

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR HARLESTON GREEN

THIS DECLARATION, made on the date hereinafter set forth by Harleston Green, a South Carolina Joint Venture, hereinafter referred to as the "Declarant";

W I T N E S S E T H :

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

All that certain piece, parcel or tract of land, with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina and being the major portion of a city block, bounded on the Northeast by Smith Street, on the Northwest by Calhoun Street, on the Southwest by Rutledge Avenue, and on the Southeast by Bull Street. The property herein described contains 4.174 acres and shown on a plat prepared of the Subdivision of Harleston Green by Harold B. Nielson, Jr., Registered Professional Engineer and Land Surveyor dated November 7, 1984, revised November 19, 1984 and recorded in the Office of the RMC for Charleston County in Plat Book BD page 64 and shown to contain all of the lots depicted on the above referenced plat EXCEPT: lots or areas numbered 5, 8, 10, 11, 12, 86, 87, 88, 93, 94, 95, 119, 124 and 125.

WHEREAS, Declarant will convey the said property, subject to certain protective covenants, conditions, restrictions, liens and charges as hereinafter set forth;

NOW THEREFORE, the Declarant hereby declares that all of the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property. These easements, restrictions, covenants and conditions

By DAN BOWLING
8-7-85

shall run with the real property and shall be binding on all parties having or acquiring any rights, title or interest in the described property or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I.

DEFINITIONS

Section 1. "Association" shall mean and refer to Harleston Green Townhome Association, Inc., a South Carolina non-profit corporation, its successors and assigns.

Section 2. "Board of Directors" or "Board" means those persons elected or appointed and acting collectively as the Directors of the Association.

Section 3. "Building" shall mean and refer to a structure containing one or more residences constructed or erected on the Property.

Section 4. "By-laws" means the by laws of the Association as they now or hereafter exist.

Section 5. "Common area" shall mean and refer to all land within Property owned by the Association, along with facilities and improvements erected or constructed thereon, for the exclusive use and enjoyment of the members of the Association as shown on the aforementioned recorded plat and those plats of additional properties hereafter annexed as hereinafter provided. Said common area shall be maintained by the Association. The common area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

All that certain piece, parcel or tract of land, with the improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina and being known as the Common Area and depicted by the dotted area (containing 0.937 acres) on a plat prepared of the Subdivision of Harleston Green by Harold B. Nielson, Jr., Registered Professional Engineer and Land Surveyor dated November 7, 1984, revised November 19, 1984 and recorded in the Office of the RMC for Charleston County in Plat Book BD page 64.

Section 6. "Common expenses" shall mean and include:

- (a) All sums lawfully assessed by the Association against its members;
- (b) Expenses for maintenance of the residences as provided in this Declaration;
- (c) Expenses of administration, maintenance, repair or replacement of the common areas;
- (d) Expenses declared to be common expenses by the provisions of this Declaration or by the By-Laws;
- (e) Hazard, liability or such other insurance premiums as required in this Declaration;
- (f) Expenses agreed by the members to be common expenses of the Association.

Section 7. "Common profits" shall mean and refer to the balance of all income, rents, profits, and revenues of the Association remaining after the deduction of the common expenses or reserves therefor. Common profits shall not mean or include any sums lawfully assessed against members by the Association.

Section 8. "Declarant" shall mean and refer to Harleston

Green, a South Carolina Joint Venture, its successors and assigns to whom the rights of Declarant are expressly transferred, or such successors or assigns who acquire more than one undeveloped lot for the purpose of development, or acquire title to unsold property under a deed in lieu of foreclosure or judicial foreclosure, or one otherwise denominated as "Declarant" hereby.

Section 9. "Lot" shall mean and refer to any plot of land, other than the common area, shown on a recorded subdivision plat of the Property and upon which a townhome has been or may be constructed.

Section 10. "Member" shall mean and refer to every person who is a member of the Association.

Section 11. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Property, including contract sellers, but excluding those who have such interest merely as security for the performance of an obligation.

Section 12. "Person" shall mean and refer to any individual, corporation, partnership, association, trustee or other legal entity.

Section 13. "Property" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association by annexation.

Section 14. "Townhome" shall mean and refer to a dwelling or place of residence constructed upon a lot within the property and constituting a building, or a part of a building.

Section 15. "PUD" shall mean a Planned Unit Development. This project may be referred to from time to time as a Planned Unit Development ("PUD").

ARTICLE II

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Additional properties and improvements, including common areas, may be annexed in the manner provided in this Article to the Property herein described.

Additional properties so annexed shall be merged with the Property herein described and any other previously annexed property, and shall be subject to the provisions of this Declaration and to the Articles of Incorporation and By-Laws of the Association.

Section 2. At any time within seven (7) years following the date of incorporation of the Association, the Declarant may annex additional properties to the Property herein described. The total number of lots within the Property herein described and that subsequently annexed shall not exceed one hundred thirty-five. All properties annexed shall be contiguous to the Property herein described or to property previously annexed.

Section 3. In addition to annexations as provided in Section 2 of this Article, other contiguous property may be annexed at any time with the express consent of two-thirds (2/3) of each class of members.

ARTICLE III

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner

shall have a right and easement of enjoyment in and to the common area which shall be appurtenant to and shall pass with the title to every assessed lot, subject to each of the following provisions:

(a) The right of the Association to limit the number of guests or members.

(b) The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the common area and facilities.

(c) The right of the Association to suspend the voting rights and the right to use of any recreational facilities located upon the common area by a member, or any person to whom he has delegated his voting right, for any period during which any assessment against his lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

(d) The rights or owners to the exclusive use of parking spaces as provided in this Article.

(e) The right of the Association to formulate, publish, and enforce rules and regulations as provided in Article X.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the common area and facilities to the members of his immediate family, his tenants, or contract purchasers, provided, every such delegatee shall reside on the property.

Section 3. Title to Common Area. The Declarant may retain

the legal title to the common area until such time as it has completed the improvements or restoration thereon, and until such time as, in the opinion of the Declarant, the Association is able to maintain the same, but notwithstanding any provision herein, the Declarant hereby covenants that it shall convey the common area shown upon the recorded plat referred to in the premises of this Declaration, to the Association, free and clear of all liens and encumbrances, within three hundred sixty-five (365) days from the date hereof, except utility and drainage easements and easements to governmental authorities upon condition that such area as shall be designated "common area" shall be for the sole and exclusive use and benefit of members, as long as such area is maintained in conformity with the requirements of this Declaration, the By-Laws, and the Articles of Incorporation of the Association, at the sole expense of the owners.

From the date of the first conveyance of title by the Declarant to an owner of a lot until the date of the first Association meeting, the Declarant or its designee, shall serve as the Interim Management Agent with responsibility for coordinating all normal management services of the Association. During such period, the Interim Management Agent, or its designee, shall receive a monthly management fee from each owner of Twelve (\$12.00) Dollars, plus a maintenance assessment payable monthly as established herein.

Upon selection by the Association of a Regular Management Agent, the Interim Management Agent shall provide to the Regular Management Agent an accounting of operating revenues and expenses

and turn over all unused funds to the Association. After adoption of the annual budget, the Declarant shall be subject to regular assessments for any lots with completed improvements built thereon and still owned by it.

Section 4. Parking Rights. The owner or owners of each lot shall be entitled to two automobile parking spaces. The parking spaces shall be as near and convenient to said lot as reasonably possible, together with the right of ingress and egress in and upon said parking spaces. No boats, trailers, campers or recreational vehicles shall be parked within the common area, or rights-of-way of any public or private street in or adjacent to the Property.

ARTICLE IV

MEMBERSHIP

Every person who is record owner of a fee or an undivided fee interest in any lot which is subject by covenants of record to assessment by the Association, including contract sellers, but excluding persons who hold an interest merely as security for the performance of obligations, shall be a member of the Association. Ownership of such interest shall be the sole qualification for such membership; no owner shall have more than one membership in the Association and there shall be only one vote per lot in such Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment. The Board of Directors may make reasonable rules regarding proof of ownership.

ARTICLE VVOTING RIGHTS

Section 1. Classes. The Association shall have the following two classes of voting membership:

(a) Class A. Class A members shall be all owners, with the exception of the Declarant. Class A members shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as the owners thereof determine, but in no event shall more than one vote be cast with respect to any lot, and no fractional vote may be cast with respect to any lot.

(b) Class B. The Class B member shall be the Declarant, and it shall be entitled to three (3) votes for each lot in which it holds a fee or undivided fee interest, provided, that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(1) When the total voters outstanding in Class A membership equal the total vote outstanding in Class B membership; provided, however, that the Class B membership shall be reinstated with all rights, privileges, and responsibilities if, after conversion of the Class B membership to Class A membership as herein provided, additional lands are annexed to the Property by the Declarant in the manner provided in Article II of this Declaration, or

(2) October 31, 1989.

ARTICLE VI
COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each lot owned within the Property, hereby covenants, and every other owner of any lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association:

- (a) Annual assessments or charges;
- (b) Special assessments for capital improvements, and
- (c) Special assessments for purchase and reconstruction of townhomes as hereinafter provided.

Such assessments shall be fixed, established, and collected from time to time as hereinafter provided.

The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the lot and improvements against which each such assessment is made. Each such assessment, together with such interest and cost and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of the lot at the time the assessment fell due. The personal obligation of an owner for delinquent assessments shall pass to his successors in title. All assessments shall be shared equally by the owners of each lot.

Section 2. Purpose of Assessments. The assessments levied

by the Association shall be used exclusively for promoting the recreation, health, safety and welfare of the residents and the Property; enforcing these covenants and the rules of the Association, improving and maintaining the Property and the townhomes situated thereon; and providing the services and facilities for purposes of and related to the use and enjoyment of the common area and facilities.

Section 3. Amount of Assessment.

(a) Initial Assessment. To and including December 31, 1986, the initial annual assessment shall not be in excess of Three Hundred Sixty and 00/100 (\$360.00) Dollars per lot, the exact amount of which shall be determined from time to time as provided in Subsection (c) of this Section 3.

(b) Increase by Association. From and after December 31, 1986, the annual assessment effective from any year may be increased from and after January 1 of the succeeding year by the Board of Directors, without a vote of the membership.

(c) Criteria for Establishing Annual Assessment. In establishing the annual assessment for any assessment year, the Board of Directors shall consider all current costs and expenses of the Association, any accrued debts, and reserves for future needs.

(d) Vacant Lots. Notwithstanding anything in this Article VI to the contrary, all vacant lots shall be assessed at an amount equal to the pro-rata monthly maintenance expense of vacant lots and common area and facilities less reserve payments but in no event less than 25% of the actual monthly assessments paid by

owners.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the costs of construction or reconstruction, unexpected repair, or replacement of a described capital improvement upon the common area, including the necessary fixtures and personal property related thereto, provided that any such assessments shall have the assent of two-thirds (2/3) of the votes of each class for this purpose, written notice of which, setting forth the purpose of the meeting, shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting.

Section 5. Notice and Quorum for any action authorized under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty (60%) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be on half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots, on a per lot basis, and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments. Due Dates. The annual assessments provided for herein shall be paid in equal monthly installments and the payment of such shall commence as to each lot upon conveyance by the Declarant. The first annual assessment shall be adjusted according to the number of remaining months in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each other at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association, upon demand at any time, shall furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Non-payment of Assessments: Remedies of the Association. Any assessments or portion thereof which are not paid when due shall be delinquent. If the assessment or portion thereof is not paid within thirty (30) days after the due date, the same shall bear interest from the date of delinquency at the rate of twelve (12%) percent per annum. The Association may bring an action against the owner personally obligated to pay the

same, or foreclose the lien against the property, and, in either event, 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 non-use of the common area or abandonment of his lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein on any lot shall be subordinate to the lien of any first mortgage on such lot.

Section 10. Exempt Property. Any portion of the Property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of South Carolina shall be exempt from the assessments created herein, except no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VII.

EXTERIOR MAINTENANCE

Each owner shall provide exterior maintenance upon their lot as follows: Stain and/or paint the exterior of townhome, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, lawns, grass, walks, mail boxes, decks, railings and utility rooms and other such exterior improvements that may be necessary. Failure of an owner to perform exterior maintenance, that in the sole discretion of the Association, is necessary, shall result in a revocation of that owner's

maintenance rights. In that event, the Association may perform the necessary maintenance, the cost of which shall be added to and become a part of the assessment to which such lot and such lot above is subject. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each lot at reasonable times to perform maintenance as provided in this Article.

In the event that the need for maintenance or repair of a lot or the improvements therein is caused through the willful or negligent acts or its owner or his family, tenants, contract purchasers, guests, or invitees, or is caused by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles or smoke, as the foregoing are defined and explained in South Carolina standard fire and extended coverage insurance policies, the cost of such maintenance, replacement or repairs shall be added to and become a part of the assessment to which such lot and such lot alone is subject.

Any owner who fences or encloses any portion of his lot (which fence or enclosure shall require the prior approval of the Association) may plant trees, shrubs, flowers, and grass in the fenced or enclosed portion as he elects and shall maintain the fenced or enclosed portion at his own expense, provided that such maintenance does not hinder the Association in performing its maintenance duties as to the townhome, the remaining yard spaces, or the common area. No such maintenance by an owner shall reduce the assessment payable by him to the Association. If, in the

opinion of the Association, any such owner fails to maintain his yard in a neat and orderly manner, the Association may revoke the owner's maintenance rights for a period not to exceed one year and the Association shall perform maintenance during the revocation period. The owner shall not plant any vegetation in front of his townhome except with the prior written approval of the Association.

ARTICLE VIII.

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the townhomes upon the property and placed on the dividing line between the lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provisions of this Article, an owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

Section 6. Easement and Right of Entry for Repair, Maintenance, and Reconstruction. Every owner shall have an easement and right of entry upon the lot of any other owner to the extent reasonably necessary to perform repair, maintenance, or reconstruction of a party wall. Such repair, maintenance, or reconstruction shall be done expeditiously, and, upon completion of the work, the owner shall restore the adjoining lot or lots to as near the same condition as that which prevailed prior to commencement of the work as is reasonably practicable.

Section 7. Certification With Respect to Contribution. If any owner desires to sell his lot, he may, in order to assure a prospective purchaser that no adjoining owner has a right to contribution as provided in this Article request of the adjoining owner or owners a certification that no right of contribution exists, whereupon it shall be the duty of each adjoining owner to make such certification immediately upon request and without charge. If the adjoining owner claims the right of contribution, the certification shall contain a recital of the amount claimed

and the basis therefor.

Section 8. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, such dispute shall be settled by arbitration as provided under the laws of the State of South Carolina as they are now or hereafter amended.

ARTICLE IX

ARCHITECTURAL CONTROL

No building, fence, wall, antenna, clothesline, or other structure, or any change in exterior color, shall be commenced, erected, or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the said improvements or alterations shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or by the Architecture Committee or by any applicable governmental agency. In the event that the said Board, or its designated committee fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to them, approval will not be required and this Article will be deemed to have been fully complied with; provided that the plans and specifications required to be submitted shall not be deemed to have been received if they contain erroneous data or fail to present accurate information

Declarant may use one or more townhomes or offices and/or model townhomes for sales purposes, provided, however, that the Declarant shall be able, so long as it is a Class B member of the Association, to make such subdivisions of the townhomes as it deems necessary and to obtain such zoning changes therefor as are properly approved by municipal officials of the City of Charleston.

(b) Nothing shall be kept and no activity shall be carried on in any building or townhome or on the common area and facilities which will increase the rate of insurance, applicable to residential use, for the property or the contents thereof. Any owner that carries on any permitted activity that results in an increase in the Homeowners' Association insurance rate shall reimburse the Homeowners' Association for said increase. No owner shall do or keep anything, nor cause or allow anything to be done or kept, in his townhome or on the common area and facilities which will result in the cancellation of insurance on any portion of the property, or the contents thereof, or which will be in violation of any law, ordinance, or regulation. No waste shall be committed on any portion of the common area and facilities.

(c) No immoral, improper, offensive or unlawful use shall be made of the property, or any part thereof, and all valid laws, ordinances, and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, orders, rules, regulations, or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the property, shall be complied with, by and at the sole expense of the owner or the Association, whichever shall have the obligation to maintain or repair such portion of the property.

(d) Nothing shall be done in or to any townhome in, to or upon any of the common area and the facilities which will impair the structural integrity of any building, townhome, or portion of

the common area and facilities or which would impair or alter the exterior of any building or portion thereof, except in the manner provided in this Declaration.

(e) Except as may be authorized and agreed to by the Declarant or with the express consent of two-thirds (2/3) of each class of members, no industry, business, trade, occupation or profession of any kind, whether commercial or otherwise, shall be conducted, maintained or permitted on any part of the property, except that the Declarant or its agents may use up to two townhomes for sales or display purposes, provided, however, that the Declarant shall be able, so long as it is a Class B member of the Association, to obtain zoning changes permitting such use for the properties on Calhoun Street as are properly approved by municipal officers of the City of Charleston.

(f) No owner shall display, or cause or allow to be displayed, to public view any sign, placard, poster, billboard, or identifying name or number upon any townhome, building or any portion of the common area and facilities, except as may be allowed by the Association pursuant to its By-Laws, provided, however, that the Declarant and any mortgagee who may become the owner of any unit, or their respective agents, may place "For Sale" or "For Rent" signs on any unsold or unoccupied townhomes and in suitable places on the common area. In addition, the developer may place any signs on the property it deems appropriate to advertise the development.

(g) No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the common area and facilities except at the direction of and with the express written consent of the Association.

(h) The common area and facilities shall be used only for the purposes for which they are intended and reasonably suited and

which are incidental to the use and occupancy of the townhomes, subject to any rules or regulations that may be adopted by the Association pursuant to its By-Laws.

Section 3. Quiet Enjoyment. No obnoxious or offensive activity shall be carried on upon the property, nor shall anything be done which may be or may become a nuisance or annoyance to residents within the property.

ARTICLE XI

EASEMENTS

Section 1. Walks, Drives, Parking Areas, and Utilities. All of the common area shall be subject to a perpetual non-exclusive easement or easements in favor of all owners of lots for their use and the use of their immediate families, guests, invitees, tenants or lessees for all proper and normal purposes and for ingress and egress and to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, television antenna lines, and other public utilities as shall be established by the Declarant or its predecessors in title and for the use of the owner, their families, guests and tenants; and the Association shall have the power and authority to grant and to establish in, over, upon, and across the common area conveyed to it such further easements as are requisite for the convenient use and enjoyment of the Property. Provided, however, that the Association may establish reasonable rules and regulations pertaining to use and enjoyment of the facilities and common area as may be provided for

herein.

Section 2. Encroachments. All lots and the common area shall be subject to easements for the encroachment of initial improvements constructed on adjacent lots by the Declarant to the extent that such initial improvements actually encroach, including, without limitation, such items as overhanging eaves, gutter downspouts, exterior storage rooms and walls. If any encroachment shall occur subsequent to subjecting the Property to this Declaration as a result of settling or shifting of any building or as a result of any permissible repair, construction, reconstruction, or alteration, there is hereby created and shall be a valid easement for such encroachment and for the maintenance of the same. Every lot shall be subject to an easement for entry and encroachment by the Declarant for a period not to exceed eighteen (18) months following conveyance of a lot to an owner for the purpose of correcting any problems that, in the judgment of the Declarant, may arise regarding grading and drainage. The Declarant, upon making entry for such purpose, shall restore the affected lot or lots to as near the original condition as practicable.

Section 3. Structural Support. Every portion of a townhome which contributes to the structural support of the building shall be burdened with an easement of structural support for the benefit of all other townhomes within the building.

Section 4. Emergencies. Every lot and townhome shall be subject to an easement for entry by the Association for the purpose of correcting, repairing, or alleviating any emergency

condition which arises upon any lot or within any townhome and that endangers any building or portion of the limited common area.

ARTICLE XII

COVENANTS OF OWNER TO KEEP UNITS INSURED AGAINST
LOSS, TO REBUILD AND TO KEEP IN GOOD REPAIR

The Declarant and each owner covenants with the Association, on behalf of itself and on behalf of each subsequent owner of a lot within the properties, and each owner of any lot within the properties, by acceptance of a deed therefor, whether or not it shall be so expressed in said deed, or by exercise of any act of ownership, is deemed to covenant:

(1) The Association shall obtain an insurance policy equal to the full replacement value of the Common Area and Facilities. Said policy shall contain a Replacement Cost Endorsement provided for replacement of the Common Area and Facilities from insurance loss proceeds.

(2) The owner shall apply the full amount of any insurance proceeds to the rebuilding or repair of any dwelling unit (subject to the provisions and covenants contained in any mortgage or mortgages creating a lien against any lot).

(3) The owner shall rebuild or repair the dwelling in the event of damage thereto.

(4) The owner shall keep the dwelling unit in good repair except for repairs required by the Association.

(5) Premiums for the hazard insurance policy referred to in

Item (1) above shall be a common expense and shall be collectible in the same manner and to the same extent as provided for annual and special assessments herein.

The lien for assessments for insurance premiums shall be subordinate to the lien of any first mortgage in the same manner provided for annual and special assessments.

(6) Each owner shall obtain a policy of hazard insurance which shall provide that insurance proceeds payable on account of loss of, or damage to, the real property shall be adjusted with the carrier(s) by the Harleston Green Townhome Association, Inc., and shall be payable solely to the homeowner's mortgagee, if any, and the Harleston Green Townhome Association, Inc., as Insurance Trustee for the homeowner(s). Such insurance proceeds shall be applied to repair or restoration of the property as hereinafter provided. All such insurance policies shall provide that coverage may not be cancelled by the carrier without first giving the Harleston Green Townhome Association, Inc., and unit mortgagees, if any, thirty (30) days written notice of cancellation. All such policies shall contain, if obtainable, a waiver of the right of subrogation against any unit owner, members of the unit owner's family, the Harleston Green Townhome Association, Inc., its officers, agents and employees, as well as a waiver of the "pro rata" clause. This policy shall constitute the primary insurance coverage.

(7) The Association shall also obtain a broad form public liability policy covering all common areas and all damage or injury caused by the negligence of the Association or any of its

agents, officers or employees in an amount of not less than one million dollars for each occurrence and such policies shall contain a waiver of the right of subrogation against members of the Harleston Green Townhome Association, Inc., its officers, agents and employees.

(8) Any owner may, if he wishes, at his own expense, carry any and all other insurance he deems advisable beyond that included in the homeowners' policy required by the Association.

(9) In the event of damage or destruction by fire or other casualty to any property covered by insurance payable to the Association as trustee for the homeowners, the Board of Directors shall, with the concurrence of mortgagees, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal governmental agency, with the provisions agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors. The Board of Directors shall obtain bids from at least two reputable contractors, and then may negotiate with any such contractor, who may be required to provide a full performance bond for the repair, reconstruction or rebuilding of such building or buildings.

(10) Also, the Association may levy in any calendar year, a special assessment for the purpose of defraying the cost of

construction, reconstruction, repair or replacement of the common area or of a building or buildings containing single family residential units, to the extent that insurance proceeds are insufficient to pay all costs of said construction, reconstruction, repair or replacement to as good condition as prior to damage or destruction by fire or other casualty covered by said insurance.

(11) The reconstructed or repaired residence shall be substantially identical to the destroyed residence, unless a change shall be approved by the Board, and shall be constructed in conformity with plans submitted to and approved by the Board prior to construction.

(12) Retention by Owner. If a dwelling is not habitable by reason of damage, and the owner gives notice of his election to repair or reconstruct the dwelling, the obligation of the owner to pay annual assessment installments shall be suspended either for a period of ninety (90) days or until the dwelling is restored to a habitable condition, whichever shall first occur. In the event a dwelling is damaged or destroyed, and the owner does not begin repair or reconstruction within thirty (30) days following the damage or destruction, he shall remove or cause to be removed, at his expense, all debris from the lot, so that it shall be placed in a neat, clean and safe condition; and if he fails to do so, the Association may cause the debris to be removed, and the cost of removal shall constitute a lien upon the dwelling until paid by the owner, unless the dwelling is thereafter acquired by the Association.

(13) Application of Declaration and By-Laws. Any dwelling which has been destroyed, in whole or in part, by fire or other casualty, and is subsequently restored or reconstructed, shall be subject to the provisions of this Declaration and to the By-Laws of the Association.

(14) The Association shall maintain adequate fidelity coverage against dishonest acts by its officers, directors, trustees and employees, and all others who are responsible for handling funds of the Association. Such fidelity bonds shall:

1. name the Association as an obligee.
2. be written in an amount equal to at least 150% of the estimated annual operation expenses of the planned unit development project, including reserves.
3. contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of 'employee' or similar expression.

ARTICLE XIII

GENERAL PROVISIONS

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

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 3. Amendment. The covenants, conditions and restrictions of this Declaration shall run with the land and bind the land for a term of twenty (20) years from the date of this Declaration is recorded, after which time they shall automatically be extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by the owners of not less than ninety percent (90%) of the lots, and thereafter by an instrument signed by the owners of not less than seventy-five percent (75%) of the lots; provided, however, that the Board of Directors may amend this Declaration, without the consent of owners, to correct any obvious error or inconsistency in drafting, typing or reproduction. All amendments shall be certified as an official act of the Association and shall forthwith be recorded in Charleston County RMC Office. All amendments shall become effective upon recordation.

Section 4. Lease or Timeshare of Townhome. No townhome shall be leased for transient or hotel purposes, nor may any owner lease less than the entire unit, unless the Declarant, while it was a Class B member of the Association, obtains zoning changes permitting such a lease which change is properly approved by municipal officials of the City of Charleston. Any lease must be in writing and provide that the terms of the lease and the occupancy of the unit shall be subject in all respects to the provisions of the Declaration of Covenants, Conditions and

Restrictions and By-Laws of Harleston Green Townhome Association, Inc., and any failure by any lessee to comply with the terms of such document shall be a default under the lease. In addition, no owner shall subject or offer his unit to multiple owners under a timeshare arrangement.

Section 5. Conflicts. In the event of any irreconcilable conflict between the Declaration and the By-Laws of the Association, the provisions of this Declaration shall control. In the event of any irreconcilable conflict between this Declaration or the By-Laws of the Association and the Articles of Incorporation of the Association, the provisions of the Articles of Incorporation shall control.

Section 6. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of the additional properties, dedication of common areas, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 7. Subdivision of Lot. No lot may be further subdivided, nor may any additions be made to any lot that will increase the density of the property, provided, however, that the Declarant shall be able, so long as it is a Class B member of the Association, to make such subdivisions of the townhomes as it deems necessary and to obtain such zoning changes as are properly approved by municipal officials of the City of Charleston.

ARTICLE XIV

RIGHTS OF FIRST MORTGAGEES

The following provisions, in addition to provisions set forth elsewhere in this Declaration, shall be applicable to the holders of first mortgages upon the individual dwelling subject to

this Declaration and any amendments thereto.

Section 1. This Declaration and other constituent documents create a Planned Unit Development, hereinafter referred to as "PUD."

Section 2. Any first mortgagee who obtains title to a PUD unit (residence) pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such unit's unpaid dues or charges which accrue prior to the acquisition of title to such unit by the mortgagee.

Section 3. Unless at least two-thirds (2/3) of the first mortgagees provided they request the right and inform the Association of their addresses in writing (based upon one vote for each first mortgage owned) or owners (other than the sponsor, developer or builder) of the individual units in the PUD have given their prior written approval, the PUD homeowners' association, corporation or trust shall not be entitled to:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the common property owned, directly or indirectly, by such homeowners association, corporation or trust for the benefit of the units in the PUD (the granting of easements for public utilities or for other public purposes consistent with the intended use of such common property by the PUD shall not be deemed a transfer within the meaning of this clause);

(b) change the method of determining the obligations, assessments, dues or other charges which may be levied against a PUD unit owner;

(c) by act or omission change, waive or abandon any scheme or regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of units, the

exterior maintenance of units, the maintenance of the common property party walks or common fences and driveways, or the upkeep of lawns and plantings in the PUD;

(d) fail to maintain fire and extended coverage on insurable PUD common property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement costs);

(e) use hazard insurance proceeds for losses to any PUD common property for other than the repair, replacement or reconstruction of such common property.

Section 4. First mortgagees of PUD units may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any PUD common property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such common property and first mortgagees making such payments shall be owed immediate reimbursement therefor from the PUD homeowners association, corporation or trust. Entitlement to such reimbursement is hereby reflected in this Declaration as an agreement in favor of all first mortgagees of units in said PUD duly executed by the PUD homeowners' association, corporation or trust, and an original or certified copy of such agreement is possessed by Seller.

Section 5. No provision of the PUD constituent documents gives a PUD unit owner, or any other party, priority over any rights of the first mortgagee of a unit in a PUD pursuant to its mortgage in the case of a distribution to such PUD unit owner of

insurance proceeds or condemnation awards for losses to or a taking of a PUD common property.

Section 6. A first mortgagee, upon request, is entitled to written notification from the homeowners' association of any default in the performance by the individual PUD unit Borrower of any obligation under the PUD constituent documents which is not cured within sixty (60) days.

Section 7. Any agreement for professional management of the PUD, or any other contract providing for services of the developer, sponsor, or builder, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice.

IN WITNESS WHEREOF the undersigned have hereunto set their hands and seals this 25th day of July, 1985.

HARLESTON GREEN:
BY GIFFORD AND NIELSON

IN THE PRESENCE OF:

Zachary M. Solomon
Melvin Solomon

By: Kenneth A. Gifford
ITS PARTNER
BY MIDTOWN NUMBER ONE, INC.
BY: Melvin Solomon
ITS PRESIDENT

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

P R O B A T E

PERSONALLY APPEARED before me ZACHARY M. SOLOMON

and made oath that (s)he saw the within-named HARLESTON GREEN BY GIFFORD AND NIELSON AND MIDTOWN NUMBER ONE, INC., ITS PARTNERS by KENNETH A. GIFFORD AND MELVIN SOLOMON THEIR PARTNER AND PRESIDENT, RESPECTIVELY, sign, seal, and as its act and deed

deliver the within Declaration, and that (s)he with _____

G. DANIEL BOWLING witnessed the execution thereof.

Jackman Solomon

SWORN TO BEFORE ME THIS

25th DAY OF July, 1985

Daniel Bowley (L.S.)

NOTARY PUBLIC OF SOUTH CAROLINA
My Commission Expires: 5/9/91

CK.34