

**Marsh Side
Articles of
Covenants &
Restrictions**

**Member of
River
Oaks
Homeowners'
Association**

2002 JUL 24 PM 12: 51

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR MARSH SIDE

LINDA T. MESSERVY
DORCHESTER COUNTY, S

THIS DECLARATION, made on the date hereinafter set forth by Marsh Side Investments, LLC, a South Carolina limited liability company having an office at 456 Main Street, Reisterstown, Maryland 21136, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Dorchester, State of South Carolina, which is more particularly described as follows:

SEE EXHIBIT A

WHEREAS, it is the intent of the Declarant to cause said property to be subjected to this Declaration of Covenants, Conditions, Restrictions and Easements.

NOW, THEREFORE, Declarant hereby declares that all of the property described above be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the property and be binding on all parties having any right, title or interest in the described property 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 the Marsh Side Homeowners Association, Inc., its successors and assigns (hereinafter "Association").

SECTION 2. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners. Common Area shall also mean such property which from time to time is deeded to the Association in fee simple by Declarant.

SECTION 3. "Declarant" shall mean and refer to Marsh Side Investments, LLC, as well as its successors and assigns, if Declarant shall make an express conveyance of its rights as developer hereunder to such successor or assign.

SECTION 4. "Declaration" shall mean this Declaration of Covenants, Conditions, Restriction and Easements for Marsh Side, as the same may be amended, renewed or extended from time to time in the manner herein provided.

SECTION 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

SECTION 6. "Member" shall mean and refer to every person or entity who holds membership with voting rights in the Association.

SECTION 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 which is a part of the Properties, as hereinafter defined, including contract sellers, but excluding those having such interest merely as security for the performance of any obligation.

*Ellis Lawhorn + Sons PA
1330 Lady Street, Fourth Floor
P.O. Box 2295
Arling, SC 29012*

SECTION 8. "Plat" shall mean that certain plat entitled "Final Plat" for Marsh Side Subdivision, Phase 1 prepared by Trico Engineering Consultants, Inc. dated May 20, 2002 and recorded in Book K at Page 33 in the ROD Office for Dorchester County, South Carolina, as well as all future recorded plats, if any, describing those certain parcels of land annexed, as described thereon, and made subject to this Declaration by amendment hereto.

SECTION 9. "Properties" shall mean and refer to that certain real property hereinabove described, and such additions thereto as may hereafter be subjected to the terms and conditions of the Declaration.

SECTION 10. "Recreational Facilities" shall mean and refer to any and all facilities designed for active recreational use, along with all parking areas located within the Common Area and any additions thereto, which have been deeded to the Association. Nothing contained in this Section of the Declaration shall obligate Declarant or the Association to construct any recreational facilities.

ARTICLE II

PROPERTY RIGHTS

SECTION 1. OWNERS' EASEMENT OF ENJOYMENT. Every Owner shall have a right and easement of enjoyment in and to the Common Area that 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 permit the use of and to charge reasonable admission and other fees for the use by a private party or Non-Member User any Recreational Facility situated upon the Common Area and to impose reasonable limits upon the number of guests who may use these facilities;

(b) the right of the Association to suspend the voting rights and right to use of the Recreational Facilities and the Common Area by an Owner for any period during which any assessment against his Lot remains unpaid; and, for a period not to exceed sixty (60) days, for any infraction of its published rules and regulations;

(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;

(d) the right of the Association to impose regulations for the use and enjoyment of the Common Area and improvements thereon, which regulations may further restrict the use of the Common Area;

(e) the right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities thereon; however, except as provided in (c) above, no portion of the Common Area may be mortgaged or conveyed without the consent of two thirds (2/3) of the Class A Members; and

(f) the right of the Association to exchange portions of Common Area with the Declarant for substantially equal areas of the Properties for the purpose of eliminating unintentional encroachments of improvements onto portions of the Common Areas or any other purpose or reason.

SECTION 2. DELEGATION OF USE. Any Owner may delegate, in accordance with the By-Laws, his rights of enjoyment of the Common Area to the members of his family who reside on the Lot, his tenants or contract purchasers who reside on the Lot of such Owner.

SECTION 3. LEASES OF LOTS. Any Lease Agreement between an Owner and a lessee for the lease of such Owner's residence on its Lot shall provide that the terms of the Lease shall be subject in all respects to the provisions of the Declaration, the Articles of Incorporation and By-Laws of the Association and that any failure by the lessee to comply with the terms of such documents shall be a default under the terms of the lease. All leases of Lots shall be in writing.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

SECTION 1. Every Owner of a Lot which is subject to a lien for assessments 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 classes of voting membership:

Class A. Class A Members shall be all Owners other than the Declarant. Class A Members 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 (1) vote be cast with respect to any Lot. The Owners shall file with the Secretary of the Association an instrument in writing signed by all such Owners designating one Owner (or in the case of a corporation, one of its officers) to cast the vote which is attributable to such Lot.

Class B. The Class B Member shall be the Declarant and shall be entitled to two (2) votes for each Lot it owns as shown on the Plat. 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) the sale to the Owners of Seventy Five (75%) Percent of the Lots; or
- (b) when Declarant elects by notice to Association in writing to terminate its Class B membership."

SECTION 3. Unless otherwise provided herein, all actions requiring the consent of the Members shall be deemed to have been authorized upon the receipt of the affirmative vote of the Class B Member.

SECTION 4. The administration of the Association shall be vested in a Board of Directors ("Board"). Until such time as all Lots, including all Lots in any additional phases annexed into Marsh Side, have been fully developed, permanent improvements constructed thereon and sold to permanent residents, the Board shall consist of one (1) director, which shall be the Declarant or its designee. The Declarant may at any time in its sole discretion elect to waive the right to act as or designate the director. Every grantee of any interest in the Property, by acceptance of a deed or other conveyance of such interest, agrees that Declarant shall have the authority to act as or designate the director in accordance with the foregoing. Upon the expiration of the period of Declarant's right to act as or designate the director, such right shall automatically pass to the Members, including Declarant if Declarant then owns one or more Lots, and a special meeting of the Association shall be called at such time. At such special meeting the Members shall elect a new Board pursuant to the By Laws which shall undertake the responsibilities of the Board, and Declarant shall deliver all books, accounts, and records, if any, which Declarant has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period and which Declarant has in its possession. At the special meeting, the presence at the meeting of Members or proxies entitled to cast fifty percent (50%) of the total vote of the membership shall constitute a quorum. In the event the required quorum is not present at any such meeting, a second meeting may be called, subject to the giving of proper notice, and the presence of twenty-five percent (25%) of the total vote of the membership shall constitute a quorum for such second meeting. Any such second meeting must be held

within sixty (60) days of the first meeting when the required quorum was not present. Unless otherwise provided, any reference hereafter to "votes cast at a duly called meeting" shall be construed to be subject to the quorum requirements for such "duly called meeting" which may be established by the By-Laws of the Association. For the purpose of this section, "proper notice" shall be deemed to be given to each Member not less than ten (10) days nor more than thirty (30) days prior to the date of the meeting at which any proposed action is to be considered.

SECTION 5. All Members of the Association may vote and transact business at any meeting of the Association by proxy authorized in writing.

ARTICLE IV

COVENANT FOR MAINTENANCE AND ASSESSMENTS

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS.

Each Class A Member, for each Lot owned within the Properties, hereby covenants, by acceptance of the deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay (a) to the Association: (i) annual assessments or charges; (ii) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided; and (b) to the appropriate governmental taxing authority: (i) a pro rata share of ad valorem taxes levied against the Common Area; and (ii) a pro rata share of assessments for public improvements to or for the benefit of the Common Area if the Association shall default in the payment of either or both for public improvements to or for the benefit of the Common Area if the Association shall default in the payment of either or both for a period of six (6) months as hereinafter provided. The annual and special assessments, 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 and shall remain a charge against and be secured by a continuing lien upon the Lot of the Owner. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Notwithstanding anything herein to the contrary, nothing herein shall be construed as to provide any governmental entity with the right to place a lien on any one or more of the Lots due to the failure of an Owner to pay a pro rata share of ad valorem taxes for the Common Area or of assessments for public improvements to or for the benefit of the Common Area.

SECTION 2. PURPOSE OF ASSESSMENTS.

(a) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular for the acquisition, improvement and maintenance of Properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including but not limited to, the costs of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes assessed against the Commons Area; the operation, maintenance and repair of the Recreational Facilities, if any; the maintenance of water and sewer mains in and upon the Common Area; the maintenance of open spaces and streets which have not been accepted for dedication by a public authority, roadway medians and islands (including medians and islands located in dedicated rights-of-way), drives and parking areas within the Common Area; the procurement and maintenance of insurance in accordance with the By-Laws; the maintenance of any "sign easement" areas located on any Lot, as shown on a recorded plat; the maintenance of entranceways, landscaping and lighting of Common Area, road medians, and islands and entranceways, the lighting of streets (whether public or private); the maintenance of the pond, if any; the payment of charges for garbage collection and municipal water and sewer services furnished to the Common Area; the costs associated with duties of the Architectural Control Committee; the employment of attorneys

and other agents to represent the Association when necessary; the provision of adequate reserves for the replacement of capital improvements including, without limiting the generality of the foregoing, paving, and any other major expense for which the Association is responsible; and such other needs as may arise.

(b) The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvement to the Common Area and those other portions of the Properties which the Association may be obligated to maintain. Such reserve fund is to be established out of regular assessments for common expense. The Association shall have the right to access and use the reserve fund only under circumstances where the Association does not have sufficient funds to meet necessary obligations and a majority of the Board deems that such action is necessary.

(c) All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of the expense of operating and managing the Properties, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the By-Laws of the Association. As monies for any assessment are paid to the Association by any Lot Owner, the same may be commingled with monies paid to the Association by the other Owners. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Lot. When a Lot Owner shall cease to be a member of the Association by reason of his divestment of ownership of his Lot, by whatever means, the Association shall not be required to account to such Owner for any share of the fund or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Properties.

(d) In the event the Association is without sufficient funds to properly discharge its ordinary obligations as imposed by this Declaration, the Articles of Incorporation and the By-Laws of the Association, then the Declarant may, at Declarant's election, provide such funds as are reasonably necessary to allow for the discharge of such obligations until such time as sufficient funds are secured from the assessments as provided herein.

SECTION 3. ANNUAL ASSESSMENT. The Declarant initially, and thereafter the Board, shall fix the annual assessment for each Lot based upon the total annual projected budget for all routine and ordinary expenses and for any reserve funds of the Association, as provided herein. The annual assessment for the calendar year immediately following the year in which conveyance of the first Lot to the Owner is made and for each calendar year thereafter shall be established by the Declarant and/or the Board and may be increased without approval by the membership by an amount not to exceed ten percent (10%) of the annual assessment of the previous year.

SECTION 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the annual assessments authorized above, the Association may levy, in any calendar year, a special assessment for the purpose of defraying in whole or in part the costs of any construction, reconstruction, repair or replacement of a capital improvement upon the Recreational Facilities or Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose. All special assessments shall be fixed at a uniform rate for all Lots and may be collected on a monthly basis or as directed by the Board.

SECTION 5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3 AND 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 of this Article IV shall be sent to all Members not less than ten (10) days nor more thirty (30) 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 (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

SECTION 6. RATE OF ANNUAL ASSESSMENT. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly, semiannual or annual basis.

SECTION 7. DATE AND COMMENCEMENT OF ANNUAL ASSESSMENTS: DUE DATES. The annual assessments provided for herein shall commence as to a Lot on the date the Lot is sold by the Declarant. The first annual assessment shall be adjusted according to the number of days and months remaining in the calendar year. At least thirty (30) days in advance of each annual assessment period, the Board shall fix the amount of the annual assessment and promptly thereafter the Board shall cause written notice thereof to be sent to every Owner subject thereto. In the event the Board shall fail to fix the amount of annual assessment as described above, the assessment fixed for the immediately preceding year shall continue in effect until a new assessment amount is fixed. The due dates shall be established by the Board. 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. Assessments shall be considered past due if not paid on or before the due date. A late charge in the amount determined by the Board shall be added to any assessment not paid within thirty (30) days after the due date. If the assessment is not paid within sixty (60) days after the due date, all amounts due the Association shall bear interest from the due date at the rate of sixteen percent (16.0%) per annum or the highest rate allowed by law whichever is lower. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien created herein against the property in the same manner as prescribed by the laws of the State of South Carolina for the foreclosure of mortgages, and interest, costs and reasonable attorney's fees for representation of the Association in such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Area or abandonment of his Lot nor shall damage to or destruction of any improvements on any Lot by fire or other casualty result in any abatement or diminution of the assessments provided for herein.

SECTION 9. EFFECT OF DEFAULT IN PAYMENT OF AD VALOREM TAXES OR ASSESSMENTS FOR PUBLIC IMPROVEMENTS BY ASSOCIATION.

Upon default by the Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Area or assessments for public improvements to the Common Area, which default shall continue for a period of six (6) months, each Owner of a Lot shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of Lots in the development. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the Owner in favor of the Association.

SECTION 10. SUBORDINATION OF THE LIEN TO MORTGAGES.

The liens 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 or liens provided for in the preceding section. However, the sale or transfer of any Lot which is subject to any such first mortgage, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which becomes due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for

herein shall continue to be subordinate to the lien of any first mortgage.

SECTION 11. EXEMPT PROPERTY. All property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of South Carolina shall be exempt from the assessments created herein. All property owned by the Declarant, at the Declarant's election, shall be exempt for the assessments created herein. At the Declarant's election, Lots owned by Palmetto Traditional Homes, LLC ("PTH") shall be exempt from assessments during PTH's ownership of the Lot(s), and the annual assessment for such Lot(s) shall commence upon the date of sale of the Lot by PTH.

SECTION 12. CAPITALIZATION OF ASSOCIATION. Upon acquisition of record title to a Lot by the first Owner other than Declarant or PTH, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixth of the annual assessment in affect during the year the closing of the Lot occurs. This amount shall be in addition to, not in lieu of, the annual assessment and shall not be considered an advance payment of such assessment. This amount shall be used by the Association for use in covering operating expense and other expense incurred by the Association pursuant to this Declaration.

ARTICLE V

ARCHITECTURAL CONTROL

SECTION 1. IMPROVEMENTS, CHANGES AND ALTERATIONS. No building, fence, wall or other structure or planting or landscaping shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein including without limitation any plantings or landscape be made until the plans and specifications showing the nature, kind, shape, color, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board, or by an architectural committee composed of three (3) or more representatives appointed by the Board (hereinafter referred to as the "Architectural Control Committee"). The initial Architectural Control Committee shall be appointed by the Declarant. Provided that nothing herein contained shall be construed to permit interference with the development of the Properties by the Declarant so long as said development follows the general plan of development of the Properties previously approved by the appropriate governmental entity. Notwithstanding anything herein to the contrary, for so long as Declarant owns at least one Lot, Declarant may approve any plans and specifications rejected by the Board or the Architectural Control Committee for the construction of initial improvements on any Lot provided the initial improvements are approved by the appropriate governmental entity. Such approval by Declarant shall operate and have the same effect as approval by the Architectural Control Committee or the Board.

SECTION 2. PROCEDURES.

(a) Any person desiring to make any improvement, alteration or change described in Section 1 above shall submit the plans and specifications therefor, which plan shall include but are not limited to the following:

- (i) a site plan showing the location of all proposed and existing structures on the Lot including building setbacks, open space, driveways and walkways (this shall specifically include the location of any satellite dish or disk as allowed under Article VII, Section 15);
- (ii) a floor plan;
- (iii) exterior elevations of all proposed structures and alterations to existing structures, as such structures will appear after all backfilling and landscaping are completed;
- (iv) specifications of materials, color scheme, lighting schemes and other details affecting the exterior appearance of all proposed structures and alterations to existing structures;
- (v) plans for grading; and
- (vi) plans for landscaping (to be submitted not less than sixty (60) days before

anticipated completion of the dwelling).

The plans and specifications shall be submitted to the Board or the Architectural Control Committee which shall evaluate such plans and specifications in light of the purpose of this Article. There shall be a \$300 review fee charged by the Architectural Control Committee or Board for the review of such plans and specifications.

(b) Upon approval by the Architectural Control Committee of any plans and specifications submitted pursuant to this Declaration, copy of such plans and specifications, as approved, shall be deposited for permanent record with the Architectural Control Committee and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Lot of any plans and specifications shall not be deemed a waiver of the Architectural Control Committee's right, in its discretion, to disapprove similar plans and specifications of any of the features or elements are subsequently submitted for use in connection with any other Lot. Approval of such plans and specifications relating to any Lot, however, shall be final as to that Lot and such approval may not be reviewed or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval.

(c) Neither Declarant, nor the Association, nor any other member of the Architectural Control Committee, shall be responsible or liable in any way for any defects in any plans or specifications approved by the Architectural Control Committee, nor for any structural defects in any work done according to such plans and specifications approved by the Architectural Control Committee. **FURTHER, NEITHER DECLARANT, NOR ANY MEMBER OF THE ARCHITECTURAL CONTROL COMMITTEE SHALL BE LIABLE IN DAMAGES TO ANYONE BY REASON OF MISTAKE IN JUDGMENT, NEGLIGENCE, MISFEASANCE, MALFEASANCE OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR FAILURE TO APPROVE OR DISAPPROVE ANY SUCH PLANS OR SPECIFICATIONS OR THE EXERCISE OF ANY OTHER POWER OR RIGHT OF THE ARCHITECTURAL CONTROL COMMITTEE PROVIDED FOR IN THIS DECLARATION. EVERY PERSON WHO SUBMITS PLANS AND SPECIFICATIONS TO THE ARCHITECTURAL CONTROL COMMITTEE FOR APPROVAL AGREES, BY SUBMISSION OF SUCH PLAN AND SPECIFICATIONS, AND EVERY OWNER OF ANY LOT AGREES, THAT HE WILL NOT BRING ANY ACTION OR SUIT AGAINST DECLARANT, ASSOCIATION, ITS BOARD MEMBER OR OFFICERS, OR ANY MEMBER OF THE ARCHITECTURAL CONTROL COMMITTEE, TO RECOVER ANY SUCH DAMAGES, AND HEREBY RELEASES, REMISES, QUITCLAIMS, AND COVENANTS NOT TO SUE FOR ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION ARISING OUT OF OR IN CONNECTION WITH ANY LAW WHICH PROVIDES THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS, DEMANDS AND CAUSES OF ACTION NOT KNOWN AT THE TIME THE RELEASE IS GIVEN.**

(d) During construction, any employee or agent of the Architectural Control Committee may, after reasonable notice, at any reasonable time, enter upon any Lot and structure thereon for the purpose of ascertaining compliance with the provisions of this Declaration, and neither the Architectural Control Committee, nor any such agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

SECTION 3. VIOLATIONS.

If any structure shall be erected, placed, maintained or altered upon any Lot, other than in accordance with plans and specifications approved by the Architectural Control Committee pursuant to the provisions of this Article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article. If, in the opinion of the Declarant, or the Board upon recommendation of the Architectural Control Committee, such violation shall have occurred, the Board shall provide written notice to the Owner of such Lot by certified mail, setting forth the nature of the violation and the specific action required to remedy the violation. Any such required remedial action shall be consistent with guidelines

then maintained by the Architectural Control Committee. The Owner shall also be subject to a fine levied by the Declarant or Board, which amount shall be determined by the Declarant or Board. Any such fine levied shall be secured by a continuing lien upon the Lot. If the Owner shall not have taken reasonable steps toward the required remedial action within thirty (30) days after the mailing of the aforesaid notice of violation, then the Board shall have the right to proceed at law or in equity for the recovery of damages, or for injunctive relief, or both.

ARTICLE VI

EXTERIOR MAINTENANCE

The Association shall maintain the Common Area. Each Owner shall be responsible for the exterior maintenance of his dwelling and Lot as follows: painting, replacement and care of roofs, gutters, downspouts, exterior building surfaces, lawn, trees, shrubs, driveways, walks and other exterior improvements. Landscaping for each Lot as set forth in the landscaping plan required under Article V, Section 2 shall be installed and completed within thirty (30) days of occupancy of the dwelling. In the event that the Owner neglects or fails to maintain his Lot and/or the exterior of his or her dwelling in Marsh Side, the Association shall provide such exterior maintenance as provided above. Provided, however, that the Association shall first give written notice to the Owner of the specific items of exterior maintenance or repair the Association intends to perform and the Owner shall have twenty (20) days from the date of mailing of said notice within which to perform such exterior maintenance himself. The determination as to whether an Owner has neglected or failed to maintain his Lot and/or dwelling in a manner consistent with other Lots and dwellings in Marsh Side shall be made by the Board, in its sole discretion. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot at all reasonable times to perform maintenance as provided in this Article.

In the event the Association performs such exterior maintenance, repair or replacement, the cost of such maintenance, replacement or repairs shall be added to and become a part of the assessment to which Lot is subject, and any lien which may arise as a result of non-payment as provided herein.

In the event that the Association determines that the need for maintenance, repair or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner or the family, guests, lessees, or invitee of any Owner, and is not covered and paid for by insurance, in whole or in part, then the Association may perform such maintenance, repair or replacement at such Owner's sole cost and expense, and all costs thereof shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot of such Owner.

ARTICLE VII

USE RESTRICTIONS

SECTION 1. RESIDENTIAL USE OF PROPERTY. All Lots shall be used for single-family, residential purposes only, and no business or business activity shall be carried on or upon any Lot at any time, except with the written approval of the Architectural Control Committee; provided, however, that nothing herein shall prevent Declarant or any builder of homes in Marsh Side approved by Declarant from using any Lot owned by Declarant or such builder of homes for the purpose of carrying on business related to the development, improvement and sale of property in Marsh Side; and provided, further that, to the extent allowed by applicable zoning laws, private offices may be maintained in dwellings located on any of the Lots so long as such use is incidental to the primary residential use of the dwelling.

SECTION 2. SETBACKS AND BUILDING LINES. Each dwelling that shall be erected on any Lot shall be situated on such Lot in accordance with the building and setback lines approved for each Lot in writing by the Architectural Control Committee before commencement of lot clearing

preparatory to construction unless either a variance shall have been granted by Declarant or Declarant shall have amended the Plat. In no event shall any dwelling be erected and located upon any such Lot in a manner which violates the requirements and provisions of any applicable zoning ordinances and subdivision regulations.

SECTION 3. WALLS AND FENCES. No fence or wall shall be erected, placed or altered on any Lot nearer to any street than the minimum building setback line, and all fences must be approved pursuant to Article V, Section 1 prior to installation. Chain link fences are not allowed.

SECTION 4. SUBDIVISION OF LOT. One or more Lots or parts thereof may be subdivided or combined to form one single building Lot when approved, in writing, by Declarant, and, in such event, the building line requirements provided herein shall apply to such Lots as re-subdivided or combines and side line easements as shown on the plat shall be moved to follow the new side line so that the easement would run along the newly established side line.

SECTION 5. TERRACES: EAVES AND DETACHED GARAGES. For the purpose of determining compliance or noncompliance with the foregoing building line requirements, terraces, stoops, eaves, wing-walls, and steps extending beyond the outside wall of a structure shall not be considered as a part of the structure. No side yard shall be required for any detached garage or accessory outbuilding which has been approved, in writing, by the Architectural Control Committee; provided, all such detached structures must be to the rear of the main dwelling and must not encroach upon the Lot of an adjacent Owner.

SECTION 6. BUILDING REQUIREMENTS. The heated living areas of the main structure, exclusive of open porches, porte cocheres, garages, carports and breezeways, shall be not less than that amount as determined and approved by the Declarant or the Architectural Control Committee.

SECTION 7. OBSTRUCTIONS TO VIEW AT INTERSECTIONS. No part of any structure nor the lower branches of trees or other vegetation shall be permitted to obstruct the view at street intersections.

SECTION 8. DELIVERY RECEPTACLES AND PROPERTY IDENTIFICATION MARKERS. The Architectural Control Committee shall have the right to approve the location, color, size, design, lettering and all other particulars of receptacles for the receipt of mail, newspapers or similarly delivered materials, and of name signs for such receptacles, as well as property identification markers.

SECTION 9. USE OF OUTBUILDING AND SIMILAR STRUCTURES. No structure of a temporary nature (unless approved in writing by the Architectural Control Committee) shall be erected or allowed to remain on any Lot, and no trailer, camper, shack, tent, garage, barn or other structure of a similar nature shall be used as a residence, either temporarily or permanently: provided, this Section shall not be construed to prevent the Declarant and those engaged in construction from using sheds or other temporary structures during construction.

SECTION 10. COMPLETION OF CONSTRUCTION. The Association shall have the right to take appropriate legal action, whether at law or in equity, to compel the immediate completion of any improvements or alterations of improvements not completed within one (1) year from the date of commencement of construction.

SECTION 11. ANIMALS. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other small household pets may be kept, subject to applicable Leash laws, provided that they are not kept, bred, or maintained for any commercial purposes. Such household pets must not constitute a nuisance or cause unsanitary conditions.

SECTION 12. OFFENSIVE ACTIVITIES. No noxious, offensive or illegal activities shall be

carried on upon any Lot, nor shall anything be done thereon which is or may become an annoyance or nuisance to the owners of other Lots in Marsh Side.

SECTION 13. SIGNS. No advertising signs or billboards shall be erected on any Lot. This restriction shall not apply to signs used to identify and advertise the subdivision as a whole, nor to signs for selling Lots and/or houses during the development and construction period or to the re-selling of houses, provided such signs are approved by the Architectural Control Committee. Also, the provisions of this Article shall not apply to notices posted in connection with judicial or foreclosure sales conducted with respect to a mortgage.

SECTION 14. TREES, LANDSCAPING, SCREENING, UNDERGROUND UTILITY SERVICE.

Trees which have a diameter in excess of six (6") inches measured two (2') feet above ground level, and distinctive flora, shall not be intentionally destroyed or removed except with the prior written approval of the Architectural Control Committee of the landscape plan. Garbage cans and equipment shall be screened to conceal them from view of neighboring Lots and streets. Swing sets may be installed on the Lots only after receiving the prior written approval of the Architectural Control Committee. All residential utility service and lines to residences shall be underground. No clotheslines shall be permitted on the Lots.

SECTION 15. ANTENNAE. No radio or television transmission or reception towers, antennas, satellite dishes or disks shall be erected on any structure or within the property within the property. Notwithstanding the above, satellite dishes or disks which are not greater than eighteen (18") inches in diameter may be installed on Lots provided that the Owner shall obtain prior written approval of the location of the dish or disk on the Lot from the Architectural Control Committee.

SECTION 16. TRAILERS, TRUCKS, SCHOOL BUSES, BOATS, BOAT TRAILERS. Boats (other than pontoon boats) may be parked in garages or in the rear yards of Lots provided sufficient efforts are undertaken to screen their visibility from the street(s) which bound the subject Lot. No recreational vehicles or commercially marked vehicles shall be permitted on the Lots unless they are stored in a garage. No house trailers or mobile homes, school buses, trucks, boats or boat trailers, motor homes, motorcycles, campers, vans, or vehicles on blocks shall be kept, stored or parked overnight either on any streets or adjoining lots. In addition, no vehicle of any kind may be kept, stored or parked on any non-paved area of a Lot or adjacent Lot. Notwithstanding the foregoing, passenger automobiles may be parked in driveways, if the number of vehicles owned by Owner exceeds the capacity of the garage. The foregoing will not be interpreted or construed or applied to prevent the temporary nonrecurring parking of any vehicle, boat or trailer for a period not to exceed 48 hours upon any Lot. Further, if a parking and storage amenity for boats and recreational vehicles is built, it shall become the exclusive parking and storage facility for those vehicles.

SECTION 17. GARBAGE AND REFUSE DISPOSAL. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers designed for that purpose. All incinerators or other equipment for the storage or disposal of such waste material shall be kept in a clean and sanitary condition. If such litter or other materials is found on any Lot, the same will be removed by the Owner of such Lot, at the Owner's expense, upon written request of the Association.

SECTION 18. CHANGING ELEVATIONS. No Lot Owner shall excavate or extract earth for any business or commercial purpose. No elevation changes shall be permitted which materially affect surface grades of surrounding Lots, unless approved in writing by the Architectural Control Committee.

SECTION 19. SEWAGE SYSTEM. Sewage disposal shall be through the municipal system or, a type approved by appropriate State and local agencies.

SECTION 20. WATER SYSTEM. Water shall be supplied through the municipal system or, a type approved by appropriate State and local agencies.

SECTION 21. UTILITY FACILITIES. Declarant reserves the right to approve the necessary construction, installation and maintenance of utility facilities, including but not limited to water, telephone, electric, cable, natural gas and sewage systems, which may be in variance with these restrictions.

SECTION 22. MODEL HOMES. Declarant, as well as any builder of homes in Marsh Side, shall have the right to construct and maintain model homes on any of the Lots. "Model Homes" shall be defined as those homes used for the purpose of inducing the sale of other homes within the Properties.

SECTION 23. DRIVEWAYS AND ENTRANCE TO GARAGE. All driveways and entrances to garages shall be concrete or other substances approved in writing by Declarant or by the Architectural Control Committee and of a uniform quality. For aesthetic purposes, all garage doors shall remain closed whenever reasonably possible.

SECTION 24. WAIVER OF SETBACKS, BUILDING LINES AND BUILDING REQUIREMENTS. The Declarant, or the Architectural Control Committee, may, for good cause, waive violations of the setbacks and building lines provided for in Section 2 of this Article VII and the building requirements provided for in Section 6 of this Article VII. Such waiver shall be in writing and recorded in the Dorchester County RMC Office. A document executed by the Declarant or the Architectural Control Committee shall be, when recorded, conclusive evidence that the requirements of Sections 2 and 6 of this Article VII have been complied with. The Declarant or the Architectural Control Committee may also handle violations of setbacks and boundary lines by amending the Plat. Nothing contained herein shall be deemed to allow the Declarant or the Architectural Control Committee to waive violations, which must be waived by an appropriate governmental authority.

ARTICLE VIII

EASEMENTS

SECTION 1. UTILITIES. Easements for installation and maintenance of utilities (including cable television service) and drainage facilities are reserved as indicated on recorded plats. Within these easements no structures, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the drainage easements, or which may obstruct or retard the flow of water through drainage channels in the easements. An easement is hereby established for the benefit of Dorchester County (and any other government, person or firm providing services to the Properties under agreement with or at the direction of the Association) over all portions of the Common Area as may be reasonably necessary for the setting, removal and reading of water meters, and the maintenance and replacement of water, sewer and drainage facilities and for the fighting of fires and collection of garbage. The Association shall have the power and authority to grant and establish upon, over and across the Common Area such additional easements as are necessary or desirable for the providing of service or utilities to the Common Area or Lots. A temporary easement is hereby established for the benefit of an Owner over the property designated as road right of ways for access to his/her Lot until such right of ways are conveyed to the appropriate authority.

SECTION 2. SIGN EASEMENTS. Easements for the maintenance of subdivision signs and landscaping and lighting surrounding same are reserved as indicated on recorded plats. Declarant hereby grants, gives and conveys to the Association a perpetual, nonexclusive easement over any portions of Lots designated as "sign easements" or "landscape easements" on the plats, to maintain, repair and replace the subdivision signs which may be located thereon, as well as the lighting fixtures and any landscaping thereon. The costs of all such maintenance, repair and replacement shall be part of the common expenses of the Association, payable by the Owners as set out in Article IV thereof. In addition to the easement granted above as to the portion of Lots designated "sign easements", or "landscaping easements" Declarant hereby gives, grants and conveys to the Association the right of ingress, egress and regress over other

portions of such Lots as shall be reasonably necessary to effectuate the purposes stated above. The easements hereby granted shall run with the land in perpetuity and be binding upon and inure to the benefit of all persons and entities now owning and subsequently acquiring all or a part of the Properties.

ARTICLE IX

RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS

SECTION 1. ENTITIES CONSTITUTING INSTITUTIONAL LENDERS. "Institutional Lender" as the term is used herein shall mean and refer to banks, savings and loan associations, insurance companies or other firms or entities customarily affording loans secured by first liens on residences, and eligible insurers and governmental guarantors.

SECTION 2. OBLIGATION OF ASSOCIATION TO INSTITUTIONAL LENDERS. So long as any Institutional Lender shall hold any first lien upon any Lot, or shall be the Owner of any Lot, such Institutional Lender, upon timely written request, shall have the following rights:

(a) To inspect the books and records of the Association during normal business hours and to be furnished with at least one (1) copy of the annual financial statement and report of the Association prepared by a certified public accountant designated by the Board, such financial statement or report to be furnished by April 15 of each calendar year.

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

(c) To receive notice of any condemnation or casualty loss affecting the Common Areas or any portion thereof.

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

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

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

SECTION 3. REQUIREMENTS OF INSTITUTIONAL LENDER. Whenever any Institutional Lender desires to avail itself of the provisions of this Article, it shall furnish written notice thereof to the Association by certified mail at the address shown in the Articles of Incorporation identifying the Lot or Lots upon which any such Institutional Lender holds any first lien or identifying any Lot or Lots owned by such

Institutional Lender and such notice shall designate the place to which notices, reports or information are to be given by the Association to such Institutional Lender.

ARTICLE X

GENERAL PROVISIONS

SECTION 1. **ENFORCEMENT.** The Declarant, 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 the Declaration, the Articles of Incorporation, By-Laws of the Association. Failure by 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. The Association shall have the right to request that law enforcement, public safety and animal control officers come on the Properties to facilitate the enforcement of the laws, codes and ordinances of any governmental authority.

SECTION 2. **SEVERABILITY.** Invalidation of any one of the covenants or restrictions by judgment or court order shall in no way affect any other provision 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 twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless during the last year of such initial or then current renewal term the Owners of seventy-five percent (75%) of the Lots agree in writing to terminate this Declaration at the end of such term. This Declaration, as amended, shall constitute rights and interests appurtenant to the Properties and shall run with the title to the same. So long as Declarant owns a Lot subject to this Declaration, Declarant may, in its sole discretion amend this Declaration, subject to consent of the United States Department of Housing and Urban Development, if applicable, as long as such amendment is not in derogation of the interest of any Mortgagee of a Lot. Any such amendment also shall constitute rights and interests appurtenant to the Properties and shall run with the title to the same. In addition to the foregoing, the Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than sixty-six and 67/100 percent (66.67%) of the Lot Owners, and thereafter by an instrument signed by not less than sixty percent (60%) of the Lot Owners, subject to the consent of the United States Department of Housing and Urban Development, if applicable, provided that (1) no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect any lien for the payment thereof established herein, (2) no amendment shall adversely affect any rights or interest of Declarant as provided herein, unless agreed to in writing by Declarant, (3) no amendment shall have priority over any amendment made by Declarant in accordance with Section 4 of this Article X, as long as Declarant owns a Lot, and (4) no amendment shall alter, modify or rescind any right, title, interest or privilege herein granted or accorded to any Mortgagee or a Lot affected thereby unless such holder shall consent in writing thereto, which consent shall be filed with such amendment. Any amendment must be properly recorded.

SECTION 4. **FEDERAL LENDING REQUIREMENTS.** Declarant may (at Declarant's option) amend and modify this Declaration without obtaining the consent or approval of the Owners if such amendment or modification is necessary to cause this Declaration to comply with the requirements of the Federal Housing Administration, the Veterans Administration, Federal National Mortgage Association, or other similar agency.

Any such amendment must be with the consent and approval of such agency and must be properly recorded.

SECTION 5. **ANNEXATION.**
 (a) Additional residential property and Common Area may be annexed to the Properties only with the consent of two-thirds (2/3) of each class of Members, and if applicable, the consent of the United States Department of Housing and Urban Development.

(b) Notwithstanding the above, lands which are adjacent to the Properties (hereinafter referred to as "Additional Land") may be annexed by the Declarant without the consent of Members within ten (10) years of the date of this instrument, subject however, to the consent of the United States Department of Housing and Urban Development, if applicable. Provided, however, that should Declarant elect to improve and develop all or part of the Additional Land, Declarant shall have the right to impose upon the Additional Land supplemental covenants and restrictions which are not substantially different from those contained herein. Notwithstanding anything contained herein which might otherwise be interpreted to produce a contrary result, this Declaration does not create any charge, lien or other encumbrance or restriction on any part of the Additional Land, or affect in any way the title thereto or any part thereof, nor does this Declaration create an obligation upon Declarant to improve and develop all or any portion of the Additional Land.

SECTION 6. AMPLIFICATION. The provisions of this Declaration are amplified by the Articles and By-Laws; but no such amplification shall alter or amend any of the rights or obligations of the Owners set forth in this Declaration. Declarant intends that the provisions of this Declaration on the one hand, and the Articles and By-Laws on the other be interpreted, construed, and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Declarant intends that the provisions of this Declaration control anything in the Articles or By-Laws to the contrary.

SECTION 7. TOTAL OR PARTIAL DESTRUCTION OF IMPROVEMENTS. In the event of a total or partial destruction of any improvements on the Common Area, and if available proceeds of insurance carried pursuant to this Declaration are sufficient to cover 85% of the repair or reconstruction, the Common Area shall be promptly repaired and rebuilt unless within 120 days from the date of such destruction, 75% or more of the owners entitled to vote at a duly called meeting, determine that such reconstruction shall not take place. If the insurance proceeds are less than 85% of the cost of reconstruction, reconstruction may nevertheless take place if, within 120 days from the date of destruction, the Owners of 75% of the Lots elect to rebuild.

SECTION 8. STORMWATER MANAGEMENT AND SEDIMENT CONTROL. All land disturbing activities, including but not limited to the development of Lots and construction activities on the Common Area shall conform to the requirements of the stormwater management and sediment control plan which has been approved by the State of South Carolina Land Resources Commission ("Land Resources") and the National Pollutant Discharge Elimination System ("NPDES") Permit which has been granted by the South Carolina Department of Health and Environmental Control ("DHEC"). Any additional approvals or permits required by any local, state or federal entity shall be the responsibility of the Association. Upon termination of the NPDES Permit by DHEC and final approval from Land Resources, the Association, in conjunction with the appropriate governmental entity, shall be responsible for maintaining the Common Area for stormwater management and sediment control in a manner which insures the quality practices set forth in the Land Resources plan and NPDES Permit.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this Declaration of Covenants, Conditions, Restrictions and Easements for Marsh Side to be executed in its name and its corporate seal hereto affixed as of the First day of July 2002.

WITNESSETH:

MARSH SIDE INVESTMENTS, LLC

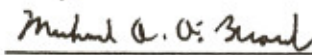


Witness Signature

By: Chesapeake Capital Partners, LLC, its Manager

By: 

Daniel P. McGrain, Managing Director




Notary Signature MICHAEL D. DEBENEDIS

STATE OF MARYLAND

PROBATE

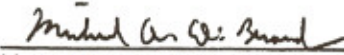
COUNTY OF BALTIMORE

Personally appeared before me the undersigned witness who, being duly sworn, made oath that he saw the within named Marsh Side Investments, LLC by its manager sign, seal and deliver the within-written instrument for the uses and purposes therein mentioned, and that he with the other witness whose signature appears above witnessed the execution thereof.



Witness Signature

SWORN to before me this
1st day of July, 2002.



Notary Public for Baltimore County, Maryland L.S.
My Commission expires: 11/16/05

EXHIBIT A

All that certain piece, parcel or tract of land, with improvements thereon, situate, lying and in Columbia, in the County of Dorchester, State of South Carolina. Said property being more particularly shown and described as Marsh Sides Subdivision, on a Final Subdivision Plat of said subdivision prepared by Trico Engineering Consultants, Inc., dated May 20, 2002 and recorded July 16, 2002 in Plat Cabinet K at Slide 33, Office of the Register of Deeds for Dorchester County, and having such boundaries and measurements as shown on the above described plat, which is specifically incorporated by reference herein.

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER
Filed for record this 24th
Day of July 2002
at 12:51 M and recorder
in book 3169 page 171
LINDA T MESSERVY
REGISTER OF MESNE CONVEYANCES