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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

CYPRESS RIDGE BUSINESS PARK

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STATE OF SOUTH CAROLINA)
)
 COUNTY OF JASPER) DECLARATION OF COVENANTS,
) CONDITIONS AND RESTRICTIONS OF
) CYPRESS RIDGE BUSINESS PARK

This Declaration is made of this 3 day of January, 1997^{pm}, by Jasper County, a South Carolina political subdivision (hereinafter referred to as "Declarant").

WHEREAS, Declarant is the owner of certain real property, located in Jasper County, South Carolina, being more particularly described on Exhibit A attached hereto (the "Property"), and desires to and intends to subject the Property to a master development plan in order to develop the Cypress Ridge Business Park (the "Park") and to offer parcels of the Property, of varying sizes, for sale to purchasers or for lease to tenants or for other development, which activities will bring about economic growth in the State of South Carolina and specifically to the Jasper County area of South Carolina through industrial development; and

WHEREAS, the Property is designated on those plats recorded in Plat Book 22, Page 233, and Plat Book _____, Page _____, in the Office of the Clerk of Court for Jasper County, South Carolina, which are incorporated herein by reference (hereinafter jointly referred to as the "Plat")

NOW, THEREFORE, Declarant hereby declares that this Declaration and the covenants, conditions and restrictions established herein shall be covenants to run with the land and that all the Property described in Exhibit A attached hereto is herewith made subject and subordinate to the terms, provisions and conditions hereof. The covenants, conditions and restrictions contained herein shall inure to the benefit of, and shall be binding upon, each and every person or entity, their respective heirs, successors and assigns who shall acquire any interest in the Property or any part or portion thereof. By the acceptance of any interest in all or any part of the Property the person or entity to whom such interest is conveyed shall be deemed to accept and agree to be bound by the provisions of this Declaration, and there are hereby created, declared and established in and for the Park, the following restrictive covenants, easements, reservations and requirements.

ARTICLE I DEFINITIONS

When used in this Declaration, unless the context shall prohibit or require otherwise, the following words shall have the following meanings, and all definitions shall be applicable to the singular and plural forms of any such terms:

1.1 "Additional Property" shall mean and refer to the real property together with any Improvements thereon, described on Exhibit B attached hereto and make a part hereof, which may be owned by Declarant or which Declarant may elect to subject to the terms of this Declaration with the consent of the owner of such property in accordance with Article 3.

1.2 "Committee" means the Design Review Committee as created by this Declaration and established by Declarant to determine certain parameters and specific requirements for procedures, specifications and review processes, materials, design criteria and similar matters with the goal of providing Owners with guidelines on which to base their submission of Plans (hereafter defined) and other matters of approval required or permitted under this Declaration.

1.3 "Declarant" shall mean and refer to the Jasper County, South Carolina by and through its governing body (i.e., the Jasper County Council), or any successor, successor in title, or assign who is designated as Declarant in a recorded instrument executed by the immediately preceding Declarant, provided there shall be only one "Declarant" hereunder at any one time.

1.4 "Design and Development Guidelines" shall mean and refer to certain design and development guidelines which are or may from time to time be promulgated by the Committee or its delegates.

1.5 "Hazardous Material" shall mean (i) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), as amended from time to time, and regulations promulgated thereunder; (ii) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 6901 et seq.) ("CERCLA"), as amended from time to time, and regulations promulgated thereunder; (iii) asbestos; (iv) any substance the presence of which on the Property is prohibited by any government requirement; and (v) any other substance which by any government requirement requires special handling in its collection, storage, treatment or disposal.

1.6 "Improvements" shall mean and include, but not be limited to, buildings, of a permanent or temporary nature (with temporary buildings being permitted only during the construction of other Improvements), outbuildings, underground installations, slope alterations, dams, spillways, ponds, lakes, islands in the ponds and lakes, surface water drainage facilities, sediment control devices, roads, berms, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, windbreaks, plantings, planted trees and shrubs, poles, signs, utilities, water lines, sewer, electrical and gas distribution facilities, heating, cooling and air circulation equipment and facilities, loading areas, roofed structures, railroad trackage, hedges, exterior illumination, changes in exterior color or shape and all other structures or landscaping Improvements of every type and kind initially or at any time thereafter placed or constructed on any Parcel.

1.7 "Infrastructure" shall mean and refer to those areas consisting of roads and water, sewer and other utility improvements and equipment within the Property which are intended for the common use and enjoyment of the Owners, Occupants and their respective guests and invitees. Those areas include the rights-of-way for all roadways, utilities and all other easements as shown on any recorded plat.

1.8 "Occupant" shall mean any person, corporation, partnership, or organization who or which has purchased, leased, rented, or is otherwise legally entitled to occupy and use any Parcel or portion thereof.

1.9 "Owner" shall mean and refer to a person or entity which owns fee simple title to any Parcel, which includes Declarant.

1.10 "Parcel" shall mean and refer to any lot(s) of land, or subdivisions thereof, in the Park, as shown on plats recorded by Declarant and any Improvements thereon; provided, however, that a Parcel shall not include any roads, rights-of-way or other area(s) dedicated to the public use.

1.11 "Park" and "Property" shall mean and refer to that certain real property described on Exhibit A attached hereto, together with any Improvements thereon, together with such Additional Property and any Improvements thereon, which Declarant may, in accordance with the provisions of Article 3, elect to subject to the terms and conditions of this Declaration.

ARTICLE 2 PLAN OF DEVELOPMENT

Declarant intends to develop the Park into a commercial, retail and light industrial park which shall promote the development of industrial and manufacturing industries, service providers and other research and commercial facilities within South Carolina. Declarant shall develop the Property by building, constructing and providing roadways, necessary utilities and other Improvements within the Property; by dividing portions of the Property into Parcels; by selling, leasing or retaining subdivisions thereof, and by constructing Improvements thereon, in its sole discretion; and by designating portions of the Property, and Improvements thereon, if any, as infrastructure and conveying them to any appropriate public agency deemed appropriate by Declarant.

Declarant shall have the right, but not the obligation, to install, construct, operate, repair, demolish, remove and maintain Improvements in, on, under, over or across the Property, including but not limited to water, sewer and other utility systems or facilities, electric and television cable and their various attendant services, including teletype, telex, news service, computer, or any such like instrument used in the transmittal, reception, or retrieval of messages, facts, or information, security facilities, refuse facilities, recreational facilities, roadways, and waterways. Declarant shall develop the Property as a commercial, retail and light industrial park by constructing Improvements on the Property, by dividing portions of the Property into Parcels, by subdividing the parcels into smaller tracts, by maintaining leasing, selling or retaining Parcels. The land within the Park owned by Declarant may be subdivided to consist of whatever mix of Parcels as Declarant may elect with the consent of the Committee.

ARTICLE 3 ANNEXATION OF ADDITIONAL PROPERTY AND WITHDRAWAL OF PROPERTY

3.1 **Unilateral Right to Annex Additional Property:** Declarant hereby reserves the option to submit at any time, or from time-to-time, the Additional Property or any portion thereof to the provisions of this Declaration and thereby to cause the Additional Property, or any portion thereof, to become part of the Property, just as fully as if the portion or portions thereof were included within the Property initially submitted to this Declaration. This submission shall be effected by Declarant's executing and recording at the Jasper County Clerk of Court's Office an instrument entitled "Declaration of Inclusion" describing the Additional Property to be submitted to this Declaration and by recording a plat thereof. Declarant shall thereafter have the right to plan, design, develop, change, modify, alter, construct, maintain or manage any type of Improvement upon the Additional Property, to divide it into Parcels, in its sole discretion, as Declarant deems necessary or convenient for its purposes, except as otherwise expressly stated in this Declaration. If any Additional Property is added to the Property, its development shall be in accordance with the provisions hereof.

3.2 **Withdrawal of Property:** Declarant reserves the right to amend this Declaration so long as it has a right to annex Additional Property pursuant to Section 3.1, for the purpose of removing any portion of the Property from the coverage of this Declaration, provided such withdrawal is not unequivocally

contrary to the overall, uniform scheme of development of the Park. Such amendment shall not require the consent of any Owner, other than the Owner of the property to be withdrawn, if not Declarant.

ARTICLE 4 USE RESTRICTIONS

4.1 **General:** Declarant has established a general plan of development for the Property in order to enhance all Parcels. The Properties are subject to development, architectural and design provisions of this Declaration. Each Parcel subject to the provisions of this Declaration shall be conveyed, transferred and encumbered in the same manner as any other real property. Each Owner, including Declarant, shall be subject to the provisions of this Declaration.

4.2 **Use of the Property:** The following provisions shall be applicable to any and all construction, Improvement, alteration, addition or use of the Property:

- (a) The following uses of the Property shall not be permitted:
- (1) commercial scrap storage or salvage yard;
 - (2) manufacture, storage, distribution or other purposes involving D.O.T. Class A explosives;
 - (3) lumber yard, coal or wood yard as primary business, but not necessarily to exclude the operations which are ancillary to permissible uses;
 - (4) commercial landfill or other on-site commercial waste disposal facilities;
 - (5) commercial bulk petroleum storage facility;
 - (6) quarry or other mining operations;
 - (7) commercial infectious or hazardous waste disposal facilities;
 - (8) warehousing and manufacturing of products, materials or other items where such activity takes place outside of a screened or enclosed structure or facility;
 - (9) objectionable or nuisance uses, as reasonably determined by the Committee, by reason of odor, dust, fumes, smoke, noise, vibration, refuse matter or water-carried waste; and
 - (10) unless specifically approved in writing by the Committee, the placement, holding, locating, disposal, manufacture, storage or dumping of Hazardous Materials. Materials existing on the Property at the time this Declaration is recorded are excluded from this prohibition.

- (b) Permitted uses of the Property shall include, but not to be limited to, the following:
- (1) industrial or manufacturing purposes or such incidental activities to the extent not prohibited by Section 4.2(a);
 - (2) service businesses including retail sales or other commercial facilities;
 - (3) educational or research purposes;
 - (4) government or other public agencies;
 - (5) business or other commercial office purposes; or
 - (6) such other uses as deemed permissible by Declarant with approval of the Committee.

ARTICLE 5 EASEMENTS

5.1 General: All reservations, rights, licences and easements of Declarant with respect to any Parcel consisting of three (3) or more acres shall be restricted and limited, from and after the date of conveyance of any Parcel from Declarant to an Owner, to that area of such Parcel located within fifty (50) feet of the front and rear property (boundary) lines of such Parcel. With respect to any Parcel consisting of less than three (3) acres, all reservations, rights, licenses and easements of Declarant shall be restricted and limited to setbacks established by the Committee in its sole discretion. Such restrictions and limitations shall not affect or diminish actual easements across the Parcel, if any, granted or conveyed prior to the Parcel's conveyance by Declarant to the Owner or environmental easements or restrictions imposed by federal, state and/or local authorities.

For purposes of this Section, the term "reservations, rights, easements, and licenses" shall mean and refer to all reservations of rights and easements for the benefit of Declarant; all rights of Declarant to lease or grant licenses or concessions with respect to portions of the Property; all rights of Declarant to create, reserve, grant, or accept easements or other property rights or interests of any kind on or across Parcels; all rights of Declarant to install, construct, operate, repair, demolish, remove and maintain such Improvements in, on, under, over or across the Property; and all similar rights, easements, licenses and reservations granted by the terms of this Declaration. The limitations specified in this Section shall not apply to the enforcement rights granted to Declarant in Sections 5.6, 6.2 or 9.11.

5.2 Declarant Easements: Declarant shall have an alienable and transferable right and easement on, over, through, under and across the Property for the purpose of constructing Infrastructure and/or any other type of Improvement whatsoever on the Property, specifically including but not limited to recreational amenities, utilities and roadways, as Declarant desires, in its sole discretion, subject only to reasonable objections by the Committee, and for the purpose of doing all things reasonably necessary and proper in the sole discretion of Declarant, subject to reasonable objections of the Committee, in connection with the development of the Property as a first class commercial, retail, and light industrial development, provided that in no event shall Declarant have the obligation to do any of the foregoing.

5.3 Utilities Easements: There is hereby reserved for the benefit of Declarant the alienable, transferable and perpetual right and easement, as well as the power and authority to grant and accept easements to and from any private or public authority, agency, public service district, public or private utility or other person, upon, over, under and across all or any portion of the Property for constructing, installing, replacing, repairing, operating, maintaining and using master television antennae and/or television cable systems, security and similar systems, and all utility facilities and services, including but not limited to, storm, sewer, and drainage systems and electrical, gas, telephone, water and sewer lines. To the extent possible, all utility lines serving the Park and located thereon shall be located underground. By virtue of the above-described easements, it shall be expressly permissible for the Declarant, any utility company or other supplier or service provider, with respect of the portions of the Park so encumbered to (i) erect and maintain pipes, lines, manholes, pumps and other necessary equipment and facilities; (ii) cut and remove any trees, bushes or shrubbery; (iii) grade, excavate or fill; or (iv) take any other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement and use of such utilities and systems.

No building, fence or structure shall be erected or paving laid within any recorded utility easement, nor any trees or shrubs planted in such easement, without the written consent of the grantee of such easement. Provided, further, that any harvesting of timber shall be done in accordance with a management plan which shall be subject to the approval of Declarant and the Committee which approval shall not be unreasonably withheld.

5.4 Assignment of Easements: To facilitate the development of property adjacent to or near the Property, Declarant agrees to cooperate to the maximum extent possible and to execute, deliver and/or record such instruments and documents as may be reasonably necessary to grant or assign the nonexclusive use of the easements reserved to Declarant pursuant to Sections 5.2, 5.3 and 5.8 of this Declaration to Cypress Woods Corporation or its successors, assignees, and designees.

5.5 Police Power Easements: Police, fire, emergency management services, health and other authorized county or municipal officials, employees and vehicles shall have the right of unrestricted ingress and egress to the Property, and any portion thereof, for the performance of their official duties as required by local, state or federal law.

5.6 Maintenance Easements: Subject to the terms of this Declaration, there is hereby reserved for the benefit of Declarant, and its respective agents and employees, the perpetual right to enter upon any portion of the Property for the purpose of mowing, removing, clearing, cutting or pruning grass, underbrush, weeds, stumps or other unsightly growth and removing trash, so as to maintain reasonable standards of health, safety and appearance within the Park, provided that such right shall not impose any duty or obligation upon Declarant to perform any such actions.

5.7 Environmental Easements: There is hereby reserved for the benefit of Declarant, and its respective agents and employees, the alienable, transferable and perpetual right and easement on, over, under and across any portion of the Property, for the purpose of taking any action necessary to effect compliance with environmental rules, regulations and procedures from time-to-time promulgated by any governmental authority, such easement to include, without limitation the right to implement erosion control procedures and practices, the right to drain standing water and the right to dispense pesticides. Portions of the Parcels may be subject to the jurisdiction of appropriate federal, state and local authorities relating to the use and preservation of "wetlands" as that term is defined from time-to-time. Any such areas defined as wetlands shall be undisturbed and shall not be destroyed without the prior written approval of appropriate

federal, state or local authorities; provided, however, that Declarant shall be allowed to realize the full economic value through harvesting of any existing pine plantations in the wetlands. Any reforestation allowed will occur either naturally or by planting and management made with indigenous species across the Property for the purpose of constructing Infrastructure, and any other type of Improvement whatsoever on the Property, specifically including but not limited to recreational amenities, utilities and roadways, as Declarant desires, with the consent of the Committee, and for purposes of doing all things reasonable. In no event shall Declarant have the obligation to do any of the foregoing.

5.8 Additional Easements: If it becomes clear that additional utility or drainage easements, whether or not contemplated or mentioned in this Declaration, between or across portions of the Property are reasonable, necessary, and desirable to effectuate the purposes of this Declaration or to accommodate property adjacent to the Park, then, upon the request of Declarant, and provided said proposed additional easements will not unreasonably interfere with the development, use and occupancy of any Parcel, unreasonably affect access to, or operation of, any such Parcel, or materially increase the operating costs of any such Parcel, each Owner agrees to grant such additional easements across its Parcel, without charge therefor, subject to such reasonable terms and conditions as shall be agreed upon between Declarant and such Owner. Any such new easement or easements shall be signed by Declarant and/or all Owners of portions of the Property which compose the land within such new easements and shall be recorded in the appropriate land records of Jasper County, South Carolina.

5.9 Use of and Limitations on Easements: The Owners of Parcels benefited by the easements specified in this Article 5 and to the extent additional easements, if any, under any other section of this Declaration are for the benefit of Parcel Owners and those other persons granted rights herein shall be entitled to use and enjoy said easements in common with others entitled to use same and shall take no action in or with respect to any of said easements which would interfere with the rights of other persons to use said easements or to enjoy the benefits therefrom.

5.10 Exercise of Easements: Rights reserved pursuant to the easements herein shall be exercised with a minimum of interference to the quiet enjoyment of the affected Parcel; reasonable steps shall be taken to protect such Parcel; and any damage shall be repaired by the persons causing the damage at its sole expense.

ARTICLE 6 MAINTENANCE

6.1 Duty of Maintenance: Owners and Occupants of any portion of the Property or Improvements thereon shall have the duty and responsibility, at their sole cost and expense, to keep their part of the Property so owned or occupied, including buildings, Improvements, grounds or drainage easements or other rights-of-way incident thereto, in a well-maintained, safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to, the following:

- (a) Removal of all litter, trash, refuse and waste at least once a week;
- (b) Lawn mowing on a regular basis such that the grass level on undeveloped land is not higher than 18" and the grass level on developed land is not higher than 9";
- (c) Tree and shrub pruning;

- (d) Keeping exterior lighting and mechanical facilities in working order;
- (e) Keeping lawn and garden areas alive, and any adjoining rights-of-way or drainage ditches attractive and free of trash and debris;
- (f) Promptly removing and replacing any dead plant material;
- (g) Keeping parking areas, driveways and roads in good repair;
- (h) Striping of parking areas and repainting of Improvements;
- (i) Repair of exterior damage to Improvements; and
- (j) Notwithstanding any other provisions of this Article 6 the only maintenance obligation for undeveloped land is that it be well maintained for a depth of twenty-five (25) feet from any street and the entire site be kept free of trash and tall weeds.

6.2 **Failure to Maintain:** In the event an Owner shall fail to maintain the Improvements situated thereon in a first-class condition, Declarant, at its option, may give such Owner notice of such failure, setting forth in what respects such Owner has failed to maintain its building and Improvements, and Owner shall cure such deficiencies within thirty (30) days after receipt of such notice. In the event the Owner shall fail to cure the deficiencies within the thirty (30) day period, Declarant shall have the right, through its agents and employees, to enter upon the Parcel and to repair, maintain and restore the Parcel and the Improvements thereon without any liability for damages for wrongful entry, trespass or otherwise to any person and without any liability for damages allegedly caused to the Property or any Improvements thereon. The cost of such maintenance shall be an obligation of such Owner and due and payable to Declarant within ten (10) days of such Owner's receipt of an invoice for the costs incurred by Declarant. Failure of any Owner to reimburse Declarant shall entitle Declarant to assert its lien rights as set forth in Section 11.7 hereof.

ARTICLE 7 STORM DRAINAGE AND SANITARY SEWER SYSTEMS, MAINTENANCE THEREOF AND EASEMENT THEREFOR

Declarant herewith reserves for itself, its successors and assigns, for its benefit, an alienable, transferable easement for the construction, maintenance and operation of a storm drainage system and sanitary sewer system on, through, over and under the Property and/or any Parcel. All such storm drainage and sanitary sewer systems shall be constructed in accordance with applicable federal, state and local requirements and maintained in good order and repair. To the extent required to effectuate the foregoing plan, there shall be an easement in favor of each Parcel for the purpose of connecting the storm drainage and sewer systems located on the Parcel with the general storm drainage system and sanitary sewer system which serves the Park, at the closest point of connection which is most feasible in the opinion of Declarant. Each Parcel shall be subject to easements in favor of all the other Parcels providing for the passage through any portion of such Parcel of necessary storm drainage systems and sanitary sewer systems. In no event shall the Declarant's easement for drainage and storm water management be construed as a warranty by the Declarant to the Owners, Occupants, or any of their respective guests or invitees, or any members of the public that such drainage or storm water management system shall be constructed or maintained to any particular standard or that it will be performed or maintained at all.

ARTICLE 8
DESIGN REVIEW COMMITTEE

8.1 Design Review Committee: Immediately after the recording of this Declaration, Declarant shall establish the Design Review Committee to be made up of five (5) members. Each of the following organizations, acting in its sole discretion, shall be entitled to appoint one (1) member of the Committee: 1) the Jasper County Development Board, 2) Palmetto Electric Cooperative, 3) Jasper County Council, 4) Cypress Woods Corporation, its successors and assigns, and 5) the Jasper County Planning Commission. Each Committee member shall serve at the pleasure of the organization appointing such Committee member and may be removed, with or without cause, by such organization. Upon resignation, removal, death or disability of any Committee member, the organization appointing such Committee member shall be entitled to appoint a successor.

The number of members serving on the Committee may be increased or decreased upon the unanimous written consent of all Committee members serving at the time that such action is taken. Such consent shall name the organization(s) entitled to appoint such additional Committee member(s) (in the event that the Committee is increased) or the organization no longer entitled to appoint a Committee member (in the event that the Committee is decreased).

The Committee will select a chairman and adopt rules of order subject to the procedures set forth herein. The chairman or any two members of the Committee may call a meeting of the Committee upon written notice to all members of the Committee. Written notice of all meetings shall be provided to all Committee members not less than four (4) calendar days prior to such meeting. No notice need be given to any Committee member who has signed a waiver of notice. A quorum of the Committee shall consist of a majority of the Committee members serving at the time of the meeting. Once a quorum is established at a Committee meeting, a majority of members present may act at such meeting. Members of the Committee may participate in a meeting by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other.

The Committee may engage and seek advice from professional persons including and without limitation, attorneys, architects, engineers, surveyors, landscape architects and land planners in connection with the review of submitted Plans and specifications in which event the fees of such professional persons may be charged to and paid by any Owner or Occupant who has submitted such Plans as a condition to approval. Other organizational and operational matters shall be determined by the Committee at its meetings. The initial mailing address of the Committee is: Chairman, Design Review Committee, P.O. Drawer F, Ridgeland, SC 29936. The Committee may change its address at any time without prior notice. Each member of the Committee shall be responsible for the costs or expenses resulting from the member's service on the Committee.

8.2 Procedure for Approval: Approval of the Plans shall be based on general adequacy of Parcel dimensions, structural design, conformity and harmony of the exterior design, location with neighboring structures and Parcels, relation of finished grades and elevations to neighboring Parcels, compatibility with first class commercial, retail, and light industrial developments, and conformity to both the specific and general restrictions and covenants set forth herein and in the Design and Development Guidelines. The Committee shall have the right to disapprove any submitted Plans of any Parcel if such Plans are not in conformity with the provisions of this Declaration, the Design and Development Guidelines, the applicable governmental authorities, or if the Committee, in its discretion, (which shall be exercised in a reasonable manner) determines that such Plans are not in the best interest of the contemplated development

of the Park as a first class commercial, retail, and light industrial development as described by this Declaration. At such time as the Plans meet the approval of the Committee, one complete set of Plans will be retained by the Committee and the other complete set of the Plans shall be marked "Approved", signed by the chairman on behalf of the Committee and returned to the party submitting the Plan. If disapproved by the Committee, one set of Plans shall be returned marked "Disapproved" and shall be accompanied by a reasonable statement of the reasons for the disapproval, which statement shall be signed by the chairman on behalf of the Committee. Any material modifications of the approved Plans must again be submitted to the Committee for its approval of the modifications. In no event shall the Committee give verbal approval of any Plans. Prior to or upon completion of the Improvements, a final set of the Plans used to complete the Improvements shall also be submitted to the Committee, and any substantial and material differences between the final Plans and the approved Plans shall be subject to the Committee's approval process as set forth in this Article 8.

8.3 **Submission of Plans:** Before commencing the construction or alteration of all initial or any subsequent buildings, enclosures, fences, loading docks, parking facilities, storage yards, signs, storage tanks, landscaping or any other structures or any other Improvements which create, impact, or affect the exterior or physical appearance of the structures, the Improvements, the Parcel, or any part thereof, the Owner or applicable Occupant of every such Parcel or part thereof shall first submit to the Committee preliminary plans and specifications for all of the foregoing (as well as all the data, drawings and information specifically required by this Section (the "Plans")) all in duplicate. The Plans must be submitted in a manner and form consistent with the requirements of the Design and Development Guidelines which may be promulgated and amended from time to time by the Committee in its discretion. One such copy of the Plans shall become the sole property of the Committee. No structure or Improvement (which creates, impacts, or affects the exterior or physical appearance of any structures, Improvements, or Parcel, or part thereof) shall be constructed, erected, placed or materially altered on any Parcel or part thereof until the Plans have been submitted to, and approved in writing by, the Committee. The Plans shall include, but not be limited to, the following and such other specific criteria as may from time to time be set forth and contained in the Design and Development Guidelines:

- (a) If any appreciable change in the lot contours is contemplated, a topographical plat showing contour grades (with 2-foot contour intervals) and showing the location of all Improvements, structures, walks, patios, driveways, fences and walls. Existing and finished grades shall be shown at lot corners and at corners of proposed Improvements. Parcel drainage provisions shall be included as well as cut and fill details.
- (b) Exterior elevations of all proposed buildings and structures.
- (c) Exterior materials, colors, textures and shapes, which, if required by the Committee, shall also be identified by manufacturer's name, product name and identifying number where appropriate.
- (d) Landscaping plan, including walkways, berms, fences and walls, elevation changes, watering systems, vegetation and ground cover.
- (e) Parking area and driveway plan.
- (f) Screening, including Parcel, location and method.

- (g) Exterior illumination, including location, and if required by the Committee, the manufacturer's fixture number and supporting illumination test data.
- (h) Signs, flags and other horizontal or vertical advertising or identification not necessary for structural purposes, including size, height, shape, color, location and materials.
- (i) Trash container storage locations and related screening.
- (j) Ingress and egress design and plan.
- (k) Curbing including curb cuts and gutters.
- (l) Storm water retention facilities.
- (m) Proposed use of Parcel and such matters as may be required by the applicable governmental authorities.

8.4 **Failure to Act:** If the Committee fails to approve or disapprove the Plans within thirty (30) days after the receipt by the Committee then the Plans shall be deemed to be approved Plans as submitted and the Improvements shown therein may be constructed in accordance with such approved Plans.

8.5 **Limitation of the Committee's Liability:** Neither Declarant, Committee nor any member thereof, nor its or their respective heirs, successors or assigns, shall be liable in damages to anyone submitting Plans to them for approval, or to any Owner or Occupant of any Parcel or other portion of the Property affected by this Declaration, by reason of a mistake in judgment, negligence, variance, inconsistency or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any such Plans.

The Committee's approval of any building Plans, specifications, Parcel or landscape plans or elevations or any other approvals or consents given or requirements imposed or suggested in connection therewith by the Committee pursuant hereto or otherwise shall not be deemed a warranty, representation or covenant as to the adequacy or accuracy of the design or structure of such buildings, landscaping or other Improvements, or that other action taken pursuant thereto or in reliance thereon complies with, or is not in violation of, any applicable laws, rules or regulations, and by taking title to or leasing any part of the Property, the Owner and/or Occupant, for themselves and their heirs, successors and assigns, do hereby expressly release and relieve Declarant, the Committee and all members of the Committee of any and all liability in connection therewith.

8.6 **Waiver:** Every person, corporation, partnership, organization or other entity who submits Plans to the Committee for approval agrees, by submission of such Plans, and every Owner or Occupant of any of the Property agrees by acquiring title thereto or an interest therein, that such Owner or Occupant will not bring any action proceeding or suit against the Committee or any member thereof to recover for damages caused or allegedly caused by the Committee.

8.7 **Time Limitation:** All approvals issued by the Committee shall be effective for a period of one (1) year from the date that approval is given. In the event construction of the work called for by the

approved Plans, has not substantially commenced within one (1) year, then approval shall be deemed withdrawn, and the Plans must be resubmitted for approval before construction is permitted.

8.8 Variances: Whenever, in the opinion of the Committee the strict application of the restrictions contained herein would result in practical difficulties or unduly hinder the development of the Park, the Committee may permit such variance from the restrictions as is necessary to enable the Property to be developed in a reasonable manner, providing that the interests of the Park are protected and the general intent and spirit of this Declaration are preserved.

ARTICLE 9 ARCHITECTURAL AND DESIGN GUIDELINES

9.1 General: In requiring the submission of Plans as herein set forth, Declarant intends to assure the development of the Property as a first-class commercial, retail and light industrial development. In approving or withholding approval of any Plan and specifications submitted, the Committee shall have the right to consider the suitability of the proposed building or structure and any of the materials which it is to be built upon the Parcel(s), the appropriateness and harmony of the Improvement contemplated in relation to Improvements on contiguous or adjacent Parcels and in relation to the general plan for the development of the Park, its architectural merits, the effect of the proposed building or other structure on the outlook from adjacent or neighboring Parcels, and such other matters as may be deemed to be in the interest and to the benefit of the Owners of Parcels in the Park as a whole.

9.2 Initial Guidelines: The architectural and design guidelines to be observed by all Owners shall include, but not limited to the following:

- (a) Grading and Drainage: All structures will be equipped with gutters, downspouts and/or other drainage conveyances. All surface drainage, including roof drainage of buildings, shall be designed to conform to the overall drainage of the Property. The Committee, their successors and assigns, shall not be liable for any losses or damages caused by any water levels, rising waters, or drainage waters.
- (b) Setback Lines: All structures shall comply with the requirements of the Design and Development Guidelines and the applicable governmental authorities with respect to setback lines. In addition, no structures of any kind and no part thereof shall be placed within the setback lines described below:
 - (1) With respect to any portion of a Parcel fronting on Highway 278 or Highway 652, the setback line shall be fifty (50) feet from the property line adjacent to such highway. Within such setback, the twenty-five (25) feet of such setback that are located nearest to such highway shall be landscaped in accordance with the Design and Development Guidelines.
 - (2) With respect to any Parcel consisting of three (3) or more acres, the setback line for those portions of the Parcel fronting on any road other than Highway 278 or Highway 652 shall be fifty (50) feet from the property line adjacent to such road. With respect to any Parcel consisting of less than three (3) acres, the setback line for those portions of the Parcel fronting on any road other than Highway 278 or

Highway 652 shall be twenty-five (25) feet from the property line adjacent to such road.

- (3) With respect to any portion of a Parcel not fronting on Highway 278 or Highway 652 nor any other road, the setback line shall be twenty-five (25) feet from the property line of such portions of the Parcel.

Each Owner or Occupant shall fully maintain any setback areas on its Parcel. The following Improvements are expressly excluded from this setback restriction:

- (1) Structures below and covered by the ground where such structures will not interfere with provisions for underground utilities.
 - (2) Steps, walks, driveways, curbing, and parking (as allowed by the applicable governmental authorities).
 - (3) Planters, walls, fences, hedges, retaining walls, and signs when specifically approved by the Committee which are also within the limits set by the applicable governmental authorities, items constructed pursuant to a landscaping of the frontage of the Property, and other items approved by the Committee.
- (c) Driveways:
- (1) Driveways shall be paved with concrete or asphalt unless otherwise approved by the Committee.
 - (2) The location, width, materials and other items with respect to driveway approaches shall be subject to the review and approval of the Committee.
 - (3) Driveway width shall be a minimum of twenty-four (24) feet unless otherwise approved by the Committee.
- (d) Landscaping:
- (1) Plans: No Plans for any building, structure or other Improvement to be erected, placed or altered in or upon any Parcel shall be approved by the Committee unless the Plans include separate landscape plans satisfactory to the Committee, such landscape plans to include plant material and landscape construction to be installed on the Parcel.
 - (2) Landscaped Area: Landscaping, as a minimum, shall occur in an area forward of the building and adjacent to the street rights-of-way.
 - (3) Installation: Approved landscaping must be installed within thirty (30) days following the granting of a certificate of occupancy for the building except as delays may be approved by the Committee and subject to any delays caused by weather conditions.

- (4) **Landscape Treatments:** Landscape treatment of all Parcels shall be in the form of grass lawns and ground covers, shade trees in parking areas, street trees, plantings in areas used as dividers and in any areas of limited use. Landscaping shall be used to mark entrance points and parking areas. Irrigation watering systems shall be installed as may be required by the Committee.
- (5) **Ground Cover:** All Parcels shall contain ground cover as shall be approved by the Committee, preferably properly maintained grass along the front of each Parcel between the street curb and the building area, but in any event such ground cover as is required under the Design and Development Guidelines.
- (6) **Undeveloped Areas:** For undeveloped areas, the only landscaping obligations shall be that on Parcels cleared of shrubs and trees and held for future development, the Owner must install and maintain grass cover adjacent to the street for a minimum of twenty-five (25) feet in from the curb.
- (7) **Sight Lines:** Landscape treatment shall not be in violation of sight line requirements set by the applicable governmental authorities for street or driveway intersections.
- (8) **Maintenance:** All landscaping shall be designed for reasonable maintenance and all landscaped areas shall be maintained in a high quality manner at all times, including all necessary watering. Subject to Committee approval, paving or terracing may be used in areas where excessive maintenance would otherwise be required.
- (e) **Screening:**
- (1) Storage areas, incinerators, storage tanks, trucks based on the premises, roof objects (including fans, vents, cooling towers and skylights) shall either be housed in closed buildings or screened for sound and sight from public view and exposure from the tree level on adjoining Parcels and from any dedicated roadways and streets and any primary roadways and streets in the Park. Such screening shall normally include landscaping or permanent fences (excluding chain link), or approved solid materials and shall be located as far from property lines as reasonably possible.
- (2) All antennae shall be screened pursuant to subsection (1) above and antenna towers shall be erected on the Property only if approved by the Committee.
- (f) **Loading Docks and Areas:** Loading docks and areas shall not be located on the street side of any building or structure unless they are approved by the Committee.
- (g) **Exterior Illumination:** All exterior lighting shall be designed, erected, altered and maintained in accordance with the Plans submitted to and approved in writing by the Committee. Lighting shall be compatible and harmonious throughout the entire Park and shall be in keeping with the specific function and building type served. Illumination will be encouraged on all exterior walls facing public streets and for all parking areas. The preferred form of exterior illumination shall be sodium vapor lighting from a structure or design which has a nonapparent light source, that is, a structure or design which screens,

covers, or shades the light bulb or globe. No exterior lighting shall be directed toward any areas adjacent to the affected Parcel.

9.3 Construction: All construction in the Park shall meet all local, state and federal regulations and code. Such regulations and codes shall supersede this Declaration where they are more restrictive and where they conflict. Declarant hereby adopts Jasper County Code Section 17.5 - Highway Buffer applicable to Highway 278 Extension as the same shall apply to the portion of the Property adjacent to said Highway 278.

9.4 Signs: No signs of any kind shall be exhibited in any way on or above any portion of the Property without the prior written approval of the Committee. All signs must be approved in writing by the Committee prior to fabrication or installation, and the Committee's approval or disapproval of such signs must be exercised in a reasonable manner consistent with this Declaration and the Design and Development Guidelines. The location, size and construction of signs will be in keeping with the character of a first class retail, commercial and light industrial development. Flashing or moving character signs shall not be installed. Illuminated signs shall be rear lighted or lighted from nonapparent light sources. No billboards shall be allowed, nor advertising signs, other than those identifying the Occupant, nature of the business and/or products. The only other allowed signs shall be either signs of a directional nature or temporary signs indicating "for sale" or "for lease", the size, design and location of which must be approved by the Committee. All permitted signs shall be of a design and material consistent with the building itself and the requirements of the Design and Development Guidelines. The Committee shall not object to logos or trademarks of regional or national entities or retail organizations (provided, however, the Committee may review the size, location, materials, graphic composition and colors of such signs). In order to enhance the appearance and architectural harmony of the Property, an Owner may present to the Committee (as to signs thereafter constructed) from time to time an integrated signage program to apply to the property owned by said Owner, with criteria as to sign design, location, materials and graphic composition. If the integrated signage program is approved by the Committee, all signs erected on the affected Parcel or Parcels shall merely conform to such signage program and criteria and need not require specific Committee approval.

9.5 Hazards and Nuisances: No owner of any Parcel shall create a potentially hazardous condition that adversely affects the Park or surrounding area. Nothing shall be done that will become an annoyance or nuisance to the Park or surrounding area by reason of unsightliness or the emission of odors, liquid effluent, dust, fumes, smoke, vibration, noise or glare. Nothing shall be done or suffer to be done by any Owner on its Parcel which creates or causes a health, fire or safety hazard. Requirements of federal, state and local regulatory agencies concerning annoyances, health and safety shall be met.

9.6 Parking: All Plans submitted to the Committee shall include specific information as to construction materials, construction methods to be used and diagrams of the number, type and configuration of parking spaces required by the Committee, the Design and Development Guidelines, and/or the applicable governmental authorities.

9.7 Utilities: Transformers, electric, gas or other meters of any type, or other apparatus shall be screened in accordance with Section 9.2(e) of this Declaration. All utility lines placed on the Property after the recordation of this Declaration, except for temporary utility lines utilized during construction of the respective Improvements, shall be underground, unless otherwise approved by the Committee.

9.8 Reconstruction: Nothing contained in this Declaration shall prohibit the reconstruction of Improvements on any Parcel, in the event the existing Improvements are destroyed by fire or other such

hazard; provided, however, that the covenants and conditions contained herein shall continue to apply to the Parcel. Any repair or reconstruction of Improvements shall be performed in accordance with the approved Plans for the Parcel. Submission of Plans and approvals shall be required only when the repair or reconstruction materially differs from the previously approved Plans. In the event any Improvements are partly destroyed or damaged, the Owner or Occupant of the Parcel on which such damage or destruction occurs shall repair (including any applicable rebuilding) such Improvements within six (6) months thereafter, subject in all events to the terms and conditions of this Declaration; provided, however, that if any such Improvements are totally damaged or destroyed and the Owner or Occupant does not desire to repair and rebuild such Improvements, then such damaged or destroyed Improvements shall be completely razed, dismantled and removed from the Parcel, and the Parcel shall be completely cleared of any and all debris, and the Parcel shall then be landscaped by the Owner pursuant to Plans submitted to the Committee and subsequently approved pursuant to this Article. The dismantling and removal of the destroyed Improvements shall begin within 120 days after the damage was incurred and be completed no later than 180 days after the damage was incurred. For purposes of this Declaration, total damage or destruction shall mean that the Improvement is damaged or destroyed to such an extent that the Owner in the reasonable exercise of its judgment can no longer use or occupy such Improvement for its intended purpose. If, in the opinion of the Committee, any such Owner or Occupant has failed in any of the foregoing duties or responsibilities of this Section, then the Committee may give such person written notice of such failure and such person must, within thirty (30) days after receiving such notice, perform the repairs required or remove such Improvements. Should any such person fail to fulfill this duty and responsibility within such period, then Declarant through its authorized agent or agents, shall have the right and power to enter onto the premises and perform such repairs or remove such Improvements without any liability for damages for wrongful entry, trespass or otherwise to any person and without any liability for damages allegedly caused to the Property or any Improvements thereon. The Owners and Occupants of any part of the Property on which such work is performed shall be liable for the cost of such work and shall promptly reimburse the Association for such cost. If such Owner or Occupant shall fail to reimburse Declarant within thirty (30) days after receipt of a statement for such work from Declarant, then said indebtedness shall be a debt of all of said persons, and shall constitute a lien against that portion of the Property on which said work has been performed. Any such lien created by this Section shall be subordinate only to any mortgages existing on the Property at the time the work is performed.

9.9 **Building Design:** The objective in building standards is to obtain consistency and quality in architectural design to protect and enhance values of the adjacent property. In order to maintain consistency, yet permit interest and variety and the use of new materials as they may develop, all architectural designs, including those for alterations, additions or remodeling, are subject to review and reasonable approval of the Committee pursuant to the terms of this Declaration and based on the Design and Development Guidelines as they may be amended and updated from time to time. Buildings should be considered as three-dimensional objects, and attention should be given to the comparable treatment of all exterior surfaces.

9.10 **Excavation:** No excavation shall be made except in conjunction with construction of an Improvement and only after having received approval by the Committee. When such Improvement is completed, all exposed openings shall be back-filled, compacted, graded and returned to landscaped conditions approved by the Committee.

9.11 **Construction Completion:** Once commenced, construction shall be diligently pursued to the end. Such construction may not be left in a partly finished condition any longer than four (4) months. If construction is not diligently pursued for a period of time greater than four (4) months, then such existing

construction already begun shall be immediately and completely razed, dismantled and removed from the Parcel by the Owner, the Parcel shall be completely cleared of any and all debris and the Parcel shall then be landscaped by the Owner pursuant to the approved Plans. If any Owner fails to complete construction or to clear and landscape such Owner's Parcel in compliance with this Section or any other provision of this Declaration, Declarant shall have the right, through its agents and employees, to enter upon the Parcel and to complete such construction or to clear and landscape such Parcel without any liability for damages for wrongful entry, trespass or otherwise to any person and without any liability for damages allegedly caused to the Property or any Improvements thereon. All costs incurred by Declarant in exercising such right shall be an obligation of such Owner and due and payable to Declarant within ten (10) days of such Owner's receipt of an invoice for the costs incurred by Declarant. Failure of any Owner to reimburse Declarant shall entitle Declarant to assert its lien rights as set forth in Section 11.7 hereof.

ARTICLE 10 AMENDMENTS

10.1 By Declarant: Declarant may amend this Declaration with the consent of the Committee, without the consent of any Owner, as follows:

- (a) If such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule or regulation or any judicial determination which shall be in conflict therewith; and
- (b) Any amendment to subject, by Declaration of Inclusion, the Additional Property or any portion thereof, from time-to-time, to the terms and provisions of this Declaration.

10.2 By Owners: In addition, this Declaration may be amended for any purpose by an instrument executed by Owners of Parcels comprising sixty-seven percent (67%) of the acreage submitted to this Declaration and all of the members of the Committee.

10.3 Recording: No amendments to this Declaration shall be effective unless and until recorded in the office of the Clerk of Court for Jasper County, South Carolina.

ARTICLE 11 MISCELLANEOUS

11.1 Enforcement: Declarant, the Committee or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, lien and charges now or hereafter imposed by the provisions of their Declaration. Failure of Declarant or any Owner to enforce any covenant or restriction shall in no event be deemed a waiver of the right to do so thereafter. In addition, Cypress Woods Corporation, its successors and assigns are third party beneficiaries of the provisions of this Declaration and may enforce any obligation herein directly against the Declarant, the Committee, or the Owner of any Parcel. Neither the Declarant nor the Committee shall be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, bad faith or fraud.

11.2 Severability: Invalidation of any one of the provisions of this Declaration by judgment or court order shall in no way affect any other provisions hereof, which shall remain in full force and effect.

11.3 Term: The covenants, conditions and restrictions of this Declaration shall run with the land and bind the Property for a term of twenty-five (25) years from the date of this Declaration is recorded, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each.

11.4 Captions: The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of this Declaration.

11.5 Gender and Number: All portions used herein shall be deemed to include the masculine, the feminine, the neuter, the singular and the plural, wherever the context requires or permits.

11.6 Rezoning: No Owner or any other person or entity may apply or join in an application to amend, vary or modify the applicable zoning ordinances or rezone or apply for any zoning variance or waiver as to all or any portion of the Property without the prior written consent of Declarant and the Committee where such amendment, variance or modification will materially affect the development or uses of a Parcel or Parcels within the Property. Declarant, with the consent of the Committee, may apply for such rezoning as to any portion of the Property owned by it at anytime.

11.7 Declarant's Lien Rights: Declarant shall have a lien against each Parcel to secure payment of delinquent costs and fees, together with interest, late charges and costs of collection (including attorneys' fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first mortgage of record (meaning any recorded mortgage with first priority over other mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgement, and foreclosure in the same manner as mortgages are foreclosed under South Carolina law.

11.8 Truck Route: Declarant shall utilize its best efforts to facilitate the designation of and will apply to the South Carolina Department of Transportation to request the designation of Highway 278 North to the intersection of Highway 462 East as a truck route providing vehicular access to and serving the Property. In addition, to preserve the tranquility of the area surrounding the Property, Declarant and all Owners and Occupants agree to discourage and prevent the use of Highway 39, also known as Log Hall Road, as a truck route.

165 297

Exhibit A
Property Description

PARCEL I

ALL that certain piece, parcel or tract of land situate, lying and being near Ridgeland, Jasper County, measuring and containing approximately 258.46 acres, more or less, shown as Parcel "B" on that certain plat by T-Square Group, Inc. of Ridgeland, South Carolina dated November 7, 1996 and entitled "A Proposed Boundary Survey of a Portion of Cypress Woods Corp. Near Ridgeland, Jasper County, South Carolina" and recorded simultaneously herewith in Plat Book 22 at Page 233 in the Clerk of Court's Office for Jasper County, said tract of land having such size, shape, dimensions, buttings and boundings as shown on this plat, reference to which is hereby made for a more complete description.

Butting and bounding on the North and West by lands of Cypress Woods Corporation and Parcel A described hereinafter, on the East by SC Highway 652, U.S. Highway 278, lands of Palmetto Electric Co-op and lands of Spilliards and on the South by lands of Ellis Malphrus and lands of C. Malphrus.

ALSO

PARCEL II

ALL that certain piece, parcel or tract of land situate, lying and being near Ridgeland, Jasper County, measuring and containing approximately 100.00 acres, more or less, shown as Parcel A on that certain plat by T-Square Group, Inc. of Ridgeland, South Carolina dated November 25, 1996 and entitled "A Proposed Boundary Survey of a Portion of Cypress Woods Corp. Near Ridgeland, Jasper County, South Carolina" and recorded simultaneously herewith in Plat Book 22 at Page 233 in the Clerk of Court's Office for Jasper County, said tract of land having such size, shape, dimensions, buttings and boundings as shown on this plat, reference to which is hereby made for a more complete description.

Butting and bounding on the North and West by lands of Cypress Woods Corporation, on the South by Parcel B, and on the East by U.S. Highway 278.

EXHIBIT B

DESCRIPTION OF ADDITIONAL PROPERTY

Any property located within one-half mile of the perimeter of the property described on Exhibit "A" and which adjoins or borders the Park or which is separated from the Park only by roads, rights-of-way, waterways, or natural boundaries.

DEED BOOK 105 PAGE 71
DATE 1-14-97
36711 3000
[AUDITOR JASPER COUNTY SC]