

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS

OF

LONGCREEK PLANTATION HOMEOWNERS ASSOCIATION, Inc,

(Book T 196 Page 878)

THIS DECLARATION, made this 19th day of November, 2014 by LONGCREEK  
PLANTATION HOMEOWNERS ASSOCIATION, INC. ("Declarant").

WITNESSETH:

WHEREAS, the Declaration of Covenants, Conditions and Restrictions of Longcreek  
Plantation Homeowners Association was dated September 5, 1990 and recorded at Book T196,  
Page 878, in the Charleston County RMC Office (the "Covenants"); and

WHEREAS, Article VI, Section 3 of the Covenants provides that they could be amended  
by the vote of at least seventy (75%) percent of the owners of Lots subject to said Covenants;  
and

WHEREAS, the Amended and Restated Covenants set forth below were approved on  
November 19, 2014 by at least seventy (75%) percent of the owners of the Lots subject to the  
Covenants, and the Association was authorized to execute this instrument on behalf of the Lot  
owners to effect said Amendment.

NOW THEREFORE, the Association on behalf of the Property Owners hereby declares  
that the Covenants are amended in their entirety as set forth herein, and the Property shall be  
held, sold and conveyed subject to the following easements, restrictions, covenants, and  
conditions, which are for the purpose of providing for the operation and maintenance of the  
Common Area and for the purpose of protecting the value and desirability of said Property, and  
which shall run with the Property and be binding on all parties having any right, title or interest  
in the 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 Longcreek Plantation Homeowners Association, Inc., a South Carolina non-profit corporation, its successors and assigns.

Section 2. "Common Area" shall mean and refer to all roads, green areas and detention areas shown on any subdivision plat of the Property recorded in the R.M.C. Office for Charleston County, South Carolina, including, but not limited to, the roads, green areas and detention areas shown on the Plat of the Property recorded in the R.M.C. Office for Charleston County, South Carolina, together with any boat ramps, swimming pools, tennis courts, restroom facilities, changing facilities or any other amenities or real property conveyed to or owned by the Association for the common use and enjoyment of the Owners. The term "Common Area" shall also include any personal property acquired by the Association if the said property is designated as "Common Area." All real or personal property which is to become a Common Area shall be conveyed to the Association free and clear of all liens and encumbrances other than reasonable and normal restrictions or easements.

Section 3. "Declaration" shall mean and refer to this written instrument entitled "AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF LONGCREEK PLANTATION HOMEOWNERS ASSOCIATION."

Section 4. "Lot" shall mean and refer to any numbered plot of land comprising a single dwelling site and shown upon any recorded subdivision plat of the Property, now or hereafter made subject to this Declaration.

Section 5. "Owner" or "Member" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including purchasers in possession, excluding the Association and excluding those having such interest merely as security for the performance of an obligation.

Section 6. “Property” shall mean and refer to that certain real property described on EXHIBIT A and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 7. The By-Laws of Longcreek Plantation Homeowners Association, Inc. are those certain By-Laws dated September 4, 2012 and recorded at Book 0276, Page 306, and re-recorded at Book 0315, Page 285, in the Charleston County RMC Office.

## 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, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of the Common Area as applicable and/or facilities therein;

(b) the right of the Association to charge annual and special assessments as set out in Article IV below;

(c) the right of the Association to establish reasonable rules and regulations for the use of the Common Area;

(d) the right of the Association to suspend the voting rights and right to use of 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;

(e) 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 approved by two-thirds (2/3) of the Members agreeing to such dedication

or transfer has been recorded; provided, however, in the event the Members of the Association elect to dedicate any portion of the Common Area designated as streets and/or drainage systems to Charleston County, then at such time and before Charleston County accepts such dedication, the Association must construct all such streets and drainage systems to the present standards which have been adopted by the governing body of Charleston County. Furthermore, in the event the Association is dissolved, and the streets and drainage systems become the responsibility of Charleston County for any reason, each Owner will be assessed a pro-rata portion of the cost required to bring the streets and drainage systems into compliance with prescribed standards of Charleston County;

(f) the right of the Association, with assent of sixty seven (67%) of the Members, to mortgage, pledge, deed in trust or hypothecate any or all of its real and personal property as security for money borrowed or debts incurred; provided, however, that the rights of any such mortgagee shall be subordinate to the rights of the Owners.

Section 2. Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the Property.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot shall be a Member of the Association (“Member”). Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. The Association shall consist of all Owners. Owners shall be entitled to one 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 determine, but in no event shall more than one vote be cast with respect to any Lot.

## ARTICLE IV

### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefore (whether or not it shall be so expressed in such deed) is deemed to covenant and agree to pay to the Association: (1) annual assessments and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The obligation for delinquent assessments shall pass to a successor in title.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the residents of the Property and for the improvement, maintenance and operation of the Common Area, including, but not limited to, the payment of taxes and insurance thereon as well as repair, replacement and additions thereto, and for the costs of labor, equipment, materials, management and supervision thereof. In addition, the assessments levied by the Association may be used to maintain a common sign or signs and to landscape, spray, clean, clear, trim, remove weeds, limbs and debris from the Common Area or from within the rights-of-way of any public street or streets within the Property and to provide general maintenance of the Common Area and to provide for a replacement reserve for all improvements.

The special assessments shall be used for the purposes set forth in Section 4 of this Article.

Section 3. Maximum Annual Assessment.

(a) The maximum annual assessment may be increased each year not more than ten (10%) percent above the maximum assessment for the previous year without a vote of the membership;

(b) The maximum annual assessment may be increased by more than ten (10%) percent by a vote of two-thirds (2/3) of Members who are voting in person or by proxy, at a meeting duly called for this purpose or by email; and

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

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of Members who are voting in person or by proxy at a meeting duly called for this purpose. If attendance by members does not satisfy the quorum requirement, a vote may be requested by email.

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 shall be sent to all Members not less than thirty (30) days, nor more than sixty (60) days, in advance of the meeting. The quorum shall constitute at least 50% of all eligible voting members. 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. If attendance by members does not satisfy the quorum requirement, a vote may be requested by email.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on an annual or monthly basis as determined by the Board of Directors.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates will be established by the Board of Directors.

The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of the assessments on the Lot is binding upon the Association as to the date of its issuance.

Section 8. Effect of Non-payment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate of fourteen (14%) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property and recover all costs and expenses, including reasonable attorneys' fees, whether or not suit is brought. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

## ARTICLE V

### ARCHITECTURAL CONTROL COMMITTEE

Section 1. The Architectural Control Committee or Committees shall be established and have the duties and functions as described in any Declarations of Restrictions and Easements pertaining to the Lots owned by Members and set forth in separate documents recorded, or to be recorded, in the R.M.C. Office for Charleston County, South Carolina.

## ARTICLE VI

### GENERAL PROVISIONS

Section 1. Enforcement. The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or 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.

Section 2. Severability. Invalidation of any one 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 3. Amendment. This Declaration may be amended at any time by an instrument approved by not less than sixty seven (67%) percent of the Owners. Any amendment must be recorded. Every purchaser or grantee of any interest in Property now hereafter subjected to this Declaration by acceptance of a deed or other conveyance therefore thereby agrees that this Declaration may be amended as provided in this Section. Further, the Association shall have the authority to amend these restrictions at any time to comply with the requirements of any government body such as the Veterans' Administration, Federal Housing Administration, Department of Housing and Urban Development, Charleston County or the Federal National Mortgage Association or to correct typographical or scrivener's error. The Association shall not, by reason of the power herein reserved, have the right to alter the amount or method of making annual or special assessments unless a governmental body having jurisdiction over such matter requires a change.

Section 4. Mergers. Upon a merger or consolidation of the Association with another Association as provided for in the By-laws of the Association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, in the alternative, the properties, rights and obligation of another association may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to merger. A surviving association may administer the covenants and restrictions established by this Declaration within the Property as herein provided.

Section 5. By-Laws. The affairs of the Association shall be governed by and conducted in accordance with the By-Laws.

IN WITNESS WHEREOF, LONGCREEK PLANTATION HOMEOWNERS ASSOCIATION, INC. has caused these presents to be executed on the day first written above.

WITNESSES:

LONGCREEK PLANTATION HOMEOWNERS  
ASSOCIATION, INC.

\_\_\_\_\_

By: \_\_\_\_\_

David McCann

its President

\_\_\_\_\_

By: \_\_\_\_\_

Rick DeVoe

its Vice President

STATE OF SOUTH CAROLINA )

)

ACKNOWLEDGMENT

COUNTY OF CHARLESTON )

THE FOREGOING instrument was acknowledged before me this 19th day of November, 2014  
by Longcreek Plantation Homeowners Association, Inc., by

\_\_\_\_\_, its \_\_\_\_\_

David McCann

President

\_\_\_\_\_, its \_\_\_\_\_

Rick DeVoe

Vice President

\_\_\_\_\_

Notary Public for South Carolina

Commission Expires: \_\_\_\_\_

EXHIBIT "A"

LEGAL DESCRIPTION

ALL those parcels, pieces or lots of land, situate lying and being located on Wadmalaw Island, Charleston County, South Carolina, being known and designated as Lots 1 through 8, 9A, 9B, 10 through 35 and 40 through 46 as shown on a certain plat entitled, "FINAL PLAT LONGCREEK PLANTATION SUBDIVISION LOCATED ON WADMALAW ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA," dated March 14, 1991, prepared by W. Mason Lindsey, Jr. R.L.S., and recorded in Plat Book CC, at Pages 161-162 in the RMC Office for Charleston County, South Carolina. Said lots having such size, shape, buttings, boundings and dimensions, as will by reference to said plat more fully and at large appear.

AND ALSO

ALL those parcels, pieces or lots of land, situate lying and being located on Wadmalaw Island, Charleston County, South Carolina, and being known and designated as Lots 36A, 36B, 37A, 38A, 38B and 39A on a plat prepared by ARC Surveying Company, Inc. entitled "PLAT SHOWING THE RESUBDIVISION OF LOTS 36 THRU 39 INTO LOTS 36A, 36B, 37A, 38A, 38B and 39A, LONGCREEK PLANTATION SUBDIVISION, LOCATED ON WADMALAW ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA", dated September 15, 1993 and recorded January 10, 1994, in Plat Book CO, at Page 173, in the RMC Office for Charleston County, South Carolina. Said lots having such size, shape, buttings, boundings and dimensions, as will by reference to said plat more fully and at large appear.