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STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )  
CHINABERRY RIDGE  
DECLARATION OF COVENANTS,  
RESTRICTIONS AND LIMITATIONS  
AND PROVISIONS FOR MEMBERSHIP IN  
CHINABERRY RIDGE OWNERS'  
ASSOCIATION, INC.

THIS DECLARATION, is made this 1st day of May, 1995 by  
SUMMERFIELD LAND, L.P. (hereinafter referred to as "Declarant") of  
Hilton Head Island, South Carolina.

W I T N E S S E T H:

WHEREAS, Summerfield Land, L.P., a Limited Partnership  
organized and existing under the laws of the State of South  
Carolina, is the owner of certain lands (hereinafter referred to as  
the "Property") described in Article I of this Declaration, located  
on Hilton Head Island, Beaufort County, South Carolina; and

WHEREAS, Declarant desires to develop the Property in a  
coordinated manner into a residential subdivision to be known as  
Chinaberry Ridge, with provisions for certain Chinaberry Ridge  
common areas, common access ways and common regulations and cost  
sharing, all as more particularly set forth herein; and

WHEREAS, Declarant finds that private controls over the use of  
the land are an effective means of establishing, preserving,  
maintaining and, in some instances, enhancing, the economic or  
intangible values pertaining to the use and enjoyment of the  
Property and, to this end, Declarant desires to establish on the  
Property certain private land use controls, conditions, restric-  
tions, equitable servitudes, encumbrances, affirmative obligations,  
burdens, benefits, reservations, easements, assessments, charges  
and liens (hereinafter referred to as the "Declaration" or these  
"Covenants"); and

WHEREAS, Declarant deems it desirable to provide a mechanism  
for the proper administration of these Covenants, including, but  
not limited to, the ownership, operation and maintenance of common  
facilities on the Property, the performance of acts of maintenance,  
administration, assessment, enforcement and other activities set  
forth in these Covenants and other mandated and discretionary  
functions consistent with the purpose of these Covenants which  
benefit the Property; and

WHEREAS, in connection with the need for such a mechanism,  
Declarant has caused or will cause to be incorporated under the  
laws of the State of South Carolina a non-profit corporation, the  
Chinaberry Ridge Owners' Association, Inc., for the purpose of  
exercising the functions aforesaid, and which are hereinafter more  
fully set forth; and

NOW, THEREFORE, Declarant hereby declares that the Property  
hereof is and shall be held, transferred, sold, devised, assigned,

BETHEA, JORDAN  
& GRIFFIN, P.A.  
ATTORNEYS AND  
COUNSELORS AT LAW

conveyed, given, purchased, leased, occupied, possessed, mortgaged, encumbered and used subject to these Covenants. These Covenants, the benefits of these Covenants, and the affirmative and negative burdens of these Covenants, whether pertaining to items, benefits and obligations presently existing or to be created or executed in the future, do and shall, in equity and at law, touch and concern, benefit and burden, and run with the land and any estates in the land herein referred to as the Property, and these Covenants are intended to be Covenants and servitudes burdening and benefiting all persons now or hereafter deriving a real property estate in the Property whether by assignment, succession or inheritance or other method of conveyance.

PART ONE  
PROPERTY COVERED BY COVENANTS

ARTICLE I:  
Property Description

Section 1.1: The Property. The real property ("the Property") which is and shall be held, transferred, sold, conveyed, given, donated, leased and occupied subject to these Covenants, is described in **EXHIBIT "A-1"** to these Covenants.

Section 1.2: Additional Property. In addition to the Property described in Section 1.1 above, wherever used in these Covenants the term "the Property" shall also mean and refer to: (a) the future development parcels of Declarant more fully described in Exhibit "A-2" to these Covenants, and (b) all property which may be contiguous to the Property or located nearby, but only if such future development property, whether described in Exhibit "A-2" or otherwise, is voluntarily submitted to these Covenants by Declarant, without consent of the Association, or by the owner(s) of such property if Declarant is not the owner, with the consent of Declarant hereunder, its successors or assigns. Such submission of additional property, whether described in Exhibit "A-2" or otherwise, shall become effective only after filing a document of record in the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina, executed in recordable form, by the property owner and Declarant, describing such property and stating the intent to be bound hereby and submitted hereunder.

PART TWO  
LAND USE RESTRICTIONS

ARTICLE II:  
General Land Use Restrictions and Obligations

Section 2.1: Use of Property. Declarant does hereby declare that the Property which is the subject of this Declaration shall be

utilized for residential purposes and all commercial activities upon or within said Property are hereby prohibited. Declarant further acknowledges that it may include additional restrictions or modifications in deeds to various properties to further define the scope of this general use condition. The allowance or approval of a proposed use under this Section shall not be interpreted as a representation that such use complies with any applicable governmental zoning and/or land use regulation. Such regulations may apply further use restrictions in addition to the above.

Section 2.2: Architectural Review of Specifications for New Construction or Additions, Reconstructions, Alterations or Changes to Structures, Landscaping and Siting.

(a) Review and Approvals. No building, fence, or other structure or landscaping element shall be erected, placed or altered on said Property until the proposed building plans, specifications, exterior color or finish, landscape plan, site development plan (showing proposed location of such building or structure, setbacks, open space, drives, landscape elements, patios, decks and parking areas) and construction schedule shall have been approved in writing by Declarant, its successors or assigns. Refusal of approval of plans, location or specifications may be based by Declarant upon any reasonable grounds, including purely aesthetic considerations, which in the sole discretion of Declarant shall seem sufficient. No alterations in the exterior appearance of any building, landscape element or structure shall be made without like approval by Declarant. Two (2) copies of all plans and related data shall be furnished to Declarant, or its agent, for its records and a reasonable fee (not to exceed \$150.00 for calendar year 1995 and thereafter subject to adjustment by Declarant) may be required at the time of submittal to cover costs of plan review by professionals. Among other items, design guidelines may include suggested or required building materials, colors, setbacks, buffers, paving materials, plant materials, light fixtures, signs and graphics, benches, trash receptacles, etc. In addition to reviewing plans suggested by a Lot owner, Declarant may actually require construction of certain elements on a given Lot in order to comply with any master plan for pedestrian ways, signs, lighting, drainage or other such master design requirements.

(b) Siting.

(i) To assure that the building and other structures will be located so that reasonable view, privacy and breeze will be available to the largest practical number of each building or structures built within the Property and that structures will be located with regard to structures previously built or approved pursuant to this Article for adjacent parcels of land and with regard to the topography of each property taking into consideration the location of large trees and the stated goal of minimizing the number of trees to be removed, as well as other aesthetic and

environmental considerations, Declarant, its successors and assigns, shall have the right to approve (subject to the provisions of the pertinent law) the precise site and location of any structure within the Property. The location shall be determined only after reasonable opportunity is afforded the Property Owner to recommend a specific site. Minimum setbacks of twenty (20') feet in the front and rear and ten (10') feet on each side shall be adhered to by the Owner as to the building or any other structure. Where the lot abuts on to open space, waiver of the setback in question will be encouraged. Variances to these setback requirements may be approved by the ARB where, in the sole discretion of the Declarant or ARB, the adjacent property would not be adversely affected by such variance.

(ii) In submitting site development plans for review hereunder, each Lot Owner shall include calculations verified by an engineer or landscape architect regarding total pervious and impervious surface coverage, open space, gross building square footage, and any other data which may be requested. Once approved, development consistent with such calculations shall be mandatory, it being understood that this data shall be submitted to the Town of Hilton Head Island for the purpose of reporting the status and compliance of the overall master planned area with the standards imposed by law on the master planned area as a whole.

(iii) All driveways on the Lot shall be concrete with specifications to be approved by the ARB, it being a requirement that all driveways be consistent as to substance, color and texture throughout the Property. Similarly, should culverts be required for the area leading from the street to the driveway, any piping utilized for said culverting shall likewise be consistent and shall be specified by the ARB.

(c) Architectural Review Board. Declarant may establish and periodically appoint the members of an Architectural Review Board ("ARB") to function as its agent for the purpose of reviewing and approving all activities which are made subject to Declarant's approval by this Section. At any time after the activation of the Owners' Association as hereinafter provided, Declarant may, in its sole discretion, delegate and assign unto the Association the right and duty of maintaining and administering the ARB. The ARB shall be composed of three (3) members, at Declarant's discretion, the members of which need not be Owners of Lots within the Property, and such members shall serve for terms of one (1) year. Standards for review may be published by the ARB and made available to Owners or prospective Owners for the cost of publication. No approval of plans, location or specifications, and no publication or architectural standards bulletins by the Declarant or the ARB shall ever be construed as representing or implying that such plans, specifications or standards will, if followed, result in a properly designed structure or that such standards comply with pertinent

law. Any established standards or guidelines may be changed from time to time at the discretion of the ARB or Declarant, without prior notice. If additional property is submitted to these Covenants in the future, Declarant may submit such property subject to the same guidelines and review process, or establish such other guidelines and review process as Declarant may deem appropriate for such additional property, at Declarant's discretion. DECLARANT SHALL ASSUME NO RESPONSIBILITY FOR THE ACTIONS OR INACTIONS OF THE ARB AND/OR THE ASSOCIATION AND ALL OWNERS AGREE TO HOLD DECLARANT HARMLESS IN THE EVENT OF ANY DAMAGES SUFFERED THEREBY.

Section 2.3: Exterior Antennas and Towers. No television antennas, radio antennas, satellite receivers or other device for the receiving or transmitting of television or radio signals may be placed upon any Lot; provided, however, that such devices may be allowed by Declarant or the ARB, at its discretion. In those cases when antennas or towers are allowed, Declarant or the ARB shall have the right to regulate height, location and other aesthetic features, including the right to require appropriate natural or artificial screening.

Section 2.4: Tree Removal. No large trees measuring six (6") inches or more in diameter at a distance of four (4') feet above ground level may be removed without the written approval of Declarant or the ARB, unless located within ten (10') feet of a building or within ten (10') feet of approved site for such building.

Section 2.5: Screening. Owners must construct a screening fence or natural buffer to shield and hide from view any service yard for trash receptacles, air-conditioning equipment, gardening and landscaping tools and equipment, and similar outside functions. Plans for such fence or screening delineating the size, design, texture, appearance and location must be approved by Declarant or the ARB prior to construction.

Section 2.6: Storage and Garbage Receptacles. No fuel tanks or similar storage receptacles may be exposed to view, and they may be installed only within the screened area required in Section 2.5 herein, or buried underground. Further, Declarant, or the ARB, reserves the right to approve the size and location of any garbage receptacles, together with mandatory, appropriate screening.

Section 2.7: Mailboxes. The placing of individual, private mailboxes upon Lots is prohibited; mandatory guidelines regulating the size, color or siting and construction of all mailboxes may be adopted by Declarant. Declarant may also choose to supply and install standard mailboxes for the Owner and require reimbursement for its costs of same.

Section 2.8: Minimizing Construction Disturbances. During the continuance of construction, the Property Owner and the

contractor shall maintain the Lot in a clean and uncluttered condition, and construction may not commence before 7:00 a.m. or be continued after 7:00 p.m. Monday through Friday, 8:00 a.m. to 5:00 p.m. on Saturday and is not permitted on Sunday if located within three hundred (300') feet of an occupied residential dwelling; provided, however, interior construction which is not audible outside of the building is not so restricted by this Section.

Section 2.9: Temporary Structures, Outbuildings, and Construction Site Clean-Up. No structure of temporary character shall be placed upon said Property at any time, provided, however, that this prohibition shall not apply to shelters used by the contractor during the construction of any main building; it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or permitted to remain on said Property after completion of construction. After completion of construction, it shall be the sole responsibility of the Owner to insure that all temporary structures are removed immediately and that the site is cleaned up and placed in good order immediately. The design and color of structures temporarily placed on said Property by a contractor or subcontractor shall be subject to the reasonable aesthetic control of Declarant or the ARB. No trailer, tent, barn, treehouse or other similar vehicle, outbuildings or structure shall be placed on said Property at any time, either temporarily or permanently, without the written permission and approval of Declarant or the ARB.

Section 2.10: Water/Sewage. No structure may be erected on the Property unless suitable provisions have been made for water by each Property Owner with the Hilton Head Rural Water District ("HHRWD") or its successors or assigns. No private water wells for domestic water use may be drilled or maintained on the Property by anyone other than the Declarant. Shallow wells for irrigation purposes are not intended to be prohibited by this provision so long as such shallow wells are properly permitted by regulatory authorities. Similarly no structure may be erected on the Property unless suitable arrangements have been made for sewage collection by each Property Owner with the private or public service district providing sewage collection service to the Property, or its successors or assigns.

Section 2.11: Minimum Required Square Footage. No plans will be approved unless the proposed house will have the minimum required square footage of one thousand three hundred (1,300) square feet of enclosed dwelling area. The term "enclosed dwelling area" as used in these minimum size requirements shall mean the total enclosed area within a dwelling; provided, however, that such term does not include garages, boat sheds, terraces, decks, open porches, and the like areas; provided further, that shed-type porches, even though attached to the house, are specifically

excluded from the definition of the aforesaid term "enclosed dwelling area".

Section 2.12: Animals. No animals, livestock or poultry of any kind shall be raised, bred, kept or pastured on the Property other than a maximum of three (3) household pets kept in any one residence. In order to preserve the aesthetic qualities of the Property, to maintain sanitary conditions on the Property, to prevent the spread of worms and infectious diseases on the Property, to maintain a proper respect for other Owners and users of the Property, and to maximize the overall use and enjoyment of the Property, each person who keeps a pet within a Dwelling Unit shall abide by rules and regulations established by the Declarant or the Association from time to time. The breach of any of these rules and regulations shall be a noxious and offensive activity constituting a nuisance.

Section 2.13: Completion of Construction. The exterior of all structures must be completed within nine (9) months after the construction of same shall have commenced, except where such completion is impossible, impractical or would result in great hardship to the Owner or developer of a building due to strikes, fires, national emergency or natural calamities. Substantially all of the landscaping shown in plans submitted to the ARB must be completed within two (2) months of the initial occupancy. As a condition of approval of proposed plans for all structures (other than structures being built by the Declarant), a bond may be required by the Association which guarantees payment of the landscape installation contractor's estimated cost of installation to implement the plan as submitted and approved by the Association.

Section 2.14: Unsightly Conditions. It shall be the responsibility of the Owner, his successors and assigns to prevent the development of any unclean, unsightly or unkempt conditions of buildings or grounds on said Property which shall tend to substantially decrease the beauty of the neighborhood.

Section 2.15: Offensive Activity. No noxious or offensive activity shall be carried on upon said 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 device or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the other property in the neighborhood by the Owners thereof.

Section 2.16: Signs. While "For Sale" signs are allowed, no other commercial signs, including "for rent" and other similar signs, shall be erected or maintained on said Property by anyone, including, but not limited to, the Owner, a realtor, a contractor or subcontractor, except with the written permission of Declarant

or the ARB, or except as may be required by legal proceedings. If such permission is granted, Declarant reserves the right to restrict size, color and content of such signs.

Section 2.17: Restrictions of Use of Roadways. Subject to the rights of ingress and egress of Property Owners and guests, Declarant and its successors shall have the powers to place any reasonable restrictions upon the use of the private roadways within the Property and leading through lands owned or managed by Declarant to the Property, including but not limited to restrictions pertaining to the speeds of vehicles, traffic and parking regulations and noise levels of vehicles. The fact that such restrictions on the use of the roads shall be more restrictive than the laws of any state or local government having jurisdiction over the Property shall not make such restrictions unreasonable.

Section 2.18: Campers, Trailers, Boats; Parking. No boats, boat trailers, campers, utility trailers of any kind may be permitted on the Property unless garaged by the Owner or except as approved by the Declarant or the Association. Parking shall only be on the driveway portion of the Lot. No on street parking will be allowed. No more than two (2) vehicles may be parked outside the residence or garage on any Lot within the Property.

Section 2.19: Landscaping Maintenance. No weeds, underbrush or other unsightly vegetation shall be permitted to grow or remain upon any Lot, and no refuse pile or unsightly objects (including gardening or landscaping equipment and tools) shall be allowed to be placed or suffered to remain anywhere thereon. All Lots and all portions of the Property and any improvements placed thereon shall at all times be maintained in a neat and attractive condition. Landscaping shall be maintained in a neat, attractive and orderly manner, including maintenance of grass, plants, plant beds, trees, turf, proper irrigation and water/marsh edge maintenance. In order to implement effective control, Declarant and/or Association, its agents and assigns, shall have the right to enter upon any Lot for the purpose of mowing, pruning, removing, clearing or cutting underbrush, weeds or other unsightly growth and trash, which in the opinion of the Board detracts from the overall beauty and safety of the Property, in accordance with the provisions of these Covenants, and, further, to conduct such landscaping and landscaping maintenance activities as may be authorized as a common expense under these Covenants and the By-Laws. In the event that Declarant or the Association deems it necessary to enter upon any Lot to correct any unsightly, unkept or unsafe condition, as set forth above, all expenses incurred in such corrective action shall be the responsibility of the Lot Owner, and such expenses may be charged and collected in like manner against such Owner as an assessment obligation.

Section 2.20: Use of Common Areas; Liability of Association and Declarant. Neither the Association, its directors and officers



nor Declarant shall be liable to any Property Owner, their lessees and guests for any damage or injury which results from the use of the Property or any rule or regulation promulgated in good faith pursuant to these Covenants or the By-Laws. The Common Areas are for the exclusive use of the members of the Association and their guests. The Association, by its Board of Directors, may make such rules and regulations as may be deemed necessary in the future to regulate the use of the Common Areas, which rules and regulations shall be binding upon all members, their guests and invitees, as provided in Article V below and in the By-Laws. Although the Association, and, initially, Declarant, will be responsible for the general upkeep and maintenance of the Common Areas as provided herein, neither the Association nor Declarant shall be liable for any accident or injury thereupon which may be caused by Acts of God, negligence of parties not employed by the Association or Declarant, or careless or negligent activities of members or their guests. All parties acquiring an interest in any portion of the Property hereby agree to hold the Association and Declarant harmless from any such accident or injury. All members and their guests agree and acknowledge that any use of the Common Areas shall be at their own risk, without recourse to the Association or Declarant. Any damage to Common Areas caused by an Owner or his family or guests, by negligent or willful conduct, shall be the responsibility of the Lot Owner, and Declarant and/or the Association shall have the right to collect for such damages.

Section 2.21: Right of Entry. Whenever Declarant or the Association is permitted by these Covenants to correct, repair, clear, preserve, clear out, or do any action on said Property, entering the Property and taking such action shall not be deemed a trespass.

Section 2.22: Subdivision of Property. Once a Lot has been conveyed by the Declarant to an Owner, the Lot shall not be further subdivided, consolidated with other Lots, nor its boundary lines changed, except with the written consent of Declarant; provided, however, that nothing contained herein shall be construed to prohibit the Declarant the right to re-plat any Lot or Lots into one (1), two (2) or more lots which are owned by the Declarant, by subdivision, consolidation or reconfiguration, and the Declarant may take such other steps as are reasonably necessary to make such re-platted Lot(s) suitable and fit for use for its originally intended purpose. Such steps may include but are not limited to the relocation of easements, walkways, and rights-of-way to conform to the new boundaries of said re-platted Lots.

PART THREE  
GENERAL RIGHTS RESERVED BY DECLARANT

Section 3.1: Rights, Easements Retained by Declarant. Declarant reserves unto itself, its successors and assigns a perpetual, alienable, releasable easement and right on, over and under the ground to erect, install, maintain and use electric and telephone poles, wires, cables, conduits, sewers, water mains and other suitable equipment, gas, sewer, water or other public conveniences or utilities, on, in, under or over portions of the Lots within the Property as may reasonably be required for utility line purposes, and such other areas as are shown on the applicable plat. Declarant further reserves the right to cut drainways for surface water wherever and whenever such action may appear to Declarant to be necessary in order to maintain reasonable standards of health, safety and appearance. Specifically, Declarant reserves unto itself, its successors and assigns a perpetual, alienable releasable easement and right, for drainage purposes, in varying dimensions and locations, as may be reasonable and necessary. In addition, an exclusive right and easement unto Declarant, assignable to the Association or to a utility company or district at Declarant's discretion, is hereby reserved to cause treated effluent to be disposed of on natural and landscaped areas of the Property, in any manner permitted by law. In conjunction with this right and easement, Declarant and its assigns are also granted the right to install and maintain any system deemed appropriate by Declarant for the distribution of treated effluent on the Property. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. Such rights may be exercised by any licensee of Declarant or may be delegated to the Association, but this reservation shall impose no responsibility upon Declarant to construct or maintain any such utility or service. Declarant expressly reserves the right to transfer said utilities and utility easements, in whole or in part, to another entity, whether public or private, which undertakes to provide such utility service. All rights and easement contained herein shall benefit and be appurtenant to the Property as well as the future development parcels described in Exhibit "A-2" and any other property contiguous to the Property now or hereafter acquired by Declarant, and may be used and enjoyed for the benefit of the future development parcels described in Exhibit "A-2" and such other contiguous property of Declarant regardless of whether the same are submitted to these Covenants.

Section 3.2: Ingress and Egress: Roadways. The Property Owner, in accepting title to property conveyed subject to these Covenants, agrees that ingress and egress to its property may be limited to roads built by the Declarant.

The Declarant reserves the right for itself, its successors and assigns, but not the obligation, to: (a) determine in its sole discretion the types of vehicles that will be permitted access to the Property and use of such roads; (b) grant easement rights to property owners adjacent to the Property for access and use of the roads; and (c) provided, however, that the Declarant reserves the right to limit access to the Property to the Declarant, Property Owners, Lessees, and their Guests and Invitees. All rights and easement contained herein shall benefit and be appurtenant to the Property as well as the future development parcels described in Exhibit "A-2" and any other property which may be submitted to these Covenants. If and when the roadways and streets are conveyed to the Association, the aforesaid rights may be assigned to the Association by the Declarant. Declarant further reserves easements for ingress and egress and for utilities over all roads now or hereafter located within the Property for the benefit of the future development parcels described in Exhibit "A-2" and any property contiguous to the Property now or hereafter acquired by Declarant regardless of whether the same are submitted to these Covenants.

Section 3.3: Additional Restrictions. Declarant expressly reserves the right to impose additional restrictive covenants upon the said Property provided that the same are not inconsistent with and do not lower the standards of the restrictions as herein provided. Said additional Covenants, if any, shall be effective only upon Property transferred by Declarant simultaneously with or subsequent to the imposition of said Covenants and shall be made effective upon said Property by reference to said additional or amended provisions in the deed transferring said Property. It shall be the responsibility of each Owner within the Property to comply with any restrictions contained herein or any additional restrictions which may be imposed by governmental authorities.

Section 3.4: Duration of Covenants. All covenants, restrictions and affirmative obligations set forth herein shall run with the land and shall be binding on all parties and persons claiming under them to specifically include, but not be limited to, the successors and assigns, if any, of Declarant for a period of forty (40) years from the execution of this Declaration, subject to the right reserved unto Declarant, its successors and assigns, to add additional restrictive covenants in respect to the Property subject to this Declaration and the further right to limit or amend the application of the Covenants herein contained. After the initial forty (40) year period of duration, all said Covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument, signed by a majority of the then Owners of Lots substantially affected by such change of Covenants, has been recorded, agreeing to change said Covenants in whole or part.

Section 3.5: Remedies in the Event of Violation or Breach. In the event of a violation or breach of any of the restrictions contained herein by grantee, its agents, successors or assigns,

Declarant shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event, and Declarant shall have the right to recover all costs and expenses of suit in such action, including reasonable attorneys' fees. In addition to the foregoing, Declarant, its successors and assigns shall have the right, whenever there shall have been built on said Property any structure which is in violation of these restrictions, to enter upon said Property where such violation exists and summarily abate or remove the same at the expense of the Owner if after thirty (30) days' written notice of such violation, it shall not have been corrected by the Owner. Any such entry or abatement or removal shall not be deemed a trespass. The failure to enforce any rights, reservations, restrictions or conditions contained in this Declaration, however long continued, shall not be deemed a waiver of the right to do so hereafter as to the same breach, or as to a breach occurring prior to or subsequent thereto and shall not bar or affect its enforcement. Upon the creation and activation of the Association pursuant to Part Five hereof, the rights and powers of Declarant under this Section shall automatically be assigned to and vest concurrently in the Association, and Declarant and the Association shall henceforth have concurrent and independent rights of enforcement as provided herein.

Section 3.6: Declarant Approval. Whenever any matter shall require the approval or consent of Declarant hereunder, or any other action or decision on behalf of Declarant, the vote of Declarant shall control in the event of any dispute.

Section 3.7: Modifications and Additions. Declarant may include in any contract or deed hereafter made, modifications and/or additions to the restrictive covenants as contained herein, with such modified covenants being made applicable by reference to conveyances of land made subsequent to such modifications.

PART FOUR  
PROVISIONS FOR CHINABERRY RIDGE  
OWNERS' ASSOCIATION

ARTICLE IV:  
Membership and Voting Rights in the Association

Section 4.1: Membership. Declarant, and every person and entity who is a record Owner of a fee simple or undivided fee simple interest in any Lot which is made subject to this Declaration by reference in the initial deed conveyance from Declarant, or which is subsequently submitted to this Declaration by recorded deed covenant, shall be a Member of the Association, provided that any such person or entity holding such title or interest merely as a security for performance of an obligation shall not be a Member of the Association.

Section 4.2: Voting Rights. In recognition of the fact that Declarant finds it essential to maintain effective control of the Association during the initial development stages, Declarant hereby establishes two (2) classes of voting membership.

CLASS "A" The Class "A" Membership shall include all those Owners as described in Section 4.1 above, including Declarant, of any Lot or parcel within the Property. Each Class "A" Member shall have one (1) vote for each Lot owned by such Member. If any two (2) or more Lots shall be consolidated into one (1) Lot as provided under Section 2.22 herein, the Owner of such Lots shall be entitled to only one (1) vote for such resulting consolidated Lot owned by such Member and the total outstanding Class "A" votes within the Property shall be reduced accordingly.

CLASS "B" The Class "B" Members shall be Declarant and any successors or assigns of Declarant's rights hereunder. In addition to any Class "A" voting rights of Declarant hereunder, Declarant shall have one (1) vote for each outstanding Class "A" vote held by any other person or entity within Declarant's original property area, as described in Article I hereof and **EXHIBIT "A"** hereto. The Class "B" Membership and voting privileges shall cease and terminate for Declarant whenever Declarant shall cease to own at least five percent (5%) of all Lots within the Property, or on January 1, 2004, whichever shall first occur.

Section 4.3: Quorum for any Action Authorized. The presence at the meeting of any Members, or of proxies, entitled to cast fifty-one percent (51%) of the total vote of the Membership shall constitute a quorum. If the required quorum is not forthcoming at a meeting, the meeting shall be adjourned and another meeting shall be scheduled for a date not less than ten (10) days nor more than thirty (30) days subsequent to the initial meeting. Written notice of the time and place of the adjourned meeting shall be provided to all Members. The quorum requirement for the adjourned meeting shall be the presence of Members, or of proxies, entitled to cast twenty-five percent (25%) of the total vote of the Membership.

Section 4.4: By-Laws. The By-Laws of the Association have been drawn and approved by Declarant to govern meetings, duties, etc. of the Association. Declarant shall cause them to be recorded in the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina as **EXHIBIT "B"** to this Declaration. Recordation shall be deemed to be notice to the Association and all Members thereof.

Section 4.5: Powers and Duties Prior to Activation of Association; Time of Activation. Prior to activation of the Association by Declarant, Declarant shall possess all powers and rights described herein as belonging to the Association. Declarant may activate the Association at any time after the date of

recording of these Covenants, at the sole discretion of Declarant; provided, however, that the Association shall be automatically activated when Declarant shall have conveyed all Lots within the initial phase of the Property, or June 1, 1995, whichever occurs first. In the event of such an automatic activation of the Association, the first organizational meeting of the Association may be called by Declarant or by any five (5) Owners acting in concert, upon due notice to all Owners as provided in the By-Laws of the Association.

Prior to the activation of the Association, Declarant shall attempt to maintain the Common Property and landscaped areas of the Property, but the extent of said maintenance and landscaping shall be entirely at the discretion of Declarant. Declarant may levy reasonable assessments upon Lots within the Property in order that each Lot shall bear its share of the cost of said maintenance and landscaping and such assessments shall be paid to Declarant. Declarant shall possess all rights and powers of collection and enforcement of such assessments as are provided herein to the Association.

In general, Declarant may assign, in whole or in part, any of its reserved rights set forth in these Covenants to the Association by a specific document which shall be recorded in the RMC Office for Beaufort County.

#### ARTICLE V:

#### Property Rights and Common Property

Section 5.1: Members' Easements of Enjoyment. Subject to the provisions of these Covenants and the rules and regulations of the Association, every Member shall have a right and easement of enjoyment in and to the Common Property and such easement shall be appurtenant to and shall pass with title to every Lot or development parcel within the Property.

Section 5.2: Title to Common Property. Declarant reserves the right to transfer title to the Common Property, at its sole discretion, unto the Association provided, however, that Declarant shall be obligated to transfer title to the Common Property at such time when Declarant shall own less than five percent (5%) of the total Lots within the Property. Upon transfer of title of the Common Property to the Association, the Association shall have the sole responsibility of maintenance, repair, and governing of the Common Property. Prior to such transfer, the Association and its Members shall be responsible for the maintenance and upkeep of all areas which are designated for common use or enjoyment by Members, notwithstanding the fact that title has not yet been conveyed to the Association.

Section 5.3: Extent of Members' Easements. The right and easements of enjoyment created hereby shall be subject to the following:

(a) The right of Declarant and of the Association, in accordance with its By-Laws, to borrow money for the purpose of improving the Common Property and in aid thereof to mortgage their Properties;

(b) The right of the Association to take such steps as are reasonably necessary to protect the above-described Properties against foreclosure;

(c) The right of the Association, as provided in its By-Laws, to suspend the enjoyment of rights of any Member for any period for which any Assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published Rules and Regulations, it being understood that a suspension for either non-payment of any Assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Members' obligation to pay the Assessments;

(d) The right of Declarant to dedicate or transfer to any public or private utility, fee title to or utility easements on or to any part of the Common Property; and

(e) The right of the Association to give or sell all or any part of the Common Property, including a leasehold interest, to any public agency, authority, or utility or private concern for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such gift or sale or determination as to the purposes or as to the conditions thereof shall be effective unless such shall be authorized by the vote of three-fourths (3/4) of the Membership at a duly called meeting and unless written notice of the proposed agreement and action thereunder is sent to every Member at least thirty (30) days in advance of any action taken. A true copy of such Resolution together with a certificate of the vote taken thereon shall be made and acknowledged by the president or vice president and secretary or assistant secretary of the Association and such certificate shall be annexed to any instrument of dedication or transfer affecting the Common Property, prior to the recording thereof. Such certificate shall be conclusive evidence of authorization by the Membership.

ARTICLE VI:  
Covenant for Maintenance Assessments

Section 6.1: Creation of the Lien and Personal Obligation of Assessments. The Owner of each Lot within the Property as described in Article I, Section 1, hereby covenants and by acceptance of a deed thereof shall be deemed to covenant and agree to all of the terms and conditions of these Covenants and to pay the Association: (1) annual assessments or charges; and (2) special assessments for the purposes set forth herein; such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments together with such interests thereon and cost of collection therefor as hereinafter provided shall be a charge and continuing lien on the land and all the improvements thereon against which each assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such Property at the time when the assessment fell due. In the case of co-ownership of a Lot, all such co-Owners of the Lot shall be jointly and severally liable for the entire amount of the assessment.

Section 6.2: Purpose of Assessments. The assessments levied by the Association shall be used for the improvement, maintenance, and operation of roads, rights-of-way, drainage ways, lighting, signage, and other Common Property, including but not limited to, the payment of taxes (if any) and insurance thereon and repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof and as well as for contributions, if any, to an overall security plan for neighboring areas if such plan is ever adopted. Special assessments shall be used for the purposes set forth in Section 6.4 hereof.

Section 6.3: Basis and Maximum of Annual Assessments. Unless Declarant voluntarily assigns this right and responsibility to the Association the total annual assessment amounts shall be determined by Declarant, at its sole discretion, through the 2003 assessment (calendar) year. Thereafter, the Board of Directors and the Association shall establish the budget and total annual assessment amounts, as further provided in these Covenants and in the Association By-Laws. In all cases, the total annual assessment amount shall be prorated among all Class "A" Members, in the same proportion as each Member's votes shall bear to the total outstanding Class "A" votes within the Property. Notwithstanding the Declarant's discretion herein for the limited period, the total annual assessment shall not be increased by more than fifteen (15%) percent above the previous year's annual assessment, unless such increase shall be approved by a two-thirds (2/3) vote of the Association's Class "A" Membership.



Section 6.4: Special Assessments for Improvements and Additions. In addition to the annual assessments authorized herein, the Association may levy special assessments for the purpose of adjusting for any budget shortfall not otherwise addressed in Section 6.11 or due to delinquencies, defraying, in whole or in part, the cost of any construction or reconstruction, expected repair or replacement of a capital improvement of the Common Property, including the necessary fixtures and personal property related thereto or additions to the Common Property, provided that any such assessments shall have the assent of three-fourths (3/4) of the vote at a duly called meeting of Members, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting. Any such duly approved special assessment shall be prorated among Members on the same basis as annual assessments, as described in Section 6.3 above.

Section 6.5: Date of Commencement of Annual Assessments and Due Dates. The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Declarant, such date to be the Date of Commencement. The first annual assessment shall be made for the balance of the calendar year and shall become due and payable on the Date of Commencement. The assessments for any year, after the first year, shall become due and payable the first day of January for said year. The due date of any special assessments shall be fixed in the resolution authorizing such assessments.

Section 6.6: Proration of Assessments. Each Lot Owner who is a Member of the Association as of the date of the commencement of each annual assessment shall pay a share of the assessment for that year, according to the formula established in Section 6.3 above.

Section 6.7: Duties of the Board of Directors. When the Association assumes the assessment powers as provided above, the Board of Directors of the Association shall fix the amount of the assessment for each Lot for each assessment period and shall, at that time, prepare a roster of the Owners applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall be sent to every Owner subject thereto. Prior to the Association assuming such responsibility, Declarant shall perform the above functions.

Section 6.8: Effect of Non-Payment of Assessment; Personal Obligation of Owner; Lien Remedies of the Association. If the assessments are not paid on the date when due, then such assessments shall become delinquent and shall, together with interest thereon at a rate of eighteen percent (18%) per annum from the due date, and the cost of collection as hereinafter provided, become a charge and continuing lien on the land and on improvements thereon,

against which each such assessment is made. The obligation of the Owner at the time of the assessment to pay such assessments, however, shall remain his personal obligation and shall not pass as a personal obligation to his successors-in-title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the due date, the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against his Lot, or both, and there shall be added to the amount of said assessment the cost of preparing and filing a complaint in such action as well as any other costs and expenses incurred, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorneys' fees and costs of the action.

Section 6.9: Subordination of the Lien to Mortgages. The lien of the assessment provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed on any Lot subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments after becoming due, nor from the lien of subsequent assessments.

Section 6.10: Exempt Property. The following property, individuals, partnerships or corporations, subject to this Declaration, shall be exempted from assessments, charges and liens created herein:

- (a) All lots or other property within the Property owned by Declarant;
- (b) The grantee in conveyances made for the purpose of granting utility easements; and
- (c) All properties to the extent of any easement therein other than a utility easement dedicated and accepted by local public authority and devoted to public use which does not adversely affect an Owner's use of the properties; and
- (d) All Association Common Property within the Property, whether or not title to such Common Property has been transferred to the Association.

Section 6.11: Declarant Subsidization. Declarant agrees that for so long as it maintains its Class "B" voting rights set forth above in Section 4.2, in lieu of assessments on its lots or property which are exempt per Section 6.10, it shall pay the difference between the costs and expenses as set forth in the annual budget and the amounts levied against the Owners subject to assessments. Such subsidization shall not extend to amounts properly leveled against Owners but not collected therefrom. Once the Class "B" voting rights have been terminated pursuant to Section 4.2, Declarant's lots will no longer be exempt from assessments per Section 6.10 but Declarant's lots shall thereafter be subject to the annual assessment. This Section 6.11 may not be amended without the consent of Declarant or Declarant's assigns.

PART FIVE  
GENERAL

ARTICLE VII:  
AMENDMENTS

Section 7.1: Amendments: Declarant specifically reserves to itself, its successors and assigns, the right to amend this Declaration or any portion thereof, on its own motion, for a period of five (5) years from the date hereof to correct typographical errors or to eliminate scrivener's errors, so long as the voting power of existing Members is not diluted thereby, nor the amounts of assessments of such existing Members raised or changed in any manner which would adversely affect such Members, after which time the procedure for amendment shall be as follows: all proposed amendments shall be submitted to the vote of the Members at a duly called meeting of the Association, subject to the quorum requirements set forth above, and any such proposed amendment shall be deemed approved if three-fourths (3/4) of the votes cast at such meeting at which such proposed amendment is to be considered are in favor of the amendment. If any proposed amendment to this Declaration is approved by the Members as set forth above, the President and Secretary of the Association shall execute an addendum to this Declaration which shall set forth the amendment, the effective date of the amendment, the date of the meeting of the Association at which such amendment was adopted, the date that notice of such meeting was given, the total number of votes necessary to adopt the amendment, and the total number of votes cast against the amendment.

Section 7.2: Severability and Rule Against Perpetuities. The invalidation by any court of any restrictions of these Covenants shall in no way affect any of the other restrictions, but they shall remain in full force and effect. If any provisions of this Declaration would violate the rule against perpetuities or any other limitation on the duration of the provisions contained herein and imposed by law, then such provision shall be deemed to remain

in effect only for the maximum period permitted by law or until twenty-one (21) years after the death of the last survivor of the now living descendants of former President George Bush and the original Owners of Lots in the Property.

Section 7.3: Interpretation. In all cases, the provisions of this Declaration shall be given that reasonable interpretation or construction which will best effect consummation of the general plan of land use restrictions and affirmative obligations of the Property, which will carry out the intent of the Declarant as expressed in the recitals of these Covenants, and which will preserve the Property as a situs for a high amenity, attractive, well maintained, privately-governed residential community.

Contrary to the restrictive common law rule of construction, these Covenants shall by this Covenant be interpreted broadly to touch and concern the Property with recognition of modern economic, land use planning and real estate finance and development principles, theories and practices. It is the Declarant's intent, and all Owners who take subject to the Covenants, do covenant and agree, and are thereby estopped to deny, that any reserved right or function of the Declarant and/or Association, and any other covenant condition, restriction or obligation within these Covenants is intended to promote the use and enjoyment of the Property, is intended to foster the creation, preservation or enhancement of economic or intangible values associated with the Property, and does touch and concern, benefit and burden and run with the Property.

The provisions of these Covenants shall be given full force and effect notwithstanding the existence of any zoning ordinance which allows a less restricted use of the Property.

Section 7.4: Enforcement by the Association. In addition to the foregoing, the Association shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event.

The Association may engage a person or persons to respond to complaints received as to violations of the Covenants and shall inform the violators of such complaint. If the violation is not expeditiously terminated, the Declarant or Association may engage legal counsel to bring an appropriate injunctive action, including any appeals, to enforce these Covenants. Violators shall be obligated to reimburse the Association in full for all its direct and indirect costs, including but not limited to legal fees incurred by the Association in maintaining compliance with these Covenants in the event the Association prevails in such proceedings.

Section 7.5: Enforcement by the Declarant. In addition to the foregoing, the Declarant shall have the right, but shall not be

obligated, to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event. Violators shall be obligated to reimburse the Declarant in full for its direct and indirect costs, including but not limited to legal fees incurred by the Declarant in maintaining compliance with these Covenants in the event the Declarant prevails in such proceedings.

Section 7.6: Against Whom May the Covenants be Enforced. The obligations and benefits prescribed by the Covenants shall run with the Property and shall be enforceable against the Declarant, its successors or assigns, the Association and against any Owner or other person whose activities bear a relation to the Property when the aforesaid parties engage in activities (including omissions and failures to act) which constitute violations or attempts to violate or circumvent the covenants and restrictions set forth in this Declaration.

Section 7.7: Litigation. Notwithstanding the provisions of Section 7.4, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of two-thirds (2/3) of the Class "A" Owners. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided herein, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. In the event any claim is made against Declarant or any litigation is instituted against Declarant, then the Association shall assess all Owners, other than the Declarant, for the costs of claim or litigation, including, without limitation, attorneys' fees incurred, and funds from regular assessments shall not be used for any such claim or litigation.

Section 7.8: Gender, Tense and Number. When necessary for proper construction, the masculine form of any word used in this Declaration shall include the feminine or neuter gender, and the singular, the plural and vice versa, and words used in the present tense shall include the future tense.

Section 7.9: No Waiver. Failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other provisions of this Declaration.

Section 7.10: Captions. The captions and headings in this instrument are for convenience only and shall not be considered in construing any provisions of this Declaration.

Section 7.11: No Implied Liabilities or Duties. ANY RULES OR REGULATIONS ESTABLISHED BY THE DECLARANT OR ASSOCIATION PURSUANT TO

THESE COVENANTS SHALL NOT EXPRESSLY OR IMPLIEDLY CREATE ANY DUTY OF CARE TO ANY OWNER.

ARTICLE VIII:  
Definitions

Section 8.1: Definitions. The following words and terms, when used in this Declaration, or any supplemental Declaration, unless the context clearly shall indicate otherwise, shall have the following meanings.

(a) "Association" shall mean and refer to the Chinaberry Ridge Owners' Association, Inc., a South Carolina non-profit corporation which Declarant has formed or will cause to be formed.

(b) "Common Property" shall mean and refer to those areas of land with any improvements thereon which are deeded to the Association and designated in said deed as Common Property. The term "Common Property" shall include any personal property acquired by the Association, if said property is designated as "Common Property." All Common Property are to be devoted to and intended for the common use and enjoyment of the Owners of the Properties. The term "Common Property" shall also refer to all areas provided for common use and enjoyment of Members, and designated as Common Property on the plats referred to in **EXHIBIT "A"** or any other approved plat or master plan evidencing a specific intent to designate Common Property, whether or not such property has been actually conveyed to the Association, and whether or not such Common Property are presently designated on the existing Master Plan or subsequently designated by Declarant, which shall be at Declarant's sole discretion. Declarant may likewise modify any Common Property designation prior to actual conveyance to the Association, at Declarant's discretion.

(c) "Declarant" shall mean and refer to Summerfield Land, L.P. and its successors and assigns other than purchasers of Lots within the Property, and may further be expanded to include a subsequent holder of land who may submit such land hereunder, at the discretion of the present Declarant.

(d) "Lot" shall mean and refer to any parcel of land within the Property owned by Declarant at the date of this Declaration and intended to be conveyed in the future to others other than the Association, as well as to any previously conveyed parcel of land within the Property which may be voluntarily submitted to this

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Declaration by the execution and recording of appropriate amendments to this Declaration.

(e) "Member" shall mean and refer to all those Owners who are Members of the Association as provided herein.

(f) "Owner" shall mean and refer to the record Owner whether one or more persons, firms, associations, corporations, or other legal entities, of the fee simple title to any Lots situated upon the Property, but shall not mean or refer to a mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure proceedings or any proceeding in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of the Owner.

(g) "Property" shall mean and refer to the Property described in Article I hereof.

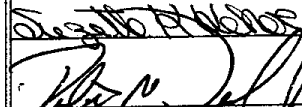
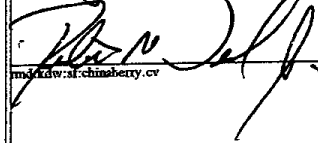
IN WITNESS WHEREOF, SUMMERFIELD LAND, L.P. has caused this instrument to be executed the day and year first above written by its appropriate officers.

WITNESSES:

SUMMERFIELD LAND, L.P.

By: Summerfield Land Development Corporation, Inc., its general partner

By:   
DAVID W. STALEY, President

  
  
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STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )

ACKNOWLEDGEMENT  
under SC Code §30-5-30(C)

I, Robert M. Deeb, Jr., do hereby certify that SUMMERFIELD LAND, L.P. by Summerfield Land Development Corporation, by David W. Staley, its President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 2nd day of May, 1995.

Robert M. Deeb, Jr. (SEAL)  
Notary Public for South Carolina  
My Commission Expires: Nov. 2, 2002

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**EXHIBIT "A-1"****PROPERTY**

All those certain pieces, parcels or lots of land lying and being on Hilton Head Island, Beaufort County, South Carolina, shown and described as Lot 1 through 29, inclusive, and Open Space, all of which are more particularly shown and described by reference to Sheets 1 and 2 of a plat entitled "A Subdivision Plat of Chinaberry Ridge A Section of the Gumtree Road Area, Hilton Head Island, Beaufort County, South Carolina" dated August 26, 1994, as last revised April 26, 1995, prepared by Coastal Surveying Company, Inc., and certified to by Michael Dunigan, S.C.R.L.S. #11905, which plat has been recorded in Plat Book 52 at Page 155 in the RMC Office for Beaufort County, South Carolina.

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**EXHIBIT "A-2"****FUTURE PHASE PROPERTY**

All that certain piece, parcel or tract of land having and containing 32.16 acres, more or less, and being shown and described as "Future Development (32.16 Acres)" on Sheets 1 and 2 of that certain plat entitled "A Subdivision Plat of Chinaberry Ridge A Section of the Gumtree Road Area, Hilton Head Island, Beaufort County, South Carolina" dated August 26, 1994, as last revised April 26, 1995, prepared by Coastal Surveying Company, Inc., and certified to by Michael Dunigan, S.C.R.L.S. #11905, which plat has been recorded in Plat Book 52 at Page 155 in the RMC Office for Beaufort County, South Carolina.

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EXHIBIT B

## BY-LAWS

## OF

CHINABERRY RIDGE OWNERS' ASSOCIATION, INC.

=====

## ARTICLE I

NAME AND LOCATION. The name of the corporation is CHINABERRY RIDGE OWNERS' ASSOCIATION, INC., hereinafter referred to as the "Association". The principal office of the corporation shall be located at CHINABERRY RIDGE OWNERS' ASSOCIATION, INC., c/o Summerfield Land, L.P., 200 Main Street, Suite 201, Hilton Head Island, Beaufort County, South Carolina 29926 but meetings of members and directors may be held at such places within the State of South Carolina, as may be designated by the Board of Directors.

## ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to Chinaberry Ridge Owners' Association, Inc., its successors and assigns.

Section 2. "Property" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions, etc. hereafter described in Section 3 hereof, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Declaration" or "this Declaration" shall mean and refer to the "DECLARATION OF COVENANTS, RESTRICTIONS AND LIMITATIONS AND PROVISIONS FOR MEMBERSHIP IN CHINABERRY RIDGE OWNERS' ASSOCIATION, INC.", a South Carolina non-profit corporation, dated May 1, 1995, recorded in the RMC Office for Beaufort County, South Carolina, in Deed Book 775 at Page 1518, et seq., as the same may be amended from time to time, together with any and all supplementary declarations or amendments pursuant to the Declaration which may be recorded from time to time. Reference is made to said Declaration for all of the defined terms which may be used in these By-Laws.

Section 4. "Declarant" shall mean and refer to Summerfield Land, L.P., Hilton Head Island, South Carolina, and which shall be hereinafter referred to as "DECLARANT":

Section 5. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

ARTICLE III  
MEETINGS OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the Members shall be held within one month from the date of incorporation of the Association, and each subsequent regular annual meeting of the Members shall be held during the month of December of each year thereafter. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A Membership.

Section 3. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, not less than thirty (30) days nor more than sixty (60) days before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, fifty-one percent (51%) of the votes of each class of Membership shall constitute a quorum for any action except as otherwise provided in the Declaration and Petition for Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the meeting shall be adjourned and another meeting shall be scheduled for a date not less than ten (10) days nor more than thirty (30) days subsequent to the initial meeting. Written notice of the time and place of the adjourned meeting shall be provided to all Members. The quorum requirement for the adjourned meeting shall be the presence of Members, or of proxies, entitled to cast twenty-five percent (25%) of the total vote of the Membership.

Section 5. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

ARTICLE IV  
BOARD OF DIRECTORS: SELECTION; TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of Directors, who shall be Members of the Association. The Board shall consist of three (3) Members appointed by the Declarant until the first election. All Members of the Board shall be elected by the Members after the initial appointment of the initial Board by the Declarant.

Section 2. Term of Office. At the first annual meeting the Members shall elect one director for a term of one year, one director for a term of two years and one director for a term of three years; and at each annual meeting thereafter the Members shall elect successor director(s) for a term of three years.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V  
NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Other than the initial Board of Directors which will be appointed by the Declarant as provided in Section 1 of Article IV hereof, nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The initial Nominating Committee shall be composed of the two initial Members of the Board. Thereafter, the Nominating Committee shall consist of a Chairman, who shall be a Member of the Board of Directors, and two or more Members of the Association. At the first annual meeting of the Members and prior to each annual meeting of the Members thereafter, the Nominating Committee shall be appointed by the Board of Directors to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The

Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-Members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is permitted.

#### ARTICLE VI MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held periodically at such place and hour as may be fixed from time to time by resolution of the Board. Telephonic meetings are expressly authorized. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two directors, after not less than three (3) days notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

#### ARTICLE VII POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. Subject to the reserved rights of the Declarant set forth in the Declaration, the Board of Directors shall have the power to:

(a) adopt and publish rules and regulations governing the use of the Common Properties and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights of a Member during any period in which such Member shall be in default in the payment of any Assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed

thirty (30) days for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the Membership by other provisions of these By-Laws, the Declaration and Petition for Incorporation, or the Declaration;

(d) declare the office of a Member of the Board of Directors to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote;

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided, and subject to the reserved rights of Declarant, in the Declaration to:

(1) fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(2) send notice of each Assessment to every Owner subject thereto pursuant to the requirements as provided in the Declaration; and

(3) file a lien and subsequent to such filing, foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any Assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an Assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Properties to be maintained.

(h) perform all other duties reasonably required of it to satisfy the functions of the Association as set forth in the Declaration and in the Petition for Incorporation.

#### ARTICLE VIII OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Association shall be a President and vice President, who shall at all times be Members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simul-

taneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

President

(a) The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice President

(b) The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

(d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be represented to the Membership at its regular annual meeting, and deliver a copy of each to the Members.

ARTICLE IX  
COMMITTEES

The Board of Directors shall appoint a Nominating Committee, as provided in these By-Laws and such other committees as deemed appropriate in carrying out the purpose of the Association.



ARTICLE X  
BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XI  
ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the Assessment is made. Any assessments which are not paid when due shall be delinquent. If the Assessment is not paid within thirty (30) days after the due date, the Assessment shall be subject to a late charge of eighteen (18%) percent per year on the delinquent amount until the Assessment and any accrued late charges are paid in full. 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 interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such Assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Properties or abandonment of his Lot.

ARTICLE XII  
CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: "CHINABERRY RIDGE OWNERS' ASSOCIATION, INC.", or an appropriate abbreviation thereof.

ARTICLE XIII  
AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the Members, (but not a reconvened meeting pursuant to Article III, Section 4, unless a fifty-one (51%) percent quorum is present in person or by proxy) by a vote of a majority of a quorum of Members present in person or by proxy.

Section 2. In the case of any conflict between the Declaration and Petition for Incorporation and these By-Laws, the Declaration and Petition for Incorporation shall control; and in

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the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIV  
DISSOLUTION

Upon dissolution, liquidation or final determination of the operations of the Corporation, its residual assets must not inure to the direct benefit of any Member or shareholder but must be turned over to one or more non-profit organizations which are organized and operate for charitable or non-profit purposes on Hilton Head Island, South Carolina.

ARTICLE XV  
MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

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May 1, 1995

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FILED  
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