

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR ATLANTIC POINTE

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ATLANTIC POINTE is made this 7<sup>th</sup> day of September, 1984 by W.G. SEINSHEIMER COMPANIES, INC., a South Carolina corporation (hereinafter referred to as the "Declarant").

WITNESSETH:

WHEREAS, the Declarant is the owner of certain real property (hereinafter referred to as the "Property") hereinafter called "Atlantic Pointe," located in Sea Pines 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 Atlantic Pointe, 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 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.

1. DEFINITIONS. 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:

1.1 "Amenity User" shall mean and refer to those Owners of Lot 20 (and Lot 20A or Lot 20A and Lot 20B if Lot 20 is subdivided in to two or three Lots), Lots 21 through 25, and the Owner of the unnumbered Lot lying between Lot 20 and Lot 13, as shown on the Plat, to whom Declarant has or may hereafter grant easements for pedestrian access over and across the roads and the beach access easement shown on the Plat and for access to and use of the recreational amenities located on

the Common Areas, and their heirs, successors and assigns in title to said Lots.

1.2 "Architectural Review Committee" or "ARC" shall mean and refer to the Declarant or the committee which the Board of Directors may appoint to approve exterior and structural improvements, additions and changes within the Property, as provided in Section 10 hereof.

1.3 "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of Atlantic Pointe Owners' Association, Inc., as amended from time to time.

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

1.5 "Association" shall mean and refer to Atlantic Pointe Property Owners Association, Inc., a South Carolina non-profit corporation.

1.6 "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.

1.7 "By-Laws" shall mean and refer to those By-Laws of Atlantic Pointe 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."

1.8 "Common Areas" shall mean and refer to all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners. Included within the Common Areas are roads, swimming pool, bath house and related facilities, tennis court, signage, 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.

1.9 "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.

1.10 "Declarant" shall mean and refer to W.G. Seinsheimer Companies, Inc., a South Carolina corporation, its successors and assigns.

1.11 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Atlantic Pointe and all amendments hereto filed for record in the Office of the Clerk of Court for Beaufort County, South Carolina.

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

1.13 "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.

1.14 "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.

1.15 "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.

1.16 "Living Space" shall mean and refer to enclosed and covered areas within a Dwelling, as well as the garages, decks, balconies and storage areas attached to or serving such Living Space.

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

1.18 "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.

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

1.20 "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.

1.21 "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.

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

1.23 "Plat" shall mean and refer to that certain plat of Atlantic Pointe dated August, and prepared by Thomas & Hutton Engineering Co. which is filed in Plat Book \_\_\_\_\_ at Page \_\_\_\_\_ of the Plat Records of the Clerk of Court for Beaufort County, South Carolina, together with any future revisions thereof.

1.24 "Property" shall mean and refer to those tracts or parcels of land described on EXHIBIT "A," together with all improvements presently thereon and subsequently constructed thereon.

## 2. PROPERTY SUBJECT TO THIS DECLARATION; PLAN OF DEVELOPMENT

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 into nineteen (19) Lots, and certain Common Areas, as more fully shown on the Plat.

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 Declaration of Class "A" Covenants, Conditions and Restrictions for Sea Pines Plantation recorded in Deed Book \_\_\_\_\_ at Page \_\_\_\_\_ and in the Declaration of Covenants and Restrictions By Sea Pines Plantation Company, Inc. recorded in Deed Book 224 at Page 1036.

## 3. OWNERS' PROPERTY RIGHTS IN COMMON AREAS

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 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 Easements now or hereafter granted by Declarant for pedestrian access over and across the roads and the beach access easement shown on the Plat and for access to and use of the recreational amenities located on the Common Areas; provided, however, that such easements may only be granted by Declarant to the Amenity Users as such term is defined in Paragraph 1.1 above.

3.1.2 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.

3.1.3 The right of the Association to dedicate or transfer all or any part of the Common Areas, except recreational facilities, to the Association of Sea Pines Plantation Property Owners, 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.

3.1.4 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.

3.1.5 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.

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.

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.

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.

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, 1987, 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 Office of the Clerk of Court for Beaufort County, South Carolina, including but not limited to:

3.5.1 Easements granted or reserved by Declarant over and across the road rights-of-way and other Common Areas.

3.5.2 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 Atlantic Pointe.

3.5.3 Utility easements granted, transferred or dedicated by Declarant to public or private utility companies.

3.5.4 Easements permitting pedestrian access to the beach along the beach access, as designated on the Plat.

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 Atlantic Pointe, 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.

#### 4. EASEMENTS

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.

4.2 Easements for Utilities. There is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the alienable, transferable and perpetual right to grant and accept easements to and from any private or public authority, any agency, public service district, public or private utility or other Person upon, over, under and across all of the road rights-of-way, Common Areas and those strips of land designated as utility easements shown on the Plat for the purpose of installing, replacing, repairing, and maintaining all utilities, including but not limited to storm sewers and drainage systems and electrical, gas, telephone, cable television, water and sewer lines. Such easements may be granted or accepted by Declarant, its successors or assigns, or by the Board of Directors; provided, however, that as long as Declarant owns any Lot primarily for the purpose of sale, the Board of Directors must obtain the written consent of Declarant prior to granting or accepting any such easements. To the extent possible, all utility lines and facilities serving the Property and located therein shall be located underground. By virtue of this easement, it shall be expressly permissible (subject to all restrictions of record) for the Person or company providing the service for which the easement is necessary: (i) to install and maintain pipes, lines, manholes, pumps and other necessary equipment and facilities; (ii) to cut and remove trees, bushes or shrubbery; and (iii) to grade, excavate or fill, if any of the above is reasonably necessary to provide economical and safe installation, maintenance, repair, replacement and use of such utilities and systems.

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.

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.

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.

4.6 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 or remove trash if the Owner fails to do so to maintain reasonable standards of health, fire safety and appearance. The costs of providing such services shall be assessed against the Lot as a special assessment against that Lot only.

4.7 Common Driveway Easements. The Owners of Lots 1, 2 and 3 shall share a common driveway over and across that portion of Lot 2 designated as "Lots 1, 2 & 3 Driveway Easement," and the Owner of Lot 2, by acceptance of a deed to such Lot, is deemed to convey to the Owners of Lots 1 and 3 a permanent, non-exclusive easement over said portion of Lot 2 for ingress to and egress from the Dwellings to be constructed on such Lots 1 and 3. The Owners of Lots 5 and 6 and the Owners of Lots 8 and 9 shall also share common driveways, as shown on the Plat, and each such Owner, by acceptance of a deed to a Lot, is deemed to grant a reciprocal, permanent, non-exclusive easement to the other Owner for ingress to and egress from the Dwellings to be constructed on such Lots over and across that portion of the Lots designated as "Lots 5 & 6 Driveway Easement" and "Lots 8 & 9 Driveway Easement" respectively. As to all such common driveways, not more than fifteen (15') feet in width may be cleared, the location of which must be approved by Declarant or the ARC as appropriate. The costs of maintenance of such common driveways shall be borne equally by the parties using such driveways.

4.8 View Easements. As shown on the Plat, certain of the Lots are subject to View Easements, the area and location of said easements being shown on said Plat in the shaded areas. No improvements or plantings may be placed in such View Easements which would in any way obstruct said view.

4.9 Beach Access Easement. Lot 13 shall be subject to a pedestrian beach access easement measuring five (5') feet in width as shown on the Plat and designated "5' Ocean Pines Beach Access Easement."

4.10 Vehicular Turn-Around Easement. Lots 11, 12 and 13 are subject to a permanent, non-exclusive easement over and across those portions of said Lots contained within the area designated as "Vehicular Turn-Around Easement" for use by operators of automobiles and other vehicles for the purpose of turning such vehicles around. Such easement shall be used only for such purposes and may not be used for parking.

4.11 Golf Course Maintenance Easement. Each Lot adjoining the Sea Pines Golf Course is subject to a Golf Course Maintenance Easement as shown on the Plat.

4.12 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.

4.13 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.

## 5. MEMBERSHIP AND VOTING

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.

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.

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.

## 6. MAINTENANCE

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 Paragraph 9.5.

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, landscaping, walls, fences, signs and other improvements situated within the Common Areas; and (iii) such utility lines, 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.

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.

## 7. INSURANCE AND CASUALTY LOSSES FILED IN DEED - C BOOK 483 PAGE 10

FILED AT 142800 ON 09/10/84

### 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 insuring 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 may be cured.

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

7.1.5 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.

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.

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.

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.

## 8. CONDEMNATION

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 extend 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.

## 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.

## 9. ASSESSMENTS

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.

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 may be imposed in accordance with Section 12 hereof. 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.

9.3 Creation of Lien and Personal Obligation of Amenity Users. Each Amenity User (as defined in Paragraph 1.1 above) shall also be personally liable for the payment to the Association of the assessments discussed in Paragraph 9.2 above; provided that all assessments payable by Amenity Users shall be based upon and used to defray only those Common Expenses specifically incurred or to be incurred in the maintenance, repair and operation of the recreational amenities, including the costs of any insurance related thereto, and the maintenance and repair of the beach access easement shown on the Plat and the boardwalk constructed therein. Likewise, the Association may enforce the lien of such assessments against the Lot owned by such Amenity User described in the easement by which the right to use the amenities is granted, and the Amenity User, by acceptance of such easement, grants the Association an equitable charge and lien upon such property to secure the payment of such assessments. An Amenity User can withdraw his Lot permanently with thirty (30) days' notice to the Association with no further assessment after said notice. Amenity Users shall be given thirty (30) days' notice of any special assessment or increase in other assessments and may withdraw during said notice period without liability for such special assessments or increased assessment.

**9.4 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 and Amenity User 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 and Amenity Users shall be divided equally, so that each Lot shall be subject to equal annual assessments and each Amenity User shall likewise be subject to equal annual assessments for the Common Expenses enumerated in Paragraph 9.3. 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 Paragraph 10.4 hereof. The Common Expenses to be funded by the annual assessments may include, but shall not necessarily be limited to, the following:

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

9.4.2 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;

9.4.3 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;

9.4.4 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;

9.4.5 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;

9.4.6 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;

9.4.7 The expenses of the ARC which are not defrayed by plan review charges;

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

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

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

9.4.11 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.

9.5 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 Paragraphs 7.2 and 8.1 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.

9.6 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 Paragraph 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.

9.7 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.

9.8 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.

9.9 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.

9.10 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 may be made by the Board of Directors for the issuance of such certificates.

9.11 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.

9.12 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.

10. ARCHITECTURAL REVIEW AND APPROVAL. In addition to any and all applicable provisions of recorded Sea Pines Plantation land use restrictions, protective covenants, and building standards for Class "A" Residential properties, including architectural review requirements, the following shall also apply to the Property.

10.1 Architectural Review Committee. Declarant shall act as the Architectural Review Committee until such time as it delegates such right to the Board of Directors which, at such time, shall establish the Architectural Review Committee (the "ARC") consisting of up to five (5) but not less than three (3) members, all of whom must be Owners after

the termination of the Declarant's right to appoint and remove officers and directors of the Association. The regular term of office for each member of the ARC shall be one (1) year, coinciding with the fiscal year of the Association. Any ARC member appointed by the Board may be removed with or without cause by the Board at any time by written notice to such appointee, and any successor appointed to fill such vacancy shall serve the remainder of the term of the former member. Notwithstanding the foregoing to the contrary, any member appointed to the ARC by the Board shall be subject to the prior approval of Declarant until three (3) years after the date on which Declarant's right to appoint and remove officers and directors of the Association terminates. The ARC shall elect a chairman and he, or in his absence the vice chairman, shall be the presiding officer at its meetings. The ARC shall meet at least once every three (3) months, as well as upon call of the chairman, and all meetings shall be held at such places as may be designated by the chairman. A majority of the members shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of those present at a meeting shall constitute the action of the ARC on any matter before it. The ARC is authorized to retain the services of consulting architects, landscape architects, urban designers, engineers, inspectors, and attorneys in order to advise and assist it in performing its functions set forth herein. The ARC may promulgate application policies and procedures for general distribution to Owners, contractors and builders who seek to construct improvements upon any portion of the Property, who shall be governed thereby. Each member of the ARC may be paid a stipend or honorarium as from time to time determined by the Board.

FILED IN DEED - C BOOK 403 PAGE 20  
FILED AT 142000 ON 09/10/84

## 10.2 Architectural Approval.

10.2.1 To preserve the architectural and aesthetic appearance of the Property, no construction of improvements of any nature whatsoever shall be commenced or maintained by any Owner, other than Declarant, with respect to the construction or exterior of any Dwelling or with respect to any other portion of the Property, including, without limitation, the construction or installation of sidewalks, driveways, parking lots, mail boxes, decks, patios, courtyards, swimming pools, greenhouses, playhouses, awnings, walls, fences, exterior lights, garages or other outbuildings, nor shall any exterior addition to or change or alteration therein be made (including without limitation painting or staining of any exterior surface), unless and until two (2) copies of the plans and specifications and related data required under the policies and procedures adopted by the ARC showing the nature, color, type, shape, height, materials and location of the same shall have been submitted to the ARC.

10.2.2 Within ten (10) days after receipt of such plans and specifications, the ARC will review them in order to evaluate the harmony of external design, location and appearance of the improvements to be constructed in relation to the surrounding structures and topography. After such review, the ARC shall either approve or

disapprove the construction of the proposed improvements. One copy of such plans, specifications and related data so submitted shall be retained in the records of the ARC, and the other copy shall be returned to the Owner marked approved or disapproved, which approvals may be made subject to conditions imposed by the Board in its discretion. If disapproved, the applicant shall be informed of the reasons therefor and advised of the corrective measures or changes which must be taken or made to obtain the Board's approval.

10.2.3 The ARC shall establish a fee sufficient to cover the expense of reviewing plans and related data and to compensate any consulting architects, landscape architects, urban designers, inspectors or attorneys retained in accordance with the terms hereof. The fee initially established for such review shall be One Hundred Fifty (\$150.00) Dollars for each submission, and the ARC shall have the right to increase this amount from time to time to cover its expenses.

10.2.4 Notwithstanding the foregoing, an Owner may make interior improvements and alterations within his Dwelling, and Association may make interior improvements or alterations within or to any building or structure which it owns or maintains, without the necessity of approval or review by the ARC.

10.2.5 The ARC shall have the sole discretion to determine whether plans and specifications submitted for approval are acceptable to the Association.

10.2.6 Following approval of any plans and specifications by the Board, representatives of the ARC shall have the right during reasonable hours to enter upon and inspect any Lot or Dwelling or other improvements with respect to which construction is underway to determine whether or not the approved plans and specifications are being followed. In the event the ARC shall determine that such plans and specifications have not been approved or are not being complied with, the ARC shall be entitled to enjoin further construction and to require the removal or correction of any work in place which does not comply with the approved plans and specifications.

10.2.7 In the event that the Board fails to approve or disapprove in writing any proposed plans and specifications within thirty (30) days after such plans and specifications shall have been submitted to the ARC, such plans and specifications will be deemed to have been expressly approved. Upon approval of the plans and

FILED IN DEED - C BOOK 483 PAGE 21  
FILED AT 142000 ON 09/10/84

specifications, no further approval under this Paragraph shall be required with respect thereto, unless such construction has not substantially commenced within six (6) months after the approval of such plans and specifications or unless such plans and specifications are materially altered or changed. Rejection of plans and specifications may be based by the Board upon any ground which is consistent with the objects and purposes of this Declaration, including purely aesthetic considerations, so long as such grounds are not arbitrary or capricious. The provisions of this Paragraph shall not apply to the development and construction of improvements by Declarant.

10.3 Approval Not a Guarantee. The approval of plans and specifications and the publication of architectural standards by the ARC shall not be construed as representing or implying that such plans, specifications or standards will, if followed, result in properly designed improvements. Such approvals and standards shall in no event be construed as representing or guaranteeing that any Dwelling or other improvement built in accordance therewith will be built in a good and workmanlike manner. Neither Declarant, the Association, nor the ARC shall be responsible or liable for any defects in any plans or specifications submitted, revised or approved pursuant to the terms of this Section 10, or any defects in construction performed pursuant to such plans and specifications.

#### 10.4 Construction of Improvements.

10.4.1 All buildings, structures or other improvements on or with respect to any Lot or Dwelling, including decks, porches, and patios, fences and pools, etc. shall be located only within the "Structural Set-Back Lines" specified on the Plat, except with respect to Lot 13, as to which any buildings must be erected only within the "Building Set-Back Lines" and any decks or porches located within the Structural Set-Back Lines shall not exceed the height of the first habitable floor line of the building except for railings. To assure that Dwellings and other structures will be located so that the optimum view, privacy and breeze will be available to each Dwelling or structure, Dwellings and structures will be located with regard to the topography of each Lot or Dwelling taking into consideration the location of trees and vegetation and other aesthetic and environmental considerations, as well as the precise site and location of any other Dwellings or structures within the Property.

10.4.2 Dwellings may not be temporarily or permanently occupied until the exteriors thereof have been completed, and no temporary house, shack, trailer, tent, barn or other outbuilding shall be permitted on any Lot or Dwelling at any time except as allowed under Paragraph 4.5 and except for temporary structures for social functions as may be permitted by the rules and regulations promulgated by the

FILED IN DEED - C BOOK 403 PAGE 22  
FILED AT 142800 ON 09/10/84

Board. During the continuance of construction by an Owner, such Owner shall require its contractors to maintain the Lot or Dwelling in a reasonably clean and uncluttered condition and, to the extent possible, all construction trash and debris shall be kept within refuse containers. Upon completion of construction, such Owner shall cause its contractors to immediately remove all equipment, tools and construction material and debris from the Lot.

10.5 Service Yards. Each Owner shall provide visually-screened areas to serve as service yards in which garbage receptacles, fuel tanks, gas and electric meters, air conditioning equipment, and materials, supplies and equipment which are stored outside by Owners must be placed or stored in order to conceal them from view from roads and adjacent properties.

10.6 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, etc.

10.7 Beach Dune Areas. No building or other structure shall be located or constructed in such a manner as to destroy, undermine, or alter any natural sand dune or destroy or disturb dune vegetation. No structure shall be constructed within seventy-five (75') feet landward of the mean high water mark or forty (40') feet landward of the crest of the primary dune, whichever is greater, except for beach boardwalks or structures the specific purpose of which is to protect or improve the beach and dune.

10.8 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.

10.9 Lot 13. Lot 13 only shall be subject to a covenant running with the land, in perpetuity, in favor of the owner of the land lying to the southwesterly of Lot 13 and now known as Lot 20 (and Lot 20A or 20A and 20B if Lot 20 is subdivided into two or three Lots) which shall allow the construction of a single family townhome located no closer than ten (10') feet from the southwesterly property line of Lot 13 in the event, and only in the event, that the owner of such property has obtained all approvals as may be required by any applicable owners association, plans approval board, state or local governmental agency.

## 11. USE RESTRICTIONS

11.1 Use of Lots and Dwellings. Except as permitted by Paragraphs 4.5 and 11.9 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.

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.

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 Paragraph 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 Paragraph 4.3 hereof.

11.4 Antennas. No television antenna, radio receiver or other similar device shall be attached to or installed on Dwelling, unless contained entirely within the interior of a building or other structure and not visible from other Lots.

11.5 Water Wells and Septic Tanks. No private water wells may be drilled or maintained on any Lot, and no septic tanks or similar sewage facilities may be installed or maintained on any Lot.

11.6 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 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, subject to Paragraph 13.3 hereof, 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.

11.7 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 liable 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 Paragraph 11.7.

11.8 Motor Vehicles, Trailers, Boats, Etc. Subject to the terms of Paragraph 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, although not expressly prohibited hereby, the Board of Directors may at any time prohibit mobile homes, motor homes, campers, trailers of any kind, motorcycles, motorized bicycles, motorized go-carts and other similar vehicles, or any of them, from being operated upon any portion of the Property if, in the opinion of the Board of Directors, such prohibition shall be in the best interests 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 workshops; or (ii) for emergency repairs, and then only to the extent necessary to enable the removal thereof to a proper repair facility.

11.9 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.

11.10 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.

11.11 No Interference With Drainage. There shall be no interference with the flow through the drainage ditches located on Lots 18 and 19 shown on the Plat, which ditches may be changed in configuration as lagoons with the express written approval of the Sea Pines Company or its designated agent.

11.12 Height Restriction. No Dwelling shall be constructed on any Lot higher than forty-five (45') 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.

11.13 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.

FILED IN DEED - C BOOK 403 PAGE 26  
FILED AT 142000 ON 09/10/84

## 12. RULE MAKING

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 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.

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.

### 13. GENERAL PROVISIONS

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, 1989, 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.

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 Clerk of Court 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 Paragraph 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.

13.3 Amendments by Association. Amendments to this Declaration, other than those authorized by Paragraph 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.

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.

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.

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.

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.

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.

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.

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.

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.

13.12 No Trespass. Whenever the Association, Declarant, the ARC 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.

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 officers of the undersigned Declarant have executed this Declaration under seal this 7<sup>th</sup> day of September, 1984.

Signed, sealed and delivered in the presence of:

DECLARANT:  
W.G. SEINSHEIMER COMPANIES, INC.  
An OHIO Corporation

[Signature]  
[Signature]

By: [Signature]  
Its President

FILED IN DEED - C BOOK 403 PAGE 31  
FILED AT 142000 ON 09/10/84

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

PROBATE

PERSONALLY appeared before me J. Wiley ELLIS who states on oath that he saw the within named W.G. SEINSHEIMER COMPANIES, INC., by Walter G. Seinsheimer, Jr., its President, as its act and deed, sign, seal and deliver the within and foregoing Declaration of Covenants, Conditions and Restrictions, and that he with Michael B. McKeithen witnessed the execution thereof.

J. Wiley Ellis

SWORN to before me this 7<sup>th</sup> day of September, 1984.

Michael B. McKeithen (L.S.)  
Notary Public for South Carolina

My Commission Expires: Notary Public, South Carolina  
My Commission Expires: Aug. 11, 1991

[NOTARIAL SEAL]

FILED IN DEED - C BOOK 483 PAGE 32  
FILED AT 142000 ON 09/10/84

DB 408 p 1267

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )

FIRST AMENDMENT TO  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR ATLANTIC POINTE

This First Amendment to Declaration of Covenants, Conditions and Restrictions for Atlantic Pointe (the "First Amendment") is executed this 21<sup>st</sup> day of November, 1984.

WHEREAS, W.G. Seinsheimer Companies, Inc. (the "Declarant") executed that certain Declaration of Covenants, Conditions and Restrictions for Atlantic Pointe (the "Declaration") dated September 7, 1984 and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina in Deed Book 403 at Page 1 and re-recorded in Deed Book 405 at Page 459; and

WHEREAS, Declarant is now minded to execute this First Amendment to correct certain typographical errors contained in the Declaration.

NOW, THEREFORE, Declarant hereby declares that the Declaration is amended as follows:

1. Paragraph 9.4 is amended to read as follows to correct a typographical error by changing the reference to Paragraph 10.4 in the next to last sentence to Paragraph 9.5:

9.4 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 and Amenity User 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 and Amenity Users shall be divided equally, so

WGS.09 HQC26Z

that each Lot shall be subject to equal annual assessments and each Amenity User shall likewise be subject to equal annual assessments for the Common Expenses enumerated in Paragraph 9.3. 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 Paragraph 9.5 hereof. The Common Expenses to be funded by the annual assessments may include, but shall not necessarily be limited to, the following:

2. Paragraphs 9.5 and 9.6 are amended to read as follows to correct typographical errors in the Paragraph references contained therein:

9.5 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 Paragraphs 7.3 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.

9.6 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

WGS.09 MOC252

provided for in this Paragraph 9.6 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.

3. Paragraph 11.6 is amended to read as follows to delete the reference to Paragraph 13.3 contained in the next to last sentence thereof:

11.6 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 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.

Except as herein amended, the Declaration remains in full force and effect and is hereby ratified and confirmed.

IN WITNESS WHEREOF, Declarant has executed this First Amendment the day and year first above written.

wGS.09 MQC262

WITNESSES:

DECLARANT:  
W.G. SEINSHEIMER COMPANIES, INC.

Carol E. Christie

By: Walter G. Seinsheimer, Jr.  
Vice President

Judith C. Harrison

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

PROBATE

PERSONALLY appeared before me CAROLE E. CHRISTIE,  
who states on oath that he saw the within named W.G. Seinsheimer  
Companies, Inc. by Walter G. Seinsheimer, Jr., its President, as its act  
and deed, sign, seal and deliver the within and foregoing First  
Amendment to Declaration of Covenants, Conditions and Restrictions for  
Atlantic Pointe, and that he with JUDITH C. HARRISON  
witnessed the execution thereof.

Carol E. Christie

SWORN to and subscribed before me  
this 29<sup>th</sup> day of November, 1984.

Judith C. Harrison (L.S.)  
Notary Public for South Carolina

My Commission Expires:

JUDITH C. HARRISON  
South Carolina State at Large  
My Commission Expires July 9, 1994

FILED IN 1984 - 11-29-84  
FILED IN 100-000  
RECORDING FEE  
STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA                    )  
COUNTY OF BEAUFORT                        ) SECOND AMENDMENT TO DECLARATION  
  ) OF COVENANTS, CONDITIONS AND  
  ) RESTRICTIONS FOR ATLANTIC POINTE

THIS Second Amendment to Declaration of Covenants, Conditions and Restrictions for Atlantic Pointe (the "Amendment") is made this 28th day of October, 1987 by Seinsheimer Companies, Inc. (formerly known as W. G. Seinsheimer Companies, Inc.), a South Carolina corporation (the "Declarant").

WHEREAS, on September 10, 1984, Declarant recorded that certain Declaration of Covenants, Conditions and Restrictions for Atlantic Pointe (the "Declaration") in Deed Book 403, Page 1, in the R.M.C. Office for Beaufort County, South Carolina, and was re-recorded in Deed Book 405, Page 459 on October 12, 1984; and

WHEREAS, the Declaration was subsequently amended by that certain First Amendment whcih is recorded in Deed Book 408 at Page 1267; and

WHEREAS, Declarant desires to make an additional amendment to the Declaration in accordance with the rights reserved to it to do so in Section 13.2 of the Declaration.

NOW, THEREFORE, Declarant does hereby declare and state that the Declaration is amended as follows:

1. Paragraph 10.4.1 is amended to read as follows:

10.4.1 All Buildings, structures or other improvements on or with respect to any Lot or Dwelling, including decks, porches, and patios, fences and pools,



STATE OF SOUTH CAROLINA	)	THIRD AMENDMENT TO DECLARATION
	)	OF COVENANTS, CONDITIONS AND
COUNTY OF BEAUFORT	)	RESTRICTIONS FOR ATLANTIC POINTE

THIS Third Amendment to Declaration of Covenants, Conditions and Restrictions for Atlantic Pointe (the "Third Amendment") is made this 3rd day of December, 1987, by Seinsheimer Companies, Inc. (formerly known as W. G. Seinsheimer Companies, Inc.) (the "Declarant").

WHEREAS, on September 10, 1984, Declarant recorded that certain Declaration of Covenants, Conditions and Restrictions for Atlantic Pointe (the "Declaration") in Deed Book 403, Page 1, in the R.M.C. Office for Beaufort County, South Carolina, which was re-recorded in Deed Book 405, Page 459 on October 12, 1984; and

WHEREAS, the Declaration was subsequently amended by that certain First Amendment which is recorded in Deed Book 408 at Page 1267, and by that certain Second Amendment which is recorded in Deed Book 489 at Page 1241; and

WHEREAS, Declarant desires to make an additional amendment to the Declaration in accordance with the rights reserved to it to do so in Section 13.2 of the Declaration in order to remove certain Open Space at the rear of Lots 18 and 19 from the effect of the Declaration in connection with the conveyance of such Open Space, which will thereafter be owned and maintained as part of the Open Space within Sea Pines Plantation, as opposed to being part of Atlantic Pointe.

Agreemnt\Declar.3 JPQ/tln 12/3/87

NOW, THEREFORE, Declarant does hereby declare and state that the Declaration is amended as follows:

1. Exhibit "A" attached to the Declaration is amended by deleting the following described property therefrom:

ALL that certain piece, parcel or tract of land lying and being in Sea Pines Plantation, Hilton Head Island, Beaufort County, South Carolina, being shown and designated as "Open Space 18,426 S.F.", adjacent to the rear property lines of Lots 18 and 19 Atlantic Pointe Subdivision, on a plat of survey prepared by Thomas & Hutton Engineering Co., William G. Foster, SCRLS No. 2753, entitled "A Plat of Atlantic Pointe, a Section of Sea Pines Plantation," dated August, 1984, last revised October 28, 1987, which is recorded in Plat Book 35 at Page 57 in the RMC Office for Beaufort County, South Carolina.

IN WITNESS WHEREOF, this Third Amendment has been executed and sealed by the parties hereto as of the day and year first above written.

WITNESSES:

DECLARANT:

SEINSHEIMER COMPANIES, INC.

Victoria R. Robertz  
Martha Green

By: Robert J. Howell  
Its: President

Agreement\Declar.3 JPQ/tln 12/3/87

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT ) PROBATE

PERSONALLY appeared before me Victoria R. Roberts  
who states on oath that she saw the within named Seinsheimer  
Companies, Inc. by Robert J. Gronek, its  
President, as its act and deed, sign, seal and deliver  
the within and foregoing Third Amendment to Declaration of  
Covenants, Conditions and Restrictions for Atlantic Pointe, and  
that she with Marsha Smelkinson witnessed the  
execution thereof.

Victoria R. Roberts

SWORN to and subscribed before  
me this Sunday of DECEMBER  
1987

Robert L. Ald

Notary Public for South Carolina  
My Commission Expires: 6-30-91

McNair

FILED AT <u>9:41</u> O'CLOCK	BEAUFORT COUNTY S.C.	RECORDED IN BOOK <u>497</u> PAGE
A. M.	DEC 11 1987	<u>634</u>
<u>STEWART H Dalton</u> REGISTER OF DEEDS & CONVEYANCE		

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

)  
)  
)  
AMENITIES USE AND ACCESS  
EASEMENT

THIS EASEMENT is made and entered into this 7<sup>th</sup> day of September, 1984 by and between W.G. Seinsheimer Companies, Inc., a South Carolina corporation (hereinafter "Grantor"), and Freeman Napier Jelks, Jr., his heirs, successors and assigns (hereinafter "Grantee").

WHEREAS, Grantor is the fee simple title owner of that certain real property shown and described on that certain plat of survey entitled "Atlantic Pointe" and prepared by Thomas & Hutton Engineers, dated August, 1984 and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina in Plat Book 32 at Page 128 (hereinafter "Atlantic Pointe Subdivision"); and

WHEREAS, Grantor intends to construct improvements and amenities located on or to be constructed on that portion of Atlantic Pointe Subdivision designated as the "Amenities Lot" on the aforesaid plat of survey (hereinafter the "Amenities Lot"); and

WHEREAS, Grantor has provided for a permanent, non-exclusive easement over a five (5') foot right-of-way for access to the mean high water mark of the Atlantic Ocean on, over and across that portion of Atlantic Point Subdivision designated as the "Five Foot Beach Access Easement" on the aforesaid plat of survey; and

WHEREAS, Grantor has heretofore bargained and agreed to grant certain non-exclusive rights to Grantee for access to the Amenities Lot

and use of certain improvements to be constructed thereon and for a non-exclusive easement over the Five Foot Beach Access Easement;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS THAT for and in consideration of the sum of Ten (\$10.00) Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does grant, bargain, sell and convey to Grantee, his heirs and assigns holding title to all or any portion of: (i) those certain tracts, parcels or lots of land designated as Lots 20, 21, 22, 23, 24 and 25 on that certain plat of survey dated December 16, 1976 and prepared by Thomas & Hutton Engineering Company, William G. Foster, South Carolina Registered Land Surveyor No. 2753, prepared for Freeman N. Jelks, Jr., and entitled "A Subdivision of a Portion of Parcel No. 20 Surf Scoter Road Subdivision of Sea Pines Plantation, Hilton Head Island, Beaufort County, South Carolina," which plat of survey is recorded in Plat Book 25 at Page 82 of the aforesaid records and is incorporated herein by this reference; and (ii) all that certain tract or parcel of land being the remaining portion of the real property conveyed to Freeman N. Jelks, Jr. by deed from the Sea Pines Plantation Company, as recorded in the Office of the Clerk of Court for Beaufort County, South Carolina in Deed Book 112 at Page 54, less and except: Lots 20 through 25 on the aforesaid plat of survey and Atlantic Pointe Subdivision as said subdivision is more fully described in Plat Book 32 at Page 128, [the property described in (i) and (ii) hereinafter the "Benefited Lots"], a permanent, non-exclusive easement and right-of-way on, over and across the Five Foot Beach Access Easement for pedestrian access to and from the mean high water line of the Atlantic Ocean and the Benefited Lots.

Grantor does further grant, bargain, sell and convey to Grantee a permanent, non-exclusive easement and right-of-way for pedestrian ingress and egress to and from the Amenities Lot and for the perpetual, non-exclusive use of the improvements and amenities now or subsequently located on or constructed thereon in order to ensure the perpetual access to and use and enjoyment of swimming pools, tennis

FILED IN DEEDS - BOOK 402 PAGE 1965  
FILED AT 142000 ON 09/18/84

courts and any and all other amenities and improvements located on the Amenities Lot for the Grantee, his heirs and assigns, holding title to all or any portion of the Benefited Lots.

The easement granted herein for ingress and egress thereto, and for the perpetual, non-exclusive use and enjoyment of the improvements and amenities located on the Amenities Lot are expressly conditioned upon and subject to the terms and conditions of this easement. Grantor, its successors and assigns may require that Grantee, its successors and assigns holding title to all or any portion of the Benefited Lots pay a prorata assessments for the maintenance, replacement, repair and operation of the improvements and amenities located on the Amenities Lot and maintenance of the Beach Access Easement. Provided, however, that: (i) such assessments shall be equal for each individual lot located within the Benefited Lots with each individual lot located within Atlantic Pointe Subdivision; and (ii) no such assessment shall include any allocation for construction, replacement, maintenance or operation of any improvements or common areas not located on the Amenities Lot. The non-exclusive easement for beach access and for access to, and use and enjoyment of the improvements located on the Amenities Lot is expressly conditioned upon the timely payment of any such assessments, and Grantor, its successors and assigns, shall have the same lien and other rights set forth in Section 9. ASSESSMENTS of the Declaration of Covenants, Conditions and Restrictions for Atlantic Pointe recorded in Deed Book 403 at Page 1 of the aforesaid records ("Section 9"), and Grantee, both as to himself and as to his heirs, successors and assigns holding title to any

portion of the Benefited Lots, does hereby submit the Benefited Lots to the liens, conditions and provisions of Section 9. The Benefited Lots shall be subject to all provisions of Section 9 as if the Benefited Lots were "lots" under Section 9. Grantee acknowledges and agrees that the submission of the Benefited Lots to Section 9 is a material consideration to Grantor's granting the easements and access provided for in this Easement.

The non-exclusive access to, and the use and enjoyment of the Amenities Lot and any improvements thereon shall be subject to such rules and regulations as Grantor, its successors and assigns, may from time to time establish; provided that any such rules and regulations shall apply equally to the owners of the Benefited Lots and the owners of lots located within Atlantic Pointe Subdivision.

Grantor, its successors and assigns agree that without the written consent of the then owners of the Benefited Lots, there shall not be installed any night lighting on any tennis court constructed on the Amenities Lot.

The easement granted herein is for the benefit of and appurtenant to the Benefited Lots and shall run with the land and shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, successors and assigns.

Grantee, his heirs, successors and assigns owning title to any portion of the lots located in the Benefited Lots, shall have pedestrian access to the Amenities Lot only at a single point to be designated by Grantee located on the rear property line of Lot 23 or Lot 24 of the Benefited Lots, adjacent to the property line of the Amenities Lot.

Grantor, its successors and assigns, shall not construct any fence or other physical barrier preventing pedestrian access to the Amenities Lot from said adjacent property lines.

Grantee, his heirs, successors and assigns owning title to any portion of the Benefited Lots shall have pedestrian access to the Beach Access Easement at the point adjacent to the property line of the Beach Access Easement as designated and shown on the aforesaid plat of survey of Atlantic Pointe Subdivision.

IN WITNESS WHEREOF, Grantor has caused this easement to be executed by its duly authorized officers, and Grantee has executed this easement acknowledging and agreeing to its terms, effective the day and year first above written.

WITNESSES:

[Signature]  
[Signature]

WITNESSES:

[Signature]  
[Signature]

GRANTOR:  
W.G. SEINSHEIMER COMPANIES, INC.

By: [Signature]  
Attest: [Signature]

GRANTEE:

[Signature]  
FREEMAN NAPIER JELKS, JR.

FILED IN DEEDS - BOOK 402 PAGE 1968  
FILED AT 142000 ON 09/18/84

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

PROBATE

PERSONALLY appeared before me Michael B. McKeithen  
who states on oath that he saw the within named W.G. SEINSHEIMER  
COMPANIES, INC. by W.G. Seinsheimer, Jr., its President,  
as its act and deed, sign, seal and deliver the within and foregoing  
Amenities Use and Easement, and n/a,  
its n/a, attest the same, and that he with  
Herbert L. Novitt witnessed the execution thereof.



SWORN to and subscribed before me  
this 7<sup>th</sup> day of September, 1984.

Herbert L. Novitt (L.S.)  
Notary Public for South Carolina

My Commission Expires: 10/27/91

FILED IN DEEDS - BOOK 482 PAGE 1969  
FILED AT 142000 ON 09/18/84

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

PROBATE

PERSONALLY appeared before me J. Wiley Ellis  
who states on oath that he saw the within named Freeman Napier Jelks,  
Jr., as his act and deed, sign, seal and deliver the within and  
foregoing Amenities Use and Access Easement, and that he with  
Herbert L. Doull witnessed the execution  
thereof.

J. Wiley Ellis

SWORN to and subscribed before me  
this 21 day of September, 1984.

[Signature] (L.S.)  
Notary Public for South Carolina

My Commission Expires: 10/27/91

*McKee*  
FILED IN DEEDS - BOOK 402 PAGE 1970  
FILED AT 142000 ON 09/10/84 50400  
BOOK NUMBER 402 PAGES 1963- 1970  
FILING FEE 9.00  
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HENRY JACKSON  
CLERK OF COURT BFT CNTY, SC