

STATE OF ALABAMA)

COUNTY OF BALDWIN)

AMENDED
DECLARATION OF CONDOMINIUM

OF

PHOENIX VII, A CONDOMINIUM

BALDWIN COUNTY, ALABAMA
JUDGE ADRIAN T. JOHNS
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This Amended Declaration of Condominium of PHOENIX VII, a
Condominium, (hereinafter referred to as "Declaration"), is made on this the 20th
day of August, 2008, by Phoenix VII Association, Inc., (hereinafter referred to the
"Declarant"), an Alabama Non-Profit Corporation, pursuant to the provisions of
the Alabama Uniform Condominium Act of 1991, Code of Alabama, 1975, § 35-8A-
101 through 417, as amended, (hereinafter referred to as the "Act"), for the
purpose of forming a condominium and establishing certain rights, titles,
easements, covenants and/or restrictions to run with the subject property.

RECITALS

WHEREAS, Declarant represents all unit owners who hold title in fee simple
to certain real estate described in Article III of this Amended Declaration of
Condominium, as originally set forth in the original Declaration of Condominium,
dated September 14, 1998, and recorded in Miscellaneous Book 0100, Page 1876,
et. seq., in the Office of the Probate Judge of Baldwin County, Alabama, to the
condominium form of ownership and which is hereby referenced and incorporated
herein as if fully set out and which is located at 26802 Perdido Beach Boulevard,
Orange Beach, Baldwin County, Alabama 36561, hereinafter referred to as the
"Parcel."

WHEREAS, Declarant does hereby resubmit the Parcel together with all the
buildings, structures, improvements, and other permanent fixtures to be affixed
thereon, and all rights and privileges belonging or in any way pertaining thereto,
to the provisions of the Alabama Uniform Condominium Act of 1991, Code of

Alabama, 1975, § 35-8A-101, et seq. The condominium shall be known as PHOENIX VII, a Condominium.

WHEREAS, Declarant further desires to establish for its own benefit and for the mutual benefit of all future owners or occupants of the Parcel or any part thereof, the condominium form of ownership; and intends that all future owners, occupants, mortgagees, and any other persons hereinafter acquiring an interest in the parcel shall hold that interest subject to the certain rights, easements, and privileges in the Parcel, and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct, and maintenance of the property, as hereinafter set forth.

WHEREAS, notice of the subject matter of this proposed revision and amendment was included in a notice of Special Meeting given to all unit owners to be held on the 12th day of April, 2008; and

WHEREAS, the proposed revision and amendments were approved by the affirmative vote of at least sixty-seven percent (67%) of the allocated votes in Phoenix VII Condominium cast in person or by proxy at said meeting; and,

NOW, THEREFORE, the Declaration of Condominium of PHOENIX VII, a Condominium shall hereinafter read as follows:

AMENDED
DECLARATION OF CONDOMINIUM

OF

PHOENIX VII, A CONDOMINIUM

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ARTICLE I DEFINITIONS

The terms used in this Declaration and in the By-Laws shall have the meanings stated in the Alabama Uniform Condominium Act of 1991, and as follows, unless the context otherwise requires:

1.01 "ACT" means the Alabama Uniform Condominium Act of 1991, Code of Alabama, 1975, § 35-8A-101, et seq.

1.02 "ARTICLES" means the Articles of Incorporation of the Association, recorded in the Office of the Judge of Probate of Baldwin County, Alabama, identified as Exhibit B and attached hereto and made a part hereof as if set out fully herein.

1.03 "ASSESSMENT" means a proportionate share of the funds required for the payment of the Common Expenses which from time to time may be levied against each Unit Owner,

1.04 "ASSOCIATION" means Phoenix VII Association, Inc., an Alabama Nonprofit Corporation, and its successors, and is the corporation organized under the Act.

1.05 "BOARD" means the Board of Directors of the Association.

1.06 "BUILDING" means all structures or structural improvements located on the Real Property and forming part of the Condominium.

1.07 "BY-LAWS" means the duly adopted By-Laws of the Association, identified as Exhibit C and attached hereto and made a part hereof as if set out fully herein.

1.08 "COMMON ELEMENTS" means all portions of the Condominium other than the Units.

1.09 "COMMON EXPENSES" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

1.10 "COMMON SURPLUS" means the excess of all receipts of the Association arising out of the Common Elements over the amount of the Common Expenses.

1.11 "CONDOMINIUM" means PHOENIX VII, a condominium, and consists of the Condominium Property submitted to the Condominium form of ownership by this Declaration.

1.12 "CONDOMINIUM DOCUMENTS" means the Declaration, By-Laws, Articles and all Rules and Regulations adopted by the Association, and all exhibits attached thereto, as the same may be amended from time to time.

1.13 "CONDOMINIUM PROPERTY" or "PROPERTY" means all property, real, personal or mixed, which is submitted to the Condominium form of ownership as provided for herein and includes the Real Property and all improvements now existing or hereafter placed thereon and all easements, rights, interests or appurtenances thereto, and all personal property now or hereafter used in connection therewith.

1.14 "DECLARANT" means Phoenix VII Association Inc., an Alabama nonprofit corporation, and its successors and assigns.

1.15 "DECLARATION" means this Declaration of Condominium and any amendments thereto which may be made from time to time.

1.16 "DEVELOPMENT" shall have the same meaning as "Condominium Property" or "Property."

1.17 "DEVELOPMENT RIGHTS" shall have the same meaning as is defined in the Act and as set out in the Declaration.

1.18 "ELIGIBLE MORTGAGE HOLDERS" are those holders of a first mortgage on a unit estate who have submitted a written request that the Association notify them in accordance with by the By-Laws of te Association.

1.19 "LIMITED COMMON ELEMENTS" shall have the same meaning as is defined in the Act and as set out in the Declaration.

1.20 "MEMBER" means a member of the Association, membership in which is confined to Residential Unit Owners.

1.21 "MORTGAGEE" means any lender holding a mortgage or vendor's lien on any part or all of the Condominium Property.

1.22 "OCCUPANT" means a person or persons in possession of a Unit, regardless of whether that person is the Unit Owner.

1.23 "PERSON" means a natural person, a corporation, a limited liability company, a partnership, a limited partnership, the Association, a Trustee or other legal entity.

1.24 "PLANS" mean the site plan, floor plans, and elevations of the Condominium prepared by an independent registered engineer or registered architect, which are included in the original Declaration and marked Exhibit "C" and are expressly made a part hereof as though fully set out herein. The Plans contain a certificate of completion executed by John M. Senkarik and Mikell D. Speaks, independent registered engineers or registered architects in accordance with the Act. The Plans contain a certification that the Plans contain all the information required by the Act.

1.25 "REAL PROPERTY" means the Real Property which is submitted to the Condominium form of ownership as provided for herein.

1.26 "RESIDENTIAL" means used for dwelling or recreational purposes, or both.

1.27 "SPECIAL DECLARANT RIGHTS" shall have the same meaning as is defined in the Act and as set out in the Declaration.

1.28 "UNIT" or "PRIVATE ELEMENT" shall have the same meaning as "Unit" is defined in the Act. The Units are designated on the Plans.

1.29 "UNIT OWNER" means any Person who owns a Residential Unit but does not include a Person having an interest in a Unit solely as security for an obligation.

1.30 "UTILITY SERVICES" shall include, but not be limited, to electrical power, gas, garbage and sewage disposal.

When the context permits, use of the plural shall include the singular, use of the singular shall include the plural, and the use of any gender shall be deemed to include all genders.

ARTICLE II NAME

The name by which this Condominium is to be known is PHOENIX VII, a condominium. The Condominium is located at 26802 Perdido Beach Boulevard, in the City of Orange Beach, County of Baldwin, State of Alabama.

ARTICLE III REAL PROPERTY

The Real Property owned by the Declarant which is herewith submitted to the Condominium form of ownership is the parcel of Real Property lying and being in Baldwin County, Alabama, being described as follows:

Lot 1, THE PHOENIX SUBDIVISION, as recorded in the Office of the Judge of Probate of Baldwin County, Alabama in Slide No. 1687A.

ARTICLE IV PURPOSE

The Declarant hereby submits the Real Property described above together with all improvements, buildings, structures, and all other permanent fixtures thereon, and all rights and privileges belonging or in any way pertaining thereto, to the Condominium form of ownership and use in the manner provided for by the Alabama Uniform Condominium Act of 1991, Code of Alabama, 1975, § 35-8A-101, et seq.

ARTICLE V DEVELOPMENT PLAN

5.01 Plans. The improvements are substantially completed in accordance with the Plans, as evidenced by the Certificate of Completion executed by an independent registered architect or registered engineer. The Plans are recorded as set out in the original Declaration, in the Office of the Probate Judge, Baldwin County, Alabama and said Plans are expressly made a part hereof as though fully set out herein.

5.02 Agreement. Each Person or entity who shall acquire any Unit in the Condominium or interest in or lien upon any such Unit, shall be deemed by accepting a conveyance of or otherwise acquiring such Unit interest or lien, to have agreed and consented, within the meaning of this Declaration and of the Act, to be bound by the terms and provisions hereof.

5.03 Easements. Easements are reserved throughout the condominium property as may be required for utility services in order to adequately serve the condominium; provided, however, such easements to a unit shall be only in accordance with the plans and specifications for the buildings or as the buildings are constructed, unless approved in writing by the unit owner. Each unit owner shall have an easement in common with the owners of other units to use all pipes, wires, ducts, cables, conduits, public utility lines and other common elements located in any of the other units and serving his unit. Each unit shall be subject

to an easement in favor of the owners of all other units and located in such unit. The Association shall have a right of access to each unit to inspect the same, to remove violations therefrom and to maintain, repair or replace the common elements contained therein or elsewhere in any building.

Each of the following easements are reserved to the Association for the benefit of the Unit Owners, their guests and lessees and is a covenant running with the Real Property:

A. Utilities and Drainage. Easements are reserved throughout the Condominium Property as may be required for Utility Services and drainage in order to adequately serve the Condominium; provided, however, such easements to a Unit shall be only in accordance with the Plans or as the improvements are constructed, unless approved in writing by the Unit Owner. Each Unit shall have an easement as may be required to drain the Condominium Property adequately. Each Unit Owner shall have an easement in common with the Owners of all other Units to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Elements located in any of the other Units and serving his Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Elements serving such other Units and located in such Unit. The Association shall have a right of access to each Unit to inspect the same, to remove violations therefrom, and to maintain, repair or replace the Common Elements contained therein or elsewhere on the Condominium Property; provided such right of access, except in the event of an emergency, shall not unreasonably interfere with the Unit Owners permitted use of the Unit, and except in the event of emergency, entries shall not be made without prior notice to the Unit Owner.

B. Encroachments. If any portion of the Common Elements encroaches upon any Unit, or if any Unit encroaches upon any other Unit or upon any portion of the Common Elements as a result of the construction of any building, or if any such encroachment shall occur

hereafter as a result of settling or shifting of any Building, a valid easement for the encroachment and for the maintenance of the same shall exist so long as such Building stands. In the event any Building, any Unit, any adjoining Unit, or any adjoining Common Element shall be partially or totally destroyed as a result of fire, or other casualty or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachments of parts of the Common Elements upon any Unit or of any Unit upon any other Unit or upon any portion of the Common Elements due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as such Building or Buildings shall stand.

C. Support. Each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and of necessity in favor of all other Units, and the Common Elements.

D. Access. Each Unit shall have an easement for pedestrian traffic over, through, and across sidewalks, paths, walks, lobbies, elevators, stairways, walkways and lanes, and passage ways, as the same may from time to time exist in the Common Elements; and for ingress and egress over, through and across such portions of the Common Elements as may from time to time be paved and intended for such purposes, but the same shall not give or create in any Person the right to park on any portion of the Condominium Property not designated as a parking area, nor shall it give or create in any Person the right to use or occupy a Limited Common Element or as a an exclusive easement designated for the exclusive use of others. This easement shall be non-exclusive and shall include the right of ingress and egress to a public street or highway upon and over Common Elements providing such access and as shown on the Plans.

ARTICLE VI THE UNITS

6.01 Private Elements. The description of the private elements and the appurtenances thereto are determined with the aid of the plans therefore, attached to this Declaration as Exhibit "C", and as follows:

A. Units Numbered. Each unit is assigned a number which is indicated on the drawings attached hereto as part of Exhibit "D" to this Declaration. With the exception of Unit 01, 02, M1, M2 and type P units, the first letter or number designates the floor number on which the unit is located. The ground floor is designated by letter "B". There is no floor numbered 13.

B. Units. For the purposes of calculating the ownership interest in the common elements as set forth in Exhibit "A", there are two hundred forty seven (247) individual condominium units, two (2) office units, and two (2) maintenance units as further delineated in Subsection C, D, and E herein.

C. Unit Type A, D and F. Type A, D and F are a three (3) bedroom, two (2) bath, living and dining room combination with approximately 1,394 sq. ft. of heated and cooled area but not including the open balcony. The unit comes complete with carpet, vinyl flooring, wallpaper in designated areas, blinds on window, range, dishwasher, refrigerator, cabinets, clothes washer and dryer. There are thirty (30) Type "A" Units, forty three (43) Type "D" Units and fourteen (14) Type "F" Units, for a total of eighty seven (87) units.

D. Unit Type B, E and 1G9. Type B and E are a two (2) bedroom, two (2) bath, living and dining room combination with approximately 1,064 sq. ft. of heated and cooled area but not including the open balcony. Type 1G9 is similar to Type B and E in approximate square footage except it is a one (1) bedroom, two (2) bath. The units comes complete with carpet, vinyl flooring, wallpaper in designated areas, blinds on window, range, dishwasher, refrigerator, cabinets, clothes washer and dryer. There are

fifteen (15) Type "B" Units, eighty six (86) Type "E" Units and one (1) 1G9 Unit, for a total of one hundred and two (102) units.

E. Unit Type C. Type C are one (1) bedroom, one (1) bath living and dining room combination with approximately 801 sq. ft. of heated and cooled area but not including the open balcony. The unit comes complete with carpet, vinyl flooring, wallpaper in designated areas, blinds on window, range, dishwasher, refrigerator, cabinets, clothes washer and dryer. There are fifty eight (58) Type "C" Units.

F. Unit 01. Unit 01 is approximately 293 sq. ft. of heated and cooled office area, complete with carpet, vinyl flooring.

G. Unit 02. Unit 02 is approximately 552 sq. ft. of space in main lobby, two (2) offices, service counter and carpeted flooring.

H. Parking Spaces. Deeded private parking spaces in the private parking garage are designated as Type "P" Units. There are a total of one hundred fifteen (115) Type "P" Units.

I. Unit M1. Unit M1 is approximately 1,003 sq. ft., floors and walls and ceilings to be unfinished concrete. The owner can improve the area if desired. This area to be used primarily for maintenance operations.

J. Unit M2. Unit M2 is approximately 557 sq. ft., floors and walls and ceilings to be unfinished concrete. The owner can improve the area if desired. This area to be used primarily for storage of linens and for custodial and housekeeping operations.

6.02 Unit Boundaries. Each unit consists of that part of the building containing the unit which lies within the boundaries of the unit, exclusive of interior load-bearing walls and pillars and any pipes, wires, conduits, ducts, vents and other servicing utility lines which are utilized for or serve more than one (1) condominium unit. The vertical boundaries of each unit shall be the plane of the

inside surfaces of the studs which are the component parts of the exterior walls and of interior walls separating a unit from another unit, and are as shown on the drawings in Exhibit "A" of the original Declaration which is incorporated by reference herein. Where the unit is bounded by an exterior wall, the walls shall be considered to include any door, window or other closure therein in the closed position, and the boundary shall be the plane of the inside surfaces of the studs which are the component parts of such walls to the effect that the private elements of the boundary walls shall include the surfacing materials. The upper horizontal boundary of each unit shall be the plane of the under surfaces of the ceiling slabs. The lower horizontal boundary of floors of the units shall be the upper surfaces of the floor slab.

6.03 Unit Ownership. Each Unit Owner shall be entitled to the exclusive ownership and possession of his Unit. Each Unit Owner shall have the unrestricted right of ingress to and egress from his Unit, which right shall be an appurtenance to his Unit. Each Unit Owner is subject to all the rights and duties assigned to Unit Owners under the terms of the Condominium Documents.

6.04 Parking Space Ownership. Each Unit Owner shall be entitled to the exclusive ownership and possession of his deeded parking space. Each Unit Owner shall have the unrestricted right of ingress and egress from his deeded parking space, which right shall be an appurtenance to his Unit. Each Unit Owner is subject to all the rights and duties assigned to Unit Owners under the terms of the Condominium Documents. Ownership of deeded parking spaces is exclusively restricted to Members of the Association.

ARTICLE VII THE COMMON ELEMENTS

7.01 Common Elements. The common elements of the condominium includes all parts of the condominium property not located within the perimeter boundaries of the units, as hereinafter described, being the facilities located

substantially as shown upon the plans hereto attached, and include but are not limited to the following:

- A. The land, subject to the exceptions set out therein.
- B. All central and appurtenant installations for services such as power, light, telephone, storm drains, sewer and water, television cables, heat and air conditioning, including all pipes, ducts, wires, cables and conduits used in connection therewith, whether located in common areas or in units, and all utility and mechanical equipment, buildings and spaces, which are not used or reserved for the exclusive use of certain units.
- C. Automobile parking spaces in the parking areas, except for the deeded private parking space in the private parking garage which are specifically excluded from the Common Elements and Limited Common Elements.
- D. All outdoor and exterior lights.
- E. Balconies, decks and decking which are not attached to any individual units.
- F. All attics, foundations, columns, girders, beams and supports of buildings, and such component parts of walls, roofs, floors and ceilings as are not located within the units.
- G. Lawn areas, landscaping, trees, curbs and walkways.
- H. Recreation areas and facilities, including but not limited to, the swimming pools, sun deck, whirlpools, saunas, tennis courts, meeting room, public restrooms, lobby and reception area, gazebos and guard house.
- I. Exterior steps, ramps, handrails, stair and stairwells.

J. All tanks, pump houses, wells, motors, fans, compressors and control equipment, fire fighting equipment, garbage equipment, elevators and equipment which are not reserved for the use of certain units.

K. All retaining walls, sea walls, bulkheads and jetties, and all areas for refuse collection or disposal.

L. All other parts of the development existing for the common use or necessary to the existence, maintenance and safety of the development

M. All other items listed as such in the Alabama Uniform Condominium Act, and located on the Property.

7.02 Limited Common Elements. The limited common elements are the storage room areas located on Floors 3, 5, 6, 8, 9, 11, 12 and 15, as shown on the plans attached hereto as part of Exhibit "D" and are allocated exclusively to Unit 01.

7.03 Surfaces. An owner shall not be deemed to own the studs and structural components of the perimeter walls and/or of load-bearing walls, nor the windows and doors bounding the unit, nor balconies, nor balcony railings enclosing a balcony area assigned to the exclusive use of the unit. An owner, however, shall be deemed to own and shall have the exclusive right and duty to repair, maintain, replace, paint, repaint, tile, wax, paper or otherwise finish and decorate the surfacing materials on the interior of the exterior walls and on the interior walls separating a unit from other units, and, the surfacing materials of the floors of his unit, and all appurtenant installations, including all pipes, ducts, wires, cables and conduits used in connection therewith for services such as power, light, telephone, sewer, water, heat, air conditioning and television, whether located in the boundaries of the unit or in the common areas, which are the exclusive use the unit; and all ceilings and partition walls. An owner shall have the exclusive right and duty to wash and keep clean the interior and exterior surfaces of windows and doors bounding his unit that are accessible from the unit or the attached balcony.

7.04 Balconies. A valid exclusive easement is hereby declared and established for the benefit of each unit and its owner consisting of the exclusive right to use and occupy the balcony or balconies serving his unit, the maintenance of which shall nonetheless remain the responsibility of the Association.

7.05 Ownership. A schedule setting forth the percentage of undivided interest of each Residential Unit in the Common Elements as well as the percentage of undivided interest of each deeded parking space in the Common Elements is attached hereto and marked Exhibit "A" and is incorporated by reference herein. The percentage of undivided interest of each Residential Unit and each deeded parking space in the Common Elements is determined by dividing the approximate total number of square feet of the interior area of each Residential Unit and the approximate total number of square feet of each deeded parking space by the total number of square feet of the interior area in all Residential Units and all deeded parking spaces. Such percentages of undivided interests may be rounded where appropriate. For purposes of percentage of ownership in the Common Elements, percentage of Common Expenses, and percentage of Common Surplus, and voting on all matters requiring action by the Owners, the percentages as set out in Exhibit "A" shall govern. The ownership interest in the Common Elements shall be an undivided interest, and except as provided in the Act and this Declaration, shall remain undivided. No Unit Owner shall bring any action for partition or division of the Common Elements. The ownership interest in the Common Elements shall not be conveyed, transferred, encumbered or otherwise affected separate from the ownership of the Unit and any agreement to the contrary shall be void.

7.06 Encroachments. If any portion of the common elements now encroaches upon any unit, or if any unit now encroaches upon any other unit or upon any portion of the common elements, as a result of the construction of any building, or if any such encroachment shall occur hereafter as a result of settling or shifting of any building, a valid easement for the encroachment and for the maintenance of the same so long as such building stands shall exist. In the event any building, any unit, any adjoining unit, or any adjoining common

element shall be partially or totally destroyed as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachments of parts of the common elements upon any unit or of any unit upon any other unit or upon any portion of the common elements, due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as such building shall stand.

7.07 Act Controls. All present and future owners, tenants and occupants of units shall be subject to and shall comply with the provisions of the Act, this Declaration, the By-Laws and the Rules and Regulations as they may be amended from time to time. The acceptance of a deed or conveyance or the entering into of a lease or the entering into occupancy of any unit shall constitute an agreement that the provisions of the Act, this Declaration, the By-Laws and the Rules and Regulations, as may be amended from time to time, are accepted and ratified by such owner, tenant and occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest of estate in such unit, as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease thereof. In the event of a conflict in any of the provisions of any such documents, the documents shall govern or control in the following order of the preference: (i) the Act; (ii) the Declaration; (iii) the Articles of Incorporation of the Association; (iv) the By-Laws of the Association; and (v) the Rules and Regulations of the Association.

7.08 Exclusive Ownership. Each owner shall be entitled to exclusive ownership and possession of his unit. Each owner shall be entitled to an undivided interest in the common elements in the percentages expressed in this Declaration, which percentages of undivided interest of each owner shall have a permanent character and shall not be altered without the consent of all owners and lien holders of record of units affected by such alterations expressed in an amended Declaration, duly recorded. The percentage of the undivided interest in the common elements shall not be separated from the unit to which it appertains and shall be deemed to be conveyed or encumbered or released from liens with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. Each owner may use the common elements in

accordance with the purposes for which the same are intended, without hindering or encroaching upon the lawful rights of the other owners.

7.09 Use. Each Unit Owner shall have the right to use the Common Elements (except any portions thereof designated as a Limited Common Element) and restricted to the exclusive use of, and as an appurtenance to, a Unit and subject to any portion subject to leases made by or assigned to the Board in conjunction with the Owners of other Units as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of the Condominium Property. The right to use the Common Elements shall be subject to and governed by the provisions of the Act, Condominium Documents, and the Rules and Regulations of the Association. In addition, the Association shall have the authority to lease, grant concessions or grant easements with respect to parts of the Common Elements subject to the provisions of the Declaration and By-Laws.

7.10 Enforcement. Failure of any owner to comply strictly with the provisions of this Declaration, the By-Laws and the Rules and Regulations shall be grounds for an action to recover sums due, or damages, or injunctive relief, or any or all of them. Such actions may be maintained by the Association on its own behalf or on behalf of the unit owners aggrieved. In any case of flagrant or repeated violation by a unit owner, he may be required by the Association to give sufficient surety or sureties for his future compliance with the provisions of this Declaration, the By-Laws and the Rules and Regulations. Nothing herein prevents, in a proper case, an independent action by an aggrieved unit owner for such relief.

ARTICLE VIII

LIABILITY FOR COMMON EXPENSE AND ASSESSMENTS

8.01 Share of Common Expenses and Other Expenses. Each Unit Owner shall be assessed and is individually liable for a proportionate share of the Common Expenses and the proportionate share of the Common Expenses shall be the same ratio as the Unit Owner's percentage ownership in the Common Elements as set forth in Exhibit "A" of the Initial Declaration which is incorporated by reference herein. Payment of Common Expenses and other expenses shall be in such amounts and at such times as determined in the By-Laws. Assessments

shall be collected by the Association on a monthly basis. No Unit Owner shall be exempt from payment of his proportionate share of the Common Expenses by waiver or non-use or non-enjoyment of the Common Elements or Limited Common Elements, or by abandonment of his Unit. Common Expenses and Limited Common Expenses shall include, but shall not necessarily be limited to, expenditures made or liabilities incurred by the Association, together with payments or obligations to reserve accounts.

8.02 Late Payment of Assessments. Assessments for Common Expenses and installments thereon, paid on or before fifteen (15) days after the date when due shall bear no interest, but all sums not paid on or before fifteen (15) days after the date when due shall bear such late charges, penalties, interest and other costs and expenses, at a rate set by the Board, but not to exceed to maximum legal rate, together with all expenses, including Attorney's fees incurred by the Association in any undertaking to collect such unpaid Assessments and expenses and shall be consistent with the provisions of the By-Laws. All payment upon account shall be first applied to such late charges, penalties, interests and other costs and expenses, including Attorney's fees, and then to the Assessment payment due. The Association may, in the manner provided for in the By-Laws, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, By-Laws and Rules and Regulations of the Association.

8.03 Liens for Assessments. The Association is hereby granted a lien upon each Unit and its appurtenant undivided interest in Common Elements and upon the goods, furniture and effects belonging to the Unit Owner and located in such Unit, which lien shall secure, and does secure, the moneys due for all Assessments now or hereafter levied or subject to being levied against the Unit Owner which lien shall also secure such late charges, penalties and interest, if any, which may be due on the amount of any delinquent Assessment owing to the Association, and which lien shall also secure all costs and expenses, including reasonable attorney's fees, which may be incurred by the Association in enforcing this lien upon said Unit and its appurtenant undivided interest in the Common Elements. The lien herein granted to the Association shall be effective from and after the time of recording of this Declaration in the Office of the Judge of Probate

of Baldwin County, Alabama, and no further recordation of any claim of lien under this Section is required.

8.04 Set-Off of Rents for Payment of Debt. Since the debt is subject to an automatic lien, it is due absolutely and without contingency and is therefore subject to set-off on behalf of the Association and, therefore, the Board of Directors, in its sole discretion, and, if it believes it is necessary to obtain satisfaction of the unit owner's debt, may attach any and all rental, lease and any other use of premises payments which are derived from the occupancy of the delinquent unit owner's unit by individuals or entities other than the unit owner. The Board shall serve notice on the unit owner at least five (5) days before the Board can attach said rental, lease or any other use of premises payments and make demand for said monies and direct payment to be made to the Association.

8.05 Priority of Lien. The Association shall have a lien for nonpayment of Common Expenses and Limited Common Expenses as is provided by the Act. In any suit for the foreclosure of a lien for Assessments, the Association shall be entitled to rental from the Unit Owner from the date on which the payment of any Assessment or installment thereof becomes delinquent and shall be entitled to the appointment of a receiver for said Unit, without notice to the Unit Owner. The rental required to be paid shall be equal to the rental charged on comparable type of dwelling Units in the area in which the Condominium is located. The lien granted to the Association shall further secure such advances for taxes and other payments which may be required to be advanced or paid by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at a rate set by the Board of the Association but in no case shall said interest exceed the maximum legal rate on any such advances made for such purposes. All Persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any Unit, or who may be given or acquire a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien granted to the Association. A lien for Common Expenses or Limited Common Expenses shall not be affected by any sale or transfer of a Unit, except as herein provided. A sale or transfer pursuant to a foreclosure of a first mortgage or first vendor's lien shall extinguish a subordinate lien for Assessments which became

payable prior to such sale or transfer; provided, however, a sale or transfer pursuant to a foreclosure of a first mortgage or first vendor's lien shall not extinguish the lien of the Association to the extent of the Common Expense Assessments and Limited Common Expense Assessments based on the periodic budget adopted by the Association pursuant to the Act which would have become due in the absence of acceleration during the six (6) months immediately preceding the institution of an action to enforce the lien. However, any such delinquent Assessments, which were extinguished pursuant to the foregoing provision, may be reallocated and assessed to all of the Units as a Common Expense. Any such sale or transfer pursuant to foreclosure does not relieve the purchaser or transferee of a Unit from liability for, nor the Unit from the lien of, any Assessments made thereafter.

8.06 Disposition of Surplus. Each Unit shall carry with it a proportionate share of Common Surplus and the proportionate share of Common Surplus shall be the same ratio as that Unit Owner's percentage ownership of the Common Elements or Limited Common Elements; or in the alternative, such surplus, or any portion thereof, may be added to a reserve fund for maintenance, repair and replacement of the Common Elements or the Limited Common Elements, as the case may be, at the sole discretion of the Board of Directors.

8.07 Assignment of Future Income. The Association may assign its right to future income, including the right to receive common expense assessments.

8.08 Rental Pending Foreclosure. In any suit for the foreclosure of said lien, the Association shall be entitled to rental from the owner of any unit from the date on which the payment of any assessment or installment thereof becomes delinquent and shall be entitled to the appointment of a receiver for said unit without notice to the owner of such unit. The rental required to be paid shall be equal to the rental charged on comparable types of dwelling units in Orange Beach, Alabama. The lien granted to the Association shall further secure such advances for taxes and other payments which may be required to be advanced or paid by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at the rate of eighteen percent

(18%) per annum on any such advances made for such purposes. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any unit, or who may be given or acquire a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien granted to the Association.

ARTICLE IX THE ASSOCIATION

9.01 Powers and Duties. The operation and administration of the Condominium shall be by the Association of the Unit Owners, pursuant to the provisions of the Act, The Association shall be a not for profit Alabama corporation incorporated by Articles of Incorporation recorded in the Office of the Judge of Probate of Baldwin County, Alabama. The Association shall be an entity which shall have the capability of bringing suit and being sued with respect to the exercise or non-exercise of its powers. The Association shall have exclusive authority and power to maintain a class-action and to settle a cause of action on behalf of Unit Owners of the Condominium with reference to the Common Elements or the Limited Common Elements, the roof and structural components of a Building or other improvement, and mechanical, electrical and plumbing elements serving an improvement or a Building as distinguished from mechanical elements serving only a Unit; and with reference to any and all other matters in which all the Unit Owners have a common interest. The Association shall have all the powers and duties set forth in the Act, as well as all the powers and duties granted to or imposed on it under the By-Laws and other Condominium Documents as they may be amended from time to time, The Association is specifically authorized to enter into agreements by which its powers and duties, or some of them, may be exercised or performed by some other Person or Persons. The Association shall have a reasonable right of entry upon any Unit to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the Development, and further, 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 Development. The Board shall have the authority

and duty to levy and enforce the collection of general and specific Assessments for Common Expenses and Limited Common Expenses and is further authorized to provide adequate remedies for failure to pay such Assessments.

9.02 Name. The name of the Association shall be Phoenix VII Association, Inc.

9.03 Members. Each Unit Owner shall be a Member of the Association so long as he is a Unit Owner. A Unit Owner's membership shall immediately terminate when he ceases to be a Unit Owner. The membership of a Unit Owner cannot be assigned or transferred in any manner except as an appurtenance to his Unit.

9.04 Voting Rights. Each Unit shall be entitled to one (1) vote, which vote is not divisible, the numerical value of which shall be the percentage of undivided interest in the Common Elements assigned to the Unit of which the Member is the Owner. The vote for a Unit shall be cast by the Owner thereof in the manner provided for herein and in the By-Laws. However, should the Association be a Unit Owner, it shall not have the voting right for that Unit.

9.05 Suspension of Member's Rights. No Member may vote at any meeting of the General Membership nor may a Member be elected to or serve on the Board of Directors nor may any Member, their guests or renters, use the common area amenities, if payment by such Member of any financial obligation to the Association is delinquent more than sixty (60) days and the amount necessary to bring the account current has not been paid at the time of such meeting or election or intention to use the common area amenities.

9.06 Designation of Voting Representative. In the event a Unit is owned by one (1) Person, his right to vote shall be established by the record title to his Unit. If a Unit is owned by more than one (1) Person, the Person entitled to cast the vote for the Unit shall be designated by a certificate signed by all of the record Owners of the Unit and filed with the Secretary of the Association. If a Unit is owned by a corporation, limited liability company, partnership or limited partnership, the

officer, member, partner, employee or individual entitled to cast the vote for the Unit shall be designated by a certificate of appointment signed by the president or vice president and attested by the secretary or assistant secretary of the corporation (in the case of a corporation), managing member (in the case of a limited liability company), or by the general partner or partners if more than one (in the case of a partnership or limited partnership), which certificate shall be filed with the Secretary of the Association. If such a certificate is not on file with the Secretary of the Association for a Unit owned by more than (1) Person or by a corporation, limited liability company, partnership or limited partnership, the membership or vote of the Unit concerned may be cast in accordance with the Act. Such certificate shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Unit concerned is effected. A certificate designating the Person entitled to cast the vote of a Unit may be revoked by any Owner thereof.

9.07 Restraint Upon Assignment of Shares in Assets. The share of a Member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his Unit.

9.08 Board of Directors. The affairs of the Association shall be conducted by a Board of Directors which shall consist of such number not less than three (3) nor more than seven (7) as shall, from time to time, be determined and fixed by a vote of a majority of the voting rights present at any annual meeting of the Members. Membership on the Board shall be limited to members.

9.09 Indemnification. 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 him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a Director or officer of the Association, whether or not he is a Director or 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 his duties; provided that in the event of a settlement, the indemnification herein 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 officer may be entitled.

9.10 Limitation of Liability. Notwithstanding the liability of the Association to maintain and repair parts of the Condominium Property, the Association shall not be liable for injury or damage caused by a latent condition of the Property to be maintained and repaired by the Association, nor for injury or damage caused by the elements, or other Owners or Persons.

9.11 By-Laws. The Association and its Members shall be governed by the By-Laws.

9.12 Availability of Records. The Association shall keep financial records sufficiently detailed to enable the Association to comply with the Act. The Association shall make reasonably available in the county where the Condominium is located for examination by Unit Owners, prospective purchasers, first mortgagees and insurers of first mortgagees of any Unit, or their authorized agents, current copies of the Declaration, By-Laws, Rules and Regulations and other books, records, financial statements and the most recent annual financial statement of the Association. Reasonably available shall mean available for inspection upon request, during normal business hours or under reasonable circumstances.

9.13 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 Elements. The fund shall be maintained out of regular Assessments for Common Expenses.

ARTICLE X MAINTENANCE

The responsibility for the maintenance of the condominium property shall be as follows:

10.01 Units.

A. By the Association. The responsibility of the Association shall be as follows:

i. To maintain, repair and replace all portions of a unit, except interior surfaces and surfacing materials, contributing to the support of the building, which portions shall include but not be limited to the outside walls of the building and all fixtures thereon, and boundary walls of units, floors, load-bearing columns and load-bearing walls.

ii. To maintain, repair and replace all conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services which are contained in the portions of a unit maintained by the Association, and all such facilities contained within a unit which service part or parts of the condominium other than the unit within which contained.

iii. To maintain and replace all balconies and balcony railings.

iv. To repair all incidental damage caused to a unit in the performance of any of the foregoing work.

B. By the Unit Owner. The responsibility of the unit owner shall be as follows:

i. To maintain, repair and replace all portions of his unit except the portions to be maintained, repaired and replaced by the Association.

ii. Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the building and/or the exterior of the balconies assigned to the exclusive use of the unit owner, and/or the exterior of the balcony area assigned to the exclusive use of the unit owner.

iii. To maintain the surfacing materials within the unit.

iv. To maintain, repair and replace the heating, air conditioning, utility and mechanical equipment, and all sewer and water lines including all pipes, ducts, wires, cables and conduits used in connection therewith, which are for the exclusive use of his unit, whether or not located within the boundaries of his unit To maintain, repair and replace the interior appurtenances of his unit, including but not limited to the floor coverings, wall coverings, window shades, draperies, furniture, furnishing light fixtures, and all appliances located therein.

v. To promptly report in writing to the Association any defect or need for repairs, the responsibility for the remedying of which is that of the Association.

vi. To be responsible for the cost of all incidental damage caused to the common elements or other units in the performance of the foregoing work. The cost of such repair or replacement may be assessed against such Unit Owner.

vii. To allow the Association, its delegates, agents or employees at all reasonable times to enter into any unit for the purposes of maintaining, inspecting, repairing or replacing Common Elements or for repairing maintaining or replacing any plumbing, heating, ventilation or air conditioning system located within such

Unit but serving other parts of the Condominium Property; or to determine, in case of emergency, the circumstances threatening Units or Common Elements and to correct the same; or, to determine compliance with the provisions of the Condominium Documents.

C. Alteration and Improvement. Neither a unit owner nor the Association shall make any alterations in the portions of a unit or building which are to be maintained by the Association, or to remove any portion thereof, or make any additions thereto, or do any work which would jeopardize the safety or soundness of the building, or impair any easement, without first obtaining approval in writing of the owners of all other units in the building concerned and the approval of the Board of Directors of the Association.

10.02 Common Elements.

A. By the Association. The maintenance and operation of the common elements shall be the responsibility and the expense of the Association.

B. Additions, Alterations and Improvements. After the completion of the improvements included in the common elements which are contemplated by this Declaration, there shall be no further additions to common elements (except by incremental development as elsewhere herein provided) without the prior approval of unit owners holding two-thirds ($\frac{2}{3}$) of voting rights of the Association. There shall be no change in the share and rights and obligations of a unit owner in the common elements which are altered or further improved. Any such alteration or addition shall be done in accordance with complete plans and specifications therefor first approved in writing by the Board; and promptly upon completion of such additional building or structural alteration or addition to any structure, the Association shall duly record or file of record in the Office of the Judge of Probate of Baldwin County, Alabama, such amendment, together with a complete set of plans of the condominium, as so altered, certified "as built" by a licensed or registered engineer or architect. Such alterations may result in a change in the nature of an original intended use of a portion of the common elements to another intended use.

10.03 Contracts for Maintenance. The Association may enter into a contract with any firm, Person or corporation, or may join with other entities in contracting for the maintenance and repair of the Condominium Property, and may delegate to such agent all or any portion of the powers and duties of the Association, except such as are specifically required by the Condominium Documents to have the approval of the Members of the Association.

10.04 Exterior Surface. The Association shall determine the exterior color scheme of the Condominium Property and shall be responsible for the maintenance thereof, except as may be otherwise provided for herein. No Unit Owner shall paint any exterior surface or add or replace anything thereon or affix thereto without the written consent of the Association.

ARTICLE XI INSURANCE

11.01 Purchase of Insurance. Commencing not later than the time of the first conveyance of a Unit to a person other than the Developer, the Association shall maintain insurance upon the Condominium Property to the extent reasonably available as provided for in the Act and as follows.

11.02 Location of Policies. The Association shall retain the original of all insurance policies in a place of safe keeping such as a safe or a safety deposit box.

11.03 Copies to Mortgagees. One (1) copy of each insurance policy, and of all endorsements thereto, shall be furnished by the Association to any first Mortgagee requesting a copy.

11.04 Authorization to do Business. All policies of insurance must be issued by companies specifically authorized by the laws of the State of Alabama to transact such business.

11.05 Coverage. The Association is required to maintain the following insurance coverage:

A. Property and Casualty. The Association must obtain, maintain, and pay the premiums upon, as a Common Expense, the property insurance required by the Act for condominium structures with horizontal boundaries and, by way of addition, as follows. The type of policy shall be a "master" or "blanket" type policy of property insurance covering all of the Common Elements (except land, foundation, excavation, and other items usually excluded from coverage) including fixtures, building service equipment and supplies, and other personal property belonging to the Association. All references herein to a "master" or "blanket" type of policy of property insurance are intended to denote single entity Condominium insurance coverage. In addition, the insurance obtained under this section shall include coverage of the Units themselves. Fixtures or equipment located within a Unit (regardless of whether or not such Property is a part of the Common Elements) must be covered by such "master" or "blanket" policy, but the coverage need not include improvements and betterments installed by Unit Owners. If reasonably available, the insurance policy shall include an "All In One" endorsement which shall include coverage of appliances (including stoves, cooking ranges, refrigerators, dishwashers, clothes-washers and dryers, to the extent such appliances comprised a part of the Unit on the date of this Declaration or were replacement items for such original appliances), air conditioners, and all fixtures contained within the Units. The policy shall be in an amount deemed appropriate by the Association but not less than the greater of eighty percent (80%) of the actual cash value of the insured Property at the time the insurance is purchased or such greater percentage of such actual cash value as may be necessary to prevent the applicability of any coinsurance provision at any renewal date, exclusive of land, excavation, foundation, and other items normally excluded from property policies. The policy shall include an "Agreed Amount Endorsement" or its equivalent and, if available, an "Inflation Guard Endorsement." If there shall be a construction code provision that requires changes to undamaged portions of the Condominium Property even when only part of the project is destroyed by an insured hazard, the policies shall include construction code

endorsements. The property insurance policy shall provide, as a minimum coverage and protection against:

- i. Loss or damage by fire and all other hazards that are normally covered by the standard extended coverage endorsement;
- ii. All other perils which are customarily covered with respect to condominiums similar in construction shall be obtained so as to meet the requirements of the Act.

B. Liability Insurance. The Association must obtain, maintain, and pay the premiums upon, as a Common Expense, a comprehensive general liability insurance policy, including medical payments insurance, as required by the Act and covering all the Common Elements, commercial space owned and leased by the Association, and public ways of the Condominium. Coverage limits shall be in amounts generally required by private institutional mortgage investors for projects similar in construction, location and use. However, such coverage shall be, if reasonably available, for at least one million dollars (\$1,000,00.00) for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, if reasonably available, without limitation, legal liability of the insured for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Elements, and legal liability arising out of law suits related to employment contracts of the Association. The policy shall also include, if reasonably available, coverage for protection against water damage liability and, if applicable, elevator collision and garage keepers liability. If required by any first mortgage holder and, if reasonably available, the policy shall include protection against such other risks as are customarily covered with respect to Condominiums similar in construction, location and use, including but not limited to, host liquor liability, employers liability insurance, contractual and all written contract insurance and comprehensive automobile liability insurance, if applicable.

C. Flood Insurance. If any part of the Condominium Property shall be deemed to be in a special flood hazard area, as defined by the Federal Emergency Management Agency or other governmental agency, the Association shall, if reasonably available, obtain, maintain and pay the premiums upon, as a Common Expense, a "master" or "blanket" type of flood insurance policy. The policy shall cover the Common Elements falling within the designated flood hazard area. The insurance shall be in an amount deemed appropriate by the Association, but not less than an amount equal to the lesser of:

i. Eighty percent (80%) of the actual cash value of the insured property located within the flood hazard area; or

ii. The maximum coverage available for the Property under the National Flood Insurance Program. The policy shall be in a form which meets the criterion set forth in the most current guidelines issued on the subject by the Federal Government.

D. Personnel Coverages. Should the Association employ personnel, all coverages required by law, including workman's compensation, shall be obtained so as to meet the requirements of the law.

E. Fidelity Insurance. The Association shall obtain, maintain and pay the premiums upon, as a Common Expense, fidelity insurance coverage, if reasonably available, to protect against loss of money by dishonest acts on the parts of all officers, directors and employees of the Association and all other persons handling, or responsible for, funds of the Association or funds administered by the Association. Where a management agent has the responsibility for handling or administering funds of the Association, the management agent shall be required to maintain fidelity insurance coverage for its officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. The fidelity insurance policy shall name the Association as the obligee and shall not be less than the estimated maximum of funds, including reserve funds,

in the custody of the Association or the management agent, as the case may be, at any given time during the term of the fidelity insurance policy. However, in no event may the aggregate amount of such insurance be less than one hundred and fifty percent (150%) of the estimated annual Common Expenses. The fidelity insurance policy shall contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions. The premiums on all fidelity insurance coverage required herein to be maintained by the management agent shall be paid by the management agent. The insurance policy shall provide that the Association and any first Mortgagee shall be given ten (10) days written notice before the policy/bond may be cancelled or modified for any reason.

F. Other Insurance. The Association shall obtain other insurance required by the Act and shall have authority to obtain such other insurance as it deems desirable, in such amounts, from such sources and in such forms as it deems desirable. The premiums for such insurance shall be a Common Expense.

If the insurance described above which is required to be maintained is not reasonably available, the Association promptly shall give notice of that fact to be hand delivered or sent prepaid by United States Mail to all Unit Owners.

11.06 Individual Insurance. Nothing contained herein shall be construed to prevent a Unit Owner from obtaining insurance for his own benefit.

11.07 Provisions. Insurance coverage, if reasonably available, must comply with the requirements of the Act and this Declaration and shall in substance and effect:

A. Provide that the policy shall be primary, even if the Unit Owner has other insurance that covers that same loss, and further provide that the liability of the insurer thereunder shall not be affected by, and that the

insurer shall not claim any right of set-off, counterclaim, apportionment, pro-ratio or contribution by reason of any other insurance obtained by or for any Unit Owner.

B. Contain no provision relieving the insurer from liability for a loss occurring because the hazard to such Building is increased, whether or not within the knowledge or control of the Association, or because of any breach of warranty or condition, or any other act or neglect by the Association or any Unit Owner or any other Persons under either of them.

C. Provide that such policy may not be canceled or substantially modified and the insurer may not refuse to renew said policy (whether or not requested by the Association) except by the insurer giving at least thirty (30) days prior written notice thereof to the Association, the Unit Owner, each holder of a first mortgage on an individual Unit, and every other Person in interest who shall have requested such notice of the insurer.

D. Contain a waiver by the insurer of any right of subrogation to any right of the Association, or either against the Owner or lessee of any Unit.

E. Contain a standard Mortgagee clause which, among any other provisions included in a standard mortgage clause, shall:

i. Provide that any reference to a Mortgagee in such policy shall mean and include all holders of mortgages of any Unit, whether or not named herein; and

ii. Provide that such insurance as to the interest of any Mortgagee shall not be invalidated by any act or neglect of the Association or Unit Owners or any Persons under any of them; and

iii. Waive any provisions invalidating such Mortgage clause by reason of the failure of the Mortgagee to notify the insurer of any

hazardous use or conveyance, any requirement that the Mortgagee, pay any premium thereon, and any contribution clause.

11.08 Liabilities and Responsibilities of Unit Owner. A Unit Owner shall be liable for any claim, damage or judgment entered as a result of the use or operation of his Unit caused by his conduct. Each Unit Owner shall be responsible for obtaining insurance for his own benefit.

11.09 Insurance Premiums. Insurance premiums maintained by the Association shall be paid by the Association as a Common Expense. Should the Association fail to pay such insurance premiums when due, or should the Association fail to comply with other insurance requirements of a Mortgagee, the Mortgagee shall have the right, at its option, to order insurance policies and to advance such sums as are required to maintain or procure such insurance. To the extent of any money so advanced, the Mortgagee shall be subrogated to the Assessment and the lien rights of the Association as against the individual Unit Owners for the payment of such item of Common Expense.

11.10 Insurance Trustee, Share of Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their Mortgagees as their interest may appear, and shall provide that all proceeds covering Property losses shall be paid to the Association, as Insurance Trustee for each of the Unit Owners in the percentages as established by the Declaration, which said Association, for the purpose of these provisions, is herein referred to as the Insurance Trustee. The duty of the Insurance Trustee shall be to receive such proceeds as are paid, and hold the same in trust for the purpose elsewhere stated herein and for the benefit of the Unit Owners and their Mortgagees. The Insurance Trustee shall have the power (and each Unit Owner hereby appoints the Trustee for this purpose as attorney-in-fact) to adjust all claims arising under insurance policies purchased by the Association; to bring suit thereon in its name and/or in the name of other insured; to deliver releases on payment of claims; to compromise and settle such claims; and, otherwise, to exercise all the rights, powers, and privileges of the Association and each Unit

Owner and any other holder of an insured interest in the Condominium Property under such insurance policies.

11.11 Shares of Proceeds. The Association, as Insurance Trustee, shall receive such insurance proceeds as are paid to it and shall hold the same in trust for the purposes stated herein and for the benefit of the Unit Owners and their Mortgagees as follows:

A. Owners and Mortgagees. Proceeds shall be applied in accordance with the Act.

B. Mortgagee Participation. No Mortgagee shall have any right to determine, or participate in the determination of whether or not any damaged Property shall be reconstructed or repaired except as may be specifically provided to the contrary elsewhere in this Declaration.

11.12 Distribution of Proceeds. Proceeds of insurance policies received by the Association as Insurance Trustee shall be distributed to or for the benefit of the beneficial Owners:

A. Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof. Any proceeds remaining after defraying such costs shall be distributed to the beneficial Owners, with remittances to Unit Owners and Mortgagees being payable jointly to them. This is a covenant for the benefit of any Mortgagee of a Unit and may be enforced by any such Mortgagee.

B. Failure to Reconstruct or Repair. If it is determined that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial Owners with remittances to Unit Owners and their Mortgagee being payable jointly to them. This is a covenant for the benefit of any Mortgagee of a Unit and may be enforced by any such Mortgagee.

ARTICLE XII
RECONSTRUCTION OR REPAIR AFTER CASUALTY

12.01 Determination to Reconstruct or Repair. Any portion of the Condominium for which insurance is required under this Declaration for which it is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- A. The Condominium is terminated in accordance with the Act;
- B. Repair or replacement would be illegal under any state or local statute or ordinance covering health or safety; or
- C. Eighty percent (80%) of the Unit Owners, including every owner of a Unit or assigned Limited Common Element which will not be rebuilt; vote not to rebuild.
- D. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense.

12.02 Plans. Any reconstruction or repair must be substantially in accordance with the Act.

12.03 Responsibility. Notwithstanding any provisions to the contrary in this Declaration and in accordance with Section 35-8A-313 of the Act, the responsibility of reconstruction and repair after casualty shall be that of the Association.

12.04 Estimate of Cost. As soon as practical after a casualty causing damage to the Condominium Property for which the Association has the responsibility of maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.

12.05 Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, Assessments shall be made in accordance with the Act. Assessments for reconstruction and/or repair of damage to common areas and facilities shall be in proportion to the Owner's share in the Common Elements. Assessments for reconstruction and repair may be collected, and the collection enforced, in the same manner as provided for Assessments elsewhere herein.

12.06 Construction Funds. The funds for payment of costs of reconstruction and repair after casualty for which the Association is responsible, which shall consist of proceeds of insurance held by the Association as Insurance Trustee and funds collected by the Association from Assessment against Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair in the following manner and order:

A. Disbursement. The construction fund shall be disbursed in payment of such costs on the order and in the manner provided by the Board of the Association.

B. Surplus. It shall be presumed that the first moneys distributed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be retained by the Association and shall be solely utilized for the payment of the common expenses of the Association.

ARTICLE XIII EMINENT DOMAIN

13.01 Proceeds. The taking of a portion of a Unit or of the Common Elements by eminent domain shall be deemed to be a casualty and the determination as to whether the Condominium will be reconstructed or repaired or continued after condemnation will be determined in the manner provided for

in the Act and under Reconstruction or Repair after casualty and the awards for such taking shall be deemed proceeds from insurance on account of the casualty and shall be deposited with the Association as Insurance Trustee. Even though the awards may be payable to a Unit Owner, the Unit Owner shall deposit the awards with the Association as Insurance Trustee; and in the event of failure to do so, in the discretion of the Board of the Association an Assessment shall be made against a defaulting Unit Owner in the amount of his award, or the amount of such award shall be set off against the sums hereafter made payable to such Unit Owner.

13.02 Disbursement of Funds. If the Condominium is terminated after condemnation, the proceeds of the condemnation awards will be deemed to be insurance proceeds and shall be owned and distributed in the manner provided in this Declaration for the distribution of insurance proceeds if the Condominium is terminated after damage to the Common Elements. If the Condominium is not terminated after condemnation, the size of the Condominium Property will be reduced and the Property damaged by the taking will be made usable in the manner provided by the Act and as provided below. The proceeds of such award shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds by the Association after damage to the Common Elements.

13.03 Unit Reduced but Habitable. If the taking reduces the size of a Unit and the remaining portion of the Unit can be made habitable, the award for the taking of a portion of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

A. Restoration of Unit. The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, and the Owner of the Unit does not within a reasonable period of time provide the additional funds required for restoration, such additional funds may, in the discretion of the Board of Directors, be extended for restoration by the Association and be assessed against the Unit Owner as an Assessment.

B. Distribution of Surplus. The balance of the award, if any, shall be distributed to the Owner of the Unit and to any first Mortgagee of a Unit, the remittance being made payable jointly to the Unit Owner and any such first Mortgagee.

C. Adjustment of Shares in Common Elements. If the floor area of the Unit is reduced by the taking, the percentage representing the share in the Common Elements, the Common Expenses and the Common Surplus appertaining to the Unit shall be reduced in accordance with the Act.

13.04 Unit Made Unhabitable. If the taking is of the entire Unit, or so reduces the size of the Unit that it cannot be used practically or lawfully for any purpose permitted by the Declaration, the award for the taking of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

A. Payment of Award. The award shall be paid first to any first Mortgagee in an amount sufficient to pay off its mortgage on such Unit; and then jointly to the Unit Owner and other Mortgagees of the Unit in an amount not to exceed the market value of the Condominium parcel immediately prior to the taking as diminished by any sums from the award previously reserved for any first Mortgagee; and the balance, if any, to the repairing and replacing of the Common Elements damaged by the taking.

B. Addition to Common Elements. The remaining portion of the Unit, if any, shall become part of the Common Elements and shall be placed in condition for use by all of the Unit Owners in the manner approved by the Board of Directors; provided that if the cost of the work shall exceed the balance of the fund from the award for the taking, the work shall be approved in the manner elsewhere required in this Declaration for further improvement of the Common Elements.

C. Adjustment of Shares in Common Elements. Common Expenses and Common Surplus. The shares in the Common Elements, the Common

Expenses, and the Common Surplus appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the ownership of the other shares among the reduced number of Unit Owners. This adjustment shall be done by restating said share of the continuing Unit Owners as percentages aggregating one hundred percent (100%) so that the shares appurtenant to the Units of the continuing Owners shall be in the same proportions to each other as before the adjustment.

D. Assessments. If the balance of the award (after payments to the Unit Owner and such Owners' Mortgagees as above provided) for the taking is not sufficient to finance the alteration of the remaining portion of the Unit for use as part of the Common Elements, the additional funds required for such purposes shall be raised by Assessments against all the Unit Owners who will continue as Owners of Units after the changes in the Condominium effected by the taking. Such Assessments shall be made in proportion to the shares of those Unit Owners in the Common Elements after the changes effected by the taking.

E. Arbitration. If the market value of a Condominium parcel prior to the taking cannot be determined by agreement between the Unit Owners, Mortgagees of the Unit, and the Association within thirty (30) days after notice by either party, the value shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that arbitrators shall be two (2) appraisers appointed by the American Arbitration Association who shall base their determination on an average of their appraisals of the Condominium parcels; and a judgment of specific performance on the decision rendered by the arbitrators may be entered into any court of competent jurisdiction. The cost of arbitration proceedings shall be assessed against all Owners of Units prior to the taking in proportion to the shares of the Owners in the Common Elements as they exist prior to the changes effected by the taking.

13.05 Taking of Common Elements. Awards for the taking of Common Elements shall be used to make the remaining portion of the Common Elements

usable in the manner approved by the Board of Directors; provided that if the cost of the work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner required elsewhere in this Declaration for further improvement of the Common Elements. The balance of the awards for the taking of the Common Elements, if any, shall be distributed to the Unit Owners in the shares in which they own the Common Elements, after adjustment of these shares on account of the condemnation, except that if a Condominium parcel is encumbered by a first mortgage, the distribution shall be paid jointly to the Owner and the first Mortgagee of the Condominium parcel.

13.06 Conflict with Act. If there is any conflict with the provisions of this article and the Act, the provisions of the Act shall control.

ARTICLE XIV USE RESTRICTIONS

The use of the Condominium Property shall be in accordance with the provisions of this Declaration and with the following provisions so long as the Condominium exists.

14.01 Units.

A. Each Condominium Unit shall be occupied and used by a family, their employees, and guests only as a residence and for the furnishing of services and facilities herein provided for the enjoyment of such residence. The foregoing restrictions as to residence, however, shall not be construed in such manner as to prohibit a Unit Owner from:

- i. Maintaining his personal professional libraries;
- ii. Keeping his personal business or professional records or accounts;

iii. Handling his personal business or professional telephone calls or correspondence.

Such uses are declared expressly customarily incidental to the principal residential use and not in violation of said restrictions.

14.02 Miscellaneous Restrictions.

The use of the property of the condominium shall be in accordance with the following provisions:

A. Nuisances. No nuisances shall be allowed upon the condominium property nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents. All parts of the property shall be kept in a clean and sanitary condition and no rubbish, refuse or garbage allowed to accumulate nor any fire hazard allowed to exist.

B. Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the condominium property nor any part thereof; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification or repair of the condominium property shall be the same as the responsibility for the maintenance and repair of the property concerned.

C. Entire Units. Entire Units may be leased by the Unit Owners; provided, however, that such Lease and the rights of any tenant thereunder are hereby made expressly subject to the power of the Association to prescribe reasonable rules and regulations relating to the lease and rental of Units and to enforce the same directly against such tenant or other occupant by the exercise of such remedies as the Board deems appropriate, including eviction. No individual rooms may be rented.

14.03 Employees. No employee, customer or patron of a Unit Owner shall be allowed either to use any of the facilities which are Common Elements of the Condominium Property or to use any of the Property owned or operated by the Association.

14.04 Use of Common Elements. The Common Elements shall be used in accordance with this Declaration and only by the Unit Owners and their agents, tenants, family members, invitees and licensees for access, ingress to and egress from the respective Units and for such other purposes incidental to the use of the Units. However, other areas designated for a specific use shall be used for the purposes approved by the Board. The use, maintenance and operation of the Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Unit Owner, and shall be subject to any lease, concession or easement, presently in existence or entered into by the Board at some future time, affecting any part or all of said Common Elements.

14.05 Unrestricted Right of Transfer. The right of a Unit Owner to sell, transfer, or otherwise convey his Unit shall not be subject to any right of first refusal or similar restriction.

14.06 Regulations. Reasonable regulations concerning the use of the Condominium Property may be made as well as amended from time to time by the Board of Directors of the Association; provided, however, that all such regulations thereto may be altered, amended or repealed by the affirmative vote or written agreement of Unit Owners to which not less than a majority of the votes of the Association are allocated. Copies of such regulations or amendments thereto shall be furnished by the Association to all Unit Owners and residents of the Condominium upon request.

14.07 No Restrictions on Mortgaging Units. Anything construed in any of the Condominium Documents to the contrary, there shall be no restrictions on the right of a Unit Owner to mortgage his Unit.

ARTICLE XV AMENDMENT

This Declaration of Condominium and the By-Laws of Phoenix VII Association, Inc., may be amended in the following manner:

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

15.02 Resolution. A resolution adopting a proposed amendment may be proposed by either the Board of Directors of the Association or by members having not less than twenty five percent (25%) of the total percentage values of those votes entitled to be cast at a meeting, and after being so proposed and thereafter approved by one (1) of such bodies, it must then be approved by the other to become effective. Directors and members not present at the meeting considering the amendment may express their approval or disapproval in writing provided such approval or disapproval is delivered to the Secretary at or prior to the meeting. Such approvals must not be by less than a majority of the Directors and by the affirmative vote of unit owners of units to which at least two-thirds (2/3) of the votes in the Association have been allocated.

15.03 Prohibited Amendments. No amendment that is in conflict with the Act shall be adopted. No amendment may change, alter or eliminate any private individual unit or effect any change in the percentage of the ownership of the common elements attributable to that unit, unless all of the owners and record mortgage holders of such unit shall agreed, in writing, to such amendment.

15.04 Agreement. In the alternative, an amendment may be made by an agreement, approved by the directors and signed and acknowledged by unit owners of units to which at least two-thirds (2/3) of the votes in the Association have been allocated in the manner required for the execution of a deed, and such amendment shall be effective when recorded in the Office of the Judge of Probate of Baldwin County, Alabama.

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

ARTICLE XVI PURCHASE OF CONDOMINIUM UNIT BY ASSOCIATION

16.01 Decision. The decision of the Association to purchase a Condominium Unit shall be made by the Board of Directors without the approval of the Members except as provided in this Article.

ARTICLE XVII NOTICE OF LIEN

17.01 Notice of Lien. A Unit Owner shall give notice in writing to the Secretary of the Association of every lien on his Condominium Unit, other than liens for first mortgages, taxes, and special Assessments, within five (5) days after he receives notice of the attaching of the lien.

17.02 Notice of Suit. A Unit Owner shall give notice in writing to the Secretary of the Association of every suit or other proceeding that may affect the title to his Condominium Unit, with such notice to be given within five (5) days after the Unit Owner obtains knowledge thereof.

17.03 Failure to Comply. Failure to comply with this Section will not affect the validity of any judicial proceeding.

ARTICLE XVIII RULES AND REGULATIONS

18.01 Compliance. Each Unit Owner and the Association shall be governed by and shall comply with the terms of the Condominium Documents and the rules and regulations applicable to the Condominium Property. Ownership of a Unit

subjects the Unit Owner to compliance with provisions of the Declaration, the Articles, the By-Laws, the Rules and Regulations of the Association, and any contracts to which the Association is a party, as well as to any amendments to any of the foregoing. Failure of the Unit Owner to comply therewith shall entitle the Association or other Unit Owners to an action for damages or injunctive relief, or both, in addition to other remedies provided in the Condominium Documents and the Act.

18.02 Enforcement. The Association, through the Board of Directors, is hereby empowered to enforce the Condominium Documents and all rules and regulations of the Association by such means as are provided by the Act, including the imposition of reasonable fines (after reasonable notice and opportunity to be heard) from time to time as set forth in the By-Laws. In the event a Unit Owner fails to maintain his Unit in the manner required in the Condominium Documents and any rules and regulations of the Association, the Association, through the Board of Directors, shall have the right to assess the Unit Owner and the Unit for the sums necessary to do the work required to effect compliance and to collect, and enforce the collection of, a Special Assessment therefor as provided in this Declaration. In addition, the Association shall have the right, for itself and its employees and agents, to enter such Owner's Unit and perform the necessary work to effect compliance. Unit Owners shall have the right to enforce provisions of the Condominium Documents and decisions of the Association against the Association, and, if aggrieved, against other Unit Owners.

18.03 Negligence. A Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect, or carelessness or by that of any member of his family, his lessees, or his guests, invitees, employees or agents, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire and casualty insurance rates occasioned by the use, misuse, occupancy or abandonment of a Unit, or the Common Elements. The liability for such increases in insurance rates shall equal five (5) times the first resulting increase in the annual premium rate for such insurance.

18.04 No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Act, the Condominium Documents, or any rules and regulations adopted pursuant thereto shall not constitute a waiver of the right to do so.

ARTICLE XIX

GENERAL PROVISIONS PERTAINING TO MORTGAGES

19.01 Lender's Notices. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Unit number or address, any mortgage holder, insurer or guarantor will be entitled to timely written notice of:

A. Any condemnation or casualty loss that affects either a material portion of the project or the Unit securing its mortgage.

B. A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

C. Any proposed action that requires the consent of a specified percentage of mortgage holders.

19.02 Blanket Mortgages. The entire Condominium Property, or some or all of the Units included therein, may be subjected to a single or blanket mortgage constituting a first lien thereon created by a recordable instrument executed by all of the Owners of the Property or Units covered thereby. Any Unit included under the lien of such mortgage may be sold or otherwise conveyed or transferred subject thereto. Any such mortgage shall provide a method whereby any Unit Owner may obtain a release of his Unit from the lien of such mortgage and a satisfaction and discharge in recordable form upon payment to the holder of the mortgage of a sum equal to the reasonable proportionate share attributable to his Unit of the then outstanding balance of unpaid principal and accrued interest, and any other charges then due and unpaid. The proportionate share of the mortgage required to be paid for release shall be determined by provisions

pertaining thereto stated in the mortgage, or, if the mortgage contains no such provisions, then according to the proportionate share of the common elements of the Condominium attributable to such Unit or Units.

ARTICLE XX TERMINATION

The termination of the Condominium may be effected in accordance with the provisions of the Act and by agreement of Unit Owners of Units to which at least eighty percent (80%) of the votes in the Association are allocated. The agreement shall be evidenced by a written instrument executed in the manner required for a deed and recorded in the public records of Baldwin County, Alabama. After termination of the Condominium the Unit Owners shall own the Condominium Property and all assets of the Association as tenants in common in undivided shares.

ARTICLE XXI COVENANT AGAINST PARTITION

There shall be no judicial or other partition of the Condominium Property, or any part thereof, nor shall Developer or any Person acquiring any interest in the Property or any part thereof seek any such partition unless the Property has been removed from the provisions of the Act.

ARTICLE XXII MISCELLANEOUS

22.01 *Intent*. It is the intent of the Declarant to reaffirm a Condominium pursuant to the Act. In the event that the Condominium created by this Declaration shall fail in any respect to comply with the Act, then the common law as the same exists on the filing date of this Declaration shall control, and the Condominium hereby created shall be governed in accordance with the laws of the State of Alabama, the By-Laws, the Articles, and all other instruments and exhibits attached to or made a part of this Declaration.

22.02 Covenants, Conditions and Restrictions. All provisions of the Condominium Documents shall to the extent applicable, and unless otherwise expressly therein provided to the contrary, be perpetual and be construed to be covenants running with the land and with every part thereof and interest therein; and all of the provisions of the Condominium Documents shall be binding on and inure to the benefit of any Owner of all or any part thereof, or interest therein, and his heirs, executors, administrators, legal representatives, successors and assigns, but said provisions are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All Unit Owners and Occupants shall be subject to and shall comply with the provisions of the Condominium Documents and any rules and regulations promulgated thereunder.

22.03 Severability. The invalidity in whole or in part of any covenant or restriction or any paragraph, subparagraph, sentence, clause, phrase, word or other provision of this Declaration, the Articles, the By-Laws, any rules and regulations of the Association promulgated pursuant thereto, and any exhibits attached hereto, as the same may be amended from time to time, or the Act, or the invalidity in whole or in part of the application of any such covenant, restriction, paragraph, subparagraph, sentence, clause, phrase, word or other provision shall not affect the remaining portion thereof.

22.04 Notice. The following provisions shall govern the construction of the Condominium Documents, except as may be specifically provided to the contrary herein: All notices required or desired under the Condominium Documents to be sent to the Association shall be sent certified mail, return receipt requested, to the Secretary of the Association, at such address as the Association may designate from time to time by notice in writing to all Unit Owners. Except as provided specifically to the contrary in the Act, all notices to any Unit Owner shall be delivered in person or sent by first-class mail to the address of such Unit Owner at the Condominium, or to such other address as he may have designated from time to time, in a writing to the Association. Proof of such mailing or personal delivery to a Unit Owner by the Association may be provided by the affidavit of the Person or by a post office certificate of mailing. All notices to the Association of a

Unit Owner shall be deemed to have been given when delivered to the addressee in person or by a post office certificate of mailing.

22.05 Governing Law. Should any dispute or litigation arising between any of the parties whose rights or duties are affected or determined by the Condominium Documents, such dispute or litigation shall be governed by the laws of the State of Alabama.

22.06 Waiver. No provisions contained in the Condominium Documents shall be deemed to have been waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

22.07 Ratification. Each Unit Owner, by reason of having acquired ownership of his Condominium Parcel, whether by purchase, gift, operation of law or otherwise, shall be deemed to have acknowledged and agreed that all the provisions of the Condominium Documents, and any Rules and Regulations promulgated thereunder, are fair and reasonable in all material respects.

22.08 Captions. The captions used in the Condominium Documents are inserted solely as a matter of convenience and reference and shall not be relied on and/or used in construing the effect or meaning of any of the text of the Condominium Documents.

22.09 Costs and Attorney's Fees. In any proceeding arising because of an alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of the proceedings and such reasonable attorney's fees as may be awarded by the Court.

22.10 Applicability. Each Unit Owner shall be subject to all rights and duties assigned to Unit Owners un the terms of the Condominium Documents.

22.11 Repealer. All previous Declarations and Amendments thereto are

repealed except for previously filed Exhibits that are expressly ratified by this Amended Document.

IN WITNESS WHEREOF, the Declarant has caused this Declaration of Condominium to be executed this 20th day of August, 2008.

PHOENIX VII ASSOCIATION, INC.

Billy M. Cline
By: BILLY M. CLINE, Its President

ATTESTED:

Sharon P. McGarry
By: SHARON MCGARRY, Its Secretary

STATE OF Alabama)

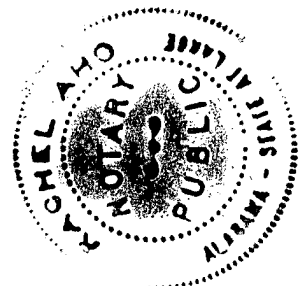
COUNTY OF Baldwin)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certifies that Billy M. Cline, whose name as President of Phoenix VII Association, Inc., an Alabama Nonprofit Corporation, is signed to the foregoing instrument and who are known to me, acknowledged before me on this day, that being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said Corporation on the day the same bears date.

Given under my hand and seal this the 20th day of August, 2008.

Rachel Aho
Notary Public

My Commission Expires: 1-12-10



STATE OF Alabama)

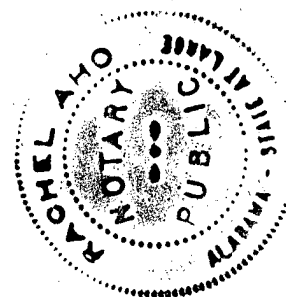
COUNTY OF Baldwin)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certifies that Sharon McGarry, whose name as Secretary of Phoenix VII Association, Inc., an Alabama Nonprofit Corporation, is signed to the foregoing instrument and who are known to me, acknowledged before me on this day, that being informed of the contents of said instrument, she, as such officer and with full authority, executed the same voluntarily for and as the act of said Corporation on the day the same bears date.

Given under my hand and seal this the 20th day of August, 2008.

Rachel Aho
Notary Public

My Commission Expires: 1-12-10



This Instrument Prepared By:
Daniel H. Craven, P.C.
Attorney at Law
Post Office Drawer 4489
Gulf Shores, AL 36547
Voice: 251-968-8170
Fax: 251-968-4837
E-mail: dhclaw@gulftel.com

EXHIBIT "A"

OWNERSHIP OF THE COMMON ELEMENTS

<u>Unit Type</u>	<u>Square Footage</u>	<u>Number of Units</u>	<u>Percentage Ownership</u>
A, D & F	1,394	87	0.42891
B, E & 1G9	1,064	102	0.38352
C & G	801	58	0.16298
01	293	1	0.00103
02	552	1	0.00195
M1	1,003	1	0.00355
M2	557	1	0.00196
		115	<u>0.01610</u>
			1.00000

Note: The figures above represent approximate square footage for a typical type unit.

OWNERSHIP OF THE COMMON ELEMENTS
FOR INDIVIDUAL UNITS

Condo Number/Unit Number/Percentage

BA1	7001	0.4930%	2E10	7210	0.3760%
BC2	7002	0.2810%	2C11	7211	0.2810%
BD3	7003	0.4930%	2D12	7212	0.4930%
BE4	7004	0.3760%	2E13	7213	0.3760%
BC11	7011	0.2810%	2C14	7214	0.2810%
BD12	7012	0.4930%	2B15	7215	0.3760%
BE13	7013	0.3760%	2E16	7216	0.3760%
BC14	7014	0.2810%	2A17	7217	0.4930%
BB15	7015	0.3760%			
BE16	7016	0.3760%	3A1	7301	0.4930%
BA17	7017	0.4930%	3C2	7302	0.2810%
			3D3	7303	0.4930%
1A1	7101	0.4930%	3E4	7304	0.3760%
1C2	7102	0.2810%	3F5	7305	0.4930%
1D3	7103	0.4930%	3E6	7306	0.3760%
1E4	7104	0.3760%	3C7	7307	0.2810%
1F5	7105	0.4930%	3D8	7308	0.4930%
1E6	7106	0.3760%	3E9	7309	0.3760%
1E10	7110	0.3760%	3E10	7310	0.3760%
1G9	7109	0.3760%	3C11	7311	0.2810%
1C11	7111	0.2810%	3D12	7312	0.4930%
1D12	7112	0.4930%	3E13	7313	0.3760%
1E13	7113	0.3760%	3C14	7314	0.2810%
1C14	7114	0.2810%	3B15	7315	0.3760%
1B15	7115	0.3760%	3E16	7316	0.3760%
1E16	7116	0.3760%	3A17	7317	0.4930%
1A17	7117	0.4930%			
			4A1	7401	0.4930%
2A1	7201	0.4930%	4C2	7402	0.2810%
2C2	7202	0.2810%	4D3	7403	0.4930%
2D3	7203	0.4930%	4E4	7404	0.3760%
2E4	7204	0.3760%	4F5	7405	0.4930%
2F5	7205	0.4930%	4E6	7406	0.3760%
2E6	7206	0.3760%	4C7	7407	0.2810%
2C7	7207	0.2810%	4D8	7408	0.4930%
2D8	7208	0.4930%	4E9	7409	0.3760%
2E9	7209	0.3760%	4E10	7410	0.3760%

4C11	7411	0.2810%	6A17	7617	0.4930%
4D12	7412	0.4930%			
4E13	7413	0.3760%	7A1	7701	0.4930%
4C14	7414	0.2810%	7C2	7702	0.2810%
4B15	7415	0.3760%	7D3	7703	0.4930%
4E16	7416	0.3760%	7E4	7704	0.3760%
4A17	7417	0.4930%	7F5	7705	0.4930%
			7E6	7706	0.3760%
5A1	7501	0.4930%	7C7	7707	0.2810%
5C2	7502	0.2810%	7D8	7708	0.4930%
5D3	7503	0.4930%	7E9	7709	0.3760%
5E4	7504	0.3760%	7E10	7710	0.3760%
5F5	7505	0.4930%	7C11	7711	0.2810%
5E6	7506	0.3760%	7D12	7712	0.4930%
5C7	7507	0.2810%	7E13	7713	0.3760%
5D8	7508	0.4930%	7C14	7714	0.2810%
5E9	7509	0.3760%	7B15	7715	0.3760%
5E10	7510	0.3760%	7E16	7716	0.3760%
5C11	7511	0.2810%	7A17	7717	0.4930%
5D12	7512	0.4930%			
5E13	7513	0.3760%	8A1	7801	0.4930%
5C14	7514	0.2810%	8C2	7802	0.2810%
5B15	7515	0.3760%	8D3	7803	0.4930%
5E16	7516	0.3760%	8E4	7804	0.3760%
5A17	7517	0.4930%	8F5	7805	0.4930%
			8E6	7806	0.3760%
6A1	7601	0.4930%	8C7	7807	0.2810%
6C2	7602	0.2810%	8D8	7808	0.4930%
6D3	7603	0.4930%	8E9	7809	0.3760%
6E4	7604	0.3760%	8E10	7810	0.3760%
6F5	7605	0.4930%	8C11	7811	0.2810%
6E6	7606	0.3760%	8D12	7812	0.4930%
6C7	7607	0.2810%	8E13	7813	0.3760%
6D8	7608	0.4930%	8C14	7814	0.2810%
6E9	7609	0.3760%	8B15	7815	0.3760%
6E10	7610	0.3760%	8E16	7816	0.3760%
6C11	7611	0.2810%	8A18	7817	0.4930%
6D16	7616	0.4930%			
6E16	7616	0.3760%	9A1	7901	0.4930%
6C16	7616	0.2810%	9C2	7902	0.2810%
6B16	7616	0.3760%	9D3	7903	0.4930%
6E16	7616	0.3760%	9E4	7904	0.3760%

9F5	7905	0.4930%	11C11	71111	0.2810%
9E6	7906	0.3760%	11D12	71112	0.4930%
9C7	7907	0.2810%	11E13	71113	0.3760%
9D8	7908	0.4930%	11C14	71114	0.2810%
9E9	7909	0.3760%	11B15	71115	0.3760%
9E10	7910	0.3760%	11E16	71116	0.3760%
9C11	7911	0.2810%	11A17	71117	0.4930%
9D12	7912	0.4930%			
9E13	7913	0.3760%	12A1	71201	0.4930%
9C14	7914	0.2810%	12C2	71202	0.2810%
9B15	7915	0.3760%	12D3	71203	0.4930%
9E16	7916	0.3760%	12E4	71204	0.3760%
9A19	7917	0.4930%	12F5	71205	0.4930%
			12E6	71206	0.3760%
10A1	71001	0.4930%	12C7	71207	0.2810%
10C2	71002	0.2810%	12D8	71208	0.4930%
10D3	71003	0.4930%	12E9	71209	0.3760%
10E4	71004	0.3760%	12E10	71210	0.3760%
10F5	71005	0.4930%	12C11	71211	0.2810%
10E6	71006	0.3760%	12D12	71212	0.4930%
10C7	71007	0.2810%	12E13	71213	0.3760%
10D8	71008	0.4930%	12C14	71214	0.2810%
10E9	71009	0.3760%	12B15	71215	0.3760%
10E10	71010	0.3760%	12E16	71216	0.3760%
10C11	71011	0.2810%	12A17	71217	0.4930%
10D12	71012	0.4930%			
10E13	71013	0.3760%	14A1	71401	0.4930%
10C14	71014	0.2810%	14C4	71202	0.2810%
10B15	71015	0.3760%	14D3	71403	0.4930%
10E16	71016	0.3760%	14E4	71404	0.3760%
10A110	71017	0.4930%	14F5	71405	0.4930%
			14E6	71406	0.3760%
11A1	71111	0.4930%	14C7	71407	0.2810%
11C2	71112	0.2810%	14D8	71408	0.4930%
11D3	71113	0.4930%	14E9	71409	0.3760%
11E4	71114	0.3760%	14E10	71410	0.3760%
11F5	71115	0.4930%	14C11	71411	0.2810%
11E6	71116	0.3760%	14D12	71412	0.4930%
11C7	71117	0.2810%	14E13	71413	0.3760%
11D8	71118	0.4930%	14C14	71414	0.2810%
11E9	71119	0.3760%	14B15	71415	0.3760%
11E10	71110	0.3760%	14E16	71416	0.3760%

14A17	71417	0.4930%	P20	7G20	0.0140%
			P21	7G21	0.0140%
15A1	71501	0.4930%	P22	7G22	0.0140%
15C5	71202	0.2810%	P23	7G23	0.0140%
15D3	71503	0.4930%	P24	7G24	0.0140%
15E4	71504	0.3760%	P25	7G25	0.0140%
15F5	71505	0.4930%	P26	7G26	0.0140%
15E6	71506	0.3760%	P27	7G27	0.0140%
15C7	71507	0.2810%	P28	7G28	0.0140%
15D8	71508	0.4930%	P29	7G29	0.0140%
15E9	71509	0.3760%	P30	7G30	0.0140%
15E10	71510	0.3760%	P31	7G31	0.0140%
15C11	71511	0.2810%	P32	7G32	0.0140%
15D12	71512	0.4930%	P33	7G33	0.0140%
15E13	71513	0.3760%	P34	7G34	0.0140%
15C14	71514	0.2810%	P35	7G35	0.0140%
15B15	71515	0.3760%	P36	7G36	0.0140%
15E16	71516	0.3760%	P37	7G37	0.0140%
15A17	71517	0.4930%	P38	7G38	0.0140%
Sub Total		97.5410%	P39	7G39	0.0140%
			P40	7G40	0.0140%
Parking Spaces			P41	7G41	0.0140%
P1	7G1	0.0140%	P42	7G42	0.0140%
P2	7G2	0.0140%	P43	7G43	0.0140%
P3	7G3	0.0140%	P44	7G44	0.0140%
P4	7G4	0.0140%	P45	7G45	0.0140%
P5	7G5	0.0140%	P46	7G46	0.0140%
P6	7G6	0.0140%	P47	7G47	0.0140%
P7	7G7	0.0140%	P48	7G48	0.0140%
P8	7G8	0.0140%	P49	7G49	0.0140%
P9	7G9	0.0140%	P50	7G50	0.0140%
P10	7G10	0.0140%	P51	7G51	0.0140%
P11	7G11	0.0140%	P52	7G52	0.0140%
P12	7G12	0.0140%	P53	7G53	0.0140%
P13	7G13	0.0140%	P54	7G54	0.0140%
P14	7G14	0.0140%	P55	7G55	0.0140%
P15	7G15	0.0140%	P56	7G56	0.0140%
P16	7G16	0.0140%	P57	7G57	0.0140%
P17	7G17	0.0140%	P58	7G58	0.0140%
P18	7G18	0.0140%	P59	7G59	0.0140%
P19	7G19	0.0140%	P60	7G60	0.0140%
			P61	7G61	0.0140%

P62	7G62	0.0140%	P104	7G104	0.0140%
P63	7G63	0.0140%	P105	7G105	0.0140%
P64	7G64	0.0140%	P106	7G106	0.0140%
P65	7G65	0.0140%	P107	7G107	0.0140%
P66	7G66	0.0140%	P108	7G108	0.0140%
P67	7G67	0.0140%	P109	7G109	0.0140%
P68	7G68	0.0140%	P110	7G110	0.0140%
P69	7G69	0.0140%	P111	7G111	0.0140%
P70	7G70	0.0140%	P112	7G112	0.0140%
P71	7G71	0.0140%	P113	7G113	0.0140%
P72	7G72	0.0140%	P114	7G114	0.0140%
P73	7G73	0.0140%	P115	7G115	0.0140%
P74	7G74	0.0140%	Sub Total		1.6100%
P75	7G75	0.0140%			
P76	7G76	0.0140%	Office Spaces		
P77	7G77	0.0140%	01		0.1030%
P78	7G78	0.0140%	02		0.1950%
P79	7G79	0.0140%	M1		0.3550%
P80	7G80	0.0140%	M2		0.1960%
P81	7G81	0.0140%	Sub Total		0.8490%
P82	7G82	0.0140%			
P83	7G83	0.0140%	Total		100.0000%
P84	7G84	0.0140%			
P85	7G85	0.0140%			
P86	7G86	0.0140%			
P87	7G87	0.0140%			
P88	7G88	0.0140%			
P89	7G89	0.0140%			
P90	7G90	0.0140%			
P91	7G91	0.0140%			
P92	7G92	0.0140%			
P93	7G93	0.0140%			
P94	7G94	0.0140%			
P95	7G95	0.0140%			
P96	7G96	0.0140%			
P97	7G97	0.0140%			
P98	7G98	0.0140%			
P99	7G99	0.0140%			
P100	7G100	0.0140%			
P101	7G101	0.0140%			
P102	7G102	0.0140%			
P103	7G103	0.0140%			

EXHIBIT "B"

PLATS AND PLANS

To the extent that this Exhibit B does not conflict with the Amended Declaration of Condominium of PHOENIX VII, a Condominium, this Exhibit "B" adopts all previously recorded filings, exhibits and amendments, including, but not limited to, all drawings, plats and plans of the condominium development as recorded in the records of the Office of the Judge of Probate, Baldwin County, Alabama.