BALDWIN COUNTY, ALABAMA
HARRY D'OLIVE, JR. PROBATE JUDGE
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STATE OF ALABAMA
COUNT OF BALDWIN

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR MOONDANCE ON PERDIDO BAY A PLANNED UNIT DEVELOPMENT

This **DECLARATION** made on the date hereinafter set forth by **MOONDANCE PROPERTIES, LLC,** an Alabama Limited Liability Company (the "DECLARANT").

RECITALS:

1. DECLARANT is the assignee of Two Fish Properties, LLC, the owner of that certain real property, which is known as MOONDANCE ON PERDIDO BAY, a Planned Unit Development, as per plat thereof recorded in the Office of the Judge of Probate of Baldwin County, Alabama, in Instrument Number 2082729, as Slides 0002907-A and 0002907-B together with all improvements and appurtenances (sometimes hereinafter referred to as the "PROPERTY").

2. 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 the PROPERTY.

3. DECLARANT has caused the MOONDANCE ON PERDIDO BAY PROPERTY OWNER'S ASSOCIATION, INC. (the "ASSOCIATION") to be formed for the purpose of providing an Alabama non-profit corporation to serve as representative of the DECLARANT and OWNERS of the PROPERTY.

4. The ASSOCIATION and the PROPERTY shall be subject to the terms and conditions of this DECLARATION.

NOW, THEREFORE, DECLARANT hereby declares that the PROPERTY shall be held, transferred, sold, conveyed, given, purchased or encumbered, rented, used, occupied and improved, subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of and which shall run with the PROPERTY subject to the DECLARATION and which shall be binding on all parties having any right, title or interest in the PROPERTY or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each OWNER thereof.

ARTICLE I
DEFINITIONS

The following words and terms as used in this DECLARATION (unless the context clearly shall indicate otherwise) shall have the following meaning:

Section 1.1 "ARTICLES OF INCORPORATION" or "ARTICLES" shall mean and refer to the ARTICLES OF INCORPORATION of the ASSOCIATION.

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Section 1.2 "ASSESSMENTS" shall mean and refer to the ASSESSMENTS referred to in this DECLARATION.

Section 1.3 "ASSOCIATION" shall mean and refer to MOONDANCE ON PERDIDO BAY OWNER'S ASSOCIATION, INC., a non-profit Corporation, its successors and assigns.

Section 1.4 "BOARD OF DIRECTORS" or "BOARD" shall mean and refer to the BOARD OF DIRECTORS of the ASSOCIATION. "DIRECTORS" shall mean and refer to individual member(s) of the BOARD OF DIRECTORS.

Section 1.5 "BY-LAWS" shall mean and refer to the BY-LAWS of the ASSOCIATION.

Section 1.6 "COMMON AREA" or "COMMON PROPERTY" shall mean and refer to all real property so designated on any recorded subdivision plat of the PROPERTY or any property, building, fixtures, facilities or other personal property now owned or otherwise acquired by the ASSOCIATION by purchase, gift, or otherwise to be devoted to the common use and enjoyment of the OWNERS of the PROPERTY. The COMMON AREA to be owned by the ASSOCIATION is as described on the recorded subdivision plat of the PROPERTY. The COMMON AREA shall also include the COMMON AREA PIER.

Section 1.7 "COMMON EXPENSES" shall mean and include the actual and estimated expenses of operating the ASSOCIATION, including any reasonable reserve, as may be found to be necessary and appropriate by the BOARD pursuant to this DECLARATION, the ARTICLES OF INCORPORATION of the ASSOCIATION and the BY-LAWS of the ASSOCIATION.

Section 1.8 "COMMON AREA PIER" shall mean the pier owned and maintained by the ASSOCIATION located in the COMMON AREA.

Section 1.9 "DECLARANT" shall mean and refer to MOONDANCE PROPERTIES LLC, an Alabama Limited Liability Company, and the successors and assigns of DECLARANT, if such successors and assigns should receive by assignment from DECLARANT all, or a portion of the rights of the DECLARANT hereunder as the DECLARANT, by an instrument expressly assigning such rights of the DECLARANT to such assignee. Moondance Properties, LLC holds the rights of the Declarant by assignment of the Declarant's rights from Two Fish Properties, LLC.

Section 1.10 "DECLARATION" shall mean and refer to this DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, which shall be recorded in the Probate Records of Baldwin County, Alabama, as the same may from time to time be supplemented or amended in the manner described herein.

Section 1.11 "DEED" shall mean and refer to any DEED, assignment, or other instrument conveying fee simple title in any part of the PROPERTY.

Section 1.12 "LOT" shall mean and refer to any improved or unimproved plot, parcel or portion

of land shown upon any recorded final subdivision map of the PROPERTY, with the exception of the COMMON PROPERTY and shall include, where the context may indicate, any improvement or fixture located thereon.

Section 1.13 "MAJORITY" shall mean and refer to those eligible votes, OWNERS or other groups as the context may indicate totaling more than fifty percent (50%) of the total eligible number.

Section 1.14 "MEMBER" or "MEMBERS" shall mean and refer to every PERSON or entity who holds membership in the ASSOCIATION, as provided herein.

Section 1.15 "MORTGAGE" shall mean and refer to any MORTGAGE, DEED with vendor's lien reserved and other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

Section 1.16 "OWNER" or "OWNERS" shall mean and refer to the holder of record of fee simple title to any LOT. Notwithstanding any applicable theory of any mortgage, OWNER shall not mean and refer to the mortgagee, his or its successors or assigns or heirs, unless such mortgagee has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term OWNER mean or refer to any lessee of any OWNER, nor shall the term OWNER mean or refer to any person holding title merely as security for the payment of a debt. In the event there is of record a deed granting one (1) or more parties a life estate in any LOT, the OWNER of said LOT shall be deemed to be the holder or holders of a life estate, regardless of who owns a fee interest.

Section 1.17 "PERSON" shall mean and refer to a natural person, corporation, partnership, trustee or other legal entity.

Section 1.18 “PIER” shall mean the piers associated with LOTS 11, 12 and 13 as shown on the PLAT owned and maintained by the OWNERS of said LOTS.

Section 1.19 "PLAT" shall mean and refer to the PLAT of MOONDANCE ON PERDIDO BAY, a Planned Unit Development, referred to in Paragraph (1) in the recitals on Page 1 of this DECLARATION.

Section 1.20 "PROPERTY" OR "PROPERTIES" or "PLANNED UNIT DEVELOPMENT" shall mean and refer to that certain real property described in Paragraph (1) in the RECITALS on Page 1of this DECLARATION.

Section 1.21 "VESSEL" shall mean and refer to any craft for traveling on water including a boat, sailboat or other watercraft which is motorized or self-propelled and in a seaworthy condition, together with any tender thereto. In the event of any dispute as to whether a particular VESSEL is permitted to be kept at a PIER or COMMON AREA PIER, the determination of the ASSOCIATION made in its sole discretion shall be dispositive. The term VESSEL shall include all VESSELS kept at a PIER or COMMON AREA PIER.

ARTICLE II
MUTUALITY OF BENEFIT AND OBLIGATION

This DECLARATION is made for the mutual and reciprocal benefit of each and every part of the PROPERTY and intended to create mutual, equitable servitudes upon the PROPERTY, to create reciprocal rights between the respective OWNERS and future OWNERS of the Property; and to create a privity of contract and estate between the grantees of the PROPERTY, their heirs, successors, and assigns.

ARTICLE III
THE PLAN AND GENERAL DESCRIPTION PROPERTY RIGHTS AND EASEMENTS

Section 3.1 General Description. The PROPERTY consists of twenty-seven (27) LOTS and the COMMON AREA. The LOTS and the COMMON AREA are identified and labeled on the PLAT. The COMMON AREA includes the COMMON AREA PIER.

Section 3.2 LOT. Subject to the terms of this DECLARATION, any right, title or interest in a LOT shall automatically carry with it as an appurtenance and without the necessity of specific reference thereto the right to use the COMMON AREA and the COMMON AREA PIER.

Section 3.3 COMMON AREA. The COMMON AREA is all portions of the PROPERTY other than the LOTS and will include the COMMON AREA and facilities located substantially as shown on the PLAT. The COMMON AREA and facilities include the following:

A. All of the PROPERTY except the LOTS.
B. Littoral and riparian rights attached to the COMMON AREA lying adjacent to Perdido Bay.
C. All tangible personal property required for the maintenance and operation of the COMMON AREA and for the common use and enjoyment of the LOT OWNERS. The COMMON AREA PIER, docks, bulkheads, retaining walls, utility lines and dock facilities together with other improvements shown on the PLAT and located within the COMMON AREA.

The right of a LOT OWNER to use the COMMON AREA shall be subject to and governed by the provisions of this DECLARATION and the Rules and Regulations of the ASSOCIATION.

The COMMON AREA is NEITHER DONATED, DEDICATED, NOR GRANTED TO THE PUBLIC, but shall be conveyed by the DECLARANT to the ASSOCIATION for use as COMMON PROPERTY for the benefit of the LOT OWNERS and the ASSOCIATION as provided in this DECLARATION.

Section 3.4 COMMON AREA PIER. DECLARANT is the owner of certain permits issued by the applicable Federal, state and local government agencies, having jurisdiction over the PROPERTY, including the right, pursuant to permits issued by the United States Army Corps of

Engineers authorizing the construction of certain piers and docking facilities. The piers and docking facilities referred to in the preceding sentence shall be part of the COMMON AREA.

Subject to the terms of this DECLARATION and Alabama Law, each OWNER shall have the riparian right and easement to use the water space immediately adjacent to the COMMON AREA PIER extending to within one (1) foot of the mooring pile or boundary line between VESSELS for the purpose of mooring a VESSEL. The rights of any OWNER to use the waterways is non-exclusive and is subject to the rights of other parties, the United States of America or the State of Alabama, in and to the shore, littoral or riparian rights of the property lying adjacent to Perdido Bay and the rights of said parties to use and/or regulate said waterways.

Section 3.5 No Partition. The ownership interest in A PIER as defined in Section 1.18 above, shall not be conveyed, transferred, encumbered, or otherwise affected separate from the ownership of the LOT to which it is appurtenant and any agreement to the contrary shall be void.

Section 3.6 Waterways and Submerged Land. All activities on or over and all uses of submerged land affected hereby are subject to the jurisdiction of the State of Alabama, the United States Department of Army Corps of Engineers, and other governmental agencies having jurisdiction. Each OWNER shall be responsible to the extent of his or her ownership for any damages to, any illegal or uses not permitted of, and any duties or responsibilities concerning, the use of submerged lands, coastal areas and any other critical area. The rights of an OWNER to use the COMMON AREA, COMMON AREA PIER or the waterways is subject to State, Federal and local law and further subject to rules and regulations imposed by any governmental entity having jurisdiction.

Section 3.7 OWNER'S Easement of Enjoyment. Every OWNER shall have and is hereby granted a nonexclusive right and easement of ingress, egress, use and enjoyment in and to the COMMON AREA necessary for access to his or her LOT or the COMMON AREA PIER and such rights shall be appurtenant to and shall pass with the title to every LOT, subject to the following provisions:

a. The right of other LOT OWNERS with a PIER as described in the DECLARATION.
b. The right of the ASSOCIATION to charge reasonable admission and other fees for the use and maintenance of the COMMON AREA and to impose reasonable limits on the number of guests who may use the COMMON AREA.
c. The right of the ASSOCIATION, in addition to its other rights as hereinafter set forth, to suspend the voting rights of an OWNER and the right to use any of the COMMON AREA for any period during which any ASSESSMENT remains unpaid, and for any infraction by an OWNER of the published rules and regulations of the ASSOCIATION after hearing by the BOARD OF DIRECTORS of the ASSOCIATION for the duration of the infraction and for an additional period thereafter not to exceed thirty (30) days.
d. The right of the DECLARANT, with regard to the PROPERTY which may be owned for the purpose of development, to grant easements in and to the COMMON AREA to any public agency, authority or utility for such purposes as benefit only the PROPERTY or portions thereof.

e. The right of the ASSOCIATION to borrow money for the purpose of improving the COMMON PROPERTY, or any portion thereof, for acquiring additional COMMON PROPERTY, or for constructing, repairing or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a MORTGAGE conveying all or any portion of the COMMON PROPERTY; provided two-thirds (2/3) of the total votes entitled to be cast by MEMBERS of the ASSOCIATION present at a meeting called for such purpose shall approve; PROVIDED, HOWEVER, the lien and encumbrance of any such MORTGAGE given by the ASSOCIATION shall be subject and subordinate to any and all rights, interests, options, easements and privileges reserved or established in this DECLARATION for the benefit of DECLARANT or any OWNER, or the holder of any MORTGAGE, irrespective of when executed, given by DECLARANT or any OWNER encumbering any LOT or other property located within the PLANNED UNIT DEVELOPMENT.

f. The right of the ASSOCIATION to dedicate or transfer all or any part of the COMMON AREA to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the MEMBERS. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by at least seventy-five percent (75%) of the total votes entitled to be cast by MEMBERS of the ASSOCIATION who are present or represented by proxy at a meeting duly called for such purpose.

g. The parking of automobiles in the designated area within the COMMON AREA is restricted to OWNERS and guests, invitees and tenants of OWNERS and shall not interfere with the rights of ingress and egress of the OWNER of any particular LOT.

h. The right of the ASSOCIATION to adopt and promulgate reasonable rules and regulations pertaining to the use of the PROPERTY, which, in the discretion of the ASSOCIATION, shall serve to promote the best interests of the OWNERS and residents in the PLANNED UNIT DEVELOPMENT.

i. Rights of other parties, the United States of America or State of Alabama, in and to the shore, littoral or riparian rights of the PROPERTY lying adjacent to any waterway. The rights of the State of Alabama to the bottoms of any navigable waterway.

j. The right of the DECLARANT or the ASSOCIATION and their designees, successors and assigns, to dredge the submerged land in Perdido Bay as deemed necessary by the DECLARANT or the ASSOCIATION.

k. The right of the ASSOCIATION or the DECLARANT to require an OWNER of a VESSEL to relocate the VESSEL due to construction of improvements or violation of any terms and conditions of this DECLARATION or rules or regulations of the ASSOCIATION. The ASSOCIATION and the DECLARANT shall have a nonexclusive easement over and across the COMMON AREA for purposes of relocating a VESSEL. Neither the ASSOCIATION nor the DECLARANT shall be liable for any damage or destruction to a VESSEL caused by the negligence of the DECLARANT or the ASSOCIATION in connection with the relocation of any VESSEL.

l. If (i) any portion of the COMMON AREA encroaches upon any PIER (ii) any PIER encroaches upon any portion of the COMMON AREA; or (iii) a VESSEL shall encroach upon any PIER or COMMON AREA and COMMON AREA PIER as a result of, but only as a result of:

a. a wake caused by the movement of other VESSELS;
b. tidal movement;
c. storms or other acts of God; or
d. as permitted by duly adopted rules of the ASSOCIATION, then in any such event, a valid easement shall exist for such encroachment. Notwithstanding any of the foregoing, however, an OWNER shall be liable for all damages to a PIER or COMMON AREA PIER or VESSEL or property of another OWNER or to the COMMON AREA where the cause of such damage is the failure of such OWNER to properly secure (or, if required, remove) his or her VESSEL to (or from) its mooring.

m. No OWNER shall grant any easement upon any portion of the PROPERTY to any person or entity without the prior consent of the DECLARANT and/or the ASSOCIATION.

Section 3.8 Delegation of Use. Any OWNER may delegate, in accordance with the BY-LAWS and subject to reasonable rules, regulations and limitations as may be adopted in accordance herewith, his or her right of enjoyment of the COMMON AREA and facilities to the MEMBERS of his or her family, tenants and social guests or contract purchasers who reside on the PROPERTY.

Section 3.9 Drainage Easements. Except with prior written permission from DECLARANT, or (when so designated by DECLARANT) from the ARCHITECTURAL COMMITTEE, drainage flow shall not be obstructed nor be diverted from drainage swales, storm sewers and/or utility easements as designated herein, or as may hereafter appear on any plat of record in which reference is made to this DECLARATION or any part thereof. DECLARANT may cut drainways for surface water wherever and whenever such action may appear to DECLARANT to be necessary in order to maintain reasonable standards of health, safety and appearance; PROVIDED, HOWEVER, that the right of DECLARANT to cut drainways on the property of an OWNER shall terminate when the principal structure and approved landscaping on such property have been completed. These easements and rights expressly 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 installment and to maintain reasonable standards of health and appearance. The provisions hereof shall not be construed to impose any obligation upon DECLARANT to cut such drainways.

Section 3.10 Grading. DECLARANT may at any time make such cuts and fills upon any LOT or other part of the PROPERTY and do such grading and moving of earth as, in its judgment, may be necessary to improve or maintain the access areas or roads in or adjacent to the PROPERTY and to drain surface waters therefrom; and may assign such rights to the appropriate governmental authority; PROVIDED, HOWEVER, that after plans for the principal structure upon a LOT shall have been approved by the ARCHITECTURAL COMMITTEE as provided

herein, the rights of DECLARANT under this Section 3.10 shall terminate with respect to all parts of such LOT other than the easement area thereof, except that DECLARANT or any such municipal or public authority shall thereafter have the right to maintain existing roads and drainage structures.

Section 3.11 Easements of Utility. There is hereby reserved to the ASSOCIATION blanket easements upon, across, above and under all property within the PLANNED UNIT DEVELOPMENT for access, ingress, egress, installation, repairing, replacing and maintaining all utilities serving the PLANNED UNIT DEVELOPMENT or any portion thereof, including but not limited to gas, water, sanitary sewer, telephone, cable television and electricity, as well as storm drainage and any other service which the ASSOCIATION might decide to install to serve the PLANNED UNIT DEVELOPMENT. It shall be expressly permissible for the ASSOCIATION or its designee, as the case may be, to install, repair, replace and maintain or to authorize the installation, repair, replacement and maintenance of such wires, conduits, cables and other equipment relating to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the BOARD shall have the right to grant such easement.

Section 3.12 Easement for Governmental, Health, Sanitation and Emergency Services. There is hereby granted to the appropriate governmental authorities and to the appropriate private organizations supplying health, sanitation, utilities, police services and any emergency services such as fire, ambulance and rescue services, a nonexclusive easement, for purposes of ingress and egress over the COMMON AREA.

Section 3.13 Reserved Easement for DECLARANT. Notwithstanding any provisions contained in this DECLARATION to the contrary, DECLARANT hereby expressly reserves unto itself and its successors, assigns, contractors, licensees and agents a nonexclusive, perpetual, alienable and releasable right, privilege and easement with respect to the PROPERTY for the benefit of the DECLARANT, its successors and assigns, on, over and under the PROPERTY (including without limitation the COMMON AREA, COMMON AREA PIER and each LOT) without further obligation and without charge to the DECLARANT, for the purposes of construction, installation, relocation, development, sale, maintenance, replacement, use and enjoyment and/or otherwise dealing with the PROPERTY. The reserved easement shall constitute a burden on the title to the PROPERTY and specifically includes, but is not limited to:

a. the right of access, ingress and egress for vehicular, VESSEL and pedestrian traffic over, under, on or in the PROPERTY and COMMON AREA PIER; and the right to tie into any portion of the PROPERTY or the COMMON AREA PIER with driveways, parking areas and walkways; and the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, cable television, telephone poles, wires, cables, conduits, natural gas, water, sewer, wells, pumping stations, tanks, water mains and drainage lines, drainage ways or other public conveniences or utilities and facilities constructed or installed in, on, under and/or over the PROPERTY or the COMMON AREA PIER; and

b. The right to construct, install, replace, relocate, maintain, repair, use and enjoy piers, bulkheads, docking facilities, signs, model residences, sales offices, construction offices and business offices as, in the sole opinion of DECLARANT, may be required, convenient or incidental to the construction and sale by DECLARANT of the LOTS or the improvements in the PROPERTY; and

c. No rights, privileges and easements granted or reserved herein shall be merged into the title of any property, including, without limitation, the PLANNED UNIT DEVELOPMENT, but shall be held independent of such title, and no such right, privilege or easement shall surrendered, conveyed or released unless and until and except by delivery of a quitclaim deed from DECLARANT releasing such right, privilege or easement by express reference thereto.

Nothing herein shall be construed so as to impose on the DECLARANT any obligation or duties of maintenance or repair.

This Section may not be amended without the written consent of DECLARANT.

Section 3.14 Private Roadway. The private roadways shown on the PLAT and known as Moondance Drive and Moondance Cove are NOT DONATED, DEDICATED NOR GRANTED TO THE PUBLIC, but are part of the COMMON AREA. The private roadways shall be owned and maintained by the ASSOCIATION. Every OWNER, by reason of such Ownership, shall have a right and non-exclusive private easement of enjoyment in and to the private roadways and the COMMON AREA which shall be appurtenant to and shall pass with every LOT upon transfer. All such rights, private easements, and privileges, however, shall be subject to the right of the ASSOCIATION to adopt and promulgate reasonable rules and regulations pertaining to the use of said areas which shall enhance the preservation of such areas, the safety and convenience of the users thereof, or which, in the discretion of the ASSOCIATION, shall serve to promote the best interest of the OWNERS and residents of the PROPERTY. All OWNERS, their household members, invitees, guests, or tenants shall have the right of ingress and egress to and from public roads over and across the private roadway.

There shall exist a right of ingress and egress on, over and across said private roadway for publicly employed personnel and equipment for any and all necessary and appropriate public purposes, and for inspection and maintenance of utilities.

Section 3.15 Exceptions to Title. In addition to the other matters set out in this DECLARATION, the property rights and easements of a LOT OWNER are subject to all matters set forth on Attachment 1, which is incorporated by reference as if fully set forth herein.

Section 3.16 Reasonable Care. All LOT OWNERS and their family, guests and invitees shall use reasonable care and good navigation in connection with the use and enjoyment of the COMMON AREA PIER, piers, bulkheads, dock facilities and waterways and will exercise the rights hereunder in a reasonable manner to minimize interference with or inconvenience to other persons.

The DECLARANT, and the successors and assigns of DECLARANT, shall be indemnified and held harmless from and against any and all expenses or liabilities incurred as a result of damage or destruction in connection with the use of the COMMON AREA PIER, piers, bulkheads, docking facilities or waterways.

ARTICLE IV
ARCHITECTURAL COMMITTEE; ARCHITECTURAL CONTROL

Section 4.1 Architectural Committee. The Architectural Committee (the "ARCHITECTURAL COMMITTEE") shall be composed of at least three (3) but not more than five (5) individuals designated and redesignated from time to time (i) by DECLARANT until control of the ARCHITECTURAL COMMITTEE is specifically delegated by the DECLARANT to the ASSOCIATION, and (ii) by the ASSOCIATION after delegation of such control.

Delegation of control of the ARCHITECTURAL COMMITTEE from the DECLARANT to the ASSOCIATION shall be evidenced by an instrument signed by the DECLARANT and filed for record in the Probate Records of Baldwin County, Alabama.

Except as hereinafter provided, the affirmative vote of a majority of the membership of the ARCHITECTURAL COMMITTEE shall be required in order to approve any plans and specifications submitted under this ARTICLE IV.

The ARCHITECTUAL COMMITTEE may from time to tome set, establish, alter and revise fees payable by OWNERS to the ASSOCIATION for the ARCHITECTUAL COMMITTEE's review and consideration of submissions required by these COVENANTS to be reviewed by the ARCHITECTUAL COMMITTEE. Payment of these fees shall be a pre-requisite to the ARCHITECTUAL COMMITTEE's consideration of an OWNER's application for approval.

Section 4.2 Approval Required. No structure shall be commenced, erected, placed, moved on to or permitted to remain on any LOT, nor shall any existing structure upon any LOT be altered in any way which materially changes the exterior appearance thereof, nor shall any new use be commenced on any LOT, unless plans and specifications (including a description of any proposed new use) thereof shall have been submitted to and approved in writing by the ARCHITECTURAL COMMITTEE. Such plans and specifications shall be in such form and shall contain such information as may be required by the ARCHITECTURAL COMMITTEE, including:

a. architectural plans, elevations and specifications showing the nature, kind, exterior color schemes, shape, height and materials of all structures proposed for the LOT;
b. a site plan of the LOT showing the location with respect to the particular LOT (including proposed front, rear and side setbacks and free spaces, if any are proposed) of all structures, the location thereof with reference to structures on adjoining portions of the PROPERTY, and the number and location of all parking spaces and driveways on the LOT;
c. a grading plan for the particular LOT;

d. a drainage plan;
e. a plan for landscaping;
f. Corps of Engineers or other appropriate governmental permit.

All of said plans shall address the matters set forth in ARTICLE V, as applicable.

No structure shall be commenced, altered, placed, moved onto or permitted to remain on any COMMON AREA or COMMON AREA PIER unless specifically approved by the DECLARANT or the BOARD OF DIRECTORS of the ASSOCIATION. Only the DECLARANT or the BOARD OF DIRECTORS of the ASSOCIATION shall have the authority to make or authorize alterations or improvements to the COMMON AREA or COMMON AREA PIER. PROVIDED, HOWEVER, the DECLARANT or the ASSOCIATION shall have the right to contract with or assign to others the authority to make alterations and improvements on the COMMON AREA PIER.

Section 4.3 Basis for Disapproval of Plans. The ARCHITECTURAL COMMITTEE shall have the right to disapprove any plans and specifications submitted hereunder because of any of the following:

a. failure of such plans or specifications to comply with this DECLARATION;
b. failure to include information in such plans and specifications as may have been reasonably requested;
c. objection to the exterior design, appearance or materials of any proposed structure;
d. incompatibility of any proposed structure or use with existing structures or uses upon other LOTS in the vicinity;
e. objections to the location of any proposed structure upon any LOT or with reference to other LOTS in the vicinity;
f. objection to the site plan, grading plan, drainage plan or landscaping plan for any LOT;
g. objection to the color scheme, finish, proportions, style of architecture, materials, height, bulk or appropriateness of any proposed structure;
h. objection to parking areas proposed for any LOT on the grounds of (i) incompatibility to proposed uses and structures on such LOT, or (ii) the insufficiency of the size of parking areas in relation to the proposed use of the LOT;
i. failure of plans to take into consideration the particular topography, vegetative characteristics, natural environment and storm water runoff of the LOT; or
j. other matter which, in the judgment of the ARCHITECTURAL COMMITTEE, would render the proposed structure, structures or uses inharmonious with the general plan of improvement of the PROPERTY or with structures or uses located upon other LOTS in the vicinity.

Approval of any such plans shall terminate and be rendered void if construction is not begun within twelve (12) months after such approval.

In any case where the ARCHITECTURAL COMMITTEE shall disapprove any plans and specifications submitted hereunder or shall approve the same only as modified or upon specified

conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the ARCHITECTURAL COMMITTEE shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal can be prepared and submitted for approval. THE SCOPE OF REVIEW BY THE ARCHITECTURAL COMMITTEE DOES NOT INCLUDE ANY RESPONSIBILITY OR AUTHORITY TO REVIEW FOR STRUCTURAL SOUNDNESS, COMPLIANCE WITH BUILDING OR ZONING CODES OR STANDARDS, OR ANY OTHER SIMILAR OR DISSIMILAR FACTORS.

Section 4.4 Retention of Copy of Plans. Upon approval by the ARCHITECTURAL COMMITTEE of any plans and specifications submitted hereunder, a copy of such plans and specifications, as approved, shall be deposited for record with the ARCHITECTURAL COMMITTEE, and shall be retained for a period of no more than six (6) months after completion of the improvement, and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same.

Section 4.5 Design Regulations of ARCHITECTURAL COMMITTEE; Effect of Approval and Disapproval; Time for Approval. The ARCHITECTURAL COMMITTEE may promulgate design regulations governing the form and content of plans to be submitted for approval or requiring specific improvements on LOTS, including, without limitation, exterior lighting and planting, and may issue statements of policy with respect to approval or disapproval of the architectural styles or details, or other matters, which may be presented for approval. Such design regulations and such statements of policy may be amended or revoked by the ARCHITECTURAL COMMITTEE at any time, and no inclusion in, omission from or amendment of any such design regulation or statement shall be deemed to bind the ARCHITECTURAL COMMITTEE to approve or disapprove any feature or matter subject to approval, or to waive the exercise of the discretion of the ARCHITECTURAL COMMITTEE as to any such matter, but no change of policy shall affect the finality of any approval granted prior to such change. Approval for use on any LOT of any plans or specifications shall not be deemed a waiver of the right of the ARCHITECTURAL COMMITTEE, in its discretion, to disapprove such plans or specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use on any other LOT or LOTS. Approval of any such plans and specifications relating to any LOT, however, shall be final as to that LOT and such approval may not be revoked or rescinded thereafter, provided, (i) that the structure or uses shown or described on or in such plans and specifications do not violate any specific prohibition contained in this DECLARATION, and (ii) that the plans and specifications, as approved, and any condition attached to any such approval, have been adhered to and complied with in regard to all structures on and uses of the LOT in questions.

If the ARCHITECTURAL COMMITTEE fails to approve, disapprove or approve conditionally any plans and specifications as herein provided within forty-five (45) days after proper submission thereof, the same shall be deemed to have been approved, as submitted, and no further action shall be required.

Section 4.6 Certificate of Compliance. Upon completion of the construction or alteration of any structure in accordance with plans and specifications or alteration of any structure in accordance

with plans and specifications approved by the ARCHITECTURAL COMMITTEE, the ARCHITECTURAL COMMITTEE shall, upon written request of the OWNER thereof, issue a certificate of compliance in form suitable for recordation, identifying such structure and the LOT on which such structure is placed, and stating that the plans and specifications, the location of such structure and the use or uses to be conducted thereon have been approved and that such structure complies with the requirements of the ARCHITECTURAL COMMITTEE. Preparation and recording of such certificate shall be at the expense of such OWNER. Any certificate of compliance issued in accordance with the provisions of this Section 4.6 shall be prima facie evidence of the facts therein stated, and as to any purchaser or encumbrancer in good faith and for value, or as to any title insurer, such certificate shall be conclusive evidence that, as of the date of the certificate, all structures on the LOT, and the use or uses described therein comply with all the requirements of this ARTICLE IV, and with all other requirements of this DECLARATION as to which the ARCHITECTURAL COMMITTEE exercises any discretionary or interpretive powers.

Section 4.7 Inspection and Testing Rights. Any agent of DECLARANT, ASSOCIATION or the ARCHITECTURAL COMMITTEE may at any reasonable time or times enter upon and inspect any LOT and any improvements thereon for the purpose of ascertaining whether the maintenance of such LOT and the maintenance, construction, or alteration of the structures thereon are in compliance with the provisions hereof; and neither DECLARANT, ASSOCIATION nor the ARCHITECTURAL COMMITTEE nor any such agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection. Without limitation upon other inspection rights, in order to implement inspection and testing of sanitary sewer lines, each OWNER agrees to notify the ARCHITECTURAL COMMITTEE prior to its installation of the sanitary sewer service lines and to permit such inspection and testing thereof by the ARCHITECTURAL COMMITTEE both before and after backfill as is required by the ARCHITECTURAL COMMITTEE. Any such inspection shall be for the sole purpose of determining compliance with this DECLARATION and neither the making of any such inspection, nor the failure to make any such inspection, shall be relied upon by the OWNER of a LOT or any third persons or entities for any purpose whatsoever; nor shall any such inspection obligate the DECLARANT, the ASSOCIATION or the ARCHITECTURAL COMMITTEE to take any particular action based on the inspection.

Section 4.8 Waiver of Liability. Neither the ARCHITECTURAL COMMITTEE nor any architect nor agent thereof, nor the ASSOCIATION, nor the DECLARANT nor any agent or employee of the foregoing, shall be responsible in any way for any failure of structures to comply with requirements of this DECLARATION, although a certificate of compliance has been issued, nor for any defects in any plans and specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications, and all persons relying thereon or benefiting therefrom agree not to sue or claim against the entities and persons referred to in this Section 4.8 for any cause arising out of the matters referred to in this Section 4.8 and further agree to and do hereby release said entities and persons for any and every such cause.

ARTICLE V
ZONING AND SPECIFIC RESTRICTIONS

This DECLARATION shall not be taken as permitting any action or thing prohibited by the applicable: laws, rules or regulations of any governmental authority, or by specific covenants or restrictions imposed by any DEED. In the event of any conflict, the most restrictive provision of such laws, rules, regulations, DEEDS, covenants, restrictions or this DECLARATION shall be taken to govern and control.

ARTICLE VI
SITE DEVELOPMENT

Section 6.1 Site to be Staked Prior to Tree Cutting. After the plan for the structure is approved, the site of the structure must be staked out and such site approved by the ARCHITECTURAL COMMITTEE before tree cutting is done. Existing vegetation shall be saved whenever it is practical to do so. All areas on site and outside the areas of disturbance shall be "corded off' with high visibility surveyor's flagging tape and no vegetation shall be removed from the corded areas and no materials may be stored over the roots of this vegetation without prior approval of he ARCHITECTURAL COMMITTEE. Removal of "underbrush" from the corded areas is expressly prohibited except on ARCHITECTURAL COMMITTEE approval. No tree may be cut or removed without consent of the ARCHITECTURAL COMMITTEE until the building plans, site plans and site staking are approved by the ARCHITECTURAL COMMITTEE.

Section 6.2 Erosion Control. Erosion control measures shall be taken by the OWNER of a LOT, or contractors of OWNER, to protect adjacent property during construction on such LOT and thereafter until the soil is stabilized on the LOT. This may be accomplished by the use of temporary retention ponds, silt fencing or other protective measures intended to intercept and filter the excess storm water runoff from the LOT. All erosion control measures, including slope stabilization, must be specified on the grading plan and must be approved by the ARCHITECTURAL COMMITTEE prior to commencement of grading activities.

Any storm water retention ponds created during construction on a LOT shall not remain as permanent ponds after completion of construction unless so provided in the grading, site and landscaping plans submitted to and approved by the ARCHITECTURAL COMMITTEE.
If any portion of the PROPERTY has been identified as "wetlands" pursuant to Federal or State law and regulations, such wetlands area shall not be utilized or otherwise developed and improved upon unless and in accordance with all Federal, state and local laws and regulations.

If any portion of the PROPERTY is located within an area designated as "flood prone" pursuant to Federal law and regulations, all improvements constructed in said flood prone area must be constructed in accordance with all Federal, state and local laws and regulations pertaining to flood prone areas.

Section 6.3 Utility Lines and Appurtenances. All gas, water, sewer, telephone, television cable and electrical feeder and service lines shall be installed as underground service unless otherwise approved by the ARCHITECTURAL COMMITTEE. All transformer boxes, meters or other such fixtures shall be adequately screened with plants or other materials approved by the ARCHITECTURAL COMMITTEE; provided that no planting or screening devices shall be placed so as to obstruct the normal servicing of either transformers, telephone pedestals, or other utility hardware. To the extent of the interest of the OWNER of a LOT, the OWNER of a LOT will not erect or grant to any person, firm or corporation the right, license or privilege to erect or use or permit the use of overhead wires, poles or overhead facilities of any kind for electrical, television cable or telephone service on the PROPERTY (except such poles and overhead facilities as may be required at those places where distribution facilities enter and leave the particular area) without the prior written consent of the ARCHITECTURAL COMMITTEE. Nothing herein shall be construed to prohibit overhead road lighting or ornamental yard lighting, where serviced by underground wires or cables. Where underground electric service is to be installed, in order to permit installation of underground electric service to each LOT for the mutual benefit of all OWNERS therein, no OWNER of any such LOT will commence construction of any improvement on any such LOT until such OWNER (1) notifies the electric utility that such construction is proposed, (2) grants in writing to the electric utility such rights and easements as the electric utility requires in connection with its construction, operation, maintenance and removal of underground service lateral on such LOT, and (3) otherwise complies with the Rules and Regulations for Underground Residential Distribution on file with and approved by the Alabama Public Service Commission.

If required by the electric utility, such electric utility, its successors and assigns, may retain title to the underground service lateral and outdoor metering trough, the house power box (exclusive of circuit breakers) serving each said house, and said service entrance facilities provided by such utility will not in any way be considered a fixture or fixtures and thereby a part of said real estate, but will remain personal property belonging to such utility, its successors and assigns, in accordance with applicable Rules and Regulations filed with and approved by the Alabama Public Service Commission.

Section 6.4 Connection Points for Utility Service Lines. To the extent of the interests of the OWNER of each LOT, each OWNER agrees to connect utility service lines (including, but not limited to, gas, water, sewer, telephone, television cable and electricity) at points designated by the ARCHITECTURAL COMMITTEE.

Section 6.5 Sanitary Sewer Service Lines. The material for sanitary sewer service lines must be approved by the ARCHITECTURAL COMMITTEE. The cost for the installation, maintenance and repair of grinder pumps and other waste disposal equipment located on any LOT shall be the responsibility of the OWNER of the LOT. OWNERS must properly maintain and service grinder pumps and sanitary sewer service lines in accordance with manufacturer's recommendations.

Section 6.6 Landscaping. The landscape plan must be approved by the ARCHITECTURAL COMMITTEE prior to any site disturbance. The landscape plan shall indicate the proposed type,

location, size and quantity of all plant materials to be planted on the LOT. The OWNER must faithfully execute the landscape plan as submitted to and approved by the ARCHITECTURAL COMMITTEE. If the OWNER should fail to faithfully execute the landscape plan, the ASSOCIATION shall have the right to enter into a contract with a third party for the execution of the landscape plan as approved, and the cost thereof shall be a binding, personal obligation of the OWNER when billed by the ASSOCIATION as well as a lien upon the LOT in question. The lien provided in this Section 6.6 shall have the same enforceability and priority as the lien provided for in ARTICLE XI below. Any cutting of trees which has not been approved by the ARCHITECTUAL COMMITTEE shall be subject to fines as established by the ARCHITECTURAL COMMITTEE. Said fines shall be treated as ASSESSMENTS are on the LOT in violation.

Section 6.7 Colors, Architectural Styles. All exterior building materials and colors must be approved by the ARCHITECTURAL COMMITTEE. Excessively bright colors or objectionable, noticeable colors are prohibited. All architecture must be compatible with the Traditional Southern Vernacular atmosphere of this PLANNED UNIT DEVELOPMENT and must be compatible with surrounding buildings within the PROPERTY.

Section 6.8 Exterior Lighting. Exterior lighting plans must be set forth on the architectural or landscape plans for a LOT and must be approved by the ARCHITECTURAL COMMITTEE. Exterior lighting shall be "low-key" and shall be compatible with lighting used on the other residential structures and within the development. OWNER's lighting plans for their respective LOTs must be submitted to and approved by the ARCHITECTUAL COMMITTEE. No lighting shall be installed on any DWELLING or on any LOT that is unreasonably bright, or would be unreasonably distracting to the occupants of neighboring LOTS.

ARTICLE VII
COVENANTS FOR MAINTENANCE

Section 7.1 Responsibility of ASSOCIATION. Except as provided in Section 7.2 below, the ASSOCIATION shall maintain and keep in good repair the COMMON PROPERTY, such maintenance to be funded as herein provided.

Section 7.2 Responsibility of OWNER. Each OWNER shall keep all LOTS owned by him or her, and all improvements therein or thereon, in good order and repair, including the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management. It is anticipated that the ASSOCIATION will perform the general yard maintenance for the OWNERS with the costs thereof to be included in the budget established by the ASSOCIATION for which assessments may be established and collected.

Each OWNER shall keep any PIER to which the OWNER is entitled to possess, and all improvements in a neat, attractive and safe condition and in good order and repair. Each OWNER

shall be responsible for the condition of the VESSEL moored at the COMMON AREA PIER or within a PIER to which said OWNER is entitled to possession.

If, in the opinion of the ASSOCIATION, any OWNER fails to perform the duties imposed by this Section 7.2 after fifteen (15) days' written notice from the ASSOCIATION to the OWNER to remedy the condition in question, the ASSOCIATION shall have the right, through its agents and employees, to enter upon the LOT, PIER, or VESSEL in question and to repair, maintain, repaint and restore the LOT, PIER, or VESSEL or such improvements and the cost thereof shall be a binding, personal obligation of such OWNER when billed by the ASSOCIATION as well as a lien upon the LOT in question. The lien provided in this Section shall have the same enforceability and priority as the lien provided for in ARTICLE XI below.

ARTICLE VIII GENERAL COVENANTS AND RESTRICTIONS

The ASSOCIATION is empowered to enforce the following covenants and restrictions which shall pertain to the PROPERTY and to set forth policy as to enforcement thereof in accordance with this DECLARATION and the BY-LAWS.

Section 8.1 Permitted Uses and Structures. Except for the rights reserved to the DECLARANT by this DECLARATION, all LOTS in the PROPERTY and each and every one thereof are hereby declared to be residential LOTS, and no LOT shall be used except for single-family residential purposes. No building or structure shall be erected, altered, placed, or permitted to remain on any LOT other than a single-family dwelling.

All PIERS and COMMON AREA PIER shall be used only for the mooring of VESSELS in a seaworthy condition and its tender regularly carried for pleasure purposes only by the OWNER of the PIER and COMMON AREA PIER or his or her guests and invitees; and no part of any PIER or COMMON AREA PIER shall be used for storage of any supplies, equipment or other articles. No VESSEL carrying passengers for hire may be permitted to occupy any PIER or COMMON AREA PIER. With respect to the COMMON AREA PIER, the mooring of a VESSEL shall be for a short period of time and under no circumstances shall it be moored over night without the express written consent of the BOARD OF DIRECTORS.

All contemplated improvements must be submitted to the ARCHITECTURAL COMMITTEE as provided for in ARTICLE IV above. No building, structure or residence shall be erected, altered, remodeled, reconstructed, or added to without the prior written approval of the ARCHITECTURAL COMMITTEE.

The docking of VESSELS at the COMMON AREA PIER shall be for short time only and under no circumstances shall a VESSEL be docked or moored overnight.

Section 8.2 Business Use. Except for the rights reserved to the DECLARANT by this DECLARATION, no trade or business may be conducted in or from any LOT, the COMMON AREA PIER or COMMON AREA. Notwithstanding the above, the leasing of a building or structure on a LOT for residential purposes shall not be considered a trade or business within the meaning of this Section.

Section 8.3 Site Coverage. Site coverage of any LOT shall be limited to fifty-five percent (55%) of the area of the said LOT with emphasis on maintaining existing vegetation and trees.

Section 8.4 Building Area (Heated and Cooled). Maximum building area per LOT for the heated and cooled area of the single-family dwelling shall be five thousand five hundred (5,500) square feet. The Minimum building area per LOT for the heated and cooled area of the single-family dwelling shall be twenty-four hundred (2,400) square feet, with a minimum of twelve hundred (1200) feet on the first floor level.

Section 8.5 Building Height. The distance from the ground level slab to the top of the roof ridge of the single-family dwelling cannot exceed thirty-eight (38) feet, except that an OWNER may be entitled to build a "tower" not to exceed forty-five (45) feet in height which said exception must be approved by the ARCHITECTURAL COMMITTEE. Buildings are to be two (2) story unless approved by the ARCHITECTURAL COMMITTEE (except that a basement floor under the ground surface of any building or structure, the area between the ground and the main livable floor of any building or structure or an attic shall not be considered a story for this purpose).

The ground floor elevation of the main livable floor of any building or structure must be between twenty (20) inches and thirty-six (36) inches above the average, natural grade.

The interior wall height of the first elevated level of any building or structure shall not be less than ten (10) feet.

The interior wall height of the second elevated level of any building or structure shall not be less than nine (9) feet.

Section 8.6 Garages. Each residence on any LOT shall include a private, enclosed garage for not more than three (3) or less than two (2) automobiles which said garage may have a second level guest quarters above it. Any restriction contained herein shall apply to said garage and guest quarters.

Section 8.7 Minimum Building Setback Lines. No building, structure or residence located on any of the LOTS shall be erected, altered, remodeled, constructed or added so as to be located any nearer to any PROPERTY boundary line than the setback lines shown on the recorded plat of the PROPERTY, except that a roof overhang may encroach into the setback by up to two feet (2'). The elevation of said terraces and/or decks must be at least 3 feet below the elevation of the finished floor of the first level of the residence located on said LOT. Said terraces and/or decks may not have any vertical portions or components more than 42 inches high. Said terraces and/or decks may not be erected, altered, remodeled, constructed or added to so as to extend more than 36 feet south of the south setback line on said LOTS. All such terraces and/or decks must be approved by the ARCHITECTURAL COMMITTEE.

Section 8.8 Subdivision Of a LOT. No LOT shall be split, divided, or subdivided or its boundary lines changed except with the prior written approval of the ARCHITECTURAL COMMITTEE. Any such subdivision approved by the ARCHITECTURAL COMMITTEE will require the LOTS to be replatted, with all requisite approvals by the City of Orange Beach and

Baldwin County, Alabama, and filed for record in the Office of the Judge of Probate for Baldwin County, Alabama. The cost of replatting shall be borne solely by the OWNERS of the LOTS affected.

DECLARANT hereby expressly reserves the right to replat any LOTS owned by DECLARANT. Any such division, boundary line changes or replatting shall not be in violation of the applicable subdivision and zoning regulations.

No LOT shall be made subject to any kind of time-share program, interval ownership or similar program whereby the right to exclusive use of the LOT rotates among multiple OWNERS or MEMBERS of the Program on a fixed or floating time schedule over a period of years.

Section 8.9 Parking. An OWNER of a LOT shall provide parking space for at least one vehicle per bedroom of the dwelling constructed on the LOT, inclusive of the LOT's private garage, Parking must be confined to the interior of the LOT and not on the private roadway.

Parking in the PROPERTY shall be restricted to private automobiles, passenger vans and passenger pick-up trucks, and only within the parking areas designed and/or designated for that purpose. No OWNER shall conduct repairs (except in an emergency) or restorations of any motor vehicle or other vehicle upon any portion of the PROPERTY, except in an enclosed area with the doors to that area closed at all times.

No commercial vehicles or campers, mobile homes, motor homes, house trailers or trailers of any type, recreational vehicles, motorcycles, mopeds, boats, watercraft or vans shall be permitted to be parked or to be stored at any place within the PROPERTY, except within enclosed private garages and in spaces for some or all of the above specifically designated by the DECLARANT, and except that each OWNER may moor a VESSEL to the COMMON AREA PIER between the time that is 30 minutes prior to the National Weather Service ("NWS") published time of sunrise and 30 minutes after the NWS published time of sunrise for the particular day. This Section shall specifically prohibit vehicles to be located on any portion of the PROPERTY and used for purposes of transporting or discharging fuel to VESSELS, except that the foregoing shall not apply to such vehicles authorized by the DECLARANT or the ASSOCIATION. No OWNER shall keep any vehicle on the COMMON AREA which is deemed a nuisance by the BOARD. For purposes of this Section, "commercial vehicles" shall mean those which are not designed and used for customary, personal/family purposes. The absence of commercial-type lettering or graphics on a vehicle shall not be dispositive of whether it is a commercial vehicle. The prohibitions on parking contained in this Section shall not apply to temporary parking of commercial vehicles such as for construction use or providing pick-up and delivery and other commercial services nor to any vehicles of the DECLARANT. No overnight on-street parking or parking on lawns shall be permitted.

Subject to applicable laws and ordinances, any vehicle or other item identified in the preceding paragraph parked in violation of these or other restrictions contained in these Use Restrictions or in the Rules and Regulations of the ASSOCIATION may be towed by the ASSOCIATION at the sole expense of the OWNER of the vehicle if the vehicle remains in violation for a period of twenty-four (24) hours from the time a notice of violation is placed on the vehicle. The

ASSOCIATION shall not be liable to the OWNER of that vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of the towing, and once the notice is posted, neither its removal, nor failure of the OWNER to receive it for any other reason, shall be grounds for relief of any kind. For purposes of this Paragraph, "vehicle" shall also mean campers, mobile homes and trailers. An affidavit of the person posting the aforesaid notice stating that it was properly posted shall be conclusive evidence of proper posting.

Section 8.10 Use of COMMON AREA. Subject to the rights granted to the DECLARANT herein, the ASSOCIATION shall have full control over the COMMON AREA and may establish such rules and regulations and conditions for the use of the COMMON AREA as it may deem adequate or necessary and the ASSOCIATION shall have full power and authority to suspend or revoke the privilege and license of any such OWNER, and any member of the household of an OWNER or any of the guests, tenants or invitees of an OWNER, from using the COMMON AREA, should any such party, while in said area, conduct themselves in such a manner as to warrant such action in the sole discretion of the majority of the ASSOCIATION. PROVIDED, HOWEVER, nothing herein shall be construed to allow the ASSOCIATION to prohibit any LOT OWNER from ingress and egress to and from the LOT owned by OWNER. PROVIDED, HOWEVER, nothing herein shall be construed to allow the ASSOCIATION or any PERSON to interfere with the rights granted in this DECLARATION to the DECLARANT.

Section 8.11 Driveways. Each PURCHASER of a LOT from DECLARANT shall be responsible for building, at the sole expense of PURCHASER, a concrete driveway with brick edging or "stamped" brick edging or a brick paver driveway. Brick pavers must be approved by the ARCHITECTUAL COMMITTEE. Driveways may not be constructed using painted concrete or asphalt. Driveway widths may not be less than nine (9) feet nor more than eighteen (18) feet. Each driveway must be completed on or prior to the completion of the dwelling. All driveways must connect with the adjoining road and the parking area on the LOT. The location, design and construction of all driveways must be approved in writing by the ARCHITECTURAL COMMITTEE prior to construction.

Section 8.12 Preservation of Trees. No tree having a diameter of six (6) inches or more (measured from a point two (2) feet above ground level) shall be removed from any LOT without the express written authorization of the ARCHITECTURAL COMMITTEE. The ARCHITECTURAL COMMITTEE, in its discretion, may adopt and promulgate rules and regulations regarding the preservation of trees and other natural resources and wildlife upon he PROPERTY. If it shall deem it appropriate, the ARCHITECTURAL COMMITTEE may mark certain trees, regardless of size, as not removable without written authorization. In carrying out the provisions of this Section 8.12, the DECLARANT, the ASSOCIATION and the ARCHITECTURAL COMMITTEE and the respective agents of each may come upon any LOT during reasonable hours for the purpose of inspecting or marking trees or in relation to the enforcement and administration of any rules and regulations adopted and promulgated pursuant to the provisions hereof. Neither the ASSOCIATION, nor the ARCHITECTURAL COMMITTEE, nor DECLARANT, nor their respective agents shall be deemed to have committed a trespass or wrongful act by reason of any such entry or inspection. Failure of an OWNER to obtain approval by the ARCHITECTURAL COMMITTEE will result in a fine as

established by the ARCHITECTURAL COMMITTEE and will be treated as ASSESSMENTS as set out in Section 6.6.

Section 8.13 Artificial Vegetation, Exterior Sculpture and Similar Items. No artificial vegetation shall be permitted on any PROPERTY or VESSEL or on the exterior of any portion of any improvement on the PROPERTY or on any VESSEL. Exterior sculpture, fountains, flags and similar items must be approved by the ARCHITECTURAL COMMITTEE; PROVIDED, HOWEVER, that nothing herein shall prohibit the appropriate display of the American Flag. PROVIDED FURTHER, that any flag pole used to display said American Flag shall not exceed eighteen (18) feet in height.

Section 8.14 Permitted Animals. No animals, livestock or poultry of any kind shall be raised, bred, harbored or kept on the PROPERTY, except that the OWNER may keep a total of two (2) domesticated household pets. No such pets shall be kept for any commercial purposes, and any such pets may be kept only so long as they or any of them do not become an annoyance or nuisance to the neighborhood. All pets shall be kept under the close supervision of their OWNERS and shall, when outside, at the written request of the ARCHITECTURAL COMMITTEE, be kept behind a fence (see fence requirement). Owners shall adhere to all applicable city/county "leash" laws at all times. All pets must be on a leash at all times in the COMMON AREA.

Section 8.15 Signs. Except as provided in this DECLARATION, no sign, billboard, advertising or other advertising device of any nature shall be placed upon any LOT, PIER, COMMON AREA PIER, COMMON AREA or VESSEL. The ARCHITECTURAL COMMITTEE may, in its discretion, adopt and promulgate rules and regulations relating to signs which may be employed. Signs and other advertising devices may be erected and maintained upon any portion of the PROPERTY, if approved by the ARCHITECTURAL COMMITTEE, as to color, location, nature, size and other characteristics of such signs or devices. PROVIDED, HOWEVER, this Section shall not apply to the DECLARANT.

Section 8.16 Temporary Structures. No temporary building, trailer, garage or building in the course of construction or other temporary structure shall be used, temporarily or permanently, as a residence or temporary housing or the like on the PROPERTY. If approved by the ARCHITECTURAL COMMITTEE, such a structure may be used as a security station during construction or other special purpose.

Section 8.17 Pipes. To the extent of the interest of the OWNERS of a LOT, no water pipe, gas pipe., sewer pipe or drainage pipe shall be installed or maintained on the PROPERTY above the surface of the ground.

Section 8.18 Wall and Window Air Conditioning Units. Wall and window air conditioning units shall not be permitted, except that thru-wall, built-in units may be allowed in the guest house.

Section 8.19 Chimney Flues. Chimney flues shall be enclosed in masonry or stucco.

Section 8.20 Play Equipment, Strollers, Etc. All bicycles, tricycles, scooters, skateboards and other play equipment, wading pools, baby strollers and similar items shall be stored so as not to be visible. No such items shall be allowed to remain on the COMMON AREA, PIER, COMMON AREA PIER, and VESSELS or on LOTS so as to be visible from adjacent property or the road when not in use. Notwithstanding the above, the BOARD may, but shall not be obligated to, permit swing sets and similar permanent playground equipment to be erected on LOTS provided it is approved by the ARCHITECTURAL COMMITTEE. No baseball cages or similar recreational facilities shall be permitted without approval of the ARCHITECTURAL COMMITTEE.

Section 8.21 Energy Conservation Equipment. No solar energy collector panels or attendant hardware or energy conservation equipment shall be constructed or installed on the PROPERTY unless it is an integral and harmonious part of the architectural design of a structure as determined in the sole discretion of the ARCHITECTURAL COMMITTEE. Under no circumstances shall solar panels be installed that will be visible from any road or COMMON AREA in the PROPERTY.

Section 8.22 Oil or Gas Tanks, Jacuzzis, Hot Tubs. No oil tanks or bottled gas tanks shall be allowed above the ground on any LOT or on the COMMON AREA, PROVIDED, HOWEVER, two (2) bottled propane gas tanks no larger than five (5) gallons in size may be kept on a LOT for the purpose of cooking with a gas grill and so long as said gas tanks are placed in a screened area and so that they are not visible from any COMMON AREA, road, or adjoining PROPERTY.

Jacuzzis, hot tubs, and swimming pools may be permitted on a LOT. The ARCHITECTURAL COMMITTEE must approve the location of any jacuzzi, or hot tub located outside of the DWELLING and the location of any swimming pool. No above-ground swimming pools shall be permitted. It is intended that the location of any jacuzzi or hot tub will be such that it will not be a disturbance or a distraction to other OWNERS. Said jacuzzi, hot tub or swimming pool must be constructed of materials which have been thoroughly tested and accepted by the industry for such construction.

Section 8.23 Outside Installations. Except as provided herein, no exterior antennas, aerials, satellite dishes, towers or other apparatus, or support thereof, for the reception or transmission of television, radio or other signals of any kind shall be erected, installed, placed, allowed, or maintained upon any portion of the PROPERTY unless specifically approved by the ARCHITECTURAL COMMITTEE. PROVIDED, HOWEVER, the OWNER of a LOT shall be allowed to place one (1) eighteen-inch (18") diameter satellite dish, or smaller, on a building located on a LOT so long as said satellite dish is not visible from any adjacent property, roadway or common area and is approved by the ARCHITECTURAL COMMITTEE. The DECLARANT and/or the ASSOCIATION shall have the right without obligation to erect an aerial, satellite dish or other apparatus for a master antenna or cable system for the benefit of all or a portion of the PROPERTY, should a master system or systems to be used by the ASSOCIATION require any such exterior or apparatus. No radio transmissions of any kind shall be made from any building, LOT or COMMON AREA, except for communication equipment used by the ASSOCIATION or by the DECLARANT. PROVIDED, HOWEVER, VESSELS may contain communication equipment and antennas which are approved by the ARCHITECTURAL COMMITTEE. No

machinery shall be placed or operated upon the PROPERTY or a VESSEL except such machinery as is usual in maintenance of a private residence or a VESSEL. All roof penetrations, such as vents and pipes, shall be painted the same color as the roof itself.

Section 8.24 Irrigation. No sprinkler or irrigation system of any type that draws upon water from creeks, streams, rivers, lakes, ponds, wetlands, canals or other ground or surface waters within the PROPERTY shall be installed, constructed or operated within the PROPERTY by any PERSON, other than the ASSOCIATION or the DECLARANT, or to be utilized by any group of LOTS, unless prior written approval has been received from the ARCHITECTURAL COMMITTEE. All sprinkler and irrigation systems must be installed underground and shall be subject to approval of the ARCHITECTURAL COMMITTEE. Common well water will be supplied to said system by the ASSOCIATION. This Section shall not apply to the DECLARANT.

Section 8.25 Wells and Drainage. Except as may be constructed by the ASSOCIATION, no private water system shall be constructed on the PROPERTY. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No community wells or community water systems shall be allowed except the water system provided by any governmental entity or the ASSOCIATION.

Section 8.26 Storm Shutters. All STRUCTURES shall have hurricane or storm shutters permanently installed for all windows and other glassed openings unless said windows or glassed openings consist of impact resistant glass.

Section 8.27 Window Coverings, Etc. Reflective window coverings are prohibited. No awnings, canopies, shutters, patio cover, building or storage unit of any kind shall be erected, placed or permanently installed on the PROPERTY unless first approved by the ARCHITECTURAL COMMITTEE.

Section 8.28 Insurance Rates. Nothing shall be done or kept on the PROPERTY, a VESSEL or in any improvement or the COMMON AREA which will increase the rate of insurance on any PROPERTY insured by the ASSOCIATION without the approval of the BOARD nor shall anything be done or kept on the PROPERTY which would result in the cancellation of insurance on any PROPERTY insured by the ASSOCIATION, or which would be in violation of any law.

Section 8.29 Completion of Construction. Construction of all homes, other structures and other improvements on any LOT must be commenced within forty-eight (48) months from the initial closing of the purchase of said LOT from the DECLARANT. This requirement is applicable not only to the original purchaser of any LOT, but also to any subsequent purchasers thereof. In the event that this requirement is violated then, the DECLARANT and/or the ASSOCIATION shall have the right, but not the obligation, to repurchase said LOT from the then OWNER for the same purchase price as said LOT was initially sold to the original purchaser.

All homes and other structures, landscaping and other improvements must be completed within eighteen (18) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the OWNER or the builder due to

strikes, fires, national emergencies or natural calamities. Houses and other dwelling structures may not be temporarily or permanently occupied until the exteriors thereof have been completed. During the continuation of construction, the OWNER shall require the contractor to maintain the LOT in a clean and uncluttered condition. The storage of all construction materials, equipment and tools is limited to the LOT on which the home and other improvements are being built. The vehicles of all construction workers must be parked outside of the PROPERTY. The ARCHITECTURAL COMMITTEE is authorized to oversee the ongoing construction so as to minimize the effect thereof on the habitability of the other homes and structures then existing on the PROPERTY including, but not limited to, noise, clutter and debris. Upon completion of construction, the OWNER shall cause the contractor to immediately remove all equipment, tools, construction material and debris from the LOT. Any damage to roads, paths, COMMON PROPERTY or any other property owned by any PERSON or entity caused by the OWNER or OWNER'S agent, contractor or other party providing labor or services to the OWNER shall be repaired by the OWNER.

Section 8.30 Accumulation of Refuse. No lumber, metals, or bulk materials, refuse or trash shall be kept, stored or allowed to accumulate on the PROPERTY or a VESSEL except building materials during the course of construction of any approved structure. No harmful or noxious materials shall be stored, either inside any structure, or outside any structure, if said materials pose any significant threat to public health and safety or to individuals employed or living within or in proximity to such structures. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open only in areas designated by the ARCHITECTURAL COMMITTEE. At all other times, trash and garbage containers shall be screened in such a manner so that they cannot be seen from adjacent and surrounding property, and as approved by the ARCHITECTURAL COMMITTEE. All trash and garbage containers shall be kept in a clean and sanitary condition. The ARCHITECTURAL COMMITTEE, in its discretion, may adopt and promulgate reasonable rules and regulations relating to the size, shape, color and type of containers permitted and the manner of storage and screening of the same on the PROPERTY.

Section 8.31 Mineral Operations Prohibited. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind whatsoever shall be permitted upon any LOT, nor shall oil wells, derricks, tanks, tunnels, mineral excavations or shafts be erected or permitted to remain on any LOT; however, it is understood that this prohibition does not affect the rights of mineral owner or owners of any interest in minerals that may have been previously reserved or conveyed to others.

Section 8.32 Fences, Walls, Hedges and Ornamental Structures. No fence, wall, ornamental structure, or gazebo shall be constructed without the prior written approval of the ARCHITECTURAL COMMITTEE. No chain link, wire or metal fence may be constructed on any LOT. No fenced in animal pens may be constructed or maintained on any LOT. The ASSOCIATION shall have the right to enter upon any LOT and trim or prune, at the expense of the OWNER, any hedge or other planting which in the opinion of the ASSOCIATION by reason of its location upon the LOT or the height to which it is permitted to grow, is unreasonably detrimental to the adjoining property or obscures the view of road traffic or is unattractive in

appearance; PROVIDED, HOWEVER, that the OWNER shall be given fifteen (15) days prior written notice of such action.

Section 8.33 Clothes Lines. No clothing or any other household fabric shall be hung in the open on the PROPERTY or on any VESSEL and no clothes lines or clothes hanging devices shall be kept or maintained on the PROPERTY or on any VESSEL.

Section 8.34 Mail or Newspaper Boxes. The design of all mailboxes and newspaper boxes must be approved by the ARCHITECTURAL COMMITTEE and free-standing mailboxes and newspaper boxes may be required in some or all sections of the PROPERTY. The ARCHITECTURAL COMMITTEE may require a central mailbox or central newspaper box.

Section 8.35 PIER Appearance.

a. No OWNER shall maintain a VESSEL moored at any PIER or COMMON AREA PIER in an unsightly, negligent, unseaworthy or dangerous condition.

b. No PIER OR COMMON AREA PIER may be occupied by a VESSEL unless such VESSEL meets the standards of the DECLARANT or the ASSOCIATION. The minimum standards, as promulgated by the DECLARANT or the ASSOCIATION, shall be enforced by the DECLARANT or the BOARD OF DIRECTORS and shall require the VESSEL to comply with the terms hereof, the rules and regulations adopted by the DECLARANT and the ASSOCIATION and all other documents in connection therewith. The DECLARANT and the BOARD OF DIRECTORS shall have the right to (i) approve or disapprove any VESSEL which the DECLARANT or the BOARD OF DIRECTORS determines does not meet the standards of the DECLARANT or the BOARD OF DIRECTORS or (ii) cause the immediate removal of any VESSEL which is not in compliance with this DECLARATION, the rules and regulations or any other documents in connection therewith. The rights and powers granted to the DECLARANT or the BOARD OF DIRECTORS under this DECLARATION, including the right to approve or disapprove any VESSEL, or remove any VESSEL as aforesaid, shall not be deemed to create any liability of the DECLARANT or the BOARD OF DIRECTORS or the ASSOCIATION or of their officers, directors or MEMBERS as to the unsafe or unseaworthy condition of any VESSEL or any damage to persons or property arising therefrom.

c. Neither the DECLARANT, the DIRECTORS or officers of the ASSOCIATION, the MEMBERS of the BOARD OF DIRECTORS nor any person acting on behalf of any of them, shall be liable for any costs or damages incurred by any OWNER or any other party due to any mistakes in judgment, negligence, or any action of the BOARD OF DIRECTORS in connection with the approval or disapproval of any proposed Improvements or any VESSEL. Each OWNER and occupant of a PIER or the COMMON AREA PIER agrees that they shall not bring any action or suit against the DECLARANT, the Directors or officers of the ASSOCIATION, the MEMBERS of the BOARD OF DIRECTORS or their respective agents, in order to recover any damages caused by the actions of the BOARD OF DIRECTORS. The ASSOCIATION shall indemnify, defend and

hold harmless the BOARD OF DIRECTORS and each of its MEMBERS from all costs, expenses and liabilities, including attorney's fees, of any and all nature resulting by virtue of the acts of the BOARD OF DIRECTORS or its MEMBERS.

Section 8.36 Mooring. Each OWNER or occupant of a PIER or COMMON AREA PIER is solely responsible for the mooring of his or her VESSEL and is required to maintain mooring lines in good condition and sufficiently strong to secure the VESSEL at all times. Any special mooring rules or procedures issued by the ASSOCIATION shall be complied with at all times. No OWNER of a PIER may install a boat lift for the dry storage of VESSELS without prior approval of the ARCHITECTURAL COMMITTEE, nor shall dry storage of VESSELS be permitted by any other means whatsoever except in places designated by the ASSOCIATION.

No OWNER or occupant of a PIER or COMMON AREA PIER shall do, suffer or permit to be done anything upon or with a PIER or COMMON AREA PIER or upon a VESSEL moored thereto, which would impair navigation or the soundness or safety of others (including the waterway) or which would be noxious or offensive or in interference with the peaceful possession or proper use of others, or which would require any alteration of or addition to any of the improvements to be in compliance with any applicable law or regulation, or which would otherwise be in violation of law.

Section 8.37 Hurricane and High Wind Threat. During hurricanes and other high velocity wind threats, each OWNER or occupant of a PIER or COMMON AREA PIER shall be responsible for following all safety precautions that may be issued or recommended by the National Hurricane Center, National Weather Service, U.S. Coast Guard, the ASSOCIATION or any other applicable agency. If a VESSEL sinks as a result of a storm, or for any other reason, the OWNER must remove the sunken VESSEL immediately after the occurrence of such event and, if not so removed within ten (10) days after the sinking, the ASSOCIATION may, (but shall not be obligated to) remove the sunken VESSEL and impose an individual ASSESSMENT against the OWNER for the cost of such removal. Each OWNER agrees to indemnify, defend and save the ASSOCIATION, its agents, employees and designees harmless for and from any and all loss or damage incurred in connection with the exercise or non exercise of the ASSOCIATION'S rights hereunder. If an OWNER plans to be absent during hurricane season, such OWNER must prepare his PIER and secure or remove, as appropriate, his VESSEL prior to departure in accordance with the standards established by the BOARD OF DIRECTORS (or in the absence thereof, with all due care), designate a responsible firm or individual to care for his PIER and VESSEL should there be a hurricane or other storm, and furnish the ASSOCIATION with the name, address and telephone number of such firm or individual. Such firm or individual shall be subject to the approval of the ASSOCIATION. The OWNER shall be liable for all damages caused to the COMMON AREA and to any PIER or COMMON AREA PIER, VESSELS or other property of other OWNERS for such OWNER'S improper preparation or failure to remove, as the case may be, of his PIER and VESSEL for hurricanes or other storms. Notwithstanding anything contained herein to the contrary, the ASSOCIATION my also levy fines in accordance with the Rules and Regulations if the OWNER fails to abide by the provisions of this paragraph. Notwithstanding the right of the ASSOCIATION to enforce the foregoing requirements, neither the ASSOCIATION nor the DECLARANT shall be liable to any OWNER

or other person or entity for any damage to persons or property caused by a hurricane or other high wind.

Section 8.38 Open Fires. No open fires shall be permitted on any VESSEL or in the COMMON AREA, except in any areas which may be approved for such use by the BOARD, and no charcoal, starting fluids or similarly used substances shall be kept in any portion of the COMMON AREA PIER.

Section 8.39 Cleaning of Fish. No fish or other marine life of any kind shall be cleaned, prepared or processed in any manner on the COMMON AREA except in those portions of the COMMON AREA specifically designated for such use by the BOARD. All fish carcasses shall be placed in a fish waste grinder. No waste products may be disposed of in the waters of any PIER, the COMMON AREA PIER, or Perdido Bay

Section 8.40 Inspection and Removal of VESSELS. The ASSOCIATION shall have the right to inspect any VESSEL to determine its seaworthiness, cleanliness and compliance with all applicable City, County, State and Federal fire, safety, and other regulations as well as to determine whether the VESSEL fits within the applicable PIER or COMMON AREA PIER. The ASSOCIATION shall have the right to (but not be required) to remove any VESSEL from any PIER or COMMON AREA PIER which fails to comply with said regulations or fails to fit within the applicable pier. Each OWNER shall indemnify, defend, and save the ASSOCIATION, its agents, employees and designees from and against any loss or damage incurred in connection with the exercise or non-exercise of the rights of the ASSOCIATION hereunder.

Section 8.41 Public Authorities. Notwithstanding anything contained herein to the contrary, the DECLARANT and/or the ASSOCIATION may permit police, U.S. Coast Guard, and similar watercraft of public authorities to moor, tie-up, or otherwise be kept on any portion of the COMMON AREA designed for such use by the ASSOCIATION or the DECLARANT.

Section 8.42 Enforcement of Violations. The ASSOCIATION shall have the right to levy reasonable fines against OWNERS for violations of its Rules and Regulations or this DECLARATION by the OWNERS or their family members, guests, invitees, licensees, employees or agents and such fines shall be treated as individual ASSESSMENTS and shall be collectible as such and upon any delinquency in the payment of any fine the ASSOCIATION shall have all rights as set forth in this DECLARATION, including, without limitation, lien rights against the OWNER. In addition, the ASSOCIATION will have the right to have any vehicle which is in violation of a parking regulation towed at the OWNER'S expense.

Section 8.43 Hazardous or Toxic Waste. The handling, storage, transportation, and disposal of hazardous or toxic materials shall be prohibited within the PROPERTY. However, that this shall not prohibit the proper handling, storage and transportation of petroleum products used by an OWNER in connection with the operation of his VESSEL. The ASSOCIATION shall have the right to immediately remove, or cause the removal of, any hazardous or toxic material within the PROPERTY. No fueling facilities shall be allowed on the PROPERTY.

Section 8.44 Pumping of Bilges. Each OWNER is responsible to insure that any bilge water pumped into the waters of does not contain any petroleum or other hazardous or toxic materials. Each OWNER shall indemnify, defend, and save the DECLARANT and the ASSOCIATION harmless from and against any damages, claims and liability resulting from or arising out of the violation of the requirements of this paragraph by such OWNER. All expenses incurred by the DECLARANT and the ASSOCIATION in connection with compliance with all environmental and related laws shall be a COMMON EXPENSE of the ASSOCIATION.

Section 8.45 Sanitary Equipment. Each VESSEL must have such sanitary equipment on board as is required by all applicable Federal, State, and local authorities. No VESSEL shall be in compliance with this Section if such equipment is not fully operational or if such equipment such as a holding tank or approved marine sanitary system is bypassed or altered contrary to such requirements. The ASSOCIATION shall have the right to board all VESSELS upon reasonable notice to inspect same for compliance with this requirement.

Section 8.46 VESSELS as Residence. No VESSELS shall be used as a residence within any PIER or the COMMON AREA PIER.

Section 8.47 VESSEL Size. Except as provided below, each VESSEL must fit within the boundaries of its PIER or the COMMON AREA PIER, including all bowsprits, booms, pulpits and other projections and overhangs. PROVIDED, HOWEVER, a VESSEL may extend outside the entrance boundary of any pier as approved by the BOARD OF DIRECTORS.

Section 8.48 VESSEL Requirements. All VESSELS must: (a) be fully equipped and operable for operation on the sea (except during a period of temporary repairs not to exceed fifteen (15) days); (b) be equipped with all safety of life at sea equipment required by U.S. Coast Guard Regulations and Federal, State and Local laws; and (c) comply with all licensing and registration requirements.

Section 8.49 Temporary Removal of VESSELS. From time to time, the DECLARANT or the ASSOCIATION may require that all VESSELS be removed from any PIER or COMMON AREA PIER for maintenance, repairs and dredging at which time any pier may be entered for such period as may be necessary. To the extent that submerged land may be removed from the COMMON AREA PIER, it will be treated as the property of the DECLARANT or the ASSOCIATION and need not be replaced.

Section 8.50 Repairs and Maintenance. No repairs or other maintenance other than routine cleaning, routine interior preventative maintenance and/or varnishing may be conducted on any PIER or COMMON AREA PIER without the written permission of the ASSOCIATION or its designated agent. No grinding or spray painting may be performed on the PROPERTY.

Section 8.51 Occupants Bound. All provisions of the DECLARATION and BY-LAWS and of any rules and regulations or use restrictions promulgated pursuant hereto that govern the conduct of OWNERS and that provide for sanctions against OWNERS shall also apply to all occupants, guests and invitees. Every OWNER shall cause all occupants of the OWNER'S LOT or

OWNER'S PIER to comply with the DECLARATION and BY-LAWS and the rules and regulations adopted pursuant hereto, and shall be responsible for all violations and losses to the PROPERTY caused by those occupants, notwithstanding the fact that those occupants are fully liable and may be sanctioned for any violation of the DECLARATION and BY-LAWS and rules and regulations adopted pursuant hereto.

Section 8.52 Nuisance. No obnoxious, offensive or illegal activities shall be carried on upon the PROPERTY nor shall anything be done on the PROPERTY which may be or may become an annoyance or nuisance to the neighborhood.

Section 8.53 No Discrimination. No action shall at any time be taken by the ASSOCIATION or its BOARD OF DIRECTORS which in any manner would discriminate against any OWNER or OWNERS in favor of the other OWNERS.

ARTICLE IX WATERFRONT AREAS AND WATERWAYS
(Reserved)

ARTICLE X
MEMBERSHIP AND VOTING RIGHTS

Section 10.1 The ASSOCIATION. The operation and administration of the PROPERTY shall be by the ASSOCIATION of LOT OWNERS. The ASSOCIATION shall be a not-for-profit Alabama Corporation incorporated by ARTICLES OF INCORPORATION recorded in the Office of the Judge of Probate of Baldwin County, Alabama. The ASSOCIATION shall be an entity which shall have the capability of bringing suit and being sued with respect to the exercise or non-exercise of its powers. The ASSOCIATION shall have exclusive authority and power to maintain a class action and to settle a cause of action on behalf of LOT OWNERS of the PROPERTY with reference to the common elements and with reference to any and all other matters in which all of the LOT OWNERS have a common interest. The ASSOCIATION shall have all the powers and duties granted to or imposed on it under its ARTICLES OF INCORPORATION and BY-LAWS and under this DECLARATION as they may be amended from time to time. The ASSOCIATION is specifically authorized to enter into agreements by which its powers and duties, or some of them, may be exercised or performed by some other person or persons. The ASSOCIATION shall have the right to grant permits, licenses and easements over the COMMON AREAS for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the PROPERTY. The BOARD shall have the authority and duty to levy and enforce the collection of general and specific ASSESSMENTS for common expenses and is further authorized to provide adequate remedies for failure to pay such ASSESSMENTS.

Section 10.2 Membership. Each LOT OWNER shall be a MEMBER of the ASSOCIATION so long as he is a LOT OWNER. The membership of a LOT OWNER shall immediately terminate when the LOT OWNER ceases to be a LOT OWNER. The membership of a LOT OWNER cannot be assigned or transferred in any manner except as an appurtenance to his LOT.

Section 10.3 Voting. Except as provided below, each LOT shall be entitled to one (1) vote, which vote is not divisible. The vote shall be cast by the LOT OWNER in the manner provided for herein and in the BY-LAWS. PROVIDED, HOWEVER, that until the DECLARANT has completed and sold all the LOTS of the PROPERTY or until DECLARANT elects to terminate its control of the ASSOCIATION, whichever first occurs, the BY-LAWS and rules adopted by the DECLARANT shall govern and there shall be no meeting of the MEMBERS of the ASSOCIATION, unless a meeting is called by the BOARD OF DIRECTORS of the ASSOCIATION, and neither the LOT OWNERS nor the ASSOCIATION, nor the use of the PROPERTY by LOT occupants shall interfere with the completion of the contemplated improvements and the sale of the LOTS, and the control of the ARCHITECTURAL COMMITTEE shall remain with the DECLARANT. The DECLARANT may make such use of the unsold LOTS and of the COMMON AREAS and facilities as may facilitate such completion and sale, including, but not limited to, showing of the PROPERTY and the display of signs.

Section 10.4 Rules and Regulations. The ASSOCIATION, through its BOARD OF DIRECTORS, may make and enforce reasonable Rules and Regulations governing the use of the PROPERTY and VESSELS, which Rules and Regulations shall be consistent with the rights and duties established by this DECLARATION. Copies of such Rules and Regulations and amendments thereto shall be furnished by the ASSOCIATION to all OWNERS. Sanctions may include reasonable monetary fines and suspension of the right to vote and the right to use the COMMON AREA. The BOARD shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided in the BYLAWS of the ASSOCIATION. In addition, the ASSOCIATION, through the BOARD, may, by contract or other agreement, enforce local ordinances on the PROPERTY for the benefit of the ASSOCIATION and its MEMBERS.

Section 10.5 Implied Rights. The ASSOCIATION may exercise any other right or privilege given to it expressly by this DECLARATION or the BY-LAWS, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 10.6 Self-Help. In addition to any other remedies provided for herein, the ASSOCIATION or its duly authorized agent shall have power to enter upon a LOT or any portion of the COMMON AREA (including the COMMON AREA PIER) to abate or remove, using such force as may be reasonably necessary, anything or condition which violates this DECLARATION, the BY-LAWS, the Rules and Regulations, or the use restrictions. Except in an emergency situation, the BOARD shall give the violating PERSON or LOT OWNER ten (10) days written notice of its intent to exercise self-help. All costs of self-help, including reasonable attorney's fees actually incurred, shall be assessed against the violating PERSON or LOT OWNER and shall be collected as provided for herein for the collection of ASSESSMENTS.

Section 10.7 Right of Entry. The ASSOCIATION shall have the right, in addition to and not in limitation of the rights it may have, to enter ontop LOTS and any PIER for emergency, security or safety purposes, which right may be exercised by the BOARD, its officers, agents, employees, managers and all police officers, fire fighters, ambulance personnel and similar emergency

personnel in the performance of their respective duties. Except in an emergency situation, entry shall be during reasonable hours and after reasonable notice to the OWNER or occupant of the LOT.

Section 10.8 Contracts. The ASSOCIATION shall not be bound, either directly or indirectly, to any professional management contracts entered into prior to passage of control unless there is a right of termination of any such contract, without cause, which is exercisable without penalty at any time after transfer of control, with not more than ninety (90) days notice to the other party.

Section 10.9 Assignment. The share of a MEMBER in the funds and assets of the ASSOCIATION cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to his LOT.

Section 10.10 BOARD OF DIRECTORS. The affairs of the ASSOCIATION shall be conducted by a BOARD OF DIRECTORS which shall consist of such number not less than three (3) nor more than five (5) as shall, from time to time, be determined and fixed by a majority of the voting rights present at any annual meeting of the MEMBERS.

Section 10.11 BY-LAWS. The ASSOCIATION and its MEMBERS shall be governed by the BY-LAWS which shall be adopted by the MEMBERS.

Section 10.12 Availability of Records. The ASSOCIATION shall make available to LOT OWNERS, prospective purchasers, first MORTGAGEE'S and insurers of first MORTGAGEES of any LOT, current copies of this DECLARATION, BY-LAWS, Rules and Regulations and other books, records, financial statements and the most recent annual audited or unaudited financial statements of the ASSOCIATION, if such audited or unaudited financial statement is prepared. "AVAILABLE" shall mean available for inspection upon request, during normal business hours or under reasonable circumstances.

Section 10.13 Reserve Fund. The ASSOCIATION shall establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the COMMON AREAS. The fund shall be maintained out of regular ASSESSMENTS for common expenses. PROVIDED, HOWEVER, the DECLARANT shall not be obligated to pay into the reserve fund.

ARTICLE XI
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 11.1 Creation of the Lien and Personal Obligation for ASSESSMENTS. Except as provided herein, the DECLARANT, for each LOT owned within the PROPERTY, hereby covenants, and each OWNER of any LOT by acceptance of a DEED therefor, whether or not it shall be so expressed in such DEED, is deemed to covenant and agree to pay to the ASSOCIATION: (i) annual and special ASSESSMENTS or charges, and (ii) special ASSESSMENTS for capital improvements to the COMMON AREA, such ASSESSMENTS to be established and collected as hereinafter provided. The annual and special ASSESSMENTS, together with interest, costs and reasonable attorney's fees, shall be a charge on the LOT and shall

be a continuing lien upon the PROPERTY against which each such ASSESSMENT is made. Each such ASSESSMENT, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the OWNER of such PROPERTY at the time when the ASSESSMENT fell due. The personal obligation for delinquent ASSESSMENTS shall pass to successors in title. PROVIDED, HOWEVER, the DECLARANT shall not be obligated to pay the ASSESSMENTS provided for herein on the PROPERTY owned by the DECLARANT.

Section 11.2 Special ASSESSMENTS for Capital Improvements Upon COMMON AREA. Except as provided herein, in addition to the annual and special ASSESSMENTS authorized above, the ASSOCIATION may levy, in any ASSESSMENT year, a special ASSESSMENT applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the COMMON AREA, including fixtures and personal property related thereto, provided that any such ASSESSMENT shall have the assent of three-fourths (3/4) of the votes of MEMBERS who are voting in person or by proxy at a meeting duly called for this purpose, PROVIDED, HOWEVER, the DECLARANT shall not be obligated to pay any special ASSESSMENTS for capital improvements upon the COMMON AREA.

Section 11.3 Uniform Rate of ASSESSMENT. The ASSESSMENTS herein described shall be fixed at a uniform rate for all LOTS.

Section 11.4 Date of Commencement of Annual ASSESSMENTS Due Dates. Except as provided for herein, the annual ASSESSMENTS provided for herein shall commence as to all LOTS on the first day of the month following the date of this DECLARATION. The first annual ASSESSMENT shall be adjusted according to the number of months remaining in the calendar year. The BOARD shall fix the amount of the annual ASSESSMENT against each LOT at least thirty (30) days in advance of each annual ASSESSMENT period. Written notice of the annual ASSESSMENT shall be sent to every OWNER subject thereto. The due date of any ASSESSMENT shall be fixed by the BOARD in the resolution authorizing such ASSESSMENT, and any such ASSESSMENT shall be payable in advance in monthly, quarterly, semiannually, or annual installments as determined by the BOARD. The ASSOCIATION shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the ASSOCIATION, setting forth whether the ASSESSMENTS on a specified LOT have been paid. A properly executed certificate of the ASSOCIATION as to the status of ASSESSMENTS on a LOT is binding upon the ASSOCIATION as of the date of its issuance. PROVIDED, HOWEVER, the DECLARANT shall not be obligated to pay any ASSESSMENTS on any PROPERTY owned by the DECLARANT.

Section 11.5 Effect of Nonpayment of ASSESSMENTS: Remedies of the ASSOCIATION. Any ASSESSMENT not paid within thirty (30) days after the due date shall bear interest thereon at a rate to be set by the BOARD OF DIRECTORS of the ASSOCIATION, but in no event greater than the maximum percentage rate as may then be permitted under the Laws of the State of Alabama. The ASSOCIATION may bring an action at law or in equity against the OWNER personally obligated to pay the same, foreclose a lien against the PROPERTY or seek injunctive relief, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such ASSESSMENT. Each such OWNER by his acceptance of a DEED to a LOT

hereby expressly vests in the ASSOCIATION the right and power to bring all actions against such OWNER personally for the collection of each charge as a debt and to foreclose the aforesaid lien by all methods available for the enforcement of such liens, including foreclosures by an action brought in the name of the ASSOCIATION in a like manner as a MORTGAGE lien on real property, and such OWNER hereby expressly grants to the ASSOCIATION a power of sale in connection with said lien. The lien provided for in this Section 11.5 shall be in favor of the ASSOCIATION and shall be for the benefit of all LOT OWNERS. The ASSOCIATION, acting on behalf of the LOT OWNERS, shall have the power to bid for an interest foreclosed at foreclosure sale and to acquire and hold, MORTGAGE and convey the same. Except as provided in this ARTICLE XI, no OWNER may waive or otherwise escape liability for the ASSESSMENTS provided for herein by non-use of the COMMON AREA or abandonment of his LOT. The DECLARANT shall not be obligated to pay the ASSESSMENTS provided for herein on any PROPERTY owned by the DECLARANT.

Section 11.6 Subordination of the Lien to MORTGAGES. The lien of the ASSESSMENTS provided for herein shall be subordinate to the lien of any first MORTGAGE or vendor's lien. Sale or transfer of any LOT shall not affect the ASSESSMENT lien. However, the sale or transfer of any LOT pursuant to MORTGAGE or vendor's lien foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such ASSESSMENTS as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such LOT from liability for any ASSESSMENTS thereafter becoming due or from the lien thereof or relieve the prior OWNER from any personal liability for any unpaid ASSESSMENTS occurring prior to said sale or transfer.

Section 11.7 Capitalization of ASSOCIATION. Upon acquisition of record title to a LOT from DECLARANT, each OWNER shall contribute to the capital of the ASSOCIATION an amount equal to one-sixth (1/6) of the amount of the annual ASSESSMENT for that LOT as determined by the BOARD. This amount shall be deposited by the buyer into the purchase and sales escrow and disbursed therefrom to the ASSOCIATION.

Section 11.8 Effect on DECLARANT. Notwithstanding any provision that may be contained to the contrary herein, for so long as DECLARANT (or any of the affiliates of DECLARANT) is the OWNER of any LOT, the DECLARANT shall be exempt from the payment of any ASSESSMENTS, whether general or special, and exempt from any lien provided for herein.

ARTICLE XII
INSURANCE AND CASUALTY LOSS

Section 12.1 The ASSOCIATION. The ASSOCIATION is hereby authorized to purchase and maintain insurance on the COMMON AREA in such forms and such amounts, with such deductibles, and with such companies as the BOARD OF DIRECTORS shall deem appropriate.

a. Hazard Insurance. All hazard insurance policies obtained by the ASSOCIATION shall designate the ASSOCIATION as the named insured as insurance trustee for the benefit of all OWNERS and their MORTGAGEES and the DECLARANT, as their respective interests may appear. In the event of loss or damage, all insurance proceeds paid pursuant to a policy purchased by the ASSOCIATION shall be paid

to the ASSOCIATION as insurance trustee under the provisions of this DECLARATION.

b. Public Liability Insurance. The ASSOCIATION may obtain comprehensive public liability insurance with limits and provisions, as it deems desirable.

c. Workers' Compensation Insurance. The ASSOCIATION shall obtain workers' compensation insurance to meet the requirements of Alabama Law.

d. Premiums. All premiums upon insurance policies purchased by the ASSOCIATION shall be assessed to the OWNERS as an ASSESSMENT of the ASSOCIATION.

e. Adjustment. Each OWNER shall be deemed to have delegated to the ASSOCIATION his or her right to adjust with insurance companies all losses under policies purchased by the ASSOCIATION, subject to the rights of mortgagees.

Section 12.2 The OWNER.

a. Public Liability Insurance. With respect to Lots 11, 12 and 13, each OWNER shall obtain, maintain and pay for comprehensive public liability insurance on his or her interest in the PROPERTY and the VESSEL occupying his or her PIER with limits of not less than five hundred thousand dollars ($500,000.00) per occurrence, combined single limits, covering the activities of such OWNER on or about the PROPERTY or the VESSEL. The ASSOCIATION may, from time to time, increase minimum limits required of all OWNERS. The deductibles allowed on said insurance shall be in an amount approved by the ASSOCIATION. Each comprehensive public liability insurance policy shall name the ASSOCIATION and DECLARANT as additional insureds under said policy.

b. Hazard Insurance. Each LOT OWNER shall be and is hereby deemed responsible for maintaining sufficient hazard insurance upon the improvements on his or her LOT so as to provide full replacement value thereof in the event of a casualty, including, without limitation: (1) loss or damage by fire and other hazards covered by a standard extended coverage endorsement; (2) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location, and use as the buildings on the land, including, but not limited to, vandalism, malicious mischief, and windstorm; and (3) flood insurance, if it can reasonably be obtained. Each LOT OWNER shall provide the ASSOCIATION with evidence that such insurance is in full force and effect. In the event an OWNER of any LOT in the PROPERTY shall fail to maintain sufficient insurance as provided for herein, the ASSOCIATION, after approval by two-thirds (2/3) of the BOARD OF DIRECTORS, shall have the right to purchase said insurance, the cost of which shall become the personal obligation of the LOT OWNER and a lien on the LOT.

c. Miscellaneous. All insurance policies provided for in this Section 12.2 shall include, however, provisions waiving (i) any right of the insured to subrogation claims against the ASSOCIATION and against individual OWNERS, as well as their agents, servants, employees and guests; and (ii) any right of the insurer to contribution or proration because of a master hazard policy.

Section 12.3 Reconstruction or Repair After Casualty. In the event of the damage or destruction of all or part of the improvements on a LOT, the LOT OWNER shall be responsible for the prompt reconstruction and repair of the improvements after such casualty; provided that should the LOT OWNER fail to repair or replace the improvements within a reasonable period, the ASSOCIATION may do so for his or her account and may assess his or her PROPERTY, accordingly and, thereafter, be subrogated to any insurance proceeds. In the event of the damage or destruction of all or part of the improvements on the COMMON AREA, the ASSOCIATION shall be responsible for the prompt reconstruction and repair of the improvements after such casualty. Reconstruction or repair shall be mandatory unless seventy-five percent (75%) or more of the votes of the ASSOCIATION, and the DECLARANT so long as DECLARANT owns any PROPERTY in the PLANNED UNIT DEVELOPMENT, elect not to repair or reconstruct. Any reconstruction or repair must follow substantially the original plans and specifications of the improvements unless seventy-five percent (75%) or more of the votes of the ASSOCIATION, and the DECLARANT so long as DECLARANT owns any PROPERTY in the PLANNED UNIT DEVELOPMENT, vote to adopt different plans and specifications.

ARTICLE XIII
AMENDMENT

This DECLARATION may be amended in the following manner:

Section 13.1 Notice. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting of the ASSOCIATION at which a proposed amendment is to be considered.

Section 13.2 Resolution. An amendment may be proposed by either a majority of the BOARD or by MEMBERS holding one-third (1/3) of the votes of the ASSOCIATION. A resolution adopting a proposed amendment must be adopted by an affirmative vote of not less than a majority of the BOARD and the consent of the OWNERS of the LOTS to which sixty-seven percent (67%) of the votes in the ASSOCIATION are allocated and the approval of fifty.one percent (51%) of the holders of first MORTGAGES on LOTS. PROVIDED, HOWEVER, that until the DECLARANT has completed and sold all of the LOTS of the PROPERTY or until the DECLARANT elects to terminate its control of the ASSOCIATION, whichever shall first occur, the BY-LAWS and rules adopted by the DECLARANT shall govern and there shall be no meeting of the MEMBERS of the ASSOCIATION, unless a meeting is called by the BOARD OF DIRECTORS of the ASSOCIATION, and neither the LOT OWNERS nor the ASSOCIATION, nor the use of the PROPERTY by LOT occupants shall interfere with the completion of the contemplated improvements and the sale of the LOTS, and the control of the ARCHITECTURAL COMMITTEE shall remain with the DECLARANT.

Section 13 .3 Recording. A copy of each amendment shall be certified by the President and Secretary of the ASSOCIATION as having been duly adopted and shall be effective when recorded in the Office of the Judge of Probate of Baldwin County, Alabama.

Section 13.4 Agreement. In the alternative, an amendment may be made by an agreement signed

and acknowledged by all record OWNERS, including all first MORTGAGEES of LOTS in the PROPERTY in the manner required for the execution of a DEED, and such amendment shall be effective when recorded in the Office of the Judge of Probate of Baldwin County, Alabama.

ARTICLE XIV
MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first MORTGAGES on LOTS in the PROPERTY. The provisions of this ARTICLE apply to both this DECLARATION and to the BY-LAWS, notwithstanding any other provisions contained therein.

Section 14.1 Notices of Action. An institutional holder, insurer, or guarantor of a first MORTGAGE who provides written request to the ASSOCIATION (such request to state the name and address of such holder, insurer or guarantor and the LOT number, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

a. any condemnation loss or any casualty loss which affects a material portion of the PROPERTIES or which affects any LOT on which there is a first MORTGAGE held, insured, or guaranteed by such eligible holder;
b. any delinquency in the payment of ASSESSMENTS or charges owed by an OWNER of a LOT subject to the MORTGAGE of such eligible holder, where such delinquency has continued for a period of sixty (60) days; PROVIDED, HOWEVER, notwithstanding this provision, any holder of a first MORTGAGE, upon request, is entitled to written notice from the ASSOCIATION of any default in the performance by an OWNER of a LOT of any obligation under the DEC LARATION or BY-LAWS of the AS SOCIA TI ON which is not cured within sixty (60) days;
c. any lapse, cancellation or material maintained by the ASSOCIATION; or modification of any insurance policy;
d. any proposed action which would require the consent of a specified percentage of eligible holders.

Section 14.2 Special FHLMC COMMITTEE Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least two-thirds (2/3) of the first MORTGAGEES and VOTING MEMBERS representing at least two-thirds (2/3) of the total ASSOCIATION vote entitled to be cast thereon consent, the ASSOCIATION shall not:

a. by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer all or any portion of the real property comprising the COMMON AREA which the ASSOCIATION owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the COMMON AREA shall not be deemed a transfer within the meaning of this subsection);
b. change the method of determining the obligations, ASSESSMENTS, dues or other charges which may be levied against an OWNER of a LOT (A decision, including

contracts, by the BOARD or provisions of any declaration subsequently recorded on any portion of the PROPERTY shall not be subject to this provision where such decision or subsequent declaration is otherwise authorized by this DECLARATION);

c. by act or omission change, waive or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of LOTS and of the COMMON AREA (The issuance and amendment of architectural standards, procedures, rules and regulations or use restrictions shall not constitute a change, waiver or abandonment within the meaning of this provision);

d. fail to maintain insurance, as required by this DECLARATION; or

e. use hazard insurance proceeds for any COMMON AREA losses for other than the repair, replacement or reconstruction of such property.

First MORTGAGEES may, jointly or singly, pay taxes or other charges which are in default, and which may or have become a charge against the COMMON AREA and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an ASSOCIATION policy, and first MORTGAGEES making such payments shall be entitled to immediate reimbursement from the ASSOCIATION.

Section 14.3 No Priority. No provision of this DECLARATION or the BY-LAWS gives or shall be construed as giving any OWNER or other party priority over any rights of the first MORTGAGEE of any LOT in the case of distribution to such OWNER of insurance proceeds or condemnation awards for losses to or a taking of the COMMON AREA.

Section 14.4 Notice to ASSOCIATION. Upon request, each OWNER shall be obligated to furnish to the ASSOCIATION the name and address of the holder of any MORTGAGE encumbering the LOT of an OWNER.

Section 14.5 Amendment by BOARD. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this ARTICLE or make any such requirements less stringent, the BOARD, without approval of the OWNERS, may cause an amendment to this ARTICLE to be recorded to reflect such changes.

Section 14.6 Applicability of ARTICLE XIV. Nothing contained in this ARTICLE shall be construed to reduce the percentage vote that must otherwise be obtained under the DECLARATION, BY-LAWS or Alabama Corporate Law for any of the acts set out in this ARTICLE.

Section 14.7 Failure of MORTGAGEE to Respond. Any MORTGAGEE who receives a written request from the BOARD to respond to or consent to any action shall be deemed to have approved such action if the ASSOCIATION does not receive a written response from the MORTGAGEE within thirty (30) days of the date of the request by the ASSOCIATION.

ARTICLE XV
MISCELLANEOUS

Section 15.1 Unrestrictive Right of Transfer. The right of a LOT OWNER to sell, transfer or otherwise convey his LOT shall not be subject to any right of first refusal or similar restriction.

Section 15.2 Leasing. No LOT shall be rented, leased or licensed for occupancy by any person(s) other than OWNER and OWNER's immediate family for any time period less than one (1) year. Shorter term rentals, leases and licenses are not permitted.

Section 15.3 No Restrictions on Mortgaging. Anything construed in any of the PROPERTY documents to the contrary, there shall be no restrictions on a LOT OWNER'S right to MORTGAGE the OWNER'S LOT.

Section 15.4 Acceptance by Grantee. The grantee of any LOT subject to the coverage of this DECLARATION, by acceptance of the DEED or other instrument conveying an interest in or title to, or the execution of a contract for the purchase thereof, whether from DECLARANT or a subsequent OWNER of such LOT, shall accept such DEED or other contract upon and subject to each and all of the terms and conditions set out in this DECLARATION.

Section 15.5 Indemnity for Damages. Each and every LOT OWNER and future LOT OWNERS, in accepting a DEED or contract for any LOT subject to this DECLARATION, agrees to indemnify DECLARANT for any damage caused by such OWNER, or the contractor, agent or employees of such OWNER, to private access areas, roads, streets, gutters, walkways or other aspects of private or public ways, including all surfacing thereon or to water, drainage or storm sewer lines or sanitary sewer lines owned by DECLARANT, or for which DECLARANT has responsibility, at the time of such damage.

Section 15.6 Severability. If any ARTICLE, part, clause, provision or condition of this DECLARATION is held to be void, invalid or inoperative, such voidness, invalidity or inoperativeness shall not affect any other ARTICLE, clause, provision or condition hereof; but the remainder of this DECLARATION shall be effective as though such ARTICLE, clause, provision or condition had not been contained therein.

Section 15.7 Right of DECLARANT to Modify Restrictions with Respect to Unsold LOTS. With respect to any unsold LOT, DECLARANT may include in any contract or DEED hereinafter made or entered into such modifications and/or additions to this DECLARATION as DECLARANT in its discretion desires.

Section 15.8 Captions. The captions preceding the various sections, paragraphs and subparagraphs of this DECLARATION are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provision in this DECLARATION. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

Section 15.9 Effect of Violation on MORTGAGE Lien. No violation of any of the terms and conditions of this DECLARATION shall defeat or render invalid the lien of any MORTGAGE or vendor's lien made or reserved in good faith and for value upon any portion of the PROPERTY; PROVIDED, HOWEVER, that any MORTGAGE or vendor in actual possession, or any purchaser at any MORTGAGEE'S or vendor's lien foreclosure sale shall be bound by and subject to this DECLARATION as fully as any other OWNER of any portion of the PROPERTY.

Section 15.10 No Reverter. No provision of this DECLARATION is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

Section 15.11 Duration and Amendment. The covenant and restrictions of this DECLARATION shall run with and bind the PROPERTY, and shall inure to the benefit of and shall be enforceable by the ASSOCIATION or the OWNER of any PROPERTY subject to this DECLARATION, their respective legal representatives, heirs, successors and assigns, for a term of ninety-nine (99) years from the date this DECLARATION is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then OWNERS, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this DECLARATION shall be modified or terminated as specified therein.

Section 15.12 Enforcement. In the event of a violation or breach of any of this DECLARATION or any amendments thereto by any residential OWNER, or employee, agent or lessee of such OWNER, the OWNER(S) of LOT(S), the ASSOCIATION, DECLARANT (so long as it is a MEMBER of the ASSOCIATION), their successors and assigns, shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof, to prevent the violation or breach of this DECLARATION, to sue for and recover damages or other dues, or take all such courses of action at the same time, or such other legal remedy it may deem appropriate. No delay or failure on the part of an aggrieved party to initiate an available remedy set fo1ih herein shall be held to be a waiver of that party or an estoppel of that party or of any other party to assert any right available to him upon the recurrence or continuation of said violation or the occurrence of a different violation.

Damages shall not be deemed adequate compensation for any breach or violation of any provision hereof, but any person or entity entitled to enforce any provision hereof, shall be entitled specifically to relief by way of injunction as well as any other available relief either at law or in equity.

Any party to a proceeding who succeeds in enforcing this DECLARATION or enjoining the violation of this DECLARATION against a LOT OWNER may be awarded a reasonable attorney's fee against such LOT OWNER.

Section 15.13 Certificate of Violation. In addition to any other rights or remedies available to the ASSOCIATION hereunder or at law or equity, the ASSOCIATION shall have the right to file in the records of Baldwin County, Alabama, a Certificate or Notice of Violation of this

DECLARATION (which violation shall include, without limitation, nonpayment of the annual charges and/or failure to comply with architectural guidelines) upon failure of a LOT OWNER to correct a violation of this DECLARATION within thirty (30) days after written notice of the violation has been given by the ASSOCIATION to the LOT OWNER.

Section 15.14 Interpretation by the DECLARANT or the ASSOCIATION. The DECLARANT and/or the ASSOCIATION shall have the right to construe and interpret the provisions of this DECLARATION, and in absence of adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or PROPERTY benefited or bound by the provisions hereof.

Section 15.15 Assignment by ASSOCIATION. The ASSOCIATION shall be empowered to assign its rights hereunder to any successor nonprofit membership corporation (herein referred to as the "SUCCESSOR CORPORATION") and, upon such assignment the SUCCESSOR CORPORATION shall have all the rights and be subject to all the duties of the ASSOCIATION hereunder.

Section 15.16 No Waiver. The failure of any party entitled to enforce this DECLARATION to do so shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such a violation or breach occurring prior or subsequent thereto;

PROVIDED, HOWEVER, that approval of plans pursuant to ARTICLE IV shall be binding on any and all parties as a conclusive determination that such plans are in conformity with this DECLARATION.

IN WITNESS WHEREOF, the undersigned, being the DECLARANT herein has caused this instrument to be executed on August 29, 2023.

DECLARANT:

Moondance Properties, LLC,
An Alabama Limited Liability Company

By:_____, Member
John Douglas Williams

By:_____, Member
Susan F. Williams

STATE OF ALABAMA)
)
COUNTY OF BALDWIN)

Before me, the undersigned authority, a Notary Public in the State of Alabama, personally appeared John Douglas Williams and Susan F. Williams, whose names as members of Moondance Properties, LLC, an Alabama Limited Liability Company, are signed to the foregoing instrument and who being by me first duly sworn deposes and say that they are all of the members of Moondance Properties, LLC, and have executed this instrument on behalf of Moondance Prioperties, LLC.

Given under my hand and seal on August 29, 2023.

Notary Public
Mackenzie Brown
My Commission Expires: 11/23/2026

MACKENZIE BROWN
Notary Public
Alabama State at Large

ATTACHMENT 1

1. Rights of other parties, the United States of America or State of Alabama, in andto the bed, shore, littoral or riparian rights to the property described herein which lies adjacent to Bayou St. John/Perdido bay. Riparian right, rights of accretion or reliction are neither guaranteed nor insured and Title to no portion of the herein described Land lying below ordinary mean high water mark is hereby insured.

2. Rights of other to use as a public area any part of said realty lying between the body of water abutting said realty and the natural line of vegetation, dunes, extreme high water line of other apparent boundary separating the publicly used area from the upland private area.

3. Rights of other parties in and to Baker Lane, as easement is granted in deed from Belzora Baker Kemp, recorded in Real Property Book 34, Page 456 and Real Property Book 159, Page 286, and George Lane, as shown on tap map for Parcel ID No. 62-07-37-0-007-006.000.

4. Any loss, cost, damage or expense which the insured may sustain as a result of the failure to comply with Section 13A-7-23.1(d) of the Code of Alabama, 1975, or any other law relating to use or development of the Land due to any 'Indian Mounds" or other similar cemetery or burial sites which may be located thereon.

5. Right of access to any cemetery, graves, or burial ground that may be located on the land.

6. Zoning, if any, planning, subdivision regulations, and other ordinances, laws, restrictions or regulations upon the use of division of the land comprising the Subdivision as may be legally imposed by the County of Baldwin, Alabama, any municipally in which the property may lie, the State of Alabama, or any other governmental authorities having jurisdiction over the land in the subdivision.