

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SEABROOK LANDING is made this 18th day of July, 1995 by SEABROOK LANDING PARTNERSHIP, a South Carolina General Partnership (hereinafter referred to as the "Declarant").

WHEREAS, the Declarant is the owner of certain real property (hereinafter referred to as the "Property") hereinafter called "Seabrook Landing," located in Hilton Head Plantation, Hilton Head Island, Beaufort County, South Carolina, and more particularly described in EXHIBIT "A" attached hereto and incorporated herein by this reference, and Declarant desires to subject such Property to the provisions of this Declaration; and

WHEREAS, Declarant intends by this Declaration to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of property in Seabrook Landing, and to provide a flexible and reasonable procedure for the development of the Property and the administration, maintenance, preservation, use and enjoyment of the Common Areas (as hereinafter defined);

NOW, THEREFORE, Declarant hereby declares that the Property described in EXHIBIT "A" shall be held, transferred, sold, conveyed, leased, occupied and used subject to the following easements, restrictions, covenants, charges, liens and conditions which are for the purpose of protecting the value and desirability of the Property, and which shall touch and concern and run with title to the Property. This Declaration and all provisions hereof shall be binding on all parties having any right, title or interest in or to the Property or any portion thereof, and their respective heirs, successors, successors in title, and assigns, and shall inure to the benefit of each owner thereof.

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

Section 1.1 "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of Seabrook Landing Property Owners Association, Inc., as amended from time to time.

Section 1.2 "Assessment" shall mean and refer to an Owner's share of the Common Expenses or other charges from time to time assessed against an Owner by the Association in the manner herein provided.

Section 1.3 "Association" shall mean and refer to Seabrook Landing Property Owners Association, Inc., a South Carolina non-profit corporation.

Section 1.4 "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

Section 1.5 "By-Laws" shall mean and refer to those By-Laws of Seabrook Landing Property Owners Association, Inc. which govern the administration and operation of the Association, as the same may be amended from time to time, a copy of which is attached hereto as EXHIBIT "B."

Section 1.6 "Common Areas" shall mean and refer to all real and personal property now or hereafter owned by the Association or to be maintained by the Association under the terms hereof for the common use and enjoyment of the Owners. Included within the Common Areas are roads, swimming pool, bath house and related facilities, community dock, signage, common utilities and drainage facilities located within the easements designated as such on the Plat, and such other improvements designated as Common Areas by Declarant. The designation of any land and/or improvements as common areas shall not mean or imply that the public at large acquires any easement of use or enjoyment therein and no such rights in the public shall arise or be created by virtue thereof.

Section 1.7 "Common Expenses" shall mean and refer to all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of reserves, pursuant to the provisions of this Declaration and By-Laws.

Section 1.8 "Declarant" shall mean and refer to Seabrook Landing Partnership, South Carolina partnership, its successors and assigns.

Section 1.9 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, Restrictions and Easements for Seabrook Landing and all amendments hereto filed for record in the R.M.C. Office for Beaufort County, South Carolina.

Section 1.10 "Design Review Committee" or "DRC" shall mean and refer to the Board or committee set forth in the Declaration of Covenants for Hilton Head Plantation as same may be amended from time to time.

Section 1.11 "Dwelling" shall mean and refer to each single family detached residence located upon a Lot and intended for use and occupancy as a single family residence.

Section 1.12 "Foreclosure" shall mean and refer to the judicial foreclosure of a Mortgage or the conveyance of secured property by a deed in lieu of a judicial foreclosure.

Section 1.13 "Institutional Mortgage" shall mean and refer to a Mortgage held by a bank, trust company, insurance company or other recognized lending institution, or by an institutional or governmental purchaser of mortgage loans in the secondary market, such as Federal National Mortgage Association or Federal Home Loan Mortgage Corporation.

Section 1.14 "Lease" shall mean and refer to any lease, sublease or rental contract, whether oral or written, and for a term of hours, days, months or years.

Section 1.15 "Lot" shall mean and refer to any unimproved portion of the Property upon which it is intended that a Dwelling shall be constructed.

Section 1.16 "Mortgage" shall mean and refer to a mortgage, security deed, deed of trust, installment land sales contract or other similar security instrument granting, creating or conveying a lien upon, a security interest in, or a security title to a Lot or Dwelling.

Section 1.17 "Mortgagee" shall mean and refer to the holder of a Mortgage.

Section 1.18 "Occupant" shall mean and refer to any Person occupying or otherwise using a Dwelling within the Property, including without limitation any Owner or any guest, invitee, licensee, lessee, tenant, or family member of an Owner.

Section 1.19 "Owner" shall mean and refer to one or more Persons, including Declarant, who or which own fee simple title to any Lot or Dwelling, excluding, however, those Persons having, an interest solely for the performance of an obligation, such as a Mortgage.

Section 1.20 "Person" shall mean and refer to a natural person, corporation, partnership, association, trust or other legal entity or any combination thereof.

Section 1.21 "Plat" shall mean and refer to that certain plat of Seabrook Landing dated May 31, 1995, and prepared by Thomas & Hutton Engineering Co. which was filed in Plat Book 53 at Page 84 of the Plat Records of the R.M.C. Office for Beaufort County, South Carolina, together with any future revisions thereof.

Section 1.22 "Property" shall mean and refer to that tract or parcel of land described on EXHIBIT "A," together with all improvements presently thereon and subsequently constructed thereon.

ARTICLE II  
PROPERTY SUBJECT TO THIS DECLARATION;  
PLAN OF DEVELOPMENT

Section 2.1 Subject to Declaration. The Property described in EXHIBIT "A," which is owned in fee simple by the Declarant, is hereby made subject to this Declaration and all of the covenants, conditions, restrictions, easements and limitations contained herein. The Property is to be subdivided ultimately into thirty-one (31) Lots, and certain Common Areas, as more fully shown on the Plat. Phase I of the Development is for Nine (9) lots designated as Lots #8 through #16.

Section 2.2 Subject to Other Restrictions. In addition to the covenants, conditions, restrictions and affirmative obligations contained herein, each Lot is also subject to the covenants, conditions, restrictions and obligations contained the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Hilton Head Plantation Property Owners Association and Hilton Head Plantation Company, Inc. recorded in Deed Book 367 at Page 656 and in the Declaration of Rights, Restrictions, Affirmative Obligations, Conditions, Etc. recorded in Deed Book 211 at Page 1470, as amended.

ARTICLE III  
OWNERS' PROPERTY RIGHTS IN COMMON AREAS

Section 3.1 Owners' Easement of Enjoyment. Subject to the provisions of this Declaration and the rules, regulations, fees and charges from time to time established by the Board of Directors in accordance with the By-Laws and the terms hereof, each Owner shall have a non-exclusive right, privilege and easement of access, use and enjoyment in and to the Common Areas, such easement to be appurtenant to and to pass with and run with title held by the Owner. Such rights shall be subject to the right reserved by Declarant for as long as Declarant owns any Lot or Dwelling primarily for the purpose of sale, to make improvements and changes to Common Areas and to all Lots or Dwellings owned by Declarant, including without limitation: (i) installation and maintenance of any improvements in and to the Common Areas; (ii) changes in the location of the boundaries of any Lots or Dwellings owned by Declarant and of the Common Areas; (iii) installation and maintenance of any water, sewer, electric, telephone, cable television and other utility systems and facilities; and (iv) installation of security and refuse facilities. All such rights and easements of Owners are also subject to the following rights of Declarant and the Board of Directors of the Association:

3.1.1 The right of the Association to suspend the enjoyment rights of any Owner in and to the recreational facilities which may be constructed upon the Common Areas for any period during which any assessment remains unpaid by such Owner and for any period not to exceed thirty (30) days from an infraction by such Owner of its published Rules and Regulations.

3.1.2 The right of the Association to dedicate or transfer all or any part of the Common Areas, except recreational facilities, to the Hilton Head Plantation Property Owners Association, Inc. for such purposes and subject to such conditions as may be agreed upon by the Board of Directors, provided that no such dedication or transfer, or determination as to the purposes or the conditions thereof, shall be effective unless seventy-five (75%) percent of the Owners shall vote in favor thereof at a meeting of the Owners called for such purpose, or unless an instrument signed by Owners entitled to cast seventy-five (75%) percent of the eligible votes has been recorded, agreeing to such dedication or transfer, and the purposes or conditions thereof and unless written notice of the action is sent to every Owner at least sixty (60) days in advance of any action taken.

3.1.3 The right of Declarant and of the Association to grant and reserve easements and rights-of-way in, through, under, over and across the Property for the installation, maintenance and inspection, repair, and reconstruction of utilities and drainage facilities, and the right of Declarant to grant and reserve easements and rights-of-way in, through, under, over, upon and across the Property for the completion of the development of the Property.

3.1.4 The right of the Association, with the written consent of seventy-five (75%) percent of the Owners, to mortgage, pledge, or hypothecate any or all of the real and personal property owned by it as security for money borrowed or debts incurred; provided, however, that the rights of any such mortgagee thereunder shall be subordinate to all of the rights of the Owners set forth herein.

Section 3.2 Use of Common Areas. Owners, their families, tenants and guests shall not be charged user fees or similar charges with respect to the use of the Common Areas, and any Owner may assign to the tenant of his Dwelling such Owner's rights of access to and use of the Common Areas so that such tenant, his family and guests shall be entitled to the access to and use of the Common Areas on the same basis as an Owner and his family and guests.

Section 3.3 Multiple Ownership. In the event of any multiple ownership of a Lot, only the Occupant thereof (and his family, guests and invitees) shall be entitled to the use of the recreational amenities at any given time.

Section 3.4 No Partition. There shall be no partition of the Common Areas or any part thereof, nor shall any Person

acquiring any interest in the Property or any part thereof seek judicial partition unless the Property has been removed from the provisions of this Declaration.

Section 3.5 Title to Common Areas. Declarant hereby covenants that after giving ninety (90) days' notice to the Association, but in any event no later than the earlier of January 1, 2000, or the date on which the transfer of all of the Lots has occurred, it will convey the title to the Common Areas to the Association free and clear of any liens and encumbrances, subject, however, to: (1) use restrictions, and (2) other documents of record in the R.M.C. Office for Beaufort County, South Carolina, including but not limited to easements reserved or granted by Declarant over and across the Common Areas for the purpose of access to and maintenance of utilities and drainage systems throughout Seabrook Landing.

Any such deed of conveyance of the Common Areas shall contain the following covenants, which covenants shall be deemed to run with the land and shall be binding upon the Association, its successors and assigns.

In order to preserve and enhance the property values and appearance of Seabrook Landing, the property herein conveyed and all facilities now or hereafter built or installed thereon shall at all times be maintained in a good, clean and attractive condition, the road rights-of-way constructed thereon shall be maintained in a safe condition, and such property shall be operated in accordance with the standards appropriate to a high quality residential area within the plantations on Hilton Head Island.

#### ARTICLE IV EASEMENTS

Section 4.1 Easements for Declarant. During the period that Declarant owns any Lot or Dwelling primarily for the purpose of sale, Declarant shall have an alienable and transferable right and easement on, over, through, under and across the Common Areas and the Lots for the purpose of constructing improvements upon the Common Areas and for installing, maintaining, repairing and replacing such other improvements to the Property (including the improvements within the Common Areas) as are contemplated by this Declaration or as Declarant desires, in its sole discretion, and for the purpose of doing all things reasonably necessary and proper in connection therewith, provided in no event shall Declarant have the obligation to do any of the foregoing unless expressly set forth herein.

Section 4.2 Utility and Drainage Easements. There is hereby created a general easement upon, across, over, in and under

the Common Areas and those portions of the Lots upon which vertical improvements are not to be constructed for ingress and egress and for installation, replacement, repair and maintenance of all utilities and drainage facilities, including but not limited to water, sewer, gas, telephone, electricity, cable television and master communication system. By virtue of this easement it shall be expressly permissible and proper for the companies providing electricity, telephone, cable television and other communication services to install and maintain necessary equipment and to affix and maintain electricity, communications, cable television and telephone wires, conduits, circuits and drainage pipes, catch basins and related facilities. No water, sewer, gas, telephone, electricity, cable television or communications lines, systems or facilities may be installed or relocated on the surface of the Property unless approved by Declarant, except for junction boxes, or other similar equipment which are not installed underground as a matter of policy in order to facilitate repairs or to avoid repairs and maintenance which would be caused by underground installation. Any utility company using this general easement shall use its best efforts to install and maintain the utilities provided for without disturbing the uses of the Owners, the Association and Declarant; shall perform its installation and maintenance activities as promptly and expeditiously as reasonably possible; and shall restore the surface to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by the general easement request a specific easement by separate recordable document, either Declarant or the Association shall have, and are hereby given, the right and authority to grant such easement upon, across, over or under any part or all of the Property without conflicting with the terms of this Declaration. This general easement shall in no way affect, avoid, extinguish or modify any other recorded easement on the Property.

**Section 4.3 Easements for Walls, Fences and Signs.** There is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the alienable, transferable and perpetual right and easement upon, over and across the Common Areas for the installation and maintenance of fences, walls, signs naming the Property, and directional signs and related improvements.

**Section 4.4 Easements for Association.** There is hereby reserved a general right and easement for the benefit of the Association, its Directors, officers, agents and employees, including but not limited to any manager employed by the Association and any employees of such manager, to enter upon any Lot and the Common Areas in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with permission of the Occupant directly affected thereby.

**Section 4.5 Easement for Sales and Construction Offices.** Notwithstanding any provisions or restrictions herein to the contrary, there is hereby reserved for the benefit of Declarant, its successors and assigns, the alienable and transferable right and easement in and to the Property for the maintenance of signs, sales offices, construction offices, business offices and model Dwellings, together with such other facilities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the completion, improvement and sale of Lots, Dwellings, or Common Areas for as long as Declarant owns any Lot or Dwelling primarily for the purpose of sale.

**Section 4.6 Yard Maintenance Easement.** There is hereby reserved for the benefit of Declarant, the Association, and their respective agents, employees, successors and assigns, an alienable, transferable and perpetual right and easement to enter upon any Lot to mow the grass, remove, cut or prune unsightly vegetation, and to remove debris and trash in order to maintain a uniform, attractive appearance throughout Seabrook Landing. The costs of providing such services shall be assessed against the Lot as a special assessment against that Lot as part of the annual general assessments payable by the Lot Owner to the Association to the extent the Association assumes responsibility for maintenance of all yards. If common yard maintenance is not implemented by the Association, and an Owner fails to properly maintain his yard, the Association may do so as herein provided and the costs of same shall be assessed against the Owner as a specific assessment. All such assessments shall be collected by the Association as set forth in Article 9 below.

**Section 4.7 Shoreline Maintenance Easement.** There is hereby reserved for the benefit of Declarant, the Association, and their respective agents, employees, successors and assigns, an alienable, transferable and perpetual right and easement to enter upon any Lot to maintain or repair any damage to Lots caused by extreme high tides, winds, hurricanes or other natural or man-made casualties or disasters (such as oil spills). The costs of such maintenance and repair shall be levied against the affected Lots as an individual assessment in the event the Board of Directors elects to perform such maintenance or repair, which is not an obligation of the Association but which is reserved as a right of the Association.

**Section 4.8 Environmental Easement.** There is hereby reserved for the benefit of Declarant, the Association and their respective agents, employees, successors and assigns, an alienable, transferable and perpetual right and easement on, over and across all Lots to take any action necessary to comply with environmental rules, regulations and procedures from time to time promulgated or instituted by the Board of Directors or by any governmental entity, 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.

Section 4.9 Emergency Service. An easement is hereby reserved for all police, security personnel, fire protection personnel, ambulance attendants and all similar Persons performing emergency services to enter upon any Lot and the Common Areas in the performance of their duties.

Section 4.10 Guard House Easement. There is hereby reserved for Declarant, Association, and their respective agents, employees, representatives, successors and assigns, a permanent easement within the Common Areas for construction, maintenance, repair and replacement of a guard house facility or other security device or devices to control access to Seabrook Landing.

#### ARTICLE V MEMBERSHIP AND VOTING

Section 5.1 Membership. Every Person or entity who or which is a record owner of a fee or undivided fee interest in any portion of the Property shall be a mandatory member of the Association. Membership shall be appurtenant to and may not be separated from such ownership of any Lot, and ownership of a Lot shall be the sole qualification for such membership. In the event that fee title to a Lot is transferred or otherwise conveyed, the membership in the Association which is appurtenant thereto shall automatically pass to the transferee. Persons who hold an interest merely as security for the performance of an obligation shall not be entitled to membership, and the giving of a security interest shall not terminate or otherwise affect an Owner's membership in the Association. Notwithstanding any of the foregoing to the contrary, no Owner, whether one or more Persons, shall have more than one membership per Lot owned.

Section 5.2 Voting. The rights and privileges of membership, including the right to vote and to hold an office in the Association, may be exercised by a member or a member's spouse, but in no event shall more than one vote be cast for each Lot or Dwelling.

Section 5.3 Voting Certificate. When more than one Person holds an interest in any Lot or Dwelling, the vote for such Lot or Dwelling shall be exercised as those Owners of such Lot or Dwelling themselves determine and notify the Secretary of the Association prior to any meeting by a certificate in writing designating such voting member. In the absence of such certificate, the vote appurtenant to such Lot or Dwelling shall be suspended in the event more than one Owner seeks to exercise it. The voting weight appurtenant to each Lot or Dwelling is equal, and each Lot and each Dwelling shall have one vote.

ARTICLE VI  
MAINTENANCE

Section 6.1 Responsibilities of Owners. All Lots and Dwellings shall be maintained in a neat, clean and sanitary condition. Maintenance and repair of the Lots and Dwellings, including the driveways, lawns, landscaping, patios and decks appurtenant thereto shall be the responsibility of the respective Owners. The responsibility for such maintenance shall include the care of all exterior surfaces of the Dwellings, and in the event an Owner fails to perform proper maintenance, the Association hereby has the right but shall not be obligated to maintain the Owner's property pursuant to the easements reserved unto it in Section 4 hereof. All such maintenance expenses will be assessed against the Owner in the method prescribed in Section 9.3.

Section 6.2 Responsibilities of Association. The Association shall maintain and keep all portions of the Common Areas in good repair, which responsibility shall include the maintenance, repair and replacement of: (i) the recreational amenities; (ii) all roads, until transferred to Hilton Head Plantation Property Owners' Association, landscaping, walls, fences, signs and other improvements situated within the Common Areas; and (iii) such utility lines, drainage facilities, pipes, plumbing, wires, conduits and related systems which are a part of the Common Areas and which are not maintained by a public authority, public service district, public or private utility or other Person.

Section 6.3 Power and Authority of Association. In carrying out its duties and responsibilities created under this Declaration, the Association shall have the powers and authority conferred upon it in this Declaration and under the By-Laws, which shall govern the administration of the affairs of the Association.

ARTICLE VII  
INSURANCE AND CASUALTY LOSSES

Section 7.1 Insurance.

7.1.1 The Board of Directors or its duly authorized agents shall obtain and continue in effect adequate property insurance, in such form as the Board deems appropriate, for the benefit of the Association and during all insurable improvements in the Common Areas against loss or damage by fire or other hazards, including without limitation extended coverage, flood, vandalism and malicious mischief. Such coverage shall be in an amount sufficient to cover the full replacement cost (without depreciation) of any repair or reconstruction in the event of damage or destruction from any such hazard subject to such deductible levels as are deemed reasonable by the Board.

7.1.2 The Board or its duly authorized agents shall obtain and continue in effect a public liability policy covering all the Common Areas and all damage or injury caused by the negligence of the Association, its members, its directors and officers, and any of its agents. Such public liability policy shall provide such coverages as are determined to be necessary by the Board of Directors.

7.1.3 The Board or its duly authorized agents shall have the authority and may obtain: (i) worker's compensation insurance to the extent necessary to comply with any applicable law; and (ii) such other types and amounts of insurance as may be determined by the Board to be necessary or desirable, including officers and directors liability insurance.

7.1.4 All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as trustee for each of the Owners and costs of all such coverage shall be a Common Expense. Exclusive authority to adjust losses under policies obtained by the Association and hereafter in force with respect to the Property shall be vested in the Board of Directors; provided, however, that Mortgagees having an interest in such losses may not be prohibited from participating in the settlement negotiations, if any, related thereto.

7.1.5 To the extent possible, all policies shall be written with a company licensed to do business in the State of South Carolina and holding a rating of A-XI or better in such financial categories as established by A.M. Best's Insurance Reports. Insofar as permitted by law, the Association shall be required to make every effort to secure insurance policies with the provisions hereinafter set forth:

(i) Waiver of the insurer's right to cancel without first giving thirty (30) days' prior written notice of such cancellation to the Association and to any Mortgagee to which a mortgagee endorsement has been issued.

(ii) Waiver of subrogation by the insurer as to any claims against the Association, the Association's directors and officers, the Owners and their respective families, servants, agents, tenants, guests and invitees, including without limitation the Association's manager.

(iii) No policy may be cancelled, invalidated or suspended on account of the conduct of one or more of the individual Owners, or their respective families, servants, agents, employees, tenants, guests and invitees, or on account of the acts of any director, officer, employee or agent of the Association or of its manager, without prior demand in writing delivered to the Association to cure the defect and the

allowance of a reasonable time thereafter within which the defect maybe cured.

(iv) Cross-liability endorsements to cover liability of the Association to an individual Owner.

7.1.6 It shall be the individual responsibility of each Owner at his own expense to provide, as he sees fit, public liability, property damage, flood, title and other insurance with respect to his own Lot or Dwelling.

Section 7.2 Damage to or Destruction of Common Areas. Immediately after the damage or destruction by fire or other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance, and the Board shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section 7, means repairing or restoring the damaged property to substantially the same condition in which it existed prior to the fire or other casualty. The Association shall restore or replace such damaged improvements, unless within sixty (60) days following any damage or destruction to all or a part of the Common Areas, Declarant (as long as Declarant owns any Lot primarily for the purpose of sale) and at least seventy-five (75%) percent of the total vote of the Association otherwise agree.

Section 7.3 Special Assessment for Repairs. If the insurance proceeds for such damage or destruction are not sufficient to defray the cost thereof, and such deficiency cannot be appropriated from a reserve fund established for such purpose, the Board of Directors may levy a special assessment against all Owners, without the necessity of a vote, in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction. Such special assessment shall be levied against the Owners equally in the same manner as annual assessments are levied, and additional assessments may be made at any time during or following the completion of any repair or reconstruction. Any and all sums paid to the Association under and by virtue of such assessments shall be held by and for the benefit of the Association together with the insurance proceeds, if any, for such damage or destruction. Such insurance proceeds and assessments shall be disbursed by the Association in payment for such repair or reconstruction pursuant to and in accordance with such method of distribution as is established by the Board of Directors. Any proceeds remaining after defraying such costs shall be retained by and for the benefit of the Association. If it is determined that the damage or destruction for which the insurance proceeds are paid shall not be repaired or reconstructed, such proceeds shall be retained by and for the benefit of the Association, and the portions of the Common

Areas damaged or destroyed by fire or other casualty shall be cleared and left in a clean, orderly, safe and sightly condition.

Section 7.4 Damage to or Destruction of Dwellings. In the event of damage or destruction by fire or other casualty to any Dwelling and if the Owner of such Dwelling elects not to repair or rebuild the damaged or destroyed Dwelling, such Owner shall promptly clear away the debris of any damaged improvements or vegetation and leave such Dwelling, and the Lot upon which it is located, in a clean, orderly, safe and sightly condition. Should such Owner elect to repair or rebuild such Dwelling or other improvements, such Owner shall repair or rebuild such Lot or Dwelling or other improvements to substantially the same condition as existed prior to such fire or other casualty, unless otherwise permitted by the Architectural Review' Committee, and in accordance with all applicable provisions of this Declaration and all applicable zoning, subdivision, building and other governmental regulations. All such work of repair or construction shall be commenced promptly following such damage or destruction and shall be carried through diligently to conclusion.

#### ARTICLE VIII CONDEMNATION

Section 8.1 Condemnation of Common Areas. Whenever all or any part of the Common Areas of the Property shall be taken by any authority having, the power of condemnation or eminent domain, or is conveyed in lieu thereof by the Board acting on the agreement of Declarant (as long as it owns any Lot primarily for the purpose of sale) and at least seventy-five (75%) percent of the total vote of the Association, the award or proceeds made or collected for such taking or sale in lieu thereof shall be payable to the Association and shall be disbursed or held as follows:

8.1.1 If the taking or sale in lieu thereof involves a portion of the Common Areas on which improvements have been constructed, then, unless within sixty (60) days after such taking Declarant (as long as Declarant owns any Lot or Dwelling primarily for the purpose of sale), and at least seventy-five (75%) percent of the total membership of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken, to the extent practicable, on the remaining lands included in the Common Areas which are available therefor. If the awards or proceeds are not sufficient to defray the cost of such repair and replacement and such deficiency cannot be appropriated from a reserve fund established for such purpose, the Board of Directors may levy a special assessment against all Owners, without the necessity of a vote, in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction. Such special assessment shall be levied against the Owners equally in the same manner as annual assessments are levied, and additional special assessments may be made at any time during or following the

completion of any repair or reconstruction. If such improvements are not to be repaired or restored, the award or proceeds shall be retained by and for the benefit of the Association.

8.1.2 If the taking or sale in lieu thereof does not involve any improvements to the Common Areas, or if there are net funds remaining after any restoration or replacement of such improvements is completed, then such award, proceeds or net funds shall be retained by and for the benefit of the Association.

8.1.3 If the taking or sale in lieu thereof includes all or any part of a Lot or Dwelling and also includes any part of the Common Areas, then a court of competent jurisdiction shall apportion such award or proceeds and such award or proceeds shall be disbursed to the Association and the Owners so affected so as to give just compensation to the Owners for their interest in such Lot or Dwelling or the award may be apportioned by the agreement of: (i) the Board of Directors; (ii) the Owners of all affected Lots or Dwellings, together with the Mortgagees for such Lots or Dwellings and (iii) Declarant, as long as Declarant owns any Lot or Dwelling primarily for the purpose of sale.

## Section 8.2 Condemnation of Lots or Dwellings.

8.2.1 In the event that all or any part of a Lot or Dwelling is taken by any authority having, the power of condemnation or eminent domain, or is conveyed in lieu thereof, and the Owner elects not to restore the remainder of the Lot or Dwelling, then such Owner shall promptly clear away any remaining improvements damaged or destroyed by such taking or conveyance and shall leave such Lot or Dwelling and any remaining undamaged improvements thereon in a clean, orderly, safe and sightly condition. In addition, if the size or configuration of such Lot or Dwelling remaining after such taking or conveyance is insufficient to permit the restoration of the remaining improvements thereon or therein to their condition prior to such taking or conveyance in compliance with all applicable standards, restrictions, and provisions of this Declaration and all applicable zoning, subdivision, building and other governmental regulations, then such Owner shall have the option, after clearing away all remaining improvements or portions thereof and placing the remainder in a clean, orderly, safe and sightly condition referred to above, of deeding the remaining portion of the Lot or Dwelling to the Association as a part of the Common Areas.

8.2.2 In the event that any part of a Dwelling is taken by any authority having, the power of condemnation or eminent domain, or is conveyed in lieu thereof, and if the Owner of such Lot or Dwelling elects to restore the remainder of the Dwelling, the Dwelling shall be restored to the same condition it was in prior to such taking or conveyance and in accordance with all applicable provisions of this Declaration and all applicable

zoning, subdivision, building and other governmental regulations. All such work of restoration shall be commenced promptly following such taking or conveyance and shall be carried through diligently to completion.

## ARTICLE IX ASSESSMENTS

**Section 9.1 Purpose of Assessments.** The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and Occupants of the Property and any part thereof, and maintaining the Common Areas and improvements thereon, all as may be more specifically authorized from time to time by the Board of Directors.

**Section 9.2 Creation of Lien and Personal Obligation of Assessments.** Each Owner of a Lot by acceptance of a deed or other transfer of ownership (by devise or otherwise) is deemed to covenant and agree to pay to the Association: (a) annual general assessments; (b) special assessments; and (c) individual or specific assessments which are established pursuant to the provisions of this Declaration, including but not limited to fines as maybe imposed in accordance with Section 12 thereof. Any such assessments, together with late charges, simple interest at the rate of fifteen (15%) percent per annum (or the maximum interest rate allowable under South Carolina law, whichever is less), and court costs and attorneys' fees incurred to enforce or collect such assessments shall be an equitable charge and a continuing lien upon the Lot, the Owner of which is responsible for payment. Each Owner shall be personally liable for assessments coming due while he is the Owner of a Lot, and his grantee shall take title to such Lot subject to the equitable charge and continuing lien therefor as joint debtor, but without prejudice to the rights of such grantee to recover from his grantor any amounts paid by such grantee therefor.

**Section 9.3 Computation of Annual Assessments.** It shall be the duty of the Board, at least thirty (30) days prior to the Association's annual meeting, to prepare a budget covering the estimated Common Expenses during the coming year, such budget to include a capital contribution or reserve account if necessary for the capital needs of the Association. The Board shall cause the budget and the proposed total of the annual assessments to be levied against Lots for the following year to be delivered to each Owner at least fifteen (15) days prior to such meeting. The total annual assessments against Lots shall be divided equally, so that each Lot shall be subject to equal annual assessments. The budget and the annual assessments shall become effective unless disapproved at the annual meeting by either: (i) Declarant, for so long as Declarant has the authority to appoint and remove directors and officers of the Association; or (ii) a vote of a majority of

the Owners who are voting in person or by proxy at such meeting. Notwithstanding the foregoing, in the event the proposed budget is not approved or the Board fails for any reason to determine the Budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget and annual assessments in effect for the then current year shall be increased by ten (10%) percent, and such increased budget shall be implemented for the succeeding year, until a new budget shall have been approved as provided above. If any budget at any time proves inadequate for any reason, then the Board may call a meeting of the Association for the approval of a special assessment as provided in Section 9.4 hereof. The Common Expenses to be funded by the annual assessments may include, but shall not necessarily be limited to, the following:

9.3.1 Management fees and expenses of administration, including legal and accounting fees;

9.3.2 Utility charges for utilities serving the Common Areas and charges for other common services including trash collection and security services, if any such services or charges are provided or paid by the Association;

9.3.3 The cost of any policies of insurance purchased for the benefit of all Owners and the Association as required or permitted by this Declaration, including fire, flood and other hazard coverage, public liability coverage and such other insurance coverage as the Board of Directors determines to be in the interests of the Association and the Owners;

9.3.4 The expenses of maintenance, operation and repair of those portions of the Common Areas which are the responsibility of the Association under the provisions of this Declaration;

9.3.5 The expense of maintenance and repair of the Lots and Dwellings which are the responsibility of the Association under the provisions of this Declaration, if any;

9.3.6 The expenses of maintenance, operation and repair of other amenities and facilities serving the Property, the maintenance, operation and repair of which the Board from time to time determines to be in the best interest of the Association;

9.3.7 The expenses for conducting recreational, cultural or other related programs for the benefit of the Owners and their families, tenants, guests and invitees;

9.3.8 Ad valorem real and personal property taxes assessed and levied against the Common Areas;



9.3.9 Such other expenses as may be determined from time to time by the Board of Directors of the Association to be Common Expenses; and

9.3.10 The establishment and maintenance of a reasonable reserve fund or funds: (a) for maintenance, repair and replacement of the Common Areas; (b) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds; and (c) to cover unforeseen operating contingencies or deficiencies arising from unpaid assessments or liens, as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board of Directors.

9.3.11 The expenses of maintenance, repair and replacement of the guard house or other security devices installed as described in Section 4.11 above, and the expenses of any personnel who perform security services on behalf of the Association.

Section 9.4 Special Assessments. In addition to the annual assessments authorized above, the Association, acting through its Board of Directors, may levy special assessments for Common Expenses provided that, except as otherwise permitted in Sections 7.2 and 8.1.1 hereof, any such assessment shall be approved by: (i) Declarant, as long as Declarant owns any Lot primarily for the purpose of sale; and (ii) by a majority of the votes of the Owners who are voting in person or by proxy at a meeting duly called for this purpose. The Board of Directors may make such special assessments payable in installments over a period which may, in the Board's discretion, extend in excess of the fiscal year in which adopted. Such special assessments are to be prorated among the Lots equally, as provided with respect to annual assessments.

Section 9.5 Individual Assessments. Any expenses of the Association occasioned by the conduct of less than all of the Owners or by the family, tenants, agents, guests or invitees of any Owner shall be specially assessed against such Owners and their respective Lots. The individual assessments provided for in this Section 9.5 shall be levied by the Board of Directors and the amount and due date of such assessment so levied by the Board shall be as specified by the Board.

Section 9.6 Priority of Liens. The liens for assessments created by this Declaration shall be superior to all other liens and encumbrances except for: (i) liens of ad valorem taxes and other liens or assessments having priority by law; and (ii) liens for all sums unpaid on a first priority Institutional Mortgage or on any Mortgage to Declarant, or its affiliates, successors or assigns, and all amounts advanced pursuant to any such Mortgage and secured thereby in accordance with the terms of

such instrument. Notwithstanding the foregoing to the contrary, the subordination of assessments to the lien of such Mortgages shall only apply to such assessments which have become due and payable prior to a foreclosure or acceptance of a deed in lieu thereof.

Section 9.7 Acquisition at Foreclosure Sale. Where the mortgagee of any Institutional Mortgage of record or other purchaser of a Lot or Dwelling obtains title at the foreclosure sale of such a mortgage, such acquirer of title, his successors and assigns, shall not be liable for the share of the Common Expenses or assessments chargeable to such Lot accruing after the date of recording such mortgage but prior to the acquisition of title to such Lot by such acquirer. Such unpaid share of the Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Owners, including such acquirer, his successors and assigns.

Section 9.8 Effect of Nonpayment; Remedies of the Association. Any assessments of an Owner or any portions thereof which are not paid when due shall be delinquent. Any assessment delinquent for a period of more than thirty (30) days after the date when due shall incur a late charge in an amount as may be determined by the Board from time to time and shall commence to accrue simple interest at the rate of fifteen (15%) percent per annum or the maximum interest rate allowed under South Carolina law, whichever is less. The lien of assessments shall attach simultaneously as the same shall become due and payable, and if an assessment has not been paid within thirty (30) days, the entire unpaid balance of the assessment may be accelerated at the option of the Board and be declared due and payable in full. The continuing lien and equitable charge of such assessment shall include the late charge established by the Board of Directors, interest on the principal amount due as aforesaid, all costs of collection (including reasonable attorneys' fees and court costs) and any other amounts provided or permitted hereunder or by law. In the event that the assessment remains unpaid after sixty (60) days from the original due date, the Association may institute suit to collect such amounts and to foreclose its lien. The equitable charge and lien provided for in this Section shall be in favor of the Association, and each Owner acknowledges that the Association and its agents have the right and power to bring all actions against him personally for the collection of such assessments as a debt and to foreclose the aforesaid lien in the same manner as other liens upon real property. The Association shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. No Owner may waive or otherwise escape liability for the assessments provided herein by non-use of the Common Areas or abandonment of his Lot, or otherwise.

Section 9.9 Certificate. Upon the written request of any Owner, a proposed purchaser from any Owner, or any Mortgagee, the Treasurer, any Assistant Treasurer or the manager of the Association shall within ten (10) days after such request furnish a certificate in writing of the unpaid charges due from such Owner. Such certificate shall be conclusive evidence against all but the Owner of the payment of amounts assessed prior to the date of the certificate but not listed therein. A reasonable charge maybe made by the Board of Directors for the issuance of such certificates.

Section 9.10 Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to each Lot on the day on which such Lot is conveyed to a Person by Declarant and shall be due and payable in such manner. and on such schedule as the Board of Directors may provide. Annual assessments and any outstanding special assessments shall be prorated for such Lot according to the number of days then remaining in the fiscal year of the Association. Anything contained herein to the contrary notwithstanding, Declarant shall not be responsible for the payment of annual or special assessments on Lots which it or its affiliates own and which do not contain occupied residences. Furthermore, Declarant shall fund any deficit which may exist between assessments and the annual budget of the Association as long as Declarant has the authority hereunder to appoint and remove directors of the Association; provided, however, that the budget, assessments and deficit, if any, shall be annually reviewed by Declarant and the Board of Directors, and during such period Declarant's obligation for funding deficits shall only be up to the amount of the Association's budget.

Section 9.11 No Abatement of Assessments. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making, of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such assessments being a separate and independent covenant on the part of each Owner.

#### ARTICLE X ARCHITECTURAL REVIEW AND APPROVAL

Seabrook Landing property shall be subject to any and all applicable provisions of recorded Hilton Head Plantation land use restrictions, protective covenants, and building standards for Class "A" Residential properties, including architectural review requirements and the following:

Section 10.1 Individual Lot Entry. In order to establish a continuity to Seabrook Landing, each owner of property in Seabrook Landing shall be required to construct at the entry way to his or her individual lot, entrance walls and an area of matching brick paving in a manner similar to the entrance to Seabrook Landing, on a smaller scale however, with each individual entry being designed, built and located so as to compliment the entry on adjoining and/or adjacent lots.

Section 10.2 Building Restrictions. All Dwellings shall have a minimum of two thousand four hundred (2,400) square feet of enclosed, heated living space, exclusive of decks, patios, porches, garages, carports, and accessory buildings. The minimum square footage of the first floor of all Dwellings shall be controlled by the design guidelines adopted by the Hilton Head Plantation Architectural Review Board, as amended from time to time.

Section 10.3 Street Rights-of-Way. Streets within the Property offered for public dedication must have a minimum right-of-way width of fifty (50') feet, and all costs involved in bringing the right-of-way up to public street standards shall be borne by the Association as a Common Expense.

#### ARTICLE XI USE RESTRICTIONS

Section 11.1 Use of Lots and Dwellings. Except as permitted by Sections 4.5 and 11.7 hereof, each Lot and Dwelling shall be used for single family residential purposes only, and no trade or business of any kind may be carried on therein. The use of a portion of a Dwelling as a personal office by an Owner or his tenant shall not be considered to be a violation of this covenant if such use creates no customer, client, or employee traffic.

Section 11.2 Clotheslines. Except within screened service yards, outside clotheslines or other outside facilities for drying or airing of towels or clothes, etc. are specifically prohibited and shall not be erected, placed or maintained, nor shall any clothing, towels, rugs or other item be hung on any railing, fence, hedge or wall.

Section 11.3 Signs. Except as may be required by legal proceedings, no signs or advertising posters of any kind shall be maintained or permitted within any windows or on the exterior of any improvements located within the Property. Notwithstanding the foregoing, the restrictions of this Section 11.3 shall not apply to Declarant, as long as Declarant owns a Lot primarily for sale. In addition, the Board of Directors, on behalf of the Association, shall have the right to erect reasonable and appropriate signs on any portion of the Common Areas and within those easement areas established in Section 4.3 hereof.

Section 11.4 Pets. No animals, livestock, birds or poultry of any kind shall be raised, bred or kept by any Owner upon any portion of the Property, provided that a reasonable number of generally recognized house pets may be kept in Dwellings, subject to rules and regulations adopted by the Board of Directors, and further provided that such pet or pets are kept or maintained solely as domestic pets and not for any commercial purposes. No pet shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing or confinement of any pet shall be constructed or maintained on any part of the Common Areas. Pets shall be under leash control at all times when walked or exercised in any portion of the Common Areas. Owners of pets shall immediately remove pets' droppings from the Common Areas and dispose of such in trash receptacles. Upon the written request of any Owner, the Board of Directors may conclusively determine, in its sole and absolute discretion, whether a particular pet is a generally recognized house pet or such pet is a nuisance, and the Board shall have the right to require the owner of a particular pet to remove such pet from the Property if such pet is found to be a nuisance or to be in violation of these restrictions. The Board of Directors shall have the further right to fine any Owner (in an amount not to exceed \$50.00 per violation) for the violation of these pet restrictions by such Owner or an Occupant, and an Owner shall be liable to the Association for the cost of repair of any damage to the Common Areas caused by the pet of such Owner or of an Occupant. Any such fine or cost of repair shall be added to and become a part of that portion of any assessment next coming due to which such Lot or Dwelling and its Owner are subject.

Section 11.5 Nuisances. No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the Property, nor shall any nuisance or odors be permitted to exist or operate upon or arise from the Property, so as to render any portion thereof unsanitary, unsightly, offensive or detrimental to persons using or occupying any other portions of the Property. Noxious or offensive activities shall not be carried on in any Lot or Dwelling or in any part of the Common Areas, and each Owner, his family, tenants, guests, invitees, servants and agents shall refrain from any act or use of a Lot or Dwelling or of the Common Areas which could cause disorderly, unsightly or unkempt conditions, or which could cause embarrassment, discomfort, annoyance or nuisance to the Occupants of other portions of the Property or which could result in a cancellation of any insurance for any portion of the Property, or which would be in violation of any law or governmental code or regulation. Without limiting the generality of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security and fire alarm devices used exclusively for such purposes, shall be located, used or placed within the Property. Any Owner, his family, tenants, guests, invitees, servants or agents, who dumps or places any trash or debris upon any portion of the Property shall be Title to the Association for the actual costs of removal thereof

or the sum of Twenty-Five (\$25.00) Dollars, whichever is greater, and such sum shall be added to and become a part of that portion of any assessment next becoming due to which such Owner and his Lot are subject. The development and construction activities for the construction of improvements on the Property shall not be considered a nuisance under this Section 11.7.

Section 11.6 Motor Vehicles, Trailers, Boats, Etc.  
Subject to the terms of Section 11.9 hereof, there shall be no outside storage or parking upon any Lot or within any portion of the Common Areas (other than areas provided therefor within the Common Areas, if any) of any mobile home, trailer (either with or without wheels), motor home, tractor, truck (other than pick-up trucks), commercial vehicles of any type, camper, motorized camper or trailer, boat or other watercraft, boat trailer, motorcycle, motorized bicycle, motorized go-cart or any other related forms of transportation devices. Furthermore, mobile homes, motor homes, campers, trailers of any kind, motorcycles, motorized bicycles, motorized go-carts and other similar vehicles, or any of them, are prohibited from being operated upon any portion of the Property. No Owners or other Occupants of any portion of the Property shall repair or restore any vehicle of any kind upon or within any Lot or within any portion of the Common Areas, except: (i) within enclosed garages; or (ii) for emergency repairs, and then only to the extent necessary to enable the removal thereof to a proper repair facility.

Section 11.7 Sales and Construction Activities.  
Notwithstanding any provisions or restrictions contained in this Declaration to the contrary, it shall be expressly permissible for Declarant and its agents, employees, successors and assigns to maintain and carry on such facilities and activities as may be reasonably required, convenient or incidental to the completion, improvement and sale of Lots and Dwellings, and Common Areas.

Section 11.8 Timesharing. No Lots or Dwellings may be owned under any timesharing, time interval or similar right-to-use programs providing for interval ownership or use.

Section 11.9 Height Restriction. No Dwelling shall be constructed on any Lot higher than forty (40') feet above the existing grade or two (2) habitable stories above a level at approximately existing grade which is used for parking, whichever is lower.

Section 11.10 Short Term Rentals. Short term rental of any Dwelling (daily or week-end) shall not be allowed. Rental for periods greater than six (6) days shall be allowed.

ARTICLE XII  
RULE MAKING

Section 12.1 Rules and Regulations. Subject to the provisions hereof, the Board of Directors may establish reasonable rules and regulations concerning the use of Lots, Dwellings, and the Common Areas, community dock and facilities located thereon. Copies of such rules and regulations and amendments thereto shall be furnished by the Association to all Owners prior to the effective date of such rules and regulations and amendments thereto. Such rules and regulations shall be binding upon the Owners, their families, tenants, guests, invitees, servants and agents, until and unless any such rule or regulation be specifically overruled, cancelled or modified by the Board of Directors or in a regular or special meeting of the Association by the vote of the Owners, in person or by proxy, holding a majority of the total votes in the Association, provided that in the event of such vote, such action must also be approved by Declarant, as long as Declarant owns any Lot primarily for the purpose of sale.

Section 12.2 Authority and Enforcement. Upon the violation of this Declaration, the By-Laws or any rules and regulations duly adopted hereunder, including without limitation the failure to timely pay any assessments, the Board shall have the power: (i) to impose reasonable monetary fines which shall constitute an equitable charge and a continuing lien upon the Lot owned by the violating Owner; (ii) to suspend an Owner's right to vote in the Association; or (iii) to suspend an Owner's right (and the right of such Owner's family, guests and tenants and of the Co-Owners of such Owner and their respective families, guests and tenants) to use any of the recreational amenities in the Common Areas, and the Board shall have the power to impose all or any combination of these sanctions. An Owner shall be subject to the foregoing sanctions in the event of such a violation by such Owner, his family, guests or tenants or by his Co-Owners or the family, guests or tenants of his Co-Owners or the family, guests or tenants of his Co-Owners. Any such suspension of rights may be for the duration of the infraction and for any additional period thereafter, not to exceed thirty (30) days each.

ARTICLE XIII  
GENERAL PROVISIONS

Section 13.1 Control by Declarant. Notwithstanding any other language or provision to the contrary in this Declaration, in the Articles of Incorporation or in the By-Laws of the Association, Declarant hereby retains the right to appoint and remove any member or members of the Board of Directors of the Association and any officer or officers of the Association until December 31, 2000, or the sale of all Lots to third party purchasers, whichever shall first occur. Every grantee of any interest in the Property, by acceptance of a deed or other conveyance of such interest, agrees that Declarant shall have the authority to appoint and remove directors and officers of the Association in accordance with the provisions of this Paragraph. Upon the expiration of the period of

Declarant's right to appoint and remove directors and officers of the Association, a special meeting of the Association shall be called within a reasonable time thereafter. At such special meeting, the Owners may elect a new Board of Directors which shall undertake the responsibilities of the Board of Directors, and Declarant shall deliver all books, accounts and records, which Declarant has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period which Declarant has in its possession.

Section 13.2 Amendments by Declarant. During the period in which Declarant retains the right to appoint and remove any directors and officers of the Association, Declarant may amend this Declaration by an instrument in writing filed and recorded in the Office of the Register of Mesne Conveyance for Beaufort County, South Carolina without the approval of any Owner or Mortgagee; provided, however, that: (i) in the event that such amendment materially alters or changes any Owner's right to the use and enjoyment of his Lot or Dwelling, such amendment shall be valid only upon the written consent of the Owners affected thereby; or (ii) in the event that such amendment would materially and adversely affect the security title and interest of any Mortgagee, such amendment shall be valid only upon the written consent thereto of all such mortgagees so affected. Any amendment made pursuant to this Section 13.2 shall be certified by Declarant as having, been duly approved by Declarant and by such Owners and Mortgagees, if required, and shall be effective only upon recordation or at such later date as shall be specified in the amendment itself. Each Owner, by acceptance of a deed or other conveyance to a Lot or Dwelling, agrees that Declarant shall have the right to amend this Declaration, and that, if requested to do so by Declarant, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Property: (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; (B) if such amendment is necessary to enable any title insurance company to issue title insurance coverage with respect to any Lots or Dwellings subject to this Declaration; (C) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans to enable such lender or purchaser to make or purchase mortgage loans on any Lot or Dwelling or other improvements subject to this Declaration; or (D) if any such amendment is necessary to enable any governmental agency or reputable private insurance company to insure Mortgages on the Lots, Dwellings or other improvements subject to this Declaration.

Section 13.3 Amendments by Association. Amendments to this Declaration, other than those authorized by Section 13.2 hereof, shall be proposed and adopted in the following manner:



13.3.1 Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and shall be delivered to each member of the Association.

13.3.2 At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board of Directors or by members of the Association. Such amendment must be approved by Owners holding at least two-thirds (2/3) of the total votes in the Association; provided, however: (i) that any amendment which materially and adversely affects the security interest of any Mortgagee must be approved by such Mortgagee; and (ii) during any period in which Declarant owns a Lot or Dwelling primarily for the purpose of sale, such amendment must be approved by Declarant.

13.3.3 The consent of the required percentage of the Owners and, where required, Declarant and any Mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment, or, in the alternative, the sworn statement of the President of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded or at such later date as may be specified in the amendment itself.

Section 13.4 Enforcement. Each Owner shall comply strictly with the By-Laws and the published rules and regulations of the Association adopted pursuant to this Declaration, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in this Declaration and in the deed or other instrument of conveyance to his Lot, if any. Failure to comply with any of the same shall be grounds for imposing fines, for suspending voting rights or rights of use in and to the recreational amenities, or for instituting an action to recover sums due, for damages and/or for injunctive relief, such actions to be maintainable by Declarant, the Board of Directors on behalf of the Association or by an aggrieved Owner. Should Declarant or the Association employ legal counsel to enforce any of the foregoing, all costs incurred in such enforcement, including court costs and reasonable attorneys' fees, shall be paid by the violating Owner. Inasmuch as the enforcement of the provisions of this Declaration, the By-Laws and the rules and regulations of the Association are essential for the effectuation of the general plan of development contemplated hereby and for the protection of present and future Owners, it is hereby declared that any breach thereof may not adequately be compensated by recovery of damages, and that Declarant, the Association or any aggrieved Owner, in addition to all other remedies, may require and shall be entitled to the remedy of injunction to restrain any such violation or breach or any threatened violation or breach. No delay, failure or omission on the part of Declarant, the Association or any

aggrieved Owner in exercising any right, power or remedy herein provided shall be construed as an acquiescence thereto or shall be deemed a waiver of the right to enforce such right, power or remedy thereafter as to the same violation or breach, or as to a violation or breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against Declarant or the Association for or on account of any failure to bring any action on account of any violation or breach, or threatened violation or breach, by any Person of the provisions of this Declaration, the By-Laws or any rules and regulations of the Association, however long continued.

Section 13.5 Duration. The provisions of this Declaration shall run with and bind title to the Property, shall be binding upon and inure to the benefit of all Owners and Mortgagees and their respective heirs, executors, legal representatives, successors and assigns, and shall be and remain in effect for a period of twenty-five (25) years from and after the date of the recording of this Declaration, provided that rights and easements which are stated herein to have a longer duration shall have such longer duration. Upon the expiration of said twenty-five (25) year period, this Declaration shall be automatically renewed for successive ten (10) year periods; provided, however, that there shall be no renewal or extension of this Declaration if, during the last year of the initial twenty-five (25) year period or the last year of any ten (10) year renewal period, seventy-five (75%) percent of the total votes of members of the Association are cast in favor of terminating this Declaration at the end of the then current term. In the event that members of the Association vote to terminate this Declaration, an instrument evidencing such termination shall be filed of record in the Office of the Clerk of Court for Beaufort County, South Carolina, such instrument to contain a certificate wherein the President of the Association certifies under oath that such termination was duly adopted by the requisite number of votes. Every purchaser or grantee of any interest in the Property, by acceptance of a deed or other conveyance therefor, thereby agrees that the provisions of this Declaration shall run with and bind title to the Property as provided hereby.

Section 13.6 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Rose Kennedy, mother of the former President of the United States of America, John F. Kennedy.

Section 13.7 Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction

which, in the opinion of Declarant or the Board of Directors, will best effect the intent of the plan of development of the Property. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Declaration shall be the date of its filing for record in the Office of the Clerk of Court for Beaufort County, South Carolina. The captions of each Section and Paragraph hereof as to the contents of each Section and Paragraph are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular Section or Paragraph to which they refer. This Declaration shall be construed under and in accordance with the laws of the State of South Carolina.

Section 13.8 Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 13.9 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any Person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

Section 13.10 Rights of Third Parties. This Declaration shall be recorded for the benefit of Declarant, the Owners and their Mortgagees as herein provided, and by such recording, no adjoining property owner or third party shall have any right, title or interest whatsoever in the Property, except as provided herein, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof.

Section 13.11 Notice of Sale, Lease or Mortgage. In the event an Owner sells, leases, mortgages or otherwise disposes of any Lot or Dwelling, the Owner must promptly furnish to the Association in writing the name and address of such purchaser, lessee, mortgagee or transferee.

Section 13.12 No Trespass. Whenever the Association, Declarant, the DRC and their respective successors, assigns, agents or employees are permitted by this Declaration to enter upon or correct, repair, clean, maintain, preserve or do any other action

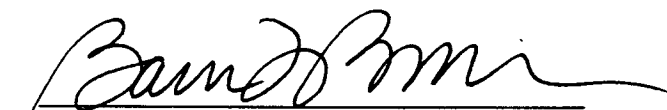
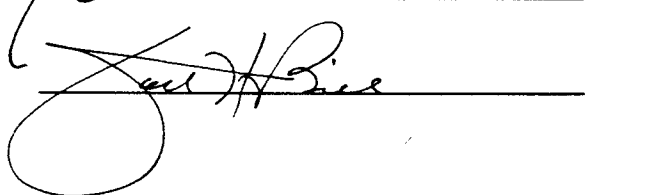
within any portion of the Property, the entering thereon and the taking of such action shall not deem to be trespass.

Section 13.13 Notices. Notices required hereunder shall be in writing and shall be delivered by hand or sent by United States mail, postage prepaid. All notices to Owners shall be delivered or sent to such addresses as have been designated in writing to the Association, or if no address has been so designated, at the addresses of such Owners' respective Lots or Dwellings. All notices to the Association shall be delivered or sent to such address as the Association may from time to time notify the Owners. All notices to Declarant shall be delivered or sent to Declarant at Declarant's main office on Hilton Head Island, Beaufort County, South Carolina, or to such other address as Declarant may from time to time notify the Association. Notices to Mortgagees shall be delivered or sent to such addresses as such Mortgagees specify in writing to the Association.

IN WITNESS WHEREOF, the duly authorized Managing Partner of the undersigned Declarant has executed this Declaration under seal this 18th day of July, 1995.

Signed, sealed and delivered  
in the presence of:

DECLARANT:  
SEABROOK LANDING  
A South Carolina General  
Partnership

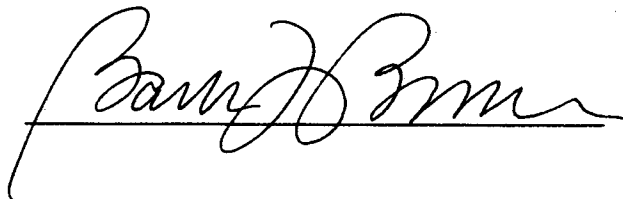
By: D. S. Ham

By: \_\_\_\_\_

STATE OF SOUTH CAROLINA       )  
   )  
 COUNTY       OF       BEAUFORT       )

PROBATE

PERSONALLY appeared before me BARBARA L. BRESSERS,  
 who states on oath that She saw the within named Seabrook Landing,  
 A South Carolina General Partnership, by its Managing Partner, as  
 its act and deed, sign, seal and deliver the within and foregoing  
 Declaration of Covenants, Conditions, Restrictions and Easements,  
 and that She with JACK H. BIE  
 witnessed the execution thereof.



SWORN to before me this 18<sup>th</sup>  
 day of July, 1995.

 (L.S.)  
 Notary Public for South Carolina

My Commission Expires: 7/21/97  
 [NOTARIAL SEAL]

## EXHIBIT "A"

DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND  
EASEMENTS FOR SEABROOK LANDING

ALL that certain piece, parcel or lot of land lying and being within Hilton Head Plantation, Hilton head Island, Beaufort County, South Carolina, containing 42.732 acres, more or less, which parcel of land is shown and designated on that certain plat of survey entitled "A Plat of Area 'B-B North', A Section of Hilton Head Plantation", dated October 21, 1985 and prepared by Thomas & Hutton Engineering Company, William G. Foster, South Carolina Registered Land Surveyor No. 2753, which plat is recorded in the RMC Office for South Carolina in Plat Book 33 at Page 134. Said Parcel having such size, shape, location, and dimensions as will appear by reference to said plat survey.