brick or stone masonry and used in lieu of a fence is exempt from the openness test. Fencing of a more solid or privacy nature may be used

immediately around patios, wood decks, or pools as privacy screens; provided, however, the design and appearance of such fencing is specifically subject to review by the Architectural Control Committee as set forth in Article VI hereof prior to the commencement of construction.

Section 7.6 Temporary Structures and Offstreet Parking. No residence of a temporary nature shall be erected or allowed to remain on any Lot, and no trailer, basement, shack, tent, garage, barn or any other building of a similar nature shall be used as a residence on any Lot, either temporarily or permanently. For purposes of this Section 7.7, the term "trailer" shall specifically include, without limitation, a "manufactured home" as defined in Sec. 31-17-20(a), Code of Laws of South Carolina, 1976, as amended, and any other structure substantially constructed or prefabricated. Mobile house trailers, on or off wheels, vehicles or enclosed bodies of the type which may be placed on or attached to a vehicle, known generally as "campers" or "motorhomes", commercial vehicles of any kind operated by a member of the household occupying the dwelling on the Lot and any boats and boat trailers shall not be parked on the street or within the front or side street setback lines. With the prior written consent of Declarant, builders may maintain temporary construction offices on Lots.

Section 7.7 Metal Carports, Buildings, Accessory Structures, Above-Ground Pools. No metal carport or metal garage shall be erected on any Lot or attached to any residence building located on the Lot. No metal building, metal accessory structure or above-ground pool of any kind shall be placed on any Lot.

Section 7.8 Signs. No sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than one (1) square foot, one sign of not more than six (6) square feet advertising the Property for sale or rent or signs used by Declarant or a Builder approved by the Association to advertise the property during the construction and sales period.

Section 7.9 Antennas and Satellite Dishes or Discs. No radio or television transmission or reception towers, antennas, or discs shall be erected on a Lot other than a conventional television antenna which shall not extend ten (10) feet above top roof line ridge of the house. In no event shall free standing transmission or receiving towers or discs or dishes be permitted; except that a satellite disc or dish, twenty-four (24) inches, or less in diameter, mounted on the rear portion of the home, will be permitted.

Section 7.10 Maintenance of Lot. Each owner shall keep his Lot in an orderly condition and shall keep the improvements thereon in a suitable state of repair, promptly repairing any damage thereto by fire or other casualty. No clothesline may be erected or maintained on any Lot other than a temporary clothesline

located directly behind the residence. No Lot shall be used in whole or in part for storage of rubbish of any character whatsoever and no trash, rubbish, stored materials, wrecked or inoperable vehicles or similar unsightly items shall be allowed to remain on any Lot outside an enclosed structure; provided, however, that the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish and other debris for collection by governmental or other similar garbage and trash removal units.

Section 7.11 Architectural Shingles. All homes constructed in the Subdivision shall have the roof coverings to consist of Architectural Shingles.

## ARTICLE VIII

### Easements

Section 8.1 Easements for installation and maintenance of driveway, walkway, parking area, water line, gas line, telephone electric power line, sanitary sewer, and storm drainage facilities, cablevision (CATV) service, and for other utility installations are reserved as shown on the applicable recorded maps of the Subdivision. in addition, except as provided below, such easements are reserved over the rear ten (10) feet and each side five (5) feet of each Lot. The Association may reserve and grant easements for the installation and maintenance of sewerage, utility and drainage facilities over the Common Area as provided in Section 4.1. of this Declaration within such easements above provided for no structures, planting or other materials shall be placed or permitted to remain which may interfere with the installation of sewerage or disposal facilities and utilities which may change the direction or flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements on it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

Section 8.2 Reservation of Right to Create Additional Easements. Declarant reserves the right to create and impose additional easements and rights-of-way over any Lot that has not been previously conveyed away. Such recording shall be in addition to, and not in lieu of, any easements hereto reserved in this Declaration.

## ARTICLE IX

### General Provisions

Section 9.1 Enforcement. Declarant, the Association, and 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 Declarant, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Enforcement shall be by proceedings at law or in equity against any person or persons, firm or firms, or entity or entities violating or attempting to violate any covenant and to restrain violation or to recover damages, or both. In the event a proceeding commenced by any party entitled to enforce the covenants is concluded in favor of such party, that party shall be entitled to recover from the defendant or defendants in such proceeding that party's reasonable attorney's fees incurred by the prevailing party in prosecuting such proceeding, as well as all damages, costs, expenses and disbursements.

Section 9.2 Severability. Invalidation of any of these covenants or restrictions by judgment or court order shall in no way affect: any other provisions, which shall remain in full force and effect.

Section 9.3 Term. The covenants and restrictions of this Declaration shall run with the land and shall be binding upon all parties and shall inure to the benefit of Declarant, the Association and the owner of any Lot subject to this Declaration, their legal representatives, heirs, successors and assigns, and all person claiming under them for a period of twenty-five (25) years from the date these covenants are filed for registration, after which time they shall be automatically extended for successive periods of ten (10) years unless they are amended or terminated in accordance with the provisions of Section 9.4.

Section 9.4 Amendment. The covenants, conditions and restrictions of this Declaration may be amended or terminated during the initial twenty-five (25) year term by an instrument signed by the owners of not less than ninety (90) percent of the Lots subject to this Declaration at the time of such amendment, and after such twenty-five (25) year term by an instrument signed by owners of not less than seventy-five (75) percent of such Lots; provided, however, that the Board of Directors of the Association may amend this Declaration to correct any obvious error or inconsistency in drafting, typing or reproduction without action or consent of the Owners, and such amendment shall be certified as an official act of the Board and recorded in the Office of the Clerk of Court for York County. As used herein, the word "Owner" shall have the general meaning attributed to it by Article 1, Section 1.7 and, in addition, shall be interpreted so as to exclude the following: life tenants; mechanic's lien claimants; non-title spouses; judgment creditors; tax creditors; mortgagees; any and all general or special creditors; holders of highway, road or alley easements, or other types of ingress and egress easements; holders of utilities (electric telephone, water, sewer, gas, etc.) or other types of easements; contract buyers; and lessees or sublessees.

Section 9.5 Procedure for Certification and Recording of Amendment. Any instrument amending these covenants, conditions and restriction other than amendment by the board to correct an error or inconsistency in drafting, typing or reproduction shall be delivered following execution by the owners the Board of Directors of the Association. Thereupon, the Board of Directors shall, within thirty (30) days after delivery, do the following:

- (a) Reasonably assure itself that the amendment has been executed by the Owners of the required number of Lots as provided in Section 9.4. (For this purpose, the Board of Directors may rely on its roster of members and shall not be required to cause any title to any Lot to be examined);
- (b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed.
- (a) Immediately and within the thirty (30) day period aforesaid, cause the amendment to be recorded in the office of The Clerk of Court of York County.

Any and all amendments shall be binding on all persons having actual notice thereof, from the date of such actual notice. As to all other persons, such amendments shall be binding from the date of recordation in York County Public Registry. In addition to any and all indexing required or deemed appropriate by the Register, such amendment should also be indexed in the name of the Declarant, in the Grantor Index.

Section 9.6 Amendment of Declaration Without Approval of Owners. Notwithstanding the provisions of Section 9.4, the Declarant, without the consent or approval of any other Owner, shall have the right to amend this Declaration to conform to the requirements of any law or governmental agency having legal jurisdiction over the Subdivision or to qualify the Subdivision or any Lots or improvements therein for mortgage or improvement loans made by, guaranteed by, sponsored by, or insured by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of the United States government or the State of South Carolina, regarding purchase and sale of such Lots and improvements, or mortgage interest therein, as well as any other law or regulation relating to control of the Properties, including, without limitations, ecological controls, construction standards, aesthetics and matters affecting the public health, safety and general welfare. A letter from an official of such corporation or agency including, without limitation, the Veteran's Administration (VA), U.S. Department of Housing and Urban Development (HUD), the Federal Home Loan Mortgage Corporation, Government National Mortgage Corporation or Federal National Mortgage Corporation,



requiring amendment as condition of approval or suggesting an amendment, shall be sufficient evidence of the approval of such amendment of VA, HUD, and/or such corporation or agency. No amendment made pursuant to this section shall be effective until duly recorded in the office of the Clerk of Court of York County.

Section 9.7 Right of Declarant or Association to Amend to Achieve Tax-Exempt Status. The Declarant, for so long as it shall retain voting control of the Association, and, thereafter, the Board of Directors of the Association, may amend this Declaration as shall be necessary, in their opinion and without the consent of any Owner, in order to qualify the Association or Properties or any portion thereof for tax-exempt status. Such amendment shall be effective upon the date of its recordation in the office of Clerk of Court of York County.

Section 9.8 Right of Declarant to Grant Temporary Exclusions. Declarant reserves the right to grant such temporary exclusions from the requirements set forth in this Declaration as it, in its sole discretion, may determine to be necessary to facilitate the orderly development, construction and marketing of the Properties. Such right to grant temporary exclusions is intended to include, without limitation, matters with respect to fences, flags, signs and temporary structures. Any exclusions so granted shall expire on a date not later than June 30, 2000.

IN WITNESS WHEREOF, the undersigned Declarant has caused this instrument to be executed on this the \_\_\_\_\_ day of \_\_\_\_\_, 1998.

In the Presence of:

PEOPLES TRUST COMPANY  
(SEAL)

BY: \_\_\_\_\_

ATTEST: \_\_\_\_\_

STATE OF SOUTH CAROLINA

COUNTY OF YORK

PERSONALLY appeared before me the undersigned who, in oath, states that he saw the within-named Peoples Trust Company by James D. Galloway, Jr., its President and \_\_\_\_\_, its \_\_\_\_\_ Secretary sign the within Declaration, and the said Corporation by, said officers, seal said Declaration, and, as its act and deed deliver the same, and that he with the other person witnessed the execution thereof.

SWORN to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 1998.

\_\_\_\_\_(Seal)  
Notary Public for S.C.  
My Commission expires:\_\_\_\_\_