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Walston 8 Wells et al  
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STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT )

THIS MASTER DECLARATION OF COVENANTS AND RESTRICTIONS (sometimes hereinafter referred as the “Master Declaration”) was executed, acknowledged and delivered as of December 15, 2008 (the “Effective Date”), by and among **OLD CAROLINA, LLC**, a South Carolina limited liability company, (“Old Carolina”), **PADDOCK CLUB, LLC**, a South Carolina limited liability company (“Paddock Club”), **TRADITIONS AT OLD CAROLINA HOME OWNERS’ ASSOCIATION, INC.**, a South Carolina nonprofit corporation, (the “Association”) and **CROWNE OLD CAROLINA, LLC**, a Delaware limited liability company (“Crowne”), with respect to the Community described below, for the purposes and subject to the terms and conditions hereinafter set forth.

A. Old Carolina, the Association and Crowne's predecessor in interest, Crowne at Old Carolina Associates, Limited Partnership, a Delaware limited partnership, have previously negotiated and approved the terms and provisions of that certain settlement outline (hereinafter the "Settlement Agreement") set forth in that certain Revised Old Carolina Master Plan Proposal (June 2, 2006), a copy of which is attached hereto as **Exhibit A** and incorporated herein by reference.

B. Old Carolina, Paddock Club, the Association and Crowne have executed, acknowledged and delivered this Master Declaration, and intend to cause this Master Declaration to be filed in the Public Records, as a means of implementing certain provisions of the Settlement Agreement and establishing certain covenants and restrictions affecting the Community, all as hereinafter provided.

NOW, THEREFORE, for and in consideration of mutual covenants, conditions, restrictions and obligations contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, for themselves, and their respective successors, successors-in-title and assigns, do hereby declare, covenant, and agree as follows:

1. **Certain Defined Terms:** The capitalized terms used in this Master Declaration and not defined in other provisions hereof, shall have the following respective meanings:

a. **Annexed Property** - means that portion of the Community, comprising approximately 171.33 acres, annexed into the Town on or about December 28, 2005.

b. **Apartment Community** - means the 199 unit residential apartment/condominium community, with amenities, which Crowne intends to construct on the Apartment Site.

c. **Apartment Plan** - means The Crowne at Old Carolina Master Plan prepared for Crowne by Thomas & Hutton Engineering Co., as most recently revised on August 28, 2008, a copy of which is attached hereto as **Exhibit B**, and as the same may be further amended, modified, revised or supplemented consistent with the applicable provisions of this Master Declaration.

d. **Apartment Site** - means the 17.73 acre "Revised Tract A" as shown on the survey of Surveying Consultants dated 12/20/05, last revised 05/03/2007, and recorded at Book 121, page 160 in the Public Records.

e. **Applicable Covenants** - means and includes the Agreement Regarding Easements and Restrictions dated January 5, 1996 and recorded at Book 828, at Page 1728 in the Public Records, as amended by (i) Restated and Amended Agreement Regarding Easements and Restrictions dated February 26, 1998 and recorded in Book 1018, at Page 1509 in the Public Records, (ii) Supplement to Agreement Regarding Easements and Restrictions dated June 16, 2006 and recorded in Book 2396, at Page 1313 in the Public Records, and (iii) Amendment to Supplement to Agreement Regarding Easements and Restrictions dated September 20, 2007 and recorded in Book 2632, at Page 2263 in the Public Records.

f. **Berm** - means an 8-foot berm, to be installed by Crowne within the Berm Area pursuant to the Settlement Agreement.

g. **Berm Area** - means the "2.22 Acre Addition" conveyed by Old Carolina to Crowne pursuant to deed recorded in Book 2632, page 2321 in the Public Records and as shown on the survey of Surveying Consultants dated 12/20/05, last revised 05/03/2007, and recorded at Book 121, page 160 in the Public Records.

h. **Cart Path Areas** - means the Relocated Cart Path and all of the areas shown cross hatched and labeled "Easement #1", "Easement #2", "Easement #3", "Easement #4", and "20' Cart Path Construction Easement" on the plat filed on February 6, 1998 in Book 63, page 188 in the Public Records.

i. **Common Area** - means and includes all real and personal property described as such in the Traditions Declaration.

- j. Community - means the parcel of land comprising 202 acres, more or less, consisting of (i) Phase I, which consists of single-family residential homes and common areas, and (ii) all of the Annexed Property, which includes the (A) New Golf Course, (B) the Restricted Open Area, (C) the Future Development Area, which is to consist of single-family residential detached or attached homes or town homes and common areas, and (D) the Apartment Site, which is to consist of multi-family apartments or condominiums with related amenities.
- k. County means - Beaufort County, South Carolina.
- l. Crowne Improvements - means the Berm, the New Clubhouse and the Relocated Cart Path.
- m. Development Standards Ordinance - means the Development Standards Ordinance of the Town, as the same may be amended from time-to-time.
- n. Existing Pool - means the pool and related amenities and improvements previously constructed in connection with the development of Phase I and marketing and sale of the Residential Units therein.
- o. Existing Phase 1 Roads - means Trotting Hill Lane, and all other roads existing on the date of this Master Declaration in Phase I.
- p. Future Development Area - means Parcels C, D, E, F, and G as shown on the Revised Master Plan, as such parcels may be reconfigured in accordance with the terms and conditions of the Settlement Agreement.
- q. Governmental Requirements - means all applicable laws, ordinances, regulations, and other restrictions and requirements of all federal, state and local governments and governmental entities, including without limitation, zoning, land use, environmental, wetlands, and resource management laws, ordinances, rules, regulations, and other requirements and restrictions
- r. Lot Extension Areas - means those areas immediately to the north of the seven (7) existing improved residential lots on Trotters' Circle conveyed by Old Carolina to certain Members pursuant to deeds recorded in the Public Records in (i) Book 2632, page 2279, (ii) Book 2632, page 2285, (iii) Book 2632, page 2291, (iv) Book 2632, page 2297, (v) Book 2632, page 2303, (vi) Book 2632, page 2309, and (vii) Book 2632, page 2315, and all as shown on the survey of Surveying Consultants dated 05/28/07 and recorded in Book 121, page 159 in the Public Records and re-recorded in Book 123, page 104 in the Public Records.
- s. Member - means and includes from time-to-time each Person subject to membership in the Association pursuant to the applicable provisions of the Traditions Declaration.
- t. New Clubhouse - means the facility to be constructed by Crowne pursuant to Section 4(b) of this Master Declaration.

u. New Clubhouse Plan – means the Clubhouse Expansion Master Plan prepared by Thomas & Hutton Engineering Co., dated August 28, 2008, a copy of which is attached hereto as Exhibit C as the same may be modified, revised or supplemented under Section 4(b) of this Master Declaration.

v. New Clubhouse Site - means that portion of the Community more specifically described on the Revised Master Plan, together, with such additional land as Old Carolina may be required to contribute and convey to the Association pursuant to Paragraph 5(f) of the Settlement Agreement.

w. New Golf Course - the nine-hole golf course that is situated on the Old Carolina Property and shown on the Revised Master Plan and the clubhouse, tennis courts, pool, restaurant, and parking area situated immediately north of Parcel B shown on the Revised Master Plan.

x. New Golf Course Property - means all Old Carolina Property less and except the Future Development Area and the Restricted Open Areas.

y. New Pool - means the additional swimming pool as may be constructed pursuant to Paragraph 5(c) of the Settlement Agreement in connection with development of the Future Development Area by Old Carolina or its successor in interest.

z. New Roads - means any roads constructed after the date of this Master Declaration in the Future Development Area. Any roadways and driveways hereafter constructed on the Apartment Site shall not be included in the term New Roads.

aa. Old Carolina Property - means and includes the Annexed Property, less and except the Apartment Site, and Lot Extension Areas, comprised of the respected Parcels.

bb. Parcels - means and includes the tracts of land shown as parcels B through I on the Revised Master Plan and where references are made to one or more of such Parcels means the Parcel or Parcels to which reference is made in the applicable provision of this Master Declaration.

cc. Permanently Restricted Area - means Parcels B, H and I as shown on the Revised Master Plan attached hereto.

dd. Person - means and includes any individual, corporation, limited liability company, limited partnership, partnership, trustee or other legal entity.

ee. Phase I - means the existing Traditions Residential Development, which is situated within the portion of the Community that is not part of the Annexed Property, encompassing 132 separate improved Lots and the Common Area, together with the applicable Lot Extension Areas, which are parts of the Annexed Property.

ff. PUD Zoning Ordinance - means the PUD Zoning Ordinance of the Town, as the same may be amended from time-to-time.

gg. Public Records - means the Beaufort County, South Carolina RMC Office.

hh. Residential Unit - means a single-family residence, which may be detached or attached, including without limitation, a town home, each unit in a single building containing more than one residence, and each apartment or condominium unit in the Apartment Community.

ii. Restricted Open Areas - means and includes the Permanently Restricted Areas, the New Golf Course Property, and all additional portions of the Old Carolina Property designated as Restricted Open Areas by any future amendments to the Revised Master Plan, as the same may be reconfigured as permitted under the Settlement Agreement.

jj. Revised Master Plan - means the plan dated May 24, 2006, prepared by Thomas & Hutton Engineering Co., a copy of which is attached hereto as **Exhibit D**, as the same may be amended, modified, revised or supplemented in accordance with the Settlement Agreement.

kk. Town - means the Town of Bluffton, South Carolina.

ll. Traditions Declaration - means the Declaration of Covenants, Conditions and Restrictions for Traditions at Old Carolina, recorded in Book 1300, Pages 2050-2134 in the Public Records, as heretofore amended.

mm. Work - means any construction, resurfacing, repair, or maintenance required or permitted by this Master Declaration.

2. **Property Subject to Master Declaration.** The Community, all of the property now part of the Community, and all property that may hereafter be subjected to this Master Declaration shall be owned, conveyed, and used subject to all of the provisions of this Master Declaration, which shall run with the title to such property. If there is a conflict between any provision of this Master Declaration, the Traditions Declaration, the Applicable Covenants or the Settlement Agreement, the provisions of this Master Declaration shall control.

### 3. **Certain Restrictions Regarding Development.**

(a) **Phase 1.** Phase I shall be limited to the 132 Residential Units existing on the date of this Master Declaration. If any existing Residential Unit within Phase 1 is demolished, damaged, or destroyed, the same may be rebuilt, repaired, or replaced in accordance with the provisions of the Traditions Declaration and any then applicable Governmental Requirements but in no event shall the number of Residential Units in Phase I exceed 132.

(b) The Future Development Area. All or any portion of the Future Development Area may be subdivided into lots for single-family residential detached or attached homes or town homes pursuant to and in accordance with the terms and conditions of the Settlement Agreement.

(c) Restricted Open Areas; No Obligation to Operate Golf Course; Certain Maintenance Provisions and Rights. Use and development of the Restricted Open Areas shall be perpetually restricted to the New Golf Course and/or open space. Old Carolina shall not be obligated to continue the operation of the New Golf Course for any particular period; provided, however, so long as Old Carolina operates the New Golf Course, Old Carolina shall repair, clean, and maintain the entrance at Old Carolina Drive and Buck Island Road, as well as the post and rail fencing along Old Carolina Drive and Buck Island Road. During any period or periods when the New Golf Course is not being operated as a golf course, the Association shall have the right, but not the obligation, to do the following, at its expense: (a) to mow and otherwise manage and maintain the Restricted Open Areas, (b) to use the Restricted Open Areas for recreational purposes; provided, however, such right shall not include or permit any vertical construction, excavation, or additional landscaping, except as may be approved in writing by Old Carolina in its discretion, and (c) to repair, clean, and maintain the entrance at, and fencing along, Old Carolina Drive and Buck Island Road. If the Association exercises any of the rights granted in the preceding sentence, it shall have such access rights over and across the Old Carolina Property as may be necessary or appropriate for such purposes. The Association shall procure and maintain comprehensive general liability insurance, naming Old Carolina and any mortgagees of the Old Carolina Property as loss payees, for claims arising from the exercise of the access rights described in this subsection.

(d) Ultimate Configuration; Permanently Restricted Areas. The ultimate configuration of the New Golf Course, Restricted Open Areas and Future Development Area may be refined through future amendments to the Revised Master Plan, if and when submitted and approved pursuant to the Town's applicable PUD Zoning Ordinance and Development Standards Ordinance and in accordance with the terms and conditions of the Settlement Agreement.

(e) Golf Course Discounts and Privileges. Old Carolina has agreed to provide certain discounts, as more particularly set forth in Section 3(c) of the Settlement Agreement, in connection with use of the New Golf Course to residents of the Apartment Community and Members.

(f) The Apartment Site. The parties to this Master Declaration acknowledge and agree that the Apartment Site is not subject to the Traditions Declaration. Without the prior written consent of Crowne, which may be given or withheld by Crowne in its sole and absolute discretion for any reason or for no reason, the Apartment Site shall not be subjected to the Traditions Declaration, nor shall the Apartment Site or any Residential Units thereon be entitled to any vote in the Association, or subject to the architectural review, assessments, or other obligations of an Owner under the Traditions Declaration. Permits have been issued for the development shown on the Apartment Plan, but Crowne may modify the Apartment Plan from time to time, so long as the

revised Apartment Plan is limited to no more than 199 Residential Units and otherwise meets all applicable governmental approvals, requirements, and variances. Any amenities, including, but not limited to, swimming pool, clubhouse, and tennis courts, at any time existing on the Apartment Site shall be for the exclusive use and benefit of the residents of the Apartment Community and shall not be shared with residents of Phase 1 or the Future Development Area. The Apartment Site may be used for apartments, condominiums, or a mix thereof, with associated amenities.

**4. Certain Obligations of Crowne.**

(a) Berm. In conjunction with grading the Apartment Site, Crowne shall install, shape, and stabilize the Berm to provide a landscaped screen between the Apartment Site and the existing Residential Units on Trotters Circle. In conjunction with the installation of irrigation and landscaping for the Apartment Community, Crowne shall also irrigate and landscape the Berm; provided, however, the irrigation and landscaping shall not be required until irrigation and landscaping are installed for the Apartment Community.

(b) New Clubhouse.

(i) New Clubhouse Work. Subject to receipt of all approvals from the Town, Crowne, at its expense, shall construct the basic building of the New Clubhouse (the "New Clubhouse Work") on the New Clubhouse Site substantially as shown on the New Clubhouse Plan; provided, however, the New Clubhouse Plan shall be modified as Crowne deems appropriate to obtain permits from the Town and shall further be subject to such field modifications as Crowne deems necessary or appropriate in its reasonable judgment.

(ii) Payment Obligation: Furnishing Allowance. Crowne's obligation to pay for the New Clubhouse Work shall include the basic construction of, and basic furnishings for, the New Clubhouse. Such basic furnishings for the New Clubhouse shall be limited to flooring, carpeting and kitchen appliances (refrigerator and sink but no stove). Crowne's obligations shall also include an allowance of \$30,000 for internal furnishing and equipping of the New Clubhouse, which shall be spent by Crowne at the direction of the Association.

(iii) Completion of New Clubhouse Work. The New Clubhouse Work shall be substantially completed concurrently with completion of the clubhouse for the Apartment Community; provided, however, the time period for completion of the New Clubhouse Work shall be subject to extension by a period of time equal to any delays due to the occurrence of any Force Majeure Events. For purposes of this Master Declaration, a "Force Majeure Event" shall mean and include acts of God, fire, casualty, strike or other labor problems, boycotts, shortage of materials, weather conditions, riot, insurrection, war, catastrophe, inability despite Crowne's good faith efforts to secure necessary permits or governmental approvals, delays attributable to the Association or Old Carolina, if any, or any other cause beyond the reasonable control of Crowne.

(iv) Completion and Approval of the Work. Upon completion of the New Clubhouse Work, Crowne shall provide a written notice to the Association (the "Completion Notice"). Within fifteen (15) days after its receipt of the Completion Notice (the "Inspection Period"), the Association may provide a notice to Crowne (the "Deficiency Notice") setting out in reasonable detail any matters reasonably objectionable as to the New Clubhouse Work. The Association's failure to supply a Deficiency Notice within the Inspection Period shall be deemed to be an election by the Association to approve and accept the completed New Clubhouse Work in all respects. Upon receipt by Crowne of a timely Deficiency Notice, Crowne shall have sixty (60) days (provided that such time period shall be subject to extension by a period of time equal to any delays due to the occurrence of any Force Majeure Events) to remedy the matters set forth in such Deficiency Notice and resubmit a Completion Notice to the Association. The terms and provisions of this Section 4(b)(iv) shall apply to any such resubmitted Completion Notice.

(v) Discharge of Crowne's Obligations; Indemnity; Construction Warranty. Upon acceptance, or deemed acceptance, of the New Clubhouse Work by the Association pursuant to Section 4(b)(iv), (i) Crowne shall have no further obligation to the Association with respect to the New Clubhouse, or the location, design or construction thereof, and (ii) the Association agrees to indemnify, defend and hold harmless Crowne from and against any and all claims, actions, suits, damages, losses and expenses, including, without limitation, attorneys' fees and expenses, arising out of or resulting from the New Clubhouse Plans, the performance of the New Clubhouse Work or the use, operation and maintenance of the New Clubhouse. LEC Properties, Inc., the contractor for the New Clubhouse ("LEC"), shall be responsible for a one (1) year limited warranty in favor of the Association, with respect to the New Clubhouse and New Clubhouse Work, commencing with the date of substantial completion of the New Clubhouse, as determined and certified by Architects Collective of Tulsa, Oklahoma.

(d) Landscaping Standards. Landscaping in connection with the Berm and the New Clubhouse shall be in accordance with standards for first class luxury apartment developments and in conformity with all applicable requirements of the Town's Development Standards Ordinance.

(e) Additional Land for New Clubhouse Site. LEC on behalf, and at the expense, of Crowne shall construct the basic building of the New Clubhouse on the New Clubhouse Site under an arrangement that will reflect the Association as owner of the New Clubhouse and New Clubhouse Site. Pursuant to Section 5(f) of the Settlement Agreement, Old Carolina has an obligation to provide additional land to the Association for the New Clubhouse and New Clubhouse Site (the "Additional Land"), if such land is required under applicable set-back, density or other governmental land use requirements. Old Carolina and the Association shall use all reasonable efforts to resolve the issue regarding the Additional Land and promptly notify Crowne as to the final layout of the New Clubhouse Site.

(f) Relocation of Cart Path. Pursuant to Easement Agreement by and among Crowne, the Association and Old Carolina dated April 23, 2008 and recorded in Book 2715, Page 516 in the Public Records, Crowne shall relocate the Cart Path that currently



traverses the Berm Area to a location south of and adjacent to Trotters' Circle (the "Relocated Cart Path").

(g) Maintenance of Berm, New Clubhouse, and Relocated Cart Path. After the Crowne Improvements are constructed and installed, Crowne and its successors and assigns as owners of the Apartment Site shall be responsible for maintenance of the Berm and landscaping of the Berm and Berm Area. The Members within Phase 1 (through the Association) shall be responsible for the maintenance and operation of the New Clubhouse. Old Carolina shall be responsible for the maintenance of the Relocated Cart Path.

## **5. Infrastructure Reserve.**

(a) Infrastructure Reserve and Release Agreement. Pursuant to an agreement between Old Carolina and Crowne, Old Carolina has paid, on behalf of Crowne, the sum of \$40,000.00 (the "Infrastructure Reserve") to the Association to be held as a capital reserve fund for roadways, curbs, gutters, drainage systems and infrastructure maintained by the Association. In exchange for such payment, the Association has executed and delivered that certain Covenant Not to Sue and Release Agreement dated April 2, 2008 (the "Release Agreement"), whereby the Association released, acquitted and forever discharged and covenanted not to sue Old Carolina, Paddock Club, LLC, Crowne at Old Carolina Associates, Limited Partnership, Crowne Funding, LLC and Crowne, their respective members, managers, partners, directors, officers, employees, agents, successors, assigns, any affiliated entity, and any other person, firm, company, or corporation charged or chargeable therewith of, from, and with respect to any and all claims, demands, actions, causes of action, costs, and expenses of any kind or character based on failure to provide an adequate reserve fund in connection with the conveyance of roadways, curbs, gutters, drainage systems, and infrastructure to the Association. Neither such payment nor the acceptance of such Release Agreement is intended to constitute any acknowledgement, admission or assumption by Old Carolina, Paddock Club, LLC, Crowne at Old Carolina Associates, Limited Partnership, Crowne Funding, LLC or Crowne of any obligation to fund any such reserve or to maintain or provide for the maintenance of such infrastructure.

(b) Use of Infrastructure Reserve. Notwithstanding Section 5(a) above or any other agreement that the Infrastructure Reserve is to be held by the Association specifically as a capital reserve fund for roadways, curbs, gutters, drainage systems and Association maintained infrastructure, Old Carolina, Paddock Club, the Association and Crowne, hereby agree that the Infrastructure Reserve may be used for any purpose, at the sole and absolute discretion of the Association. The agreement in this Section 5(b) shall in no way impair the Release Agreement, and such Release Agreement shall remain in full force and effect.

6. Compensation to Certain Homeowners. Old Carolina has compensated the owners of the seven (7) existing improved residential lots on Trotters Circle for the loss of golf course views and any other claims in connection with the Revised Master Plan and development contemplated thereunder and hereunder through conveyance to each of them of the applicable Lot Extension Areas.

**7. Easements; Maintenance; Indemnity and Insurance.**

(a) Easement from the Association to Old Carolina for Construction in the Future Development Areas. The Association hereby grants to Old Carolina and establishes a non-exclusive servitude and easement over and across the Existing Phase 1 Roads for the purpose of access necessary for the construction of improvements within the Future Development Areas; provided, however, such access shall be through the Trotting Hill Lane entrance from Bluffton Parkway, not through Old Carolina Drive. If any road damage is caused by construction activities, then Old Carolina will be responsible for the cost of such repairs or resurfacing. After the completion of all construction in the Future Development Area, the easement granted under this subsection shall automatically terminate.

(b) Easement from Association to Old Carolina - Existing Roads and New Roads. The Association hereby grants to Old Carolina and establishes a non-exclusive perpetual servitude and easement over and across the Existing Phase 1 Roads and all New Roads hereafter accepted by it for pedestrian and vehicular access to the New Golf Course, Cart Path Areas and Relocated Cart Path; limited, however, to those vehicles necessary for the proper operation, maintenance and appearance of the New Golf Course, the Cart Path Areas and the Relocated Cart Path.

(c) Grant of Easement by Association for Cart Path Areas. The Association hereby grants to Old Carolina and establishes a non-exclusive perpetual servitude and easement over and across the Cart Path Areas and the Relocated Cart Path for pedestrian and golf cart traffic in connection with the operation and use of the New Golf Course.

(d) Grant of Easement - Old Carolina Drive. Old Carolina hereby grants to the Association, every Member of the Association, and every other resident of Phase 1 and the Future Development Area, and their respective invitees and guests, and establishes a non-exclusive perpetual servitude and easement over and across Old Carolina Drive for pedestrian and vehicular access to, from, and between Phase 1, the Future Development Area, and the New Golf Course.

(e) Grant of Easement by Old Carolina for Secondary Access to the Apartment Site. The Apartment Plan shows secondary access through Old Carolina Drive, in addition to the main entry on Buck Island Road. Old Carolina hereby grants to Crowne and every resident of the Apartment Community, and their respective invitees and guests, and establishes a non-exclusive perpetual servitude and easement over and across Old Carolina Drive for pedestrian and vehicular access to the Apartment Site. It is understood and agreed that the ingress and egress to and from the Apartment Community at Old Carolina Drive shall be limited to a "crash gate" for fire, police activity or emergency services.

(f) Grant of Easement for Construction of New Clubhouse. Old Carolina hereby grants to Crowne and establishes a non-exclusive servitude and easement over, across, and upon (i) the New Clubhouse Site for the construction of the New Clubhouse, and (ii) such other portions of the Old Carolina Property as Crowne shall require for the

construction of the New Clubhouse and access for vehicles as necessary or desirable for the construction of the New Clubhouse.

(g) Maintenance of Existing Roads and New Roads. Subject to Old Carolina's obligations to repair construction-related damage under Section 7(a) of this Master Declaration, the Association shall maintain each Existing Phase 1 Road and, from and after the acceptance of any New Road by the Association, each New Road in good operating condition and repair and passable by passenger and delivery vehicles and in compliance with all applicable laws and regulations and in accordance with its obligations under the Traditions Declaration regarding the Area of Common Responsibility, as defined therein. If any Existing Phase 1 Road or New Road is accepted for maintenance by the Town or any other public entity, the Association's responsibility for maintenance thereof shall automatically terminate when so accepted and any subsequent period of responsibility has expired.

(h) Maintenance of Old Carolina Drive. Old Carolina shall maintain Old Carolina Drive, the Cart Path Areas and the Relocated Cart Path in good operating condition and repair, in compliance with all applicable laws and regulations, and in the case of Old Carolina Drive, passable by passenger and delivery vehicles. If, at any time, Old Carolina does not so maintain Old Carolina Drive, the Cart Path Areas or the Relocated Cart Path, the Association may, but shall not be obligated to, perform such repair and maintenance as it deems necessary or appropriate.

(i) Indemnity and Insurance. The party performing any Work ("Contracting Party") agrees (i) to indemnify and hold harmless the other party (the "Non-Contracting Party") from and against claims, damages, losses, and expenses arising out of or resulting from the performance of such Work, but only to the extent that such claim, damage, loss or expense (A) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property and (B) is caused by the negligent acts or omissions of the Contracting Party or anyone directly or indirectly employed by it in connection with such Work and (ii) to maintain commercial general liability insurance and such other insurance in such amounts as may be customary for similar construction activities, which policies shall be issued by companies of recognized responsibility and licensed to transact business in South Carolina and shall designate the Non-Contracting Party as an additional insured, with the Non-Contracting Party to be furnished with a certificate evidencing such insurance.

(j) Manner of Exercise. All easements granted by this Master Declaration, and the exercise of all other rights pursuant to this Master Declaration, shall be utilized by the beneficiary thereof in such a manner as to cause the least practicable disruption to the other party, the Members of the Association, and the operation of the New Golf Course.

## **8. General Provisions.**

(a) Easements to Run with the Land; Successors and Assigns. The easements and rights granted and established in this Master Declaration shall be appurtenant to the property benefited thereby and shall be covenants running with the land. This Master

Declaration shall inure to the benefit of and be binding upon the parties hereto, the Members of the Association, other Persons residing in Phase I and the Future Development Area, and their respective mortgagees, heirs, successors and assigns. Reference to any such party shall include reference to such party's heirs, successors and assigns. Each party and its successors and assigns shall be liable only for the performance of their respective obligations that accrue hereunder during the period of their ownership of property with respect to which such obligations arise and none of them shall be liable for the default or failure to perform of any successor to or assign of their respective ownership interest. References herein to a party at any time such party does not own the property to which such reference applies shall be deemed to be a reference to the party that then owns such property.

(b) Arbitration of Disputes. Any claims, grievances or disputes arising under this Master Declaration and the Settlement Agreement ("Claims") shall be resolved through arbitration under the rules of arbitration set out in Exhibit E to this Master Declaration. The parties acknowledge and agree that the transactions contemplated by this Master Declaration and the Settlement Agreement, which include the use of materials and components which are obtained from out-of-state and which otherwise include the use of interstate mails, roadways and commerce, involve interstate commerce, as that term is defined in the Federal Arbitration Act, 9 U.S.C. §1, et seq.

(c) Duration; Amendments. All restrictions imposed by this Master Declaration shall be perpetual, to the fullest extent permitted by applicable law, except in connection with discounts for Members and residents in the Apartment Community with respect to the New Golf Course as more fully set forth under Section 3(c) of the Settlement Agreement and except as otherwise expressly limited by any other provision of this Master Declaration or the Settlement Agreement. Any modification to these provisions shall require the mutual written approval of the Association, Crowne, Old Carolina, and a majority of the Members (excluding any membership units owned by Old Carolina or its successor as developer of the Future Development Area); provided, however, Crowne's written approval shall not be required for any amendment which, in Crowne's sole and absolute discretion, does not affect or diminish Crowne's rights hereunder.

(d) Notices. Any notices to be given or served under this Master Declaration shall be in writing, and shall be deemed to have been sufficiently provided for purposes of any provision hereof when received if (i) transmitted by hand delivery, or nationwide overnight courier (such as Federal Express), (ii) transmitted by fax or e-mail, or (iii) sent by registered or certified mail, return receipt requested, when deposited in the United States mail with sufficient postage affixed, as follows:

If to Old Carolina:

**Old Carolina, LLC**  
c/o David Staley  
200 Main Street, Suite 201,  
Hilton Head Island, South Carolina 29926  
Fax: \_\_\_\_\_  
E-Mail: davidstaley@hargray.com

If to Paddock Club: **Paddock Club, LLC**  
c/o David Staley  
200 Main Street, Suite 201,  
Hilton Head Island, South Carolina 29926  
Fax: \_\_\_\_\_  
E-Mail: davidstaley@hargray.com

With copy (which shall not constitute notice) to:  
Cary S. Griffin, Esquire  
McNair Law Firm, P.A.  
23-B Shelter Cove, Suite 400  
Hilton Head Island, South Carolina 29928  
Email: cgriffin@mcnair.net  
Fax: (843) 686-5991

If to Crowne: **Crowne Old Carolina, LLC**  
c/o Crowne Partners, Inc.  
1015 Financial Center  
Birmingham, Alabama 35203  
Attn: Alan Engel  
E-Mail: azengel@crownepartners.com  
Fax: (205) 326-0528

With copy (which shall not constitute notice) to:  
  
Crowne Partners, Inc.  
3108 Piedmont Road, N.E.  
Suite 221  
Atlanta, Georgia 30305  
Attn: Alan D. Levow  
Fax: (404) 266-0055  
e-mail: adlcrowne@aol.com

With copy (which shall not constitute notice) to:  
  
William R. Sylvester, Esquire  
Walston, Wells & Birchall, LLP  
1819 Fifth Avenue North, Suite 1100  
Birmingham, Alabama 35203  
Fax: (205) 244-5414  
e-mail: bsylvester@walstonwells.com

If to the Association: **Traditions at Old Carolina Homeowners' Association**  
c/o IMC Resort Services, Inc.  
2 Corpus Christie Place, Suite 302  
Hilton Head Island, South Carolina 29928  
Attn: Tricia Elliott

Email: Trish@IMCResortServices.com  
Fax: (843) 785-3901

Each party may designate a new address, fax number or e-mail address for notice hereunder, upon ten (10) days advance notice to the other party given in the manner set forth hereinabove.

(e) Amendment of Applicable Covenants. This Master Declaration and the Settlement Agreement amend the Applicable Covenants. To the extent not inconsistent with the Master Declaration and the Settlement Agreement, the Applicable Covenants, and all of the easements, rights, and obligations set out therein, shall remain in full force and effect.

(f) Further Assurances. The parties agree to sign, execute and deliver, or cause to be signed, executed and delivered, and to do or make, or cause to be done and made, upon the written requests of the other party, any and all agreements, instruments, papers, deeds, acts or things, supplemental, confirming or otherwise, as may be reasonably required to effect the purpose and intent of this Master Declaration.

(g) Counterparts. To facilitate execution, this Master Declaration may be executed in as many counterparts as may be required. It shall not be necessary that the signatures on behalf of all parties appear on each counterpart hereof. All such counterparts shall collectively constitute a single document.

(h) Construction of Master Declaration. This Master Declaration shall be governed by and construed in accordance with the laws of the State of South Carolina. If any provision of this Master Declaration shall be in violation of any applicable law, or unenforceable for any reason, the invalidity or unenforceability of such provision shall not invalidate or render unenforceable any other provision hereof. Descriptive headings included herein are included for convenience only, and shall not control or affect the meaning or construction of provisions of this Master Declaration. Each Exhibit referred to in this Master Declaration, and attached hereto, is incorporated herein as if set out fully in the body of this Master Declaration. The parties acknowledge that each party and its counsel have participated in the negotiation and preparation of this Master Declaration. This Master Declaration shall be construed without regard to any presumption or other rule requiring construction against the party causing the Master Declaration to be drafted.

[SIGNATURES AND ACKNOWLEDGMENTS  
APPEAR ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have executed this Master Declaration as of the Effective Date.

WITNESSES:

Katrina Thompson  
(Witness #1)

Irene Shansky  
(Witness #2/Notary)

Katrina Thompson  
(Witness #1)

Irene Shansky  
(Witness #2/Notary)

OLD CAROLINA, LLC  
(SEAL)

By: [Signature]  
David W. Staley, its Managing Member

By: [Signature]  
Thomas C. Jacoby, its Member

STATE OF South Carolina  
COUNTY OF Beaufort )

ACKNOWLEDGMENT

I, Irene Shansky the undersigned Notary Public in and for said County in said State, do hereby certify that David W. Staley, a Managing Member of Old Carolina, LLC, a South Carolina limited liability company, on behalf of Old Carolina, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 15<sup>th</sup> day of December 2008.

[SEAL]

Irene Shansky  
Notary Public

S.C.  
Notary Public for Main St.

Commission Expires: My Commission Expires  
December 10, 2010

Signature Page of Master Declaration of Covenants and Restrictions

**Acknowledgement Continued From Previous Page**

STATE OF South Carolina )  
COUNTY OF Beaufort )

**ACKNOWLEDGMENT**

I, Irene Shicansky, the undersigned Notary Public in and for said County in said State, do hereby certify that Thomas C. Jacoby, a Member of Old Carolina, LLC, a South Carolina limited liability company, on behalf of Old Carolina, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

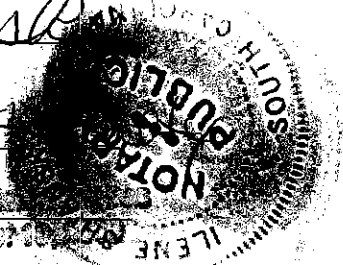
Witness my hand and official seal this 15th day of December 2008.

Irene Shicansky  
Notary Public

[SEAL]

Notary Public for S.C. Main St.

Commission Expires December 2011



**Signature Page of Master Declaration of Covenants and Restrictions**



IN WITNESS WHEREOF, the parties have executed this Master Declaration as of the Effective Date.

WITNESSES:

**PADDOCK CLUB, LLC**  
(SEAL)

Katie Thompson  
(Witness #1)  
Irene Shiansky  
(Witness #2/Notary)

By: [Signature]  
David W. Staley, Its Managing Member

STATE OF South Carolina )  
COUNTY OF Bonnefort )

ACKNOWLEDGMENT

I, Irene Shiansky, the undersigned Notary Public in and for said County in said State, do hereby certify that David W. Staley, a Managing Member of Paddock Club, LLC, a South Carolina limited liability company, on behalf of Paddock Club, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 15th day of December 2008.

[SEAL]

[Signature]  
Notary Public  
Notary Public for SC  
Commission Expires May 2011

Signature Page of Master Declaration of Covenants and Restrictions

IN WITNESS WHEREOF, the parties have executed this Master Declaration as of the Effective Date.

WITNESSES:


**TRADITIONS AT OLD CAROLINA  
HOMEOWNERS' ASSOCIATION, INC.  
(SEAL)**



(Witness #1)



(Witness #2/Notary)

By:   
Name: JACQUELINE MACQUARRIE  
Its: President

STATE OF South Carolina)

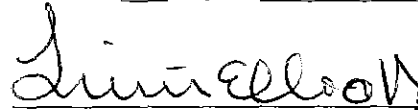
ACKNOWLEDGMENT

COUNTY OF Beaufort )

I, Tricia Elliott, the undersigned Notary Public in and for said County in said State, do hereby certify that Jacqueline Macquarrie President of Traditions at Old Carolina Homeowners' Association, a South Carolina non-profit corporation, on behalf of Traditions at Old Carolina Homeowners' Association, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 2 day of December, 2008.

[SEAL]



Notary Public

Notary Public for South Carolina

Commission Expires: Oct 22, 2009



**Signature Page of Master Declaration of Covenants and Restrictions**

IN WITNESS WHEREOF, the parties have executed this Master Declaration as of the Effective Date.

WITNESSES:

Beth Wzldrop  
(Witness #1)

Charlene Mullenix  
(Witness #2/Notary)

**CROWNE OLD CAROLINA, LLC**  
(SEAL)

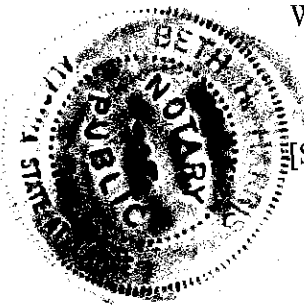
By: [Signature]  
Alan Z. Engel, its Authorized Manager

STATE OF ALABAMA                     )  
  )  
COUNTY OF JEFFERSON            )

ACKNOWLEDGMENT

I, Beth H. Harris, the undersigned Notary Public in and for said County in Said State, do hereby certify that **Alan Z. Engel**, an Authorized Manager of Crowne Old Carolina, LLC, a Delaware limited liability company, on behalf of Crowne Old Carolina, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 1<sup>st</sup> day of December, 2008.



[SEAL]

[Signature]  
Notary Public for ALABAMA

Commission Expires: 8-15-12

Signature Page of Master Declaration of Covenants and Restrictions

**MASTER DECLARATION OF COVENANTS AND RESTRICTIONS**

**Exhibit A**

Settlement Agreement

(see attached)

## **REVISED OLD CAROLINA MASTER PLAN PROPOSAL (JUNE 2, 2006)**

This document outlines a proposed agreement (the "Master Declaration") between Old Carolina, LLC, a South Carolina limited liability company ("Old Carolina"), Traditions at Old Carolina Home Owners' Association, Inc., a South Carolina nonprofit corporation (the "Association") and Crowne at Old Carolina Associates, Limited Partnership, a Delaware limited partnership ("Crowne").

1. Description of Parcels: For purposes of this proposal, the relevant land parcels are as follows:

- (a) "Annexed Property" - the portion of the Community comprising approximately 171.33 acres annexed into the Town of Bluffton South Carolina (the "Town") on or about December 28, 2005 (the "Annexation").
- (b) "Apartment Site" - the land comprising approximately of 15.5 acres, together with the adjoining parcel to the south marked as "Land Added to Apartment Site" on the plan dated May 24, 2006 prepared by Thomas & Hutton Engineering Co. and attached hereto as Exhibit A (the "Revised Master Plan"), to be acquired by Crowne from Old Carolina and developed as a 199 unit residential apartment/condominium community with amenities (the "Apartment Community").
- (c) "Community" - the approximately 202 acres comprising the planned community shown on the existing Master Plans approved by Beaufort County, South Carolina (the "County").
- (d) "Restricted Open Areas" - those portions of the Old Carolina Property labeled as such on the Revised Master Plan, subject to revision as described in Section 3(b) below.
- (e) "Future Development Area" - the tracts within the Old Carolina Property which do not constitute Restricted Open Areas, including, without limitation, Parcels C, D, E, F and G as shown on the Revised Master Plan.
- (f) "Old Carolina Property" - the Annexed Property, less and except the Apartment Site.
- (g) "Phase I" - the existing Traditions residential development, encompassing 132 separate improved residential lots and the Common Area under the Declaration of Covenants, Conditions and Restrictions for Traditions at Old Carolina filed in Beaufort County at Book 1300, Page 2050 - 2134, as amended (the "Traditions Declaration") including the Lot Extension Areas.
- (h) "Lot Extension Areas" - those areas immediately to the north of the seven (7) existing improved residential lots on Trotters Circle marked as "Land Added to 7 Existing Lots" on the Revised Master Plan.

2. Background Information: This proposal is intended to settle a dispute concerning development of the Community in a manner which will be binding upon Old Carolina, Crowne, the Association and such of the Association's members (the "Members") as may approve this settlement through their affirmative vote, in person or by proxy, or written consent. In addition, the parties intend that this settlement be binding upon the remaining Members to the fullest extent permitted under the Traditions Declaration.
- (a) Existing Course: Until recently, Old Carolina has operated an 18-hole championship golf course (the "Existing Course") on the Old Carolina Property. The Existing Course closed in late 2005.
  - (b) 9-Hole Course: Old Carolina intends to open on or about July 1, 2006 and operate holes 1-9 of the Existing Course as a 9-hole golf course within the Restricted Open Areas (the "New Golf Course").
  - (c) Crowne's Apartments: Crowne has a contract with Old Carolina to purchase the Apartment Site for purposes of developing the Apartment Community. Crowne and Old Carolina are presently seeking a PUD Zoning by the Town so that the Apartment Community will be a legal, conforming use notwithstanding the Annexation (the "Rezoning").
  - (d) Negative Easement and Restriction: The Association and certain of its Members have asserted claims (the "Association Claims") that the Agreement Regarding Easements and Restrictions filed in the County in Book 828, at Page 728 and Restated and Amended Regarding Easements and Restrictions filed in the County in Book 1018, at Page 1509 (collectively the "Applicable Covenants") preclude vertical construction on the Annexed Property, including the Apartment Site.
  - (e) Settlement: Old Carolina and Crowne dispute the Association Claims. The Association, Old Carolina and Crowne desire to settle such dispute through the execution, delivery and recordation of the Master Declaration contemplated in this proposal.
3. Development Limitations:
- (a) Restricted Open Areas: Use and development of the Restricted Open Areas will be perpetually restricted to the New Golf Course and/or open space. Old Carolina will not be obligated to continue operation of the New Golf Course for any particular period.
  - (b) Ultimate Configuration: The ultimate configuration of the New Golf Course and Restricted Open Areas will be refined through future amendments to the Revised Master Plan, if and when submitted and approved pursuant to the Town's applicable PUD Zoning Ordinance and Development Standards Ordinance, in order to specifically locate up to 168 residential units with the Future Development Area based on development, marketing and zoning considerations, including any material affect in the event the location of the

proposed Bluffton Parkway Extension changes from that shown on the Revised Master Plan. Notwithstanding the foregoing, it is understood and agreed that (i) the Future Development Area, as ultimately configured, shall include only lands within the "future development parcels" shown on the Revised Master Plan as attached hereto, and (ii) irrespective of any future amendments to the Revised Master Plan, the land comprising the 14<sup>th</sup> green, all of the current 15<sup>th</sup> hole and the area behind the 18<sup>th</sup> hole of the Existing Course (Parcels H, I and B respectively, as shown on the Revised Master Plan) shall be and remain as part of the Restricted Open Areas.

- (c) Discounts and Privileges. So long as the New Golf Course is operated by Old Carolina, Members and residents of the Apartment Community shall be entitled to a 25% discount on all green fees and cart rentals, and a 15% discount on all food purchases. (No discounts will be provided for tobacco products or beverages.) In the event Old Carolina transfers ownership or operation of the New Golf Course to an unaffiliated party, such party shall not be obligated to continue the foregoing discounts beyond December 31, 2016.
- (d) Apartment Site: Use and development of the Apartment Site shall be for the Apartment Community. Crowne presently anticipates that the layout of the Apartment Community shall be substantially as shown on the site plan prepared by Architects Collective and attached hereto as Exhibit B (the "Apartment Plan"). Crowne reserves the right to modify the Apartment Plan from time-to-time, so long as the revised version is limited to 199 apartment/condominium units and otherwise meets all applicable governmental approvals, requirements and variances.
- (e) Secondary Access: The Apartment Plan presently contemplates a possible secondary access point, in addition to the main entry on Buck Island Road. The Town's Fire Marshall has recently advised one of the Members that secondary access for fire services would not be required by the Town or by Beaufort County, since neither has adopted the Appendix to the International Fire Code which would otherwise require a second access. It is understood and agreed that the proposed secondary access will be constructed and utilized only if and to the extent required by any of the public authorities having jurisdiction. If and to the extent allowed by the Town (and the County, if applicable) any required secondary ingress and egress to and from the Apartment Community at Old Carolina Drive shall be limited by a "crash gate" for fire, police activity or emergency services. Old Carolina will grant to Crowne such construction access, ingress and egress easements and other rights as may be necessary or appropriate for the installation and maintenance at Crowne's expense of any required road for purposes of such secondary access.
- (f) Future Development Area: Use and development of the Future Development Area will be limited to a maximum of 168 residential units (to include town homes and single family homes), or such lesser number as may be permitted under applicable zoning.

- (g) Phase I: Use and development of Phase I shall be limited to 132 residential units, substantially as presently existing.
  - (h) Effect of Traditions Declaration: It is anticipated that the Future Development Area will be annexed under the Traditions Declaration prior to or in conjunction with its development, subject to Section 3(i) hereinbelow. The Apartment Site will not be annexed under the Traditions Declaration, or entitled to any votes in the Association, or subject to the architectural review, assessments or other obligations described in the Traditions Declaration. An initiation fee of \$650 will be paid to the Association for each new home constructed within the Future Development Area.
  - (i) Replacement Architectural Standards: In lieu of the architectural and landscaping review, fees and related provisions in Article V which would be otherwise applicable to the Future Development Area under the terms of the Traditions Declaration, development of the Future Development Area shall be subject to the following standards: (i) each detached single family residential unit shall have a minimum of 1,700 square feet of heated and cooled living area; (ii) each attached town home unit shall have a minimum of 1,300 square feet of heated and cooled living area; and (iii) the elevations, exterior materials, landscaping, and general quality shall be similar to or better than the Phase I Units developed by DR Horton.
  - (j) Duration: The restrictions described in this Section will be perpetual, to the fullest extent permitted by applicable law, except as indicated above in connection with the Members' discounts. Any modification to these provisions shall require the mutual written approval of the Association, Crowne, Old Carolina, and a majority of the Members (excluding any membership units owned by Old Carolina or its successor as developer of the Future Development Area).
  - (k) Development Approvals: Old Carolina and the Association, shall not contest, hinder, impede, obstruct or oppose the Rezoning or any construction, development, land use, zoning or other approvals, consents, entitlements, permits or variances (collectively "Public Approvals") which may be necessary or appropriate in connection with the Annexation or the use and development of the Apartment Site in accordance with the Master Declaration and Revised Site Plan. Likewise, Crowne and the Association recognize and approve the overall density for the Community implicit in the 168 residential units allocated to the Future Development Area under the Revised Master Plan and shall cooperate in all reasonable respects with any future amendments to the Revised Master Plan proposed by Old Carolina or other developer of the Future Development Area for the purposes of establishing the location of such allowable residential units within the Future Development Area consistent with the architectural standards and other parameters set forth in the Master Declaration.
4. Crowne Improvements: Crowne will provide for the Community amenities and improvements as described below (the "Crowne Improvements"):



- (a) Berm. Crowne will install an 8-foot berm as shown on the Revised Master Plan on an approximate 3/1 slope, with a 5-foot planting plateau at the top for a landscaped screen between the Apartment Site and the existing residences on Trotters Circle (the "Berm"). Crowne shall shape and stabilize the Berm in conjunction with its grading of the Apartment Site, and shall irrigate and landscape the Berm, but the irrigation and landscaping shall not be required until irrigation and landscaping are installed for the Apartment Community.
  - (b) New Clubhouse. Crowne will construct a new clubhouse facility in accordance with the attached clubhouse specification (the "New Clubhouse") to be located as shown on the Revised Master Plan, and to be designated as an "Exclusive Common Area" under Traditions Declaration for the exclusive use of the Members within Phase I. Crowne's obligations will include an allowance of \$30,000 for internal furnishing and equipping of the New Clubhouse, including without limitation, exercise and weight equipment. The \$30,000 allowance is in addition to the basic construction and furnishings, such as flooring, carpeting and kitchen appliances (refrigerator and sink, but no stove). The New Clubhouse shall be substantially completed in conjunction with the substantial completion of the clubhouse for the Apartment Community. At such time, Crowne will transfer the New Clubhouse to the Association through Bill of Sale, with an assignment of any third party warranties, and Old Carolina shall execute and deliver any conveyance required under Section 5(f) below.
  - (c) Landscaping Standards. Landscaping in connection with the Berm and the New Clubhouse shall be in accordance with standards for first class luxury apartment developments, and in conformity with all applicable requirements of the Town's Development Standards Ordinance.
  - (d) Maintenance. After the Crowne Improvements are constructed and installed, Crowne and its successors and assigns as owners of the Apartment Site shall be responsible for maintenance of the Berm and associated landscaping and the Members within Phase I (through the Association) shall be responsible for the maintenance and operation of the New Clubhouse.
  - (e) New Cart Path. It is understood that the Apartment Site will include the area marked on the Revised Site Plan as "Land Added to Apartment Site" so that the Berm will be located entirely within the Apartment Site. Crowne will remove the cart path which currently traverses the Berm area, and replace such cart path on the south side of Trotters' Circle. If the cart path as reconfigured traverses real property owned by the Association, then the Association shall grant such easements as are necessary to accommodate the relocated cart path.
5. Additional Provisions: The Master Declaration will also include the following provisions:
- (a) Infrastructure Reserve: Within 10 days after all Public Approvals have been obtained and permits issued for the Apartment Community, Crowne shall pay

the sum of \$40,000 to the Association, or such lesser amount as may be estimated by the Association's consultant as the funding required to cause the Association's roadways, curbs, gutters, drainage systems and infrastructure to be in good condition, to be held as a capital reserve fund for roads and drainage facilities maintained by the Association. Upon the receipt of such payment, the Association shall execute and deliver a covenant not to sue Old Carolina, Paddock Club, LLC or Crowne for any claims based on failure to provide an adequate reserve fund in connection with the conveyance of roadways, curbs, gutters, drainage systems and infrastructure to the Association. Neither such payment nor the acceptance of such covenant not to sue is intended to constitute any acknowledgement, admission or assumption by Crowne, Old Carolina or Paddock Club, LLC of any obligation to fund any such reserve or to maintain or provide for the maintenance of such infrastructure.

- (b) Old Carolina Maintenance Obligations. As long as the New Golf Course continues to operate, Old Carolina (or the owner or operator of the New Golf Course from time-to-time) will repair, clean and maintain the entrance at Old Carolina Drive and Buck Island Road, as well as the post and rail fencing along Old Carolina Drive and Buck Island Road. If operation of the New Golf Course is discontinued, the Association shall have the right, but not the obligation, to repair, clean and maintain such entrance and fencing, and it shall have such access rights over and across the Old Carolina Property as may be necessary or appropriate for such purposes.
- (c) Community Amenities: Any amenities provided by Crowne for the Apartment Community will be for the exclusive use of that development, with no sharing of such amenities. The existing swimming pool and other amenities, as well as the New Clubhouse, will be reserved for the exclusive use of the Members within Phase I. The developer of the Future Development Area shall build one swimming pool, comparable in size to the existing pool owned by the Association. Once the new pool is completed, then it shall be turned over to the Association for ownership and maintenance. After transfer of the new swimming pool to the Association, all amenities, including the New Clubhouse will be shared by Members residing in Phase I and residing in the Future Development Area.
- (d) Discontinued Golf Operations: If operation of the New Golf Course is discontinued, the Association will have the right to mow and otherwise manage and maintain the Restricted Open Areas at the Association's expense, and to use the Restricted Open Areas for recreational purposes. Such right shall not include or permit any vertical construction, excavation or additional landscaping, except as may be approved in writing by Old Carolina in its discretion.
- (e) Compensation to Certain Homeowners: The owners of the seven (7) existing improved residential lots on Trotters Circle will be compensated for the loss of golf course views and any other claims in connection with the Revised Master Plan and development contemplated thereunder and hereunder

through Old Carolina's conveyance to each of them of the applicable Lot Extension Areas. Crowne will pay the engineering fees for a resubdivision adding the Lot Extension Areas to such lots.

- (f) Additional Clubhouse Land: If required under applicable set-back, density or other governmental land use requirements to accommodate construction of the New Clubhouse, Old Carolina will contribute and convey to the Association additional land from the parking area next to the existing pool. Crowne will arrange for preparation of the deed and pay all reasonable engineering and surveying fees associated with any such conveyance.
  - (g) Arbitration of Disputes: Any dispute arising under the Master Declaration will be resolved through arbitration under the arbitration procedures set forth in the Traditions Declaration.
  - (h) Association Insurance: The Master Declaration shall obligate the Association to maintain in effect comprehensive general liability insurance, naming the owner and any mortgagees of the Old Carolina property as loss payees, for claims arising from exercise of the access rights described in Sections 5(b) and 5(d) hereof.
6. Means of Implementation: The provisions in this outline shall be implemented in the following manner:
- (a) Recorded Master Declaration. Upon the Town's approval of the Rezoning, and conveyance of the Apartment Site by Old Carolina to Crowne, Old Carolina, Crowne and the Association will execute, deliver and cause the Master Declaration to be recorded in the land records of the County.
  - (b) Easement Rights. In addition to the particular terms and provisions outlined herein, the Master Declaration shall include such terms and conditions as may be required to continue existing access, drainage and utility easements which are necessary or appropriate for use and development of the Community consistent with the Master Declaration, Revised Master Plan and pertinent provisions of the Applicable Covenants. Construction access for development of the Future Development Area shall be through the Trotting Hill Lane entrance from Buck Island Road, not through Old Carolina Drive. If any road damage is caused by construction activities, then Old Carolina will be responsible for the cost of such repairs or resurfacing. After the Future Development Area has been fully developed, access by Old Carolina and successor owners or operators of the New Golf Course (as opposed to Members residing within the Future Development Area) will be limited to those vehicles necessary for the proper operation, maintenance and appearance of the New Golf Course.
  - (c) Due Authorization. Crowne, Old Carolina and the Association shall provide to one another, and to the title insurance company insuring Crowne's acquisition of the Apartment Site, such documents as may be reasonably required to evidence the due authorization, execution and delivery of the

Master Declaration, and to establish that it is binding upon Crowne, Old Carolina, the Association, and each of the Members, to the extent such Members may be bound with respect to such matters under the terms and provisions of the Traditions Declaration. In particular, Crowne reserves the right to require that the Master Declaration be affirmatively approved by (i) by the Association's Board, in accordance with the Association's By-laws; by (ii) by two-thirds of the Members, through their affirmative vote, in person or by proxy, written consent, or any combination thereof.

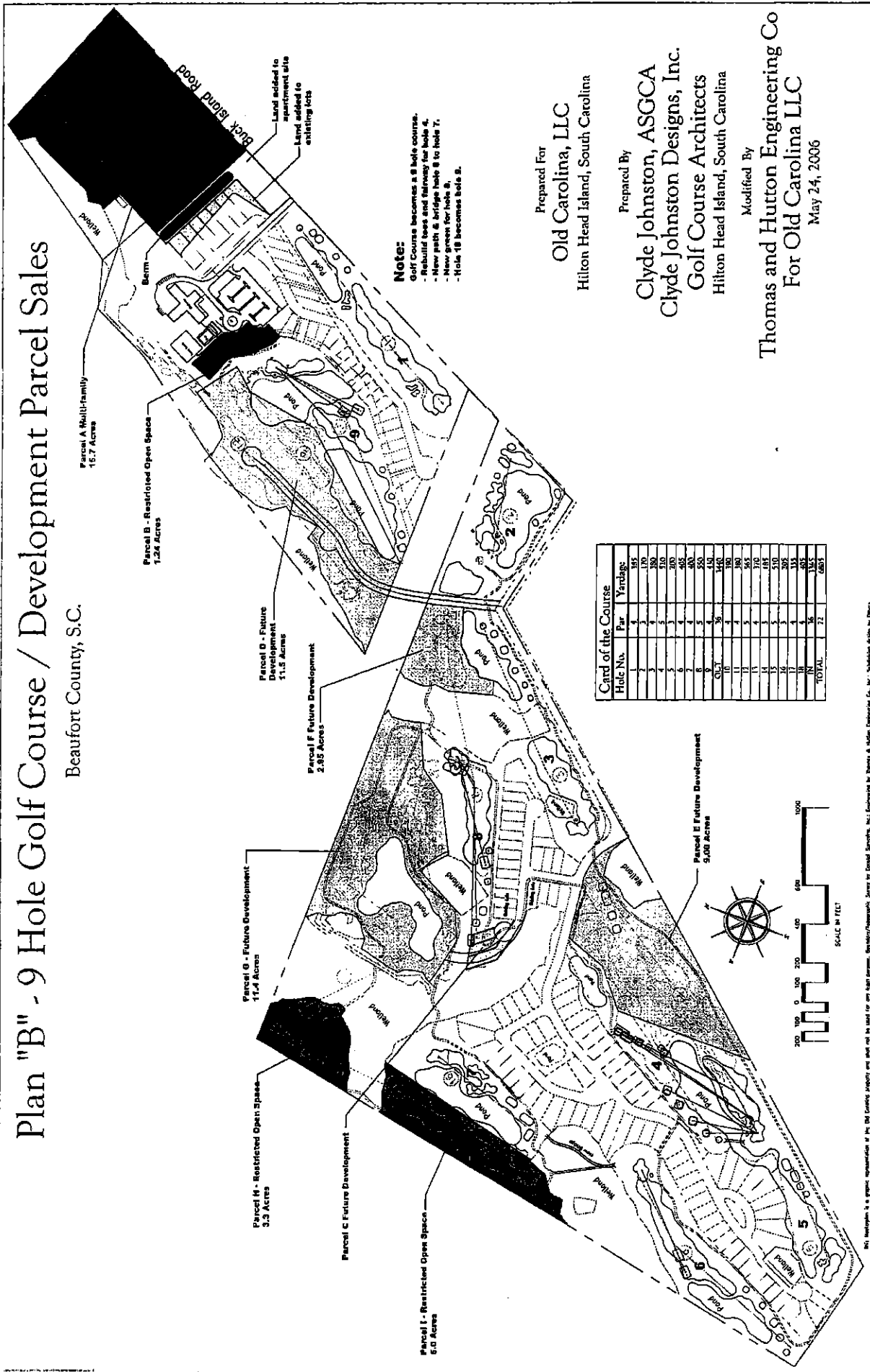
- (d) Prior Agreements. The Master Declaration shall replace and supersede the Applicable Covenants referred to in Section 2(d) above.
- (e) Contingencies. The settlement represented by this proposal, including without limitation the execution and delivery of the Master Declaration and the performance of the obligations hereunder and thereunder on the part of the parties, is contingent upon (i) the Rezoning (ii) the issuance of all Public Approvals, including development permits, for the Apartment Community, and (iii) performance by Crowne and Old Carolina of their respective obligations for the purchase and sale of the Apartment Site. Acceptance or rejection of any conditions, requirements, restrictions or other terms which the Town may seek to impose on Crowne or the Apartment Site in connection with the Rezoning and such Public Approvals shall be within Crowne's discretion.
- (f) Advisory Board. An advisory board will be formed by Old Carolina and the Association, consisting of three (3) representatives selected by Old Carolina and two (2) representative selected by the Association, in order to keep lines of communication open and promote the mutual success of both the New Golf Course and the Community.

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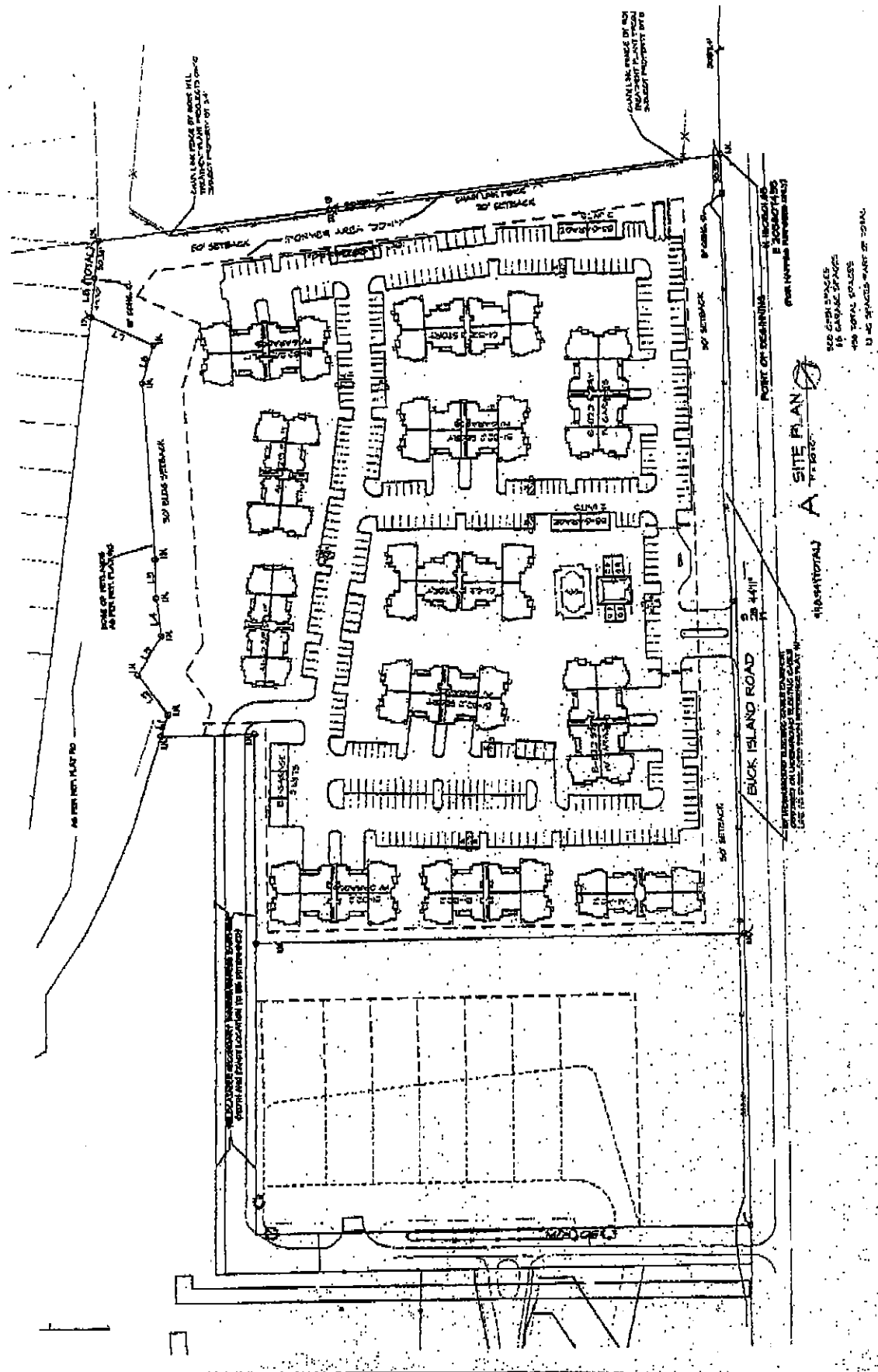
**Exhibit A**  
**Revised Master Plan**

# Plan "B" - 9 Hole Golf Course / Development Parcel Sales

Beaufort County, S.C.



**Exhibit B**  
**Apartment Plan**



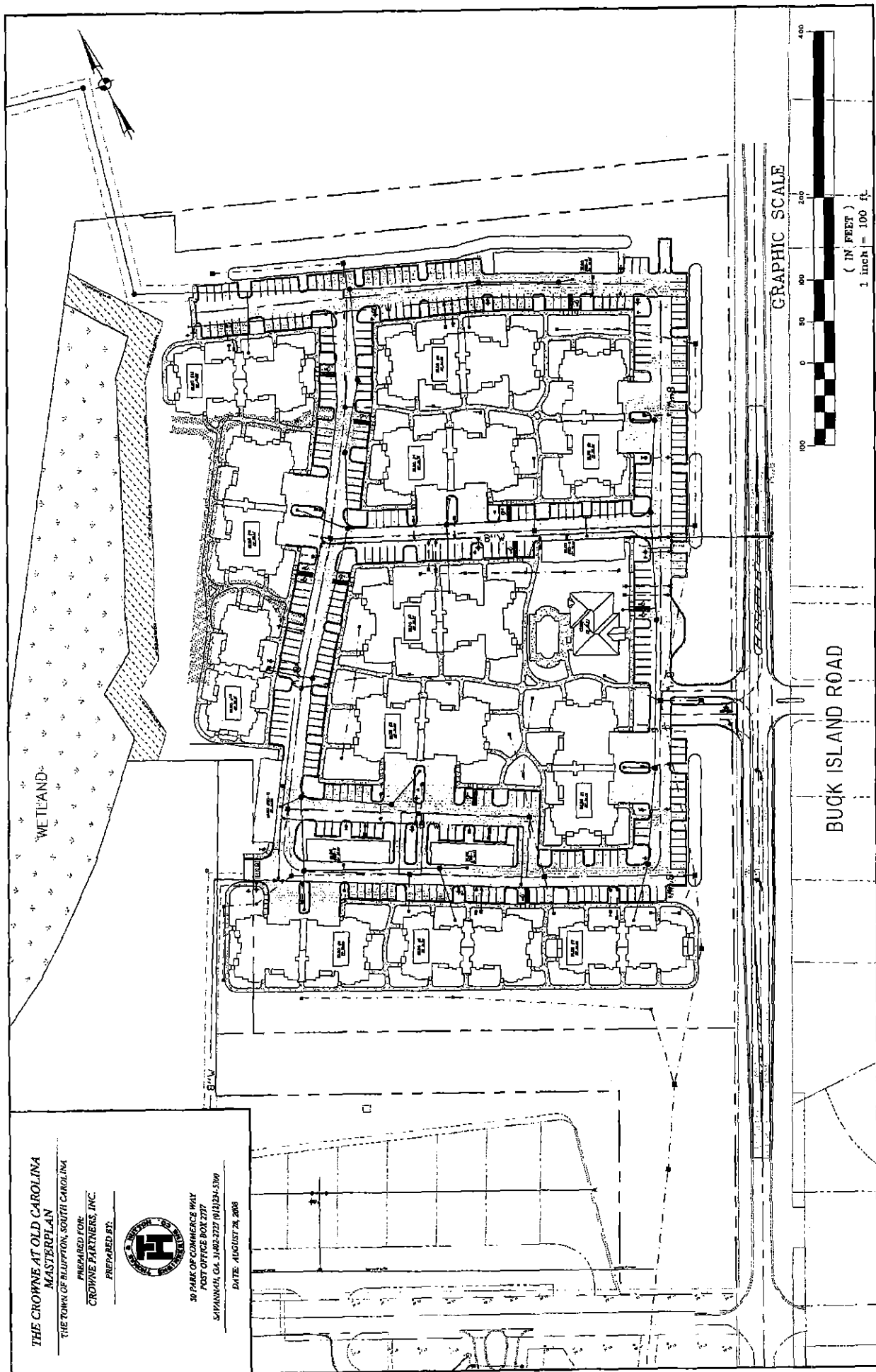


**MASTER DECLARATION OF COVENANTS AND RESTRICTIONS**

**Exhibit B**

Apartment Plan

(see attached)



**MASTER DECLARATION OF COVENANTS AND RESTRICTIONS**

**Exhibit C**

New Clubhouse Plan

(see attached)

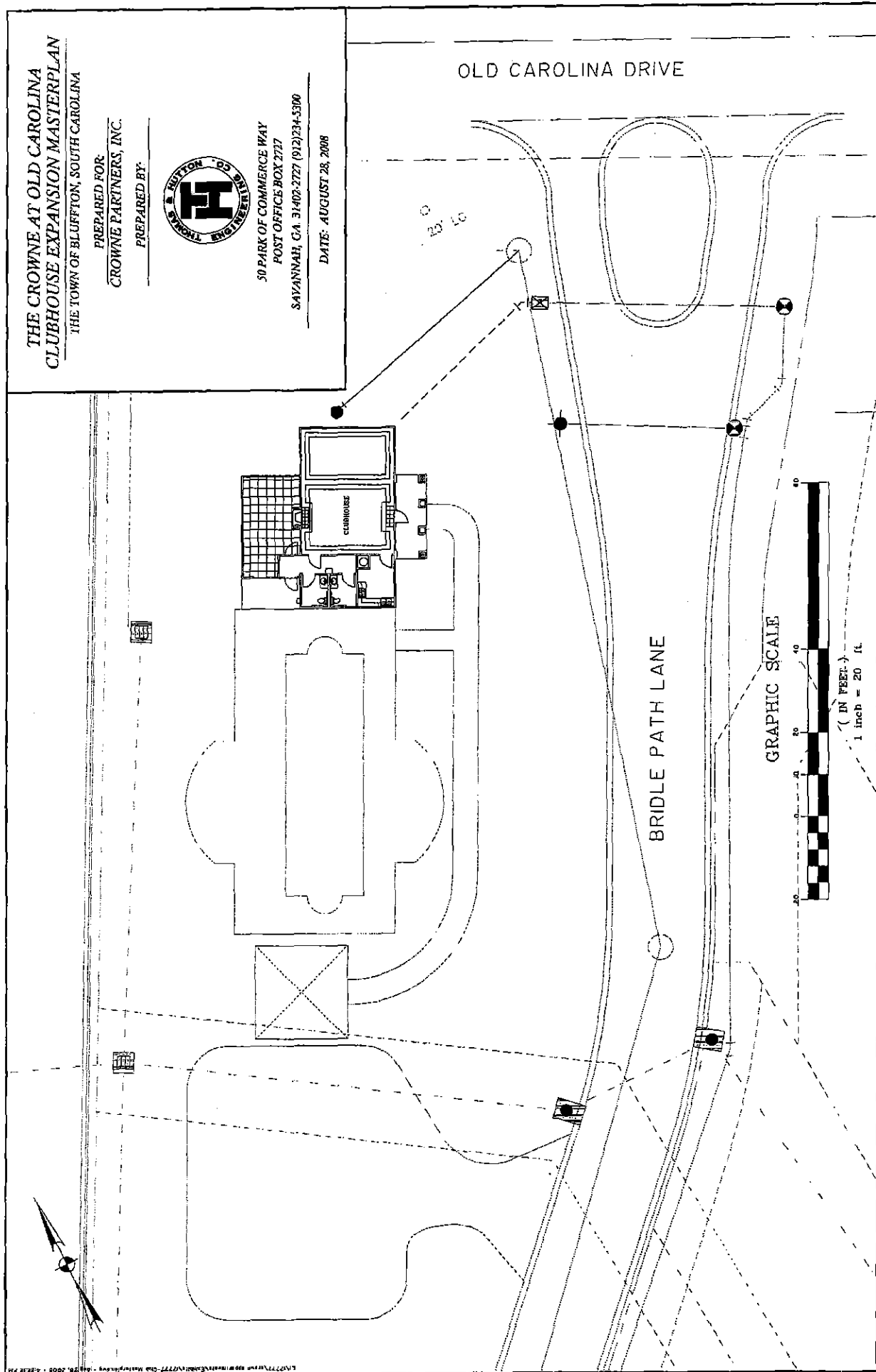
**THE CROWNE AT OLD CAROLINA  
CLUBHOUSE EXPANSION MASTERPLAN**  
THE TOWN OF BLUFFTON, SOUTH CAROLINA

PREPARED FOR  
**CROWNE PARTNERS, INC.**  
PREPARED BY:



50 PARK OF COMMERCE WAY  
POST OFFICE BOX 2727  
SAVANNAH, GA 31402-2727 (912) 734-5300

DATE: AUGUST 28, 2008



**MASTER DECLARATION OF COVENANTS AND RESTRICTIONS**

**Exhibit D**

Revised Master Plan

(see attached)

Beaufort County, S.C.



## **MASTER DECLARATION OF COVENANTS AND RESTRICTIONS**

### **Exhibit E**

#### **Rules of Arbitration**

1. **Claims.** All Claims arising out of or relating to the interpretation, application, or enforcement of the Master Declaration, or the rights, obligations, and duties of any party bound under the Master Declaration shall be subject to the provisions of Paragraph 2 below. Notwithstanding the foregoing, unless all parties to the Master Declaration otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 2 below:

(a) any suit in which any indispensable party is not a party bound by the Master Declaration; and

(b) any suit as to which any applicable statute of limitations would expire within 180 days of giving Notice required by Section 2(a) below, unless the party of parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with the terms and conditions of this **Exhibit E**.

With the consent of all parties to the Master Declaration, any of the above may be submitted to the alternative dispute resolution procedures as set forth in Section 2.

#### **2. Mandatory Procedures.**

(a) **Notice.** Any party having a Claim ("**Claimant**") under this Master Declaration against any other party ("**Respondent**") (collectively, the "**Parties**") shall notify each Respondent in writing (the "**Notice**"), stating plainly and concisely:

i. The nature of the Claim, including the Persons involved and Respondent's role in the Claim

ii. The legal basis of the Claim (*i.e.*, the specific authority out of which the claim arises);

iii. Claimant's proposed remedy; and

iv. That Claimant will meet the Respondent to discuss in good faith ways to resolve the Claim

#### **(b) Negotiation and Mediation.**

i. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation.

ii. If the Parties do not resolve the Claim within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have 30 additional days to submit the Claim to mediation under an independent agency providing dispute resolution services in Beaufort County or surrounding areas.

iii. If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; however, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

iv. Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

v. Within five days of the Termination of Mediation, the Claimant shall make a final written demand ("Settlement Demand") to the Respondent, and the Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, the Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

(c) Final and Binding Arbitration.

i. If the Parties do not agree in writing to a settlement of the Claim within 15 days of the Termination of Mediation, the Claimant shall have 15 additional days to submit the Claim to arbitration in accordance with the rules of arbitration contained in Schedule E-1 or such rules as may be required by the agency providing the arbitrator. If not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; however, nothing herein shall release or discharge Respondent from any liability to Persons other than Claimant.

ii. This subsection 2(c) is an agreement to arbitrate and is specifically enforceable under any applicable arbitration laws of the State of South Carolina. The arbitration award ("Award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of South Carolina.

3. Allocation of Costs of Resolving Claims.



(a) Subject to Section 3(b) below, each Party shall bear its own costs, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the arbitration proceeding ("Post Mediation Costs").

(b) Any Award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's Post Mediation Costs to the Award, such costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than any Respondent's Settlement Offer shall award such Respondent its Post Mediation Costs.

4. Enforcement of Resolution. If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with Section 2 and any Party thereafter fails to abide by the terms of such agreement, or if any Party fails to comply with an Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in Section 2. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement, including, without limitation, attorneys' fees and court costs.

## **MASTER DECLARATION OF COVENANTS AND RESTRICTIONS**

### **Schedule E-1**

#### **Rules of Arbitration**

1. Claimant shall submit a Claim to arbitration under these Rules of Arbitration by giving written notice to all other Parties stating plainly and concisely the nature of the Claim, the remedy sought and Claimant's submission of the Claim to arbitration ("Arbitration Notice").
2. The Parties shall select arbitrators ("Party Appointed Arbitrators") as follows: all the Claimants shall agree upon one Party Appointed Arbitrator, and all the Respondents shall agree upon one Party Appointed Arbitrator. The Party Appointed Arbitrators shall, by agreement, select one neutral arbitrator ("Neutral") so that the total arbitration panel ("Panel") has three arbitrators.
3. If the Panel is not selected under Rule 2 within 45 days from the date of the Arbitration Notice, any party may notify the American Arbitration Association which shall appoint one Neutral ("Appointed Neutral"), notifying the Party Appointed Arbitrators and all Parties in writing of such appointment. The Appointed Neutral shall thereafter be the sole arbitrator and any Party Appointed Arbitrators or their designees shall have no further duties involving the arbitration proceedings.
4. No person may serve as Neutral in any arbitration in which that person has any financial or personal interest in the result of the arbitration. Any person designated as a Neutral or Appointed Neutral shall immediately disclose in writing to all Parties any circumstance likely to affect impartiality, including any bias or financial or personal interest in the outcome of the arbitration ("Bias Disclosure"). If any Party objects to the service of any Neutral or Appointed Neutral after receipt of that Neutral's Bias Disclosure, such Neutral or Appointed Neutral shall be replaced in the same manner in which that Neutral or Appointed Neutral was selected.
5. The Appointed Neutral or Neutral, as the case may be ("Arbitrator") shall fix the date, time, and place for the hearing. The place of the hearing shall be within the Community unless otherwise agreed by the Parties. In fixing the date of the hearing, or in continuing a hearing, the Arbitrator shall take into consideration the amount of time reasonably required to determine Claimant's damages accurately.
6. Any Party may be represented by an attorney or other authorized representative throughout the arbitration proceedings. In the event the Respondent fails to participate in the arbitration proceeding, the Arbitrator may not enter an Award by default, but shall hear Claimant's case and decide accordingly.

7. All persons who, in judgment of the Arbitrator, have a direct interest in the arbitration are entitled to attend hearings. The Arbitrator shall determine any relevant legal issues, including whether all indispensable parties are parties bound by the Master Declaration or whether the claim is barred by the statute of limitations.
8. The hearing shall be conducted in whatever manner will, in the Arbitrator's judgment, most fairly and expeditiously permit the full presentation of the evidence and arguments of the Parties. The Arbitrator may issue such orders as he or she deems necessary to safeguard rights of the Parties in the dispute without prejudice to the rights of the Parties or the final determination of the dispute.
9. If the Arbitrator decides that he or she has insufficient expertise to determine a relevant issue raised during arbitration, the Arbitrator may retain the services of an independent expert who will assist the Arbitrator in making the necessary determination. The scope of such professional's assistance shall be determined by the Arbitrator in their own discretion. Such independent professional must not have any bias or financial or personal interest in the outcome of the arbitration, and shall immediately notify the Parties of any such bias or interest by delivering a Bias Disclosure to the Parties. If any Party objects to the service of any professional after receipt of a Bias Disclosure, such professional shall be replaced by another independent licensed professional selected by the Arbitrator.
10. No formal discovery shall be conducted in the absence of order of the Arbitrator or express written agreement among all the Parties. The only evidence to be presented at the hearing shall be that which is disclosed to all Parties at least 30 days prior to the hearing; however, no Party shall deliberately withhold or refuse to disclose any evidence which is relevant and material to the Claim and is not otherwise privileged. The Parties may offer such evidence as is relevant and material to the Claim, and shall produce such additional evidence as the Arbitrator may deem necessary to an understanding and determination of the Claim. The Arbitrator shall be the sole judge of the release and materiality of any evidence offered, and conformity to the legal rules of evidence shall not be necessary. The Arbitrator shall be authorized, but not required, to administer oaths to witness.
11. The Arbitrator shall declare the hearings closed when he or she is satisfied the record is complete.
12. There will be no post hearing briefs.
13. The Award shall be rendered immediately following the close of the hearing, if possible, and no later than 14 days from the close of the hearing, unless otherwise agreed by the Parties. The Award shall be in writing, signed by the Arbitrator, and acknowledged before a notary public. If the Arbitrator believes an opinion is necessary, it shall be in summary form.

14. If there is more than one arbitrator, all decisions of the Panel, including the Award, shall be by majority vote. Each Party agrees to accept as legal delivery of the Award the deposit of a true copy in the mail addressed to that Party or its attorney at the address communicated to the Arbitrator at the hearing.

STATE OF SOUTH CAROLINA

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**JOINDER OF MORTGAGEE**

**Reference: Book 2396, Page 1325**

COUNTY OF BEAUFORT

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**Book 2535, Page 1817**

**Book 2660, Page 1350**

**REGIONS BANK**, an Alabama banking corporation and successor by merger to AmSouth Bank (“Regions”), is the owner and holder of indebtedness secured by, inter alia, that certain Mortgage, Security Agreement and Assignment of Rents and Leases dated as of June 16, 2006 and executed by Crowne Old Carolina, LLC and filed of record in the Office of the Register of Deeds of Beaufort County, South Carolina (the “Office”) in Book 2396, Page 1325, as amended by that certain Notice of Future Advance and Mortgage Modification Agreement dated as of February 28, 2007 and recorded in the Office in Book 2535, Page 1817, and as further amended by that certain Notice of Future Advance and Second Mortgage Modification Agreement dated as of December 8, 2007 and recorded in the Office in Book 2660, Page 1350 (collectively, the “Mortgage”).

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Regions hereby joins in the execution of the foregoing Master Declaration of Covenants and Restrictions dated December 15, 2008, by and among Old Carolina, LLC, Paddock Club, LLC, Crowne Old Carolina, LLC and Traditions at Old Carolina Home Owners’ Association, Inc. (the “Declaration”), for the purposes of (i) giving its consent to and approval of the Declaration and (ii) acknowledging and agreeing that its Mortgage shall be junior, subordinate and subject to said Declaration.

[SIGNATURE AND ACKNOWLEDGMENT APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Regions Bank has caused this Joinder of Mortgagee to be executed by its duly authorized officer, on this 18<sup>th</sup> day of December, 2008.

WITNESSES:

REGIONS BANK

(SEAL)

[Signature]  
(Witness #1)

By: [Signature]  
Name: David F. McCullum  
Its: V.P.

[Signature]  
(Witness #2/Notary)

STATE OF ALABAMA )

ACKNOWLEDGMENT

COUNTY OF JEFFERSON )

I, Karen Z. Usrey, the undersigned Notary Public, do hereby certify that David F. McCullum, a Vice President of Regions Bank, an Alabama banking corporation, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of Regions Bank.

Witness my hand and official seal this 18<sup>th</sup> day of December, 2008.

Karen Z. Usrey (SEAL)  
Notary Public for Alabama

Commission Expires: 4/3/11

