

The WOODLANDS *at* MALBIS

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March-12-2004

RULES, REGULATIONS AND ARCHITECTURAL GUIDELINES

for The Woodlands at Malbis

March-12-2004

INTRODUCTION

These **RULES, REGULATIONS AND ARCHITECTURAL GUIDELINES** are intended to serve as a special reference for home design in The Woodlands at Malbis. In order for the neighborhood to reach its full potential, the enthusiastic participation of individual homeowners is essential.

These guidelines have been created to introduce you to the future development and acquaint you with the role owners will play. A diligent effort has been made to communicate information that should be useful to owners and designers. The contents will save many hours of research and, consequently, substantial expense in the design of your home. Be sure to read all documents in order to fully comprehend the requirements.

The homeowner association recommends that anyone purchasing a home or homesite in The Woodlands at Malbis obtain a "Letter of Conformance" from the association to ensure that all dues, assessments and liens have been paid and that there are no outstanding nonconforming improvements to be corrected. **As the new owner of a home or homesite, you are responsible for all outstanding dues, assessments, liens and nonconforming improvements.**

FEES

Listed below are additional fees that may or may not be specifically addressed in the **DECLARATIONS**.

1. There is a **\$200.00** fee for the architectural review of each set of plans submitted payable to The Woodlands at Malbis Property Owners' Association, Inc.
2. If you plan to use a mailbox it must be the one approved by The Woodlands at Malbis's **ARCHITECTURAL COMMITTEE**. This mailbox can be purchased through Magnolia Electric for approximately **\$215** including tax. Their phone number is 928-3070 and they will deliver C.O.D.
3. There is an annual fee payable to The Woodlands at Malbis Property Owners' Association, Inc. to cover various expenses of the association. At the present time (2004) this fee is **\$800.00**. This amount is subject to change. See attached budget.

FINES

In order to enforce the rules and regulations in The Woodlands at Malbis, the association has reserved the right and power to assess fines and liens upon each homesite. Particular details are described in the **DECLARATIONS**.

A property owner will be fined \$10.00 per day for a violation that has not been corrected within the time period given by the association. In order to assure payment of the fines, liens will be filed against the property for any fine not paid on time. There is also a 10% late fee charged along with annual interest at 12% for unpaid annual association assessments.

There is also a fine of \$5,000 for each live oak tree that is removed without approval or dies due to construction related damage.

MISCELLANEOUS REGULATIONS

Listed below are additional regulations that may or may not be specifically addressed in the **DECLARATIONS**.

ALL HOMES WILL REQUIRE A GRINDER PUMP FOR SEWAGE DISPOSAL. SEE THE ATTACHED GUIDELINES AND RULES FROM BALDWIN COUNTY SEWER SERVICE REGARDING THEIR RULES AND FEES

For all homesites in The Woodlands at Malbis, erosion control provisions shall be employed and an on-site portable dumpster is required during construction. Burning of debris is not allowed.

All signs in The Woodlands at Malbis are restricted to the following specifications. Only two signs are allowed to be displayed during construction: 1) a "for sale" sign and 2) a display sign for the contractor. All other signs will be removed by the association and discarded without notice.

The front façade of the home on Lot 32 must face the lake.

The Woodlands at Malbis

Architectural Review Check List

(Partial submittals will not be reviewed for approval)

1.) GENERAL:

- a.) One (1) copy of construction documents and specifications submitted? Y__N__
- b.) Application fee submitted? \$ Y__N__
- c.) Corners of the house staked on the lot in the proposed locations? Y__N__
- d.) Trees to be saved flagged with surveyor's tape? Y__N__

2.) SAMPLE BOARD:

- a.) Sample of proposed exterior material? Y__N__
- b.) Sample of roof material? Y__N__
- c.) Sample of exterior paint/stain? Y__N__
- d.) Sample of exterior trim color? Y__N__
- e.) Sample of window color? Y__N__

3.) SITE PLAN:

- a.) Is the lot number and phase indicated? Y__N__
- b.) Property lines shown with accurate dimensions and bearings? Y__N__
- c.) Dwelling indicated as exterior walls with entry area and stairs delineated and roof and deck lines shown? Y__N__
- d.) Building setbacks, easements, and "green belt" limits shown? Y__N__
- e.) Building accurately located within setbacks? Y__N__
- f.) Walks and drives located, dimensioned and materials indicated? Y__N__
- g.) Location of electrical meter shown? Y__N__
- h.) Location of A/C pad shown? Y__N__
- i.) Are existing/proposed contours shown? Y__N__
- j.) Is driveway is a minimum of 3 feet from any property line? Y__N__
- k.) Is drive a minimum of 9 ft. wide and no more than 12 ft. wide? Y__N__
- l.) Are paving materials consistent with or complement the architecture of the house? Y__N__
- m.) Is there any fencing proposed? Y__N__
- n.) Are there any detached buildings proposed? Y__N__
- o.) Is the finished floor elevation (above grade) indicated? Y__N__
- p.) Is the north arrow indicated? Y__N__

PLAN REQUIREMENTS

Sample Board. Samples of all proposed exterior materials including roof material, exterior paint or stain, trim color sample, and shutter and door color sample.

Drawings (as described below) shall be on 24" x 36" paper and bound.

SITE PLAN:

- 1" = 20'-0" scale.
- Property lines with dimensions and bearings, & corner markers.
- Existing and proposed contours.
- Buildings to be indicated as exterior walls with entry, exterior stairs, roof and deck lines.
- First floor elevation (FFE) indicated.
- Locate, dimension, and describe materials for walks and driveways.
- Show all existing roads, utilities, and other improvements.
- Show easements, setback lines and "green belt."
- Location of HVAC unit, utility meter and trash enclosure(s) with screening details.

FLOOR PLAN:

- 1/4" = 1'-0" minimum
- Square footage calculated for each floor and totaled.
- Room use labeled.
- All windows and doors with swings shown.
- Dimension overall limits of plans.
- Roof plan with roof penetrations shown (may be shown on separate sheet).

ELEVATIONS: (all four elevations required)

- 1/4" = 1'-0" scale.
- Show how building relates to actual grade level at site.
- Indicate overall height from grade to highest ridge of roof.

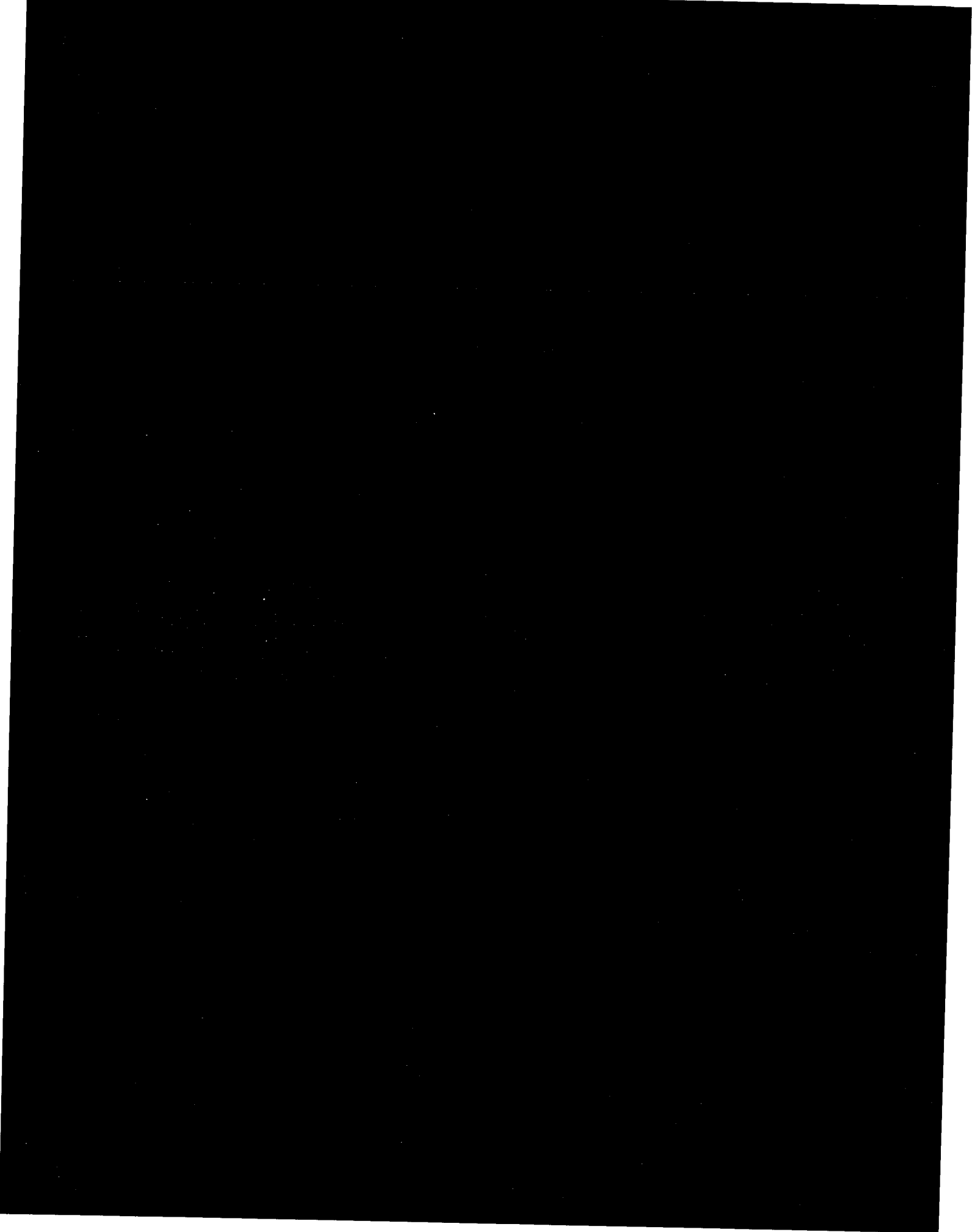
LANDSCAPE PLAN:

- 1" = 20' scale (minimum).
- Location of existing trees and vegetation to be saved.
- Variety, size, location, and the number of all materials.
- Type and limits of sodded areas.
- Irrigation system.

MISCELLANEOUS DETAILS: (At appropriate scale)

- Deck and railing details (if applicable).
- Screened porch details (if applicable).
- Typical fence or screening details (if applicable).
- Electrical plans - include exterior lighting.

- 4.) **LANDSCAPE PLAN:**
- a.) Drawn to an appropriate scale? Y__N__
 - b.) Variety, size, location and number of all plants Y__N__
 - c.) Types and limits of sodded areas shown? Y__N__
 - d.) Irrigation system shown? Y__N__
- 5.) **FOUNDATION PLAN:**
-
- a.) Drawn to an appropriate scale? Y__N__
 - b.) Footing details shown? Y__N__
 - c.) Framing system noted? Y__N__
 - d.) Foundation walls have exterior finish material to grade level? Y__N__
- 6.) **FLOOR PLAN(S):**
- a.) Drawn to an appropriate scale? Y__N__
 - b.) Thoroughly dimensioned? Y__N__
 - c.) Windows and doors shown? Y__N__
 - d.) All fixtures, cabinets, and appliances shown? Y__N__
 - e.) Does the house meet the minimum sq. footage requirements? (____s.f. H/C) Y__N__
 - g.) Are the rooms labeled? Y__N__
- 7.) **EXTERIOR ELEVATIONS:**
- a.) Drawn to an appropriate scale? Y__N__
 - b.) All four elevations submitted? Y__N__
 - c.) Shingles are GAF "Timberline" or equal? Y__N__
 - d.) Roof pitch is minimum of 6:12 and a maximum of 12:12? Y__N__
 - e.) Approved chimney cap shown? Y__N__
 - f.) Exterior finish materials remain consistent? Y__N__
 - g.) Do the elevations show how the house relates to the site slope? Y__N__
- 8.) **DETAILS/SECTIONS:**
- a.) Details drawn to an appropriate scale? Y__N__
 - b.) Typical deck and railing details drawn? Y__N__
 - c.) Typical screened porch details drawn? Y__N__
 - d.) Typical fence and screening details drawn? Y__N__
- 9.) **MISC. PLANS (if any):** Y__N__



**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**
FOR
THE WOODLANDS AT MALBIS, A SUBDIVISION

STATE OF ALABAMA :

COUNTY OF BALDWIN :

State of Alabama, Baldwin County
I certify this instrument was filed
and taxes collected on:
2004 April -12 1:17PM
Instrument Number 881912 Pages 33
Recording 99.88 Mortgage
Deed Min Tax
Index DP 5.88
Archive 5.88
Adrian T. Johns, Judge of Probate

This Declaration made to be effective on the Effective Date (as defined in this Declaration) by Country Club Development, L.L.C., an Alabama Limited Liability Company (the "Declarant").

RECITALS:

A. The Declarant is the owner of the real property located in Baldwin County, Alabama, which is known as Lot 1 through Lot 35, and the areas designated as Common Area No. 1 through Common Area No. 8 on the Plat of The Woodlands at Malbis, a Subdivision (the "Subdivision") recorded in the Office of the Judge of Probate of Baldwin County, Alabama, in Slide 2152 A+B (the "Plat"), together with all improvements and appurtenances sometimes referred to in this Declaration as the "Property".

B. The 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.

C. The Declarant has caused The Woodlands at Malbis Property Owners' Association, Inc. (the "Association") to be formed as a master association for the purpose of providing an Alabama Non-profit Corporation to serve as representative of the Declarant and Owners of the Property.

D. The Association and the Property shall be subject to the terms and conditions of this Declaration.

NOW, THEREFORE, the Declarant declares that the Property shall be held, sold and conveyed 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 this Declaration and which shall be binding on all parties having any right, title or interest in the Property or any part of the Property, their heirs, successors and assigns, and shall inure to the benefit of each Owner of the Property.

Article I
Definitions

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

Section 1.01. "Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of the Association.

Section 1.02. "Assessments" shall mean and refer to the Assessments provided for in this Declaration which shall be used for the purposes of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and the occupants of the Property against which an Assessment is levied and for the purpose of maintaining the Property, all as may be specifically authorized from time to time by the Board of Directors and as more particularly authorized in this Declaration.

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Section 1.03. "**Association**" shall mean and refer to **The Woodlands at Malbis Property Owners' Association, Inc.**, an Alabama Non-Profit Corporation, its successors and assigns.

Section 1.04. "**Board of Directors**" shall mean and refer to the **Board of Directors** of the Association.

Section 1.05. "**By-Laws**" shall mean and refer to the **By-Laws** of the Association.

Section 1.06. "**Common Area**" or "**Common Property**" shall mean and refer to the areas designated on the Plat of **The Woodlands at Malbis**, a Subdivision as **Common Area No. 1** through **Common Area No. 8** or any property, buildings, fixtures, facilities or other personal property now owned or otherwise acquired by the **Association** by purchase, gift, lease or otherwise to be devoted to the common use and enjoyment of the **Owners** of the **Property**.

Section 1.07. "**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 of Directors** pursuant to this **Declaration**, the **Articles of Incorporation** of the **Association** and the **By-Laws** of the **Association**.

Section 1.08. "**Declarant**" shall mean and refer to **Country Club Development, L.L.C.**, an Alabama Limited Liability Company, or the successors and assigns of **Country Club Development, L.L.C.**, an Alabama Limited Liability Company, if such successors or assigns should acquire more than one (1) undeveloped Lot from the **Declarant** for the purpose of development.

Section 1.09. "**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 amended in the manner described in this **Declaration**.

Section 1.10. "**Deed**" shall mean and refer to any **Deed**, assignment, lease, or other instrument conveying fee simple title or a leasehold interest in any part of the **Property**.

Section 1.11. "**Eligible Mortgage Holder**" shall mean and refer to a holder, insurer, or guarantor of a first mortgage on a **Lot** who has requested notice of certain matters from the **Association** as provided in this **Declaration** and in the **By-Laws**.

Section 1.12. "**Lot**" shall mean and refer to any improved or unimproved plot, parcel, or portion of land shown upon the Plat or any recorded final subdivision map of the **Property**, with the exception of **Common Property**, and shall include, where the context may indicate, any improvement or fixture located on the **Lot**.

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**" shall mean and refer to a **Person** or entity who holds membership in the **Association**, as provided in this **Declaration**.

Section 1.15. "**Mortgage**" shall mean and refer to any **Mortgage, Deed** with vendor's lien reserved and any and all 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. "**Mortgagee**" shall mean and refer to the holder of any **Mortgage**, the holder of any vendor's lien reserved, and the holder of any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of any obligation.

or for constructing, repairing or improving any facilities located or to be located on the **Common Property**, and to give as security for the payment of any such loan a **Mortgage** conveying all or any portion of the **Common Property**. **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 **Subdivision**.

E. The right of the **Declarant** to dedicate the **Common Area** to any public agency, authority or utility as provided for in this **Declaration**, 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 by the **Association** shall be effective unless an instrument agreeing to such dedication or transfer has been approved: (i) by at least **two-thirds (2/3)** of the votes of the **Members** of the **Association** which are present or represented by proxy and entitled to be cast at a meeting duly called for such purpose, and (ii) by the **Declarant** until the end of the period which terminates **eighteen (18)** months after the **Declarant** has completed and sold all of the **Lots** and the **Property** in the **Subdivision**.

F. The parking of automobiles in the designated area within the **Common Area** is restricted to the **Owners** and guests, invitees and tenants of the **Owners** and shall not interfere with the rights of ingress and egress of the **Owner** of any particular **Lot**. The parking of automobiles may be regulated by the **Association**.

G. The right of the **Association** to adopt and promulgate reasonable rules, regulations and limitations, including but not limited to the **Rules, Regulations and Architectural Guidelines**, 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 **Subdivision**.

Section 3.02. Delegation of Use. Any **Owner** may delegate, in accordance with the **By-Laws** and subject to reasonable rules, regulations and limitations, including but not limited to **Rules, Regulations and Architectural Guidelines**, as may be adopted in accordance with this **Declaration**, the right of enjoyment of said **Owner** in the **Common Area** and facilities to the members of the family, tenants and social guests or contract purchasers of said **Owner** who reside on the **Property**.

Section 3.03. Common Property. The **Common Area** or **Common Property** is **Not Donated, Dedicated or Granted to the Public**, but shall be conveyed by the **Declarant**, subject to the rights reserved to the **Declarant** in this **Declaration** to dedicate or transfer any **Common Area** to any public agency, authority or utility, or to the **Association** for use as **Common Property** for the benefit of the **Association**. The **Common Property** shall be owned and maintained by the **Association**, subject to the rights reserved to the **Declarant**, and neither the recording of the **Plat** nor any other act of **Declarant** shall be construed as a dedication of the **Common Property** to the public unless said dedication is specifically provided by separate instrument.

The **Association** shall be responsible for maintenance and upkeep of the **Common Area** or **Common Property**, including all common areas, detention areas and the lake as depicted on the **Plat**.

Section 3.04. 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 in this **Declaration**, or as may hereafter appear on any **Plat** of record in which reference is made to this **Declaration**. **Declarant** may cut drain ways 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**, the right of **Declarant** to cut drain ways on a **Lot** of said **Owner** shall terminate when the principal structure

Section 1.17. "Owner" shall mean and refer to the record **Owner**, whether **one (1)** or more **Persons** or entities, of a fee simple title to any **Lot** which is a part of the **Property**, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.18. "Person" shall mean and refer to a natural **Person**, corporation, partnership, trustee or other legal entity.

Section 1.19. "Property" or "Properties" shall mean and refer to that certain real property described in **Paragraph A.** under **Recitals** on **Page 1** of this **Declaration**.

Section 1.20. "Rules, Regulations and Architectural Guidelines" shall mean and refer to a publication promulgated and amended from time to time by the **Board of Directors** of the **Association** for the purpose of establishing rules, regulations and limitations and regulating and governing the use of the **Property** as more particularly provided in this **Declaration**.

Section 1.21. "Subdivision" shall mean and refer to that certain real property which may be subjected to the jurisdiction of the **Association** as described in this **Declaration**.

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 is 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 **Property Rights and Easements**

Section 3.01. Easement of Enjoyment by Owners. Every **Owner** shall have and is granted a nonexclusive right and easement of ingress, egress, use and enjoyment in and to the **Common Area** necessary for access to the **Lot** of said **Owner** 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 the **Association** to charge reasonable admission and other fees for the use and maintenance of the **Common Property** and to impose reasonable limits on the number of guests who may use the **Common Property**.

B. The right of the **Association**, in addition to the other rights set forth in this **Declaration** to suspend the voting rights of an **Owner** and the right to use any of the **Common Property** for any period during which any **Assessment** against the **Lot** of said **Owner** remains unpaid, and for any infraction by an **Owner** of the published **Rules, Regulations and Architectural Guidelines** of the **Association** after a hearing by the **Board of Directors** of the **Association** for the duration of the infraction and for an additional period not to exceed **thirty (30) days**.

C. The right of the **Declarant** with regard to the **Property** which may be owned by the **Declarant** to grant easements in, on and over the **Property** to any public agency, authority or utility. The right of the **Declarant** 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 the **Declarant** shall deem appropriate without the consent or approval of the **Association** or any **Lot Owner**.

D. The right of the **Association** to borrow money for the purpose of improving the **Common Property**, or any portion of the **Common Property**, for acquiring additional **Common Property**,

B. The right to construct, install, replace, relocate, maintain, repair, use and enjoy 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 improvements in the **Property** or **Subdivision** or **Common Property**.

C. No rights, privileges and easements granted or reserved in this **Declaration** shall be merged into the title of any property, including, without limitation, the **Property** or **Subdivision** or **Common Property**, but shall be held independent of such title, and no such right, privilege or easement shall be 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.

D. The right of the **Declarant** in the sole judgment of the **Declarant**, without the approval or consent of the **Association** or any **Lot Owner**, to use the **Common Area** to provide access to other **Property** or other property located in the **Subdivision**, or other property located outside of the **Subdivision**, to dedicate all or any of the **Common Area** to any public agency and to retain an easement for ingress and egress as private streets to serve the **Property**, the property in the **Subdivision**, or property outside the **Subdivision**.

E. Notwithstanding any other provision in the **Declaration**, the **Declarant** is irrevocably empowered to sell, lease, or rent **Lots** on any terms to any purchasers or lessees for as long as **Declarant** owns a **Lot**.

So long as **Declarant** continues to have rights under this **Section 3.08**, no **Person** or entity shall record any declaration of covenants, conditions and restrictions or similar instrument affecting any portion of the **Property** or **Common Property** without the review by the **Declarant** and written consent thereto, and any attempted recordation without compliance with this **Declaration** shall result in such declaration of covenants, conditions and restrictions or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the **Declarant**.

This **Section 3.08** may not be amended without the express written consent of the **Declarant**. **Provided, However**, the rights contained in this **Section 3.08**, shall terminate upon the earlier of: (a) the date which terminates **eighteen (18)** months after the **Declarant** has completed and sold all of the **Lots** and the **Property** in the **Subdivision**, or (b) upon recording by the **Declarant** of a written statement releasing the rights of the **Declarant** under this **Section 3.08**.

Article IV

Architectural Committee: Architectural Control

Section 4.01. Architectural Committee. The **Architectural Committee** (the "**Architectural Committee**") shall be composed of at least **three (3)** individuals designated and redesignated from time to time: (i) by **Declarant** for the period which terminates **eighteen (18)** months after the **Declarant** has completed and sold all of the **Lots** and the **Property** in the **Subdivision** or until **Declarant** releases the right if **Declarant** elects to do so prior to the termination of said period, and (ii) by the **Association** thereafter. 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 provided in this **Declaration**, 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**.

Section 4.02. 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

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 in this **Declaration** shall not be construed to impose any obligation upon **Declarant** to cut such drain ways.

Section 3.05. 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 the judgment of the **Declarant**, may be necessary to improve or maintain the access areas or roads in or adjacent to the **Property** and to drain surface waters from the **Property**; 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 in this **Declaration**, the rights of **Declarant** under this **Section 3.05**, shall terminate with respect to all parts of such **Lot** other than the easement area on the **Lot**, except that **Declarant** or any such municipal or public authority shall have the right to maintain existing roads and drainage structures.

Section 3.06. Easements for Utility. There is reserved to the **Association** blanket easements upon, across, above and under the **Property** for access, ingress, egress, installation, repairing, replacing and maintaining all utilities serving the **Property**, 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 **Property**. It shall be expressly permissible for the **Association** or the designee of the **Association**, 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 of Directors** shall have the right to grant such easement.

Section 3.07. Easement for Governmental, Health, Sanitation and Emergency Services. There is granted to the appropriate governmental authorities and to the appropriate private organizations supplying health, sanitation, 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**. In furtherance of the foregoing, the **Association** shall save harmless the appropriate governmental authority from damages to any **Person** arising out of the use of the **Common Area** by said governing authority for the uses which are stated in this **Section 3.07**.

Section 3.08. Reserved Easement to Declarant. Notwithstanding any provisions contained in this **Declaration** to the contrary, **Declarant** expressly reserves unto the **Declarant**, and the successors and assigns of **Declarant**, a nonexclusive, perpetual right, privilege and blanket easement with respect to the **Property** and the **Common Area** for the benefit of the **Declarant**, and successors and assigns of the **Declarant**, over, under, in and/or on the **Property** or **Common Property**, without further obligation and without charge to the **Declarant**, for the purposes of construction, installation, relocation, development, sale, maintenance, repair, replacement, use and enjoyment and/or otherwise dealing with the **Property** or **Common Property** or the **Subdivision**. The reserved easement shall constitute a burden on the title to the **Property** and the **Common Property** and specifically includes but is not limited to:

A. The right of access, ingress and egress for vehicular and pedestrian traffic over, under, on, or in the **Property** or **Subdivision** and the **Common Property**; and the right to tie into any portion of the **Property** or **Subdivision** or **Common Property** 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, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the **Property** or **Subdivision** or **Common Property**; and

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 IS LIMITED TO APPEARANCE ONLY AND 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 4.04. Retention of Copy of Plans. Upon approval by the **Architectural Committee** of any plans and specifications submitted pursuant to this **Declaration**, a copy of such plans and specifications, as approved, shall be deposited for record with the **Architectural Committee**. The **Architectural Committee** shall not be obligated to retain such plans and specifications in the files of the **Architectural Committee** for any particular period of time.

Section 4.05. Rules of Architectural Committee; Effect of Approval and Disapproval; Time for Approval. In addition to the **Rules, Regulations and Architectural Guidelines** promulgated from time to time by the **Board of Directors** of the **Association** as provided for in this **Declaration**, the **Architectural Committee** may promulgate rules 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 rules 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 rule 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 **Architectural Committee** discretion 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 the discretion of the **Architectural Committee**, to disapprove such plans or specifications or any of the features or elements included in said plans or specifications, 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, 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 question.

Section 4.06. Certificate of Compliance. Upon completion of the construction or alteration of any structure in accordance with plans and specification or alteration of any structure in accordance with plans and specifications approved by the **Architectural Committee**, the **Architectural Committee** shall, upon written request of said **Owner** 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 said **Owner**. Any certificate of compliance issued in accordance with the provisions of this **Section 4.06**, shall be prima facie evidence of the facts 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 4.07. 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 on said **Lot** for the purpose of ascertaining whether the maintenance of such **Lot** and the maintenance, construction, or alteration of the structures on said **Lot** are in compliance with the provisions

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: (i) architectural plans, elevations and specifications showing the nature, kind, exterior color schemes, shape, height and materials of all structures proposed for the **Lot**; (ii) 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**; (iii) a grading plan for the particular **Lot**; (iv) a drainage plan; (v) a plan for landscaping; and (vi) any necessary or appropriate governmental permit. All of said plans shall address the matters set forth in this **Article IV**, as applicable. The **Architectural Committee** may charge reasonable fees for the submittal and review of said plans and specifications submitted by the **Lot Owner**.

Section 4.03. Basis for Disapproval of Plans. The **Architectural Committee** shall have the right to disapprove any plans and specifications submitted pursuant to this **Declaration** 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. any 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 **six (6) months** after such approval unless such **six (6) month** period is extended by agreement with the **Architectural Committee** in which event the extended time period shall be applicable.

In any case where the **Architectural Committee** shall disapprove any plans and specifications submitted pursuant to this **Declaration**, 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

of this **Declaration**; 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. 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 (3rd) Person** 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 4.08. Waiver of Liability. Neither the **Architectural Committee** nor any architect nor agent of the **Architectural Committee**, 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 any **Person** relying thereon or benefitting therefrom agrees not to sue or claim against the entities and **Person** referred to in this **Section 4.08**, for any cause arising out of the matters referred to in this **Section 4.08**, and further agrees to and does release said entities and **Person** for any and every such cause.

Section 4.09. Owner Obligations. If the **Owner** should fail to faithfully execute the plans and specifications submitted to and approved by the **Architectural Committee**, the **Association** shall have the right to enter into a contract with a **third (3rd) party** for the execution of the plans and specifications 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 4.09**, shall have the same enforceability and priority as the lien provided for in **Article X** of this **Declaration**.

Article V **Zoning and Specific Restrictions**

This **Declaration** shall not be taken as permitting any action or thing prohibited by the applicable laws, or the laws, rules or regulations of any governmental authority, or by specific covenants or restrictions imposed by any **Deed** or lease. In the event of any conflict, the most restrictive provision of such laws, rules, regulations, **Deeds**, leases, covenants, restrictions or this **Declaration** shall be taken to govern and control.

Article VI **Site Development**

Section 6.01. Site to Be Staked Prior to Tree Cutting. Simultaneously with the submittal of the plans and specifications to the **Architectural Committee** as provided for in **Article IV** of this **Declaration** the improvements for the site of the structure must be staked, the trees must be flagged and such site approved by the **Architectural Committee** before tree cutting is done. No tree may be cut or removed without consent of the **Architectural Committee** until the building plans, site plans, landscape plans and site staking are approved by the **Architectural Committee**. No tree having a diameter of **six inches (6")** 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 **Owner** must faithfully execute the building plans, site plans, landscape plans and site staking as submitted to and approved by the **Architectural Committee**.

Section 6.02. Erosion Control. Erosion control measures shall be taken by the **Owner** of a **Lot**, and the contractors of said **Owner**, to protect adjacent properties during construction on such **Lot** and until the soil is stabilized on the **Lot**. This may be accomplished by the use of temporary retention ponds, silt fencing, hay bails 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" or is located within an area designated as "flood prone" pursuant to **Federal** law and regulations, all utilization and construction of improvements in said "wetlands" or "flood prone" areas must be in accordance with all **Federal**, state and local laws and regulations. Any such portion of the **Property** shall be subject to that certain separate instrument entitled **Restrictive Covenant** executed by the **Declarant** and recorded on the same date as this **Declaration** and all activities conducted within any such wetlands for flood prone areas shall be conducted in accordance with the **Restrictive Covenant** and the permit issued to the **Declarant** by the **U.S. Army Corps of Engineers, Mobile District** pursuant to **Section 404** of the **Clear Water Act**.

Section 6.03. 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**.

Section 6.04. 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 6.05. 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 landscape plan shall include provision for an underground sprinkler system which is approved by the **Architectural Committee**. Front, rear and side yards shall be grassed with solid sod. All planting material shall be **three (3)** gallons or larger with the exception of ground cover.

Section 6.06. 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 atmosphere of this **Property** and must be compatible with surrounding buildings within the **Property**. No unfinished foundation walls or exposed concrete block shall be allowed on the exterior of any building. Vinyl and aluminum siding shall not be allowed on the exterior of any building. The side wall of any building facing a street or lake shall be required to have the same finishing and exterior details as the front facade of the building. The front facade of the dwelling constructed on **Lot 32** must face the lake.

Section 6.07. 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**. No exterior lighting fixture (other than fixtures approved by the **Architectural Committee**) shall be installed within or upon any **Lot** without adequate and proper shielding of the fixture. No lighting fixture shall be installed that may become an annoyance or a nuisance to **Owners** or occupants of adjacent **Lots** or to users of adjacent **Common Areas**. All modifications to exterior lighting must be approved in writing by the **Architectural Committee** in advance as provided for in this **Declaration**. No floodlights shall be attached to the soffits of any building.

Article VII

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 of said **Covenants and Restrictions** in accordance with this **Declaration** and the **By-Laws**.

as co-owners of the divided Lot for purposes of voting and shall be jointly and severally liable for all Assessments under this Declaration against the Lot. Declarant expressly reserves the right to replat any Lot or Lots owned by Declarant. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

No Lot shall be made subject to any time 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 7.07. Adjoining Lot Ownership. For the purposes of this instrument, any Owner having two (2) or more adjoining Lots may treat, use and build on them as though they were one (1) after making written application and receiving written approval by the Board of Directors. Said approval shall be recorded and operate as an amendment to this instrument. The rights granted by this Section 7.07, are subject to the easements, if any, granted to others and any applicable subdivision and zoning regulations.

Section 7.08. Use of Common Property. The Association shall have full control over the Common Property and may establish such Rules, Regulations and Architectural Guidelines and conditions for the use of the Common Property as the Association 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 said Owner or any of the guests, tenants, or invitees of said Owner from using the Common Property, should any such party, while on the Common Property conduct himself or herself in such a manner as to warrant such action in the sole discretion of the Majority of the Board of Directors. Provided, However, nothing in this Declaration shall be construed to allow the Association to prohibit any Lot Owner from ingress and egress to and from the Lot of said Owner.

Under no circumstances may any motorized vehicle, all-terrain vehicle, three-wheeler, four-wheeler, motorcycle or any other motorized vehicle of any nature be permitted within the Common Area. The provisions of this paragraph may be waived, altered or amended by the Association.

Section 7.09. Parking and Vehicular Restrictions. Parking in or on the Property or Common Property shall be restricted as provided in this Declaration, the By-Laws or Rules, Regulations and Architectural Guidelines of the Association.

Any vehicle other than an automobile kept on a Lot must be completely screened by a solid fence from the street and adjacent properties. No vehicle, camper, mobile home, motor home, house trailer or trailer of any type, recreational vehicle, motorcycle, golf cart, scooter, go-cart, moped, boat or other water craft, boat trailer, van, bus, automobile, or any other transportation device of any kind shall be permitted to be parked or to be stored at any place within the Property or Common Property, except in spaces for some or all of the above specifically designated by the Association. No Owner shall keep any vehicle on the Property or Common Property which is deemed a nuisance by the Board of Directors. No commercial vehicle shall be permitted to be parked or to be stored at any place within the Property or Common Property except in spaces designated by the Association. For the purposes of this Section 7.09, "commercial vehicle" shall mean those that 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 said vehicle is a commercial vehicle. No Owner shall conduct repairs (except in an emergency) or restorations of any vehicle on or upon any portion of the Property or Common Property, except in an enclosed area with the doors to that area closed at all times. The prohibitions on parking contained in this Section 7.09, shall not apply to temporary parking of vehicles such as for construction use or providing pick-up and delivery and other commercial services nor to any vehicles of the Declarant. On all Lots, no overnight on-street parking or parking on lawns shall be permitted and the parking on all Lots shall be regulated by the Architectural Committee.

Section 7.01. Permitted Uses and Structures. All Lots which are part of the Property are declared to be residential Lots, and no Lot shall be used except for single-family residential purposes. No previously approved structure shall be used for any purpose other than that for which said approved structure was originally designed.

Section 7.02. Business Use. Except as provided in this Declaration, no trade or business may be conducted in or from any Lot. Notwithstanding the above, the leasing of a Lot for residential purposes shall not be considered a trade or business within the meaning of this Section 7.02. This Section 7.02 shall not apply to any activity conducted by the Declarant with respect to development and sale of the Property in the Subdivision or the use by the Declarant of any Lots which Declarant owns within the Property located in the Subdivision nor to the Property designated by the Declarant as the sales office or model home of the Declarant.

Section 7.03. Leasing. Lots may be leased for residential purposes. Provided, However, all leases shall be for a minimum term of six (6) months, and such lease and the rights of any tenants are made expressly subject to the power of the Association to prescribe reasonable Rules, Regulations and Architectural Guidelines relating to the lease and rental of Lots and to enforce the same directly against such tenant or other occupant by the exercise of such remedies as the Board of Directors deems appropriate, including eviction. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Declaration, By-Laws, use restrictions, Rules, Regulations and Architectural Guidelines of the Association. The lease shall also obligate the tenant to comply with the foregoing and shall provide that in the event of noncompliance, the Board of Directors, in addition to any other remedies available to it, may evict the tenant on behalf of the Owner and specifically assess all costs associated therewith against the Owner and the Lot of the Owner.

Section 7.04. Minimum Dwelling Area. The livable area (heated and cooled areas) of the main building or structure, exclusive of open porches and garages, shall be not less than the square footages set out in this Section 7.04, on the following Lots. All references in this Section 7.04, to "sf" shall mean or refer to square footage within the liveable area (heated and cooled areas) of the main building or structure. The numbers in parenthesis (e.g. 1,440 sf) are the minimum square footage required on the ground floor liveable area (heated and cooled areas) of the main building or structure, exclusive of open porches and garages.

<u>Stories</u>	<u>Lot 1 through Lot 35</u>
1	2,600 sf
1 ½	2,600 sf (1,800 sf)
2	2,600 sf (1,800 sf)

Section 7.05. Minimum Building Setback Lines. No building or structure located on any Lot shall be constructed, erected, altered, placed, remodeled, reconstructed, added to or allowed to remain on any Lot so as to be located any nearer to any property boundary line than the setback lines shown on the recorded Plat but the Architectural Committee, in the sole discretion of the Architectural Committee, shall have the power to grant exceptions. All setbacks shall comply with all applicable subdivision and zoning regulations.

Section 7.06. Subdivision of Lot and Time Sharing. No Lot shall be split, divided, or subdivided or the boundary lines of the Lot changed except with the prior written approval of the Board of Directors of the Association. The Board of Directors may permit a division in ownership of any Lot intended for a single family detached residence as shown on a Plat, but solely for the purpose of increasing the size of the adjacent Lots. In the event of a division of any Lot, the Owners among whom the ownership is divided shall be treated

Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained in this **Declaration** or in the **Rules, Regulations and Architectural Guidelines** 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, conversation, or otherwise, nor guilty of any criminal act, by reason of the towing, and once the notice is posted, neither the removal of said notice, nor failure of the owner to receive said notice, for any reason, shall be grounds for relief of any kind. An affidavit of the **Person** posting the aforesaid notice stating that the notice was properly posted shall be conclusive evidence of proper posting.

For the purposes of this **Section 7.09**, "**vehicle**" shall mean and refer to any device on wheels or runners for conveying **Persons**, property or objects.

Section 7.10. Driveways and Sidewalks. Each **Owner** of a **Lot** shall be responsible for building a driveway and a sidewalk, at the sole expense of said **Owner**. Driveways must be constructed of concrete or concrete pavers and be located a minimum of **three (3) feet** from the side **Lot** line. 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 sidewalk must be constructed of concrete and be located parallel to the roadway providing access to the **Lot**. The sidewalk must be completed on or prior to the completion of the dwelling. The location, design and construction of all driveways and sidewalks must be approved in writing by the **Architectural Committee** prior to construction.

Section 7.11. Preservation of Trees, Topography and Vegetation. No tree having a diameter of **six inches (6")** 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 the discretion of the **Architectural Committee**, may adopt and promulgate **Rules, Regulations and Architectural Guidelines** regarding the preservation of trees and other natural resources and wildlife upon all of the **Property**. If the **Association** shall deem 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 7.11**, 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, Regulations and Architectural Guidelines** adopted and promulgated pursuant to the provisions this **Declaration**. 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. Any greenbelt areas located on the **Lot** as shown on the **Subdivision Plat** shall be preserved by the **Lot Owner** and may only be disturbed after approval in writing by the **Architectural Committee** prior to any such construction. If the **Architectural Committee** allows the greenbelt area to be disturbed, then the **Lot Owner** shall install a privacy fence extended along the entire length of the greenbelt area. The privacy fence shall also be subject to prior approval in writing by the **Architectural Committee**. There is a **Five Thousand Dollar (\$5,000.00)** fine for each live oak that is removed without approval or dies due to construction related damage.

Section 7.12. Accumulation of Refuse or Noxious Activity. No lumber, metals or bulk materials (except lumber, metals and bulk materials as are usual in the maintenance of a private residence and which must be stored in such a manner so that it cannot be seen from adjacent and surrounding **Property**), refuse or trash shall be kept, stored, or allowed to accumulate on any **Lot**, 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, approved containers may be placed in the open on any day a pick-up is to be made. 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, Regulations and Architectural Guidelines** relating to the size, shape, color and type of container's permitted and the manner of storage and screening of the same on the **Property**. During the period of construction on a **Lot**, an onsite portable dumpster is required for containing construction debris and it shall be the responsibility of the **Lot Owner** to remove all construction debris from the **Lot** on a regular and recurring basis.

No portion of the **Property** shall be used, in whole or in part, for the storage of any substance, thing or material that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept on any portion of the **Property** that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding **Property**. No noxious, illegal or offensive activity shall be carried on upon any portion of the **Property** nor shall anything be done on the **Property** tending to cause embarrassment, discomfort, annoyance, or nuisance to any **Person** using any portion of the **Property**. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature that may diminish or destroy the enjoyment of the **Property**. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the **Property**.

Section 7.13. Fences, Walls, Hedges and Ornamental Structures. No fence, wall, hedge, ornamental structure or gazebo shall be located or constructed on any **Lot** without the prior written approval of the **Architectural Committee**. Fences shall not exceed **eight (8) feet** in height. No fence, wall, hedge, or structures over **forty-two (42) inches** in height shall be located nearer the front property line of any **Lot** than the front of the dwelling on such **Lot** without the written approval of the **Architectural Committee**. No chain link fence may be constructed on any **Lot**. Wooden fences, if approved, shall have posts exposed on the outside of any such fence with the pickets recessed a minimum of **two (2) inches** from the face of the fence post. All fence posts shall have caps approved by the **Architectural Committee**. No dog runs, animal pens, or fences of any kind shall be permitted on any **Lot** without the prior written approval of the **Architectural Committee**. 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 the location upon the **Lot** or the height to which said or planting is permitted to grow, is unreasonably detrimental to the adjoining **Property** or obscures the view of road traffic or is unattractive in appearance. All **Property** located at street intersections shall be landscaped to permit safe sight across the street corners.

Section 7.14. Mailboxes. The design and location of all mailboxes shall be designated by the **Architectural Committee**.

Section 7.15. Artificial Vegetation, Exterior Sculpture and Similar Items. No artificial vegetation shall be permitted on any **Property** or on the exterior of any portion of any improvement on the **Property**. Exterior sculpture, fountains, flags and similar items must be approved by the **Architectural Committee**. **Provided, However**, that nothing contained in this **Declaration** shall prohibit the appropriate display of the **American flag**.

Section 7.16. Animals and Pets. No animals, wildlife, livestock, insects, reptiles or poultry of any kind shall be raised, bred, harbored or kept on any **Lot** except that the **Owner** may keep **four (4)** domesticated household pets. No such pets shall be kept for any commercial purpose, 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, at all times when they are outside a residence, must be confined on a leash held by a responsible **Person** and kept under the close supervision of their owners. Pets shall only be permitted in the **Common Area** if portions thereof are so designated by the **Association**. All **Persons** bringing a pet onto a **Common Area** shall be responsible for immediately removing any solid waste of said pet. Those pets which, in the sole discretion of the **Association**, endanger health, make objectionable noise or constitute a

nuisance or inconvenience to the **Owners** of other **Lots** or the **Owner** of any portion of the **Property** shall be removed upon request of the **Board of Directors**.

Section 7.17. Signs. No sign, billboard, advertisement or other advertising device of any nature shall be placed upon any **Lot** except as provided in this **Declaration**. The **Architectural Committee** may adopt and promulgate **Rules, Regulations and Architectural Guidelines** 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**, the **Declarant** specifically reserves the right for the **Declarant**, or the successors, nominees, assigns of the **Declarant**, and the **Association** to place and maintain signs in connection with constructing, marketing, selling and renting **Lots**, and the improvements located on **Lots**, and identification and informational signs anywhere on the **Property**.

Section 7.18. 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 any **Lot**. If approved by the **Architectural Committee**, such a structure may be used as a security station during construction or other special purpose.

Section 7.19. Pipes. To the extent of the interest of the **Owner** of a **Lot**, no water pipe, gas pipe, sewer pipe or drainage pipe shall be installed or maintained on any **Lot** above the surface of the ground.

Section 7.20. Wall and Window Air Conditioning Units. Wall and window air conditioning units shall not be permitted.

Section 7.21. Clothes Lines. No clothing or any other household fabric shall be hung in the open on any **Lot** and no clothes lines or clothes hanging devices shall be kept or maintained on any **Lot**.

Section 7.22. Roofs. Unless waived by the **Declarant** or the **Architectural Review Committee** on a case by case basis, the roof pitch must be a minimum of a **six (6)** inch rise in a **twelve (12)** inch run and a maximum of **twelve (12)** inch rise in a **twelve (12)** inch run. Roofing shall be dimensional shingles equal to **GAF Timberline Series**, cedar shakes, slate or other natural material. Metal roofs are not allowed. Roof penetrations shall not be located on the front side of the roof. All penetrations, flashing and diverters shall be painted to match roof color.

Section 7.23. Chimneys. Exposed chimney flues shall be enclosed and contain wind screens at the top of all chimneys. Chimneys may only be constructed of stucco, brick or stone.

Section 7.24. Exterior Construction Materials. Improvements on any **Lot** must not contain any more than **two (2)** exterior construction materials. No unfinished foundation walls or exposed concrete blocks shall be allowed on the exterior of any building. Vinyl or aluminum siding shall not be allowed on the exterior of any building.

Section 7.25. Carports and Garages Permitted. Garages and carports are optional but if they are used, they shall not be constructed to face any street or the lake. If garages are constructed, electric automatic door openers/closers shall be installed and used. Any garages visible from the street must be kept closed when not in use. If carports are constructed, the carport must be located at the rear of the improvements on the **Lot**.

Section 7.26. 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 from roads or **Property** adjacent to the **Lot**. No such items shall be allowed to remain on the **Common Area** or on **Lots** so as to be visible from adjacent **Property** or the road when not in use. Notwithstanding the above, the **Board of Directors** may, but shall not be obligated to, permit swingsets 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 7.27. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or energy conservation equipment shall be constructed or installed on any **Lot** 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 7.28. Gas or Oil Tanks, Pools, Swimming Pool Equipment, Air-conditioning Units, Garbage Containers. All swimming pool equipment and housing, air-conditioning units and garbage containers must be screened by walls or fences on all sides so that they are not visible and no such equipment or containers shall be located on the front facade of any building. No oil tanks or bottled gas tanks shall be allowed 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 propane gas tank is within screened walls or fences on all sides so that said propane gas tank is not visible.**

No above-ground pools shall be erected, constructed or installed on any **Lot** except that above-ground spas or jacuzzis may be permitted with approval of the **Architectural Committee**. Any in-ground pool to be constructed on any **Lot** shall be subjected to the requirements of the **Architectural Committee**, which include, but are not limited to, the following:

- A. Pool screen may not be visible from the street in front of the **Lot**.
- B. All pool enclosures shall be of a color in harmony with the structure. No raw aluminum color screen will be allowed. Screening shall be within the building setbacks.

Section 7.29. Outside Installations. Except as provided in this **Declaration**, no exterior antennas, aerials, satellite dishes, towers or other apparatus, or support for said apparatus, 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 Woodlands at Malbis, a Subdivision**, except:

- A. An antenna designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is **one (1) meter** or less in diameter;
- B. An antenna designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services and local multipoint distribution services, that is **one (1) meter** or less in diameter or diagonal measurement; or
- C. An antenna that is designed to receive television broadcast signals.

(collectively, "**Permitted Antennas**")

Permitted Antennas are subject to such reasonable **Rules and Regulations** as to location and screening as may be set forth by the **Board of Directors**, consistent with applicable law, in order to minimize obtrusiveness as viewed from streets and adjacent property. The **Declarant** and/or the **Master Association** shall have the right, without obligation, to erect an aerial, satellite dish or other apparatus for a master antenna, cable or other communication system for the benefit of all or a portion of **The Woodlands at Malbis, a Subdivision**, should any master system or systems be utilized by the **Master Association** and require such exterior apparatus.

No machinery or equipment shall be placed or operated upon any Lot except such machinery or equipment as is usual in maintenance of a private single-family residence. No roof penetrations, such as vents and pipes, shall be placed on any roof so as to be visible from any road or **Common Area**.

Section 7.30. Irrigation. Irrigation systems are required to cover all areas of the Lot and must be installed underground and shall be subject to approval of the **Architectural Committee**. 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**.

Section 7.31. Wells and Drainage. Private waters systems and wells may be constructed on any Lot after prior written approval by the **Architectural Committee** and after any required permits or approvals by any **Governmental Authority** with appropriate jurisdiction over the well or water system have been obtained.

Section 7.32. Storm Precautions. No hurricane or storm shutters shall be permanently installed on any structure on a Lot unless first approved by the **Architectural Committee**. Hurricane or storm shutters may be installed temporarily, and other storm precautions may be taken to protect structures on a Lot, while the threat of a hurricane or similar storm is imminent; provided, all such shutters and other exterior alterations or additions made as a storm precaution shall be promptly removed once the storm or imminent threat of the storm has passed.

Section 7.33. 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 any Lot unless first approved by the **Architectural Committee**.

Section 7.34. 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. **Provided, However,** it is understood that this prohibition does not affect the rights of mineral owners or owners of any interest in minerals that may have been previously reserved or conveyed to others.

Section 7.35. Firearms. The discharge of firearms within the Property is prohibited except with the prior approval of the **Board of Directors**. The term "firearms" includes "B-B" guns, pellet guns and other firearms of all types, regardless of size, notwithstanding anything to the contrary contained in this Declaration or in the By-Laws. The Association shall not be obligated to take action to enforce this **Section 7.35**.

Section 7.36. Insurance Rates. Nothing shall be done or kept on any Lot 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 of Directors**, nor shall anything be done or kept on any Lot 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 7.37. Completion of Construction and Option to Purchase. Except as may be otherwise designated by the Declarant, all homes and other structures, landscaping and other improvements on all Lots must be completed within **twelve (12) months** after the construction of same shall have commenced or the clearing of the Lot shall have commenced, whichever shall have first occurred, except where such completion is impossible or would result in great hardship to the Owner or 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 and landscaping have been completed. Except as may be otherwise designated by Declarant, during the continuation of construction, the Owner shall require the contractor to maintain the Lot in a reasonably clean and uncluttered condition. 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**, agent or contractor of the **Owner**, or other party providing labor or services to the **Owner** shall be repaired by the **Owner** at the expense of the **Owner**.

Section 7.38. Occupants Bound. All provisions of the **Declaration, By-Laws** and of any **Rules, Regulations and Architectural Guidelines** or use restrictions promulgated pursuant to this **Declaration** that govern the conduct of **Owners** and that provide for sanctions against **Owners** shall also apply to all occupants, guests and invitees of any **Lot**. Every **Owner** shall cause all occupants of the **Lot** of said **Owner** to comply with the **Declaration, By-Laws** and the **Rules, Regulations and Architectural Guidelines** adopted pursuant to this **Declaration** and shall be responsible for all violations and losses to the **Property** caused by those occupants, notwithstanding the fact that those occupants of a **Lot** are fully liable and may be sanctioned for any violation of the **Declaration, By-Laws** and **Rules, Regulations and Architectural Guidelines** adopted pursuant to this **Declaration**.

Section 7.39. No Discrimination. No action shall at any time be taken by the **Declarant**, the **Association** or the **Board of Directors** which in any manner would discriminate against any **Owner** or **Owners** in favor of the other **Owners**.

Section 7.40. Disclosure. This **Declaration** and the restrictions, covenants and conditions contained in this **Declaration** shall apply to **Lot 1** through **Lot 35** and the areas designated as **Common Area No. 1** through **Common Area No. 8** on the recorded **Plat of The Woodlands at Malbis, a Subdivision**.

Article VIII **Membership and Voting Rights**

Section 8.01. The Association. The operation and administration of the **Property** shall be by the **Association of Lot Owners**. The **Association** shall be a non-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 nonexercise of the powers of the **Association**. 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 Area** and **Common Property** 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 the **Association** under the **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 the powers and duties of the **Association**, or some of them, may be exercised or performed by some other **Person**. 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 of Directors** 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 8.02. Membership. Every **Person** or entity who is the record **Owner** of a fee simple or undivided fee interest in any **Lot** that is subject to this **Declaration** shall be deemed to have a membership in the **Association**. Membership shall be appurtenant to and may not be separated from such ownership. The foregoing is not intended to include **Persons** who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the membership of said **Owner**. **Provided, However**, the **Declarant** shall remain a member for the period of time contained in **Section 8.03** of this **Declaration** regardless of whether or not the **Declarant** continues to own any **Lots** within the **Subdivision**.

Section 8.03. Voting Rights. Except for the **Declarant**, no **Member** shall have any right to vote until the happening of either of the following events, which ever shall first occur:

A. Until the end of the period which terminates **eighteen (18)** months after the **Declarant** has completed and sold all of the **Lots** and the **Property** in the **Subdivision**; or

B. Until the **Declarant** elects to give up the exclusive right to vote.

During the period of time recited above in this **Section 8.03**, the **Declarant** shall be the only **Person** entitled to vote and the **Members** of the **Board of Directors** and **Architectural Committee** shall be appointed by the **Declarant**. During the period of time recited above in this **Section 8.03**, **Members** of the **Association** other than the **Declarant**, shall have no vote in the matters of the **Association**. Thereafter, 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 in this **Declaration** and in the **By-Laws**.

The **Declarant** may make such use of the unsold **Lots**, **Property** and of the **Common Areas** and facilities and the property in the **Subdivision** as may facilitate such completion and sale, including, but not limited to, showing of the **Lots**, **Property**, **Common Areas** or the property in the **Subdivision** and the display of signs.

Only voting **Members** shall be entitled to cast votes at **Association** meetings on matters pertaining to the **Association**, including the election of **Members** of the **Board of Directors**, amending the **Declaration**, the **Articles of Incorporation** and the **By-Laws** of the **Association**, and all other matters which may be brought before the **Association** membership except as otherwise provided in this **Declaration**. The right of an **Owner** to vote may be suspended by the **Association** as provided in this **Declaration**.

Section 8.04. Rules, Regulations and Architectural Guidelines. The **Association**, through the **Board of Directors**, may make and enforce reasonable **Rules, Regulations and Architectural Guidelines** governing the use of the **Property**, which **Rules, Regulations and Architectural Guidelines** shall be consistent with the rights and duties established by this **Declaration**. Copies of such **Rules, Regulations and Architectural Guidelines** 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 Property**. The **Board of Directors** shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of fines and/or sanctions shall be as provided in the **By-Laws** of the **Association**. In addition, the **Association**, through the **Board of Directors**, may, by contract or other agreement, enforce local ordinances on the **Property** for the benefit of the **Association** and the **Members**.

Section 8.05. Implied Rights. The **Association** may exercise any other right or privilege given to the **Association** 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 the **Association** or reasonably necessary to effectuate any such right or privilege.

Section 8.06. Self-Help. In addition to any other remedies provided for in this **Declaration**, the **Association** or the duly authorized agent of the **Association** shall have power to enter upon a **Lot** or any portion of the **Common Property** to abate or remove, using such force as may be reasonably necessary, any erection, thing, or condition which violates this **Declaration**, the **By-Laws**, the **Rules, Regulations and Architectural Guidelines** or the use restrictions. Unless an emergency situation exists, the **Board of Directors** shall give the violating **Lot Owner** **ten (10) days'** written notice of the intent of the **Association** to exercise self-help. All costs of self-help including reasonable attorney's fees actually incurred shall be assessed against the violating **Lot Owner** and shall be collected as provided for in this **Declaration** for the collection of **Assessments**.

Section 8.07. Right of Entry. The Association shall have the right, in addition to and not in limitation of the rights the Association may have, to enter into Lots for emergency, security or safety purposes, which right may be exercised by the Board of Directors, all of the officers, agents, employees or managers of the Board of Directors, and all police officers, firefighters, 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 8.08. Contracts. The Association shall not be bound, either directly or indirectly, to any professional management contracts or leases entered into prior to the date which is eighteen (18) months after the Declarant has completed and sold all of the Lots and the Property in the Subdivision unless there is a right of termination of any such contract or lease, 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 8.09. 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 the Lot of said Owner.

Section 8.10. Board of Directors. The affairs of the Association shall be conducted by a Board of Directors which shall consist of such number as shall, from time to time, be determined and fixed by a Majority of the voting rights present at any annual or special meeting of the Members. The Association shall have the right to amend the By-Laws for the purposes of changing the number of Directors.

Section 8.11. By-Laws. The Association and the Members shall be governed by the By-Laws which shall be adopted by the Association.

Section 8.12. Availability of Records. The Association shall make available to Lot Owners, prospective purchasers, Eligible Mortgage Holders of Mortgages on any Lot, current copies of this Declaration, the By-Laws, Rules, Regulations and Architectural Guidelines and other books, records, financial statements and the most recent annual audited or unaudited financial statement 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 8.13. Indemnification. The Association shall indemnify every officer and director against any and all expenses, including attorney's fees, imposed upon or reasonably incurred by any officer or director in connection with any action, suit or other proceeding (including settlement of any suit or proceedings, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment, and any right to indemnification provided for in this Declaration shall not be exclusive of any other rights to which any officer or director or former officer or director may be entitled. The Association shall maintain adequate general liability and officers and directors liability insurance to fund this obligation, if such coverage is reasonably obtainable.

Section 8.14. 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.

Article IX
Covenants for Maintenance

Section 9.01. Responsibility of Association. The Association shall maintain and keep in good repair the **Common Property**, such maintenance to be funded as provided in this **Declaration**.

Section 9.02. Responsibility of Owner. Each **Owner** shall keep all **Lots** owned by said **Owner**, and all improvements, in a safe, clean and attractive condition and in good order and repair. Such maintenance obligation shall include, without limitation, the following: prompt removal of all litter, trash, refuse and waste; lawnmowing on a regular basis; tree and shrub pruning; watering landscaped areas; keeping improvements, exterior lighting and maintenance facilities in good repair and working order; keeping lawn and garden areas alive, free of weeds and attractive, keeping driveways in good repair; complying with all governmental health and police requirements; and repair of exterior damage to improvements, all in a manner and with such frequency as is consistent with good property management. If, in the opinion of the **Association**, any **Owner** fails to perform the duties imposed by this **Section 9.02**, after **ten (10) days'** written notice from the **Association** to the **Owner** to remedy the condition in question, the **Association** shall have the right, through the agents and employees of the **Association**, to enter upon the **Lot** in question and to repair, maintain, repaint and restore the **Lot** or such improvements and the cost 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 9.02**, shall have the same enforceability and priority as the lien provided for in **Article X** of this **Declaration**.

Article X
Covenant for Maintenance Assessments

Section 10.01. Purpose of Assessments. The **Assessments** levied by the **Association** shall be used exclusively for the general purposes of promoting the recreation, health, safety, welfare, common benefit and enjoyment by the **Owners** and occupants of the **Property** and for the improvement and maintenance of the **Common Property**, including the maintenance of real and personal property, all as may be specifically authorized from time to time by the **Board of Directors**.

Section 10.02. Creation of the Lien and Personal Obligation of Assessments. Each **Owner** of any **Lot** by acceptance of a **Deed** for a **Lot** from the **Declarant**, whether or not it shall be so expressed in such **Deed**, is deemed to covenant and agree to pay to the **Association**: (i) annual **Assessments** or charges; (ii) special **Assessments**, such **Assessments** to be established and collected as provided in this **Declaration**; and (iii) specific **Assessments** against any **Lot** which are established pursuant to the terms of this **Declaration**, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this **Declaration** and the **By-Laws**. All such **Assessments**, together with late charges, interest, not to exceed the maximum legal rates, costs and reasonable attorney's fees actually incurred, shall be a charge on the **Lot** and shall be a continuing lien upon the **Lot** against which each **Assessment** is made. Each such **Assessment**, together with late charges, interest, costs and reasonable attorney's fees, shall also be the personal obligation of the **Person** who is the **Owner** of such **Property** at the time when the **Assessment** fell due, and any grantee of said **Person** shall be liable for such portion as may be due and payable at the time of conveyance. **Provided, However**, the liability of a grantee for the unpaid **Assessments** of said grantor shall not apply to any first **Mortgage** holder taking title through judicial or nonjudicial foreclosure proceedings or deed in lieu of foreclosure. **Provided, However**, notwithstanding any other provision elsewhere contained in this **Declaration**, **Declarant** shall not be obligated to pay any **Assessment**, annual or otherwise, on **Lots** or **Property** owned by **Declarant** unless **Declarant** voluntarily elects to pay said **Assessment**.

Section 10.03. Computation of Assessments. It shall be the duty of the **Board of Directors** to prepare a budget covering the estimated cost of operating the **Association** during the coming year, which shall include a capital contribution or reserve in accordance with a capital budget separately prepared. The **Board of Directors** shall cause the budget and the **Assessments** to be levied against each **Lot** for the following year to be delivered to each **Member** at least **thirty (30) days** prior to the end of the current fiscal

year. The budget and the **Assessments** shall become effective unless disapproved at the meeting by a vote of at least a **Majority** of the votes entitled to be cast by the **Association** membership. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the **Board of Directors** fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided in this **Declaration**, the budget in effect for the then current year shall continue for the succeeding year.

Section 10.04. Special Assessments for Capital Improvements upon Common Area. In addition to the annual and special **Assessments** authorized by this **Declaration**, 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 to said **Common Area**, provided that any such **Assessment** shall have the assent by a **Majority** vote of the total votes entitled to be cast by **Members** then entitled to voting rights in accordance with this **Declaration** and who are voting in person or by proxy at a meeting duly called for this purpose. **Provided, However**, notwithstanding any other provision elsewhere contained in this **Declaration**, **Declarant** shall not be obligated to pay any **Special Assessment** on **Lots** owned by **Declarant** unless **Declarant** voluntarily elects to pay said **Special Assessment**.

Section 10.05. Uniform Rate of Assessment. The **Assessments** provided for in this **Declaration** shall be fixed at a uniform rate for all **Lots**.

Section 10.06. Date of Commencement of Annual Assessments: Due Dates. The **Assessments** provided for in this **Declaration** shall commence as to all **Lots** subject to **Assessment** under this **Declaration** on the first day of the month following the conveyance of the first **Lot** by **Declarant** and shall be due and payable in the manner and on a schedule as the **Board of Directors** may provide. The first annual **Assessment** shall be adjusted according to the number of months remaining in that fiscal year. 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 the issuance of said certificate.

Section 10.07. Lien for Assessments. All sums assessed against any **Lot** pursuant to this **Declaration**, together with late charges, interest, costs and reasonable attorney's fees actually incurred, as provided in this **Declaration**, shall be secured by a lien on such **Lot** in favor of the **Association**. Such lien shall be superior to all other liens and encumbrances on such **Lot** except for (a) liens of ad valorem taxes; and (b) liens for all sums unpaid on a first **Mortgage** and on any **Mortgage** to **Declarant** duly recorded in the records of the **Office of the Judge of Probate of Baldwin County, Alabama** and all amounts advanced pursuant to such **Mortgages** and secured in accordance with the terms of such instruments.

All other **Persons** acquiring liens or encumbrances on any **Property** subject to this **Declaration** after this **Declaration** shall have been recorded in the records of the **Office of the Judge of Probate of Baldwin County, Alabama**, shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for **Assessments**, as provided in this **Declaration**, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

Section 10.08. Effect of Nonpayment of Assessments: Remedies of the Association. Any **Assessment** which is not paid when due shall be delinquent. Any **Assessment** delinquent for a period of more than ten (10) days shall incur a late charge and bear interest thereon in an amount and at a rate to be set by the **Board of Directors**, but in no event greater than the maximum percentage rate as may then be permitted under the laws of the **State of Alabama**. In the event the **Assessment** remains unpaid after thirty (30) days, the **Association** may, as the **Board of Directors** may determine, bring an action at law or in equity

against the **Owner** personally obligated to pay the same, foreclose the 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 **Owner**, by the acceptance of a **Deed** to a **Lot**, or as a party to any other type of conveyance, expressly vests in the **Association** or the agent of 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** expressly grants to the **Association** a power of sale in connection with said lien. The lien provided for in this **Declaration** 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, lease, mortgage and convey the same. With the exception of the **Declarant**, no **Owner** may waive or otherwise escape liability for the **Assessments** provided for in this **Declaration** by non-use of the **Common Area** or abandonment of the **Lot** of said **Owner**.

All payments shall be applied first to costs and attorney's fees, then to late charges, then to interest, then to delinquent **Assessments**, then to any unpaid installments of the annual **Assessment** or special **Assessment**, which are not the subject matter of suit in the order of their coming due, and then to any unpaid installments of the annual **Assessment** or special **Assessments** which are the subject matter of suit in the order of their coming due.

Section 10.09. Capital Budget and Contribution. The **Board of Directors** shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair and replacement. The **Board of Directors** shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the **Association**, as shown on the capital budget, with respect to both amount and timing by annual **Assessments** over the period of the budget. The capital contribution required shall be fixed by the **Board of Directors** and included within the budget and the **Assessment** as provided for in this **Declaration**. A copy of the capital budget shall be distributed to each **Member** in the same manner as the operating budget.

Section 10.10. Subordination of the Lien to Mortgages. The lien of the **Assessments** provided for in this **Declaration** shall be subordinate to the lien of any first **Mortgage** on a **Lot**. The sale or transfer of any **Lot** shall not affect the **Assessment** lien. However, the sale or transfer of any **Lot** pursuant to judicial or nonjudicial foreclosure or any proceeding or deed in lieu thereof of a first **Mortgage** 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** 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. Such unpaid share of **Common Expenses** or **Assessments** shall be deemed to be **Common Expenses** collectible from all of the **Lots**, including such acquirer, or the heirs, successors and assigns of said acquirer.

Section 10.11. Capitalization of Association. Upon acquisition of record title to a **Lot** from **Declarant**, each **Owner** shall contribute Two Hundred Dollars (\$200.00) to the working capital fund of the **Association**. Any amounts paid into this fund shall not be considered as advance payments or regular **Assessments**. The **Declarant** shall not be obligated to contribute to the working capital fund of the **Association** as required of **Lot Purchasers** by this **Section 10.11**.

Section 10.12. No Assessment on Declarant. **Declarant** shall not be obligated to pay any **Assessment**, annual or otherwise, on any **Lot** owned by **Declarant**.

Article XI Insurance and Casualty Loss

Section 11.01. Association Insurance. The **Board of Directors**, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk hazard insurance, if reasonably available, for all insurable

improvements on the **Common Area**. If blanket all-risk coverage is not reasonably available, then, at a minimum, an insurance policy providing fire and extended coverage for all insurable improvements on the **Common Area** shall be obtained. This insurance shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The policy may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

The **Board of Directors** shall also obtain a public liability policy covering the **Common Area**, the **Association**, and its **Members** for premises liability, blanket contractual liability and products/completed operations liability. The public liability policy shall have at least **One Million Dollars (\$1,000,000.00)** combined single limit for bodily injury and property damage liability claims. The public liability policy may contain a reasonable deductible.

All such insurance coverage obtained by the **Board of Directors** shall be written in the name of the **Association as Trustee** for the benefit of the **Owners**. Such insurance shall be governed by the provisions hereinafter set forth:

A. All policies shall be written with a company licensed to do business in **Alabama** and holding a rating of "A" or better in the Financial Category as established by **A. M. Best Company, Inc.**, if reasonably available, or, if not available, the most nearly equivalent rating.

B. All policies on the **Common Area** shall be for the benefit of the **Lot Owners** and their **Mortgagees** as their interests may appear.

C. Exclusive authority to adjust losses under policies in force on the property obtained by the **Association** shall be vested in the **Board of Directors**. **Provided, However**, no **Mortgagee** having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

D. In no event shall the insurance coverage obtained and maintained by the **Board of Directors** hereunder be brought into contribution with insurance purchased by individual **Owners**, occupants or their **Mortgagees**.

E. All property insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by **one (1)** or more qualified **Persons**, at least one of whom must be in the real estate industry and familiar with construction in the **Baldwin County, Alabama** area.

F. The **Board of Directors** shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

1. A waiver of subrogation by the insurer as to any claims against the **Board of Directors**, its manager, the **Owners** and their respective tenants, servants, agents and guests; and

2. that no policy may be canceled or substantially modified without at least **ten (10) days'** prior written notice to the **Association**.

In addition to the other insurance required by this **Section 11.01**, the **Board of Directors** shall obtain, as a **Common Expense**, worker's compensation insurance, if and to the extent necessary, and, if reasonably available, a fidelity bond or bonds on directors, officers, employees and other **Persons** handling or responsible for the funds of the **Association**. The amount of fidelity coverage shall be determined in the best business judgment of the **Board of Directors**, but may not be less than **three (3) months' Assessments**, plus

reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of **Persons** serving without compensation and may not be canceled or substantially modified without at least **ten (10) days'** prior written notice to the **Association**.

This **Declaration** does not obligate the **Association** to purchase casualty insurance to cover **Lots** nor does it obligate the **Association** to provide liability insurance to cover **Owners** in their individual capacities.

Each **Owner** may obtain additional insurance at his or her own expense. **Provided, However,** that no **Owner** shall be entitled to exercise his or her right to maintain insurance coverage in such a way as to decrease the amount which the **Association**, on behalf of all the **Owners** and their **Mortgagees**, may realize under any insurance policy which the **Board of Directors** may have in force on the **Property** at any particular time.

Premiums for all insurance obtained by the **Association** shall be a **Common Expense** of the **Association**. The cost of insurance coverage obtained by the **Association** shall be included in the annual or special **Assessment** as provided in this **Declaration**. The policies may contain a reasonable deductible.

Section 11.02. Individual Insurance. By virtue of taking title to a **Lot** subject to the terms of this **Declaration**, each **Owner** covenants and agrees with all other **Owners** and with the **Association** that each **Owner** shall carry property and liability insurance on the **Lot** of said **Owner** and improvements on said **Lot** with similar coverages as provided for in **Section 11.01**, of this **Declaration**. Each **Owner** further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction of structures located on his or her **Lot**, the **Owner** shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction. In the event that the structure is totally destroyed and the **Owner** determines not to rebuild or to reconstruct, the **Owner** shall clear the **Lot** of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction. The **Architectural Committee** may impose more stringent requirements regarding the standards for rebuilding or reconstructing structures on the **Lot** and the standards for returning the **Lot** to its natural state in the event the **Owner** decides not to rebuild or reconstruct.

Section 11.03. Disbursement of Proceeds. Proceeds of insurance policies maintained by the **Association** shall be disbursed as follows:

A. If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction to the **Common Property** or, in the event no repair or reconstruction is made, after making such settlement as is necessary and appropriate with the affected **Owner** or **Owners** and the **Mortgagee(s)**, as their interests may appear, shall be retained by and for the benefit of the **Association** and placed in a capital improvements account. This is a covenant for the benefit of any **Mortgagee** of a **Lot** and may be enforced by such **Mortgagee**.

B. If it is determined, as provided for in this **Article XI**, that the damage or destruction to the **Common Property** for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner provided for excess proceeds in **Section 11.03 A.** of this **Declaration**.

Section 11.04. Damage or Destruction.

A. Immediately after the damage or destruction by fire or other casualty to all or any part of the **Common Property** covered by insurance written in the name of the **Association**, the **Board of Directors**, or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the

damaged or destroyed portion of the **Common Property**. Repair or reconstruction, as used in this **Article XI**, means repairing or restoring the **Common Property** to substantially the same condition in which it existed prior to the fire or other casualty.

B. Any damage or destruction to the **Common Property** shall be repaired or reconstructed unless the voting **Members** representing at least **seventy-five percent (75%)** of the total votes of the **Association** shall decide within **sixty (60) days** after the casualty not to repair or reconstruct. If, for any reason, either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the **Association** within said period, then the period shall be extended until such information shall be made available. **Provided, However**, such extension shall not exceed **sixty (60) days**. No **Mortgagee** shall have the right to participate in the determination of whether the **Common Property** damage or destruction shall be repaired or reconstructed.

C. In the event that it should be determined by the **Association** in the manner described above that the damage or destruction of the **Common Property** shall not be repaired or reconstructed and no alternative improvements are authorized, then, and in that event, the **Common Property** shall be restored to its natural state and maintained as an undeveloped portion of the **Common Property** by the **Association** in a neat and attractive condition.

Section 11.05. Repair and Reconstruction. If the damage or destruction to the **Common Property** for which the insurance proceeds are paid by the **Association** is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the **Board of Directors** shall use general funds or seek a special **Assessment** as permitted by this **Declaration**. Additional **Assessments** may be made in like manner at any time during or following the completion of any repair or reconstruction.

Article XII **Condemnation**

Whenever all or any part of the **Common Area** shall be taken (or conveyed by the **Board of Directors** acting on the written direction of all voting **Members** in lieu of and under threat of condemnation) by any authority having the power of condemnation or eminent domain, the **Association** shall represent the **Owners**. **Provided, However**, each **Owner** shall be entitled to notice thereof. The award made for such taking shall be payable to the **Association** as Trustee for all **Owners**. **Section 11.03**, and **Section 11.04**, of this **Declaration** regarding disbursement of proceeds and damage or destruction shall govern replacement or restoration and the actions to be taken in the event that improvements are not restored and replaced. **Provided, However**, anything else contained in this **Article XII** to the contrary, any use of the **Common Area** by the **Declarant** or any dedication or transfer of all or any part of the **Common Area** to any public agency, authority or utility as permitted by this **Declaration** shall not be deemed a taking as provided for in this **Article XII**.

Article XIII **Amendment**

This **Declaration** may be amended unilaterally at any time and from time to time by **Declarant** without any approval from any **Owner**. **Provided, However**, any such amendment shall not adversely affect the title to the **Lot** of any **Owner** unless any such **Lot Owner** shall consent in writing. Further, until the date which is **eighteen (18) months** after the **Declarant** has completed and sold all of the **Lots** and the **Property** in the **Subdivision**, the **Declarant** may unilaterally amend this **Declaration** for any other purpose. **Provided, Further**, any such amendment shall not materially adversely affect the substantive rights of any **Lot Owner** under this **Declaration**, nor shall said amendment adversely affect title to any **Lot** without the consent of the affected **Lot Owner**.

In addition to the matters set out elsewhere in this Article XIII, this **Declaration** may be amended upon the affirmative vote or written consent, or any combination thereof, of at least a **Majority** of the votes entitled to vote and the consent of the **Declarant**. Amendments to this **Declaration** shall become effective upon recordation in the **Office of the Judge of Probate of Baldwin County, Alabama**.

Article XIV **Mortgagee Rights**

The following provisions are for the benefit of **Eligible Mortgage Holders** in the **Property**. The provisions of this Article XIV apply to both this **Declaration** and to the **By-Laws**, notwithstanding any other provisions contained in this **Declaration**.

Section 14.01. 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, guarantor and the **Lot** number, therefore becoming an **Eligible Mortgage Holder**), will be entitled to timely written notice of:

A. any condemnation loss or any casualty loss which affects a material portion of the **Property** or which affects any **Lot** on which there is a first **Mortgage** held, insured, or guaranteed by such **Eligible Mortgage 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 Mortgage 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 **Declaration** or **By-Laws** of the **Association** which is not cured within **sixty (60) days**;

C. any lapse, cancellation or material modification of any insurance policy by the **Association**; or

D. any proposed action which would require the consent of a specified percentage of **Eligible Mortgage Holders**.

Section 14.02. 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 Property**.

Section 14.03. 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 such **Owner**.

Section 14.04. Applicability of this Article. Nothing contained in this Article XIV shall be construed to reduce the percentage vote that must otherwise be obtained under the **Declaration**, **By-Laws**, or Alabama law for any of the acts set out in this Article XIV.

Section 14.05. Failure of Mortgagee to Respond. Any **Mortgagee** (or insurer or guarantor of a **Mortgage**) who receives a written request from the **Board of Directors** 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 of the **Association** request.

Article XV
Rights of Declarant

Section 15.01. Transfer of Rights. Any or all of the special rights and obligations of the **Declarant** may be transferred by the **Declarant** to other **Persons** or entities, pertaining to any **one (1) Lot** or multiple **Lots** or any part or all of the **Property**, including, but not limited to, the exemption of the **Declarant** as to the **Lot, Lots, or Property** so transferred to pay **Assessments** as provided for in the **Declaration**. Any transfer of rights and obligations by the **Declarant** must be by a written instrument signed by the **Declarant** and duly recorded in the **Office of the Judge of Probate of Baldwin County, Alabama**.

Section 15.02. Legal Description Modifications. **Declarant** has the right to change or modify the legal description of any real property designated as the **Common Area** or as a **Parcel** or **Parcels** or as a **Lot** or **Lots** located within the boundaries of the **Property** or **Subdivision** without obtaining any approval from the **Association** or any **Owner** or other party, solely by filing an affidavit executed by the project surveyor describing the change made in the legal description of a **Common Area, Parcel or Lot**.

Section 15.03. Right of Approval. Until the date which is **eighteen (18) months** after the **Declarant** has completed and sold all of the **Lots** and the **Property** in the **Subdivision**, this **Section 15.03**, may not be amended without the express written consent of the **Declarant**.

In addition to any other rights granted or reserved to **Declarant** by this **Declaration**, the **Declarant** shall have the right to approve all actions of the **Board of Directors** and the **Architectural Committee** as those actions may affect the rights of the **Declarant** to improve, construct, market and sell the **Property**. This right shall be exercisable only by **Declarant** and the successors and assigns of **Declarant** who specifically take this right in a recorded instrument. The right shall be exercised as follows:

No action authorized by the **Board of Directors** or **Architectural Committee** shall become effective nor shall any action, policy or program be implemented until and unless:

A. Declarant shall have been given written notice of all meetings and proposed actions approved at meetings of the **Board of Directors** or the **Architectural Committee** by certified mail, return receipt requested, or by personal delivery at the address **Declarant** has registered with the **Secretary** of the **Association**; and

B. Declarant shall be given the opportunity at any such meeting to join in or to have a representative or agent join in discussion from the floor of any prospective action, policy, or program to be implemented by the **Board of Directors** or the **Architectural Committee**. **Declarant** and representatives or agents of **Declarant** shall make the concerns, thoughts and suggestions of **Declarant** known to the **Members** of the **Architectural Committee** or the **Association**. Said right must be exercised by **Declarant**, representatives, or agents of **Declarant** within **ten (10) days** after the meeting held pursuant to the terms and provisions of the **Declaration**.

Article XVI
Miscellaneous

Section 16.01. Unrestrictive Right of Transfer. The right of a **Lot Owner** to sell, transfer or otherwise convey the **Lot** of said **Owner** shall not be subject to any right of first refusal or a similar restriction.

Section 16.02. No Restrictions on Mortgaging. Anything construed in this **Declaration** to the contrary, there shall be no restrictions on the right by the **Lot Owner** to mortgage the **Lot** of said **Owner**.

Section 16.03. 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 of said **Lot** 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 16.04. Indemnity for Damages. Each and every **Lot Owner** and future **Lot Owner**, 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, streets, roads, gutters, walkways or other aspects of private or public ways, including all surfacing on said private or public ways 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 16.05. 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**, part, clause, provision or condition of this **Declaration**; but the remainder of this **Declaration** shall be effective as though such **Article**, part, clause, provision or condition had not been included.

Section 16.06. Captions, Gender and Grammar. 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 16.07. 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** made or reserved in good faith and for value upon any portion of the **Property**. **Provided, However**, that any **Mortgagee** in actual possession, or any purchaser at any judicial or nonjudicial foreclosure sale by a **Mortgagee** shall be bound by and subject to this **Declaration** as fully as any other **Owner** of any portion of the **Property**.

Section 16.08. 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 16.09. Duration. The provisions of this **Declaration** shall run with and bind the **Property** and shall be and remain in effect perpetually to the extent permitted by **Alabama** law. **Provided, However**, should any provision of **Alabama** law limit the period during which covenants restricting land to certain usage may run, any provisions of this **Declaration** affected by said **Alabama** law shall run with and bind the **Property** so long as permitted by such law; and such provisions shall be automatically extended for successive periods of **ten (10) years** or such shorter period as may be allowed by law, unless such extension is disapproved at a meeting duly called for such purpose by a vote of at least a **Majority** of all votes entitled to be cast by **Members** of the **Association** and, so long as the **Declarant** has the right to unilaterally amend this **Declaration** as provided in **Article XIII** of this **Declaration**, the consent of **Declarant**. Such meeting must be recorded within the year immediately preceding the beginning of a renewal period. A purchaser or grantee of any interest in any **Property** subject to this **Declaration**, by acceptance of a deed or other conveyance of said **Property** agrees that such provisions of this **Declaration** may be extended or renewed as provided in this **Section 16.09**.

Section 16.10. Enforcement. In the event of a violation or breach of any of this **Declaration**, the **By-Laws** or the **Rules, Regulations and Architectural Guidelines** of the **Association** or any amendment of said **Rules, Regulations and Architectural Guidelines** or any rules or guidelines promulgated by the **Architectural Committee** as provided for in this **Declaration** by any **Owner**, or employee, agent or lessee of such **Owner**, the **Owner(s)** of **Lot(s)**, the **Association**, and/or **Declarant** (until the date which is **eighteen (18) months** after the **Declarant** has completed and sold all of the **Lots** and the **Property** in the **Subdivision**), their successors and assigns, shall have the right to proceed at law or in equity to compel compliance with the terms and conditions of this **Declaration**, to prevent the violation or breach of this **Declaration**, the **By-**

Laws or the Rules, Regulations and Architectural Guidelines of the Association or the Rules and Regulations promulgated by the Architectural Committee, 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 the Association may deem appropriate. No delay or failure on the part of an aggrieved party to initiate an available remedy set forth in this Declaration 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 of this **Declaration**, but any **Person** or entity entitled to enforce any provision of this **Declaration** 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**, the **By-Laws** or the **Rules, Regulations and Architectural Guidelines** of the **Association** or the **Rules and Regulations** promulgated by the **Architectural Committee** enjoining the violation of this **Declaration** against a **Lot Owner** may be awarded a reasonable attorney's fee against such **Lot Owner**.

Section 16.11. Certificate of Violation. In addition to any other rights or remedies available to the **Association** under this **Declaration** 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 **ten (10) days** after written notice of the violation has been given by the **Association** to the **Lot Owner**.

Section 16.12. Interpretation by Association. The **Association** shall have the right to construe and interpret the provisions of this **Declaration**, and in absence of an 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** benefitted or bound by the provisions of this **Declaration**.

Section 16.13. Estoppel Certificate. Upon the request of any **Member**, the **Board of Directors** or the designee of the **Board of Directors** shall furnish a written certificate signed by an officer or agent of the **Association** regarding unpaid **Assessments** levied against that **Member** or the **Property** of that **Member** in violation of this **Declaration**, the **By-Laws**, use Restrictions, **Rules, Regulations and Architectural Guidelines** by any **Owner** or occupant of the **Property**. Such certificate shall bind the **Association** with respect to the foregoing matters. The **Association** may require the advance payment of a reasonable processing fee.

Section 16.14. Assignment by Association. The **Association** shall be empowered to assign the rights of the **Association** to any successor nonprofit membership corporation (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**.

Section 16.15. No Waiver. The failure of any party entitled to enforce this **Declaration** 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.

Section 16.16. Deviation. The **Board of Directors** or the designee of the **Board of Directors** may, in the exercise of the reasonable discretion of the **Board of Directors**, permit deviations from the restrictions contained in this **Declaration**, the **By-Laws**, the **Rules, Regulations and Architectural Guidelines**, the use restrictions and the architectural guidelines.

Section 16.17. Effective Date. The **Effective Date** of the **Declaration** shall be the date that the **Declaration** is recorded in the records of the **Office of the Judge or Probate of Baldwin County, Alabama**.

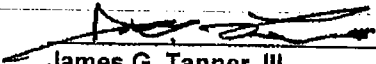
IN WITNESS WHEREOF, the Declarant has caused this Declaration to be duly executed on the date set opposite the signature of the Declarant.

Declarant:

Country Club Development, L.L.C., an Alabama Limited Liability Company

Executed on the 10 day of March, 2004.

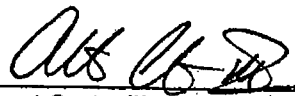
By:


James G. Tanner, III
Its: Member

By: AC3, Inc., an Alabama Corporation
Its: Member

Executed on the 10 day of March, 2004.

By:


Albert Corte, III
Its: President

(Corporate Seal)

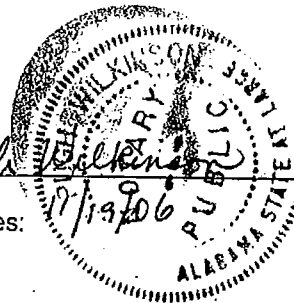
STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that James G. Tanner, III, whose name as Member of Country Club Development, L.L.C., an Alabama Limited Liability Company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such Member and with full authority, executed the same voluntarily for and as the act of said Company.

Given under my hand and seal this 10th day of March, 2004.


Vickie Pugh
Notary Public
My Commission Expires: 7/19/06



STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that **Albert Corte, III**, whose name as **President of AC3, Inc., an Alabama Corporation**, acting in its capacity as a **Member of Country Club Development, L.L.C., an Alabama Limited Liability Company** is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, **Albert Corte, III**, as **President of AC3, Inc., an Alabama Corporation**, and with full authority, executed the same voluntarily for and as the act of **AC3, Inc., an Alabama Corporation**, acting in its capacity as **Member of Country Club Development, L.L.C., an Alabama Limited Liability Company**.

Given under my hand and seal this 10th day of March, 2004.

Vickie Pugh Wilkinson
Notary Public
My Commission Expires:



JOINDER OF MORTGAGE

The undersigned, **Regions Bank**, being the holder of a mortgage on the **Property** covered by this **Declaration**, does consent to this **Declaration**.

Regions Bank

By: _____

Stephen J. Davitt

Its: **Vice President**

STATE OF ALABAMA :

COUNTY OF MOBILE :

I, the undersigned Notary Public in and for said County in said State, hereby certify that **Stephen J. Davitt**, whose name as **Vice President**, on behalf of **Regions Bank**, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that he, as such officer, and with full authority, executed the same voluntarily on behalf of **Regions Bank**.

Given under my hand and seal on this the 10th day of **March, 2004**.

Notary Public

My Commission Expires: _____

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Feb 4, 2006
BONDED THRU NOTARY PUBLIC UNDERWRITERS

THIS INSTRUMENT PREPARED BY:

W. Kenneth Heard

Irby & Heard, P.C.

Attorneys at Law

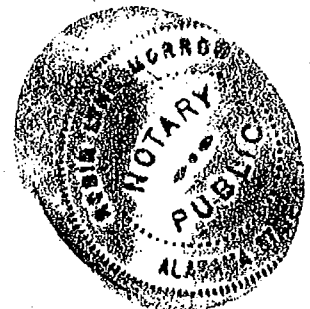
317 Magnolia Avenue

Post Office Box 1031

Fairhope, Alabama 36533

(251) 928-4555

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STATE OF ALABAMA
COUNTY OF BALDWIN

DECLARATION OF
RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS is made this 10 day of March, 2004, by Country Club Development, L.L.C., an Alabama Limited Liability Company ("Covenantor").

RECITALS

WHEREAS, Covenantor is the owner of certain real property located in Baldwin County, State of Alabama, more particularly described Property:

Common Area 8 (Preserve) as depicted on the recorded plat of The Woodlands at Malbis, a Subdivision recorded on Slide 2152A-8, in the Records in the Office of the Judge of Probate of Baldwin County, Alabama, on ~~March XXXX 2004~~ April 12, 2004.

WHEREAS, the said Property possesses significant ecological values of aesthetic and environmental benefit to the people of the State of Alabama and the United States; and

WHEREAS, in consideration of the issuance of Permit Number AL03-03277-V ("Permit") by the U.S. Army Corps of Engineers, Mobile District ("Corps" or "Mobile District," to include any successor agency) pursuant to Section 404 of the Clean Water Act and /or Section 10 of the Rivers and Harbors Act authorizing certain activities in waters of the United States, and in recognition of the continuing benefit to the property, and for the protection of waters of the United States and scenic, resource, environmental, and general property values, Covenantor has agreed to perform certain mitigation and to place certain restrictive covenants on the Property, in order that the Property shall remain substantially in its natural condition forever;

WHEREAS, the natural condition of the Property will be restored, enhanced and preserved pursuant to the Mitigation Plan ("Mitigation Plan") as referenced in the Permit; and the term "natural condition" shall mean the condition of the Property at the time of this grant and as restored, enhanced, and preserved pursuant to the Mitigation plan of the Permit;

NOW THEREFORE, Covenantor hereby declares that the Property shall be held, transferred, conveyed, leased, occupied or otherwise disposed of and used subject to the following restrictive covenants, which shall run with the land and be binding on all heirs, successors, assigns (they are included in the term, "Covenantor," below), lessees, or other occupiers and users.

1. Prohibitions & Restrictions.

- a. General. There shall be no filling, flooding, excavating, mining or drilling; no removal of natural materials; no dumping of materials; and no alteration of the topography in any manner except as specifically provided for in the Mitigation Plan of the Permit.
- b. Waters and Wetlands. There shall be no draining, dredging, damming, or impounding; no impounding; no changing the grade or elevation, impairing the flow or circulation of waters, reducing the reach of waters; and no other discharge or activity requiring a permit under applicable clean water or water pollution control laws and regulations except as specifically provided for in the Mitigation Plan of the Permit.
- c. Trees/Vegetation. There shall be no clearing, burning, cutting or destroying of trees or vegetation, except as expressly authorized in the Reserved Rights; there shall be no

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planting or introduction of non-native or exotic species of trees or vegetation except as specifically provided for in the Mitigation Plan of the Permit.

- d. Uses. No agricultural, industrial, or commercial activity shall be undertaken or allowed.
- e. Structures. There shall be no construction, erection, or placement of buildings, billboards, or any other structures, nor any additions to existing structures.
- f. New Roads. There shall be no construction of new roads or trails without the prior written approval of the Mobile District Engineer, including the manner in which they are constructed.
- g. Use of Off Road Vehicles. There shall be no use of off road vehicles, 4 wheel drive vehicles, all terrain vehicles or similar vehicles except on existing roads and trails and except as necessary to manage the Property.
- h. Utilities. There shall be no construction or placement of utilities or related facilities without the prior approval of the Mobile District Engineer.
- i. Pest Control. There shall be no application of pesticides or biological controls, including for problem vegetation, without prior written approval from the Mobile District Engineer.
- j. Other Prohibitions. Any other use of, or activity on, the protected property which is or may become inconsistent with the purposes of this grant, the preservation of the protected property substantially in its natural condition, or the protection of its environmental systems, is prohibited.

2. Amendment. After recording, these restrictive covenants may only be amended by a recorded document signed by the Corps and Covenantor. Amendment shall be allowed at the discretion of the Corps, in consultation with resource agencies as appropriate, and then only in exceptional circumstances. Mitigation for amendment impacts will be required at the time of amendment. There shall be no obligation to allow an amendment.

3. Notice to Government. Any permit application, or request for certification or modification, which may affect the Property, made to any governmental entity with authority over wetlands or other waters of the United States, shall expressly reference and include a copy (with the recording stamp) of these restrictive covenants.

4. Reserved Rights. It is expressly understood and agreed that these restrictive covenants do not grant or convey to members of the general public any rights of ownership, entry or use of the Property. These restrictive covenants are created solely for the protection of the Property, and for the consideration and values set forth above. The Covenantor reserves the right to engage in all acts or uses not prohibited by the Restrictions and which are not inconsistent with the conservation purposes of this covenant, that is to preserve the protected property substantially in its natural condition, and to protect its environmental systems. Notwithstanding the foregoing Restrictions, Covenantor reserves for itself, its heirs, successors, administrators, and assigns the following Reserved Rights, which may be exercised upon providing prior written notice to the Mobile District Engineer, except where expressly provided otherwise:

- a. Landscape Management. Landscaping by the Covenantor to prevent severe erosion or damage to the protected property or portions thereof, or significant detriment to existing or permitted uses, is allowed, provided that such landscaping is generally consistent with preserving the natural condition of the protected property.
- b. Wildlife and Forestry Management. The Covenantor will naturally manage these lands to preserve and improve the existing forest and wildlife resources. Timber harvesting and management by Covenantor is limited to the extent necessary to protect the natural environment in areas where the forest is damaged by natural forces such as fire, flood, storm, insects or infectious organisms. Such timber harvest and/or management shall be carried out only after approval by the Mobile District Engineer.

- c. Recreation. Covenantor reserves the right to engage in any outdoor, non-commercial recreational activities, including hunting (excluding planting or burning) and fishing, with cumulatively very small impacts, and which are consistent with the continuing natural condition of the protected property. No written notice required.
 - d. Mineral Interests. Covenantor specifically reserves a qualified mineral interest in subsurface oil, gas, or other minerals and the right to access such minerals. However, there shall be no extraction or removal of, or exploration for, minerals by any surface mining method, nor by any method which results in subsidence or which otherwise interferes with the continuing natural condition of the protected property.
 - e. Road Maintenance. Covenantor reserves the right to maintain existing roads or trails. Maintenance shall be limited to: removal or pruning of dead or hazardous vegetation; application of permeable materials (e.g., sand, gravel, crushed) necessary to correct or impede erosion; grading; replacement of culverts, water control structures, or bridges; and, maintenance or roadside ditches.
 - f. Other Reserved Rights. Covenantor reserves the right to engage in all acts or uses not prohibited by the Restrictions and which are not inconsistent with the conservation purposes of this covenant, the preservation of the protected property substantially in its natural condition, and the protection of its environmental systems.
5. Compliance Inspections. The Corps, and its authorized agents shall have the right to enter and go upon the lands of Covenantor, to inspect the Property and take actions necessary to verify compliance with these restrictive covenants.
6. Enforcement. The Covenantor grants to the Corps and/or the U.S. Department of Justice, a discretionary right to enforce these restrictive covenants in a judicial action against any person(s) or other entity(ies) violating or attempting to violate these restrictive covenants; provided, however, that no violation of these restrictive covenants shall result in a forfeiture or reversion of title. In any enforcement action, an enforcing agency shall be entitled to a complete restoration for any violation, as well as any other judicial remedy such as civil penalties. These enforcement rights are cumulative, in addition to, and shall not limit enforcement rights available under other provisions of law or equity, or under any permit or certification.
7. Property Transfers. Covenantor shall include the following notice on all deeds, mortgages, plats, or any other legal instruments used to convey any interest in the Property (failure to comply with this paragraph does not impair the validity or enforceability of these restrictive covenants):
- NOTICE: This Property Subject to Declaration of Restrictive Covenants Recorded at ^{Instrument} ~~Slide~~ 801912, in the records in the Office of the Judge of Probate of Baldwin County, Alabama, on ~~MARCH~~ APRIL 12, 2004.
8. Marking of Property. The perimeter of the Property shall at all times be plainly marked by permanent signs saying, "Protected Natural Area," or by an equivalent, permanent marking system.
9. Recording of Plat. A plat depicting the boundaries of the Property subject to these restrictive covenants shall be recorded in the deed records office for each county in which the Property is situated prior to the recording of these restrictive covenants. The plat is recorded at:
- Slide 2152 A-G in the records in the Office of the Judge of Probate of Baldwin County, Alabama, on ~~MARCH~~ APRIL 12, 2004.
10. Separability Provision. Should any separable part of these restrictive covenants be held contrary to law, the remainder shall continue in full force and effect.

IN WITNESS WHEREOF, the Covenantor has duly executed this Declaration of Restrictive Covenants the date written above.

IN THE PRESENCE OF:

Covenantor:

Country Club Development, L.L.C., an Alabama Limited Liability Company

Executed on the 10 day of March, 2004.

By:


James G. Tanner, III
Its: Member

By: AC3, Inc., an Alabama Corporation
Its: Member

Executed on the 10 day of March, 2004.

By:


Albert Corte, III
Its: President

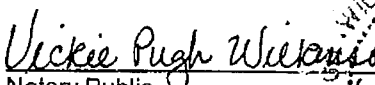
(Corporate Seal)

STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that James G. Tanner, III, whose name as Member of Country Club Development, L.L.C., an Alabama Limited Liability Company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such Member and with full authority, executed the same voluntarily for and as the act of said Company.

Given under my hand and seal this 10th day of March, 2004.


Vickie Pugh Wilson
Notary Public
My Commission Expires: 12/19/06



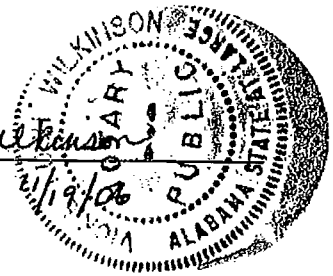
STATE OF ALABAMA

COUNTY OF BALDWIN

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that Albert Corte, III, whose name as President of AC3, Inc., an Alabama Corporation, acting in its capacity as a Member of Country Club Development, L.L.C., an Alabama Limited Liability Company is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, Albert Corte, III, as President of AC3, Inc., an Alabama Corporation, and with full authority, executed the same voluntarily for and as the act of AC3, Inc., an Alabama Corporation, acting in its capacity as Member of Country Club Development, L.L.C., an Alabama Limited Liability Company.

Given under my hand and seal this 10th day of March, 2004.

Vickie Pugh Wilkerson
Notary Public
My Commission Expires: 2/19/06



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State of Alabama, Baldwin County
I certify this instrument was filed
and taxes collected on:

2004 April -12 1:17PM

Instrument Number 001916 Pages 5
Recording 15.00 Mortgage
Deed Min Tax
Index DP 5.00
Archive 5.00
Adrian T. Johns, Judge of Probate

ARTICLES OF INCORPORATION
OF
THE WOODLANDS AT MALBIS PROPERTY OWNERS' ASSOCIATION, INC.,
AN ALABAMA NONPROFIT CORPORATION

The undersigned, acting as **Incorporator**, does form a nonprofit corporation under the **Alabama NonProfit Corporation Act, Ala. Code 1975, §10-3A-1, et seq.** (the "**Act**") and adopts the following **Articles of Incorporation**:

Article One
Name

The name of this Corporation is **The Woodlands at Malbis Property Owners' Association, Inc.** (the "**Association**").

Article Two
Definitions

The terms used in these **Articles of Incorporation** shall have the meaning given for each of them stated in the **Declaration of Covenants, Conditions and Restrictions for The Woodlands at Malbis, a Subdivision** (the "**Declaration**"), unless the context otherwise requires, and are incorporated by reference and made a part of these **Articles of Incorporation**. In the event of a conflict, ambiguity or any inconsistency between the provisions of the **Declaration**, these **Articles of Incorporation** or **By-Laws**, then the provisions of the **Declaration**, these **Articles of Incorporation** and **By-Laws**, in that order, shall control.

Article Three
Period of Duration

The period of duration of the **Association** is perpetual unless and until legally dissolved.

Article Four
Not for Profit

The **Association** is not organized for pecuniary profit, and the **Association** shall pay no dividends or fees to the **Directors**, and shall distribute no part of the income of the **Association** to the **Members**, **Directors** or officers. Nevertheless, the **Association** may pay compensation in a reasonable amount to the **Members**, **Directors** and officers for services rendered, and the **Association** may confer benefits on the **Members** of the **Association** in conformity with the **Declaration** and for the purposes of the **Association**. On termination, the **Association** may make distributions to the **Members** of the **Association** as permitted by law, and no such payment, benefit or distribution shall be deemed to be a dividend or distribution of income. All funds and properties acquired by the **Association** and the proceeds from said funds and properties shall be held in trust for the **Members** of the **Association** in accordance with the provisions of the **Act**, **Declaration** and **By-Laws** of the **Association**. The **Members** of the **Association** shall not be personally liable for the debts, liabilities or obligations of the **Association**.

Article Five
Purposes

The **Association** is organized for the purpose of administering, maintaining, operating and managing **The Woodlands at Malbis, a Subdivision ("The Woodlands at Malbis")**, located in **Baldwin County, Alabama**, according to the provisions of the **Declaration** and to do all things incident, necessary, convenient, expedient, ancillary or in aid of the accomplishment of the foregoing. The **Association** shall only have jurisdiction over **The Woodlands at Malbis**.

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Article Six **Powers**

The **Association** shall have all the common law and statutory powers of a nonprofit corporation and shall have all the powers, duties and authority vested in the **Association** by the **Act**, the **Declaration** or these **Articles of Incorporation**, including but not limited to the following:

1. Exercise all of the powers and privileges and to perform all of the duties and obligations of the **Association** as set forth in the **Declaration** applicable to **The Woodlands at Malbis** and recorded or to be recorded in the **Office of the Judge of Probate of Baldwin County, Alabama** and as the same may be amended from time to time; the **Declaration** being incorporated in these **Articles of Incorporation** as if set forth at length;
2. Fix, levy, collect and enforce payment by any lawful means, all charges or **Assessments** pursuant to the terms of the **Declaration**; to pay all expenses in connection with said charges or **Assessments** and all office and other expenses incident to the conduct of the business of the **Association**, including all licenses, taxes or governmental charges levied or imposed against the property of the **Association**;
3. Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the **Association**;
4. Borrow money, and with the assent of the vote of **two-thirds (2/3)** of the total votes entitled to be cast by the **Members** of the **Association**, subject to or encumber by a mortgage or security interest, pledge, deed in trust or hypothecate any or all of the real or personal property owned by the **Association** as security for money borrowed or debts incurred;
5. Dedicate, sell or transfer all or any part of the **Common Area** or **Common Property** vested in the **Association** to any public agency, authority or utility for such purposes and subject to such conditions as is provided in the **Declaration**;
6. Participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex **Common Area** according to the terms of the **Declaration**; and
7. Have and exercise any and all powers, rights and privileges which a corporation organized under the **Act** may have or exercise.

The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers that may be allowed or permitted by **Alabama** law or by the **Declaration**.

Article Seven **Membership and Voting Rights**

The **Association** shall issue no shares of stock of any kind or nature whatsoever. Every **Person** or entity who is a record **Owner** of a fee simple interest or undivided fee interest in any **Lot** in **The Woodlands at Malbis** shall be a **Member** of the **Association**, which membership shall be subject to the terms and conditions of the **Declaration**. There shall be only **one (1)** vote per **Lot** as more specifically described in the **Declaration**. The foregoing is not intended to include **Persons** or entities who hold a mortgage or security interest merely as security for the performance of an obligation, unless and until such holder of a mortgage or security interest has acquired title to the **Lot** pursuant to foreclosure or any proceeding in lieu of foreclosure and the deed evidencing title has been duly and properly recorded at which time such holder of a mortgage or security interest shall become a **Member** of the **Association** and the membership of the debtor shall cease, regardless of whether or not there is an outstanding right of redemption to the **Lot**. Membership shall

be appurtenant to and may not be separated from the ownership of any Lot. The share of a Member in the Association in the funds or assets of the Association cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to the Lot. The Members of the Association shall enjoy such qualifications, rights and voting rights as may be fixed in the Declaration and in the By-Laws of the Association.

Article Eight **Board of Directors**

The property, business and affairs of the Association shall be managed by a Board of Directors which shall consist of such number which is not less than three (3) but not more than the number, from time to time, as shall be determined and fixed by a vote of a Majority of the voting rights present at any annual or special meeting of the Members of the Association. Except as may otherwise be provided in the Declaration and the By-Laws, each Director may be either a Person designated by the Declarant or a Person entitled to cast a vote in the Association. The Directors may be designated or elected and removed, and vacancies on the Board of Directors shall be filled as provided in the Declaration and in the By-Laws. All the duties and powers of the Association existing under the Act, Declaration, these Articles of Incorporation and the By-Laws shall be exercised exclusively by the Board of Directors, or the agents, contractors or employees of the Board of Directors, subject only to the approval of the Declarant or Owners when such approval is specifically required by the Act, Declaration, these Articles of Incorporation or the By-Laws.

The initial Board of Directors shall be composed of three (3) Directors. The names and addresses of the three (3) Directors of the initial Board of Directors, who shall hold office until election or appointment of their successors, are as follows:

Name

Address

Albert Corte, III

200 Rock Creek Parkway
Fairhope, Alabama 36532

James G. Tanner, III

111 Founders Drive
Suite 100
Baton Rouge, Louisiana 70810

Kellie L. Gressett

200 Rock Creek Parkway
Fairhope, Alabama 36532

Article Nine **By-Laws**

The By-Laws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded in the manner provided in the By-Laws.

Article Ten **Officers**

The affairs of the Association shall be administered by the officers designated in accordance with the By-Laws. The names and the addresses of the officers who shall serve until the election or appointment of their successors in accordance with the By-Laws are as follows:

<u>Name</u>	<u>Office</u>	<u>Address</u>
James G. Tanner, III	President	111 Founders Drive Suite 100 Baton Rouge, Louisiana 70810
Kellie L. Gressett	Vice President	200 Rock Creek Parkway Fairhope, Alabama 36532
Albert Corte, III	Secretary- Treasurer	200 Rock Creek Parkway Fairhope, Alabama 36532

Article Eleven
Indemnification and Limitation of Liability

Every **Director** and every officer of the **Association** shall be indemnified by the **Association** against all expenses and liabilities, or any settlement thereof, including counsel fees, reasonably incurred by or imposed upon each **Director** or officer in connection with any proceeding to which each **Director** or officer may be a party, or in which each **Director** or officer may become involved, by reason of said **Director** or said officer being or having been a **Director** or officer of the **Association**, whether or not said **Director** is a **Director** or said officer is an officer at the time such expenses are incurred, except in such cases wherein the **Director** or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of the duties of said **Director** or officer; provided that in the event of a settlement, the indemnification provided for in these **Articles of Incorporation** shall apply only when the **Board of Directors** approves such settlement and reimbursement as being in the best interest of the **Association**. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such **Director** or such officer may be entitled.

A **Director** or officer of the **Association** shall not be liable to the **Association** or the **Members** of the **Association** for money damages for any action taken, or any failure to take action, as a **Director** or officer, except for (i) the amount of a financial benefit received by such **Director** or such officer to which such **Director** or such officer is not entitled; (ii) an intentional infliction of harm by such **Director** or such officer on the **Association** or the **Members** of the **Association**; (iii) a violation of the Ala. Code 1975, §10-2B-8.33 or any successor provision to such section; (iv) an intentional violation by such **Director** or such officer of criminal law; or (v) a breach of duty of loyalty by such **Director** or such officer to the **Association** or the **Members** of the **Association**. If the **Alabama Business Corporation Act**, or successor statute, is amended to authorize the further elimination or limitation of the liability of a **Director** or officer of a corporation, or to provide greater rights of indemnification for any officer, **Director**, agent or employee of a corporation, then the liability of a **Director** or officer of the **Association**, in addition to the limitations on liability provided for in these **Articles of Incorporation**, shall be limited to the fullest extent permitted by the **Alabama Business Corporation Act**, or successor statute, as amended, and the rights of indemnification of such officer, **Director**, employer or agent shall be similarly enhanced to the fullest extent thereby permitted. Any repeal or modification of this **Article Eleven** by the **Members** of the **Association** shall be prospective only and shall not adversely affect any limitation on the liability or rights of indemnification of a **Director** or officer of the **Association** existing at the time of such repeal or modification.

Article Twelve
Declarant Control

The **Declarant** shall retain **Declarant Control** of the **Association** in accordance with the terms and conditions of the **Declaration**.

Article Thirteen
Incorporator

The name and address of the Incorporator of the Association is:

Name

Address

**Country Club Development, L.L.C.,
an Alabama Limited Liability Company**

**200 Rock Creek Parkway
Fairhope, Alabama 36532**

Article Fourteen
Registered Office and Agent

The location and mailing address of the initial registered office of the Association is **200 Rock Creek Parkway, Fairhope, Alabama 36532**. The name of the initial agent of the Association at such address is **Albert Corte, III**.

Article Fifteen
Amendment

These **Articles of Incorporation** may be amended as provided in the **Act**, and as provided in the **Declaration**, provided that no amendment shall be in conflict with the **Declaration** and provided further that no amendment shall be effective to impair or dilute the rights of the **Members** of the **Association** that are governed by the **Declaration**.

Article Sixteen
Related Party Transactions

No contract or other transaction between the **Association** or any **Person**, firm, association or corporation and no other act of the **Association** shall, in the absence of fraud, be invalidated or in any way affected by the fact that any of the **Directors** or officers of the **Association** are directly or indirectly, pecuniarily or otherwise interested in such contract, transaction or other act, or are related to or interested in (either as **Director**, stockholder, officer, employee, member or otherwise) such **Person**, firm, association or corporation. Any **Director** or officer of the **Association** individually, or any firm or association of which any **Director** or officer may be a member, may be a party to, or may be pecuniarily or otherwise interested in, any contract or transaction of the **Association**, provided that the fact that said **Director** or said officer, individually, or such firm or association is so interested, shall be disclosed or known to the **Board of Directors** or a **Majority** of the members of the **Board of Directors** as shall be present at any meeting of the **Board of Directors** or of any committee of **Directors** having the powers of the full **Board of Directors**, at which action upon any such contract, transaction or other act is taken, and if such fact shall be so disclosed or known, any **Director** or officer of the **Association** so related or otherwise interested may be counted in determining the presence of a quorum of any meeting of the **Board of Directors** or of such committee, at which action upon any such contract, transaction or act shall be taken, and may vote with respect to such action with like force and effect as if said **Director** or said officer were not so related or interested. Any **Director** or officer of the **Association** may vote upon any contract or other transaction between the **Association** and any affiliated corporation without regard to the fact that said **Director** is also a director or said officer is also an officer of such affiliated corporation.

Article Seventeen
Dissolution

The **Association** shall be dissolved upon the termination or vacation of **The Woodlands at Malbis** in the manner provided in the **Declaration**. Upon dissolution of the **Association**, the assets of the

Association, if any, and all money received by the **Association** from the operations of the **Association**, after the payment in full of all debts and obligations of the **Association** of whatsoever kind and nature, shall be used and distributed solely and exclusively in the manner provided for in the **Act**.

IN WITNESS WHEREOF, the Incorporator has caused these Articles of Incorporation to be executed this 10 day of March, 2004.

Country Club Development, L.L.C., an Alabama
Limited Liability Company

By: [Signature] (Seal)
James G. Tanner, III
Its: Member

By: AC3, Inc., an Alabama Corporation
Its: Member

By: [Signature]
Albert Corte, III
Its: President

(Corporate Seal)

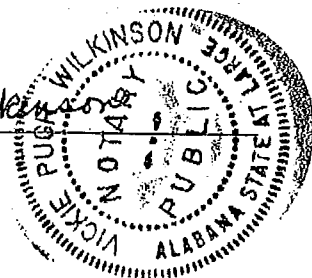
STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that **James G. Tanner, III**, whose name as **Member** of **Country Club Development, L.L.C., an Alabama Limited Liability Company**, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such **Member** and with full authority, executed the same voluntarily for and as the act of said **Company**.

Given under my hand and seal this 10th day of March, 2004.

Vickie Pugh Wilkinson
Notary Public
My Commission Expires: 11/19/06



STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that **Albert Corte, III**, whose name as **President of AC3, Inc., an Alabama Corporation**, acting in its capacity as a **Member of Country Club Development, L.L.C., an Alabama Limited Liability Company** is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, **Albert Corte, III**, as **President of AC3, Inc., an Alabama Corporation**, and with full authority, executed the same voluntarily for and as the act of **AC3, Inc., an Alabama Corporation**, acting in its capacity as **Member of Country Club Development, L.L.C., an Alabama Limited Liability Company**.

Given under my hand and seal this 10th day of March, 2004.

Vickie Pugh W.
Notary Public
My Commission Expires: 11/14/06



THIS INSTRUMENT PREPARED BY:

W. Kenneth Heard
Irby & Heard, P.C.
Attorneys at Law
317 Magnolia Avenue
Post Office Box 1031
Fairhope, Alabama 36533
(251) 928-4555

F:\WDDOCS\HDOCS\2006\03559\puddocs\00058388.WPD

State of Alabama, Baldwin County
I certify this instrument was filed
and taxes collected on:

2004 April -12 1:17PM

Instrument Number 881913 Pages 7
Recording 25.00 Mortgage
Deed Min Tax
Index DP 5.00
Archive 5.00
Adrian T. Johns, Judge of Probate

BY-LAWS
OF
THE WOODLANDS AT MALBIS PROPERTY OWNERS' ASSOCIATION, INC.

Article I
General

1.01. **Name.** The name of the Association shall be The Woodlands at Malbis Property Owners' Association, Inc. (the "Association").

1.02. **Terms Defined.** The "Declaration" shall mean that certain document entitled Declaration of Covenants, Conditions and Restrictions for The Woodlands at Malbis, a Subdivision, ("The Woodlands at Malbis"), filed in the Office of the Judge of Probate of Baldwin County, Alabama as the same may be amended from time to time in accordance with the terms of the Declaration. All other terms used in these By-Laws shall have the meaning given to them in the Declaration and are incorporated by reference and made a part of these By-Laws.

1.03. **Purpose.** These are the By-Laws of the Association which is a Nonprofit Alabama Corporation organized pursuant to Ala. Code, §10-3A-1, et seq., for the purpose of administering The Woodlands at Malbis which is located in Baldwin County, Alabama in accordance with the provisions of the Declaration. The Association shall not issue any shares of stock.

1.04. **Applicability of By-Laws.** The provisions of these By-Laws are applicable to The Woodlands at Malbis and to the use and occupancy of The Woodlands at Malbis. All present and future Owners, Mortgagees, lessees and occupants of Lots and their employees, guests or invitees, and any other Persons who may use The Woodlands at Malbis are subject to these By-Laws, the Declaration, and the Rules and Regulations. The acceptance of a Deed or conveyance or the entering into of a lease or the act of occupancy of a Lot shall constitute an agreement that these By-Laws, the Rules and Regulations, and the provisions of the Declaration, as they may be amended from time to time, will be complied with and are accepted and ratified.

1.05. **Principal Office.** The principal office of the Association shall be located in Baldwin County, Alabama, or at such other place as may be designated by the Board of Directors or as the business of the Association may require. All books and records of the Association shall be kept at the principal office of the Association.

1.06. **Powers Reserved to the Declarant.** The operation and administration of The Woodlands at Malbis shall be subject to the powers and authority reserved in the Declaration to the Declarant, or the successors and assigns of the Declarant.

Article II
Membership

2.01. **Qualification.** The qualification for membership in the Association shall be ownership of a Lot in The Woodlands at Malbis. No membership may be separated from the Lot to which said membership is appurtenant. The qualification for membership is more fully set out in the Declaration, the terms of which pertaining to membership are specifically incorporated in these By-Laws by reference.

2.02. **No Additional Qualifications.** No initiation fees, costs or dues shall be assessed against any Person as a condition of the exercise of the rights of membership except such Assessments, levies, fees and charges as are specifically authorized by the Declaration.

2.03. **Succession.** The membership of each Owner shall automatically terminate on the conveyance, transfer or other disposition of an interest of an Owner in the Lot. The membership of the Owner shall automatically be transferred to the new Owner succeeding to such ownership interest.

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Article III
Meetings of Members

3.01. Annual Meeting. A meeting of the **Members** of the **Association** must be held at least once each year. The annual meeting of **Members** shall be held at the office of the **Association**, or at such other suitable place convenient to the **Members** as may be designated by the **Board of Directors** either in **The Woodlands at Malbis** or as convenient to **The Woodlands at Malbis** as possible and practicable, at 5:30 p.m., local time, on the third **Tuesday of September** of each year for the purpose of electing **Directors** and transacting any other business authorized to be transacted by the **Members**. **Provided, However**, if the day of said meeting is a legal holiday, the meeting shall be held at the same hour on the next day following that is not a legal holiday.

3.02. Change of Annual Meeting. The date and time of holding the annual meeting of **Members** may be changed after giving the notice set out in **Section 3.04**, of these **By-Laws** by a resolution duly adopted by the **Board of Directors** or by the **Members**, provided that notice of such change be given to each **Member** of record as provided for in **Section 3.04**, of these **By-Laws**; and further provided that each annual meeting of **Members** shall be held within one month of the date on which said meeting should regularly have been held but for such change.

3.03. Special Meetings. The **President** of the **Board of Directors** may call special meetings of **Members**. In addition, special meetings of the **Members** may be called at any time by a **Majority** of the **Board of Directors**, and must be called by the officers of the **Association** upon receipt of a written request from **Members** entitled to cast **twenty percent (20%)** of the total votes in the **Association**. The notice of any special meeting of the **Members** shall be given to each **Member** of record as provided for in **Section 3.04**, of these **By-Laws**. The business conducted at a special meeting of the **Members** shall be limited to that stated in the notice of the meeting.

3.04. Notice of Meetings. Not less than **ten (10) days** nor more than **sixty (60) days** in advance of any meeting, the **Secretary** or other officer specified by the **Board of Directors** shall cause notice of said meeting to be hand-delivered or sent prepaid by **United States** mail to the mailing address of each **Lot** or to any other mailing address designated in writing by the **Owner**. The notice of any meeting of **Members** must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the **Declaration** or **By-Laws**, any budget changes, and any proposed order to remove an officer or **Director**. Proof of such notice shall be given by the affidavit of the person giving the notice.

3.05. Waiver of Notice. Any **Member** or **Eligible Holder** of a first **Mortgage** may waive the right to receive notice of any meeting by sending a written waiver to the **Board of Directors**. Notice of any meeting may be waived before or after the meeting, orally or in writing. Attendance by a **Member** at any meeting, either in person or by proxy, shall constitute waiver of notice of such meeting.

3.06. Quorum. A quorum of **Members** for any meeting shall be deemed present throughout such meeting if **Members**, represented in person or by proxy, holding a **Majority** of the total votes entitled to be cast at such meeting are present throughout such meeting, except as otherwise provided by the **Articles of Incorporation**, by the **Declaration** or by these **By-Laws**. Any provision in the **Declaration** concerning quorums is specifically incorporated in these **Laws**.

3.07. Adjournment for Lack of Quorum. In the absence of a quorum at any meeting of **Members**, a **Majority** of those **Members** entitled to vote at said meeting, present in person or by proxy, shall have the power to adjourn the meeting, from time to time, without notice other than announcement at the meeting, until the requisite number of **Members**, present in person or by proxy, shall be present. At such adjourned meeting at which the requisite number of votes shall be present, any business may be transacted which might have been transacted at the meeting as originally noticed.

3.08. Action Without Meeting. Any action which may be taken at a meeting of the **Members** may

also be taken without a meeting if a consent in writing setting out the action so taken is signed by the number of **Members** required to take such action at a meeting and is filed with the **Secretary** of the **Association**.

3.09. **Minutes of Meetings**. The minutes of all meetings of **Members** shall be kept in a book available for inspection by **Owners** or their authorized representatives at any reasonable time during regular business hours.

3.10. **Open Meetings**. All meetings of the **Members** shall be open to all **Members** of the **Association**.

3.11. **Proviso**. **Provided, However**, the voting rights and governance of the **Association** shall be in accordance with **Section 8.03**, of the **Declaration** and until expiration of the period of time set out in **Section 8.03**, of the **Declaration** the **Declarant** shall be entitled to elect a majority of **Members** of the **Board of Directors** of the **Association**.

Article IV **Voting Rights**

4.01. **Votes**. The voting rights of **Members** attached to each **Lot** shall be in accordance with that stated in the **Declaration**. The vote of a **Lot** shall not be divisible.

4.02. **Votes Required to Transact Business**. When a quorum is present at any meeting, the holders of a **Majority** of the voting rights present in **Person** or represented by written proxy shall decide any questions brought before the meeting, unless the question is one upon which, by express provision of the **Declaration**, or these **By-Laws**, a different number or manner of voting is required, in which case, the express provision of the **Declaration**, or these **By-Laws** shall govern and control the decision in question.

4.03. **Voting by Proxy**. Votes may be cast in person or by proxy. All proxies must be in writing, dated, signed by the **Member** generating the proxy, and filed with the **Secretary** of the **Association** before the appointed time of the meeting to which said proxy applies. A **Member** may revoke a proxy at any time by delivering a written notice of revocation to the **Association**. Every proxy shall automatically cease upon the **Deed** or conveyance by the **Member** of the **Lot** of said **Member** or upon receipt of notice by the **Secretary** of the **Board of Directors** of the death or judicially declared incompetency of a **Member** or upon the expiration of **eleven (11) months** from the date of the proxy.

4.04. **Order of Business**. The order of business at annual meetings of **Members** and, as far as practical, at all other meetings of **Members** shall be:

- Call to order
- Calling of the roll and certifying of proxies
- Proof of notice of meeting or waiver of notice
- Reading and disposal of any unapproved minutes
- Reports of officers
- Reports of committees
- Election of the **Board of Directors**
- Unfinished business
- New business
- Adjournment.

4.05. **Proviso**. **Provided, However**, the voting rights and governance of the **Association** shall be in accordance with **Section 8.03**, of the **Declaration** and until the expiration of the period of time set out in **Section 8.03**, of the **Declaration** the **Declarant** shall be entitled to elect a majority of **Members** of the **Board of Directors** of the **Association**.

Article V
Board of Directors

5.01. Governing Body and Number. The affairs of the Association shall be governed by a Board of Directors. The initial number of Directors in the Association shall be three (3). The Members of the Association shall have the right to amend the number of the Directors at any regular or special meeting called for that purpose. Except as provided in these By-Laws, the Directors shall be Members.

5.02. Qualification. Except for the Directors appointed by the Declarant as provided for in the Declaration, each Director shall be an Owner. If an Owner is a trust, then the beneficiary of the trust may be a Director; and if an Owner is a corporation, partnership or limited liability company, then an officer, partner, member, or employee of such Owner may be a Director. If a Director shall cease to meet such qualifications during the term of said Director, said Director shall cease to be a Director and the place of said Director on the Board of Directors shall be vacant.

5.03. Appointment by the Declarant. Until the period of time set out in Section 8.03. of the Declaration has expired, the Declarant shall be entitled to elect a majority of Members of the Board of Directors of the Association.

5.04. Nomination for Election. Except with respect to the Directors appointed by the Declarant as provided for in the Declaration, nomination for election to the Board of Directors shall be made from the floor at the annual meeting of Members or at any other meeting of Members called for the purpose of electing the Directors. Nominations shall also be made by a nominating committee appointed by the Board of Directors prior to the annual meeting of the Members or prior to any other meeting of Members called for the purpose of electing the Directors.

5.05. Election of the Board of Directors. Except for the Board of Directors appointed by the Declarant as provided for in the Declaration, the Board of Directors shall be elected at the annual meeting of Members or at a special meeting called for that purpose. Within thirty (30) days after the Owners are entitled to elect one (1) or more Directors, a special meeting of the Members shall be called in accordance with the notice provisions contained in Section 3.04. of these By-Laws for the purpose of electing said Director. The election shall be conducted in the manner specified in these By-Laws.

The election of Directors shall be by secret ballot (unless dispensed with by unanimous consent). There shall be no cumulative voting. Those candidates receiving the greatest number of votes cast either in person or by proxy shall be elected. At the initial election of the Directors after the release of Declarant Control as provided for in the Declaration, the candidate receiving the most votes shall serve a two (2) year term, and the next two (2) candidates receiving the most votes shall serve one (1) year terms. At subsequent elections, the two (2) vacancies shall be filled as follows: two (2) Directors shall be elected, with the candidate receiving the most votes to serve a two (2) year term, and the remaining candidate to serve a one (1) year term.

5.06. Term. Each Director appointed by the Declarant shall hold office until said Director resigns, is removed by the Declarant, or the term of said Director expires as provided for in these By-Laws and in the Declaration. Each Director elected by the Members shall hold office until their respective successors have been elected and qualified or until said Director resigns or is removed in any manner provided in these By-Laws.

5.07. Vacancies. So long as the period of time set out in Section 8.03. of the Declaration has not expired, any vacancy in the position of a Director appointed by the Declarant shall be filled by the Declarant. Any vacancy in the position of a Director elected by the Members shall be filled by a Majority vote of the remaining Board of Directors, and any Director so elected shall hold office for a term equal to the unexpired term of the Director whom said Director succeeds.

5.08. **Removal.** After release of **Declarant Control** as provided for in the **Declaration**, any **Director** may be removed for cause by the concurrence of **two-thirds (2/3)** of the votes of the **Association** at a meeting of **Members** called for that purpose. The vacancy in the **Board of Directors** so created shall be filled by the **Members** at the same meeting.

5.09. **Compensation.** A **Director** shall not receive any compensation for any services said **Director** may render to the **Association** as a **Director**. **Provided, However**, that any **Director** may be reimbursed for actual out-of-pocket expenses incurred by said **Director** in the performance of the duties of said **Director**.

5.10. **Proviso:** **Provided, However**, the voting rights and governance of the **Association** shall be in accordance with **Section 8.03** of the **Declaration** and until the expiration of the period of time set out in **Section 8.03** of the **Declaration** the **Declarant** shall be entitled to elect a majority of **Members** of the **Board of Directors** of the **Association**.

Article VI **Meetings of the Board of Directors**

6.01. **Regular Meetings.** Meetings of the **Board of Directors** may be held at such time and place as shall be determined from time to time by a **Majority** of the **Board of Directors**, but at least **one (1)** such meeting shall be held during each fiscal year. Notice of meetings shall be given to each **Director** not less than **three (3) days** in advance of the day named for such meeting by hand-delivery or sent by **United States** mail to the mailing address of each **Director**, or by telephone or electronic transmission.

6.02. **Special Meetings.** Special meetings of the **Board of Directors** shall be held when called by the **President, Vice President** or **Secretary**, and must be called by the **Secretary** at the written request of **one-third (1/3)** of the votes of the **Board of Directors**. Not less than **three (3) days** notice of the meeting shall be given by hand-delivery or sent by **United States** mail to the mailing address of each **Director**, or by telephone or electronic transmission. The notice of any meeting of the **Board of Directors** must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to these **By-Laws**, any budget changes, and any proposed order to remove an officer or **Director**. Proof of such notice shall be given by the affidavit of the person giving the notice.

6.03. **Open Meetings.** All meetings of the **Board of Directors** shall be open to all **Members**. No notice is required to be given to **Members**.

6.04. **Waiver of Notice.** Any **Director** may waive notice of a meeting either before or after the meeting, or may consent to the holding of a meeting without notice. Attendance by any **Director** at a meeting shall constitute waiver of notice of the meeting, except when attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business on the grounds that the meeting was not lawfully called.

6.05. **Quorum.** A quorum shall consist of the number of **Directors** entitled to cast a **Majority** of the votes of the entire **Board of Directors**. The acts of the **Board of Directors** approved by a **Majority** of the votes present at a meeting at which a quorum is present shall constitute the acts of the **Board of Directors**. The joinder of a **Director** in the action of a meeting by signing and concurring in the minutes of said meeting shall constitute the presence of such a **Director** for the purpose of determining a quorum.

6.06. **Action Without Meeting.** Any action permitted or required to be taken at a meeting of the **Board of Directors** may be taken without a meeting if written consent setting forth the action so taken shall be signed by all the **Board of Directors** and filed with the minutes of the proceedings of the **Board of Directors**.

6.07. **Minutes of Meetings.** The minutes of all meetings of the **Board of Directors** shall be kept in a book available for inspection by **Owners**, or their authorized representatives, or any **Directors** at any

reasonable time during regular business hours.

6.08. **Presiding Officer.** The presiding officer of meetings of the **Board of Directors** shall be the **President**. In the absence of the **President**, the **Directors** present shall designate **one (1)** of their number to preside.

6.09. **Executive Session.** The **Board of Directors** may adjourn a meeting and reconvene in executive session to discuss and vote upon personal matters, litigation in which the **Association** is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session of the **Board of Directors**.

6.10. **Proviso.** **Provided, However,** the voting rights and governance of the **Association** shall be in accordance with **Section 8.03** of the **Declaration** and until the expiration of the period of time set out in **Section 8.03** of the **Declaration** the **Declarant** shall be entitled to elect a majority of **Members** of the **Board of Directors** of the **Association**.

Article VII

Powers and Duties of the Board of Directors

7.01. **Powers Defined.** The **Board of Directors** shall have the power to exercise all powers, duties and authority vested in the **Association** by the **Declaration**, the **Articles of Incorporation** or these **By-Laws**, except for such powers and duties reserved to the **Members** or the **Declarant**.

7.02. **Committees.** The **Board of Directors** may, by resolution, appoint such committees as deemed appropriate in carrying out the purpose of the **Board of Directors**, and such committees shall have the powers of the **Board of Directors** for the management of the affairs and business of the **Association** to the extent provided in the resolution designating such committee. Any committee shall keep regular minutes of the proceedings of the committee and shall report the same to the **Board of Directors**.

7.03. **Managing Agent.** The **Board of Directors** shall be authorized to employ the services of a manager or managing agent, who may either be a **Director**, officer, or employee of the **Association**, or an independent **Person** or firm qualified to manage the affairs of the **Association** under the supervision of the **Board of Directors**. The compensation paid to any such manager or managing agent shall be in the amount established from time to time by the **Board of Directors**.

7.04. **Order of Business.** The order of business at the meetings of the **Board of Directors** shall be:

- Call of roll
- Proof of due notice of meeting
- Reading and disposal of unapproved minutes
- Reports of officers and committees
- Election of officers
- Unfinished business
- New business
- Adjournment.

7.05. **Borrowing.** The **Board of Directors** shall have the power to borrow money pursuant to the terms and conditions of the **Declaration**.

7.06. **Architectural Committee.** The **Board of Directors** shall appoint an **Architectural Committee** in accordance with the provisions of the **Declaration**.

Article VIII
Officers

8.01. Executive Officers. The executive officers of the **Association** shall be a **President**, who shall be a **Director**; a **Vice President**, who shall be a **Director**; and a **Secretary-Treasurer**; who shall be a **Director**; all of whom shall be elected annually by the **Board of Directors** and who may be removed by vote of the **Board of Directors** at any meeting. Any **Person** may hold two (2) or more offices, except that the **President** shall not also be the **Secretary**. The **Board of Directors** shall from time to time elect such other officers and designate their powers and duties as the **Board of Directors** shall find to be required to manage the affairs of the **Association**.

8.02. Term. Each officer shall hold office for a term of **one (1) year** and until the successor of said officer shall have been appointed or elected and qualified, provided that any officer may serve unlimited multiple terms of office.

8.03. Resignation and Removal. Any officer may be removed from office either with or without cause by the vote of a **Majority** of the **Board of Directors** present at any meeting. Any officer may resign at any time by giving written notice to the **Board of Directors**. Such resignation shall take effect on the date of receipt of said resignation or at any later time specified in said written notice, and, unless otherwise specified in said written notice, the acceptance of such resignation shall not be necessary to make said resignation effective.

8.04. Vacancies. A vacancy in any office shall be filled by a **Majority** vote of the **Board of Directors** at any meeting. An officer elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer that said officer succeeds.

8.05. Compensation. An officer shall not receive any compensation for any services said officer may render to the **Association** as an officer. **Provided, However**, that any officer may be reimbursed for actual out-of-pocket expenses incurred by said officer in the performance of the duties of said officer.

8.06. President. The **President** is the chief executive officer of the **Association** and shall have all the powers and duties that are usually vested in the office of **President** of a property owners' association including, but not limited to, the following powers:

- A. To preside over all meetings of the **Members** and of the **Board of Directors**.
- B. To sign as **President** all **Deeds**, contracts and other instruments that have been duly approved by the **Board of Directors**.
- C. To call meetings of the **Board of Directors** whenever the **President** deems necessary.
- D. To have the general supervision, direction and control of the affairs of the **Association**.

8.07. Vice President. The **Vice President** shall have all the powers and duties that are usually vested in the office of the **Vice President** of a property owners' association. The **Vice President** shall, in the absence of or disability of the **President**, exercise the powers and perform the duties of the **President**. The **Vice President** shall also generally assist the **President** and exercise such other powers and perform such other duties as shall be prescribed by the **Board of Directors**.

8.08. Secretary. The **Secretary** shall have all the powers and duties that are usually vested in the **Secretary** of a property owners' association. The **Secretary** shall keep the minutes of all proceedings of the **Board of Directors** and the **Members**. The **Secretary** shall attend to the giving and serving of all notices to the **Members** and the **Board of Directors** and other notices required by law. The **Secretary** shall have custody of the seal of the **Association** and affix the same to instruments requiring a seal when duly signed. The **Secretary** shall sign as **Secretary** all **Deeds**, contracts, and all other instruments which have been duly approved by the **Board of Directors**, if said instrument requires the signature or attestation of the **Secretary**.

The **Secretary** shall keep the records of the **Association**, except those of the **Treasurer**, and shall perform all other duties incident to the office of the **Secretary** of an **Association** as may be required by the **Board of Directors** or the **President**.

8.09. Treasurer. The **Treasurer** shall be the financial officer of the **Association** and shall have all the powers and duties that are usually vested in the **Treasurer** of a property owners' association. The **Treasurer** shall have custody of all property of the **Association**, including funds, securities and evidences of indebtedness. The **Treasurer** shall keep the financial records and books of account of the **Association** in accordance with good accounting practices. The **Treasurer** shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the **Common Areas** and common facilities, specifying and itemizing the maintenance and repair expenses of the **Common Areas** and common facilities and any other expenses incurred; and the **Treasurer** shall perform all other duties incident to the office of the **Treasurer**. The records, books of account and the vouchers authorizing payments shall be available for examination by a **Member** at reasonable times during regular business hours.

Article IX **Fiscal Management**

9.01. The Fiscal Year. The fiscal year of the **Association** shall be such as shall from time to time be established by the **Board of Directors**.

9.02. Budget. The **Board of Directors** shall adopt a budget for each calendar year which budget will satisfy the requirements of the **Declaration**. Copies of the budget and proposed **Assessments** shall be transmitted to each **Member**.

9.03. Assessments. **Assessments for Common Expenses** shall be established as provided for in the **Declaration** and these **By-Laws**. **Assessments** shall be collected by the **Association** on a monthly basis as follows: On or before the first day of each month for which the **Assessments** are made each **Owner** shall pay the share of said **Owner** in the **Common Expenses** as shown by the budget. The **Board of Directors** may cause to be sent to each **Owner**, on or before the first day of each month, a statement of the monthly **Assessments**. However, the failure to send or receive such monthly statement shall not relieve the **Owner** of the obligation of the **Owner** to make timely payment of the **Assessments**. If the **Board of Directors** shall not approve an annual budget or shall fail to determine new **Assessments** for any year, or shall be delayed in doing so, each **Owner** shall continue to pay the amount of the **Assessment** of said **Owner** as last determined. **Provided, However,** the **Board of Directors** shall have the power to amend the period of the installment payments to be due and payable to provide for annual, quarterly, monthly or any other period of installment payment. Anything else contained in these **By-Laws** to the contrary, the **Declarant** shall not be obligated to pay any **Assessments** so long as the **Declarant** owns any **Lot** or property in **The Woodlands at Malbis**.

9.04. Reserves for Replacements. 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 **Assessments**.

9.05. Lien for Assessments. If any **Owner** shall fail or refuse to make any payment of the **Assessments** when due, the amount due, together with costs, reasonable attorney's fees and interest thereon at a rate to be set by the **Board of Directors** but in no event greater than **eighteen percent (18%)** rate per annum from and after the date said **Assessments** became due and payable in accordance with the **Declaration** and shall constitute a lien on the interest of the **Owner** in the **Lot**.

9.06. Acceleration of Assessment Installments Upon Default. If an **Owner** shall be in default in the payment of an installment upon any **Assessment**, the **Board of Directors** may accelerate the remaining installments of such **Assessment** upon notice to the **Owner**, and thereupon the unpaid balance of the **Assessment** shall come due upon the date stated in the notice, but not less than **ten (10) days** after

hand-delivery to the **Owner**, or not less than **twenty (20) days** after posting such notice in the **United States** mail to said **Owner** by registered or certified mail, postage prepaid, whichever shall first occur. Upon default in the payment of an installment upon any **Assessment**, the **Board of Directors** shall be entitled to charge interest and service charges at the highest available rate allowable under **Alabama** law.

9.07. Default. In the event an **Owner** of a **Lot** does not pay any sums, charges or **Assessments** required to be paid to the **Association**, the **Association** may foreclose the lien encumbering the **Lot** created by non-payment of the required monies in accordance with the **Declaration**; provided that **thirty (30) days** prior notice of the intention to foreclose shall be by **United States** mail, postage prepaid, to the **Owner** and to all **Eligible Holders** of first **Mortgages** as shown in the records of ownership of the **Association**. The **Association** shall be entitled to the appointment of a receiver, if the **Association** so requests. The **Association** shall have the right to bid-in the **Lot** at a foreclosure sale and to acquire, hold, obtain a **Mortgage** and convey the **Lot**. In any such foreclosure action, the lien of the **Association** shall be as stated in the **Declaration**. In lieu of foreclosing the lien of the **Association**, the **Association** may bring suit to recover a money judgment for any sums, charges or **Assessments** required to be paid to the **Association** without waiving the lien of the **Association** securing same. In any action either to foreclose the lien of the **Association** or to recover a money judgment, brought by or on behalf of the **Association** against a **Owner**, the defendants shall pay the cost together with a reasonable attorney's fee.

If the **Association** becomes the **Owner** of a **Lot** by reason of foreclosure, the **Association** shall offer said **Lot** for sale and at such time as a sale is consummated the **Association** shall deduct from such proceeds all sums of money due the **Association** for **Assessments** and charges, all costs incurred in the bringing of the foreclosure suit, including reasonable attorney's fees, and any and all expenses incurred in the resale of the **Lot**, which shall include but not be limited to advertising expenses, real estate brokerage fees and expenses necessary for the repairing and refurbishing of the family **Lot** in question. All monies remaining after deducting the foregoing items of expense shall be returned to the former **Owner** of the **Lot** in question.

9.08. Supplemental Assessments. If during the course of any fiscal year, the **Board of Directors** determines that the **Assessments**, as established in the annual budget, are insufficient or inadequate to cover the estimated **Common Expenses** for the remainder of such year, then the **Board of Directors** shall prepare and approve a supplemental budget covering the estimated deficiency. Copies of the supplemental budget shall be delivered to each **Owner**, and a supplemental **Assessment** shall be made to each **Owner** for the share of the supplemental budget of said **Owner**.

9.09. Annual Statement. Within **sixty (60) days** after the end of each fiscal year, the **Board of Directors** shall cause to be furnished to each **Owner**, a statement for the year so ended showing the receipts and expenditures of the **Association**, and such other information as the **Board of Directors** may deem desirable.

9.10. Accounting Records. The **Board of Directors** shall cause to be kept, in accordance with generally accepted accounting principles, a record of all receipts and expenditures; and a separate account for each **Lot** showing the **Assessments** or other charges due, the due dates of said **Assessments** or charges and the present balance due. Such accounting records shall be open to inspection by **Owners** at reasonable times during regular business hours.

9.11. Depository. The depository of the **Association** shall be such bank or banks with offices located in the **State of Alabama** as shall be designated from time to time by the **Board of Directors** and in which monies of the **Association** shall be deposited. Withdrawal of monies from such account shall be only by checks or authorizations signed by such **Persons** as are authorized by the **Board of Directors**.

9.12. Fidelity Bonds. Fidelity bonds may be required by the **Board of Directors**, in the sole discretion of the **Board of Directors**, from some or all officers or employees of the **Association** or from any manager handling or responsible for the **Association** funds or from any employee, agent or subcontractor of a manager handling or responsible for the **Association** funds. If the **Board of Directors** elects to require

a fidelity bond, the amount of such bonds shall be determined by the **Board of Directors**. The premiums on such bonds shall be paid by the **Association**.

9.13. **Insurance and Casualty Loss.** The **Board of Directors** shall comply with all of the provisions of the **Declaration** pertaining to insurance and casualty loss.

9.14. **Records of the Association.** The **Association** shall make available copies of the records of the **Association** pursuant to the requirements of the **Declaration**.

9.15. **Notices to Eligible Holders of First Mortgages.** The **Association** shall provide notices to **Eligible Holders** of first **Mortgages** as required by the **Declaration**.

9.16. **Fiscal Management.** The terms and provisions of the **Declaration** pertaining to fiscal management are incorporated in these **By-Laws** as if fully set out as an **Exhibit**.

Article X **Obligations of the Owners**

10.01. **Assessments.** Every **Owner** of any **Lot** shall contribute toward the expense of administration of the **Association**, as provided in the **Declaration** and in these **By-Laws**. Each **Assessment** against a **Lot** shall also be the personal obligation of the **Owner** at the time the **Assessment** fell due.

10.02. **Maintenance and Repair.** Every **Owner** of any **Lot** shall promptly perform all maintenance and repair work, as provided in the **Declaration** or these **By-Laws**. An **Owner** shall reimburse the **Association** for any expenditures incurred in repairing or replacing any **Common Areas** or common facilities damaged through the fault of the **Owner** or the fault of the family, guests, or invitees of the **Owner**.

10.03. **Use of Lots.** All **Lots** shall be used in accordance with the provisions of the **Declaration**, these **By-Laws** and the **Rules and Regulations**.

Article XI **Rules and Regulations**

11.01. **Rules and Regulations.** The **Declarant** or the **Board of Directors** may from time to time and subject to the rights of **Declarant Control** provided for in the **Declaration**, adopt, modify, amend or add to **Rules and Regulations** concerning the use of **The Woodlands at Malbis**. Copies of such **Rules and Regulations** shall be hand-delivered or posted by **United States** mail, postage prepaid, to each **Owner** not less than **fourteen (14)** days prior to the effective date of said **Rules and Regulations**. No **Rules or Regulations** may be adopted by the **Association** that conflicts with the **Declaration**, the **Articles of Incorporation** or these **By-Laws**.

11.02. **Enforcement Procedure.** The **Board of Directors** shall not impose a fine, suspend voting, or infringe upon any of the rights of a **Member** or other occupant for violations of the **Rules and Regulations** of the **Association**, or the **Declaration**, **By-laws** or **Articles**, unless and until the following occurs:

A. **Demand.** Written demand to cease and desist from a violation shall be served upon the violator specifying: (i) the violation; (ii) the action required to abate the violation; (iii) a time period during which the violation may be abated without further sanction or a statement that any further violation of the same rule may result in the imposition of a sanction; and (iv) the sanction to be imposed if not abated.

B. It is the responsibility of the **Member** to inform the **Board of Directors** of a correction by the **Member** of the violation. The sanction will not be released until the **Board of Directors** has issued a letter of conformance to the **Member** for the violation.

C. **Hearing.** The Member may request in writing a hearing before the Board of Directors at any time prior to the date that the sanction will be imposed. At this hearing, the Member may produce any statement, evidence, and witness on behalf of the Member regarding the violation and pending sanction. The decision of the Board of Directors at this hearing will be final.

Article XII **Amendments to the By-Laws**

12.01. Adoption. These By-Laws may be altered, amended or appealed or new By-Laws may be adopted by the affirmative vote or agreement of Members to which two-thirds (%) of the votes in the Association are allocated.

12.02. Prohibited Amendments. No amendment of these By-Laws may be adopted that would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted by these By-Laws to the Declarant. No amendment that is in conflict with the Articles of Incorporation, the Declaration, or Alabama law shall be adopted.

12.03. Recording. Any amendment to these By-Laws shall become effective when recorded in the Office of the Judge of Probate of Baldwin County, Alabama.

Article XIII **Miscellaneous**

13.01. Construction. Wherever the context so permits, the singular shall include the plural; the plural shall include the singular; and the use of the gender shall be deemed to include all genders.

13.02. Captions. The captions in these By-Laws are inserted only as a matter of convenience for reference, and in no way define, limit or describe the scope of these By-Laws or the intent of any provision of these By-Laws.

13.03. Conflicts. If there are conflicts or inconsistencies between the provisions of Alabama law, the Articles of Incorporation, the Declaration and these By-Laws, the provisions of Alabama law, the Declaration, the Articles of Incorporation and these By-Laws (in that order) shall prevail.

13.04. Compliance. These By-Laws are intended to comply with the requirements of Alabama law which shall be considered an appendage to the Declaration and the Articles of Incorporation filed with these By-Laws.

13.05. Right of Entry. The manager and any Person authorized by the Board of Directors shall have the right to enter each Lot, Dwelling, structure or improvement in case of any emergency originating in or threatening such Lot, Dwelling, structure or improvement whether or not the Owner or occupant is present at the time.

13.06. Parliamentary Rules. Roberts Rules of Order (latest edition) shall govern the conduct of the meetings of the Association or the Board of Directors when not in conflict with the Declaration or these By-Laws.

13.07. Registered Office and Agent.

The location and the mailing address of the initial registered office is:

Location Address:

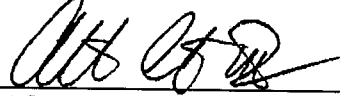
**200 Rock Creek Parkway
Fairhope, Alabama 36532**

Mailing Address:

200 Rock Creek Parkway
Fairhope, Alabama 36532

The name of the initial registered agent of the Association is Albert Corte, III.

These are the By-Laws of The Woodlands at Malbis Property Owners' Association, Inc., adopted by the Board of Directors on the 10 day of March, 2004.



Albert Corte, III
Secretary

Approved:



James G. Tanner, III
President

THIS INSTRUMENT PREPARED BY:

W. Kenneth Heard
Irby & Heard, P.C.
Attorneys at Law
Post Office Box 1031
Fairhope, Alabama 36533
(251) 928-4555

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State of Alabama, Baldwin County
I certify this instrument was filed
and taxes collected on:

2004 April -12 1:17PM

Instrument Number 801914 Pages 12
Recording 36.00 Mortgage
Deed Min tax
Index DP 5.00
Archive 5.00
Adrian T. Johns, Judge of Probate

2004/2005 Annual Budget
for
The Woodlands at Malbis Homeowner's Association

ANNUAL DUES are \$800

OPERATING BUDGET

	2004 <u>Partial Year</u>	2005 <u>Full Year</u>
Revenues		
Architectural Review Fee @ \$200	\$ 2,400.00	\$ 2,400.00
Dues	\$ 9,333.33	\$ 28,000.00
Interest Income	\$ -	\$ 100.00
	<u>\$ 11,733.33</u>	<u>\$ 30,500.00</u>
Expenses		
Bank Service Charges	\$ 40.00	\$ 120.00
Insurance	\$ 700.00	\$ 700.00
Landscape Maintenance	\$ 5,000.00	\$ 17,500.00
Miscellaneous	\$ 500.00	\$ 500.00
Professional Fees:		
Accounting	\$ 800.00	\$ 800.00
Legal Fees	\$ 200.00	\$ 200.00
Repairs	\$ -	\$ 1,000.00
Stormwater Inspection	\$ 700.00	\$ 2,100.00
Taxes - Property	\$ -	\$ 150.00
Utilities	\$ 2,000.00	\$ 5,000.00
	<u>\$ 9,940.00</u>	<u>\$ 28,070.00</u>
<u>Net Reserve/(Loss)</u>	<u>\$ 1,793.33</u>	<u>\$ 2,430.00</u>

CAPITAL RESERVE

Opening Balance	\$ -	\$ 7,000.00
New Member contributions @ \$200.00 at closing	\$ 7,000.00	\$ -
Estimated balance at year end	<u>\$ 7,000.00</u>	<u>\$ 7,000.00</u>

This estimate is based upon the investigation and experience of the DECLARANT. It is believed to be reasonably accurate and adequate, but no warranty or guaranty is made or intended nor may one be relied upon. The DECLARANT has not attempted to estimate the budget for subsequent phases that may, at the sole option of the DECLARANT, be incorporated into The Woodlands at Malbis.

COMMON AREA DEED

STATE OF ALABAMA :

COUNTY OF BALDWIN :

KNOW ALL MEN BY THESE PRESENTS, that County Club Development, L.L.C., an Alabama Limited Liability Company, the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration acknowledged to have been paid to the said Grantor by The Woodlands at Malbis Property Owners' Association, Inc., the Grantee, does GRANT, BARGAIN, SELL AND CONVEY unto the said Grantee, subject to the provisions contained in this Common Area Deed, all that real property in the County of Baldwin, State of Alabama, described as follows, to-wit:

All Common Area described on the Plat of The Woodlands at Malbis, a Subdivision, filed for record in the Office of the Judge or Probate of Baldwin County, Alabama, in Slide 2152-A and Slide 2152-B.

EXCEPTING AND RESERVING UNTO THE GRANTOR ALL REMAINING OIL, GAS AND OTHER MINERALS WHICH ARE SITUATED IN, ON OR UNDER THE ABOVE DESCRIBED PROPERTY, TOGETHER WITH ALL OF THE NECESSARY RIGHTS OF INGRESS AND EGRESS OVER AND ACROSS SAID PROPERTY FOR THE PURPOSE OF EXPLORING FOR, TAKING AND REMOVING OIL, GAS AND OTHER MINERALS FROM SAID PROPERTY.

THIS CONVEYANCE AND THE WARRANTIES CONTAINED IN THIS COMMON AREA DEED ARE MADE SUBJECT TO THE FOLLOWING:

Terms, provisions and conditions of that certain document entitled Declaration of Covenants, Conditions and Restrictions for The Woodlands at Malbis, a Subdivision, by instrument dated March 10, 2004 and recorded April 12, 2004 as Instrument Number 801912, Pages 1 through 33, ("the Declaration"). The terms used in this Common Area Deed shall have the same meaning as those contained in the Declaration, unless the context otherwise requires.

Articles of Incorporation of The Woodlands at Malbis Property Owners' Association, Inc.

By-Laws of The Woodlands at Malbis Property Owners' Association, Inc.,

Rules and regulations promulgated by The Woodlands at Malbis Property Owners' Association, Inc.

Declaration of Restrictive Covenants by Country Club Development, L.L.C., an Alabama Limited Liability Company dated March 10, 2004 and recorded April 12, 2004 as Instrument Number 801916, Pages 1 through 5.

802607

Right-of-Way from **Alex S. Bertolla, et al** to **Baldwin County**, dated **January 26, 1952** and filed for record **May 10, 1952** in **Deed Book 180, page 263**.

Easement or right-of-way for public road from **A. Bertolla & Sons** to **Baldwin County**, dated **June 16, 1989** and filed for record **July 3, 1989** in **Real Property Book 360, Page 698**.

Right-of-Way Deed from **A. Bertolla & Sons** to **Baldwin County**, filed for record **May 19, 1994** in **Real Property Book 574, Page 97**.

Right-of-Way Deed from **A. Bertolla & Sons** to **Baldwin County**, filed for record **May 19, 1994** in **Real Property Book 574, Page 96**.

Easement granted to **Alabama Power Company**, dated **July 19, 1951** and filed for record **April 15, 1953** in **Deed Book 194, Page 343**.

Boundary Line Agreement between **Malbis Plantation, Inc.** and **Ann E. Ramey**, dated **January 5, 1996** and filed for record **February 19, 1996** in **Real Property Book 670, Page 1539**.

Boundary Line Agreement between **Malbis Plantation, Inc.** and **Theo S. (Ted) Stevens and Edna Stevens**, dated **January 8, 1996** and filed for record in **Real Property Book 670, Page 1535**.

Reservation of oil, gas and minerals as contained in Deed from **Malbis Plantation, Inc.** to **Charles H. Bryars, III**, dated **January 17, 1996** and filed for record **January 19, 1996** in **Real Property Book 666, Page 1391**.

Rights of other parties, the **United States of American** or **State of Alabama**, in and to the shore, littoral or riparian rights to the property described in this **Warranty Deed** which lies adjacent to **unnamed creeks**.

Any potential current use rollback taxes which may be assessed against the property described above by the **Baldwin County Revenue Commissioner's Office**.

Zoning, planning and other restrictions, regulations or ordinances affecting the use of the above described property as may be imposed by any governmental authority having jurisdiction over said property.

Easements or claims of easements shown or not shown by the public records.

Encroachments, overlaps, boundary line disputes and any other matter which would be disclosed by an accurate survey and inspection of the above described real property.

Terms and conditions of all permits and licenses of federal, state and local governments, including applicable agencies and departments and private and quasi governmental agencies having jurisdiction over the above described real property.

The recording references in this **Common Area Deed** are to the **Office of the Judge of Probate of Baldwin County, Alabama**.

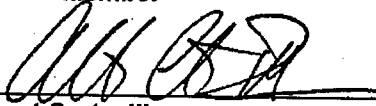
TOGETHER WITH ALL AND SINGULAR the rights, privileges, tenements, hereditaments and appurtenances hereunto belonging, or in anywise appertaining; TO HAVE AND TO HOLD unto the said Grantee, and the successors and assigns of the Grantee, FOREVER.

BY ACCEPTANCE of this Common Area Deed, the Grantee, and the successors and assigns of the Grantee, expressly assumes and agrees to be bound by and to comply with all the covenants, terms, provisions and conditions set forth and contained in the Declaration.

IN WITNESS WHEREOF, the Grantor has caused this Common Area Deed to be executed on this the 14th day of April, 2004.

Country Club Development, L.L.C., an Alabama Limited Liability Company

By: AC3, Inc., an Alabama Corporation
Its: Member

By: 
Albert Corte, III
Its: President

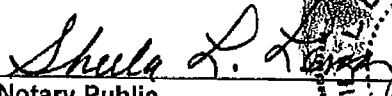
(Corporate Seal)

STATE OF ALABAMA :

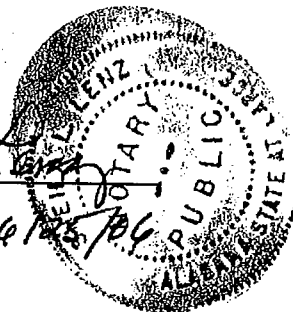
COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that Albert Corte, III, whose name as President of AC3, Inc., an Alabama Corporation acting in its capacity as a Member of Country Club Development, L.L.C., an Alabama Limited Liability Company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, Albert Corte, III, as President of AC3, Inc., an Alabama Corporation, and with full authority, executed the same voluntarily for and as the act of AC3, Inc., an Alabama Corporation acting in its capacity as Member of Country Club Development, L.L.C., an Alabama Limited Liability Company.

Given under my hand and seal this 14th day of April, 2004.


Notary Public

My Commission Expires: 6/15/06



Address of **Grantor**:

200 Rock Creek Parkway
Fairhope, Alabama 36532

Address of **Grantee**:

200 Rock Creek Parkway
Fairhope, Alabama 36532

THIS INSTRUMENT PREPARED BY:

W. Kenneth Heard
Irby & Heard, P.C.
Attorneys At Law
317 Magnolia Avenue
Post Office Box 1031
Fairhope, Alabama 36533
(251) 928-4555

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State of Alabama, Baldwin County
I certify this instrument was filed
and taxes collected on:

2004 April -14 1: 50M

Instrument Number 882687 Pages 4
Recording 12.00 Mortgage
Deed 1.00 Min Tax 1.00
Index DP 5.00
Archive 5.00
Adrian T. Johns, Judge of Probate

BALDWIN COUNTY SEWER SERVICE
SCHEDULE OF CHARGES

10/13/2003

MONTHLY SEWER CHARGES

ALL RESIDENTIAL HOMES - \$28.50

ELBERTA FRANCHISE FEE - 3% ON MONTHLY SEWER CHARGE

SILVERHILL FRANCHISE FEE - 5% ON MONTHLY SEWER CHARGE

ONE TIME HOOK UP FEES

TAP FEES - \$2,500.00

RESIDENTIAL GRINDER PUMP WITH ONE YEAR WARRANTY - \$1,850.00

- OPTIONAL 4 YEAR EXTENDED WARRANTY - \$385.00
- INSTALLATION OF PUMP - \$400.00

ENVIRONMENTAL ENHANCEMENT PROGRAM (COVERING PROPERTIES IN ENVIRONMENTALLY SENSITIVE AREAS AS DEFINED BY ENVIRONMENTAL ENHANCEMENT MAP) - \$3,300.00 (\$1,200.00 TAP FEE, \$2,100.00 GRINDER PUMP, INSTALLATION AND 5-YEAR WARRANTY ON THE GRINDER PUMP)

TAP FEES FOR RV PARKS - SIX RECREATIONAL VEHICLES PER TAP FEE

TAP FEES FOR MOBILE HOME PARKS - TWO MOBILE HOMES PER TAP FEE

NEW CUSTOMER FEE ON EXISTING HOME - \$100.00

DISSCONNECT / RECONNECT FEES

DISSCONNECT FEE FOR ALL CUSTOMERS - \$150.00

RECONNECT FEE FOR ALL CUSTOMERS - \$400.00

IF OUR SUBCONTRACTOR GOES TO A RESIDENCE TO DISSCONNECT A SERVICE AND THE CUSTOMER PAYS AT THAT TIME THE CUSTOMER MUST ALSO PAY THE SUBCONTRACTOR \$55.00 FOR HIS TIME.

MOVE A SERVICE VALVE AFTER INSTALLATION OF THE PUMP - \$400.00

DIG A GRINDER PUMP & REINSTALL THE PUMP - \$600.00

ARCHITECTURAL REVIEW PROCESS

The ARCHITECTURAL COMMITTEE evaluates all proposed structures and landscaping to be constructed in The Woodlands at Malbis. A six-step process has been established to facilitate your preparations for construction.

1. Review the DECLARATIONS and these RULES, REGULATIONS AND ARCHITECTURAL GUIDELINES.
2. Select design consultants and provide the referenced documents to them.
3. **Site Evaluation** - Proper positioning your home on its site requires that you understand all of its unique natural features including views and topography. The following is a typical list of features to evaluate in designing an overall concept for your home.
 - Site your home and driveway to preserve the existing trees.
 - Note any existing drainage swales or ditches. Stormwater is not allowed to be diverted onto adjacent property.
 - Note all "green belts" on the homesite.
 - Note the location of any utility or drainage easements on the homesite.
4. **Conceptual Sketch Review** - This *optional* step allows a property owner to submit a home design and layout concept to the ARCHITECTURAL COMMITTEE for comments and suggestions. This "working together" step has been included early in the process to both confirm a correct analysis of the site and save you from making major alterations after substantial architectural design time has been accrued.
5. **Architectural Review and Approval** - Construction plans and specifications for the home shall be submitted to the ARCHITECTURAL COMMITTEE. One (1) copy of construction documents and specifications are required along with the appropriate review fee. This review verifies that the submitted plans are in conformance with the community standards. **Note:** At the time of submission, the corners of the house shall be staked on the site and trees to be saved shall be flagged. There will be no review until all plan requirements have been received.
6. **Construction** - After the ARCHITECTURAL COMMITTEE has given a written approval, the plans and specifications shall be submitted to Baldwin County for the final building permit. Before construction can begin, final building permits must be obtained.



DIVISION OF CURRICULUM & INSTRUCTION

MEMORANDUM

TO: High School Band Directors
Mystic Society Representative

FROM: Nancy Thompson *NT*
Fine Arts Supervisor
MCPSS

THROUGH: Dr. Carolyn L. Taylor *CT*

DATE: December 1, 2006

SUBJECT: Mardi Gras Agreements

This year, along with the Board approved Mardi Gras agreement, mystic societies must send this memorandum to the directors of all Mobile County Public School bands they wish to have participate in their parade. Band directors are mandated to provide a copy of this signed document to the Fine Arts Supervisor by January 20, 2007, for every parade their band will be participating in for the 2007 Mardi Gras season.

If you have any questions, please don't hesitate to call.

_____ will be participating in the ORDER OF LASHE'S
High School Band _____ Mystic Society

parade on 2/13/07
Date

_____ High School Band Director Signature
Printed name: _____
Assistant Director: _____

cc: Dr. Harold Dodge
Dr. Samantha Ingram
Mr. Fred Marshall

Nancy Thompson
Fine Arts Supervisor K-12
nthompson@mcpss.com
P O. Box 1327 Mobile, AL 36633-1327
251-221-4087 Facsimile 251-221-4147

01-04-'07 17:46 FROM-TERMAC CONSTRUCTION

2516341445

T-290 P002/002 F-092



DIVISION OF CURRICULUM & INSTRUCTION

MEMORANDUM

TO: High School Band Directors
Mystic Society Representative

FROM: Nancy Thompson *NT*
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MCPSS

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If you have any questions, please don't hesitate to call.

Vigor will be participating in the ORDER OF LASHB'S
High School Band Mystic Society

parade on 2/13/07
Date

[Signature]
High School Band Director Signature
Printed name: *Christopher L. Page*

Assistant Director: _____

cc: Dr. Harold Dodge
Dr. Samantha Ingram
Mr. Fred Marshall

Nancy Thompson
Fine Arts Supervisor K-12
nthompson@mcpss.com
P O. Box 1327 Mobile, AL 36633-1327
251-221-4087 Facsimile 251-221-4147