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Upon recording, please return to:
Jo Anne P. Stubblefield, Esq.
Hyatt & Stubblefield, P.C.
1200 Peachtree Center South Tower
225 Peachtree Street, N.E.
Atlanta, GA 30303

Please cross-reference to Residential Declaration at Record Book 1354
Page 1357

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

**DECLARATION OF RECREATIONAL COVENANT
FOR
OLDFIELD CLUB**

THIS DECLARATION OF RECREATIONAL COVENANT ("**Covenant**") is made this 17 day of November, 2000, by OLDFIELD, LLC, a South Carolina limited liability company, on behalf of itself, its successors-in-title, and assigns (the "**Declarant**").

BACKGROUND STATEMENT

Declarant is the developer of the planned community located in Beaufort County, South Carolina and known as Oldfield. Declarant has executed and filed that Declaration of Covenants, Conditions and Restrictions for Oldfield recorded on November 17, 2000, in Deed Book 1354, Page 1359, *et seq.*, in the Office of the Register of Deeds for Beaufort County, South Carolina (such Declaration, as it may be amended or supplemented from time to time, is referred to in this Covenant as the "**Residential Declaration**").

Declarant is the owner of the real property described on Exhibit "A" to this Covenant (the "**Residential Property**"), which is all or a portion of the property submitted to the Residential Declaration.

Declarant is also the owner of the real property described on Exhibit "B" to this Covenant (the "**Club Property**"), which it intends to develop with recreational and social facilities to be operated as part of Oldfield Club (the "**Club**"). Portions of the Club Property are adjacent to the Residential Property.

Declarant's plan for development of the Residential Property is based upon Declarant's desire to establish a residential community with a significant social and recreational component that draws together the owners of homes and homesites within the Residential Property ("**Residential Units**") and creates a sense of belonging and inclusiveness within the Oldfield community. In furtherance of this goal, Declarant has organized Oldfield Community Association, a South Carolina nonprofit corporation (the "**Association**"), as a mandatory

membership owners association to administer and enforce the Residential Declaration and to operate and maintain certain subdivision improvements and infrastructure for the benefit of the Residential Property, and has established the Club to administer this Declaration and to operate and maintain social and recreational facilities within Oldfield for the benefit of the owners of the Residential Property. By this Covenant, Declarant desires to provide for issuance of a Community Membership (as described below) in the Club for each home or homesite within the Residential Property ("**Residential Unit**") and to establish the obligation of the owner(s) of each Residential Unit to pay such periodic dues for Community Membership as the Club may establish from time to time in accordance with this Covenant.

Article I
Declaration of Intent and Binding Effect

Declarant, as the owner of Residential Property and the Club Property, hereby declares that all of the Residential Property and all of the Club Property shall be held, sold, and conveyed subject to the covenants, conditions, and easements contained herein, which shall run with the title to all the Residential Property and the Club Property. This Covenant shall be binding upon all Persons having any right, title, or interest in any portion of the Residential Property or the Club Property, their heirs, successors, successors-in-title, and assigns and shall inure to the benefit of the owners of each portion of the Residential Property and the Club Property, except as otherwise expressly provided or limited herein.

Article II
Community Membership

2.1. Issuance of Memberships. Declarant, the Club, or the owner or operator of the Club Property if other than Declarant or the Club ("**Club Operator**"), shall cause a membership ("**Community Membership**") to be issued to the owner(s) of each Residential Unit ("**Owner**") entitling the Owner to:

- (a) use such food and beverage and banquet facilities as the Club Operator may designate and the community dock, if any, operated by Club Operator on the Club Property;
- (b) use the boats, kayaks, and fishing gear provided at the Outfitters Center, if any, operated by Club Operator on the Club Property;
- (c) use the swimming pool, tennis courts and fitness center comprising the Activity Center, if any, operated by Club Operator on the Club Property;
- (d) participate in such social activities as the Club Operator may sponsor from time to time for holders of Community Memberships ("**Community Members**"); and
- (e) such additional privileges, if any, as the Club Operator may specify.

Only one Community Membership shall be issued per Residential Unit. If more than one person holds title to the Residential Unit, the Community Membership will be issued to all co-owners jointly.

All privileges of Community Membership shall be limited to operating hours and subject to payment of such charges for food and beverage service as the Club Operator may establish. Such privileges shall also be subject to such membership policies and rules as the Club Operator may establish and modify from time to time.

Nothing herein shall obligate Club Operator or the owner of the Club Property to offer or maintain food and beverage service nor shall anything herein dictate the level of service or hours of operation of any food and beverage service provided.

2.2. Term of Memberships; Covenant to Maintain. The Owner(s) of each Residential Unit shall maintain the Community Membership issued for their Residential Unit pursuant to Section 2.1 in good standing as long as they hold title to the Residential Unit. Such Community Membership shall automatically terminate, as to the Owner of each Residential Unit, when such person ceases to be the owner of record title to the Residential Unit; however, a former Community Member shall remain obligated for all charges incurred on account of such membership prior to such termination. Upon transfer of title to a Residential Unit and termination of the Community Membership held by the previous Owner, the Club Operator shall issue a new Community Membership to the new Owner(s).

2.3. No Ownership Interest. No Owner, by virtue of ownership of a Residential Unit or by virtue of holding a Community Membership in the Club, acquires any ownership interest, beneficial interest, or other vested interest whatsoever in the Club or the Club Operator, but only the privilege of using and enjoying the Club's facilities as a Community Member in accordance with the Club's Bylaws and the Club's rules, which are subject to change from time to time.

Article III **Obligation to Pay Membership Fees**

3.1. Covenant to Pay. Each Owner, by accepting title to a Residential Unit, covenants and agrees to pay to the Club Operator assessments, annual dues, and minimum usage fees in such amount as Club Operator shall specify from time to time, except that Community Members shall not be subject to assessment for operating deficits or capital improvements related to golf facilities or golf operations.

The dues for Community Membership shall be based upon a budget of the estimated costs of maintaining, repairing, replacing, insuring, operating and providing the facilities, activities, and events available for the use and enjoyment of Community Members, and a reasonable share of the overhead expenses associated with general operation and administration of the Club. Such costs may specifically include, but need not be limited to:

- (a) the costs of utility service (including water, sewer, electricity, natural gas, and cable or similar television) provided to such facilities;
- (b) the costs of janitorial service, maintenance and repair; property and liability insurance; and similar ongoing expenditures related to such facilities; and
- (c) the costs of maintaining, repairing and replacing the buildings, fixtures, furnishings, equipment and systems located within or that serve such facilities, which may include a reasonable contribution to a reserve fund for repair and replacement of such items;
- (d) that portion of the costs that Club Operator incurs in sponsoring activities in which the Community members are invited to participate;
- (e) administrative and overhead costs related to such facilities, services and programs or membership administration generally, including labor and payroll expenses.

Such budget shall not include costs associated solely with facilities, activities or events that do not benefit Community Members. In determining the level of dues to be charged for Community Memberships, the total estimated costs pursuant to such budget shall be divided by the number of memberships of all classes and categories to whom the facilities, services and/or programs covered by such budget are made available. Club Operator shall provide a copy of such budget to the holders of each Community Membership at least 45 days prior to the effective date of such budget, along with notice of the amount of the dues payable for each Community Membership for such budget year.

Any usage fees charged to Community Members shall not exceed the amount charged to other classes of members with comparable use privileges.

The obligation to pay dues and usage fees for Community Memberships shall commence no earlier than the first day of the first month following the date on which a permanent social and dining facility is available for use by Community Members.

3.2. Payment. Each owner of a Residential Unit, by accepting a deed to such Residential Unit, is deemed to covenant and agree to pay the dues and minimum usage fees charged by Club Operator for Community Membership and any other charges incurred by such owner and the authorized users of the membership ("**Membership Fees**") in a timely manner. All such Membership Fees, together with interest (computed from its due date at a maximum rate of 18% per annum or such higher rate as Club Operator may establish, subject to the limitations of South Carolina law), late charges, costs, and reasonable attorneys' fees, shall be the personal obligation of the owner of the Residential Unit. Upon a transfer of title to a Residential Unit, the grantee shall be jointly and severally liable with the grantor for any Membership Fees due at the time of conveyance.

The Club Operator's failure to establish Membership Fees or to notify Owners of the Membership Fees shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay Membership Fees.

3.3. Lien for Membership Fees. Subject to any limitations imposed by South Carolina law, the Membership Fees shall also constitute a lien on the Residential Unit against which they are levied from the time such Membership Fees become due until paid. The lien shall also secure payment of interest (subject to the limitations of South Carolina law), late charges, and costs of collection (including attorneys' fees, lien fees, and administrative costs). Such lien shall be superior to all other liens, except any lien of the Association and the lien or charge of any Recorded first Mortgage (meaning a recorded first Mortgage with first priority over other Mortgages) made in good faith and for value, and those deemed by South Carolina law to be superior. Club Operator may enforce such lien, when any Membership Fee is delinquent, by suit, judgment, and foreclosure in the same manner as the lien of any recorded first Mortgage of record (including nonjudicial foreclosure, to the extent permitted by South Carolina law).

Club Operator may bid for the Residential Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Residential Unit. Club Operator may sue for unpaid Membership Fees and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

The sale or transfer of any Residential Unit shall not affect the above-described lien or relieve such Residential Unit from the lien for any subsequent Membership Fees, except that the sale or transfer of any Residential Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any Membership Fees due prior to the foreclosure.

3.4. Declarant's Residential Units Excluded. The granting of a Community Membership and the obligation for Membership Fees pursuant to this Covenant shall not apply to any Residential Unit owned by Declarant, while so owned.

3.5. Independent Covenant. The obligation to pay the amounts provided for herein shall be mandatory and shall be a separate and independent covenant on the part of the each owner of a Residential Unit. No Owner may exempt himself or herself from liability for Membership Fees by non-use of Club facilities, abandonment of his Residential Unit, or any other means. No diminution or abatement of Membership Fees or set-off shall be claimed or allowed for any alleged failure of the Club Operator to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

3.6. Recordkeeping; Audit. Club Operator shall cause to be maintained full and accurate books of account with respect to the expenses described in Section 3.1. Such books and records shall be made available for inspection and copying by the owners and mortgagees of Residential Units upon reasonable request during normal business hours. The requesting party shall pay all copying charges for requested copies. If any owner of a Residential Unit desires to have the records audited, it may do so at its expense and Club Operator shall cooperate by

making available to the auditors the records, including all supporting material (e.g., check copies, invoices, etc.), for the year in question.

Article IV
General

4.1. Notice. Any notice provided for in this Covenant shall be served personally or shall be mailed by registered or certified mail to the addresses specified below unless the Club Operator or owner of a Residential Unit has specified, by written notice in accordance with this Section, a different address for delivery of notices, in which case the notice shall be addressed to such different address:

(a) if to the Club Operator:

Oldfield Club
PO Box 23499
Hilton Head Island, South Carolina 29910

(b) if to the owner of a Residential Unit, at the address of the Residential Unit.

All such notices shall, for all purposes, be deemed delivered and received (a) upon personal delivery to the addressee, or (b) on the third day after mailing when mailed by registered or certified mail, postage prepaid, and properly addressed.

4.2. Amendment. So long as Declarant owns any portion of the property subject to the Residential Declaration, or has an option unilaterally to submit additional property to the Residential Declaration in accordance with its terms, Declarant may unilaterally amend this Covenant to withdraw from its coverage property described on Exhibits "A" or "B", to substitute a different parcel or parcels of property for that previously described on Exhibit "B", or to include additional property on Exhibits "A" or "B;" provided, if the Declarant is not the owner of the property withdrawn, substituted or added, the consent of the owner shall be required. Otherwise, this Covenant may be amended only by an instrument signed by the Club Operator and by owners of a majority of the Residential Units and by Declarant, so long as Declarant has any rights under this Section, and recorded in the Office of the Register of Deeds of Beaufort County, South Carolina.

Amendments to this Covenant shall become effective upon recordation unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted.

4.3. Duration; Termination. This Covenant may be terminated only by an instrument signed by the Club Operator and by owners of a majority of the Residential Units and by Declarant, so long as Declarant has any rights under this Section, and recorded in the Office of the Register of Deeds of Beaufort County, South Carolina. Unless terminated as provided

herein, this Covenant shall have perpetual duration. If South Carolina law limits the period during which covenants may run with the land, then to the extent consistent with such law, this Covenant shall run for a period of 20 years and shall automatically be extended at the expiration of such period for successive periods of 20 years each. If any provision of this Covenant is judicially determined to be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

4.4. Transfer of Club Facilities. The transfer of the Club Property, and any of its facilities pursuant to the Transfer Agreement shall not affect the continued validity or enforceability of this Covenant, unless terminated in accordance with Section 4.3.

4.5. Construction; Severability. This Covenant shall be governed by and construed under South Carolina law. Invalidation of any provision of this Covenant, in whole or in part, by judgment or court order shall not affect other provisions.

4.6. Waiver. No failure of Declarant, the Club Operator, or the owner of any Residential Unit to exercise any right or power under this Covenant or to insist upon strict compliance with this Covenant and no custom or practice at variance with the terms of this Covenant shall constitute a waiver of the right thereafter to demand exact compliance with the terms of this Covenant.

4.7. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

[continued on next page]

EXHIBIT "A"**Residential Property**

ALL those certain pieces, parcels or tracts of land, with improvements thereon, located in Oldfield in Beaufort County, South Carolina, as more particularly shown and described on a plat entitled "A Subdivision Plat of Oldfield Plat 1, Lots 1-16 and 23-60," dated October 27, 2000, and last revised November 15, 2000, prepared by Coastal Surveying Co., Inc, certified by Michael R. Dunigan, P.L.S. (S.C. #11905), and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 76 at Page 162 on November 17, 2000. For a more detailed description as to metes and bounds, reference may be had to the above-mentioned Plat of record.

ALSO, ALL those certain pieces, parcels or tracts of land, with improvements thereon, located in Oldfield in Beaufort County, South Carolina, as more particularly shown and described on a plat entitled "A Subdivision Plat of Oldfield Way," dated October 27, 2000, and last revised November 15, 2000, prepared by Coastal Surveying Co., Inc, certified by Michael R. Dunigan, P.L.S. (S.C. #11905), and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 76 at Page 163 on November 17, 2000. For a more detailed description as to metes and bounds, reference may be had to the above-mentioned Plat of record.

ALSO, ALL those certain pieces, parcels or tracts of land, with improvements thereon, located in Oldfield in Beaufort County, South Carolina, as more particularly shown and described on a plat entitled "A Subdivision Plat of Oldfield Plat 3, Lots 61-150," dated October 27, 2000, and last revised November 15, 2000, prepared by Coastal Surveying Co., Inc, certified by Michael R. Dunigan, P.L.S. (S.C. #11905), and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 76 at Page 164 on November 17, 2000. For a more detailed description as to metes and bounds, reference may be had to the above-mentioned Plat of record.

The above described property is a portion of the same property conveyed to **Oldfield, LLC** by deed from **Cherry Point Limited Partnership**, dated June 29, 2000, and recorded on June 29, 2000, in the Office of the Register of Deeds for Beaufort County, South Carolina in Deed Book 1307 at Page 1734.

EXHIBIT "B"**Club Property**

All those tracts or parcels of land located in Beaufort County, South Carolina and more particularly described as follows:

All those portions, to be hereafter specifically surveyed and delineated, lying within the area shown on that certain plat entitled "A Boundary Plat of 923.43 Acres Oldfield," dated September 13, 2000, prepared by Coastal Surveying Co., Inc., and certified by Michael Dunigan, P.L.S. (S.C. #11905), and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 76 at Page 161 on November 17, 2000.

The above described property is a portion of the same property conveyed to Oldfield, LLC by deed from Cherry Point Limited Partnership, dated June 29, 2000, and recorded on June 29, 2000, in the Office of the Register of Deeds for Beaufort County, South Carolina in Deed Book 1307 at Page 1734.

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FILED
JOHN A. SULLIVAN, JR.
R.M.C.
BEAUFORT COUNTY, S.C.

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