

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

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DECLARATION, CONDITIONS AND
RESTRICTIONS
KINGSTON COVE PHASE V

WHEREAS, THE HILTON HEAD COMPANY, INC., a Delaware corporation (hereinafter referred to as the "Company"), is the owner of that certain real property located in Shipyard Plantation, Hilton Head Island, Beaufort County, South Carolina (hereinafter referred to as the "Property") as more particularly described on EXHIBIT "A" attached hereto and made a part hereof by this reference;

WHEREAS, for the purpose of enhancing and protecting the value, attractiveness and desirability of the Property, the Company hereby declares that all the real property described above and each part thereof shall be held, sold and conveyed subject to the following easements, covenants, conditions and restrictions which shall constitute covenants running with the land and shall 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 enure to the benefit of each Owner thereof.

SECTION ONE

Definitions

As used herein, the following terms shall have the following meanings:

1. Association: The Property Owners' Association as described in Section Three hereof.

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2. Board: The Plans Approval Board of The Hilton Head Company, Inc., a Delaware corporation, as currently constituted or hereinafter modified, its successors or assigns.

3. Covenants: All covenants, conditions, restrictions and obligations as set forth in this Declaration.

4. Company: The Hilton Head Company, Inc., a Delaware corporation, its successors or assigns.

5. Lots: Any one of the unimproved parcels of land within the Property as described on EXHIBIT "A" and collectively known as Lots 20, 21, 22, 23, 24, 25, 26, 27 and 28, Kingston Cove Subdivision, Phase V. The term "Lot" shall also include any improvements constructed thereon.

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6. Owner: The record Owner, either one or more persons or entities, of fee simple title to any Lot which is part of the Property but shall not include those holding title merely as security for performance of an obligation. Specifically, Owner shall include persons or entities as tenants-in-common having an interest in the title to a Lot under contract or covenant allowing for the exclusive use and possession of the Lot during specified time intervals between such tenants-in-common having an interest in the Lot.

7. Subdivision: The subdivision of the Property as described on EXHIBIT "A."

SECTION TWO

Plans Approval Board

The Company has established a Plans Approval Board for the purpose of examining and passing upon all proposed plans for any

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structure or structures whatsoever and any addition thereto and remodeling thereof intended to be placed on the Property. The approval of the Board, its designated agent, successors or assigns, shall be required on the designs of all improvements placed upon the Property. No building, structure or accompanying facility of any kind, including mailboxes, signs or other forms of advertising, shall be erected, placed or altered on the Property until architectural plans, specifications, construction material and site plans, including construction schedules, plans for outdoor lighting, plan for drainage, plan for landscaping, a tree survey and a fill plan indicating areas to be filled or excavated and measures to be taken to ensure conservation of such trees have been approved in writing by the Board, its designated agent, successors and assigns. Primary consideration in granting or refusing such approval shall be: Quality of design, workmanship and materials, harmony of external design with existing structures, aesthetic consideration, landscaping plan and location with respect to typography and finish grade elevations, as well as any other appropriate and reasonable considerations. Any approval granted by the Plans' Approval Board shall terminate if construction has not commenced within ninety (90) days of the date of the Board's approval notification and all plans must be resubmitted to the Board for full consideration, as if they were a new application. All structures shall be completed within the time specified in the construction schedules approved by the Board and the failure to do so shall subject the Owner to show cause before the Board why such construction has not been completed as scheduled. If such cause is not deemed satisfactory by the Board to justify such delay, it

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shall be considered a breach of contract by the Owner such that the Board may restudy the plan already approved and take such action as it deems beneficial and appropriate including rescission or modification of the Board's approval. The total enclosed space exclusive of screen porches and garages for each residential structure shall have a minimum of thirteen hundred fifty (1350) square feet with a main living floor minimum of twelve hundred (1200) square feet.

SECTION THREE

Property Owners' Association

The Company specifically reserves the right to establish a Property Owners' Association (hereinafter referred to as the "Association") for the purpose of exercising powers of maintaining and administering common facilities and providing common services, administering and enforcing covenants, conditions and restrictions contained herein and levying, collecting and disbursing assessments and charges herein created. Further, the Company reserves the rights to convey to the Association any or all of its rights and obligations set forth herein. By acceptance of a deed for a Lot within the Property, the Owner shall be deemed to covenant and agree to subject said Lot to the covenants and conditions for said Association when said covenants and conditions are established and no further act by an Owner is required. An Owner of a Lot shall be a member of the Association and shall be entitled to one vote in all Association matters for each Lot owned. When more than one person or entity owns an interest in a Lot, one Vote for such Lot shall be exercised among themselves as they determine, but in no event shall more than one Vote be cast or that be fractionalized.

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SECTION FOUR

Assessments

In order to provide a permanent fund to maintain, landscape and repair private streets, walkways and like community areas within Shipyard Plantation and provide those services important to the development and preservation of an attractive community appearance within Shipyard Plantation and the Property and further to maintain privacy and general safety and security of Shipyard Plantation and the Property, each Owner of a Lot within the Property shall pay annually to the Company, its successors and assigns, a reasonable sum, not to exceed Two Hundred Thirty-Nine and No/100 (\$239.00) Dollars for the year 1983 for each Lot so owned. For each year after 1983, such amount shall not exceed one hundred ten (110%) percent of that of the previous year. All sums paid to the Company, its successors and assigns, as provided herein shall be placed in an escrow account to be used exclusively for the purposes hereinabove noted.

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If a Lot is encumbered by contract or covenant providing for multiple tenants-in-common and for exclusive use and possession of the Lot for specific time intervals, the assessment paid to the Company, its successors and assigns, shall be identical to the amount stated above. The division of responsibility for payment of the same by the multiple tenants-in-common shall be established by the contract or covenant encumbering the subject Lot.

All assessments as described herein together with interest, cost and reasonable attorneys' fees for the collection of the same, shall be a charge upon the land and a continuing lien on each Lot

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against which such assessment is made and when such assessment becomes due. Each such assessment together with interest, cost and reasonable attorneys' fees for the collection of the same, shall also be the personal obligation of the Owner of the Lot at the time the assessment fell due but such personal obligation shall not pass to the successor in title to such person, persons or entities unless expressly assumed by them.

Any assessment not paid within thirty (30) days after the due date shall be deemed in default and shall bear interest from the due date at a rate of fifteen (15%) percent per annum. The Company, its successors and assigns may bring an action at law against the Owner of a Living Unit personally obligated to pay the same, or may foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein.

The lien for assessments as provided for herein shall be subordinate to the lien of any first mortgage. A sale or transfer of any Lot shall not affect the lien for assessment. However, the sale or transfer of any Lot pursuant to a mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien for assessment as to payments which become due prior to such sale or transfer. No sale or transfer resulting from mortgage foreclosure or any proceedings in lieu thereof shall relieve any subsequent Owner from liability for any assessments thereafter becoming due or from the lien thereof.

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SECTION FIVEEasements

The Company, its successors and assigns, hereby reserve the following easements as follows:

1. An easement over any portion of the Property which is unimproved and upon which no landscaping plan has been implemented and any portion of the Property which, in the opinion of the Company, is not properly maintained for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth which in the opinion of the Company, its successors and assigns, detracts from the overall beauty, setting and safety of the Property. Entrance upon any such portion of the Property for the purpose of mowing, cutting, clearing and pruning shall not be deemed a trespass. The provisions of this Paragraph shall not be construed as an obligation on the part of the Company, its successors and assigns, to mow, clear, cut or prune any portion of the property or provide garbage or trash removal services. All costs incurred by the Company in the exercise of its rights hereunder may be charged the Association or the Owner(s), as appropriate, as an additional assessment under Section Four of this Declaration.

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2. An easement upon the Property for the purpose of removing, trimming or altering any structure, lower branches of trees or other vegetation which obstructs the view at intersections of roads and streets within the Property. Entrance upon any portion of the Property for the purposes described in this Paragraph shall not be deemed a trespass. The provisions of this Paragraph shall not be construed as an

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obligation on the part of the Company, its successors and assigns, to remove, trim or alter any structure, lower branches of trees or other vegetation which obstructs the view at intersections of roads and streets within the Property.

3. Perpetual, alienable and releasable easements and rights on, over and under the ground, to erect, maintain and use electric and telephone poles, wire, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, television and other public conveniences or utilities on, in or over the Property as may be reasonably required for the purposes above; provided further, that the Company, its successors and assigns, may cut drain ways for surface water wherever and whenever such action may appear to the Company, its successors and assigns, to be necessary in order to maintain reasonable standards of health, safety and appearance. These easements and rights expressly include the right to cut trees, bushes or shrubbery, any gradings of the soil and to take any similar action reasonably necessary to provide economical safe utility installation or to maintain reasonable standards of health, safety and appearance. As to each such easement utilized, the location thereof shall be fixed upon installation of the respective service line and shall be no wider than seven and one-half (7½') feet either side of the service line. Within these easements, no structures, plantings or other material shall be placed or permitted to remain which may damage or interfere with installation and maintenance of utilities, or which may damage or interfere with or change the direction of flow of drainage facilities in the easements. Such easement areas shall be

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continuously maintained by the Owner of a Living Unit except for the improvements for the maintenance of which a public authority or utility company is responsible. No improvements of any kind shall be built, erected or maintained on any such easement and such easements, shall at all times be open and accessible to the Company, its successors and assigns, for the right and privilege of doing whatever may be necessary in, on, under and above such locations to carry out any of the purposes for which such easements are reserved. The Company, its successors and assigns, hereby reserves the right to approve the necessary construction, installation and maintenance of utility facilities, including but not limited to, water, telephone, electricity, television and sewage systems within the Property.

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Use Restrictions

The Property shall be occupied and used only as follows:

1. No building shall be erected, placed or permitted to remain on any Lot other than one (1) single family detached dwelling; provided, however, that nothing herein shall prevent the use of any such dwelling as a model or sales office. The term "one single family detached dwelling" as used herein shall mean and refer to the type of building to which the Property is restricted, and shall not be construed as preventing short-term or long-term rental, nor as preventing multiple Owners having a fee simple interest in a dwelling from contracting and covenanting among such persons having an interest in the title to such dwelling to have exclusive use and possession of the dwelling for specific time intervals.

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2. No business of any kind shall be conducted on any portion of the Property or in any improvements constructed on a Lot by any person or entity with the exception of the Company, its successors and assigns or any Owner or agent of an Owner in developing the Property and selling Lots thereon.

3. No noxious or offensive activities shall be carried on upon the Property, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. There shall not be maintained any plants or animals or any device or anything of any sort which in its normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy enjoyment of other Lots located within the Property. There shall be no discharging of firearms, guns or pistols of any kind, caliber, type or any method of propulsion.

4. No animals, livestock or poultry of any kind shall be raised, bred or kept within the Property. However, dogs, cats and other household pets may be kept in Lots subject to such rules and regulations as may be adopted by the Company, its successors and assigns, so long as they are not kept, bred or maintained for commercial purposes.

5. No signs, coping or retaining walls shall be erected or maintained on the Property except as approved in writing by the Board or its designated representative. No commercial signs, including "For Rent," "For Sale" or other similar signs shall be erected or maintained on the Property except with the written permission of the Board or except as may be required by legal proceedings. All signs erected on

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the Property shall conform to reasonable size, color and content requirements established by the Board.

6. No boathouses, docks, piers or wharves shall be constructed on the Property without first obtaining the written approval of the Board or its designated representative.

7. No travel trailers or mobile homes, campers or other habitable motor vehicles of any kind (whether self-propelled or not), school buses, trucks or commercial vehicles or boat trailers, or tents of any kind, shall be kept, stored or parked overnight on any portion of the Property except within enclosed garages or within storage areas for such purpose, approved by the Board or its designated representative.

8. No Owner shall excavate or extract earth by any method or any purpose unless written approval is first obtained from the Board or its designated representative. No elevation or topography change shall be permitted on the Property which materially affects surface grade or drainage of surrounding property unless first approved in writing by the Board or its designated representative.

9. No live trees measuring six (6") inches or more in diameter at a height of four and one-half (4½') feet above ground level may be removed without the approval of the Board. If any Owner removes such a tree without the approval of the Board, the Owner shall replace the same with a tree of comparable value. In the event the Owner fails within thirty (30) days to satisfactorily replace the tree, the Owner shall pay the Company a damage fee of Two Thousand Five Hundred and No/100 (\$2,500.00) Dollars per lost tree and the Company shall have the right to enter the Property for the purpose of replacing the tree. Said

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liquidated damages will become a lien on the property and all provisions relative to assessments herein shall apply to these damages.

SECTION SEVEN

Prohibited Activities for Golf Course Area

Owners of Lots abutting golf fairways or greens shall be obligated to refrain from any actions which would distract from the playing qualities of any golf course on or abutting the Property. Such prohibitive action shall include, but not be limited to, such activities as burning trash when smoke would cross the fairway and the maintenance of unfenced dogs or other pets under conditions interfering with play due to loud barking, running on the fairways or other like interference.

SECTION EIGHT

Repurchase Option

No Owner shall convey any portion of the Property or any Living Unit therein without first delivering to the Company, its successors and assigns, written notice of his intention to convey stating the names and addresses of the intended Grantee or Grantees and the price and other terms of such conveyance. The Company shall then have the option to purchase that portion of the Property or any Living Unit at the same price and on the same terms described in the written notice, which option shall be effective for a period of thirty (30) days after receiving such notice. If the Company elects not to exercise its option, it shall within thirty (30) days, deliver its assent to the intended conveyance in recordable form and the Owner shall have the right to sell at the exact price and terms submitted to the Company. The provisions of this Section shall not apply to bona fide gifts of

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Property or Lots, to bona fide mortgages thereon, to bona fide foreclosure proceedings, including foreclosure sales, nor to devises of said Lots.

SECTION NINE

General Provisions

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

2. Severability: Invalidation of any covenants or restrictions or any term, phrase or clause of this Declaration by the adjudication of any court or tribunal shall in no way effect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

3. Duration: The Covenants and Restrictions of this Declaration shall run with and bind the Property, and shall enure to the benefit of and be enforceable by the Company, the Association or any Owner for a period of twenty (20) years from the date hereof and thereafter shall continue automatically in affect for additional periods of twenty (20) years, unless otherwise agreed to in writing by the Company and the then Owners of at least seventy-five (75%) percent of the Lots. If any of the Covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation

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of the rule against perpetuities then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Mrs. Lillian Carter, mother of former U.S. President James Earl Carter.

4. Assignment: The Company shall have the right to assign to any one or more persons, firms, corporations, partnerships or associations any and all rights, powers, titles, easements and estates reserved or given to the Company in this Declaration.

5. Amendment: This Declaration may be amended at any time or from time to time by a written, recorded amendment approved and executed by two-thirds (2/3) of the Owners of the Property and the Company, provided, however, if the Company shall reacquire title to the Property or any portion of the Property at any time hereafter, then the Company, its successors or assigns shall have the sole right, at any time or from time to time, to include in any contract or deed executed by the Company hereafter affecting or pertaining to any portion of the property reacquired by the Company, any amendment to this Declaration or any additional Restrictions and Covenants as it may deem appropriate.

6. Access: Ingress and egress to and from the Property shall be on and over the existing roads of Shipyard Plantation at the date of this Agreement. No roads, paths, walkways, gates, bridges, rights-of-way or other access to and from the Property and Lots shall be cleared, constructed, placed or used without the prior written and recorded consent of the Company, which consent shall be within the sole discretion of the Company and whose discretion shall include consideration of the impact on the integrity, safety, value and

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attractiveness of any such access to Shipyard Plantation, among other considerations including without limitation the impact on Company owned lands.

WITNESS its hand and seal this the 15th day of August, 1983.

WITNESSES:

THE HILTON HEAD COMPANY, INC.,
A Delaware Corporation

Martha J. Cunningham
John P. Qualey, Jr.

By: [Signature]

Attest: Clifton B. Cham...



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EXHIBIT "A"

All those certain pieces, parcels or tracts of land lying and being in Shipyard Plantation, Hilton Head Island, Beaufort County, South Carolina, and being designated as "Lots 20, 21, 22, 23, 24, 25, 26, 27 and 28," Kingston Cove Phase V, as more fully shown and described on that certain plat of survey entitled "A Plat of Lots 15-33, Kingston Cove Phases III, IV, and V," originally dated February 18, 1981 and last revised on February 16, 1982, prepared by Coastal Surveying Co., Inc., Jerry L. Richardson, South Carolina Registered Land Surveyor No. 4784, and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina in Plat Book 30 at Page 59.

Hughes & McKeithen
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COUNTY STAMPS .00
TOTAL FEES 18.00
HENRY JACKSON
CLERK OF COURT BFT CNTY, SC
