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COUNTY OF BALDWIN }

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Adrian T. Johns, Judge of Probate

**DECLARATION OF RIGHTS, EASEMENTS, COVENANTS,
CONDITIONS, AFFIRMATIVE OBLIGATIONS AND RESTRICTIONS
APPLICABLE TO THE MAGNOLIAS, A SUBDIVISION**

HARLESS DEVELOPMENT COMPANY, INC., an Alabama corporation, hereinafter referred to as "DEVELOPER," is the owner of all of the real property situated in that certain subdivision known as **THE MAGNOLIAS**, a subdivision, hereinafter referred to as the "SUBDIVISION," and said Subdivision consists of a total of 36 lots, together with common areas, all according to the map or plat thereof prepared and drawn by Huthinson, Moore & Rauch, LLC, and recorded July 7, 2006, on Slide Number 2278-D, in the Office of the Judge of Probate of Baldwin County, Alabama, said plat being incorporated by reference herein and made a part hereof as if set forth in full, hereinafter referred to as the "PLAT."

THE DEVELOPER hereby covenants and agrees with each and every future owner of any lot or other part of the Subdivision that each and every future owner, by virtue of becoming an owner, shall, (i) accept and agree with Developer and with each and every other owner or future owner, that the following covenants, restrictions, conditions, affirmative obligations, easements and limitations shall apply to all property in the Subdivision; (ii) the following said covenants shall constitute covenants running with the land; and (iii) the following said covenants shall be binding upon the Developer and on all future owners of each and every lot, part or parcel of the Subdivision, and upon their respective heirs, successors, personal representatives, and assigns.

WHEREFORE, the Developer does hereby make, publish and declare as follows, to-wit:

SECTION ONE
PROPERTY OWNER'S ASSOCIATION

1. The Developer shall establish for the benefit of lot owners in the Subdivision an association to manage the Subdivision. The name of the association shall be The Magnolias Owner's Association, Inc., hereinafter referred to as the "ASSOCIATION," and said Association shall be governed by and through a Board Of Directors, hereinafter referred to as the "BOARD," pursuant to the Articles of Incorporation of the Association, hereinafter referred to as "Articles," and the By-Laws of the Association, and said Board shall consist of at least three (3) members, but not more than Five (5). The Board shall be responsible for the enforcement of all applicable covenants, conditions, obligations and restrictions set forth herein.

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2. The Association shall be comprised of and membership limited exclusively to lot owners, and each and every lot owner shall be a member by virtue of being a lot owner. Any person or entity accepting a deed from the Developer or any lot owner shall automatically become a member of the said Association and such owner agrees to abide by the Association's By-Laws and any and all rules, regulations, and conditions which have been or will be established by the Association.

3. After the sale or other transfer of Ninety percent (90 %) of the said lots located in the Subdivision to owners other than the Developer, the Developer shall have the right to transfer to the Association all rights and powers outlined in the Articles and the By-Laws; however, the Developer shall have the right to remain on the Board as long as the Developer owns a lot in the Subdivision.

SECTION TWO

LAND USE AND BUILDING TYPE

1. All lots located in the Subdivision shall be used for residential purposes only, and no building or structure other than a single-family dwelling house shall be erected on any lot or other part of the Subdivision except as otherwise permitted herein.

2. The foregoing or anything else contained herein to the contrary, the Developer shall have the right to maintain a sales office and signs on any lot owned by the Developer or other part of the Subdivision as long as the Developer owns any lots located therein.

3. The Developer shall establish an Architectural Control Committee, hereinafter referred to as the "ACC," as set forth in Section Four herein below, and said committee shall have the expressed authority to enforce any covenant, condition, obligation or restriction contained herein.

4. No lot clearing, grading or preparation, and no building, fence, storage, pool, out building, structure or other improvement shall be constructed, erected or placed on any lot or other part of the Subdivision, without first having obtained the prior written approval of the ACC.

5. All building sites shall first be approved by the ACC prior to commencing construction, and no building or other improvement of any kind, character or nature shall be located on any lot other than as approved by the ACC and the municipal or other applicable building inspector.

6. All residential structures erected or placed on any lot in the Subdivision shall be at least a total of 2,800 square feet of minimum heated and cooled living space, and shall not exceed more than two stories in height. Living space, as defined herein, means heated and cooled finished area, and shall not include porches, decks, patios, garages, carports, or attics. All houses shall contain an enclosed garage with garage doors, and such garage shall be of a size sufficient to fully enclose at least two vehicles and shall side entry only. No front entry garages shall be permitted.

7. The primary roof line of all houses in the Subdivision shall have a pitch of at least 7/12 or greater, and all roofing shall be architectural three dimensional shingles. No metal roof shall be permitted. The color, style, and type of all roof covering shall first be approved by the ACC.

8. The architecture of all houses and other buildings situated on any lot in the Subdivision shall be a style which must first be approved by the ACC. The exterior finish of all houses and other structures shall be real stucco or old, used, or painted brick, and no artificial stucco or other similar exterior finish material shall be permitted. Vinyl material and hardi-plank may be used for eaves, dormers, and soffits only.

9. Storage and other detached buildings are permitted provided they are first approved by the ACC and the style, exterior finish, construction, and color must match the primary structure.

10. The front, rear, and side yards of all lots in the Subdivision shall be fully sodded, and all lots shall have an underground installed irrigation system.

11. No mobile home, house trailer, tent, shack, barn, out building or other similar structure shall be erected, placed, parked, stored on or moved onto any lot within the Subdivision as a permanent or temporary structure, and no camper or other recreational vehicle shall be parked over night on any lot in the Subdivision. The intent of the Developer and this paragraph is to prevent the temporary or permanent parking of such vehicles and items.

12. Fencing of a lot in the Subdivision may be permitted, subject to ACC approval, and all lot fences shall be constructed of pressure treated lumber or cedar and be of a natural color and, but may be waterproofed or clear coated. All fences shall be six (6) feet in height and in a shadow box style. No barbed wire, chain link or other similar fences will be permitted.

13. No house, fence, hedge, or free standing wall shall extend beyond the minium building set-back lines as shown and noted on the said plat of the Subdivision unless approved by the ACC.

14. No septic tank systems shall be allowed on any lot in the Subdivision, and all utilities and service lines associated therewith, including, but limited to electric, telephone, gas, water, sewer, and cable television, shall be placed underground from the right-of-way to any residence, structure or other improvement and connected at points designated by the Developer until the Developer is no longer on the ACC. Thereafter, such designation will be determined by the ACC.

15. No poles or wires of any kind, character or nature shall be placed or maintained on any lot in the Subdivision, including, but not limited to, poles or wires for the transmission of electricity, television, telephone, internet, and the like, and no satellite dishes or other external or outside antennas greater than 18 inches in diameter, shall be permitted. Satellite dishes less than 18 inches in diameter may be permitted, but shall be subject to ACC approval.

16. Plumbing vents shall be installed towards the back of the roof line in such a manner as to minimize their view from the front of the house and shall be painted the same color as the roof.

17. All mailboxes in the Subdivision shall be of a color, material, style, and location approved by and in accordance with the specifications and as approved by the ACC. All mailboxes shall contain a paper tube or other receptacle for newspapers.

18. All exterior lighting of houses shall conform to the general character of the Subdivision, and must be approved by the ACC. All yard lighting shall be directed and shall be positioned in such manner as to not disturb an adjoining lot owner. Any lighting determined by the ACC to not conform to the general character of the Subdivision or to be a nuisance shall be removed within five (5) days after receipt of notice of same by the ACC.

19. Lot owners may have a private shallow-water well for irrigation systems and other non-household purposes; however, such well cannot be connected to any pipes located within a dwelling and must be hidden from view and first approved by the ACC.

20. No single lot may be subdivided or reduced in size by voluntary alienation, partition or other judicial proceedings. Notwithstanding anything contained herein to the contrary, the provisions of this paragraph shall not prohibit the combining of two (2) or more contiguous lots to make one larger lot. Three or more lots may be divided into two lots with the approval of the ACC and the municipal or other governmental authority having jurisdiction thereof, provided, however, none of the area of the new lots is less than the size of any original lot.

21. No time share or other similar form of ownership shall be permitted for any lot in the subdivision, and no lot shall be sold or occupied in any way as a Vacation Time-Sharing Plan, as defined in Code of Alabama, 1975, as amended.

22. All roadways shown and noted on the said plat of the Subdivision are and shall be public roadways intended for the use of the lot owners and the general public. All areas labeled as "COMMON AREA" as shown and noted on the plat shall be for the exclusive use and enjoyment of the lot owners and their guests and said areas are not intended for the use and enjoyment of the general public. The areas designated as "Retention Pond" on the plat of the Subdivision shall also be a Common Area, and are designed and intended to be used for the purpose of drainage and shall be maintained by the lot owners by and through the Association. The Association shall have the sole responsibility for the upkeep and maintenance of all street lights, Common Areas, and retention ponds in the Subdivision, including, but not limited to, all landscaping, fencing, lighting, drainage systems and area, and all other improvements situated in the Common Areas, together with all taxes, assessments, maintenance, and other expenses associated therewith. The Developer shall have no responsibility for the maintenance of any said street lights, retention ponds, or other Common Areas or improvements or any expenses associated therewith.

SECTION THREE **USE RESTRICTIONS**

1. All signs in the Subdivision shall be subject to ACC approval. No sign of any kind which exceeds five (5) square feet in size shall be placed on any lot and displayed to the public, including, but not limited to, signs to advertise a home for sale or builder's signs during construction. Notwithstanding the foregoing, the Developer, or Developer's duly authorized agents or assigns, shall have the exclusive right to erect, display and maintain any signs or structures of any size, type, color, or character, on any lot owned by the Developer or on any part of the common areas to promote and aid the Developer in the marketing of the Subdivision and the sale of lots therein.

2. No animals, birds, livestock, swine (farm or domestic), or reptiles of any kind, character or description shall be kept or maintained on any lot in the Subdivision except common household pets such as dogs, cats, and domesticated caged birds, and no animal of any type or description shall be kept or held on any lot in the Subdivision for commercial purposes.

3. All permitted animals shall be kept in an enclosed area and under the supervision of its owner. Any household pet determined by the ACC to be a nuisance shall not be allowed to remain on the lot and the owner of such pet will be required to remove such pet in accordance with procedures established by the ACC.

4. No outside burning of trash, refuse or other materials, shall be permitted on any lot or other property in the Subdivision without the prior written approval of the ACC.

5. No refuse or trash shall be kept, stored or allowed to accumulate on any lot except between scheduled pickups and in accordance with the provisions hereof. All trash or other refuse to be disposed of by being picked up and carried away on a regular and recurring basis shall be placed in sanitary containers, and said containers shall be placed in the open only on the day a pickup is to be made and at such place on the lot as to provide sufficient access to the person or entity making such pickup. At all other times such containers shall be stored in such a manner so they cannot be seen from adjacent lots. The ACC may also require a dumpster during construction.

6. No lumber, metals, or bulk materials shall be kept, stored or allowed to accumulate on any lot within the Subdivision, except building materials used during the course of construction of any approved structure or improvement on the lot.

7. No water pipe, gas pipe, sewer pipe or drainage pipe of any kind shall be installed or maintained above the surface of the ground of any lot in the Subdivision. Water hoses may be used for washing vehicles, watering plants, and other similar temporary purposes.

8. No lot in the Subdivision shall be used for the purpose of boring, mining, quarrying, exploring for, or removing, any mineral of any kind, character or nature, including, but not limited to oil, gas, sand or gravel.

9. No obnoxious, offensive, or illegal activity shall be conducted on any lot or common area in the Subdivision, and no activity shall be permitted on any lot or common area in the Subdivision which may become a nuisance to the other lot owners.

10. Each lot owner shall be responsible to prevent the development of any unclean, unsightly or unkept conditions or structures on the owner's lot which could cause a health or safety problem, or which may tend to decrease the beauty of the lot or other area of the Subdivision. In the event the ACC determines a lot owner is not properly maintaining such owner's lot or is otherwise in violation of the foregoing, the ACC shall be allowed to enter upon the lot and correct any and all violations, and charge the lot owner therefor, and such entering shall not constitute a trespass.

11. No boat, jet ski, camper, motorcycle, RV, or trailer of any kind, character or nature shall be stored on or placed on or at any lot, unless same shall be housed in an enclosed garage and not visible from the road or by any lot owner. A contractor may place a temporary tool trailer on a lot during the construction of a residential structure thereon, subject to the approval of the ACC.

12. The provisions of this Article, where applicable, shall also apply to all common areas of the Subdivision and shall be cumulative with any amendments hereto, and the ACC and the Association and any lot owner shall have the absolute right to enforce or prevent the violation of any covenant, condition, obligation or restriction contained herein by any judicial or other legal remedy or action at law or in equity or otherwise, and the lot owner against whom such enforcement is sought shall be liable to such lot owner, the ACC, and the Association for all costs incurred to cure such violation or such other enforcement, including, but not limited to, reasonable attorneys fees.

SECTION FOUR **ARCHITECTURAL CONTROL**

1. The Developer shall establish the ACC, and the committee shall consist of not less than two (2) and not more than five (5) members. The initial ACC shall consist of the Developer and up to four (4) other members appointed by the Developer at Developer's discretion.

2. The Developer, at Developer's sole option, shall have the right to retain control of the ACC for as long as the Developer owns any lot in the Subdivision. Upon the Developer's relinquishment of control, the ACC shall thereafter be controlled by a majority of the lot owners.

3. The purpose of the ACC shall be to manage, maintain and enforce the continued harmonious design of all houses, structures and other improvements located in the Subdivision. The scope of review by the ACC shall be limited exclusively to appearance only. The ACC does not and shall not assume or accept any responsibility or authority to review for structural soundness, compliance with building or zoning codes of standards or any other factors.

4. The ACC shall have the expressed authority to enforce any covenant, condition, obligation or restriction contained herein by any and all applicable legal means, including, but not limited to, the issuance of fines, the filing of liens, and the foreclosure of liens as in the case of past due mortgages. Any lot owner against whom such enforcement is sought shall be liable to the ACC and the Association for all costs incurred by the ACC and the Association for such enforcement, including reasonable attorneys fees.

5. No construction of any kind shall be commenced and no permit, authorization or approval required hereunder shall be issued for such construction on any lot in the Subdivision without first obtaining the approval and affirmative vote of a majority of the members of the ACC. This shall also include the construction, remodel, or repair of any existing house, building, storage or other outbuilding, fence, or other structure, or any other construction which materially alters or otherwise changes the exterior appearance thereof.

6. All purchasers of a lot in the Subdivision shall be responsible for submitting their plans and specifications to the ACC for approval notwithstanding whether such purchaser is the initial or a subsequent purchaser. The Developer shall not be responsible in any way to ensure any purchaser or owner of a lot has been properly informed where to submit their plans and specifications.

7. Such plans and specifications shall include, but not necessarily be limited to, a site plan of the lot showing the location, height, exterior design, and color of all buildings and other improvements proposed to be constructed or altered on the lot.

8. All such plans shall be submitted to the ACC at least fifteen (15) days prior to the date of the proposed construction or alteration of any improvements on the lot. All lot owners, by acceptance of their deed, acknowledge and agree the ACC shall have the authority to pursue any legal action necessary to enforce compliance herewith and prevent any violation hereof, including, but not limited to, an injunction or other appropriate remedy.

9. Within thirty (30) days from the date the ACC has received the plans and specifications and other related documentation required or requested, the ACC shall notify the lot owner in writing whether or not the owner's plans have been approved as submitted, or rejected. If the plans and specifications are rejected, the ACC shall inform the lot owner why the plans were rejected and make recommendations and suggestions to aid the lot owner with meeting the ACC requirements.

10. In the event the ACC has not formally approved or rejected the lot owner's plans within thirty (30) days of receipt thereof, such plans shall be deemed as approved as submitted and the related covenants shall be deemed to have been fully complied with.

11. Notwithstanding anything contained herein to the contrary, in no way shall the failure of the ACC or another lot owner to file an action to enjoin the commencement of construction of any structure deemed not to be in compliance prior to the expiration of said thirty-day period be deemed as a waiver of or other implied approval of such violation or non-compliance. The intent of the Developer and this section is to allow the ACC at least thirty days to review the lot owner's plans and specifications for compliance, and all lot owners, by acceptance of their deed, acknowledge and agree the commencement of any construction on a lot prior to the receipt of the response from the ACC or the expiration of said thirty-day period shall toll the said thirty-day period.

12. Any new or existing structure or improvement erected, altered, placed, commenced, or maintained upon any lot which is not in accordance with plans and specifications approved by the ACC pursuant hereto shall be deemed to have been undertaken in violation of this covenant and without the approval of the ACC as required herein, and upon written notice of such violation by the ACC, such construction shall be ceased and such violation removed, or in the alternative, such violation altered or otherwise changed to comply with the ACC's requirements and these covenants. If the owner of a lot upon which such a violation exists fails to take reasonable steps to remove or terminate the violation within fifteen (15) days of receipt of notice of the violation from the ACC, then the ACC shall have the authority to take any legal steps necessary to enforce compliance with these covenants and all amendments hereto, including, but not limited to, the authority to file a lien against the lot and the owner thereof and the specific authority to enter upon such lot in question and

correct or remove such violation, and the owner of the lot in question shall be responsible for all costs and expenses to remove such violation, including reasonable attorneys fees. Any judgment or other order rendered pursuant to any action to remove such violation and all expenses related thereto shall be a binding and personal obligation of the owner of the lot.

13. All liens permitted herein shall be an encumbrance against the lot being the subject thereof, and all such liens shall be valid against a purchaser or mortgagee of the lot notwithstanding whether the lien has been properly filed in the records of the Office of the Judge of Probate of Baldwin County, Alabama prior to the recordation of the deed or mortgage conveying the lot in question to such purchaser or mortgagee.

14. The Developer, the ACC, or any agent thereof may at any reasonable time enter upon any lot in the Subdivision and inspect same and any improvements thereon for the purposes of determining whether all improvements and any construction, painting, maintenance, repair, or other work are in compliance with the provisions of these covenants and the requirements of the ACC, and such entry upon said lot shall not in any way be deemed a trespass or other wrongful act of the Developer or the ACC by reason of such entry or inspection.

15. The owner of any lot, by acceptance of the owner's deed, certifies, covenants and agrees the Developer, the ACC and any architect, agent, partner, or employee thereof shall not be responsible and shall have no liability in any way for any failure of any drainage system, structure, or other improvement situated or under construction in the subdivision or on any lot therein or the failure of such system, structure, or other improvement to comply with the requirements of these covenants, or any defect in any plans and specifications submitted, revised or approved in accordance with these covenants, or for any structural or other defects in any construction or other work done or performed in accordance with such plans and specifications approved by the ACC.

16. All persons submitting any plans and specifications for construction of any improvements on any lot in the Subdivision and all persons relying thereon hereby covenant and agree not to make any claim or file any legal proceeding against the Developer, the Association, the Board, the ACC, or any member or agent thereof, for any cause arising out of any matter referred to in this section, and to release said entities and persons from any and every such cause.

SECTION FIVE

GENERAL RESTRICTIONS

1. Lots may be used only for single family residences and shall be subject to the recorded restrictions applicable to the lots. Nothing contained herein shall be construed to prohibit or otherwise restrict a lot owner from renting, leasing, or mortgaging such owner's residence or prohibit such owner from maintaining personal professional libraries, or from keeping personal business or professional records or accounts, or from handling personal uses.

2. No outside toilets are allowed, and all plumbing facilities are required to be connected to an approved sewer system. A temporary toilet facility may be permitted by the Developer, the ACC or other appropriate authorities for purposes of construction of improvements on the lot.

3. No open burning of any kind shall be allowed except as may be permitted by the Developer, the ACC or other appropriate authorities during the construction of improvements in the Subdivision; however, any such burning permitted shall be in compliance with all provisions of these covenants and in accordance with all environmental and health regulations.

4. No discharge of firearms or other offensive activity shall be permitted on any lot or on any common area in the Subdivision which could cause or become a nuisance to any lot owner, and the ACC and the Board shall each have the authority to determine what constitutes noxious and offensive activities and such determination shall be complete and final.

5. No wrecked, junked, stripped down, abandoned, discarded, or inoperable motor vehicle or material of any kind, or any sizable part thereof, shall be permitted to be parked or stored upon any lot or along any service driveway, street, or common area in the Subdivision.

6. All lots, ditches, swales, and shoulders of the road must be maintained by the owner of the lot adjoining same in a tidy and satisfactory manner, and if such areas are not maintained by the lot owner, the ACC may provide such maintenance and bill the lot owner for same and the cost therefor shall constitute a lien against the lot and be a personal obligation of the lot owner.

7. Specifically reserved herein to the Developer, the Association, the ACC, and their duly authorized agents, representatives, managers, and employees, are any and all easements necessary to discharge and perform the duties and obligations of the Developer, the Association and the ACC as are set forth herein and in the Articles and By-Laws, including, but not limited to, easements on and across any lot or common area in the Subdivision for the purpose of inspection.

8. Drainage and utility easements are reserved throughout the entire Subdivision and all lots therein as may be required to adequately serve the lots located in the Subdivision for drainage and utility services, including, but not limited to, easements for water, sewer, gas electricity, telephone and cable television, and such easements are shown on the said plat of the Subdivision.

9. Each and every easement provided for herein shall be established upon the recordation of these covenants, and shall thereafter be deemed to be covenants running with the land for the use and benefit of the lot and the Subdivision and shall be superior to all other encumbrances applied against or in favor of any portion of the Subdivision property subjected hereto.

SECTION SIX

ASSOCIATION RIGHTS

1. Each member of the Association shall as owner of one or more lots in the Subdivision have a right and non-exclusive easement for the use and enjoyment in and to the common area(s) of the Subdivision.

2. All rights and easements shall be appurtenant to and shall pass with title to every lot in the Subdivision subject to the following limitations, to-wit:

(a) The right of the Association to pass and adopt reasonable rules and regulations regulating the use and enjoyment of the lots and common areas.

(b) The right of the Association to suspend the voting rights of any lot owner for a period during which any assessment against such member's lot remains delinquent.

SECTION SEVEN

MAINTENANCE ASSESSMENTS

1. The Association, by and through its Board, shall have the authority to levy and charge such assessments deemed necessary for the proper care, maintenance and management of the Subdivision, and all assessments shall be established, made and collected as provided herein.

2. Each and every person or entity holding title to any lot in the Subdivision whether such lot is now or hereafter created as part of the Subdivision, hereby expressly covenants and agrees, and by acceptance of the deed therefor, shall be deemed to covenant and agree, to pay to the Association general assessments whether or not the basis of such assessment is expressed in such owner's deed.

3. All general and special assessments levied and assessed hereunder shall be on the date shown on such assessment, or if no date is shown, then immediately upon receipt. Any such assessment not paid when due shall, at the option of the Board, be charged interest thereon at the rate of eighteen percent (18 %) per annum from the date said assessment became due, together with any and all costs of collection thereof incurred by the Association, including reasonable attorney's fees.

4. All assessments hereunder, together with all interest thereon and all attorney's fees and other costs and expenses related to such assessments, shall be the personal obligation of the lot owner and shall constitute and be deemed a continuing lien and encumbrance on the lot against which such assessment is made. No purchase or assumption by a subsequent owner shall relieve the prior or the current owner for such personal liability for any delinquent assessments.

5. Assessments shall be used exclusively to ensure the proper and continued operation, management, and maintenance of the Subdivision and its common areas, and to ensure and promote the health, safety and welfare of the lot owners. Such assessments shall include, but not be limited to, the payment of all costs and expenses incurred by Association, the Board and the ACC in the performance of each's respective duties and obligations as set forth herein and in the Articles, and the establishment of reasonable reserves for the continued operation, management, maintenance, repair and replacement of the common areas and the retention ponds located in the Subdivision.

6. The Association shall levy and assess a general assessment each fiscal year in an amount sufficient and adequate to finance and pay for the operations and activities of the Association and to satisfactorily maintain the common area(s) and to establish and maintain adequate repair reserves.

7. The Developer shall maintain all common areas of the Subdivision until fifty percent (50.0%) of the Lots in the Subdivision have been conveyed to purchasers other than the Developer. Thereafter, the Association shall adopt a budget for such maintenance and set the fees therefor.

8. General assessments may be increased in any year if the current assessment is not sufficient to cover the actual or anticipated costs of maintenance of the Subdivision and its common areas. General assessments may also be increased in any year to cover the actual or estimated costs of adding and/or maintaining any new structure added to any common area.

9. Special assessments may also be levied by the Association for any violation of these covenants or as the Association otherwise deems necessary and proper as circumstances may warrant, and any such special assessment will be assessed against the lot and the lot owner in the manner set forth herein.

10. Each and every general and special lien for assessment provided for herein shall not be subordinated or deemed to be subordinate to the lien of any mortgage or other valid lien encumbering the lot in question except for the lien of a valid first purchase-money mortgage given and made in good faith, for value, without notice, and is properly of record, provided however, such mortgage is recorded prior to the recordation of the Association's claim of lien. Any such first purchase-money mortgage recorded after the recordation of the Association's lien shall be subject and subordinate to the Association's lien.

11. The sale or other transfer of a lot shall in no way change or otherwise affect the Association's lien against such lot, and shall not defeat or otherwise affect the personal obligation of the owner of such lot notwithstanding whether such sale or other transfer occurred prior to, on or after the recordation of the Association's lien. Every lot owner is charged with the responsibility to ascertain and pay any and all assessments due and owing against such lot.

12. No violation of any covenant contained herein shall render invalid the lien of any mortgage on any lot in the Subdivision made and given in good faith, for value, and without notice; however, any mortgagee in actual possession or any purchaser at any foreclosure sale shall be bound by and be subject to these covenants as fully as any and all other lot owners in the Subdivision.

SECTION EIGHT

VARIANCES

1. Variances pertaining to the location and set back of a house or other building to be constructed on the lot may be granted by the ACC under certain and special circumstances, subject to the zoning and other regulations of the City of Fairhope and other governmental agencies.

2. The standard of review for any such variance shall be in a case of an unusual shaped lot or where an unusual or different kind of building or improvement is contemplated, and in those cases where certain restrictions would cause an undue hardship to the lot owner.

3. Notwithstanding anything contained herein to the contrary, no variance shall be granted which will be materially detrimental to the interest of other lot owners in the Subdivision.

SECTION NINE **AMENDMENT**

1. These covenants may be amended upon and pursuant to the written consent of lot owners representing not less than Eighty percent (80 %) of the total votes eligible to be cast and in the manner prescribed in the Association's By-Laws.

2. Notwithstanding anything contained herein to the contrary, the Developer shall have and does hereby specifically retain and reserve the absolute right to unilaterally amend these Covenants without notice at any time prior to the time the Developer relinquishes all rights, title and control of the Association as required herein.

3. No amendment hereunder shall be valid unless such amendment has first been properly approved by said percentage of the lot owners, or has been properly made and executed by the Developer prior to the time the Developer has relinquished control of the Association as required herein, and such amendment complies with all the requirements set forth herein. Any other attempt to amend the provisions of these covenants shall be null and void and of no effect.

4. Any proper amendment hereof, whether by the Developer, the Association, or otherwise, shall be valid and effective immediately upon the proper recordation of same in the Office of the Judge of Probate of Baldwin County, Alabama.

SECTION TEN **REMEDIES**

1. The Association, the ACC, and the Developer (as long as the Developer owns any lot in the Subdivision), shall have the right to enforce any covenant, condition, obligation, restriction, lien, or charge now or hereafter imposed hereunder, available at law or in equity or otherwise.

2. All costs and expenses incurred by the Association, the ACC, and/or the Developer for the collection of any sums due hereunder or the enforcement of any such covenant, condition, obligation, restriction, lien or other provision hereof shall be chargeable to the owner of the lot violating these covenants and shall constitute a lien on such owner's lot.

3. In the event of a violation or breach of any covenant, condition, obligation, restriction, or provision contained herein or the Articles or the By-Laws, or any amendments hereto, by any lot owner or any family member, guest, agent employee, or lessee of such owner, in addition to any other right or remedy available at law or in equity or otherwise, any lot owner, the Association, the ACC, and the Developer (as long as the Developer is a lot owner), their successors and assigns, and any other party to whom these covenants shall inure, shall have the right to pursue any remedy hereunder or at law or in equity.

4. Notwithstanding anything contained herein to the contrary, the Developer, any lot owner, the Association, the ACC, or any other party to whom these covenants shall apply, shall have one or more of the following remedies, to-wit:

(a) File a suit or other legal action or other proceeding at law or in equity for an injunction or to recover damages or other amounts due or to compel compliance with the terms and conditions hereof, and to file for and seek the recovery of all cost and expenses of such action, including, but not limited to, a reasonable attorneys fee.

(b) Prevent the violation or breach hereof by self help or abatement of the violation, and the expenses and charges incurred therefor shall be taxable against the violating lot owner and the owner's lot and constitute a lien against the owner's lot by the Association until such owner has reimbursed all such expenses, interest, attorney's fees and costs.

(c) To impose a fine, together with interest, costs, and attorney's fees, against such violating lot owner in an amount or amounts levied by the Board, the ACC, or as may be determined and established by a majority of the lot owners, and such fine, costs, attorney's fees and other expenses shall constitute and be a lien upon the lot owned by the violating owner and evidenced by the filing of a claim of lien in the Office of the Judge of Probate of Baldwin County, Alabama.

5. Any lien hereunder shall be collectable in the same manner as an assessment, and if such lien is not paid, said lien may be foreclosed and the lot sold as in the case of past due mortgages.

6. Each and every remedy set forth herein shall be cumulative and in addition to all other remedies, whether available at law or in equity or otherwise, and in no event shall the award of damages in an action to enforce compliance herewith be deemed the only remedy or adequate compensation for any breach or violation hereof and shall be in addition to any other specific relief such as an injunction or any other available relief.

SECTION ELEVEN

GENERAL COVENANTS

1. Every lot owner, whether a person or entity, by acceptance of their deed or otherwise acquiring any lot owner's interest in any portion of the Subdivision, thereby binds such owner and such owner's heirs, executors, personal representatives, successors, transferees, and assigns, to all of the covenants, conditions, obligations, restrictions, provisions, rules, and regulations now or hereafter imposed by these covenants and any amendment hereto, and does acknowledge, consent, covenant and agree these covenants set forth a general policy for the overall improvement and development of the Subdivision, and these covenants are mutually beneficially to and enforceable by the Association, the ACC, the Developer, and any current or subsequent owner.

2. These covenants and all amendments hereto shall run with the land and be binding on each lot and its owner and all subsequent purchasers, grantees, transferees and assigns thereof, and no covenant, condition, restriction or other provision herein shall constitute a condition subsequent or create any possibility of reverter.

3. In the event of actual or apparent conflict between the provisions of this Declaration or the Articles or the By Laws of this Association, the provisions of the Declaration shall be controlling, unless prohibited by statute.

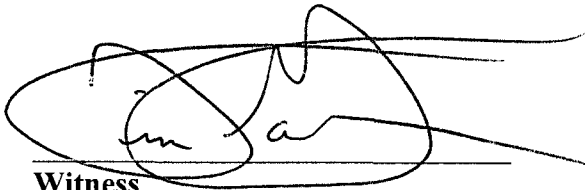
4. All of the covenants, conditions, restrictions and reservations contained herein are hereby declared to be severable, and a finding by any court of competent jurisdiction that any one or more of them or any cause or phase thereof is void, unlawful or unenforceable shall not affect the validity or enforceability of any other covenant, condition, restriction, reservation, clause or phrase thereof.

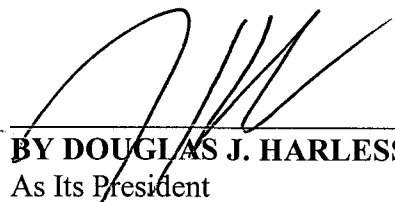
5. Any dispute regarding these covenants shall be pursuant to the statutes and laws of the State of Alabama, and jurisdiction and venue shall be in Baldwin County, Alabama.

6. The delay or failure on the part of the Association, the ACC, the Developer, any lot owner, or any other aggrieved party, to initiate or pursue any available right or remedy set forth herein, whether same shall be at law, in equity or otherwise, shall not be deemed or construed in any way to be a waiver of such right or remedy or of said party or as an estoppel of said party or of any other party to assert such right or remedy or any other right or remedy available upon the recurrence or continuation of said violation or the occurrence of a different violation.

IN WITNESS WHEREOF, the undersigned Developer has caused this instrument to be duly executed under seal on this 30th day of April, 2007.

HARLESS DEVELOPMENT COMPANY, INC.,
An Alabama Corporation


Witness


BY **DOUGLAS J. HARLESS** (SEAL)
As Its President

ACKNOWLEDGMENT PAGE TO COVENANTS

**STATE OF ALABAMA }
COUNTY OF BALDWIN }**

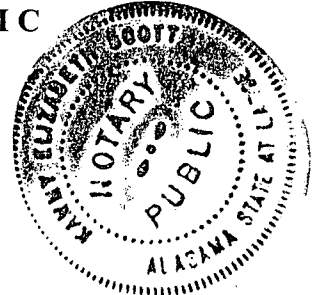
I, the undersigned, a Notary Public in and for said county and said state, do hereby certify that **DOUGLAS J. HARLESS**, whose name as President of **HARLESS DEVELOPMENT COMPANY, INC.**, an Alabama corporation, is signed to the foregoing Declaration and who is known to me or otherwise produced valid identification, acknowledged before me on this day, that, after being informed of the contents of said instrument, he, as such officer and with full authority, executed said instrument voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and official seal on this 30th day of April, 2007.

My Commission Expires:

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: June 9, 2010
BONDED THRU NOTARY PUBLIC UNDERWRITERS

Kammy Elizabeth Scott
NOTARY PUBLIC



This Instrument Prepared By:
Timothy D. Garner
Attorney at Law
Post Office Box 3304
Gulf Shores, Alabama 36547-3304
(251) 968-5540