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BETTY L. WILLIAMS  
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GEORGETOWN COUNTY, S.C.  
NOON

GENERAL COVENANTS FOR COMMERCIAL PROPERTIES AT  
LITCHFIELD-BY-THE-SEA

WHEREAS, Litchfield-By-The-Sea, a Joint Venture, organized under the Uniform Partnership Act of South Carolina, hereinafter called "Joint Venture" is the owner of certain lands located in a community known as Litchfield-By-The-Sea in Georgetown County, South Carolina; and

WHEREAS, the Joint Venture desires that the covenants contained herein shall be covenants running with the land and shall apply to portions of Litchfield-By-The-Sea designated by the Joint Venture for commercial development, said property being more particularly described in Exhibit A attached hereto and incorporated herein by reference; and

WHEREAS, the Joint Venture desires to reserve the right to amend, modify, add to, subtract from, cancel or in any way change the covenants for a limited period not to exceed twenty-five years;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that the Joint Venture hereby covenants and agrees on behalf of itself, its successors and assigns, as follows:

ARTICLE I  
DEFINITIONS

The following words and terms when used in this Declaration or in any supplemental declaration (unless the context shall clearly indicate otherwise) shall have the following meanings:

(a) "Association" shall mean and refer to the Litchfield-By-The-Sea Community Association, Inc., a Delaware corporation qualified to do business in South Carolina, its Successors and Assigns, and to any other community or owners' association within the property established in the future.

(b) "Joint Venture" shall mean and refer to Litchfield-By-The-Sea, a Joint Venture, organized under the Uniform Partnership Act of South Carolina, its Successors and Assigns.

(c) "Lot" shall mean any subdivided land within the properties.

(d) "Owner" shall mean and refer to all Owners of an interest in real property within the property.

(e) "Property" shall mean and refer to the lands described in Exhibit A attached hereto together with all improvements thereon, whether presently existing or constructed in the future.

The Covenants and Restrictions hereinbelow shall be referred to as the General Covenants for Commercial Properties at Litchfield-By-The-Sea and are recorded in the Office of the Clerk of Court for Georgetown County, South Carolina, and may be incorporated by reference in deeds to real property executed and delivered by the Joint Venture by reference to the book and page of recording in the land records of said office.

## ARTICLE II COVENANTS, RESTRICTIONS AND AFFIRMATIVE OBLIGATIONS

The primary purpose of these Covenants and the foremost consideration and the origin of the same has been the creation of a community which is aesthetically pleasing, functionally convenient and which property values are protected. The establishment at this time of detailed standards for the design, size and location of structures would make it difficult to take full advantage of the differing characteristics of each parcel of property and of technological advances and environmental values. For this reason such detailed standards are not established by these Covenants but shall be separately established from time to time by the Joint Venture in order to implement the purposes of these Covenants.

**Section 1: Approval of Construction:** Owners shall submit to the Joint Venture two sets of all architectural plans and elevations or any changes or modifications to any existing improvements (including without limitation front, rear and side elevations) the building and site plans for any such erection or alteration and clearing, drainage and landscaping plans, all of which must be submitted in writing over the signature of the Owner or Lessee of the Lot on which the improvements are to be erected or altered, and these plans shall show, among other things, the locations, materials, and color of each proposed improvement, the boundary lines of the Lot, location of drive lanes, parking areas and spaces, pedestrian walkways, service areas, building setback distances, location of outside lighting and sign fixtures and poles and the materials and colors thereof, and the materials, colors and height of fences or other dividers, if any, between the Lot and the adjoining Lot or Lots. The landscaping plan shall provide for landscaping along the property line between the Lots and adjoining sites or Lots.

No construction of any kind (including without limitation clearing or grading or the construction, erection or alteration of any improvement) shall be commenced upon the Lot without the Joint Venture's prior written approval of the aforesaid plans and elevations. If the Joint Venture shall fail to give written approval or disapproval of the aforesaid plans and elevations within 45 days, the plans and elevations shall be deemed approved. In the event the construction based on said approved

plans and elevations does not commence within one year of such approval, it shall be necessary for the Owner to resubmit to the Joint Venture said plans and elevations for a renewal of its approval, and until such time renewal of approval is obtained, said plans and elevations shall be deemed disapproved.

**Section 2: Off-Street Parking:** There shall be constructed on each Lot paved, off-street parking and access lanes, all with concrete curbs or other curbing approved by the Joint Venture which shall be sufficient to accommodate the automobiles of the executives, employees, customers and invitees of the Owner, together with other vehicles used in the business to be conducted on the Lot. Off-street parking shall also conform to the requirements, regulations, ordinances and rules of all applicable federal, state, county and municipal governmental authorities.

**Section 3: Refuse:** No Owner or lessee shall cause, permit or suffer any junk, scrap, rubbish, trash, refuse or litter to be deposited or stored or to remain on a Lot so as to detract from the neat and well ordered appearance thereof or constitute a fire hazard thereon. All refuse areas shall be screened by natural materials so as to be invisible from the street or streets on which the Lot abuts.

**Section 4: Underground Utilities:** No pipe, conduit, cable or line for water, gas, sewage, drainage, steam, electricity or other energy or service shall be installed or maintained outside of any building by any Owner above the surface of the ground within the Public or Commercial Site.

**Section 5: Temporary Structures:** No improvement of a temporary character, including trailers, campers, tents and similar structures shall be placed upon any portion of the Lot at any time; provided, however, that this prohibition shall not apply during construction of any improvements on the Lot with regard to shelters used by contractors engaged in the orderly continuation of construction of the improvements.

**Section 6: Nuisances:** Nothing shall be done or maintained on any Lot which may become an annoyance or nuisance to other owners. Any activity which interferes with television, cable or radio reception of another Lot shall be deemed a nuisance. The usual or necessary level of noise created by the carrying on of a business permitted by the zoning codes shall not be deemed a nuisance.

**Section 7: Use Restrictions:** No spa, bowling alley, skating rink, bingo parlor, theatre (either motion picture or legitimate), restaurants, bars, lounges, gasoline stations, hotels, motels, sales of automobiles, or health, recreational or entertainment type activities, supermarkets, grocery stores,

dairy stores, meat, fish, fruit or vegetable markets and no carnivals, fairs, or shows or sales by merchants utilizing vehicles or booths shall be permitted on Lots.

**Section 8: Uses Within Enclosures: Open Storage:** All uses of the Lot shall be conducted within an enclosed building, except for off-street parking, loading and unloading, and such other uses as the Joint Venture, may, by authorization in writing, permit to be carried on in the open. There shall be no open or outside storage areas permitted on the Lots unless such areas are visually screened from public view in a manner which is architecturally compatible with the improvements on the Lot and the Property and specified, advanced written permission is given by the Joint Venture. No boats, trailers, campers, horse trailers, buses and operative vehicles or associated equipment of a recreational or commercial nature shall be parked or stored permanently or semi-permanently on the Lots unless properly screened from public view in a manner approved by the Joint Venture. All utility service system components and trash pick-up stations shall be integrated with the improvements on the Lot and the property or screened by a fence or wall of architecturally compatible materials and shall not be visible above such screening from any street or adjoining property.

**Section 9: Signs:** All signs, which term shall include all signs and any other outdoor advertising, device, display or structure are subject to the prior written approval of the Joint Venture, its Successors and Assigns, with regard to number of signs, materials, contents, size, construction, color, face type, location and setback of any sign installed, placed or erected on the Lot. The Owners covenant not to begin construction of any sign until the Joint Venture has given its approval of such sign. The Owners covenant to keep all signs well maintained and fully operable at all times. There shall not be allowed on the Lots or any improvements located thereon any flags, pennants, streamers, spinners or the like, nor shall there be allowed on any of the Lots or any improvements located thereon any flashing, moving, brilliantly illuminated or brashly colored signs.

**Section 10: Maintenance:** In the event that an Owner fails to maintain the appearance of his Lot or the improvements thereon in a neat and clean manner, the Joint Venture may, but is not obligated to, enter onto the Lot and undertake such maintenance work, the cost and expense of which shall be assessed to the Owner. Such entry shall not be deemed a trespass.

**Section 11: Drainage Easements:** An easement is hereby reserved by the Joint Venture, its Successors and Assigns, to enter upon, across, over, in and under any portion of the property for the purpose of changing, correcting or otherwise



modifying the grade or drainage channels of the property so as to improve the drainage of water. Best efforts shall be made to use this easement so as not to disturb the uses of the Owners and to the extent possible to secure such drainage work properly and expeditiously and to restore any areas affected by such work to a sightly and usable condition as soon as reasonably possible following such work. Nothing in this paragraph shall be construed as placing an affirmative obligation on the Joint Venture to provide or modify the drainage.

**Section 12: Easements for Utilities:** The Joint Venture reserves unto itself, its Successors and Assigns, a perpetual, alienable and releasable easement and right on, over and under the property to erect, maintain and use poles, wires, cables, conduits, sewers, water mains, drainage ways, sprinkler systems, pumping stations, tanks, and other suitable equipment for the conveyance and use of electricity, telephone equipment, community antennae, television service, cable television service, gas, sewer, water, security cable equipment or other public conveniences for utilities on, in or over those portions of the property, as may be reasonably required for utility line purposes, provided, however, that no such utility easements shall be applicable to any portion of the property as may (a) have been used prior to the installation of such utilities for the construction of a building whose plans were approved pursuant to these Covenants by the Joint Venture or (b) have been designated as a site for a building on plans which have been approved in writing by the Joint Venture. These easements and rights especially include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. Such rights may be exercised by any licensee of the Joint Venture.

### ARTICLE III

#### CONDITIONS, LIMITATIONS, DURATION AND VIOLATIONS OF COVENANTS

**Section 1: Duration:** All covenants, restrictions and affirmative obligations set forth in this Declaration shall run with the land and shall be binding on all parties and persons claiming under them to specifically, including but not limited to the Successors of Assigns, if any, of the Joint Venture for a period of thirty (30) years from the date this Declaration, after which time all said covenants shall be automatically extended for an unlimited number of successive periods of ten (10) years unless the instrument signed by a majority of the then Owners of Lots substantially affected by such change in covenants has been recorded, agreeing to change said Covenants in whole or in part.

Section 2: Amendments: The Joint Venture, its Successors and Assigns, reserves the right to amend, modify, add to, subtract from, cancel or in any way change these Covenants for a period of twenty-five (25) years from the date hereof.

Section 3: Remedies: In the event of a violation or breach of any of the restrictions contained hereby by any Owner, or agent of such Owner, the Joint Venture, the Owners, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel compliance with the terms hereof or to prevent a violation or a breach. In addition to the foregoing, the Joint Venture shall have the right, whenever there shall have been built any structure which is in violation of these restrictions, to enter upon such property where such violation exists and summarily abate or remove the same at the expense of the Owner, if after thirty (30) days written notice of such violation it shall not have been corrected by the Owner. Any such entry and abatement or removal shall not be deemed a trespass. Any person entitled to file a legal action for the violation of these Covenants shall be entitled to recover reasonable attorney's fees as a part of such action. Failure to enforce any rights, reservations, restrictions or conditions contained in this Declaration, however long continued, shall be not deemed a waiver of the right of enforcement thereafter as to the same breach, or as to a breach occurring prior to subsequent thereto and shall not bar or affect its enforcement.

Section 4: Assignment: The Joint Venture reserves the right to assign to the Litchfield-By-The-Sea Community Association, Inc. any of its rights reserved in these Covenants.

Section 5: Severability: Should any covenant or restriction herein contained, or any article, section, subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way effect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 6: Captions and Headings: Captions and headings used herein are for convenience only, are not a part of these covenants and shall not be used in construing any provision hereof.

Section 7: Pronouns: All pronouns and any variations thereof shall be deemed to refer to masculine, feminine, the neuter, singular or plural, as the identity of the person or entity may require.

In the case of the operation, improvement, maintenance and repair of Purchased Common Properties, funds necessary for such operation shall not be derived from the Annual Assessments levied by the Association but rather from user charges and dues for the particular facility. Such user charges and user dues shall be in addition to and not in lieu of any other assessments herein provided for.

**Section 3. Application of "Maximum" Assessment.** The Annual Assessments, as set forth in the schedule hereinbelow, and as annually increased pursuant to the provisions of subparagraph (g) below, shall be levied by the Association. If, however, the Board of Directors of the Association, by majority vote, determines that the important and essential functions of the Association may be properly funded by Annual Assessments less than those set out below, it may levy such lesser assessments. However, so long as the Company is engaged in the development of properties which are subject to the terms of this Declaration, the Association may not reduce Annual Assessments below those set out in paragraph (a) of this Section 3 without the prior written consent of the Company. The levy of Annual Assessments less than the Maximum Regular Annual Assessments in one year shall not affect the Board's right to levy the Maximum Regular Annual Assessments in subsequent years. If the Board of Directors shall levy less than the Maximum Regular Annual Assessments for any assessment year and if thereafter, during such assessment year, the Board of Directors shall determine that the important and essential functions of the Association cannot be funded by such lesser assessments, the Board may, by majority vote, levy supplemental assessments. In no event shall the sum of the initial and supplemental assessments for that year exceed the applicable Maximum Regular Annual Assessments.

If the Board of Directors of the Association, by majority vote, determines that the important and essential functions of the Association will not be properly funded in any year by the Maximum Regular Annual Assessments, it may call a Referendum requesting approval of a specified increase in such assessments. If fifty-one (51%) percent of the votes shall be cast in favor of such Referendum, the Maximum Regular Annual Assessments shall be permanently increased to the level of such proposed increased assessments.

(a) The Maximum Regular Annual Assessment shall be the sums determined by the Board of Directors, but shall not exceed the sums set forth in the following schedule, as adjusted annually pursuant to Section 3(g) of this Article.

| Property Type  | Maximum Regular Annual Assessment |                    |
|--|-----------------------------------|--------------------|
|  | 1978                              | 2007               |
| Dwelling Units   | \$360.00                          |                    |
| Residential Lots   | \$270.00                          |                    |
| Public or Commercial Units   | \$0.10 per sq. ft.                | \$ .23 per sq. ft. |
| Multiple Family Tracts, Public or Commercial Sites, and Development Unit Parcels | \$100.00 per acre                 | 240 per acre       |
| Unsubdivided Property  | \$ 50.00 per acre                 |                    |

(b) Property shall not be classified as a Residential Lot, Dwelling Unit or Public or Commercial Unit for purposes of this Declaration and of the Maximum Regular Annual Assessment until after all of the following have occurred:

1. Making Of Record a plat or other plans showing such Residential Lot, Dwelling Unit or Public or Commercial Unit.
2. Approval, if required, by the United States Department of Housing and Urban Development, Office of Interstate Land Sales Registration, or any similar state or successor federal agency, for the offering for sale of any Residential Lot to be offered for sale.
3. All approvals required for the occupancy of a Dwelling Unit or Public or Commercial Unit.
4. Conveyance of such property by the Company to a purchaser.

After classification, the obligation for the payment of the Regular Annual Assessment shall commence on the first day of the following month.

(c) For the purpose of calculating the Maximum Regular Annual Assessments for Public or Commercial Units, the total number of square feet to be included in such Public or Commercial Unit shall be determined by the Board.

(d) After the calendar year 1978, the Regular Annual Assessments on Unimproved Property shall be billed annually on the first day of January of each year. Assessments on all other property shall be billed on a monthly or quarterly basis as determined by the Board of Directors. All assessment bills shall be due and payable thirty (30) days from the date of mailing the same.

(e) The Owner of any assessable property which changes from one assessment category to a higher assessment category during an assessment year shall be billed an additional amount for the remaining full months of such year after such change.

(f) All assessments charged by the Association shall be rounded to the nearest dollar.

(g) From and after January 1, 1980, the Maximum Regular Annual Assessment shall be increased each year by the Board of Directors of the Association by the greater of (i) six (6%) percent per year over the previous year, or (ii) the percentage increase, if any, during the twelve (12) month period ending September 30 of each year in the Employment Cost Index-South issued by the U.S. Bureau of Labor Statistics in a quarterly report and measuring the wage and salary increases of private, non-farm employees in the South. In the event that said index shall be discontinued, then there shall be used the most similar index published by the United States Government indicating changes in the cost of labor in the South.

(h) Except as provided herein, any increase in the fixed amount of the Maximum Regular Annual Assessments shall be made in such a manner that the proportionate increase in such assessments is the same for Owners of Residential Lots, Dwelling Units, Multiple Family Tracts, Public or Commercial Sites, Public or Commercial Units, Development Unit Parcels and Unsubdivided Property.

Except as provided herein, any time the actual assessments levied by the Board of Directors of the Association are less than the Maximum Regular Annual Assessments, such decrease shall be proportionate as determined by the Board of Directors among the Owners of Dwelling Units, Residential Lots, Public or Commercial Units, Multiple Family Tracts, Public or Commercial Sites and Development Unit Parcels, and Unsubdivided Property. Notwithstanding the foregoing, the decrease or increase received by each class of Owners of the various classes of property may be made disproportionate by the favorable vote of seventy-five (75%) percent of the votes cast at a duly called meeting of the Association, including fifty-one (51%) percent of all votes allocated to such Members of the classes whose proportionate share is being raised proportionately more or decreased proportionately less than that of Members of other classes.

**Section 4. Special Assessments for Improvements and Additions.** In addition to the Maximum Regular Annual Assessments authorized by Section 3 hereof, the Association may levy Special Assessments, for the following purposes:

- (a) Construction or reconstruction, repair or replacement of capital improvements upon the Common Properties or Restricted Common Properties, but not Purchased Common Properties, including the necessary fixtures and personal property related thereto;
- (b) Additions to the Common Properties or Restricted Common Properties;
- (c) Facilities and equipment required to offer the services authorized herein;