State of Alabama, Baldwin County
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OF
CARIBE RESORT, A CONDOMINIUM

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of such defaulting Owner, upon all of such defaulting Owner's additions and improvements thereto and a security interest under the Alabama Uniform Commercial Code upon all of such defaulting Owner's personal property in such defaulting Owner's Unit or located elsewhere on the Condominium Property. Nothing herein contained shall prevent an Owner from maintaining such an action or proceeding against the Association and the expense of any action to remedy a default of the Association shall be a Common Expense if a court of competent jurisdiction finds the Association to be in default as alleged in such action or proceeding.

8.06 Failure of the Association to Insist on Strict Performance; No Waiver. Failure of the Association to insist in any one or more instances upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment from the future performance of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Association of any assessment from an Owner with knowledge of the breach of any covenant hereof shall not be deemed to be a waiver of such breach and no waiver by the Association of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board of Directors of the Association.

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ARTICLE IX

RIGHTS OF MORTGAGEES

9.01 Notification of Mortgagees Required. Any Mortgagee shall have the right to be given written notification by the Association of (a) any ninety (90) day default by the Owner of the Unit covered by the Mortgage in the payment of assessments or in any other provision of the Condominium Documents; (b) any loss to or taking of the Common Elements or Limited Common Elements if such loss or taking exceeds Fifty Thousand and No/100 ($50,000.00) Dollars; (c) damage to a Unit covered by the Mortgage if the amount of such damage exceeds Twenty Thousand and No/100 ($20,000.00) Dollars; (d) any condemnation of all or a portion of the Condominium Property; (e) a lapse or cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and (f) any proposed action that requires the consent of a specified percentage of Mortgagees.

9.02 Right of Inspection. Mortgagees shall have the right to examine the books and records of the Association or the Condominium Property and to receive annual reports, other financial data, and, upon request, an annual audited statement, within ninety (90) days following the end of any fiscal year of the Association.

9.03 Required Reserve Funds and Working Capital Fund. Assessments levied by the Board of Directors shall include an adequate reserve fund for maintenance, repair and replacement of those Common Elements and Limited Common Elements that must be replaced or repaired on a periodic basis, and may be payable in regular installments rather than by special assessments. A working capital fund shall be established for each unit Owner purchasing a Unit from the Developer.

9.04 Priority of Mortgagees.

(A) Any lien which is or may be created hereunder upon any Unit, including but not limited to, the lien created for assessments herein and the right to foreclose the same is and shall be subject and subordinate to and shall not affect the rights of the holder of the indebtedness secured by any Mortgage upon such interest made in good faith and for value and recorded prior to the creation of the lien hereunder, provided that after the foreclosure of any such mortgage there may be a lien created pursuant to this Declaration on the interest of the purchaser as an Owner after the date of such foreclosure sale to secure all assessments hereunder. After the date of such foreclosure sale, said lien, if any, shall be claimed and shall have the same effect and be enforced in the same manner provided herein. Notwithstanding the above, the lien created pursuant to this Declaration is prior to any Mortgage to the extent of the Common Expense assessments based on the annual budget which would have become due in absence of acceleration during the six (6) months immediately preceding institution of an action to enforce the lien.

(B) No provision of this Declaration, the Articles, the By-Laws or the Rules and Regulations shall be construed to grant to any Unit Owner, or to any other party any priority over any rights of the Mortgagees of the Units pursuant to their Mortgages in the case of distribution to Unit Owners of the insurance proceeds or condemnation awards for losses or a taking of Units or the Common or Limited Common Elements or any portion thereof.

(C) As provided in the Act, all assessments, property taxes and other charges imposed by any taxing authority which may become liens prior to a Mortgage, shall be separately assessed against and collected on each Unit as a single parcel, and not on the Condominium as a whole.

(D) No breach of the covenants, conditions or restrictions herein contained shall defeat or render invalid the lien of any Mortgage made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or otherwise.

9.05 Request for Protection by Mortgagees. Whenever any Mortgagee desires the benefit of the provisions of this Article to be applicable to such Mortgagee, the Mortgagee shall serve written notice of such fact upon the Association, by registered or certified mail, addressed to the Association, and actually mailed to the Association's address, identifying the Unit upon which it holds a Mortgage or identifying any Units owned by it, together with sufficient pertinent facts to identify any Mortgage which may be held by the Mortgagee. Said notice shall designate the place to which the notices are to be given by the Association to such Mortgagee.

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ARTICLE X

CASUALTY LOSS AND INSURANCE

10.01 Responsibility of Owners; Separate Insurance Coverage.

(A) The Owner of each Unit may, at the Unit Owner's expense, obtain insurance coverage for loss of or damage to the Private Elements, any furniture, furnishings, personal effects, and other property belonging to such Owner, and may, at the Unit Owner's expense, obtain insurance coverage against personal liability for injury to the person or property of another while within such Owner's Unit or upon the Common Elements or Limited Common Elements. Risk of loss of or damage to any furniture, furnishings and personal property belonging to or carried on the person of the Owner, or which may be stored in any Unit, or in or upon Common Elements or Limited Common Elements, shall be borne by the owner of each Unit. All furniture, furnishings and personal property constituting a portion of the Common Elements and held for the joint use and benefit of all Owners of Units shall be covered by such insurance as the same shall be maintained in force and effect by the Association as hereinafter provided. All insurance obtained by the Owner of each Unit shall, whenever such provisions shall be available, provide that the insurer waives its right of subrogation as to any claims against other Owners, the Association or the Developer, and their respective servants, agents, employees and guests. The Association shall not be responsible for providing insurance coverage on any Private Elements.

(B) Any Owner who obtains an individual insurance policy covering any portion of the Condominium Property other than property belonging to such Owner shall be required to file a copy of such individual policy or policies with the Association within thirty (30) days after the purchase of such insurance. In the event casualty insurance maintained by an Owner causes a decrease in the amount of the insurance coverage maintained by the Association for the benefit of all Owners on a casualty loss to the Condominium Property by reason of proration or otherwise, the Owner so maintaining such insurance shall be deemed to have assigned to the Association the proceeds collected on such policy for loss or damage to the Condominium Property and such proceeds shall be paid irectly to the Association by the insurer. Any such insurance proceeds shall be applied and distributed by the Association in accordance with this article.

10.02 Insurance to be Maintained by the Association.

(A) Hazard Insurance. The Association shall obtain and maintain at all times a policy or policies of multi-peril type hazard insurance, including insurance for such other risks of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other condominium projects similar in construction, design, location and use, insuring the Condominium Property against loss or damage by the perils of fire, lightning and those perils contained in extended coverage, vandalism and malicious mischief endorsements. If the

Condominium Property is located in an area identified by the Secretary of Housing and Urban Development as having special flood hazards, the Board shall, to the extent obtainable, insure the insurable property included in the Condominium Property against the perils of flood under the National Flood Insurance Act of 1968 and acts amputator thereto. The amount of insurance coverage shall be determined on a replacement cost basis in an amount not less than one hundred percent (100%) of the then current replacement cost of the improvements, including fixtures, equipment and other personal property inside the Units in the Condominium Property (but excluding land, foundations, excavations and other items usually excluded from such insurance coverage). Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Association or the Insurance Trustee (hereinafter defined), as trustee for the use and benefit of the individual Owners (without naming them) in the proportionate shares equal to their respective percentage ownership of the Common Elements and their Limited Common Elements. Periodically, but not less than once every three years, the Association shall obtain an opinion or an appraisal from a qualified appraiser for the purpose of determining the full replacement cost of the Common Elements, the Limited Common Elements and the Units for the amount of insurance to be obtained pursuant thereto. The cost of any such opinion or appraisal shall be a Common Expense. All such policies of insurance shall comply with the provisions of this Article and shall (i) contain standard mortgagee loss payable clause endorsement in favor of the Mortgagee or Mortgagees of each Unit, if any, as their respective interests may appear; and (ii) provide that the insurance shall not be invalidated by any act or neglect of any Owner.

(B) Public Liability and Property Damage Insurance. The Association shall obtain and maintain at all times a comprehensive policy or policies of public liability and property damage insurance in such amount, but not less than Two Million ($2,000,000.00) Dollars, and in such form as shall be required by the Association to protect said Association and the Owners of all Units, which provide coverage for bodily injury and property damage resulting from the operation, maintenance or use of the Common Elements and Limited Common Elements and for legal liability resulting from employment contracts to which the Association is a party, and for claims against the officers and members of the Board of Directors for claims arising out of the negligent performance of their duties.

(C) Worker's Compensation Insurance. The Association shall obtain and maintain at all times a policy or policies of worker's compensation insurance to meet the requirements of the laws of the State of Alabama.

(D) Fidelity Bonds. The Association shall obtain and maintain, if available, fidelity bonds for any person who either handles or is responsible for funds held or administered by the Association naming the Association as the obligee. The amount of the fidelity bond should cover the maximum funds that will be in the custody of the Association, but not less than the sum of three (3) months' assessments on all Units plus the reserve funds of the Association, if any.

(E) Other Insurance. The Association shall obtain and maintain such other insurance coverage as the Board of Directors of the Association, in its sold discretion, may determine from time to time to be in the best interest of the Association and the Owners of all Units.

10.03 Governing Provisions. All insurance obtained and maintained by the Association as provided above shall, if feasible, be governed by the following provisions:

(A) All policies shall be written with a company licensed to do business in the State of Alabama and holding a financial rating of "A" or better by Best's Insurance Reports or other then comparable rating.

(B) Exclusive authority to adjust all claims under the policies hereafter in force on the Condominium Property shall be vested in the Association or its authorized representatives.

(C) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with the insurance purchased by the individual Owners or their Mortgagees.

(D) The Association shall be required to made every effort to secure insurance policies that will provide for the following:

(1) A waiver of subrogation by the insurer as to any claims against the Association, the Board of Directors, the Developer or the Owners;

(2) An agreement by the insurer that the insurance coverage cannot be terminated or materially changed without thirty (30) days prior written notice to the Association and the Mortgagee of each Unit;

(3) The insurance coverage will be primary, even if a Unit Owner has other insurance that covers the same loss;

(4) No act or omission by any Unit Owner, unless acting within the scope of Unit Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and

(5) The insurance coverage will comply with the hazard and casualty insurance requirements of the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association, as they apply to condominiums.

10.04 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense; except that the amount of increase over the usual premium occasioned by the use, misuse, occupancy or abandonment of a Unit or its appurtenances or of the Common Elements by an Owner shall be assessed against that Owner.

10.05 Insurance Trustee. The Association may engage the services of a bank or trust company authorized to do trust business in the State of Alabama to act on its behalf as an insurance trustee ("Insurance Trustee") and to receive and disburse the insurance proceeds in accordance with the provisions of this Declaration. In the event the lowest of two (2) bids from reputable contractors for making all repairs required by any such loss shall exceed One Hundred Thousand and No/100 ($100,000.00) Dollars, the Association upon written demand of the Mortgagee of any Unit shall engage the services of a bank or trust company to act as Insurance Trustee as aforesaid. The Association, as a Common Expense, shall pay a reasonable fee to said Insurance Trustee for its services rendered hereunder, and shall pay such costs and expenses as said Insurance Trustee may incur in the performance of any duties and obligations imposed upon it hereunder. Said Insurance Trustee shall be liable only, for its willful misconduct, bad faith or gross negligence, and then for only such money which comes into the possession of said Insurance Trustee. Whenever the Insurance Trustee may be required to make distribution of insurance proceeds to Owners of Units and their Mortgagees, as their respective interests may appear, or to any other party for repair, replacement or reconstruction of property, the Insurance Trustee may rely upon a certificate of the President and Secretary of the Association, executed under oath, which certificate will be provided to said Insurance Trustee upon request made to the Association. Such certificate is to certify unto said Insurance Trustee the name of the Owner of each Unit, the name of the Mortgagee who may hold a Mortgage encumbering each Unit, and the respective percentages of any distribution which may be required to be made to the Owner of any Unit, and the Unit Owner's respective Mortgagee, as their respective interest may appear, or to certify the name of the party to whom payments are to be made for repair, replacement or reconstruction of all or a portion of the Condominium Property. The rights of the Mortgagee of any Unit shall, notwithstanding anything to the contrary therein or in any Mortgage contained, at all times be subject to the provision hereof with respect to the application of insurance proceeds to reconstruction of the damaged Condominium Property, provided, however, that if the Association or the Insurance Trustee fails to perform all the conditions precedent required by the policy or policies of insurance, and fails to collect the amount of the loss within the time required by law, and the Mortgagee or Mortgagees are required to avail themselves of their rights under the standard mortgagee clause to collect the proceeds of the policy or policies of insurance, any amount so collected through the efforts of said Mortgagee or Mortgagees shall be applied as directed by said Mortgagee or Mortgagees. No provision hereof shall entitle an Owner or any other party to any priority over a Mortgagee with respect to the distribution of any insurance proceeds with respect to such Unit.

10.06 Loss to Common Elements Only or Limited Common Areas. In the event of the loss of or damage to only Common Elements, real or personal, by reason of fire or other casualties, which loss or damage is covered by fire and casualty insurance, the proceeds paid to the Association or the Insurance Trustee, as the case may be, to cover such loss or damage shall be applied to the repair, replacement or reconstruction of such loss or damage. If the insurance proceeds are in excess of the cost of the repair, replacement or reconstruction of such Common Elements, then such excess insurance proceeds shall be paid by the Association or Insurance Trustee, as the case may be, to the Owners of all Units, the distribution to be separately made to the Owner of each Unit and Unit Owner's respective Mortgagee, as their interests may appear, in such proportion that the share of such excess insurance proceeds paid to the Owner of each Unit and Unit Owner's Mortgagee shall bear the same ratio to the total excess insurance proceeds as the undivided interest in the Common Elements appurtenant to each Unit bears to the total undivided interest in the Common Elements appurtenant to all Units. If there is no insurance coverage for such loss or damage, or if it appears that the insurance proceeds covering the fire and casualty loss or damage payable to the Association or the Insurance Trustee are not sufficient to pay for the repair, replacement or reconstruction of the loss or damage, or that the insurance proceeds when collected will not be so sufficient, then the Association shall pay, or shall deposit sufficient funds with the Insurance Trustee to completely pay for the repair, replacement or reconstruction of any loss or damage, as the case may be. The monies to be so paid or deposited by the Association with the Insurance Trustee, may be paid by the Association out of its reserve or replacement fund and if the amount in such reserve or replacement fund is not sufficient, or if the Board of Directors determines not to use such fund for said purpose, then the Association shall levy and collect an assessment against the Owners of all Units in an amount which shall provide the funds required to pay for said repair, replacement or reconstruction.

10.07 Loss to Common Elements, Limited Common Elements and/or Private Elements. In the event of loss of or damage to Common Elements, Limited Common Elements and/or any Private Element of any Unit by reason of fire or other casualty, which loss or damage is covered by fire and casualty insurance, the proceeds paid to the Association or Insurance Trustee, as the case may be, to cover such loss or damage, shall be first applied to the repair, replacement or reconstruction of the Common Elements, then to the repair, replacement or reconstruction of the Private Elements and the Limited Common Elements sustaining any loss or damage, then such excess insurance proceeds shall be paid and distributed by the Association or the Insurance Trustee to the Owners of all Units, and to their Mortgagees, as their respective interests may appear. Such distributions are to be made in the manner and in the proportions as are provided for the distribution of insurance proceeds under this Article. If there is no insurance coverage for such loss or damage, or if it appears that the insurance proceeds covering the fire and casualty loss or damage payable to the Association or the Insurance Trustee, as the case may be, are not sufficient to pay for the repair, replacement or reconstruction of the loss or damage, or that the insurance proceeds when collected will not be sufficient, then the Board of Directors shall, based on reliable and detailed estimates obtained by it from competent and qualified parties, determine and allocate the cost of repair, replacement or reconstruction between the Common Elements, the Limited Common elements and the Private Elements of Units sustaining any loss or damage. If the proceeds of said fire and casualty insurance, if any, are sufficient to pay for the repair, replacement or reconstruction of any loss of or damage to the Common Elements, but are not sufficient to repair, replace or reconstruct any loss of or damage to the Limited Common Elements or the Private Elements of Units sustaining damage, then the Association shall levy and collect an assessment from the respective Owners of the Private Elements and/or the Owners to whom Limited Common Elements have been allocated which sustained any loss or damage, and the assessment so collected from said Owner shall be deposited with the Insurance Trustee, if any, so that the sum shall be on deposit for the repair, replacement or reconstruction of all Common Elements, Limited Common Elements, if any, and Private Elements of Units. In said latter event, the assessment to be levied and collected from the Owner of each Private Element sustaining loss or damage shall be apportioned between such Owners in such manner that the assessment levied against each Owner of a Private Element shall bear the same proportion to the total assessment levied against all of said Owners of Units sustaining loss or damage as the cost of repair, replacement or reconstruction of each Owner's Private Element bears to the cost applicable to all of said Private Elements sustaining loss or damage. If the fire and casualty insurance proceeds, if any, payable to the Association or the Insurance Trustee in the event of the loss of or damage to Common Elements, the Limited Common Elements and the Private Elements of Units are not an amount which will pay for the complete repair, replacement or reconstruction of the Common Elements, it being recognized that such insurance proceeds are to be first applied to the payment for repair, replacement or reconstruction of said Common Elements before being applied to the repair, replacement or reconstruction of any Limited Common Elements or Private Elements of a Unit sustaining loss or damage, then the cost to repair, replace, or reconstruct said Common Elements in excess of available fire and casualty insurance proceeds shall be levied and collected as an assessment from the Owners of all Units in the same manner as would be levied and collected had the loss or damage sustained been solely to the Common Elements and the fire and casualty insurance proceeds been not sufficient to cover the cost of repair, replacement or reconstruction. The cost of repair, replacement or reconstruction of the Limited Common Elements and the Private Elements of each Unit sustaining loss or damage shall then be levied and collected by assessment of the Owners of the Private Elements sustaining the loss or damage in the same manner as is above provided for the apportionment of such assessment between Owners of Limited Common elements and Private Elements sustaining Loss or damage.

<u>10.08 Estimates of Repair; Plans and Specifications; Payment of Assessments.</u> In the event of loss or damage to Condominium Property, the Association shall, within sixty (60) days after any such occurrence , obtain reliable and detailed estimates of the cost of restoring damaged property to a condition as good as that which prevailed before such loss or damage. The estimate of repair shall be based upon the plans and specifications of the original buildings, portions of which are attached as Exhibit "C" to this Declaration as the same may from time to time be amended, or such other plans and specifications as may be approved by the Board of Directors, by all of the Owners of the damaged Units, and by not less than sixty percent (60%) of the Members of the Association including the Owners of damaged Units. The Association shall be appointed as attorney-in-fact for each Unit Owner for the purpose of representing the Unit Owners in any proceeding, negotiation, settlement, or agreement arising form any loss or damage to the Condominium Property. Such estimates are to contain and include the cost of any professional fees and premiums for such bonds as the Board of Directors may deem to be in the best interest of the membership of said Association. Whenever it shall appear that the insurance proceeds payable for such loss or damage will not be sufficient to defray the cost of repair, replacement or reconstruction thereof, the additional

money required to completely pay for such repair, replacement or reconstruction of said loss or damage whether to be paid by all of the Owners of Units or only by the Owners of Units sustaining loss or damage, or both, as herein provided, shall be paid to the Association and deposited with the Insurance Trustee, if any, not later than thirty (30) days from the date on which the Association or the Insurance Trustee, as the case may be, shall receive the monies payable from the policies of fire and casualty insurance.

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ARTICLE XI

CONDEMNATION

<u>11.01 Condemnation Considered a Casualty Loss</u>. The taking of a portion of a Unit or Private Element, the Common Elements or the Limited Common Elements by eminent domain shall be deemed to be a casualty loss, and except as otherwise provided below, the awards for such taking shall be deemed to be proceeds from insurance on account of the casualty and shall be applied and distributed by the Association in accordance with the provisions of Article XII. Even though the awards may be payable to the Owners, the Owners shall deposit the awards with the Association or Insurance Trustee, as the case may be; in the event of failure to do so, at the discretion of the Board of Directors, a special assessment shall be made against a defaulting Owner in the amount of such defaulting Owner's award, or the amount of such award shall be set off against the sums hereinafter made payable to such Owner. If any Unit or portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the Mortgagee of such Unit shall be entitled to timely written notice of any such proceeding or proposed acquisition as provided herein, and no provision hereof shall entitle the Owner of such Unit or other party to priority over such Mortgagee with respect to the distribution of any award or settlement to the Owner of the Unit.

<u>11.02 Partial Condemnation</u>. In the event that the Condominium Property is not to be terminated and one or more Units are taken in part, the taking shall have the following effects:

(A) If the taking reduces the size of a Unit and the remaining portion of that Unit can be made tenantable, the award for the taking for 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 Property:

(1) The Unit shall be made tenantable.

(2) The balance of the award, if any, shall be distributed to the Owner of the Unit and the Mortgagee of the Unit, as their respective interests may appear.

(3) If there is a balance of the award distributed to the Owner and the Mortgagee, the share of the Common Elements or Limited Common Elements, if any, appurtenant to the Unit shall be equitably reduced. This shall be done by reducing such share by the proportion which the balance of the award so distributed bears to the market value of the Unit immediately prior to the taking, and then re-computing the percentage interest of all Owners in the Common Elements and the Limited Common Elements as percentages of the total of their shares as reduced by the taking.

(4) If the taking destroys or so reduces the size of a Unit so that it may not be made tenantable, 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 Property:

(a) The market value of such Unit immediately prior to the taking, shall be paid to the Owner of the Unit and to each Mortgagee of the Unit, as their respective interest may appear.

(b) The remaining portion of such Unit, if any, shall become a part of the Common Elements and shall be place in condition for use by all of the Owners, in the manner approved by the Board of Directors; provided, however, that if the cost of such work shall exceed the balance of the fund from the award for the taking, such work shall be approved in the manner required for further improvement of the Common Elements as provided herein.

(c) The shares in the Common Elements appurtenant to the Units which continue as a part of the Condominium Property shall be equitably adjusted to distribute the ownership to the Common Elements among the reduced number of Owners. This shall be done by re-computing the shares of such continuing Owners in the Common Elements as percentages of the total of the shares of such Owners as they exist prior to the adjustment.

(d) If the amount of the award for taking is not sufficient to pay the market value of the condemned Unit to the Owner and to restore the remaining portion of the Unit in condition for use as a part of the Common Elements, the additional funds required for such purposes shall be raised by assessments against all of the Owners who will continue as Owners of the Units after the changes in the Condominium Property effected by the taking. Such assessment shall be made in proportion to the share of such Owners in the Common Elements after the changes effected by the taking.

(B) If the Market value of a Unit prior to the taking cannot be determined by agreement between the Owner and the Mortgagee and the Association within thirty (30) days after notice by any such party that agreement cannot be reached, such value shall be determined by three (3) independent qualified appraisers with one (1) appraiser to be selected by the Association, one (1) appraiser to be selected by the Owner and Mortgagee, and the third (3rd) appraiser to be selected by the two (2) appraisers so appointed, and the fair market value of the Unit shall be deemed to be the average of the two (2) appraisals of the fair market value of the Unit made by said appraisers having the least difference in amount. The cost of such appraisal shall be assessed against all Owners in the shares of the Owners in the Common Elements as they existed prior to the changes effected by the taking.

(C) Changes in the Units, in the Common Elements and/or Limited Common Elements, in the ownership of the Common Elements and/or Limited Common Elements and in the shares of liability for Common Expenses and/or Limited Common Expenses which are effected by eminent domain, shall be evidenced by an amendment of this Declaration which is approved by the Board of Directors in accordance with this Declaration and the Association's By-Laws.

11.03 Association Appointed as Attorney-In-Fact for Unit Owners. The Association shall be appointed as attorney-in-fact for each Unit Owner for the purpose of representing such Unit Owners in any proceeding, negotiation, settlement or agreement arising from the condemnation or taking by eminent domain of the Condominium Property or any portion thereof.

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ARTICLE XII

TERMINATION

12.01 Destruction of the Condominium Property.

(A) Notwithstanding anything to the contrary contained in this Declaration, if the Board of Directors shall determine that either of the following conditions exist:

(1) two thirds (2/3) or more of the Units in the Condominium Property shall have been destroyed or substantially damaged by fire, wind, water, or other natural causes, or a combination of such, (including condemnation); or

(2) the Condominium Property has been in existence in excess of fifty (50) years and substantially all of the Units in the structure have substantially deteriorated and have been rendered substantially obsolete; then the Board of Directors may call a meeting of the Members of the Association to consider and vote upon whether to restore, repair and/or rebuild the Condominium Property, and if not, whether to terminate the Declaration and remove the Condominium Property from the provisions of the Act if approved by the affirmative vote of at least eighty percent (80%) of the owners of all Units (based upon one vote for each Unit) and by at least eighty percent (80%) of all Mortgagees (based upon one vote for each Mortgage owned) after notice given as provided herein, the Declaration and plan of condominium ownership established herein shall be subject to termination as provided in the Act and the Association shall be authorized to file on behalf of and in the name of the Unit Owners and shall file a petition for such termination and removal with the Circuit Court of Baldwin County, Alabama. If less than eighty percent (80%) of the Owners of all Units and/or less than eighty percent (80%) of the Mortgagees vote in favor of terminating the Condominium Property as herein required, the Condominium Property shall be restored, repaired and/or rebuilt in accordance with these provisions.

(B) In the event that the Circuit Court of Baldwin County, Alabama, shall grant the petition for termination of this Declaration and the plan of condominium ownership as provided in subparagraph (A) above, all of the Owners of Units shall be and become tenants in common as to ownership of the Land and any then remaining improvements thereon. The undivided interest in the Land and remaining improvements held by the Owner of each Unit shall be the same as the undivided interest in the Common Elements which were formerly appurtenant to such Unit, and the lien of any Mortgage or other encumbrance upon each Unit shall attach to the percentage of undivided interest of the Owner of a Unit in the Land and then remaining improvements as above provided. The Owners of Units to which Limited Common Elements have been allocated in this Declaration shall own each such Limited Common Element appurtenant to each Owner's Unit, and the lien of any Mortgage or other encumbrance upon such Units shall attach to the Limited Common Elements of each respective Owner's Unit. Upon termination of this Declaration and the plan of condominium ownership established herein, the Owners of all Units still inhabitable shall within sixty (60) days from the date of grant of the petition, deliver possession of their respective Units to the Association. Upon such delivery of possession, the Owners of inhabitable Units and their respective Mortgagees, as their interest may appear, shall become entitled to participate proportionately together with all Owners of uninhabitable Units in the distribution of proceeds in the possession of the Association or the Insurance Trustee. Upon such termination of this Declaration and the plan of condominium ownership established herein, the Association or the Insurance Trustee, as the case may be, shall distribute any insurance indemnity which may be due under any policy or casualty insurance to the Owners of the Units and their Mortgagees as their respective interest may appear, such distribution to be made to the Owner of each Unit in accordance with such Owner's then undivided interest in the Land and remaining improvements as herein provided. The Land and any remaining improvements thereon shall be subject to all Condominium Documents. The assets of the Association upon termination of the plan of condominium ownership created by this Declaration shall then be distributed to the Owner of each Unit and Unit Owner's Mortgagee, as their respective interests may appear, in the same manner as is above provided for the distribution of any final insurance indemnity.

12.02 Termination by Consent. Except in the event of this Declaration and plan of condominium ownership established herein being terminated as provided above, this Declaration and said plan of condominium ownership may only be otherwise terminated by the consent of eighty percent (80%) of the Owners of all Units and all parties holding Mortgages, liens or other encumbrances, against any of said Units in which event the termination of the Condominium Property shall be by such plans as may be then adopted by said Owners and parties holding any Mortgages, liens or other encumbrances. Such election to terminate this Declaration and the plan of condominium ownership established herein shall be evidenced by a termination agreement executed in writing by all of the aforesaid parties in recordable form in accordance with the Act, and such instrument shall be recorded in the Probate Office of Baldwin County, Alabama.

12.03 The Association Appointed as Attorney-In-Fact for Unit Owners. The Association shall be appointed as attorney-in-fact for each Unit Owner for the purpose of representing such Unit Owners in any proceeding, negotiation, settlement or agreement arising from the termination of this Declaration and plan of condominium ownership established herein.

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ARTICLE XIII

AMENDMENT

13.01 Amendments by Developer. Without limiting the rights of the Developer to alter the plans as described above, or file incremental amendments to bring in any additional Phase or Phases, or file incremental amendments in connection with the exercise of Development Rights and notwithstanding any other provision of the Declaration herein contained, the following provisions shall be deemed to be in full force and effect, none of which shall be construed as to relieve the Developer from any obligations as a Unit Owner to pay assessments as to Units owned by it in accordance with the Condominium Documents.

(A) The Developer reserves the right to amend the Articles of Incorporation and the By-Laws of the Association until such time as Developer relinquishes control of the Association as provided below.

(B) The Developer reserves the right to amend this Declaration and the Condominium Documents so long as there is no Unit Owner other than the Developer.

13.02 Amendments by Unit Owners. At such time as there is a Unit Owner other than the Developer, then, in addition to the amendments permitted above, the Declaration may be amended in the following manner:

(A) A proposal to amend this Declaration may be considered at any meeting of the Members of the Association called for that purpose in accordance with the provisions of the By-Laws. The proposal to amend the Declaration must be approved by the affirmative vote of the members representing not less than sixty-six and two-thirds percent (66 2/3%) of the total allocated votes of the Association; or,

(B) By unanimous consent or agreement of the Unit Owners as evidenced by their signatures to the amendment; or,

(C) In accordance with Section 35-8A-208 of the Act.

Notwithstanding the foregoing, no amendment to the Declaration under this article shall:

(1) change a Unit, including the ownership in Common Elements, responsibility for Common Expenses and voting rights without the prior written approval of the Unit Owner or Unit Owners so affected and prior written approval of the holders of record of any mortgage or other liens on the Unit or Units so affected; or,

(2) change, impair or prejudice the rights of Developer or change the provisions of this Declaration with respect to the Developer's rights hereunder without Developer's prior written approval.

13.03 Effectiveness of Amendments. Each amendment, other than any amendments by the Developer or its successor or assigns, or in accordance with Section 35-8A-208 of the Act, adopted shall be certified by the President or a Vice President and Secretary or Assistant Secretary of the Association as having been fully adopted, and shall be effective when recorded in the Probate Court of Baldwin County, Alabama.

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ARTICLE XIV

CONTROL OF THE ASSOCIATION

<u>14.01 Election of Board of Directors</u>. The Developer, its successors or assigns, may appoint and remove the members of the Board of Directors, and in the event of vacancies, the Developer shall fill the vacancies, until no later than the earlier of either (i) sixty (60) days after seventy-five percent (75%) of the total number of Units which may be created have been conveyed to purchasers of Units, or (ii) two (2) years have elapsed from the date the Developer has ceased to offer Units for sale in the ordinary course of business; provided that the Developer may, at its option, terminate its control of the Association at an earlier date. Notwithstanding the foregoing, within ninety (90) days after conveyance of twenty-five percent (25%) of the Units which may be created, the Unit Owners other than Developer shall be entitled to elect twenty-five percent (25%) of the members of the Board of Directors. Not later than ninety (90) days after conveyance of fifty percent (50%) of the Units which may be created to Unit Owners other than Developer, not less than thirty-three and one-third (33 1/3%) of the members of the Board shall be elected by the Unit Owners. The Developer shall be entitled to appoint at least one (1) member of the Board of Directors as long as the Developer has Development Rights, and such right is not contrary to the other provisions hereof.

<u>14.02 Notice of Meeting.</u> Within sixty (60) days before the date of termination of control of the Association by the Developer, the Association shall call and give not less than ten (10) days nor more than sixty (60) days notice of a meeting of the Unit Owners for the purpose of electing the members of the Board of Directors. Such meeting shall be called and the notice given in accordance with the By-Laws.

<u>14.03 Status of Unsold Units.</u>

(A) The Developer shall be deemed to be the Owner of each Unit which has not been conveyed to a person other than the Developer. Unless otherwise provided in the Condominium Documents, the Developer shall be entitled to all rights and privileges available to, and shall be subject to any and all obligations and duties imposed upon, the Owner of any such Unit under the Condominium Documents.

(B) Any person having a first mortgage lien against any Unit which has not been conveyed to a person other than the Developer, whether under a blanket Mortgage affecting the Condominium Property generally or under a Mortgage on one or more specific Units, shall be deemed to be a Mortgagee with respect to any such Unit, and shall be entitled to all rights and privileges available to a Mortgagee of any such Unit under the Condominium Documents.

(C) Notwithstanding the provision above, no assessments (excluding the working capital, which will be collected from a purchaser of a Unit at the time of closing) shall be imposed by the Association against the Developer or any other Unit owner for so long as the Developer pays all of the Common Expenses. During such period, Developer shall be responsible for the Common Expenses and Limited Common Expenses of the Condominium Property. The date of the first assessment imposed by the Association shall be determined by the Association, and notice of the assessment will be mailed or delivered to all Owners of Units prior to the effective date of the assessment.

14.04 Professional Management and Other Contracts. Any agreement incurred by the Association prior to the passage of control of the Association from the Developer (including contracts for professional management of the Condominium Property, whether it be the Developer, its successors and assigns, or any other person or entity) shall provide the following:

(A) The Association shall have the right of termination which is exercisable without penalty any time upon not more than ninety (90) days' written notice to the other party thereto; and

(B) The Association shall have a right of termination for cause which is exercisable without penalty at any time upon not more than thirty (30) days' written notice to the other party thereto.

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ARTICLE XV

PERDIDO KEY BEACH MOUSE COVENANTS

15.01 GENERAL RECITALS.

(A) The Property is located in close proximity to an area which has been designated critical habitat for the Perdido Key Beach Mouse ("Peromyscus Polinotus Trissyllepsis") a species that has been designated as an endangered species by the United States of America. The designation as an endangered species is set forth in the Title 50 Code of Federal Regulations Section 13 and 17 and the establishment of a critical habitat is set forth in Title 50 Code of Federal Regulations Section 17.95.

(B) In order to engage in construction and development activities on the Property, Declarant applied for and received a permit from the Department of the Interior, U.S. Fish & Wildlife Service, under the authority of Title 16 U.S.C. Section 1539 (a)(1)(b) and the Regulations promulgated thereunder set forth at Title 50 Code of Federal Regulations Section 17.22 (the "Permit"), a copy of which is attached hereto as Exhibit "G" that permits Declarant and its authorized agents, pursuant to the terms and conditions of the Permit, to take the Perdido Key Beach Mouse incidental to construction of the Condominium Project on the Property.

(C) As a condition to the issuance of the Permit, Declarant has agreed and is required to adopt the provisions of the Habitat Conservation Plan (the "Plan") developed by Declarant in its application for the Permit and make them binding upon the Owners.

(D) Declarant, subject to the conditions and limitations described below, does hereby proclaim that all of the Property shall be held, developed, improved, transferred, sold, conveyed, leased, occupied and used subject to these Perdido Key Beach Mouse Covenants which shall be binding upon and inure to the benefit of all parties acquiring or having any right, title, or interest in any Unit or other portion of the Property, and their respective heirs, executor, administrator, personal representatives, successors and assigns.

15.02 Definitions. As used throughout these Perdido Key Beach Mouse Covenants, the following terms shall have the meanings set forth below and terms not defined below will have the meanings set forth in Section 1.02 of this Declaration, which meanings shall be applicable to both the singular and plural forms and tenses of such terms:

(A) Perdido Key Beach Mouse. The term "Perdido Key Beach Mouse" shall mean and refer to the Perdido Key Beach Mouse, Peromyscus Polinotus Trissyllepsis, designated an endangered species in Title 50 Code of Federal Regulations Section 17.

(B) Perdido Key Beach Mouse Assessment. The term "Perdido Key Beach Mouse Assessment" shall mean the assessments assessed against any Unit or Owner by the Association pursuant hereto.

(C) Perdido Key Beach Mouse Fund. The term "Perdido Key Beach Mouse Fund" shall mean and refer to that fund created pursuant to Section 15.10 below.

(D) Covenants. The term "Covenants" shall mean and refer to this Declaration of Condominium of Caribe Resort, as the same maybe amended from time to time.

(E) FWS. The term "FWS" shall mean and refer to the Department of the Interior, U.S. Fish and Wildlife Service, an instrumentality of the government of the United States of America.

(F) Governmental Authority. The term "Governmental Authority" shall mean any and all city, county, state and federal governmental or quasi-governmental agencies, bureaus, departments, divisions or regulatory authorities having jurisdiction over any portion of the Development.

(G) House Cat. The term "House Cat" shall mean and refer to Felis domesticus.

(H) House Mice. The term "House Mice" shall mean and refer to Mus musculus.

(I) Improvement. The term "Improvement" shall mean and refer to any building, structure, planting or devise constructed, erected or placed upon any portion of the Property or Common Area.

(J) Occupant. The term "Occupant" shall mean and include any Owner, the family members, guests, tenants, agents, servants, employees and invitees of any Owner and their respective family members, guests, tenants, agents, servants, employees, invitees and any other person who occupies or uses any Unit located within the Property. All actions or omission of any Occupant is and shall be deemed the action or omission of the Owner of such Dwelling.

(K) Permit. The term "Permit" shall mean and refer to that certain permit defined in Recital 15.01(B) above. A copy of which is attached hereto as Exhibit "G".

(L) Plan. The term "Plan" shall mean and refer to that Habitat Conservation Plan developed by Declarant and submitted to FWS in connection with its application for the Permit, as approved in said Permit.

<u>15.03 Property Subject to This Article</u>. Declarant hereby proclaims the Property is and shall be subject to the easements covenants, conditions, restrictions, charges, liens and regulations of these Perdido Key Beach Mouse Covenants and the Property, any part thereof

and each Unit and the Common Area thereto shall be held, owned, sold, transferred, conveyed, hypothecated, encumbered, leased, occupied, built upon and otherwise used, improved and maintained subject to the terms of these Perdido Key Beach Mouse Covenants, which easements, covenants, conditions, restrictions, charges, liens, and regulations shall run with the title to the Property and shall be binding upon and inure to the benefit of the Declarant and upon all Owners of a Unit and Occupants of the Property and Common Area thereof.

15.04 Withdrawal of Property is Prohibited. No portion of the Property that is subject to these Perdido Key Beach Mouse Covenants may be withdrawn from these Perdido Key Beach Mouse Covenants without the prior written consent of FWS, if the Permit is still in effect and prohibits such removal.

15.05 Grant of Access Easements for Monitoring Compliance with Covenants. Declarant does hereby establish and reserve for itself and the Association, their respective agents, employees, representatives, invitees, successors and assigns, a permanent and perpetual nonexclusive easement appurtenant over, across, through and upon the Common Area for the purpose of providing ingress to and egress from the Common Area to (a) conduct the trapping requirements set forth in Section 15.06 below, (b) monitor compliance with this Covenants, and (c) perform the respective duties of Declarant and the Association hereunder, including, without limitation, taking any action required or permitted to be taken by Declarant and/or the Association pursuant to any of the terms or provisions of these Perdido Key Beach Mouse Covenants, the Plan, the Rules and Regulations or the Association Bylaws.

15.06 Easement to Governmental Authorities for Monitoring of Permit Requirements. Declarant does hereby grant to each branch, bureau, department and agency of any Governmental Authority and its respective agents, employees and representatives, a permanent, perpetual and nonexclusive easement over, across, through and upon the Common Areas for the purposes of performing such duties and activities related to monitoring compliance with the Permit, including, but not limited to trapping of the Perdido Key Beach Mouse; provided, however, such access shall only be allowed during reasonable hours and at reasonable intervals, unless an emergency exists. In addition, FWS is hereby granted a license during the term of the Permit to enter the Property at reasonable times and at reasonable hours for the general purposes specified in Part 50 Code of Federal Regulations Section 13 and to trap and monitor the Perdido Key Beach Mouse; provided, however, FWS, its agents or assigns shall not enter a Unit without obtaining the Owner's Prior consent which consent shall not be unreasonably withheld and provided that FWS, its agents and assigns shall enter the Property at their own risk and by acceptance of this license do hereby waive any and all claims for any injury, loss or damage suffered by said FWS, their agents and assigns while on the Property on in a Unit.

15.07 Covenants to Protect and Conserve the Habitat of the Perdido Key Beach Mouse and to Implement the Plan.

(A) Copy of Permit to be Placed in Each Unit. Each Owner, by acceptance of a deed to a Unit shall be a permittee under the express terms of the Permit. As a permittee, each Owner shall be bound by the terms and conditions of the Permit and this Declaration, and the Rules and Regulations promulgated by the Association hereunder. Each Owner shall receive a copy of the Permit and the Rules and Regulations at the closing of the purchase of a Unit. Each Owner must maintain a copy of the Permit in their Unit and shall inform all Occupants of the Unit of the Permit and shall require such persons to read and abide by the Permit.

(B) No Cats. No Owner or Occupant shall maintain any cat as a pet on the Property or in a Unit. Owners are prohibited from supporting the presence of free-roaming stray cats by providing food, shelter or any other life support elements. Any free roaming cats observed by an Owner shall be reported immediately to the Association.

(C) Trash Containers. In addition to the requirements herein concerning trash containers, all trash containers used by an Owner or Occupant of a Unit that is located outside, must be a type that is rodent-proof, meaning that such container must be designed to prevent access to the interior of such container by any rodent.

(D) Flood Lighting. Any illumination device installed on the South side of the condominium building shall be shielded in such a manner as to prevent, to the extent possible, the illumination of the area lying south of the condominium building. Any flood lights o other outdoor lighting located on the South side of the condominium building or South of said building shall be configured such that the light produced by such lights shall be projected northwardly and the southern side of such lights shall be shielded or otherwise configured to prevent the illumination of the Beach area located south of the lighting apparatus.

(E) Signs. The Association shall install and maintain a sign in a frequently used area of the Common Area describing the Perdido Key Beach Mouse, its habitat and the need for its conservation. Funds from the Perdido Key Beach Mouse Fund shall be used for purposes of preparing such brochures and updating such signs.

(F) Informational Brochures. The Association shall prepare and publish a brochure giving information about the protection and conservation of the Perdido Key Beach Mouse. The Brochure will be distributed to each Owner. The Association shall update the information contained in the brochures every five years. Funds from the Perdido Key Beach Mouse Fund shall be used for purposes of preparing such brochures and updating such brochures.

(G) Notification of FWS of Location of Perdido Key Beach Mouse. Any Owner or Occupant who locates a dead, injured or sick Perdido Key Beach Mouse shall immediately notify the FWS. The name and address of the contact person to notify shall be listed and updated in the Rules and Regulations. If a Perdido Key Beach Mouse is killed during construction activity on the Property, the Declarant or the Association, or said party's contractor shall immediately place the specimen in a secure refrigerated storage and shall contact the FWS for instructions on disposition thereof. If an Perdido Key Beach Mouse is injured during construction activity on the Property and may be safely captured without additional injury or trauma, the Declarant or the Association, or said party's contractor shall immediately place the specimen in a secure indoor area and shall contact the FWS for instruction on the care of the injured Perdido Key Beach Mouse.

<u>15.08 Monitoring of These Perdido Key Beach Mouse Covenants and the Plan.</u>

(A) Monitoring of House Mice Competition. During the fall, spring and summer quarters of each calendar year, the Association shall perform a survey documenting the presence or absence of House Mice. The survey shall be conducted in manner and by persons approved by the FWS. All House Mice that are captured during such survey are to be destroyed, unless prohibited by applicable law. A report shall be provided to the FWS within 20 days of completion of the survey. If the monitoring activities indicate that remediation of the House Mice population is required pursuant to the terms of the Permit, then the Association shall undertake to remediate such populations in order to comply with the Permit. The cost of such remediation efforts shall be paid from the Perdido Key Beach Mouse Fund.

(B) Monitoring of House Cats. During the fall, spring and summer quarters of each calendar year, the Association shall perform a survey documenting the presence or absence of House Cats. The survey shall be conducted in a manner and by persons approved by the FWS. If House Cats are present on the Property, the Association shall implement a program to trap such animals and shall transport all captured House Cats to the nearest animal shelter or adoption facility. The trapping program shall continue until monthly surveys no longer indicate the presence of House Cats on the Property. A report shall be provided to the FWS within 20 days of the completion of the survey. The cost of such remediation efforts shall be paid from the Perdido Key Beach Mouse Fund.

(C) Annual Report to FWS. Annually from the date of the Permit, the Association shall prepare and submit a report to the FWS outlining and describing the implementation of the Plan and shall note any non-compliance with the Permit or these Perdido Beach Mouse Covenants and shall describe measures undertaken to remediate any such non-compliance. The report shall address the following items in particular: (a) the control of House Mice; (b) the control of House Cats; (c) garbage and refuse containment; (d) educational and informational programs; (e) landscaping controls; (f) lighting regulations and controls; (g) status of and any changes or amendments to this Declaration or the Rules and Regulations Governing the Property or any part thereof; (h) financial report and accounting of Perdido Key

Beach Mouse Fund; (i) status of any employee or contractor training that took place during the report period; (j) suggestions for corrective measures or other changes that would improve the efficacy of the Plan.

15.09 Assessments and Creation of Lien. In addition to any other assessments required under this Declaration or any other agreements, each Owner of a Unit, by acceptance of a deed or other instruments conveying any interest therein, regardless of whether such deed or instrument contains a reference to these Perdido Key Beach Mouse Covenants, is hereby deemed to covenant and agree to pay to the Association a Perdido Key Beach Mouse Assessment, as established and to be collected as provided in this Article. The Perdido Key Beach Mouse Assessment, together with late charges and interest as provided in 15.11 below, and all court costs and attorneys' fees incurred by the Association to enforce or collect such Perdido Key Beach Mouse Assessment, shall be an equitable charge and a continuing lien upon each Unit of which the Owner thereof is responsible for the payment of the same, which lien may be enforced in the manner provided in 15.12 below. Each Owner shall be personally liable for the payment of all Perdido Key Beach Mouse Assessments coming due while he, she or it is the Owner of any Unit and such Owner's grantee shall take title to such Unit subject to the equitable charge and continuing lien therefor, but without prejudice to the rights of such grantee to the Association that were the legal obligations of such grantor. All Perdido Key Beach Mouse Assessments, together with late charges and interest at the Applicable Rate, as specified in 15.12(A) below, court costs and attorney's fees incurred with respect thereto by the Association, shall also be a personal obligation of the person who was the Owner of the Unit at the time such Perdido Key Beach Mouse Assessments and other costs and charges were assessed or incurred. If there is co-Ownership of any Unit, all of the co-Owners shall be jointly and severally liable for the entire amount of such Perdido Key Beach Mouse Assessment. The Perdido Key Beach Mouse Assessment shall be paid in such manner and on such dates as may be fixed by the Association. All Perdido Key Beach Mouse Assessments shall be payable in all events without offset, diminution or abatement by reason of fire or other casualty or any taking as a result of, in lieu of or in anticipation of the exercise of the right of eminent domain, condemnation or by private purchase in lieu thereof with respect to any Unit or Common Area or any other cause or reason of any nature.

15.10 Purpose of Perdido Key Beach Mouse Assessment. The Perdido Key Beach Mouse Assessment provided for herein shall be used for the general purposes of promoting compliance with these Perdido Key Beach Mouse Covenants, the Plan, the Rules and Regulations and the Permit, all as may be more specifically authorized from time to time by the Association; provided, however, nothing set forth herein shall be construed to limit the use of such Perdido Key Beach Mouse Assessment or the ability of the Association from making or establishing other assessments, a portion of which may be used for compliance with these Perdido Key Beach Mouse Covenants, the Plan or the Permit. The Perdido Key Beach Mouse Assessment shall be deposited into a bank account in the name of the Association and shall constitute the Perdido Key Beach Mouse Fund.

15.11 Computation of Assessments.

(A) Commencing with the fiscal year of the Association that begins on January 1, 200___ (i.e., from January 1, 2002 through December 31, 2002), and annually thereafter, the Association shall determine whether the Perdido Key Beach Mouse Assessment is necessary for said fiscal year. If the Association, in its sole discretion, deems the Perdido Key Beach Mouse Assessment necessary for the then applicable year, each Owner of each Unit shall pay the amount designated by the Association and allowed by the Permit.

(B) In addition to the assessments set forth above, any and all levies, fines or other charges imposed by the Association on Owners or Occupants for violations of the terms of these Perdido Key Beach Mouse Covenants or the Rules and Regulations shall be deemed to be a part of the Perdido Key Beach Mouse Assessment for the purposes of the enforcement and remedies provisions contained herein.

(C) All funds collected by the Association through the Perdido Key Beach Mouse Assessment, shall be retained by the Association in the Perdido Key Beach Mouse Fund.

15.12 Effect of Non-Payment; Remedies of the Association.

(A) Each Owner of a Unit is and shall be deemed to covenant and agree to pay to the Association the Perdido Key Beach Mouse Assessments provided for herein. If any Perdido Key Beach Mouse Assessment or any portion thereof are not paid when due, the same shall be subject to a late charge in an amount determined and uniformly applied by Association Board from time to time and the Owner of such Unit shall be deemed in default herewith. If any Perdido Key Beach Mouse Assessments or any portion thereof are not paid within thirty days after the due date of the same, then the unpaid portion of the Perdido Key Beach Mouse Assessment shall accrue simple interest at the lesser of eighteen percent (18%) per annum or the highest rate that may be charged to said Owner by law (the "Applicable Rate") from and after the thirtieth day from the due date until the same is paid in full. If the Association employs an attorney or otherwise takes any legal action in attempting to collect any amounts due from any Owner, such Owner agrees to pay all attorneys' fees, court costs and all other expense paid or incurred by the Association. The lien and equitable charge upon each Unit for Perdido Key Beach Mouse Assessments as provided above shall also include all late charges, interest at the Applicable Rate and all Attorneys' fees, court costs and all other expenses paid or incurred by the Association in attempting to collect any unpaid Perdido Key Beach Mouse Assessments.

(B) If any Perdido Key Beach Mouse Assessments or other amounts due to the Association are not paid by any Owner when the same because due, then in addition to all other rights and remedies provided at law or in equity, the Association, acting through its Board or through any of its officers or authorized representatives, may undertake any or all or the following remedies:

(1) The Association may commence and maintain a suit at law against any Owner to enforce such charges and obligations for Perdido Key Beach Mouse Assessments and any such judgment rendered in any such action all include the late charge and interest at the Applicable Rate, as specified in Section 15.12(A) above, together with attorneys' fees, court costs and all other expenses paid and incurred by the Association in collecting such unpaid Perdido Key Beach Mouse Assessments; and/or

(2) The Association may enforce the lien created pursuant to Section 15.09 above in the manner hereinafter provided.

(C) There is hereby created a continuing lien on each Unit, with power of sale as defined in the Act, that secures the payment to the Association of any and all Perdido Key Beach Mouse Assessments, levied against and upon such Unit, all late charges and interest at the Applicable Rate assessed pursuant to Section 15.12(A) above and all attorneys fees, court costs and all other expenses paid or incurred by the Association in collecting any Perdido Key Beach Mouse Assessments. If any Perdido Key Beach Mouse Assessments remain unpaid for more than sixty days, then the Association, through its Board or any officer or authorized representative thereof, may, but shall not be obligated to, make written demand on such defaulting Owner, which demand shall state the date and amount of delinquency. Each default shall constitute a separate basis for a demand and claim of lien, but any number of defaults may be included in a single demand. If such delinquency is not paid in full within ten (10) days after the giving of such demand or, even without giving demand, the Association may file a claim of lien and perfect its lien against the Unit of such delinquent Owner, which claim shall be executed by any member of the Board of the Association or any officer of the Association, contain the following information and be recorded in the Probate Office of Baldwin County, Alabama:

(1) The name of the delinquent Owner;

(2) The Unit number and street address of the Unit upon which the lien claim is made;

(3) The total amount claimed to be due including late charges, interest at the Applicable Rate, collection costs and attorney's fees incurred to date and a statement, if applicable, that such charges and costs shall continue to accrue and be charged until full payment has been received; and

(4) A statement that the claim of lien is made by the Association pursuant to these Perdido Key Beach Mouse Covenants and is claimed against such Unit in an amount equal to that stated therein.

The lien provided for herein shall be in favor of the Association, shall be for the benefit of all other Owners (other than those Owners in default) and may be foreclosed in the same manner as now provided by law in the case of past-due mortgages, and the Association shall be authorized, at its option, to sell the Unit under the power of sale that is hereby given to the Association, at public outcry, to the highest bider for cash, at the front or main door or the Baldwin County Courthouse, after first given notice by publication once a week for four successive weeks of the time, place and terms of such sale, together with a description of the Unit to be sold, by publication in some newspaper published in Baldwin County, Alabama. The sale shall be held between the hours of 11:00 a.m. and 4:00 p.m. on the day designated for the exercise of the power of sale hereunder. The Association shall have the right and power to bid at any such foreclosure sale to purchase, acquire, hold, lease, mortgage, convey and sell any such Unit. Each Owner, by acceptance of a deed to any Unit, shall be deemed to (1) grant to and vest in the Association and/or its agents the right and power to exercise the power of sale granted herein and foreclose the lien created herein, (2) grant to and vest in the Association and/or its agents the right and power to bring all actions against such Owner personally for the collection of all amounts due from such Owner, (3) expressly waive any objection to the enforcement and foreclosure of the lien created herein and (4) expressly waive the defense of the statute of limitations that may be applicable to the commencement of any such suit or action for foreclosure.

<u>15.13 Subordination of Lien.</u> Notwithstanding anything provided herein to the contrary, the lien for Perdido Key Beach Mouse Assessments and other charges, fines or levies authorized herein with respect to any Unit in the Project is and shall be subordinate to the lien of any Mortgagee held by a Mortgagee, but only to the extent that the Mortgage held by any such Mortgagee is recorded in the Probate Office of Baldwin County, Alabama, prior to the filing of a claim of lien by the Association pursuant to Section 15.12(c) above. When an Mortgagee exercises its foreclosure rights provided in its Mortgage and acquires title to or sells to a third party its interest in any Unit, then such Mortgagee or its purchaser or transferee at such foreclosure sale shall (a) not be liable for any Perdido Key Beach Mouse Assessments or other charges incurred prior to the date of transfer or acquisition of title by foreclosure so long as the Mortgage held by such Mortgagee was recorded in the Probate Office of Baldwin County, Alabama prior to the filing of a claim of lien by the Association pursuant to Section 15.12(c) above, but (b) be liable for all Perdido Key Beach Mouse Assessments together with other charges levied, assessed or incurred with respect to such Unit from and after the date of such foreclosure sale or as provided for in the Act. The foregoing shall not relieve any Owner whose Unit has been foreclosed from the personal obligation to pay all Perdido Key Beach Mouse Assessments and any other charges levied, assessed or incurred by the Association and the Association shall have the right to pursue all rights and remedies against a defaulting Owner notwithstanding the foreclosure of a Mortgage by a Mortgagee on such Owner's Unit.

<u>15.14 Authority and Enforcement.</u> In addition to the provisions of Section 15.11 above, if any Owner or Occupant or their respective agents, employees, families or invitees, violates any of the provisions of these Perdido Key Beach Mouse Covenant, the Rules and Regulations adopted by the Association Board from time to time, the Board shall have the power to (i) impose reasonable monetary fines that shall constitute an equitable charge and continuing lien upon the Unit and shall be a personal obligation of such owner that is

guilty of such violation, or (ii) suspend an Owner's or Occupant's rights (and the right of such Owner's or Occupant's family member, guests and tenants) to use any of the facilities located in or upon the Common Areas, and the Board shall have the power to impose all or any combination of any of the foregoing sanctions. Any such suspension of rights may be for the duration of the infraction.

15.15 Procedures. If any of the terms or provisions of these Perdido Key Beach Mouse Covenants or any Rules or Regulations of the Association are violated by an Owner or Occupant, or the respective agent, contractors or invitees of any Owner or Occupant, the Association Board shall not suspend or infringe upon or suspend any other rights pursuant to Section 15.12 above unless written demand to cease and desist from an alleged violation shall be served upon the Owner responsible for such violations which demand shall specify:

(A) The alleged violation;

(B) The action required to abate such violation; and

(C) A time period of not less than two days during which the violation may be abated without further sanction (if such violation is a continuing one), or (if the violation is not a continuing one, a statement that any further violation of the same provision of these Perdido Key Beach Mouse Covenants or any of the Perdido Key Beach Mouse Rules and Regulations may result in the imposition of sanctions. The foregoing procedure shall only be applicable to the enforcement rights specified in Section 15.12 above concerning suspension of use rights and shall not apply to the exercise of any of the rights and remedies specified in any other provisions of this Article XV.

15.16 Nonexclusive Remedies. Notwithstanding anything provided to the contrary in this Article XV, the authority, enforcement and procedural rights set forth above are in addition to and shall not be deemed to limit the other rights and remedies set forth in these Perdido Key Beach Mouse Covenants or which the Association, acting through the Board, would have the right to exercise at law or in equity.

15.17 Term. The restrictions set forth in these Perdido Key Beach Mouse Covenants shall run with and bind all of the Property, shall inure to the benefit of all Owners and Mortgagees and their respective heirs, executors, personal representative, administrators, successors and assigns, and shall be and remain in effect for so long as the Permit, or any subsequent permit issued in replacement of the Permit. In the event the Permit or any subsequent permit is terminated by the FWS or expires or becomes ineffective and no subsequent permit is required by the FWS, the Covenants, Rules and Requirements of this Article XV can be terminated or modified by agreement of the Owners of at least two-thirds or more of the Units within the Property agreeing to terminate or modify this Article XV.

15.18 Amendments. Any amendment to this Article XV proposed by Declarant or the Association which violates the terms of the Permit, shall be valid only upon the written consent of FWS. Any amendment made pursuant to this Section 15.18 shall be certified by Declarant or the Association and shall be effective when it is recorded in the Probate Office of Baldwin County, Alabama. Each Owner, by acceptance of a deed or other conveyance to a Unit and each Mortgagee, by acceptance of a Mortgage on any Unit, agrees to be bound by all amendments permitted by this Section 15.18 and further agrees that, if requested to do so by Declarant or the Association, such Owner and Mortgagee will consent to the amendment of these Perdido Beach Mouse Covenants or any other instrument relating to the Property or the Association if such amendment is (i) necessary to bring any provision hereof into compliance or conformity with the provisions of any law, ordinance, statute, rule or regulation of any applicable Governmental Authority (including, but not limited to, the Permit) or the judicial decision of any state or federal court; (ii) necessary to enable any reputable title insurance company to issue insurance coverage with respect to any Unit; mortgage loan on any Unit or (iii) necessary to enable any governmental agency or reputable private insurance company to insure mortgages on any Unit located within the Property.

15.19 Amendment of the Plan. To allow the Association to comply with changing conditions as contemplated by the Plan and to allow flexibility in compliance with the Permit, each Owner by acceptance of a deed, agrees that the Association may amend, modify, clarify, expand the scope of, limit the scope of, or otherwise change the Plan.

15.20 Rules and Regulations. The Association Board may establish and enforce the Rules and Regulations governing the use of all Units, including, without limitation, Rules and Regulations that govern the enforcement of all the provisions of these Perdido Key Beach Mouse Covenants, the Permit and the Plan. Each such rule and regulation shall be binding upon all Owners and Occupants.

15.21 Legal Expenses. In addition to the rights and remedies set forth above, in the event either the Association, its agents or representatives or Declarant under take any legal equitable action that either of them deem necessary to abate, enjoin, remove or extinguish any violation or breach of these Perdido Key Beach Mouse Covenants, then all costs and expense incurred by either of them, including, without limitation, attorneys' fees and court costs, in enforcing any for the terms provisions, covenants or conditions in these Perdido Key Beach Mouse Covenants shall be paid for by the Owner against whom such action was initiated. Declarant, its agents and representative and the Association, its agents and representatives, are each hereby authorized to take any and all legal or equitable action as may be necessary under the circumstance to restrain or enjoin any such violation or breach or to otherwise seek monetary damages as a result of any expenses incurred by either Declarant or the Association to cure such violation or breach.

15.22 Interpretation. In all cases, the provisions set forth and provided for in these Perdido Key Beach Mouse Covenants shall be construed together and given that interpretation or construction that, in the opinion of Declarant, or the Association, as the case may be, will best effect the intent of the general plan of development for the Property and the protection and conservation of the Perdido Key Beach Mouse and to prevent violation of the Permit. If there is any direct conflict between the requirements of these Perdido Beach Mouse Covenants and the requirements of the Permit, the requirements of the Permit shall prevail and these Perdido Key Beach Mouse Covenants shall be deemed to prevent such conflict. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication so as to make them fully effective. The provisions of these Perdido Key Beach Mouse Covenants shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes that are less restrictive.

15.23 Further Assurances. Each Owner covenants and agrees to execute, sign and deliver, or cause to be executed, signed and delivered and to otherwise do or make or cause to be done and made, any and all agreements, instruments, papers, deed, acts or things, supplemental, conformity or otherwise, that may be reasonably requested by Declarant or the Association, for the purpose of or in connection with clarifying, amending or other consummating any of the transactions and matters set forth in this Article XV.

15.24 Non-liability of Declarant. Each Owner agrees and acknowledges that be acceptance of a deed to the Property they are a permittee pursuant to the terms of the Permit. As such permittee the Owner's are solely responsible for their full and complete compliance with the Permit. The establishment and creation of these Perdido Key Beach Mouse Covenants shall not create any liability for Declarant for a claim that compliance with the terms of these Perdido Key Beach Mouse Covenants does not result in full compliance with the Permit. Declarant makes no representation or warranty that full compliance with these Perdido Key Beach Mouse Covenants shall insure full compliance with the Permit.

15.25 No Waiver. All rights, remedies and privileges granted to Declarant and the Association pursuant to the terms and provisions of these Perdido Key Beach Mouse Covenants shall be deemed to be cumulative and the exercise of any one or more of such rights, remedies or privileges shall not be deemed to constitute an election of remedies nor shall it preclude the party exercising the same, or any other party, from pursuing such other and/or additional rights, remedies or privileges as may be available to such party at law or in equity. The failure at any time to enforce any covenant or restriction set forth herein shall in no event be deemed a waiver of the right thereafter to such covenant or restriction.

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ARTICLE XVI

MISCELLANEOUS

16.01 Rights and Powers of Successors and Assignees. The rights and powers reserved to or exercisable by the Developer under the Condominium Documents or the Act may be exercised by any successor or assignee of the Developer (i) who acquires title from the Developer by foreclosure or other judicial sale or deed in lieu of foreclosure, or (ii) to whom the Developer specifically assigns such rights and powers.

16.02 Headings. The captions herein are used solely as a matter of convenience and shall not define, limit or expand any term or provision of this Declaration.

16.03 Gender/Number. Whenever the context so permits, the use of the plural shall include the singular, the singular shall include the plural, and any gender shall be deemed to include all genders.

16.04 Exhibits. Exhibits "A", "B", "C", "D", "E", "F", "G", "H", "I", "J", "K" and "L" attached to this Declaration are an integral part of this Declaration.

16.05 Invalidity and Severability. It is the intention of the Developer that the provisions of this Declaration are severable so that if any provision is invalid or void under any applicable federal, state or local law or ordinance, decree, order, judgment or otherwise, the remainder shall be unaffected thereby.

16.06 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a condominium project in accordance with Alabama law. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

16.07 Conflict or Ambiguity. If any conflict or ambiguity in the terms and provisions of Declaration, the general rules of construction against one party as a result of that party having drafted this Declaration are hereby waived by each Owner and, to the fullest extent allowed by law, no conflicts or ambiguity shall be resolved in favor or to the advantage of one party as opposed to another in interpreting any ambiguity or conflict contained herein.

IN WITNESS WHEREOF, CARIBE RESORT, INC., an Alabama corporation, has caused this instrument to be executed, under seal, by its duly authorized officer, whose name is set forth below, this 15 day of April, 2002.

THIS IS THE SIGNATURE PAGE OF THE DECLARATION OF CONDOMINIUM OF CARIBE RESORT, A CONDOMINIUM

CARIBE RESORT, INC.,
an Alabama corporation

By: Larry Wiseman **(SEAL)**
Its: President

STATE OF ALABAMA
BALDWIN COUNTY **ACKNOWLEDGMENT**

I, the undersigned, a Notary Public, in and for said county, in said State, hereby certify that Larry Wiseman**, whose name as** President**, of CARIBE RESORT INC., an Alabama corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of the corporation, on the day the same bears date.**

Given under my hand and official seal this the 15 **day of** April**, 2002.**

NOTARY PUBLIC

My commission expires: 10/21/02

This instrument prepared by:

Thomas W. Klyce, P.C.
Attorney at Law
Post Office Box 2301
Gulf Shores, AL 36547

EXHIBIT "A"

LEGAL DESCRIPTION OF PHASE I

COMMENCE AT THE HISTORICAL GEOGRAPHIC LOCATION OF THE SOUTHWEST CORNER OF FRACTIONAL SECTION 11, TOWNSHIP 9 SOUTH, RANGE 5 EAST OF THE ST. STEPHENS MERIDIAN (GRID COORDINATES NORTH 100,831.772, EAST 484,903.190) AS PER PLAT OF SURVEY BY SAM R. BRUNER DATED NOVEMBER 12, 1982 AND REVISED ON MAY 22, 1983; THENCE RUN SOUTH 63 DEGREES 31 MINUTES 02 SECONDS EAST, 271.96 FEET TO .A POINT ON THE NORTH RIGHT -OF-WAY LINE OF ALABAMA HIGHWAY 182 (300' REC. R/W) FOR THE POINT OF BEGINNING; THENCE RUN ALONG SAID RIGHT- OF WAY IN A CURVE TO THE RIGHT HAVING A RADIUS OF 7012.02 FEET, AN ARC LENGTH OF 308.47 FEETAND A CHORD OF NORTH 84 DEGREES 31 MINUTES 03 SECONDS WEST, 308.44 FEET; THENCE LEAVING SAID RIGHT OF WAY RUN NORTH 05 DEGREES 53 MINUTES 10 SECONDS EAST, 293.81 FEET; THENCE RUN NORTH 27 DEGREES 19 MINUTES 14 SECONDS WEST, 150.00 FEET; THENCE RUN NORTH 05 DEGREES 53 MINUTES 10 SECONDS EAST, 21.91'; THENCE RUN NORTH 27 DEGREES 19 MINUTES 14 SECONDS WEST, 96.67'; THENCE RUN SOUTH 83 DEGREES 31 MINUTES 25 SECONDS WEST, 50.28'; THENCE RUN NORTH 57 DEGREES 18 MINUTES 04 SECONDS WEST, 80.0 FEET, MORE OR LESS, TO A BULKHEAD ON THE SOUTH MARGIN OF PERDIDO PASS / OLD RIVER; THENCE MEANDERING AlONG SAID BULKHEAD A CHORD OF NORTH 67 DEGREES 33 MINUTES 19 SECONDS EAST, 664.23 FEET, TO A POINT; THENCE LEAVING SAID BULKHEAD RUN SOUTH 08 DEGREES 28 MINUTES 22 SECONDS EAST, 320.5 FEET, MORE OR LESS; THENCE RUN SOUTH 27 DEGREES 19 MINUTES 29 SECONDS EAST, 47.69 FEET, THENCE RUN SOUTH 05 DEGREES 40 MINUTES 04 SECONDS WEST, 301.62 FEET; THENCE RUN NORTH 84 DEGREES 19 MINUTES 56 SECONDS WEST, 63.47 FEET; THENCE RUN SOUTH 32 DEGREES 40 MINUTES 31 SECONDS WEST, 150.98 FEET; THENCE RUN SOUTH 02 DEGREES 40 MINUTES 31 SECONDS WEST, 73.52 FEET, TO THE POINT OF BEGINNING CONTAINING 7.89 ACRES, MORE OR LESS.

TOGETHER WITH A NON EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND PARKING OVER AND ACROSS THE FOLLOWING DESCRIBED PROPERTY:

COMMENCE AT THE HISTORICAL GEOGRAPHIC LOCATION OF THE SOUTHWEST CORNER OF FRACTIONAL SECTION 11, TOWNSHIP 9 SOUTH, RANGE 5 EAST OF THE ST. STEPHENS MERIDIAN (GRID COORDINATES NORTH

SEE CONTINUATION PAGE

EXHIBIT "A" CONTINUATION PAGE

100,831.772, EAST 484,903.190) AS PER PLAT OF SURVEY BY SAM R. BRUNER DATED NOVEMBER 12, 1982 AND REVISED ON MAY 22, 1983; THENCE RUN SOUTH 63 DEGREES 31 MINUTES 02 SECONDS EAST, 271.96 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF ALABAMA HIGHWAY 182 (300' REC. RNV); THENCE RUN ALONG SAID RIGHT-OF WAY IN A CURVE TO THE RIGHT HAVING A RADIUS OF 7012.02 FEET, AN ARC LENGTH OF 308.47 FEETAND A CHORD OF NORTH 84 DEGREES 31 MINUTES 03 SECONDS WEST, 308.44 FEET; THENCE LEAVING SAID RIGHT OF WAY RUN NORTH 05 DEGREES 53 MINUTES 10 SECONDS EAST, 293.81 FEET; THENCE RUN NORTH 27 DEGREES 19 MINUTES 14 SECONDS WEST, 150.00 FEET; THENCE RUN NORTH 05 DEGREES 53 MINUTES 10 SECONDS EAST, 21.91'; THENCE RUN NORTH 27 DEGREES 19 MINUTES 14 SECONDS WEST, 96.67'; THENCE RUN SOUTH 83 DEGREES 31 MINUTES 25 SECONDS WEST, 50.28'; THENCE RUN NORTH 57 DEGREES 18 MINUTES 04 SECONDS WEST, 80.0 FEET, MORE OR LESS, TO A BULKHEAD ON THE SOUTH MARGIN OF PERDIDO PASS / OLD RIVER; THENCE MEANDERING ALONG SAID BULKHEAD A CHORD OF NORTH 67 DEGREES 33 MINUTES 19 SECONDS EAST, 664.23 FEET, TO A POINT; THENCE LEAVING SAID BULKHEAD RUN SOUTH 08 DEGREES 28 MINUTES 22 SECONDS EAST, 320.5 FEET, MORE OR LESS; THENCE RUN SOUTH 27 DEGREES 19 MINUTES 29 SECONDS EAST, 47.69 FEET FOR THE POINT OF BEGINNING, THENCE CONTINUE SOUTH 27 DEGREES 19 MINUTES 29 SECONDS EAST, 92.86 FEET TO A POINT; THENCE SOUTH 32 DEGREES 40 MINUTES 31 SECONDS WEST, 111.35 FEET TO A POINT; THENCE NORTH 05 DEGREES 40 MINUTES 04 SECONDS EAST, 177.08 FEET TO THE POINT OF BEGINNING, CONTAINING 4477 SQUARE FEET MORE OR LESS.

EXHIBIT "B"

BY-LAWS

OF

CARIBE RESORT CONDOMINIUM ASSOCIATION, INC.

ARTICLE I.
THE ASSOCIATION

Section 1. Identity. These are the By-Laws of Caribe Resort Condominium Association, Inc., a not for profit corporation (the "Association"), which was formed under the Alabama Non-Profit Corporation Act [Code of Alabama 1975 10-3A-1 et seq] by filing the Articles of Incorporation of Caribe Resort Condominium Association, Inc., (the "Articles"), with the Office of the Judge of Probate of Baldwin County, Alabama, on April 16, 2002. The Association has been organized for the purposes of providing for the acquisition, operation, management, maintenance, care, control and administration of Caribe Resort, a condominium (the "Condominium"), pursuant to the provisions of the Alabama Uniform Condominium Act of 1991 [Code of Alabama 35-8A-101 et seq.] (the "Condominium Act") and the Declaration of Condominium of Caribe Resort, a condominium (the "Declaration"), as filed with the Office of the Judge of Probate of Baldwin County, Alabama, in accordance with the provisions of said Act. The terms capitalized herein shall be deemed to have the meanings set forth in the Declaration and the Condominium Act.

Section 2. Principal Office. The principal office of the Association in the State of Alabama shall be located in the City of Orange Beach, County of Baldwin. The Association may have such other offices, either within or without the State of Alabama, as the Board of Directors may designate or as the business of the Association may require from time to time.

Section 3. Registered Office. The registered office of the Association, required by the Alabama Non-Profit Corporation Act to be maintained in the State of Alabama, may be, but need not be, identical with the principal office in the State of Alabama, and the address of the registered office may be changed from time to time by the Board of Directors.

ARTICLE II
MEMBERSHIP

Section 1. Annual Meeting. The annual meeting of the Membership will be held on the third Saturday in the month of October in each year, beginning with the year 200__ at the hour of 11:00 a.m., or at such other time on such other day within such month as shall be fixed by the Board of Directors, for the purpose of electing directors, if the period of Developer control has ended, and in any event, for the transaction of such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the State of Alabama, such meeting shall be held on the next succeeding business day. If the election of directors shall not be held on the day designated herein for any annual meeting of the Membership, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the Membership as soon thereafter as conveniently may be.

Section 2. Special Meetings. Special meetings of the Membership, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President or by a majority of the Board of Directors and shall be called by the President or the Secretary at the request of holders of not less than twenty (20%) percent of all the outstanding votes of the Membership.

Section 3. Place of Meeting. The Board of Directors may designate any place, within or without the State of Alabama, a the place of meeting for any annual meeting or for any special meeting of the Membership. If no designation is made, or if a special meeting is otherwise called, the place of the meeting shall be the principal office of the Association in the State of Alabama.

Section 4. Notice of Meeting. Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting, or of a meeting which is required by statute to be held for any special purpose, or of an annual meeting at which special action is to be taken, the purpose or purposes for which the meeting is called, or the special action which is proposed to be taken, shall, unless otherwise prescribed by statute, be delivered not less than ten (10) nor more than sixty (60) days before the date of meeting, either personally or by mail, by or at the direction of the President, the Secretary, or the persons calling the meeting, to each member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at his address as it appears on the records of the Association, with postage thereon prepaid.

Section 5. Fixing of Record Data. The Board of Directors may fix in advance a date as the record date for the purpose of determining the members entitled to notice of or to vote at any meeting of members or nay adjournment thereof, or for any other proper purpose, such date in any case to be not more than thirty (30) days and, in case of a meeting of the Membership, not less than ten (10) days prior to the date on which the particular action requiring such determination of members is to be taken. If no record date is fixed for the determination of members entitled to notice of or to vote at a meeting of the Membership, the date on which notice of the meeting is mailed shall be the record date for such determination of members. When a determination has been made, as provided in this section, such determination shall apply to any adjournment thereof.

Section 6. Voting Lists. The officer or agent having change of the records of members of the Association shall make, at least ten (10) days before each meeting of the Membership, a complete list of the members entitled to vote at such meeting, or any adjournment thereof, arranged in alphabetical order, with the address of each member and the number of votes to which he is entitled, which list, for a period of ten (10) days prior to such meeting, shall be kept on file at the principal office of the Association and shall be subject to inspection by an member making written request therefor at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any member during the whole time of the meeting.

Section 7. Quorum. The presence at any meeting of the Membership of the members entitled to cast fifty (50%) percent of the votes in the Association, represented in person or by proxy, shall constitute a quorum. If a quorum is not present at any meeting, a majority of the members so represented may adjourn the meeting and reconvene from time to time without further notice. At any such reconvened meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally notified. The members present or represented at a meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

Section 8. Majority Vote. The vote of members entitled to cast a majority of the votes represented at a meeting of the Membership at which a quorum is present shall be the act of the members of the Association, unless the vote of a greater number is required by law, the Declaration, the Articles, or these By-Laws.]

Section 9. Proxies. At all meeting of the Membership, a member may vote in person or by proxy executed in writing by the member or by his duly authorized attorney in fact. A proxy is void if it is not dated or purports to be revocable without notice. Such proxy shall be filed with the Secretary of the Association before or at the time of the meeting. No proxy shall be valid after one year from the date of its execution, unless a shorter terms is provided in the proxy.

Section 10. Voting Rights. If only one of the multiple Owners of a Unit is present at a meeting of the Association, he is entitled to cast the votes allocated to that Unit. If more than one of the multiple Owners are present, the votes allocated to that Unit may be case only in accordance with the agreement of a majority in interest of the multiple Owners. There is a majority agreement if any one of the multiple Owners cast as the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Unit.

Section 11. Informal Action by Members. Any action required to be taken at a meeting of the Membership, or any other action which may be taken at any meeting of the Membership, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all the members entitled to vote with respect to the subject matter thereof.-

ARTICLE III
BOARD OF DIRECTORS

Section 1. General Powers. The business and affairs of the Association shall be managed by or under the direction of its Board of Directors.

Section 2. Number, Tenure and Qualifications. The initial Board of Directors shall consist of five (5) directors. The By-Laws may be amended from time to time as provided for herein to increase or decrease the number of directors of the Association to not less than three (3) nor more than twenty one (21) directors. Except for directors appointed by the Developer, a director shall be a Unit owner and if the Unit owner is a corporation or other entity that is not a person, then an officer, partner, trustee or employee of such Unit owner may be the director. Each director shall hold office until the next annual meeting of the members and until his successor shall have been duly elected and shall have qualified or until his death or until he shall have resigned or shall have been removed, as provided for herein.

(a) Increase in the Number of Directors. In the event the Developer dedicates an additional phase or phases to the condominium form of ownership as provided for in the Declaration, the number of Directors shall be increased by a minimum of five (5) new directorships for each additional phase. There is no requirement that a certain number of directors be owners of Units in any particular phase of the Condominium Property.

Section 3. Election of Directors.

(a) Election of directors entitled to be elected by the members shall be held at the annual meeting, or, if required in accordance with subj-paragraph (b) below, at a special meeting of the Membership. The election shall be by secret ballot (unless dispensed with by unanimous consent) and by an affirmative vote of a majority of the votes cast, or a plurality of the votes cast elect if more than two persons have been nominated for a directorship, elect a new director. The Owner of each whole Unit shall be entitled to cast a vote for one nominee for each vacancy to be filled at the time of the election. There shall be not cumulative voting.

(b) Notwithstanding the provisions of Sub-paragraph (a) above, or anything in these By-Laws to the contrary, the Developer (as defined in the Declaration), its successors and assigns, and not members of the Association, shall have the exclusive right to control the Association by electing all of the members of the Board of Directors of the Association, and in the event of vacancies, the Developer shall fill the vacancies, until no later than the earlier of either (i) sixty (60) days after seventy-five percent (75%) of the total number of Units which may be created in the Condominium have been conveyed to purchasers of Units, or (ii) two (2) years have elapsed from the date the Developer has ceased to offer Units for sale in the ordinary course of business, or (iii) four (4) years after any Development Rights to add new Units was last exercised; provided that the Developer may, at its option, terminate its control of the Association at an earlier date. Notwithstanding the foregoing, within ninety (90) days after conveyance of twenty-five percent (25%) of the Units which may be created in the Condominium have been conveyed , the Unit Owners other than Developer shall be entitled to elect twenty-five percent (25%) of the members of the Board of Directors. Not later than ninety (90) days after conveyance of fifty percent (50%) of the Units which may be created in the Condominium have been conveyed to Unit Owners other than Developer, not less than thirty-three and one-third (33 1/3%) of the members of the Board shall be elected by the Unit Owners. The Developer shall be entitled to appoint at least one (1) member of the Board of Directors as long as the Developer has Development Rights or holds for sale in the ordinary course of business at least five (5%) percent of the Units in the Condominium, and such right is not contrary to the other provisions of the Condominium Act. Within sixty (60) days before the date of termination of control the Association by the Developer, the Board of Directors shall call and give not less than ten (10) nor more than thirty (30) days notice of a special meeting of the membership for the purpose of electing the members of the Board of Directors.

<u>Section 4. Regular Meetings</u>. A regular meeting of the Board of Directors shall be held without other notice than this By-Law immediately after, and at the same place as, the annual meeting of the Membership, provided, however, any such regular meeting may be held at any other time or place which shall be specified in a notice given as hereinafter provided for special meetings, or in a consent and waiver of notice hereof, signed by all directors. The Board of Directors may provide, by resolution, the time and place, within or without the State of Alabama, for the holding of additional regular meetings without other notice than such resolution.

<u>Section 5. Special Meetings</u>. Special meetings of the Board of Directors may be called by or at the request of the President or any two (2) directors.

<u>Section 6. Notice</u>. Notice of any special meeting shall be given at least three (3) days previously thereto by written notice delivered personally or mailed to each director at his business address, or by telegram. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegram company. Any director may waive notice of any meeting. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business, because the meeting is not lawfully called or convened. neither the business to be

transacted at, nor the purpose of, any regular or special meeting of the board of Directors need be specified in the notice or waiver of notice of such meeting.

Section 7. Quorum. A majority of the number of directors determined in the manner fixed by Section 2 of this Article III shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but if less than such majority is present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

Section 8. Manner of Acting. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 9. Action Without a Meeting. Any action that may be taken by the Board of Directors at a meeting may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors.

Section 10. Vacancies. Any vacancy occurring in the Board of Directors and any directorship to be filled by reason of an increase in the number of directors may be filled by a majority of the remaining directors, except as otherwise provided in Section 3 above. A director elected or appointed, as the case may be, shall be elected or appointed for the unexpired term of his predecessor in office.

Section 11. Compensation. By resolution of the Board of Directors, the directors may be paid their expense, if any, of attendance at each meeting of the Board of directors, and may be paid a fixed sum for attendance at each meeting of the Board of Directors or a stated salary as a director or both. No such payment shall preclude any director from serving the Association in any other capacity and receiving compensation therefor.

Section 12. Committees. The Board of Directors may, by resolution or resolutions, passed by a majority of the whole Board, designate on one or more committees, each of which shall consist of two (2) or more directors and which, to the extent provided in said resolution or resolutions or in the By-Laws of the Association shall have and may exercise all of the powers of the Board of Directors in the management of the activities and affairs of the Association and may have power to authorize the seal of the Association to be affixed to all papers which may require it, except that no such committee shall have the authority of the Board of Directors in reference to amending, altering or repealing the By-Laws; electing, appointing or removing any member of any such committee or any director or officer of the Association; amending the Articles, restating the Articles, adopting a plan of merger or adopting a plan of consolidation with another corporation; authorizing the sale, lease, exchange, or mortgage of all or substantially all of the property and assets of the Association; authorizing the voluntary dissolution of the Association or revoking proceedings therefor; adopting a plan for the distribution of assets of the Association; or amending, alerting or repealing any action or resolution of the Board of Directors which by its terms provides that it shall not be amended, altered, or repealed by such committee. The designation of such committee or committees or the delegation thereto of authority shall not operate to relieve the Board of Directors or any individual director of any responsibility imposed upon it or him by law.

Section 13. Resignations. Any director of the Association may resign at any time, either by oral tender of resignation at any meeting of the Board or by giving written notice thereof to the Secretary of the Association. Such resignation shall take effect at the time specified therefor and the acceptance of such resignation shall not be necessary to make it effective.

Section 14. Place of Meeting. The Board of Directors may designate any place within or without the State of Alabama as the place of meeting for any regular or special meeting of the Board of Directors.

Section 15. Presumption of Assent. A director of the Association who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

Section 16. Open Meetings. All meetings of the Board of Directors shall be open to the Members of the Association, except meetings or portions thereof which concern the character of an individual, and notice of any meeting shall be posted in a conspicuous area of the Condominium Property at least three days prior to said meeting, except in the event of an emergency meeting.

Section 17. Order of Business. The order of business at either a Director's meeting or a meeting of the Members shall be: (i) Call of Roll; (ii) Proof of due notice of the meeting; (iii) Reading and disposal of unapproved minutes; (iv) Reports of officers and committees; (v) Election of officers or directors, as the case may be; (vi) Unfinished business; (vii) New business; and (viii) Adjournment.

ARTICLE IV
OFFICERS

Section 1. Number. The officers of the Association shall be a President, one or more Vice President(s) (the number thereof to be determined by the Board of Directors), a Secretary, and a Treasurer, each of whom shall be elected by the Board of Directors. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors. Any two or more offices may be held by the same person, except the President and Secretary. An officer must be a member of the Association. The failure of the Board of Directors to elect any officers other than a President, a Treasurer and a Secretary shall not constitute a violation of the By-Laws.

Section 2. Election and Term of Office. The officers of the Association to be elected by the Board of Directors shall be elected annually by the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of the Membership. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as may be convenient. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall have resigned or shall have been removed in the manner hereinafter provided.

Section 3. Removal. Any officer or agent elected or appointed by the Board of Directors may be removed at any time, by the affirmative vote of the Board of Directors, whenever in their judgment the best interests of the Association will be served thereby. Any such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer shall not of itself create any contract rights in favor of such officer.

Section 4. Vacancies. A vacancy in any office elected or appointed by the Board of Directors because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors of the unexpired portion of the term.

Section 5. President. The President shall be the chief executive officer of the Association and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Association. He shall preside at all meetings of the Membership. He may sign, with the Secretary or an Assistant Secretary, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these By-Laws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and in general, shall perform all duties incident to the office of the President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 6. Vice President. In the absence of the President or in the event of his death, inability or refusal to act, the Vice President (or in the event there be more than one Vice President, the Vice Presidents in the order designated that the time of their election, or in the absence of any designation, then in the order of their election) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Any Vice President shall perform such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 7. Secretary. The Secretary shall: (a) keep the minutes of the proceedings of the Members and of the Board of Directors in one or more books provided for the purpose; (b) see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; (c) be custodian of the corporate records and of the seal of the Association and see that the seal of the Association is affixed to all documents the execution of which on behalf of the Association under its seal is duly authorized; (d) keep a register of the mailing address of each member which shall be furnished to the Secretary by such member; (e) have general charge of the transfer books of the members of the Association; and (f) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 8. Treasurer. The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Association; (b) receive and give receipts for monies due and payable to the Association form any source whatsoever, and deposit all such monies in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with the provision of Article V of these By-Laws; and (c) in general perform all of the duties as from time to time may be assigned to him by the President or by the Board of Directors. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such sum and with such surety or sureties as the Board of Directors shall determine.

Section 9. Assistant Secretaries and Assistant Treasurer. The Assistant Secretaries and Assistant Treasures, in general, shall perform such duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the President or the Board of Directors. The Assistant Treasurers shall respectively, if required by the Board of Directors, give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine.

Section 10. Salaries. The salaries of the officers, if any, shall be fixed from time to time by the Board of Directors and no officer shall be prevented from receiving such salary by reason of the fact that he is also a director of the Association.

ARTICLE V
CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 1. Contracts. The Board of Directors may authorized any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

Section 2. Loans. No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

Section 3. Checks, Drafts, Etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 4. Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board of Directors may select.

Section 5. Proxies. Unless otherwise provided by resolution of the Board of Directors, the President may from time to time appoint an attorney or agent of the Association, in the name and on behalf of the Association, to cast the votes which the Association may be entitled to cast as the holder of stock or other securities in any other corporation any of whose stock or other securities may be held by the Association, in meetings of the holders of the stock or other securities of such other corporation, or to consent in writing, in the name and on behalf of the Association, as such holder, to any action by such other corporation, and may instruct the person or persons so appointed as to the manner of casting such votes or giving such consent, and may execute or cause to be executed, in the name and on behalf of the Association and under its corporate seal or otherwise, all such written proxies or other instruments as he may deem necessary or proper in the premises.

ARTICLE VI
BOOKS AND RECORDS

Section 1. Accounting. The Association shall keep correct and complete books and records of account and shall keep minutes of the proceedings of the members, Board of Directors and committees thereof and shall keep at its registered or principal office in Alabama a record of the names and addresses of the members entitled to vote, directors and officers. The accounting records shall be maintained in accordance with generally accepted accounting principles. All books and records of the Association shall be open to inspection by the members of their authorized representatives for any proper purpose at any reasonable time in Baldwin County, Alabama. Such records shall include:

(a) Association Accounts. The receipts and expenditures of the Association shall be credited and charged to the appropriate account as set forth below.

(i) Current Expenses. All funds to be expended during the year for the maintenance of the Common Elements and Limited Common Elements (as defined in the Declaration) and the operation and working capital of the Association shall be held in the Current Expense Account. Any balance in this fund at the end of each year may be used to pay Common Expenses and Limited Common Expenses incurred in any successive year or may be placed in the Reserve Fund Account.

(ii) Reserve Funds. All funds to be expended for replacement, acquisition and repair of capital improvements which are a part of Common Elements and Limited Common Elements shall be held in the Reserve Fund Account.

(b) Member Accounts. An account for each member shall be maintained setting forth the name and address of the member, the interest percentage in the Common Elements and Limited Common Elements, if any, the amount of each assessment, the amounts and dates on which the assessments become due, the amounts paid upon the account and the balance due.

Section 2. Budget. The Board of Directors shall adopt a proposed budget for each calendar and /or fiscal year that shall include the estimated funds required to defray the Common Expenses and Limited Common Expenses and to provide and maintain funds for the foregoing accounts and reserves according to good accounting practices. Within thirty (30) days of adoption of the proposed budget copies of the budget and proposed assessments shall be transmitted to each member of the Association and a date set for a meeting of the Unit Owners to consider ratification of the budget, not less than fourteen (14) days nor more than thirty (30) days after delivery of the budget to the Unit Owners. Unless, at the meeting, a majority of all Unit Owners present in person or by proxy reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the budget for the last year shall continue in effect until such time a new budget is ratified.

Section 3. Assessments. Subject to the terms and conditions of the Declaration, assessments against the members for their shares of the items of the budget shall be made for the calendar year annually in advance on or before December 31, preceding the year for which the assessments are made. Such assessments shall be due in quarterly or monthly installments, as may be determined by the Board o of Directors of the Association. In the event the annual assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board of Directors. Such assessments shall constitute a lien as provided for in the Declaration.

Section 4. Assessments for Emergencies. Subject to the terms and conditions of the Declaration, assessments for Common Expenses for emergencies that cannot be paid from the annual assessments for Common Expenses shall be made only after notice of the need for such is given to the members concerned, and it shall be due thirty (30) days after such notice in such manner as the Board of Directors of the Association may require in the notice of assessment. Such assessment shall constitute a lien as provided for in the Declaration.

Section 5. Audit or Compilation. The Board of Directors shall have the authority to require an audit or compilation of the accounts of the Association, at any time, by a majority vote of said Directors, and a copy of the audit report shall be made available for review by each member in Baldwin County, Alabama.

Section 6. Bonds. Fidelity bonds shall be required, if obtainable, by the Board of Directors from all persons handling or responsible for Association funds. The amount of such funds shall be determined by the Board of Directors, but shall not be less than two times the amount of the total annual assessments against members for Common Expenses and Limited Common Expenses. The premiums of such bonds shall be paid by the Association.

Section 7. Rules and Regulations and Violation of any Documents. Subject to the terms and conditions of the Declaration, the Board of Directors may establish, abolish or amend reasonable rules and regulations concerning the use of the Common Elements. and Limited Common Elements. The text of such rules and regulations shall be furnished or made available to the members no less than ten days prior to its effective date. The Board shall have the power, upon violation of the rules and regulations, or upon violation of the terms of the Declaration or By-Laws to impose monetary fines on a member which shall constitute a lien and shall be enforceable in like manner as provided for assessments or to suspend for a reasonable period of time either the member's right to the use of Common facilities within the Common Elements or the member's right to vote. Provided however, the members of Association may overrule or terminate any rule or regulation or modification thereof by a vote of a majority of the members at a duly called meeting.

ARTICLE VII
WAIVER OF NOTICE

Whenever any notice is required to be given to any member or director of the Association under the provisions of these By-Laws, the Articles of Incorporation, the Declaration, the provisions of the Alabama Non-Profit Corporation Act, and any act amendatory thereof, supplementary thereto or substituted therefor, the provisions of the Condominium Ownership Act of Alabama, and any act amendatory thereof, supplemental thereto or substituted therefor, or the Alabama Constitution, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE VIII
FISCAL YEAR

The fiscal year of the Association shall be fixed by resolution of the Board of Directors.

ARTICLE IX
INDEMNIFICATION

Section 1. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, finds and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best criminal action or proceeding, had reasonable cause to believe that this conduct was unlawful.

Section 2. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association, as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

To the extent that a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsection (a) and (b), or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

Any indemnification under Sections (1) and (2) above (unless ordered by a Court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Sections (1) and (2). Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable, a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (3) by the membership.

Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this section.

The indemnification provided by this section shall not be deemed excessive of any other rights to which those seeking indemnification may be entitled under any by-law, agreement, vote of members or disinterested directors or to otherwise, both as to action in this official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

ARTICLE X
AMENDMENT

Section 1. Amendment to By-Laws. These By-Laws may be amended, altered or repealed in the following manner:

(a) By the Developer until such time as the Developer relinquishes its control of the Association in accordance with Article III, Section 3 herein; or

(b) By the members at any regular or special meeting upon the affirmative vote of the holders of not less than two-thirds (2/3) of the outstanding votes present at such meeting in person or represented by proxy.

Section 2. Recitation. No modification or amendment to the By-Laws shall be valid and effective until the President and Secretary of the Association shall certify as to the adoption of such amendment and shall file their certificate setting forth the text of the amendment with the Office of the Judge of Probate of Baldwin County, Alabama.

EXHIBIT "C"

"AS - BUILT" PLANS AND CERTIFICATION FOR CARIBE RESORT, A CONDOMINIUM, PHASE I, AS THE SAME ARE RECORDED IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA IN APARTMENT BOOK 22, PAGES 30 - 63, ~~ET SEQ~~.

EXHIBIT "D"
EASEMENTS, RESTRICTIONS AND OTHER ENCUMBRANCES
ON THE CONDOMINIUM PROPERTY

(a) All ad valorem taxes and assessments for the year of closing and thereafter.

(b.) Subject to a reservation of all oil, gas and other minerals and all rights in connection therewith.

(c.) Development Rights and Special Developer Rights granted Developer by the Condominium Documents and by the Act.

(d.) Subject to the Articles of Incorporation of Caribe Resort Condominium Association, Inc., a not for profit corporation, as the same is recorded in the Office of the Judge of Probate as Instrument No. 654171.

(e.) Subject to the Declaration of Condominium of Caribe Resort, a condominium, and all exhibits thereto, as the same is recorded in the Office of the Judge of Probate, Baldwin County, Alabama as Instrument No. 654173.

(f.) Zoning, planning, subdivision regulations and other restrictions or regulations upon the use of the Property as may be imposed by the City of Orange Beach or any other governmental authorities having jurisdiction over the Property.

(g.) Subject to any future adjustment made by either the Tax Assessor's office or the Board of Equalization.

(h.) Utility easement and right-of-way granted Baldwin County E. M. C. by instrument dated ______________ and recorded as Instrument No. ___________.

(i.) Building setback lines and drainage and utility easements as shown on the recorded Plans of said condominium in Apartment Book 22, page 30.

(j.) Rights of other parties, the United States of America or the State of Alabama in and to the shore, littoral or riparian rights to any of the property described above which lies adjacent to the Gulf of Mexico or Old River.

(k.) The rights of the United States of America, State of Alabama, or the general public, if any, to use any part of the land lying between the body of water of the Gulf of Mexico or Old River and the boundary line of the Property as granted by Federal or State law. The rights of the public, if any, to the bottoms of any navigable water adjacent to the Property. The rights of the public, if any, to use any part of the Private Boat Slips, as granted by the Declaration or by Federal or State Law.

CONTINUATION PAGE - EXHIBIT "D"

(l.) Any adverse claim based upon the assertion that some portion of the Property is located below mean high tide.

(m.) Reservation of oil, gas and other minerals in, on, and under said real property, together with all rights or easements in connection therewith, as have previously been reserved by or conveyed to others and presently of record.

(n.) Reservation of all oil, gas and other minerals, and all rights in connection therewith, as contained in Deed from Town & Campus International, Inc., to Daniel E. Singer dated February 21, 1989 and recorded in Real Property Book 348, page 254.

(o.) Subject to the terms and conditions of that certain Agreement for Conservation Purposes, dated February 1, 1993 and recorded in Real Property Book 520, page 957, et seq.

(p.) Subject to any regulations which may be imposed by the U. S. Corps. of Engineers, Alabama Department of Environmental Management, U. S. Fish and Wildlife Service, or other Federal, State or Local Governmental agencies.

(q.) Reservation of all oil, gas and other minerals, together with all rights in connection therewith as set out in deed from Ronald Lovick Allen et al, to Larry Wireman, dated May 3, 1994, recorded in Real Property Book 571, page 875, et seq.

(r.) Reservation of all oil, gas and other minerals, together with all rights in connection therewith as set out in deed from Sam Irby to Larry Wireman dated May 3, 1994, recorded in Real Property Book 571, page 882, et seq.

(s.) Reservation of all oil, gas and other minerals, together with all rights in connection therewith as set out in deed from Daniel A. Benton, joined by his wife, Roberta L. Benton to Larry Wireman dated May 3, 1994, and recorded in Real Property Book 571, page 894, et seq.

(t.) Reservation of all oil, gas and other minerals, together with all rights in connection therewith as set out in deed from Ronald Lovick Allen et al, to Fel-Kran Plumbing and Heating Co., Inc., dated May 3, 1994, recorded in Real Property Book 571, page 862, et seq.

(u.) Reservation of all oil, gas and other minerals, together with all rights in connection therewith as set out in deed from Sam Irby to Fel-Kran Plumbing and Heating Co., Inc. Wireman dated May 3, 1994, recorded in Real Property Book 571, page 866, et seq.

CONTINUATION PAGE - EXHIBIT "D"

(v.) Reservation of all oil, gas and other minerals, together with all rights in connection therewith as set out in deed from Daniel A. Benton, joined by his wife, Roberta L. Benton to Fel-Kran Plumbing and Heating Co., Inc., dated May 3, 1994, and recorded in Real Property Book 571, page 858, et seq.

(w.) Electric line - Right of way Easement granted Baldwin County Electric Membership Corporation by Larry Wireman, dated February 23, 1995 and recorded in Real Property Book 619, page 953.

(x.) Electric line - Right of way Easement granted Baldwin County Electric Membership Corporation by instrument recorded August 8, 1994 in Real Property Book 587, page 1620, et seq.

(y.) Reservation of all oil, gas and other minerals, together with all rights in connection therewith as set out in deed from Credit Money Corporation to Larry Wireman, dated June 9, 1995 and recorded in Real Property Book 633, page 240.

(z.) Reservation of all oil, gas and other minerals, together with all rights in connection therewith as set out in deed from Credit Money Corporation to Larry Wireman, dated June 9, 1995 and recorded in Real Property Book 633, page 247.

(aa.) Subject to the terms and conditions contained in the Agreement between Larry Wireman and Fel-Kran Plumbing and Heating Co., Inc. and Caribe Property Owners Association, Inc., recorded in Real Property Book 778, page 770.

(bb.) Subject to the terms and conditions set forth in the Federal Fish and Wildlife Permit issued to Fel-Kran Plumbing and Heating Company, Inc., in connection with the development of the Condominium Property, as the same is recorded in Miscellaneous Book 91, page 692, et seq.

All recording references are to the official records in the office of the Judge of Probate, Baldwin County, Alabama.

EXHIBIT "E"

FRACTIONAL OWNERSHIP INTEREST IN COMMON ELEMENTS (RESPECTIVE SHARE OF EACH UNIT) AND NUMERICAL VALUE OF TO WHICH EACH UNIT IS ENTITLED

FORMULA:

The formula for arriving at the Percentage (Fractional) Ownership Interest in the Common Elements (respective share of each Unit) shall be a percentage interest, which shall be determined by dividing the interior square footage of a Unit by the total interior square footage of all the Units in all phases (both residential and commercial). Upon the dedication of any additional Phase(s) to the condominium form of ownership, by the filing of an incremental phasing amendment in the Office of the Judge of Probate, Baldwin County, Alabama, the Percentage of Ownership Interest in the Common Elements shall be redetermined in accordance with the formula set forth above and restated in the incremental phasing amendment. The total percentage interest shall never exceed 100%. Each Unit shall be entitled to one vote. Each unit shall be entitled to one vote which is equal to its percentage interest. The Common Expenses shall be charged to Unit Owners according to the percentage undivided interest of the respective Units in the Common Elements. For the purpose of this Exhibit "E" the total number of square feet of interior area in any Unit shall be conclusively presumed to be as shown on the Plans or Plats, as last amended, to the Declaration.

EXHIBIT "E" CONTINUATION PAGE

UNIT NUMBER	PERCENTAGE OWNERSHIP INTEREST IN COMMON & LIMITED COMMON ELEMENTS (Respective share of each unit)	NUMERICAL VALUE OF VOTE TO WHICH UNIT IS ENTITLED
Residential Units:		
B-102 (Type "C")	.0059183	1
B-103 (Type "B")	.0048033	1
B-104 (Type "A")	.0049666	1
B-105 (Type "A")	.0049666	1
B-106 (Type "B")	.0048033	1
B-107 (Type "C")	.0059183	1
B-108 (Type "D")	.0039446	1
B-110 (Type "C")	.0059183	1
B-201 (Type "D")	.0039446	1
B-202 (Type "C")	.0059183	1
B-203 (Type "B")	.0048033	1
B-204 (Type "A")	.0049666	1
B-205 (Type "A")	.0049666	1
B-206 (Type "B")	.0048033	1
B-207 (Type "C")	.0059183	1
B-208 (Type "D")	.0039446	1
B-209 (Type "D")	.0039446	1
B-210 (Type "C")	.0059183	1
B-211 (Type "B")	.0048033	1
B-212 (Type "A'")	.0050764	1
B-213 (Type "A'")	.0050764	1
B-214 (Type "B")	0048033	1
B-215 (Type "C")	.0059183	1
B-216 (Type "D")	.0039446	1
B-301 (Type "D)	.0039446	1
B-302 (Type "C")	.0059183	1
B-303 (Type "B")	.0048033	1

EXHIBIT "E" CONTINUATION PAGE

UNIT NUMBER	PERCENTAGE OWNERSHIP INTEREST IN COMMON & LIMITED COMMON ELEMENTS (Respective share of each unit)	NUMERICAL VALUE OF VOTE TO WHICH UNIT IS ENTITLED
Residential Units:		
B-304 (Type "A")	.0049666	1
B-305 (Type "A")	.0049666	1
B-306 (Type "B")	.0048033	1
B-307 (Type "C")	.0059183	1
B-308 (Type "D")	.0039446	1
B-309 (Type "D")	.0039446	1
B-310 (Type "C")	.0059183	1
B-311 (Type "B")	.0048033	1
B-312 (Type "A")	.0049666	1
B-313 (Type "A")	.0049666	1
B-314 (Type "B")	.0048033	1
B-315 (Type "C")	.0059183	1
B-316 (Type "D")	.0039446	1
B-401 (Type "D")	.0039446	1
B-402 (Type "C")	.0059183	1
B-403 (Type "B")	.0048033	1
B-404 (Type "A")	.0049666	1
B-405 (Type "A")	.0049666	1
B-406 (Type "B")	.0048033	1
B-407 (Type "C")	.0059183	1
B-408 (Type "D")	.0039446	1
B-409 (Type "D")	.0039446	1
B-410 (Type "C")	.0059183	1
B-411 (Type "B")	.0048033	1
B-412 (Type "A")	.0049666	1
B-413 (Type "A")	.0049666	1
B-414 (Type "B")	.0048033	1
B-415 (Type "C")	.0059183	1
B-416 (Type "D")	.0039446	1

EXHIBIT "E" CONTINUATION PAGE

UNIT NUMBER	PERCENTAGE OWNERSHIP INTEREST IN COMMON & LIMITED COMMON ELEMENTS (Respective share of each unit)	NUMERICAL VALUE OF VOTE TO WHICH UNIT IS ENTITLED
Residential Units:		
B-501 (Type "D")	.0039446	1
B-502 (Type "C")	.0059183	1
B-503 (Type "B")	.0048033	1
B-504 (Type "A")	.0049666	1
B-505 (Type "A")	.0049666	1
B-506 (Type "B")	.0048033	1
B-507 (Type "C")	.0059183	1
B-508 (Type "D")	.0039446	1
B-509 (Type "D")	.0039446	1
B-510 (Type "C")	.0059183	1
B-511 (Type "B")	.0048033	1
B-512 (Type "A")	.0049666	1
B-513 (Type "A")	.0049666	1
B-514 (Type "B")	.0048033	1
B-515 (Type "C")	.0059183	1
B-516 (Type "D")	.0039446	1
B-601 (Type "D")	.0039446	1
B-602 (Type "C")	.0059183	1
B-603 (Type "B")	.0048033	1
B-604 (Type "A")	.0049666	1
B-605 (Type "A")	.0049666	1
B-606 (Type "B")	.0048033	1
B-607 (Type "C")	.0059183	1
B-608 (Type "D")	.0039446	1
B-609 (Type "D")	.0039446	1
B-610 (Type "C")	.0059183	1
B-611 (Type "B")	.0048033	1
B-612 (Type "A")	.0049666	1
B-613 (Type "A")	.0049666	1
B-614 (Type "B")	.0048033	1
B-615 (Type "C")	.0059183	1
B-616 (Type "D")	.0039446	1

EXHIBIT "E" CONTINUATION PAGE

<u>UNIT NUMBER</u>	PERCENTAGE OWNERSHIP INTEREST IN COMMON & LIMITED COMMON ELEMENTS (Respective share <u>of each unit)</u>	NUMERICAL VALUE OF VOTE TO WHICH UNIT IS <u>ENTITLED</u>
Residential Units:		
B-701 (Type "D")	.0039446	1
B-702 (Type "C")	.0059183	1
B-703 (Type "B")	.0048033	1
B-704 (Type "A")	.0049666	1
B-705 (Type "A")	.0049666	1
B-706 (Type "B")	.0048033	1
B-707 (Type "C")	.0059183	1
B-708 (Type "D")	.0039446	1
B-709 (Type "D")	.0039446	1
B-710 (Type "C")	.0059183	1
B-711 (Type "B")	.0048033	1
B-712 (Type "A")	.0049666	1
B-713 (Type "A")	.0049666	1
B-714 (Type "B")	.0048033	1
B-715 (Type "C")	.0059183	1
B-716 (Type "D")	.0039446	1
B-801 (Type "D")	.0039446	1
B-802 (Type "C")	.0059183	1
B-803 (Type "B")	.0048033	1
B-804 (Type "A")	.0049666	1
B-805 (Type "A")	.0049666	1
B-806 (Type "B")	.0048033	1
B-807 (Type "C")	.0059183	1
B-808 (Type "D")	.0039446	1
B-809 (Type "D")	.0039446	1
B-810 (Type "C")	.0059183	1
B-811 (Type "B")	.0048033	1
B-812 (Type "A")	.0049666	1
B-813 (Type "A")	.0049666	1
B-814 (Type "B")	.0048033	1
B-815 (Type "C")	.0059183	1
B-816 (Type "D")	.0039446	1

EXHIBIT "E" CONTINUATION PAGE

UNIT NUMBER	PERCENTAGE OWNERSHIP INTEREST IN COMMON & LIMITED COMMON ELEMENTS (Respective share of each unit)	NUMERICAL VALUE OF VOTE TO WHICH UNIT IS ENTITLED
Residential Units:		
B-901 (Type "D")	.0039446	1
B-902 (Type "C")	.0059183	1
B-903 (Type "B")	.0048033	1
B-904 (Type "A")	.0049666	1
B-905 (Type "A")	.0049666	1
B-906 (Type "B")	.0048033	1
B-907 (Type "C")	.0059183	1
B-908 (Type "D")	.0039446	1
B-909 (Type "D")	.0039446	1
B-910 (Type "C")	.0059183	1
B-911 (Type "B")	.0048033	1
B-912 (Type "A")	.0049666	1
B-913 (Type "A")	.0049666	1
B-914 (Type "B")	.0048033	1
B-915 (Type "C")	.0059183	1
B-916 (Type "D")	.0039446	1
B-1001 (Type "D")	.0039446	1
B-1002 (Type "C")	.0059183	1
B-1003 (Type "B")	.0048033	1
B-1004 (Type "A")	.0049666	1
B-1005 (Type "A")	.0049666	1
B-1006 (Type "B")	.0048033	1
B-1007 (Type "C")	.0059183	1
B-1008 (Type "D")	.0039446	1
B-1009 (Type "D")	.0039446	1
B-1010 (Type "C")	.0059183	1
B-1011 (Type "B")	.0048033	1
B-1012 (Type "A")	.0049666	1
B-1013 (Type "A")	.0049666	1
B-1014 (Type "B")	.0048033	1
B-1015 (Type "C")	.0059183	1
B-1016 (Type "D")	.0039446	1

EXHIBIT "E" CONTINUATION PAGE

UNIT NUMBER	PERCENTAGE OWNERSHIP INTEREST IN COMMON & LIMITED COMMON ELEMENTS (Respective share of each unit)	NUMERICAL VALUE OF VOTE TO WHICH UNIT IS ENTITLED
Residential Units:		
B-1101 (Type "D")	.0039446	1
B-1102 (Type "C")	.0059183	1
B-1103 (Type "B")	.0048033	1
B-1104 (Type "A")	.0049666	1
B-1105 (Type "A")	.0049666	1
B-1106 (Type "B")	.0048033	1
B-1107 (Type "C")	.0059183	1
B-1108 (Type "D")	.0039446	1
B-1109 (Type "D")	.0039446	1
B-1110 (Type "C")	.0059183	1
B-1111 (Type "B")	.0048033	1
B-1112 (Type "A")	.0049666	1
B-1113 (Type "A")	.0049666	1
B-1114 (Type "B")	.0048033	1
B-1115 (Type "C")	.0059183	1
B-1116 (Type "D")	.0039446	1
B-1201 (Type "D")	.0039446	1
B-1202 (Type "C")	.0059183	1
B-1203 (Type "B")	.0048033	1
B-1204 (Type "A")	.0049666	1
B-1205 (Type "A")	.0049666	1
B-1206 (Type "B")	.0048033	1
B-1207 (Type "C")	.0059183	1
B-1208 (Type "D")	.0039446	1
B-1209 (Type "D")	.0039446	1
B-1210 (Type "C")	.0059183	1
B-1211 (Type "B")	.0048033	1
B-1212 (Type "A")	.0049666	1
B-1213 (Type "A")	.0049666	1
B-1214 (Type "B")	.0048033	1
B-1215 (Type "C")	.0059183	1
B-1216 (Type "D")	.0039446	1

EXHIBIT "E" CONTINUATION PAGE

UNIT NUMBER	PERCENTAGE OWNERSHIP INTEREST IN COMMON & LIMITED COMMON ELEMENTS (Respective share of each unit)	NUMERICAL VALUE OF VOTE TO WHICH UNIT IS ENTITLED
Residential Units:		
B-P01 (Type "D")	.0039446	1
B-P02 (Type "C")	.0059183	1
B-P03 (Type "B")	.0048033	1
B-P04 (Type "A")	.0049666	1
B-P05 (Type "A")	.0049666	1
B-P06 (Type "B")	.0048033	1
B-P07 (Type "C")	.0059183	1
B-P08 (Type "D")	.0039446	1
B-P09 (Type "D")	.0039446	1
B-P10 (Type "C")	.0059183	1
B-P11 (Type "B")	.0048033	1
B-P12 (Type "A")	.0049666	1
B-P13 (Type "A")	.0049666	1
B-P14 (Type "B")	.0048033	1
B-P15 (Type "C")	.0059183	1
B-P16 (Type "D")	.0039446	1
B-100 (commercial)	.0091370	1
B-200 (commercial)	.0070105	1
TOTAL: 202	1.00000%	202

EXHIBIT "F"

CARIBE RESORT OPERATING BUDGET
PHASE I
(based on 100% occupancy)

Projected Budget for the year after the conveyance of the first Unit

INCOME	$ 906,444.00
Association Fees	
	$ 906,414.00
TOTAL INCOME ** (See NOTE on page 2)	
MAINTENANCE EXPENSE	$27,000.00
Building Maintenance and Repairs Supply	50,000.00
Maintenance and Repairs/Contract	10,800.00
Miscellaneous Repairs	40,000.00
Elevator Maintenance/Contract	60,000.00
Grounds and Pool Maintenance Supply	75,000.00
Grounds and Pool Maintenance/Contract	10,800.00
Exterminating Service and Termite Bond	6,000.00
Furniture and Furnishing Replacement	65,000.00
Repair and Replacement Reserve	
	$ 344,600.00
TOTAL MAINTENANCE EXPENSE	
UTILITIES EXPENSE	$ 63,000.00
Electricity	100,000.00
Water and Sewer	4,240.00
Garbage and Trash Removal	25,000.00
Cable TV	
	$ 212,240.00
TOTAL UTILITIES EXPENSE	
ADMINISTRATIVE EXPENSE	$ 75,000.00
Management Fee	2,000.00
Postage	1,500.00
Phone Expense (4 elevator phones)	2,000.00
Supplies	15,000.00
Legal Expense	30,000.00
Security	$ 125,500.00
TOTAL ADMINISTRATIVE EXPENSE	

See Exhibit "F" Continuation Page

TAXES AND INSURANCE EXPENSE	
Taxes, Licenses and Permits	$ 4,000.00
Property and Liability Insurance	170,000.00
Flood Insurance	26,000.00
Fidelity Coverage Insurance	3,000.00
Taxes and Insurance Reserve	20,000.00
TOTAL TAXES AND INSURANCE EXPENSE	$ 223,000.00
TOTAL EXPENSES	$ 905,340.00
PROFIT/LOSS	$ 1,104.00

Projected monthly maintenance expense:
(maintenance expenses have been rounded up to nearest dollar amount)

Type "A" Units: $4,500.00 per year / $375.00 per month

Type "A'" Units: $4,608.00 per year / $384.00 per month

Type "B" Units: $4,356.00 per year / $363.00 per month

Type "C" Units: $5,364.00 per year / $447.00 per month

Type "D" Units: $3,576.00 per year / $298.00 per month

Commercial Unit 100: $8,280.00 per year / $690.00 per month

Commercial Unit 200: $6,360.00 per year / $530.00 per month

SEE EXHIBIT 'F' CONTINUATION PAGE

NOTES:

The above Estimated Operating Budget was prepared in January, 2000, by the Developer, Caribe Resort, Inc., and is based upon 100% occupancy of Phase I. The Developer shall not be responsible for any increase in the Common Expenses of Caribe Resort Condominium Association, Inc. ("Association") occasioned by increases in the respective cost of water, sewer, maintenance, utilities, insurance, or other matters. The fiscal management of the Association shall be governed by the Board of Directors of the Association as set forth in the Declaration and By-laws of the Association. Purchaser is responsible for the payment of all utilities individually metered or connected to his Unit or Limited Common Element. The estimated Common Expense for Phase I is deemed reasonably accurate and adequate as of the date of its preparation, but no warranty or guarantee is intended. No unit owner shall be exempt from paying his/her proportionate share of the Common or Limited Common Expense or Beach Mouse Assessment by waiver or nonuse or nonenjoyment of the Common Elements. The Developer has not attempted to estimate the budget for Phase II or any other Phase, which Developer makes no assurances will be constructed.

** NOTE: Total Income does not include the contribution to the working capital fund which is collected from each initial purchaser at closing and paid to the Association. Nor does it include any amounts paid to the Association in connection with the Permit and the Habitat Conservation Plan or the BEACH MOUSE FUND.

EXHIBIT "G"

COPY OF U.S. FISH AND WILDLIFE PERMIT

(10/86)

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE PERMIT

2. AUTHORITY-STATUTES	16 USC 1539(A)(1)(B)
REGULATIONS (ATTACHED)	50 CFR §17.22
3. NUMBER	PRT 787698
4. RENEWABLE	XXX YES ___ NO
5. MAY COPY	XXX YES ___ NO
6. EFFECTIVE	5/4/1994
7. EXPIRES	5/4/2024

1. PERMITTEE

FEL-KRAN PLUMBING & HEATING COMPANY, INCORPORATED
1110 HURON RIVER DRIVE, SUITE 1
YPSILANTI, MICHIGAN 48197

313/487-3214

8. NAME AND TITLE OF PRINCIPAL OFFICER (IF # 1 IS A BUSINESS)

LARRY WIREMAN, PRESIDENT

9. TYPE OF PERMIT

ENDANGERED SPECIES

MISC 00911 PAGE 01592

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED

APPROXIMATELY 27 ACRES OF LAND LOCATED NORTH OF ALABAMA HIGHWAY 182, AT THE WESTERNMOST END OF PERDIDO KEY, BALDWIN COUNTY, ALABAMA.

11. CONDITIONS AND AUTHORIZATIONS:

A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.

B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL OR OTHER FEDERAL LAW.

C. VALID FOR USE BY PERMITTEE NAMED ABOVE.

D. ACCEPTANCE OF THIS PERMIT SERVES AS EVIDENCE THAT THE PERMITTEE AND ITS AUTHORIZED AGENTS UNDERSTAND AND AGREE TO ABIDE BY THE TERMS OF THIS PERMIT AND ALL SECTIONS OF TITLE 50 CODE OF FEDERAL REGULATIONS, PARTS 13 AND 17, PERTINENT TO ISSUED PERMITS. SECTION 11 OF THE ENDANGERED SPECIES ACT OF 1973, AS AMENDED, PROVIDES FOR CIVIL AND CRIMINAL PENALTIES FOR FAILURE TO COMPLY WITH PERMIT CONDITIONS.

E. THE PERMITTEE, AND ITS AUTHORIZED AGENTS, ARE AUTHORIZED TO TAKE THE PERDIDO KEY BEACH MOUSE, *PEROMYSCUS POLIONOTUS TRISSYLLEPSIS*, INCIDENTAL TO CONSTRUCTION OF A MIXED USE RESIDENTIAL SUBDIVISION, KNOWN AS CARIBE WALKING VILLAGE, (PROJECT), AS DESCRIBED IN THIS PERMITTEE'S HABITAT CONSERVATION PLAN (HCP), AND AS CONDITIONED HEREIN.

XX ADDITIONAL CONDITIONS AND AUTHORIZATIONS ON REVERSE ALSO APPLY - PAGE 1 OF 7 PAGES

12. REPORTING REQUIREMENTS

REPORTS WILL BE PROVIDED TO THE U.S. FISH AND WILDLIFE SERVICE OFFICES APPEARING IN CONDITION N OF THIS PERMIT. THE FIRST REPORT IS DUE MAY 4, 1995. OTHER REPORTING REQUIREMENTS ARE INDICATED IN THE PERMIT CONDITIONS IDENTIFIED HEREIN, AND THE HCP.

ISSUED BY:	TITLE	DATE
[signature]	REGIONAL DIRECTOR, FWS	MAY 09 1994

Instrument [illegible] Page [illegible]

ORIGINAL

F. THE AUTHORIZATION GRANTED BY THIS PERMIT IS SUBJECT TO FULL AND COMPLETE COMPLIANCE WITH, AND IMPLEMENTATION OF, THE TERMS AND CONDITIONS OF THIS PERMIT.

G. THE PERMITTEE OWNS AN APPROXIMATELY 27 ACRE TRACT LOCATED ON THE WESTERNMOST END OF PERDIDO KEY, BALDWIN COUNTY, ALABAMA (PROJECT). INFRASTRUCTURE AND HOME SITES WILL OCCUPY VIRTUALLY ALL OF THE PROJECT, THROUGH SOME OPEN SPACE WILL REMAIN THROUGHOUT THE PROJECT. THIS PERMIT AUTHORIZES INCIDENTAL TAKING OF *PEROMYSCUS POLINOTUS TRISSYLLEPSIS* RESULTING FROM DEVELOPMENT FOR RESIDENTIAL AND ASSOCIATED PURPOSES FOR ALL LANDS WITHIN THE PROJECT.

H. THE NATURE OF THE PROJECT IS A PHASED RESIDENTIAL DEVELOPMENT, EVENTUALLY TRANSFERRING TITLES AND CONTROL OF THE PROJECT TO PROPERTY OWNERS (OWNERS) AND A PROPERTY OWNERS ASSOCIATION, INCORPORATED (ASSOCIATION). THE PERMITTEE MUST INFORM EACH OWNER AND THE ASSOCIATION OF THEIR RESPONSIBILITIES AND MANDATES AS DESCRIBED IN THE HCP AND THIS PERMIT. ALL CONDITIONS OF THIS PERMIT AUTOMATICALLY WILL BE ASSIGNED AND TRANSFERRED TO EACH OWNER AND THE ASSOCIATION AND SHALL RUN WITH THE REAL PROPERTY ENCOMPASSED BY THE PROJECT.

I. THE FOLLOWING MEASURES WILL BE EMPLOYED BY THE PERMITTEE TO ENSURE THAT *PEROMYSCUS POLINOTUS TRISSYLLEPSIS* TAKE IS MINIMIZED AND FULLY MITIGATED.

1. THE PERMITTEE SHALL PERMIT THE CONTACT OFFICE OF THE U.S. FISH AND WILDLIFE SERVICE PERSONNEL (IDENTIFIED IN CONDITION N, BELOW), STATE OR ALABAMA DEPARTMENT OF CONSERVATION PERSONNEL OR OTHER PROPERLY PERMITTED AND QUALIFIED PERSONS DESIGNATED BY EITHER AGENCY TO ENTER THE PROJECT BOUNDARIES AT REASONABLE HOURS AND TIMES FOR THE GENERAL PURPOSES SPECIFIED IN PART 50 CODE OF FEDERAL REGULATIONS § 13.21(D)(2).

2. THE PERMITTEE SHALL ESTABLISH, WITHIN 120 DAYS OF THE EFFECTIVE DATE OF THIS PERMIT, COVENANTS, RESTRICTIONS, AND CONDITIONS (DECLARATION) ON EACH OWNER AND THE ASSOCIATION. THE DECLARATION MUST MANDATE THE FOLLOWING MINIMUM PERFORMANCE STANDARDS FOR PURPOSES OF PROTECTING *PEROMYSCUS POLINOTUS TRISSYLLEPSIS*. THE DECLARATION MUST BE APPROVED BY THE CONTACT OFFICE OF THE U.S. FISH AND WILDLIFE SERVICE. AN EXECUTED COPY OF THE DECLARATION MUST BE PROVIDED TO THE CONTACT OFFICE OF THE U.S. FISH AND WILDLIFE SERVICE BY THE FIRST ANNUAL REPORTING DATE.

A. A BRIEF DESCRIPTION AND INFORMATION ON THE NEED, INTENT, AND PURPOSES OF THIS PERMIT, AND CONSERVATION OF *PEROMYSCUS POLINOTUS TRISSYLLEPSIS*.

B. IDENTIFICATION OF THE REQUIREMENTS AND RESPONSIBILITIES CONTAINED IN THE PERMIT. PERMITTEE IS REQUIRED TO PROVIDE A COPY OF THE PERMIT TO EACH OWNER AT OR BEFORE CLOSING OF EACH DWELLING UNIT OR SALE OF EACH REAL PROPERTY WITHIN THE PROJECT. IN ADDITION, EACH OWNER SHALL MAINTAIN A COPY OF THE PERMIT IN THE RESIDENCE FOR USE BY LESSEES OR OTHERS WHO HOLD UNDER THE OWNER. THE RESPONSIBILITIES TO BE IDENTIFIED INCLUDE THE FOLLOWING:

I. PROHIBITION OF THE OWNERSHIP OF CATS. THE NEED FOR REPORTING AND CONTROL OF FREE ROAMING CATS.

II. USE OF REFUSE CONTAINERS THAT ARE RODENT-PROOF. OTHER REFUSE MANAGEMENT REQUIREMENTS ARE PROVIDED IN CONDITION I.6 AND I.7.

III. PROHIBITION ON THE USE OF FLOOD LIGHTING WITHIN THE PROJECT. REQUIREMENTS FOR THE INSTALLATION OF HIGH-PRESSURE SODIUM LAMPS FOR STREET LIGHTS. ALL LIGHTING WITHIN THE PROJECT MUST BE SHIELDED TO AVOID ILLUMINATING THE CRITICAL HABITAT, AND THE ADJACENT STATE LANDS TO THE EAST OF THE PROJECT, AND THE STATE LANDS TO THE SOUTH OF THE PROJECT.

2. (CONTINUED)

IV. EXCEPT FOR THE FORMAL ENTRANCE TO THE PROJECT, ALL PLANT SPECIES USED FOR LANDSCAPING THE COMMON AREAS AND INDIVIDUAL LOTS MUST BE SELECTED FROM AN INDIGENOUS PLANT LIST APPROVED BY THE CONTACT OFFICE OF THE U.S. FISH AND WILDLIFE SERVICE. VARIANCES OR EXCEPTIONS TO THIS REQUIREMENT FOR STREET-SIDE LANDSCAPING OF INDIVIDUAL LOTS OR FOR LANDSCAPING WITHIN THE DESIGNATED FOOTPRINT OF STRUCTURES ON INDIVIDUAL LOTS WILL BE CONSIDERED BY THE CONTACT OFFICE OF THE CONTACT OFFICE OF THE U.S. FISH AND WILDLIFE SERVICE UPON REQUEST. THIS REQUEST MAY COME FROM AN OWNER, OR FOR THE PROJECT BY FEL-KRAN HEATING AND PLUMBING COMPANY, OR THE ASSOCIATION AT ANY TIME.

V. IDENTIFICATION OF THE REQUIREMENTS OF ESTABLISHING AND MAINTAINING A SPECIAL ASSESSMENT TO FUND AND MONITOR THE IMPLEMENTATION OF THE REQUIREMENTS OF THIS PERMIT.

3. WITHIN 1 YEAR OF THE EFFECTIVE DATE OF THIS PERMIT, THE PERMITTEE SHALL PREPARE AND PUBLISH FOR DISTRIBUTION WITHIN THE PROJECT AN INFORMATION AND EDUCATIONAL BROCHURE ON THE CONSERVATION OF *PEROMYSCUS POLINOTUS TRISSYLLEPSIS*. THESE BROCHURES WILL INFORM RECIPIENTS CONCERNING THE PRESENCE OF THE *PEROMYSCUS POLINOTUS TRISSYLLEPSIS*; THE NECESSITY FOR HOUSE MOUSE AND CAT CONTROL; REFUSE MANAGEMENT AND STORAGE; AND THE SIGNIFICANCE OF DUNE SYSTEMS FOR THE SPECIES SURVIVAL. THESE MATERIALS WILL BE UPDATED EVERY 5 YEARS DURING THE TERM OF THIS PERMIT.

4. WITHIN 2 YEARS OF THE EFFECTIVE DATE OF THIS PERMIT, THE PERMITTEE SHALL INSTALL AND MAINTAIN A SIGN DESCRIBING *PEROMYSCUS POLINOTUS TRISSYLLEPSIS* AND ITS HABITAT. THE SIGN SHALL BE PLACED IN WITHIN A FREQUENTLY USED COMMON AREA OF THE PROJECT, SUCH AS AROUND THE POOL OR THE PIER FACILITY, FREQUENTED BY RESIDENTS AND VISITORS. THE PERMITTEE SHALL OBTAIN WRITTEN APPROVAL OF THE CONTACT OFFICE OF THE U.S. FISH AND WILDLIFE SERVICE ON THE DESIGN, CONTENT, AND INSTALLATION OF THE SIGN.

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5. WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS PERMIT, THE PERMITTEE SHALL ESTABLISH AN INTEREST BEARING ACCOUNT FOR PURPOSES OF IMPLEMENTING THE CONDITIONS OF THIS PERMIT. THE PERMITTEE SHALL DEPOSIT $3,000.00 IN THE ACCOUNT FOR THE FIRST YEAR, AND ANNUALLY ASSESS EACH DWELLING UNIT $50.00 PER YEAR. THIS ANNUAL ASSESSMENT WILL STOP WHEN THE ACCOUNT REACHES $30,000.00, AT WHICH TIME THE ASSESSMENTS WILL TEMPORARILY CEASE. AT SUCH TIME THEREAFTER AS THE FUND BALANCE FALLS BELOW $5,000.00, THE $50.00 PER YEAR PER DWELLING UNIT ASSESSMENT WILL RESUME AND WILL CONTINUE UNTIL THE FUND BALANCE AGAIN REACHES $30,000.00 TO ENSURE THE HCP AND THE PERMIT CONDITIONS ARE SUCCESSFULLY IMPLEMENTED. THE DECLARATION MUST IDENTIFY THAT THE SPECIAL ASSESSMENT FOR IMPLEMENTATION OF THIS PERMIT CANNOT BE DISSOLVED UNDER ANY PROCEDURES AND MUST BE MAINTAINED THROUGH THE EXPIRATION DATE OF THIS PERMIT.

6. BY THE FIRST ANNUAL REPORTING DATE, THE PERMITTEE SHALL INSTITUTE THE FOLLOWING MINIMUM REFUSE MANAGEMENT MEASURES FOR THE PROJECT: NO HOMEOWNER, RESIDENT OR TENANT OF THE PROPERTY OR CONTRACTOR CONDUCTING BUSINESS THEREON MAY DISPOSE OF ANY REFUSE CAPABLE OF ATTRACTING RODENT EXCEPT WITHIN A TIGHTLY-CLOSED RODENT-PROOF REFUSE CONTAINER. MULTIPLE-USE, SUPERVISED OUTDOOR REFUSE STORAGE FACILITIES SHALL BE PROVIDED FOR RESIDENTS OF THE TWO PROPOSED MULTI-STORY TOWERS. THESE SHALL CONSIST OF TIGHTLY-CLOSING DUMPSTERS OF A NUMBER AND CAPACITY WHICH WILL EASILY CONTAIN THE AMOUNT OF SOLID WASTE EXPECTED TO BE GENERATED UNDER CONDITIONS OF OCCUPANCY OF THE TOWERS. THESE WILL BE MAINTAINED, INSPECTED, AND LOGGED ON A DAILY BASIS BY A RESPONSIBLE EMPLOYEE. ALL GARBAGE CANS AND REFUSE STORAGE CONTAINERS, BOTH ON THE PERMITTEE'S PROPERTY AND THE STATE-OPERATED VISITOR PARKING AREAS, SHALL BE INSPECTED ANNUALLY AND REPLACED IF NO LONGER FUNCTIONING EFFECTIVELY. SUCH INSPECTION AND REPLACEMENT OF THE MEASURES OUTLINED IN I.6. AND I.7. SHALL BE FUNDED BY THE HOME OWNERS ASSOCIATION'S SPECIAL ASSESSMENT AS OUTLINED IN CONDITION I.5. ABOVE.

FEL-KRAN PLUMBING & HEATING COMPANY, INCORPORATED
1110 HURON RIVER DRIVE, SUITE 1
YPSILANTI, MICHIGAN 48197
PRT - 787698

(CONTINUED)

7. WITHIN 120 DAYS OF THE EFFECTIVE DATE OF THIS PERMIT, THE PERMITTEE WILL PROVIDE FUNDS FOR ACQUISITION OF NEW HEAVY-DUTY GARBAGE CANS TO REPLACE THE INADEQUATE CONTAINERS CURRENTLY IN USE AT THE TWO STATE-OPERATED VISITOR PARKING AREAS WITHIN DESIGNATED CRITICAL HABITAT SOUTH OF HIGHWAY 182.

8. THE PERMITTEE SHALL SPECIFY IN THE DECLARATION THAT NO CATS SHALL BE ALLOWED TO BE MAINTAINED AS PETS OR OTHERWISE KEPT IN POSSESSION BY RESIDENTS OR VISITORS WITHIN THE PROJECT AREA. FURTHER, THAT RESIDENTS OR VISITORS WILL BE PROHIBITED FROM SUPPORTING THE PRESENCE OF FREE-ROAMING (STRAY) CATS BY PROVIDING FOOD, SHELTER, OR ANY OTHER LIFE SUPPORT ELEMENTS.

9. WITHIN 1 YEAR OF THE EFFECTIVE DATE OF THIS PERMIT, THE PERMITTEE WILL CONSTRUCT A FENCE AND WILL INSTALL CONTINUOUS LANDSCAPING ALONG THE ENTIRE EASTERN BOUNDARY LINE OF THE PROPERTY TO DISCOURAGE PERSONS FROM CROSSING OVER INTO THE ADJACENT STATE PARK LANDS TO THE EAST. THE CONTACT OFFICE OF THE U.S. FISH AND WILDLIFE SERVICE SHALL APPROVE IN WRITING THE DESIGN OF THE FENCE PRIOR TO THE INITIATION OF CONSTRUCTION TO ENSURE ITS SPECIFICATIONS MEET OR EXCEED THE STATED GOAL OF DISCOURAGING ACCESS TO THE STATE PARK LANDS. THE PERMITTEE SHALL MAINTAIN THE FENCE AND LANDSCAPING THROUGHOUT THE TERM OF THIS PERMIT.

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10. THE PERMITTEE WILL PROVIDE FUNDING FOR APPLICATION OF REASONABLE STRUCTURAL MEASURES SUCH AS SNOW FENCING, SILT FENCING AND HAY BALES, FOR THE PURPOSE OF ACCELERATING THE DEVELOPMENT OF TALLER AND MORE MASSIVE SAND DUNES IN SELECTED PORTIONS OF THE 37 ACRES OF STATE PARK LANDS ADJACENT TO THE DEVELOPMENT. THE PERMITTEE SHALL WORK DIRECTLY WITH THE STATE OF ALABAMA AND THE U.S. FISH AND WILDLIFE SERVICE TO ENSURE CORRECT DESIGN AND PLACEMENT OF THE RESTORATION MEASURES. A DUNE CREATION STRATEGY WILL THEN BE DEVELOPED, FUNDED, AND IMPLEMENTED BY THE PERMITTEE WITHIN 1 YEAR OF THE EFFECTIVE DATE OF THIS PERMIT. THE TOTAL COSTS OF THESE MEASURES WILL NOT EXCEED $3,000.

11. THE PERMITTEE WILL PROVIDE FUNDS FOR THE PURPOSE OF DUNE DAMAGE REMEDIATION AT THE WESTERN END OF CRITICAL HABITAT SOUTH OF THE PROJECT SITE. THE DAMAGE HAS RESULTED FROM POORLY CONTROLLED TRESPASS BY PEDESTRIANS WALKING TO AND FROM THE WET BEACH. THIS MAY INCLUDE CEDAR TREES OR BRANCHES, GEOTEXTILE MATERIALS, AND HAY BALES; TRANSPLANTING AND/OR SEEDING DUNE PLANTS. THE PERMITTEE SHALL WORK DIRECTLY WITH THE STATE OF ALABAMA AND THE CONTACT OFFICE OF THE U. S. FISH AND WILDLIFE SERVICE TO ENSURE CORRECT DESIGN AND PLACEMENT OF THE RESTORATION MEASURES. A DUNE RESTORATION STRATEGY WILL THEN BE DEVELOPED, FUNDED, AND IMPLEMENTED BY THE PERMITTEE WITHIN 1 YEAR OF THE EFFECTIVE DATE OF THIS PERMIT. THE TOTAL COSTS OF THESE MEASURES WILL NOT EXCEED $5,000.

12. WITHIN 1 YEAR OF THE EFFECTIVE DATE OF THIS PERMIT, THE PERMITTEE WILL PROVIDE FUNDS FOR CONSTRUCTION OF ADDITIONAL REASONABLE CABLE FENCING AND SIGNAGE IN THE AREA OF THE WESTERNMOST OF THE TWO PARKING AREAS ALONG THE SOUTH SIDE OF THE STATE HIGHWAY ACCESS ROAD PARALLELING THE CRITICAL HABITAT AT FLORIDA POINT. CABLE FENCING WILL BE PLACED IN SUCH A MANNER AS TO FOCUS PEDESTRIAN TRAFFIC BETWEEN THE PARKING AREA AND THE BEACH TO TWO ROUTES, NAMELY THE EXISTING POST-AND-CABLE BOUNDED WALKWAY/TIMBER WALKOVER SYSTEM AND A SECOND ROUTE WHICH WILL LEAD WESTWARD ALONG THE NORTH EDGE OF THE PAVED PARKING AREA (TOWARD PERDIDO PASS) AND THEN TURN SOUTHWARD PARALLEL TO THE PASS AND OUTSIDE (WEST OF) THE WESTERN EDGE OF THE DUNES. ADDITIONAL SIGNS WILL BE PLACED ADJACENT TO OR WITHIN THE CRITICAL HABITAT ALONG THE SOUTH SIDE TO THE HIGHWAY, AND THE WESTERN EDGE OF THE DUNES PARALLELING PERDIDO PASS WEST OF THE PARKING AREA. THESE SIGNS, TO BE DESIGNED AND CONSTRUCTED TO ALABAMA DEPARTMENT OF CONSERVATION SPECIFICATIONS AND INSTALLED BY THEM, WILL STATE A STRONG AND UNEQUIVOCAL PROHIBITION AGAINST PEDESTRIAN TRAFFIC ON THE DUNE SYSTEM, POSSIBLY INCLUDING PENALTIES FOR VIOLATION. THE CONTACT OFFICE OF THE U.S. FISH AND WILDLIFE SERVICE AND THE STATE OF ALABAMA DEPARTMENT OF CONSERVATION SHALL APPROVE IN WRITING THE DESIGN AND MATERIALS OF THE CABLE FENCING AND SIGNAGE PRIOR TO THEIR MANUFACTURING AND INSTALLATION. THE TOTAL COSTS OF THESE STRUCTURAL MEASURES WILL NOT EXCEED $5,000.

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(CONTINUED)

13. THE PERMITTEE SHALL FUND FURTHER RESEARCH ON *PEROMYSCUS POLINOTUS TRISSYLLEPSIS*. FURTHER INVESTIGATIONS ARE SUBJECT TO APPROVAL BY THE CONTACT OFFICE OF THE U.S. FISH AND WILDLIFE SERVICE, AND MAY INCLUDE ESTABLISHMENT OF A NEW POPULATION IN UNOCCUPIED HABITAT, GENETIC STUDIES, INTENSIVE STUDY OF LIFE HISTORY REQUIREMENTS, AND FOR OTHER PURPOSES CONSISTENT WITH THE CONSERVATION OF *PEROMYSCUS POLINOTUS TRISSYLLEPSIS*. THE PERMITTEE SHALL ESTABLISH AN INTEREST-BEARING ACCOUNT FOR PURPOSES OF THIS CONDITION, NOT TO EXCEED $15,000 PRINCIPAL. FUNDS WILL BE WITHDRAWN BY THE PERMITTEE TO INITIATE THESE ACTIVITIES UPON FURTHER CONSULTATION WITH, AND APPROVAL FROM, THE CONTACT OFFICE OF THE U.S. FISH AND WILDLIFE SERVICE.

THE FOLLOWING MEASURES WILL BE EMPLOYED BY THE PERMITTEE TO PROVIDE FOR MONITORING OF THE HCP AND PERMIT. WHERE APPROPRIATE, SPECIFIC PERFORMANCE MEASUREMENTS FOR NONCOMPLIANCE HAVE BEEN IDENTIFIED. WHERE NON-COMPLIANCE IS INDICATED OR DISCOVERED DURING ROUTINE OR REQUIRED REPORTING PERIODS, IMMEDIATE NOTIFICATION AND REMEDIAL ACTIONS ARE REQUIRED.

1. DURING FALL, SPRING, AND SUMMER QUARTERS OF THE CALENDAR YEAR, THE PERMITTEE SHALL PERFORM A SURVEY DOCUMENTING PRESENCE OR ABSENCE OF HOUSE MICE, *MUS MUSCULUS*, A KNOWN COMPETITOR OF *PEROMYSCUS POLINOTUS TRISSYLLEPSIS*. THE SURVEY SHALL BE PERFORMED BY QUALIFIED AND PERMITTED AGENTS OF THE PERMITTEE, APPROVED BY THE CONTACT OFFICE OF THE U.S. FISH AND WILDLIFE SERVICE. DESIGN OF THE SURVEY SHALL FOCUS ON THOSE AREAS OF THE PROJECT ALREADY DEVELOPED TO ASCERTAIN PRESENCE OF COMPETITORS. THE PRESENCE OF COMPETITORS SHALL NOT CONSTITUTE NONCOMPLIANCE WITH PROTECTION OF *PEROMYSCUS POLINOTUS TRISSYLLEPSIS* UNLESS THE PRESENCE OF *MUS MUSCULUS* CONSTITUTES 20% OR GREATER OF THE TOTAL CAPTURES, PROVIDING THE TOTAL SAMPLE SIZE IS GREATER THAN 5 INDIVIDUALS. ALL *MUS MUSCULUS* ARE TO BE DESTROYED UPON CAPTURE. THE FIRST SAMPLING EFFORT UNDER THIS CONDITION WILL COMMENCE IN FALL OF 1994.

   IF THE NUMBER OF *MUS MUSCULUS* EXCEEDS 20% OF TOTAL CAPTURED RODENTS AND SAMPLE SIZE IS GREATER THAN 5 INDIVIDUALS, THEN THE PERMITTEE IS NOT IN COMPLIANCE. THE PERMITTEE SHALL IMMEDIATELY INSTITUTE A MONTHLY COMPETITOR CONTROL TRAPPING PROGRAM, FUNDED BY THE SPECIAL ASSESSMENT FUND IDENTIFIED IN CONDITION I.5, ABOVE. THE TRAPPING PROGRAM SHALL REMOVE ALL *MUS MUSCULUS* UNTIL SUCH TIME THIS SPECIES' OCCURRENCE FALLS BELOW 20% OF THE SAMPLE. ONCE *MUS MUSCULUS* OCCURRENCE FALLS BELOW 20%, THE CONTROL PROGRAM SHALL CEASE, AND THE ROUTINE SAMPLING (E.G., FALL, SPRING, SUMMER) SHALL BE REINSTATED.

2. SIMULTANEOUS WITH EACH SAMPLING EVENT AS SPECIFIED IN CONDITION J.1., THE PERMITTEE SHALL PREPARE A REPORT ON THE PRESENCE OR ABSENCE OF FREE ROAMING CATS (*FELIS DOMESTICUS*) WITHIN THE PROJECT. WALKING TRANSECTS SHALL BE ESTABLISHED SO AS TO PROVIDE CENSUS COVERAGE OF 50 PERCENT OF THE PROJECT'S TOTAL AREA. TRACK AND OCCURRENCE DATA SHALL BE RECORDED. IF AVAILABLE, INFORMATION ON FREE-ROAMING CATS OBTAINED BY RESIDENTS SHALL ALSO BE SUMMARIZED IN THIS REPORT. SHOULD THIS REPORT OR OTHER EVIDENCE DOCUMENT THE PRESENCE OF FREE ROAMING CATS, THE PERMITTEE SHALL IMMEDIATELY INSTITUTE A TRAPPING PROGRAM. TRAPPED ANIMALS WILL BE TRANSPORTED TO THE NEAREST ANIMAL SHELTER OR ADOPTION FACILITY. FUNDED BY THE SPECIAL ASSESSMENT, THE TRAPPING PROGRAM SHALL BE EMPLOYED UNTIL DAILY SURVEYS FAIL TO DOCUMENT THE PRESENCE OF FREE ROAMING CATS IN THE PROJECT.

3. WITHIN 20 DAYS AFTER THE COMPLETION OF THE TASKS OUTLINED IN CONDITIONS J.1 AND J.2, THE PERMITTEE SHALL PROVIDE A REPORT TO THE U.S. FISH AND WILDLIFE SERVICE OFFICES LISTED IN CONDITION N. THE REPORT WILL DOCUMENT THE RESULTS OF THE SAMPLING EFFORTS AND ON THE EFFECTIVENESS AND EFFICIENCY OF THE COMPETITOR CONTROL PROGRAM AND FREE ROAMING CAT CONTROL EFFORT, AS NECESSARY.

K. By May 1, of each year the permit is valid, the permittee will submit an annual report to U.S. Fish and Wildlife Service offices listed in Condition N of this permit. The annual report shall outline and describe the implementation and success of mitigation and minimization measures as identified in Items 1 through 3 below:

1. The permittee shall identify non-compliance and measures employed to remediate the non-compliance. The annual report shall address the following:

   A. Control of *Mus musculus*.

   B. Free-roaming cat control.

   C. Garbage and refuse control.

   D. Establishment of educational/informational materials - both within the Project and on the adjacent State lands.

   E. Progress on landscaping requirements of the Project.

   F. Lighting requirements.

   G. The status and expenditures for the mitigation efforts specified in Conditions L.9, L.10, L.11.

   I. Status, and a description of changes made, if any, to the Declarations governing the Project. Note that the Declarations governing the subsequent property owners of the Project must be provided to and approved by in writing by the contact office of the U.S. Fish and Wildlife Service.

2. An accounting of the special assessment fund as established in Condition L.5.

3. An accounting of the research fund as established in Condition L.13.

L. The permittee and the U.S. Fish and Wildlife Service acknowledge that even with the above detailed provisions for monitoring and minimizing impacts to *Peromyscus polionotus trissyllepsis*, circumstances could arise which were not fully anticipated by this HCP and which may result in adverse impact to *Peromyscus polionotus trissyllepsis*. Such circumstances may become apparent either to the Applicants of this Project, Owners, Members of the Association, or to personnel of the U.S. Fish and Wildlife Service. When unforeseen circumstances that pose a threat of adverse impacts to *Peromyscus polionotus trissyllepsis* arise, the permittee and the contact office of the U.S. Fish and Wildlife Service shall meet within 10 working days to develop protective measures to address the unforeseen circumstances. The permittee and the contact office of the U.S. Fish and Wildlife Service shall agree to appropriate protective measures and begin their implementation within an additional 10 working days. Failure by the permittee to implement appropriate protective measure within 60 days of discovering unforeseen circumstances shall constitute grounds for permit suspension or revocation.

M. Upon locating a dead, injured, or sick *Peromyscus polionotus trissyllepsis*, or any other threatened or endangered species, initial notification must be made immediately to the U.S. Fish and Wildlife Service Law Enforcement Office, Aronov Building, Room 819, 474 South Court Street, Montgomery, Alabama 36104. The phone number is 205/223-7228. Notification should also be made (by the next work day) to the contact office of the U.S. Fish and Wildlife Service, address and telephone number noted in Condition N, below. Care should be taken in handling sick, injured, or dead specimens to ensure effective treatment or to preserve biological materials for later analysis. In conjunction with the care of sick or injured endangered species or preservation of biological materials from a dead animal, the finder should take responsible steps to ensure that the site is not unnecessarily disturbed.

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FOR PURPOSES OF MONITORING COMPLIANCE, AND ADMINISTRATION, OF THE TERMS AND CONDITIONS OF THIS PERMIT, THE CONTACT, ADDRESS AND PHONE NUMBER OF CONTACT OFFICE OF THE U.S. FISH AND WILDLIFE SERVICE IS:

FIELD SUPERVISOR
U.S. FISH AND WILDLIFE SERVICE
6578 DOGWOOD VIEW PARKWAY, SUITE A
JACKSON, MISSISSIPPI 39213
TELEPHONE: 601/965-4900

ANNUAL REPORTS, AND ANY CORRESPONDENCE GENERATED FROM IMPLEMENTATION, MODIFICATION, OR ADMINISTRATION OF THE PERMIT, SHALL ALSO BE PROVIDED TO THE FOLLOWING CONTACT, ADDRESS, AND PHONE NUMBER:

SECTION 10 PERMIT COORDINATOR
U.S. FISH AND WILDLIFE SERVICE
1875 CENTURY BOULEVARD
ATLANTA, GEORGIA 30345
TELEPHONE: 404/679-7110
FASCIMILE: 404/679-7081

EXHIBIT "H"

ALLOCATED COVERED PARKING SPACES, A LIMITED COMMON ELEMENT

UNIT NUMBER	ALLOCATED COVERED PARKING SPACE NUMBER
B-102	PB-102
B-103	PB-103
B-104	PB-104
B-105	PB-105
B-106	PB-106
B-107	PB-107
B-108	PB-108
B-110	PB-110
B-201	PB-201
B-202	PB-202
B-203	PB-203
B-204	PB-204
B-205	PB-205
B-206	PB-206
B-207	PB-207
B-208	PB-208
B-209	PB-209
B-210	PB-210
B-211	PB-211
B-212	PB-212
B-213	PB-213
B-214	PB-214
B-215	PB-215
B-216	PB-216
B-301	PB-301
B-302	PB-302
B-303	PB-303
B-304	PB-304
B-305	PB-305
B-306	PB-306
B-307	PB-307
B-308	PB-308
B-309	PB-309
B-310	PB-310
B-311	PB-311

CONTINUATION EXHIBIT "H"
ALLOCATED COVERED PARKING SPACES,
A LIMITED COMMON ELEMENT

UNIT NUMBER	ALLOCATED COVERED PARKING SPACE NUMBER
B-312	PB-312
B-313	PB-313
B-314	PB-314
B-315	PB-315
B-316	PB-316
B-401	PB-401
B-402	PB-402
B-403	PB-403
B-404	PB-404
B-405	PB-405
B-406	PB-406
B-407	PB-407
B-408	PB-408
B-409	PB-409
B-410	PB-410
B-411	PB-411
B-412	PB-412
B-413	PB-413
B-414	PB-414
B-415	PB-415
B-416	PB-416
B-501	PB-501
B-502	PB-502
B-503	PB-503
B-504	PB-504
B-505	PB-505
B-506	PB-506
B-507	PB-507
B-508	PB-508
B-509	PB-509
B-510	PB-510
B-511	PB-511
B-512	PB-512
B-513	PB-513
B-514	PB-514
B-515	PB-515

CONTINUATION EXHIBIT "H"

ALLOCATED COVERED PARKING SPACES, A LIMITED COMMON ELEMENT

UNIT NUMBER	ALLOCATED COVERED PARKING SPACE NUMBER
B-516	PB-516
B-601	PB-601
B-602	PB-602
B-603	PB-603
B-604	PB-604
B-605	PB-605
B-606	PB-606
B-607	PB-607
B-608	PB-608
B-609	PB-609
B-610	PB-610
B-611	PB-611
B-612	PB-612
B-613	PB-613
B-614	PB-614
B-615	PB-615
B-616	PB-616
B-701	PB-701
B-702	PB-702
B-703	PB-703
B-704	PB-704
B-705	PB-705
B-706	PB-706
B-707	PB-707
B-708	PB-708
B-709	PB-709
B-710	PB-710
B-711	PB-711
B-712	PB-712
B-713	PB-713
B-714	PB-714
B-715	PB-715
B-716	PB-716
B-801	PB-801

CONTINUATION EXHIBIT "H"

ALLOCATED COVERED PARKING SPACES, A LIMITED COMMON ELEMENT

UNIT NUMBER	ALLOCATED COVERED PARKING SPACE NUMBER
B-802	PB-802
B-803	PB-803
B-804	PB-804
B-805	PB-805
B-806	PB-806
B-807	PB-807
B-808	PB-808
B-809	PB-809
B-810	PB-810
B-811	PB-811
B-812	PB-812
B-813	PB-813
B-814	PB-814
B-815	PB-815
B-816	PB-816
B-901	PB-901
B-902	PB-902
B-903	PB-903
B-904	PB-904
B-905	PB-905
B-906	PB-906
B-907	PB-907
B-908	PB-908
B-909	PB-909
B-910	PB-910
B-911	PB-911
B-912	PB-912
B-913	PB-913
B-914	PB-914

CONTINUATION EXHIBIT "H"

ALLOCATED COVERED PARKING SPACES, A LIMITED COMMON ELEMENT

UNIT NUMBER	ALLOCATED COVERED PARKING SPACE NUMBER
B-915	PB-915
B-916	PB-916
B-1001	PB-1001
B-1002	PB-1002
B-1003	PB-1003
B-1004	PB-1004
B-1005	PB-1005
B-1006	PB-1006
B-1007	PB-1007
B-1008	PB-1008
B-1009	PB-1009
B-1010	PB-1010
B-1011	PB-1011
B-1012	PB-1012
B-1013	PB-1013
B-1014	PB-1014
B-1015	PB-1015
B-1016	PB-1016
B-1101	PB-1101
B-1102	PB-1102
B-1103	PB-1103
B-1104	PB-1104
B-1105	PB-1105
B-1106	PB-1106
B-1107	PB-1107
B-1108	PB-1108
B-1109	PB-1109
B-1110	PB-1110
B-1111	PB-1111
B-1112	PB-1112
B-1113	PB-1113
B-1114	PB-1114
B-1115	PB-1115
B-1116	PB-1116

CONTINUATION EXHIBIT "H"

ALLOCATED COVERED PARKING SPACES,
A LIMITED COMMON ELEMENT

UNIT NUMBER	ALLOCATED COVERED PARKING SPACE NUMBER
B-1201	PB-1201
B-1202	PB-1202
B-1203	PB-1203
B-1204	PB-1204
B-1205	PB-1205
B-1206	PB-1206
B-1207	PB-1207
B-1208	PB-1208
B-1209	PB-1209
B-1210	PB-1210
B-1211	PB-1211
B-1212	PB-1212
B-1213	PB-1213
B-1214	PB-1214
B-1215	PB-1215
B-1216	PB-1216
B-P01	PB-P01
B-P02	PB-P02
B-P03	PB-P03
B-P04	PB-P04
B-P05	PB-P05
B-P06	PB-P06
B-P07	PB-P07
B-P08	PB-P08
B-P09	PB-P09
B-P10	PB-P10
B-P11	PB-P11
B-P12	PB-P12
B-P13	PB-P13
B-P14	PB-P14
B-P15	PB-P15
B-P16	PB-P16

EXHIBIT "I"

ALLOCATED BOAT SLIP SPACES, A LIMITED COMMON ELEMENT

UNIT NUMBER	ALLOCATED BOAT SLIP SPACE NUMBER
B-___	BS-___
B-___	BS-___

EXHIBIT "I" IS RESERVED FOR FUTURE USE BY THE DECLARANT, IN THE EVENT THE DECLARANT EXERCISES ITS' DEVELOPMENT RIGHTS TO ALLOCATE BOAT SLIPS TO UNITS IN CONNECTION WITH THE CONSTRUCTION AND DEVELOPMENT OF A PRIVATE MARINA. THIS EXHIBIT WILL BE REVISED UPON THE FILING OF AN INCREMENTAL AMENDMENT BY THE DECLARANT , ACTING IN ACCORDANCE WITH THE ACT AND THIS DECLARATION.

EXHIBIT "J"

LEGAL DESCRIPTION OF ADDITIONAL PHASES

COMMENCE AT THE HISTORICAL GEOGRAPHIC LOCATION OF THE SOUTHWEST CORNER OF FRACTIONAL SECTION 11, TOWNSHIP 9 SOUTH, RANGE 5 EAST OF THE ST. STEPHENS MERIDIAN (GRID COORDINATES NORTH 100,831.772, EAST 484,903.190) AS PER PLAT OF SURVEY BY SAM R. BRUNER DATED NOVEMBER 12, 1982 AND REVISED ON MAY 22, 1983; THENCE RUN SOUTH 72 DEGREES 58 MINUTES 40 SECONDS EAST, 453.12 FEET TO A CAPPED REBAR FOUND (HIRE) ON THE NORTH RIGHT -OF- WA Y LINE OF ALABAMA HIGHWAY 182 (300' REC. R/W) FOR THE POINT OF BEGINNING; THENCE RUN WESTWARDLY ALONG SAID RIGHT -OF-WAY LINE IN A CURVE TO THE RIGHT HAVING A RADIUS OF 7012.02 FEET, A LENGTH OF 663.82 FEET (CHORD = NORTH 84 DEGREES 36 MINUTES 34 SECONDS WEST, 663.58 FEET) TO A CONCRETE MONUMENT; THENCE CONTINUE NORTHWESTWARDL Y ALONG SAID NORTH RIGHT -OF-WA Y LINE, NORTH 72 DEGREES 27 MINUTES 10 SECONDS WEST, 234.58 FEET TO A CONCRETE MONUMENT; THENCE CONTINUE NORTHWESTWARDL Y ALONG SAID NORTH RIGHT -OF-WA Y LINE NORTH 72 DEGREES 25 MINUTES 46 SECONDS WEST, 386.8 FEET, MORE OR LESS, TO A POINT ON THE SOUTHERN MARGIN OF PERDIDO PASS/OLD RIVER; THENCE, LEAVING SAID NORTH RIGHT-OF-WAY LINE, MEANDERING ALONG SAID SOUTHERN MARGIN OF PERDIDO PASS/OLD RIVER, RUN THE FOLLOWING CHORD BEARINGS AND DISTANCES, NORTH 57 DEGREES 33 MINUTES 11 SECONDS EAST, 712.59 FEET, NORTH 67 DEGREES 49 MINUTES 41 SECONDS EAST, 617.54 FEET, NORTH 82 DEGREES 22 MINUTES 55 SECONDS EAST, 783.09 FEET TO A POINT AT THE INTERSECTION OF SAID SOUTHERN MARGIN PERDIDO PASS/OLD RIVER AND THE WEST LINE OF CARIBE, A VILLAGE RESORT, AS PER PLAT RECORDED ON SLIDE 1400-B IN THE PROBATE RECORDS OF BALDWIN COUNTY, ALABAMA; THENCE LEAVING SAID SOUTH BOUNDARY OF PERDIDO PASS/OLD RIVER, RUN ALONG SAID WEST LINE OF CARIBE SOUTH 00 DEGREES 05 MINUTES 29 SECONDS EAST, 560 FEET, MORE OR LESS, TO A CAPPED REBAR FOUND (HIRE) AT THE SOUTHWEST CORNER OF LOT 13 OF SAID CARIBE SUBDIVISION; THENCE LEAVING SAID SUBDIVISION RUN NORTH 74 DEGREES 56 MINUTES 53 SECONDS WEST, 662.90 FEET TO A CAPPED REBAR FOUND (HIRE); THENCE RUN SOUTH 05 DEGREES 35 MINUTES 52 SECONDS WEST, 585.32 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING PARCEL WHICH CONSIST OF PHASE I:

COMMENCE AT THE HISTORICAL GEOGRAPHIC LOCATION OF THE SOUTHWEST CORNER OF FRACTIONAL SECTION 11, TOWNSHIP 9 SOUTH, RANGE 5 EAST OF THE ST. STEPHENS MERIDIAN (GRID COORDINATES NORTH 100,831.772, EAST 484,903.190) AS PER PLAT OF SURVEY BY SAM R. BRUNER DATED NOVEMBER 12, 1982 AND REVISED ON MAY 22, 1983; THENCE RUN SOUTH 63 DEGREES 31 MINUTES 02 SECONDS EAST, 271.96 FEET TO .A POINT ON THE NORTH RIGHT -OF-WAY LINE OF ALABAMA HIGHWAY 182 (300' REC. R/W) FOR THE POINT OF BEGINNING; THENCE RUN ALONG SAID RIGHT- OF WAY IN A CURVE TO THE RIGHT HAVING A RADIUS OF 7012.02 FEET, AN ARC LENGTH OF 308.47 FEETAND A CHORD OF NORTH 84 DEGREES 31 MINUTES 03 SECONDS WEST, 308.44 FEET; THENCE LEAVING SAID RIGHT OF WAY RUN NORTH 05 DEGREES 53 MINUTES 10 SECONDS EAST, 293.81 FEET; THENCE RUN NORTH 27 DEGREES 19 MINUTES 14 SECONDS WEST, 150.00 FEET; THENCE RUN NORTH 05 DEGREES 53 MINUTES 10 SECONDS EAST, 21.91'; THENCE RUN NORTH 27 DEGREES 19 MINUTES 14 SECONDS WEST, 96.67'; THENCE RUN SOUTH 83 DEGREES 31 MINUTES 25 SECONDS WEST, 50.28'; THENCE RUN

EXHIBIT "J" CONTINUATION PAGE

NORTH 57 DEGREES 18 MINUTES 04 SECONDS WEST, 80.0 FEET, MORE OR LESS, TO A BULKHEAD ON THE SOUTH MARGIN OF PERDIDO PASS / OLD RIVER; THENCE MEANDERING AlONG SAID BULKHEAD A CHORD OF NORTH 67 DEGREES 33 MINUTES 19 SECONDS EAST, 664.23 FEET, TO A POINT; THENCE LEAVING SAID BULKHEAD RUN SOUTH 08 DEGREES 28 MINUTES 22 SECONDS EAST, 320.5 FEET, MORE OR LESS; THENCE RUN SOUTH 27 DEGREES 19 MINUTES 29 SECONDS EAST, 47.69 FEET, THENCE RUN SOUTH 05 DEGREES 40 MINUTES 04 SECONDS WEST, 301.62 FEET; THENCE RUN NORTH 84 DEGREES 19 MINUTES 56 SECONDS WEST, 63.47 FEET; THENCE RUN SOUTH 32 DEGREES 40 MINUTES 31 SECONDS WEST, 150.98 FEET; THENCE RUN SOUTH 02 DEGREES 40 MINUTES 31 SECONDS WEST, 73.52 FEET, TO THE POINT OF BEGINNING CONTAINING 7.89 ACRES, MORE OR LESS.

TOGETHER WITH A NON EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND PARKING OVER AND ACROSS THE FOLLOWING DESCRIBED PROPERTY:

COMMENCE AT THE HISTORICAL GEOGRAPHIC LOCATION OF THE SOUTHWEST CORNER OF FRACTIONAL SECTION 11, TOWNSHIP 9 SOUTH, RANGE 5 EAST OF THE ST. STEPHENS MERIDIAN (GRID COORDINATES NORTH 100,831.772, EAST 484,903.190) AS PER PLAT OF SURVEY BY SAM R. BRUNER DATED NOVEMBER 12, 1982 AND REVISED ON MAY 22, 1983; THENCE RUN SOUTH 63 DEGREES 31 MINUTES 02 SECONDS EAST, 271.96 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF ALABAMA HIGHWAY 182 (300' REC. RNV); THENCE RUN ALONG SAID RIGHT-OF WAY IN A CURVE TO THE RIGHT HAVING A RADIUS OF 7012.02 FEET, AN ARC LENGTH OF 308.47 FEETAND A CHORD OF NORTH 84 DEGREES 31 MINUTES 03 SECONDS WEST, 308.44 FEET; THENCE LEAVING SAID RIGHT OF WAY RUN NORTH 05 DEGREES 53 MINUTES 10 SECONDS EAST, 293.81 FEET; THENCE RUN NORTH 27 DEGREES 19 MINUTES 14 SECONDS WEST, 150.00 FEET; THENCE RUN NORTH 05 DEGREES 53 MINUTES 10 SECONDS EAST, 21.91'; THENCE RUN NORTH 27 DEGREES 19 MINUTES 14 SECONDS WEST, 96.67'; THENCE RUN SOUTH 83 DEGREES 31 MINUTES 25 SECONDS WEST, 50.28'; THENCE RUN NORTH 57 DEGREES 18 MINUTES 04 SECONDS WEST, 80.0 FEET, MORE OR LESS, TO A BULKHEAD ON THE SOUTH MARGIN OF PERDIDO PASS / OLD RIVER; THENCE MEANDERING ALONG SAID BULKHEAD A CHORD OF NORTH 67 DEGREES 33 MINUTES 19 SECONDS EAST, 664.23 FEET, TO A POINT; THENCE LEAVING SAID BULKHEADRUN SOUTH 08 DEGREES 28 MINUTES 22 SECONDS EAST, 320.5 FEET, MORE OR LESS; THENCE RUN SOUTH 27 DEGREES 19 MINUTES 29 SECONDS EAST, 47.69 FEET FOR THE POINT OF BEGINNING, THENCE CONTINUE SOUTH 27 DEGREES 19 MINUTES 29 SECONDS EAST, 92.86 FEET TO A POINT; THENCE SOUTH 32 DEGREES 40 MINUTES 31 SECONDS WEST, 111.35 FEET TO A POINT; THENCE NORTH 05 DEGREES 40 MINUTES 04 SECONDS EAST, 177.08 FEET TO THE POINT OF BEGINNING, CONTAINING 4477 SQUARE FEET MORE OR LESS.

NOTE: THE DEVELOPER DOES NOT COMMIT ITSELF TO DEDICATING ALL OR ANY PART OF THE ABOVE DESCRIBED PROPERTY TO THE CONDOMINIUM FORM OF OWNERSHIP.

EXHIBIT "K"
DEVELOPMENT RIGHTS

LEGAL DESCRIPTION OF ACCESS ROAD AND ADDITIONAL PARKING AREAS

(INTENDING TO DESCRIBED DEVELOPMENT RIGHTS AREAS NOS. 1,3 &4 SET FORTH ON THE RECORDED"AS - BUILT" PLANS AND CERTIFICATION FOR CARIBE RESORT, A CONDOMINIUM, PHASE I,)

DESCRIPTION #1:

COMMENCE AT THE HISTORICAL GEOGRAPHIC LOCATION OF THE SOUTHWEST CORNER OF FRACTIONAL SECTION 11, TOWNSHIP 9 SOUTH, RANGE 5 EAST OF THE ST. STEPHENS MERIDIAN (GRID COORDINATES NORTH 100,831.772, EAST 484,903.190) AS PER PLAT OF SURVEY BY SAM R. BRUNER DATED NOVEMBER 12, 1982 AND REVISED ON MAY 22, 1983; THENCE RUN NORTH 64 DEGREES 30 MINUTES 48 SECONDS EAST, 184.11 FEET TO THE POINT OF BEGINNING; THENCE NORTH 27 DEGREES 15 MINUTES 47 SECONDS WEST, 92.00 FEET TO A POINT; THENCE NORTH 62 DEGREES 40 MINUTES 53 SECONDS EAST , 269.00 FEET TO A POINT; THENCE SOUTH 27 DEGREES 15 MINUTES 47 SECONDS EAST, 55.00 FEET TO A POINT; THENCE SOUTH 32 DEGREES 39 MINUTES 43 SECONDS WEST, 73.96 FEET TO A POINT; THENCE SOUTH 62 DEGREES 40 MINUTES 53 SECONDS WEST, 205.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.54 ACRES, MORE OR LESS.

DESCRIPTION #3:

COMMENCE AT THE HISTORICAL GEOGRAPHIC LOCATION OF THE SOUTHWEST CORNER OF FRACTIONAL SECTION 11, TOWNSHIP 9 SOUTH, RANGE 5 EAST OF THE ST. STEPHENS MERIDIAN (GRID COORDINATES NORTH 100,831.772, EAST 484,903.190) AS PER PLAT OF SURVEY BY SAM R. BRUNER DATED NOVEMBER 12, 1982 AND REVISED ON MAY 22, 1983; THENCE RUN SOUTH 63 DEGREES 31 MINUTES 02 SECONDS EAST, 271.96 FEET TO A POINT ON THE NORTH RIGHT -OF-WA Y LINE OF ALABAMA HIGHWAY 182 (300' REC. R/W); THENCE RUN ALONG SAID RIGHT-OF WAY IN A CURVE TO THE RIGHT HAVING A RADIUS OF 7012.02 FEET, AN ARC LENGTH OF 308.47 FEET AND A CHORD OF NORTH 84 DEGREES 31 MINUTES 03 SECONDS WEST, 308.44 FEET; THENCE LEAVING SAID RIGHT OF WAY RUN NORTH 05 DEGREES 53 MINUTES 10 SECONDS EAST, 293.81 FEET; THENCE RUN NORTH 27 DEGREES 19 MINUTES14 SECONDS WEST, 150.00 FEET; THENCE RUN NORTH 05 DEGREES 53 MINUTES 10 SECONDS EAST, 21.91'; THENCE RUN NORTH 27 DEGREES 19 MINUTES 14 SECONDS WEST, 96.67'; THENCE RUN SOUTH 83 DEGREES 31 MINUTES 25 SECONDS WEST, 50.28'; THENCE RUN NORTH 57 DEGREES 18 MINUTES 04 SECONDS WEST, 80.0 FEET, MORE OR LESS, TO A BULKHEAD ON THE SOUTH MARGIN OF PERDIDO PASS / OLD RIVER; THENCE MEANDERING ALONG SAID BULKHEAD A CHORD OF NORTH 67 DEGREES 33 MINUTES 19 SECONDS EAST, 664.23 FEET, TO A POINT; THENCE LEAVING SAID BULKHEAD RUN SOUTH 08 DEGREES 28 MINUTES 22 SECONDS EAST, 167.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 08 DEGREES 28 MINUTES 22 SECONDS EAST, 110.62 FEET TO A POINT; THENCE SOUTH 81 DEGREES 31 MINUTES 31 SECONDS WEST, 22.07 FEET TO A POINT; THENCE NORTH 27 DEGREES 23 MINUTES 08 SECONDS WEST, 97.50 FEET TO A POINT; THENCE NORTH 62 DEGREES 36 MINUTES 52 SECONDS EAST , 56.73 FEET TO THE POINT OF BEGINNING, CONTAINING 3986 SQUARE FEET, MORE OR LESS.

SEE CONTINUATION PAGE

EXHIBIT "K" CONTINUATION PAGE

DESCRIPTION #4:

COMMENCE AT THE HISTORICAL GEOGRAPHIC LOCATION OF THE SOUTHWEST CORNER OF FRACTIONAL SECTION 11, TOWNSHIP 9 SOUTH, RANGE 5 EAST OF THE ST. STEPHENS MERIDIAN (GRID COORDINATES NORTH 100,831.772, EAST 484,903.190) AS PER PLAT OF SURVEY BY SAM R. BRUNER DATED NOVEMBER 12, 1982 AND REVISED ON MAY 22, 1983; THENCE RUN SOUTH 63 DEGREES 31 MINUTES 02 SECONDS EAST, 271.96 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF ALABAMA HIGHWAY 182 (300' REC. R/W); THENCE RUN ALONG SAID RIGHT-OF WAY IN A CURVE TO THE RIGHT HAVING A RADIUS OF 7012.02 FEET, AN ARC LENGTH OF 308.47 FEETAND A CHORD OF NORTH 84 DEGREES 31 MINUTES 03 SECONDS WEST, 308.44 FEET; THENCE LEAVING SAID RIGHT OF WA Y THENCE RUN NORTH 05 DEGREES 53 MINUTES 10 SECONDS EAST, 148.67 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 05 DEGREES 53 MINUTES 10 SECONDS EAST , 145.14 FEET TO A POINT; THENCE NORTH 27 DEGREES 19 MINUTES 14 SECONDS WEST, 102.20 FEET TO A POINT; THENCE NORTH 62 DEGREES 40 MINUTES 31 SECONDS EAST, 60.77 FEET TO A POINT; THENCE SOUTH 27 DEGREES 19 MINUTES 29 SECONDS EAST, 223.64 FEET TO A POINT; THENCE SOUTH 62 DEGREES 40 MINUTES 39 SECONDS WEST, 140.27 FEET TO THE POINT OF BEGINNING, CONTAINING 0.42 ACRES, MORE OR LESS.

EXHIBIT "L"

DEVELOPMENT RIGHTS

LEGAL DESCRIPTION OF THE " MARINA AREA"

(INTENDING TO DESCRIBED DEVELOPMENT RIGHTS AREAS NO. 2 SET FORTH ON THE RECORDED "AS - BUILT" PLANS AND CERTIFICATION FOR CARIBE RESORT, A CONDOMINIUM, PHASE I,)

THE NORTH TWELVE (12) FEET OF PHASE ONE OF CARIBE RESORT, EXTENDING 12 FEET SOUTH OF AND PARALLEL TO THE EXISTING BULKHEAD RUNNING ALONG THE SOUTHERN MARGIN OF PERDIDO PASS AND OLD RIVER, AS SHOWN ON REVISED PLAT OF SURVEY BY LUCIDO & OLIVER, INC., DATED JUNE 20, 2000. TOGETHER WITH THE RIPARIAN RIGHTS APPURTENANT THERETO.

ARTICLE V: Organization and Management

Section 5.01 Management of the Condominium Property
Section 5.02 Members
Section 5.03 By-Laws

ARTICLE VI: Assessments

Section 6.01 Liability, Lien and Enforcement
Section 6.02 Assessments
Section 6.03 Annual Budget
Section 6.04 Omission of Assessments
Section 6.05 Detailed Records
Section 6.06 Payment of Common Expenses and Limited Common Expenses by Unit Owners
Section 6.07 Default in Payment of Assessments
Section 6.08 Election of Remedies

ARTICLE VII: Maintenance and Operation of the Condominium Property

Section 7.01 The Association's Obligation to Repair
Section 7.02 Each Owner's Obligation to Repair
Section 7.03 Alterations, Additions and Improvements by the Association
Section 7.04 Utilities

ARTICLE VIII: Restrictions on Use of Units, Common Elements and Limited Common Elements

Section 8.01 Rules and Regulations of the Association Section 8.02 Restrictions on Use
Section 8.03 Rights of Access
Section 8.04 Limitation of Liability
Section 8.05 Abatement of Violations
Section 8.06 Failure of the Association to Insist on Strict Performance; No Waiver

ARTICLE IX: Rights of Mortgagees

Section 9.01 Notification of Mortgagees Required
Section 9.02 Right of Inspection
Section 9.03 Required Reserve Funds and Working Capital Fund
Section 9.04 Priority of Mortgagees
Section 9.05 Request for Protection by Mortgagees

ARTICLE X: Casualty Loss and Insurance

Section 10.01 Responsibility of Owner; Separate Insurance Coverage
Section 10.02 Insurance to be Maintained by the Association
Section 10.03 Governing Provisions
Section 10.04 Premiums
Section 10.05 Insurance Trustee
Section 10.06 Loss to Common Elements Only or Limited Common Areas
Section 10.07 Loss to Common Elements, Limited Common Elements and/or Private Elements
Section 10.08 Estimates of Repairs; Plans and Specification; Payment of Assessments

ARTICLE XI: Condemnation

Section 11.01 Condemnation Considered a Casualty Loss Section 11.02 Partial Condemnation
Section 11.03 Association Appointed as Attorney-in-Fact for Unit Owners

ARTICLE XII: Termination

Section 12.01 Destruction of the Condominium Property Section 12.02 Termination by Consent
Section 12.03 Association Appointed as Attorney-in-Fact for Unit Owners

ARTICLE XIII: Amendment

Section 13.01 Amendments by Developer
Section 13.02 Amendments by Unit Owners
Section 13.03 Effectiveness of Amendments

ARTICLE XIV: Control of the Association

Section 14.01 Election of the Board of Directors
Section 14.02 Notice of Meeting
Section 14.03 Status of Unsold Units
Section 14.04 Professional Management and Other Contracts

ARTICLE XV: PERDIDO KEY BEACH MOUSE COVENANTS

Section 15.01 General Recitals
Section 15.02 Definitions
Section 15.03 Property Subject to This Article

Section 15.04 Withdrawal of Property is Prohibited
Section 15.05 Grant of Access Easements for Monitoring Compliance Section 15.06 Easement to Governmental Authorities for Monitoring of Permit Requirements
Section 15.07 Covenants to Protect and Conserve the Habitat of the Perdido Key Beach Mouse and to Implement the Plan
Section 15.08 Monitoring of these Perdido Key Beach Mouse Covenants and the Plan
Section 15.09 Assessments and Creation of Lien
Section 15.10 Purpose of Perdido Key Beach Mouse Assessment
Section 15.11 Computation of Assessments
Section 15.12 Effect of Non-Payment; Remedies of the Association
Section 15.13 Subordination of Lien
Section 15.14 Authority and Enforcement
Section 15.15 Procedures
Section 15.16 Nonexclusive Remedies
Section 15.17 Term
Section 15.18 Amendments
Section 15.19 Amendment of the Plan
Section 15.20 Rules and Regulations
Section 15.21 Legal Expenses
Section 15.22 Interpretation
Section 15.23 Further Assurances
Section 15.24 Non-liability of Developer
Section 15.25 No Waiver

ARTICLE XVI: Miscellaneous

Section 16.01 Rights and Powers of Successors and Assignees
Section 16.02 Headings
Section 16.03 Gender/Number
Section 16.04 Exhibits
Section 16.05 Invalidity and Severability
Section 16.06 Interpretation
Section 16.07 Conflicts or Ambiguity

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EXHIBITS:

Exhibit "A"	**Legal Description of Phase I**
Exhibit "B"	**By-Laws of the Association**
Exhibit "C"	**Plan and Plat of the Condominium**
Exhibit "D"	**Easements and Restrictions of Record**
Exhibit "E"	**Percentage Ownership of Common Elements**
Exhibit "F"	**Projected Operating Budget**
Exhibit "G"	**Copy of U. S. Fish and Wildlife Permit**
Exhibit "H"	**Allocated Covered Parking Spaces**
Exhibit "I"	**Allocated Boat Slip Spaces**
Exhibit "J"	**Legal Description of Additional Phases**
Exhibit "K"	**Legal Description of Additional Parking and Access Road**
Exhibit "L"	**Legal Description of Marina Area**

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STATE OF ALABAMA

COUNTY OF BALDWIN

DECLARATION OF CONDOMINIUM
OF
CARIBE RESORT, A CONDOMINIUM

This Declaration of Condominium of Caribe Resort, a condominium (The "Declaration") is made this 15 day of April, 2002, by CARIBE RESORT, INC., an Alabama corporation, (the "Developer" or "Declarant"), pursuant to the provisions of the Alabama Uniform Condominium Act of 1991, Code of Alabama 1975, Section 35-8A-101 et seq. (the "Act"), for the purpose of forming a condominium and establishing certain easements, covenants and restrictions to run with the land.

ARTICLE I

SUBMISSION OF PROPERTY AND DEFINED TERMS

1.01 Submission of Property. The Developer is the owner of certain real property located in Baldwin County, Alabama, more particularly described on Exhibit "A", attached hereto and made a part hereof for all purposes, (the "Property" or "Condominium Property") on which is located certain buildings and other improvements. The Developer intends to develop the Condominium in no more than four (4) phases, but reserves the right and option, in the sole discretion of Developer to develop only the phase or phases which market or other relevant conditions may dictate. Phase I will consist of one (1) building containing two hundred (200) residential Units and two (2) commercial Units for a total of two hundred and two (202) Units together with the appurtenant facilities described herein. It is the intent of the Developer that should all or a portion of the property described on Exhibit "J" hereto be improved by the construction of condominium Units and be submitted to the terms of this Declaration by amendments hereto as Phase II or Phase III or Phase IV of the Condominium, such property shall be operated and administered as a Condominium in the same manner as Phase I.

It is the desire and intention of the Developer, by recording this Declaration, to submit the property set forth on Exhibit "A" hereto, together with all improvements, easements, rights and appurtenances thereto belonging, to the Act and create with respect to the Property, a condominium to be known as CARIBE RESORT, A CONDOMINIUM

("Condominium") and to impose upon the Property mutually beneficial restrictions under a general plan for the benefit of all of the Condominium Units and the Owners in Phase I and any subsequent Phase which is added to the Property by amendment or amendments to this Declaration, as hereinafter provided.

The Developer, upon recording this Declaration, does submit the property described on Exhibit "A" as the Condominium, Phase I, together with the improvements thereon, owned by the Developer, in fee simple absolute, to the provisions of the Alabama Uniform Condominium Act of 1991, (Code of Alabama 1975, Section 35-8A-101 et seq.) to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, improved and in any other manner utilized subject to the provisions of the Act and subject to the covenants, conditions, restrictions, uses, limitations and affirmative obligations set forth in this Declaration, all of which are declared and agreed to be in furtherance of a plan for the improvement of the Property and the division thereof into condominium ownership and all of which shall run with the land and shall be binding on all parties (including Owners as hereinafter defined) having or acquiring any right, title or interest in the Property or any part thereof, and shall be for the benefit of each Owner of any portion of said Property or any interest therein, and shall inure to the benefit of and be binding upon each successor-in-interest to the Owners thereof.

This Declaration may be amended by the Developer without the consent of any Unit Owner, Mortgagee, or other person or entity in order to exercise any Development Rights or Special Declarant Rights, so long as said amendment complies with the requirements of the Act. The Developer shall have the unilateral right, privilege and option from time to time at any time (subject to the provisions of this Declaration) to subject all or any part of the property described in Exhibit "J", in one or more phases, to the provisions of this Declaration.

<u>1.02 Definitions.</u> Certain terms as used in this Declaration shall be defined as follows, unless the context indicates a different meaning therefor, and shall be consistent with the meanings stated in the Act:

(A) "Act" shall mean the Alabama Uniform Condominium Act of 1991, Code of Alabama 1975, Section 35-8A-101 et seq., as the same may be amended from time to time.

(B) "Association" shall mean Caribe Resort Condominium Association, Inc., a nonprofit corporation organized pursuant to the Alabama Nonprofit Corporation Act, Code of Alabama 1975, Section 10-3A-1 et seq.

(C) "Board of Directors" or "Board" shall mean the Board of Directors of the Association, elected pursuant to the By-laws of the Association.

(D) "Boat Slip" or "Boat Slips" shall mean and refer to the Boat Slip or Boat Slips as described in Section 2.09 herein, and is a Limited Common Element.

(E) "By-laws" shall mean the By-laws of the Association, a copy of which is attached hereto as Exhibit "B" and made a part hereof for all purposes, providing for the self-government of the Condominium Property by the Association.

(F) "Common Elements or Common Areas" shall mean:

(1) all portions of the Condominium Property other than the Private Elements which are held or designed for the use and enjoyment of the Owners and shall include, but not be limited to, the following:

(a) the Land

(b) the foundations and footings, load bearing walls, perimetrical walls, structural slabs, columns, beams and supports;

(c) the roofs, lobbies, mechanical equipment, and storage areas designed as common, ramps, handrails, sidewalks, stairways and entrances and exits or communication ways;

(d) the compartments or installations of central services such as central air conditioning, ventilation, heating, power, light, electricity, telephone and telecommunications cable, gas, fire protection, security, cold and hot water, plumbing, reservoirs, water tanks and pumps, storm drains, sewer lines, flues, trash chutes, incinerators and the like, and all similar devices and installations existing for common use, but excluding all compartments or installations of utilities, telephone and telecommunications cable and services which exist for private use in the Private Elements or installed in connection with the easement reserved under Section 3.01(c) of the Declaration;

(e) the premises and facilities, if any, used for the maintenance or repair of the Property;

(f) all common recreational facilities such as the swimming pools and grounds, tennis courts, gazebo, sun decks, yards and walkways, piers, bulkheads, pilings, docking facilities;

(g) sidewalk, boardwalk, lawn areas, landscaping, beach areas, trees, curbs, roads, walkways, lobbies, elevators, streets and parking areas;

(h) all easements, rights or appurtenances affecting or relating to the use of the Condominium Property unless specifically included in any Unit;

(i) all other elements (other than Private Elements) desirable or rationally of common use or necessary to the existence, upkeep and safety of the Condominium Property; and

(j) furniture, appliances, equipment and any other personal property transferred or assigned by the Developer to the Association or from time to time owned or leased by the Association and held for use in common by the Owners.

(G) "Common Expenses" shall mean the expenses arising out of the operations and ownership of the Common Elements and Limited Common Areas and shall include, but not be limited to, expenses of administration of the Common Elements of the Condominium Property; expenses of insurance; expenses of maintenance, operation, repair, replacement, rehabilitation, restoration, renovation and betterment of the Common Elements and Limited Common Elements and any portion of a Unit maintained by the Association; any valid charge against the Condominium Property as a whole; any expenses declared to be Common Expenses by the provisions of the Condominium Documents, as the same may be amended, from time to time, in accordance with the provisions thereof.

(H) "Common Surplus" shall mean the excess of all the receipts of the Association including, but not limited to, assessments, rents, profits and revenues over the amount of the Common Expenses.

(I) "Condominium Documents" shall mean this Declaration and all exhibits hereto, the Rules and Regulations, the By-laws and the Articles of Incorporation of the Association, and the Plats and Plans as the same may be amended from time to time.

(J) "Covenants" shall mean and refer to the Declaration of Condominium of Caribe Resort, and all amendments thereto.

(K) "Declaration of Condominium" or "Declaration" shall mean this Declaration of Condominium of Caribe Resort, a condominium, as the same may be amended from time to time.

(L) "Developer" or "Declarant" shall mean Caribe Resort, Inc., an Alabama corporation, and its successors and assigns, other than an Owner, who shall receive by assignment from Caribe Resort, Inc. all, or a portion of its rights hereunder as the Developer, by an instrument expressly assigning such rights as the Developer to such assignee.

(M) "Development Rights" shall have the same meaning as is defined in the Act and as set forth in the Declaration.

(N) "Governmental Authority" shall mean any and all city, county, state and federal governmental or quasi-governmental agencies, bureaus, departments, divisions or regulatory authorities having jurisdiction over any portion of the Property.

(O) "Institutional Mortgagee" shall mean and refer to (a) any federal or state chartered bank, trust company, life insurance company, federal or state savings and loan association, real estate investment trust or other recognized lending institution that normally and customarily engages in the business of making Mortgage loans, (b) any institutional or governmental purchaser of Mortgage loans in the secondary market, such as Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, and (c) any pension or profit-sharing trust that makes Mortgage loans or that purchases Mortgage loans in the secondary market, that holds a first Mortgage on any Unit that has been duly and properly recorded in the Probate Office of Baldwin County, Alabama.

(P) "Land" shall mean the parcel or tract of real estate described in Exhibit "A" to this Declaration, submitted to the provisions of the Declaration and the Act, or submitted in an incremental amendment to the Declaration.

(Q) "Limited Common Elements or Limited Common Areas" shall mean and include any area designated by this Declaration, including the Plats and Plans, as Limited Common Elements on the Plan and any amendment to the Plan and any areas defined in the Act as Limited Common Areas for the Exclusive use of one or more, but fewer than all of the Units. The Limited Common Elements include, among any other property so designated, balconies, terraces, Covered Parking Spaces, wires, conduits, bearing walls, bearing columns, or any other fixture serving only a specific Unit or declared to be Limited Common Elements by the Provisions of the Condominium Documents, as the same may be amended, from time to time, in accordance with the provisions thereof. Should any Limited Common Element ever be determined not to be a Limited Common Element under the Act, the same shall be part of the Common Elements with an exclusive easement of use appurtenant to the Private Elements to which it was assigned as a Limited Common Element.

(R) "Limited Common Expenses" shall mean the expenses arising out of the ownership of the Limited Common Elements and shall include, but not be limited to, the expenses of maintenance, operation, repair, replacement, rehabilitation, restoration, renovation, and betterment of the Limited Common Elements; and expenses declared to be Limited Common Expenses by the provisions of the Condominium Documents, as the same may be amended, from time to time, in accordance with the provisions thereof.

(S) "Members" shall mean and refer to the Association's members.

(T) "Mortgage" shall mean a first lien mortgage on one (1) or more Units.

(U) "Mortgagee" shall mean a holder of a Mortgage who has given notice to the Association that the Mortgagee is the holder of a Mortgage affecting all or any part of the Condominium Property as hereinafter provided.

(V) "Occupant" shall mean and include any Owner, the family members, guests, tenants, agents, servants, employees and invitees of any Owner and their respective family members, guests, tenants, agents, servants, employees, invitees and any other person who occupies or uses any Unit within the Property. All actions or omissions of any Occupant are and shall be deemed the actions or omissions of the Owner of such Dwelling or Unit.

(W) "Owner" or "Unit Owner" shall mean and refer to the record owner, including Developer, of fee simple title to any Unit, whether a corporate, partnership, proprietorship, association or other entity of any nature, including natural persons, but shall not include (i) any Mortgagee unless and until such Mortgagee has foreclosed on its Mortgage and purchased such Unit at the foreclosure sale held with respect to the foreclosure of such Mortgage or (ii) any lessee, purchaser, contract purchaser or vendor who has an interest in any Unit solely by virtue of a lease, contract, installment contract or other agreement.

(X) "Plan" or "Plat" shall mean the as-built Plan showing the Private Elements, the Common Elements and the Limited Common Elements of the Condominium Property attached hereto as Exhibit "C", and made a part hereof for all purposes, as such Plan may, from time to time, be amended.

(Y) "Private Elements" or "Unit" shall mean the parts of the Condominium Property as set forth in the Plan intended for the exclusive ownership and possession by an Owner. Each Private Element is identified in a diagrammatic floor plan of the floor on which it is situated as shown on the Plan, and shall consist of the volumes or cubicles of space which lie between the lower, upper and lateral or perimetrical boundaries described as follows:

(1) Upper and lower boundaries of Units: The upper and lower boundaries extended to their planer intersections with the perimetrical boundaries as follows:

(a) the upper boundary shall be the plane of the lower unfinished surface of the ceiling;

(b) the lower boundary shall be the plane of the upper surface of the concrete floor slab or wooden subflooring, which serves as the Unit's floor, excluding any floor covering such as carpeting, vinyl, hardwood or ceramic tile which are all deemed to be part of the Private Elements.

(2) The perimetrical boundaries shall be the vertical planes of the exterior surfaces of the exterior windows, glass doors and entry doors, and the unfinished interior surfaces of the exterior walls and party walls, (excluding gypsum board, paint, wallpaper and light fixtures) extended to their planer intersection with each other and with the upper and lower boundaries which are all deemed to be part of the private Elements.

Private Elements or Units shall include all non-structural interior partition walls located within the boundaries of the Private Elements except such part as may comprise part of the Common Elements; the decorated surfaces of all boundary walls, ceilings and floors, including wallpaper, paint, interior brick surface, gypsum board, lathe, wallboard, plaster, carpeting, flooring and other finishing materials; all immediately visible fixtures, appliances, kitchen cabinets, and water and sewage pipes located within the boundaries of the Private Elements and serving only the Private Element; the storage area, if any, located on the balconies or terraces or Private Parking Space appurtenant to a Unit; or and the mechanical systems and installations providing electrical power, gas, water, heating and air conditioning service to the Private Element, including the individual air conditioning compressor even though such equipment may be located outside the boundaries of the Private Element, providing that no pipes, wires, conduits, ducts, flues, shafts and other facilities situated within such Private Element, and forming a part of any system serving one or more other Private Elements or the Common Elements shall be deemed to be a part of such Private Element; and, provided further, that no bearing wall providing structural support and located within the boundaries of the Private Elements shall be deemed part of the Private Elements.

(Z) "Private Marina" shall mean the piers, bulkheads, mooring pilings, docks, and Boat Slips located adjacent to the Condominium Property, as identified on the Plats and Plans and as described in this Declaration, as amended from time to time.

(AA) "Property" or "Condominium Property" shall mean the Land and all improvements and structures erected, constructed or contained therein or thereon, including all buildings, and all easements, rights and appurtenances belonging thereto, and all furniture, furnishings, fixtures and equipment intended for the mutual use, benefit or enjoyment of the Owners, submitted to the provisions of the Act under this Declaration, as amended from time to time.

(BB) "Rules and Regulations" shall mean the Rules and Regulations concerning the use of Caribe Resort, a Condominium adopted from time to time by the Board of Directors of the Association that are deemed necessary for the enjoyment of the Condominium Property, provided they are not in conflict with the Act, the Permit, or the Condominium Documents.

(CC) "Special Declarant Rights" shall have the same meaning as defined in the Act and as set forth in this Declaration.

(DD) "Unit" or "Condominium Unit" shall mean the Private Elements as shown on the Plat, together with the undivided interest in the Common Elements and Limited Common Elements, if any, assigned to each Unit as herein provided.

A residential Unit is used as a single family residence as provided for in this Declaration and a commercial Unit is used for business or commercial purposes as provided for in this Declaration. The commercial Units will be identified as Units 100 and 200 and the residential Units shall be identified by using a three digit number on the first nine living levels and identified by using a four digit number on living levels ten through twelve and identified by using a two digit number preceded by the letter "P" on the thirteenth living level. The letter preceding the Unit number will be the building designation (i.e. Building "A", or "B", or "C", or "D").

The definitions of the Units enumerated above and other matters pertaining to the Units will be further defined and set out in this Declaration.

(EE) "Vessel" shall mean and refer to any craft for traveling on water including, but not limited to, a boat, sailboat, motorized boat, self-propelled boat, or any other type of vehicle which is seaworthy or intended to be seaworthy. The term Vessel shall include all vessels kept in a Boat Slip or otherwise operated or moored within the Private Marina.

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ARTICLE II

DESCRIPTION OF IMPROVEMENTS AND DEVELOPMENT PLANS

<u>2.01 Submission of Property for Phase I.</u> The Developer is the owner of certain real property located in Baldwin County, Alabama, more particularly described on Exhibit "A", attached hereto and made a part hereof for all purposes, (the "Property" or "Condominium Property") on which is located certain buildings and other improvements. The Developer intends to develop the Condominium in four (4) phases, but reserves the right and option, in the sole discretion of Developer to develop only the phase or phases which market or other relevant conditions may dictate. Phase I will consist of one (1) building containing a total of two hundred (200) residential Units and two (2) commercial Units together with the appurtenant facilities described herein. It is the intent of the Developer that should all or a portion of the property described on Exhibit "J" hereto be improved by the construction of condominium Units and be submitted to the terms of this Declaration by amendments hereto as Phase II and/or Phase III and/or Phase IV of the Condominium, such property shall be operated and administered as a Condominium in the same manner as Phase I.

<u>2.02 Identification of Units in Phase I.</u> Phase I improvements are substantially complete and a Plat of the Land and improvements thereon and a graphic description of the improvements in which the Units are located identifying each Unit by a number so that no Unit bears the same designation as any other Unit, all in sufficient detail to identify the Common Elements, the Limited Common Elements and each Unit and their relative locations and approximate dimensions, are set forth in the Plan attached hereto as Exhibits "C", and made a part hereof for all purposes.

There are forty eight (48) Type "A" Units which consist of three bedrooms, three baths, living room, kitchen and contains approximately 1,764 square feet of living area and one 327 square foot balcony ; and two (2) Type "A'" Units which consist of three bedrooms, three baths, living room, kitchen and contains approximately 1,803 square feet of living area and one 288 square foot balcony ; and fifty (50) Type "B" Units which consist of three bedrooms, three baths, living room, kitchen and contains approximately 1,706 square feet of living area and one 290 square foot balcony ; and fifty-one (51) Type "C" Units which consist of three bedrooms, three baths, living room, media room, kitchen and contains approximately 2,102 square feet of living area and one 592 square foot balcony ; and forty-nine (49) Type "D" Units which consist of two bedrooms, two baths, living room, kitchen and contains approximately 1,401 square feet of living area and one 347 square foot balcony ; and one (1) commercial Unit which contains approximately 3,248 square feet of commercial space; and one (1) commercial Unit which contains approximately 2,492 square feet of commercial space. The Units vary in size and layout, as more specifically set forth on the Plats and Plans attached as Exhibit "C" hereto.

In Phase I, the residential Units are located in Building "B" on thirteen living levels and are numbered and identified as B-102, B-103, B-104, B-105, B-106, B-107, B-108, B-110, B-201, B-202, B-203, B-204, B-205, B-206, B-207, B-208, B-209, B-210, B-211, B-212, B-213, B-214, B-215, B-216, B-301, B-302, B-303, B-304, B-305, B-306, B-307, B-308, B-309, B-310, B-311, B-312, B-313, B-314, B-315, B-316, B-401, B-402, B-403, B-404, B-405, B-406, B-407, B-408, B-409, B-410, B-411, B-412, B-413, B-414, B-415, B-416, B-501, B-502, B-503, B-504, B-505, B-506, B-507, B-508, B-509, B-510, B-511, B-512, B-513, B-514, B-515, B-516, B-601, B-602, B-603, B-604, B-605, B-606, B-607, B-608, B-609, B-610, B-611, B-612, B-613, B-614, B-615, B-616, B-701, B-702, B-703, B-704, B-705, B-706, B-707, B-708, B-709, B-710, B-711, B-712, B-713, B-714, B-715, B-716, B-801, B-802, B-803, B-804, B-805, B-806, B-807, B-808, B-809, B-810, B-811, B-812, B-813, B-814, B-815, B-816, B-901, B-902, B-903, B-904, B-905, B-906, B-907, B-908, B-909, B-910, B-911, B-912, B-913, B-914, B-915, B-916, B-1001, B-1002, B-1003, B-1004, B-1005, B-1006, B-1007, B-1008, B-1009, B-1010, B-1011, B-1012, B-1013, B-1014, B-1015, B-1016, B-1101, B-1102, B-1103, B-1104, B-1105, B-1106, B-1107, B-1108, B-1109, B-1110, B-1111, B-1112, B-1113, B-1114, B-1115, B-1116, B-1201, B-1202, B-1203, B-1204, B-1205, B-1206, B-1207, B-1208, B-1209, B-1210, B-1211, B-1212, B-1213, B-1214, B-1215, B-1216, B-P01, B-P02, B-P03, B-P04, B-P05, B-P06, B-P07, B-P08, B-P09, B-P10, B-P11, B-P12, B-P13, B-P14, B-P15, and B-P16. The two commercial Units are located on the first living level and are numbered and identified as B- 100 and B-200.

<u>2.03 Development Plans</u>. The Developer proposes to develop a possible eight hundred forty (840) Units in four Phases. The improvements for Phase I have been substantially completed, as set forth on the Plans attached as Exhibit "C" hereto. Phase I consists of two hundred two (202) Units located in one (1) building, together with Covered Parking Spaces, outside parking areas, landscaping, and other Common or Limited Common Elements, as set forth on the Plans, as may be amended from time to time. The Developer has reserved Developments Rights in Phase I to developed a Private Marina with no more than sixty five (65) Boat Slips and reserved Development Rights tp construct additional parking spaces within Phase I. The Developer makes no assurances either the Private Marina nor the additional parking spaces will be constructed.

The amenities located in the Common Elements of the Condominium will include parking areas (both covered and non-covered), outdoor swimming pool with decks, indoor swimming pool, health spa, tennis courts, corridors, walkways, foyers, mechanical rooms, maintenance rooms, bulkheads, service areas, and, if developed, piers and walkways within the Private Marina. The balconies or terraces located adjacent to a Unit, Covered Parking Spaces, and Boat Slips, if constructed, are Limited Common Element, as more specifically set forth on the Plats and Plans attached as Exhibit "C" to this Declaration or any amendment thereto. The Developer makes no assurances the Private Marina, nor the additional parking spaces nor Phase II and/or Phase III and/or Phase IV will be constructed. The Private Marina, Phase II, Phase III and Phase IV "NEED NOT BE BUILT". If Phase II and/or Phase III and/or Phase IV, or any portion thereof is developed, the Developer makes no assurance it will be constructed of materials of a quality similar to or higher than the quality of the materials used in the construction of Phase I. The maximum number of Units which the Developer reserves the right to create is eight hundred forty (840). If the Private Marina is constructed, the Developer makes no assurances of the type or quality of the materials used in the construction. The Developer makes no assurances the Private Marina will be constructed of materials of a quality similar to or higher than the quality of the materials used in the construction of Phase I. If additional Parking Spaces are constructed, the Developer makes no assurances the Parking Spaces will be constructed of materials of a quality similar to or higher than the quality of the materials used in the construction of Phase I.

2.04 Subsequent Phases. The Developer may or may not submit all or a portion the property described in Exhibit "J" to the condominium form of ownership at a future date or dates, as Phase II and/or Phase III and/or Phase IV of the Condominium. However, subject to the terms and provisions of this Declaration, said property or any portion thereof, including any portion or portions of each phase, may be submitted to the condominium form of ownership and used in separate or different parcels at different times, by amendment or amendments to this Declaration. No assurances are made concerning whether or not any phase or portion thereof will be or will not be submitted to the condominium form of ownership and this Declaration or the Act, nor are any assurances made concerning the boundaries of the phase or portion thereof, or the number of Units located in said phase or the number of phases, or the order in which any phase or portion thereof may be or may not be subject to the exercise of these Development Rights. Nothing in this section is to be interpreted as requiring the Developer to submit the property or any portion thereof, described on Exhibit "J" to the condominium form of ownership or exercise any reserved Development Rights. The maximum number of Units which the Declarant reserves the right to create in the Condominium is eight hundred forty (840).

2.05 Incremental Phasing Amendment. Any additional Phase(s), either adding a portion of the property described in Exhibit "J" and the improvements located thereon or exercising any other Development Right reserved by the Developer in connection with the property described in Exhibit "K" and Exhibit "L", may be added to, and made subject to, this Declaration by the execution, by the Developer, alone, of an incremental amendment to this Declaration, which said amendment shall comply with the provisions of the Act and shall be become effective upon recordation in the Office of the Judge of Probate, Baldwin County, Alabama. Such amendment shall have Exhibits attached thereto similar in nature to the Exhibits attached to this Declaration and containing such other information as required by the Act and this Declaration, including but not limited to Plats and Plans, and a reallocation of the Common Interest and Common Expenses. The right of the Developer to add additional phases to the Condominium shall cease and terminate fifteen (15) years from the date of recordation of this Declaration, and upon recordation said Phase will have been validly submitted to this Declaration. Except as provided in the preceding sentence, no other time limitations shall be imposed on the right of the Developer to add additional Phases or exercise Development Rights. Once any additional Phase(s) has been submitted to the terms and provisions of this Declaration, it shall comprise a portion of the Condominium, to be governed in accordance with the provisions of the Condominium Documents. Each purchaser of a Unit or any entity which acquires an interest in a Unit is prohibited from objecting to an incremental phase amendment and have agreed and consented that any amendment to this Declaration executed by the Developer alone shall be binding and effective as written notwithstanding the fact that the undivided interest of the Unit in the Common Elements will be reduced thereby.

This Declaration may be amended by the Developer without the consent of any Unit Owner, Mortgagee, or other person or entity in order to exercise any Development Rights or Special Developer Rights, so long as said amendment complies with the requirements of the Act. The Developer shall have the unilateral right, privilege and option from time to time at any time (subject to the provisions of this Declaration) to exercise Development Rights or to subject all or any part of the property described in Exhibit "J", in one or more phases, to the provisions of this Declaration.

2.06 No Assurances. No assurances are made that any building or other improvements that may be constructed pursuant to any Development Rights reserved by the Developer in any part of the Condominium will be compatible or will not be compatible with any existing building and improvements in the Condominium in terms of architectural style, quality of construction and size. Further, no assurances are made as to the locations of any building or other improvement that may be made within any part of the Condominium pursuant to any Development Rights reserved by the Declarant. Further, no assurances are made that any Common Elements or Limited Common Elements created pursuant to any Development Rights reserved by the Declarant will be of the same general types and sizes as the Common Elements or Limited Common Elements within other parts of the Condominium.

2.07 Balconies and Terraces. Exterior balconies or terraces which service only an individual Unit are Limited Common Areas as designated by the Plat and Plans and this Declaration. Exterior balconies or terraces shall be deemed to be a Limited Common Element appurtenant to the Unit from which it is directly accessible. Each Unit Owner shall be entitled to an exclusive easement for the use of any exterior balcony directly accessible from such Owner's Unit, but such right shall not entitle an Owner to construct anything thereon nor to change any structural part thereof.

2.08 Covered Parking Spaces. Located on Level I (first floor) and the first level of an adjoining parking deck are two hundred (200) Covered Parking Spaces, which have been designated on the Plats and Plans set out on Exhibit "C" as Limited Common Elements and identified as PB-102, PB-103, PB-104, PB-105, PB-106, PB-107, PB-108, PB-110, PB-201, PB-202, PB-203, PB-204, PB-205, PB-206, PB-207, PB-208, PB-209, PB-210, PB-211, PB-212, PB-213, PB-214, PB-215, PB-216, PB-301, PB-302, PB-303, PB-304, PB-305, PB-306, PB-307, PB-308, PB-309, PB-310, PB-311, PB-312, PB-313, PB-314, PB-315, PB-316, PB-401, PB-402, PB-403, PB-404, PB-405, PB-406, PB-407, PB-408, PB-409, PB-410, PB-411, PB-412, PB-413, PB-414, PB-415, PB-416, PB-501, PB-502, PB-503, PB-504, PB-505, PB-506, PB-507, PB-508, PB-509, PB-510, PB-511, PB-512, PB-513, PB-514, PB-515, PB-516, PB-601, PB-602, PB-603, PB-604, PB-605, PB-606, PB-607, PB-608, PB-609, PB-610, PB-611, PB-612, PB-613, PB-614, PB-615, PB-616, PB-701,

PB-702, PB-703, PB-704, PB-705, PB-706, PB-707, PB-708, PB-709, PB-710, PB-711, PB-712, PB-713, PB-714, PB-715, PB-716, PB-801, PB-802, PB-803, PB-804, PB-805, PB-806, PB-807, PB-808, PB-809, PB-810, PB-811, PB-812, PB-813, PB-814, PB-815, PB-816, PB-901, PB-902, PB-903, PB-904, PB-905, PB-906, PB-907, PB-908, PB-909, PB-910, PB-911, PB-912, PB-913, PB-914, PB-915, PB-916, PB-1001, PB-1002, PB-1003, PB-1004, PB-1005, PB-1006, PB-1007, PB-1008, PB-1009, PB-1010, PB-1011, PB-1012, PB-1013, PB-1014, PB-1015, PB-1016, PB-1101, PB-1102, PB-1103, PB-1104, PB-1105, PB-1106, PB-1107, PB-1108, PB-1109, PB-1110, PB-1111, PB-1112, PB-1113, PB-1114, PB-1115, PB-1116, PB-1201, PB-1202, PB-1203, PB-1204, PB-1205, PB-1206, PB-1207, PB-1208, PB-1209, PB-1210, PB-1211, PB-1212, PB-1213, PB-1214, PB-1215, PB-1216, PB-P01, PB-P02, PB-P03, PB-P04, PB-P05, PB-P06, PB-P07, PB-P08, PB-P09, PB-P10, PB-P11, PB-P12, PB-P13, PB-P14, PB-P15, PB-P16, as Limited Common Elements. There is a total of 200 Covered Parking Spaces which are designated as Limited Common Elements.

In accordance with Section 35-8A-208 of the Act, each Covered Parking Space shall be allocated as a Limited Common Element to the Unit designated on Exhibit "H", which is attached hereto and made a part hereof as if fully set out herein. Each Unit so designated shall be entitled to an exclusive easement for the use and enjoyment of said Covered Parking Space allocated to that Unit, but such right shall not entitle an Owner to construct anything thereon nor to change any structural part thereof. Unit Owners, in accordance with Section 35-8A-208 of the Act, may reallocate a Covered Parking Space by an amendment to the Declaration.

2.09 Private Marina. The Developer reserves a Development Right, in accordance with the Act and this Declaration, to construct a Private Marina on the property described on Exhibit "L" hereto and into the waters of Perdido Pass/Old River. The Private Marina may include, but not be limited to, piers, wharfs, walkways, finger piers, Boat Slips and other associated structures. The lay-out, size, design and location of any piers, wharfs, walkways, finger piers, Boat Slips and other associated structures will be determined solely by the Developer. The area or areas within the Private Marina that are not designated as Limited Common Elements will be designated as Common Elements. The Developer makes no assurances the Private Marina will be constructed or dedicated.

(A) If constructed and dedicated by incremental amendment or amendments to this Declaration, the Private Marina will include Boat Slips, which will be designated on amended Plats and Plans attached to the incremental amendment. The Plats and Plans attached to the incremental amendment will amend the Exhibit "C" attached hereto . Each Boat Slip will be identified by using a three digit number preceded by the letters "BS" and will be a Limited Common Element to the Unit designated in said incremental amendment. The incremental amendment will include an Exhibit setting forth the Boat Slip identification number and the Unit to which it has been allocated as a Limited Common Element and this Exhibit will amend the Exhibit "I" attached hereto. The total number of Boat Slips designated as Limited Common Elements shall not exceed sixty five (65) in Phase I of the Condominium. The Developer makes no assurances the Private Marina will be constructed. Only a limited number of Units will be allocated a Boat Slip and not all Units will be allocated a Boat Slip. The Developer makes no assurances as to the number of Units, if any, that will be allocated a Boat Slip or Boat Slips.

(B) Each Boat Slip located in the Private Marina shall consist of the space located within the area shown on the Plans and generally described as follows. The horizontal and vertical boundaries of each Boat Slip shall typically consist of the interior face of the docks, piers and the mooring piles assigned to each Boat Slip and falling within the Boat Slip and if no surface (no docks, piers or mooring piles), the horizontal or vertical extended plane of the perimeter of said surface extended to the distances shown on the Plans. There are no specific upper boundaries for the Boat Slip. The vertical or upper boundaries extend upward to such a height that would accommodate and include the Vessel moored in the Boat Slip from time to time. The lower boundary of the Boat Slip extends beneath the surface of the water to (but not including) the bottom of the harbor basin of the waters falling within the Private Marina or Old River/Perdido Pass. The Developer does not warrant or represent or make any assurances the Boat Slip will accommodate any particular size vessel, and the Developer does not warrant or make any assurances the depth of the water in the harbor basin of the Private Marina will remain the same. The size and layout of Boat Slips will vary from Boat Slip to Boat Slip, as more specifically set forth on the amended Plans attached to the incremental amendment filed by the Developer.

In accordance with Section 35-8A-208 of the Act, each Boat Slip allocated as a Limited Common Element to a Unit designated in the incremental amendment filed by the Developer, may be reallocated. Each Unit so designated shall be entitled to an exclusive easement for the use and enjoyment of said Boat Slip(s) allocated to that Unit, but such right shall not entitle an Owner to construct anything thereon nor to change any structural part thereof, nor use it for any commercial activities . Unit Owners, in accordance with Section 35-8A-208 of the Act, may reallocate a Boat Slip by an amendment to the Declaration.

Each Owner of a Unit of which a Boat Slip is an appurtenant thereto shall have the riparian right and easement to use the water space within the Boat Slip assigned as a Limited Common Element to that Unit as well as the water immediately adjacent to the Boat Slip extending to within one (1) foot of the mooring pile or boundary line between Vessels as shown on the Plans for the purpose of mooring a Vessel. The rights of a Unit Owner to use a Boat Slip in the Private Marina is a Limited Common Element but is non-exclusive and is subject to the rights of other parties, the United States of America or the State of Alabama, in and to the shore, littoral or riparian rights of the property lying adjacent to Old River and/or Perdido Pass and the rights of said parties to use and/or regulate said waterways and, if applicable, further subject to the terms and conditions of a Riparian Easement of State-Owned Submerged Lands Agreement.

The Developer contemplates entering into a Riparian Easement of State-Owned Submerged Lands, which, if entered into, will be binding on the Developer and Unit Owners. The easement agreement contains certain terms, conditions and restrictions on the use and enjoyment of the Private Marina and the Boat Slips contained therein. The easement agreement requires an annual lease payment to the State of Alabama, the terms of which will be set forth in the easement agreement. The Owner, guests, invitees and Occupants of a Unit to which a Boat Slip has been allocated will be required to uphold and abide by any terms and conditions contained in the easement agreement. The cost or expense of maintenance, repair, upkeep, and replacement (including but not limited to State of Alabama submerged land lease) of each Limited Common Element Boat Slip shall be the exclusive responsibility of the Unit Owner to which that Boat Slip shall be appurtenant. If applicable, the annual lease payment due in connection with the Riparian Easement of State-Owned Submerged Lands will be pro-rated among the Unit Owners whose Units have been allocated a Boat Slip. A Boat Slip is a Limited Common Element.

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ARTICLE III

EASEMENTS AND RESTRICTIONS

3.01 Easements and Restrictions. The Private Elements, Common Elements and Limited Common Elements shall be, and the same are hereby declared to be, subject to the restrictions, easements, conditions and covenants prescribed and established in the Condominium Documents governing the use of said Private Elements, Common Elements and Limited Common Elements in setting forth the obligations and responsibilities incident to ownership of each Unit and its appurtenant undivided interest in the Common Elements or Limited Common Elements. Said Private Elements, Common Elements and Limited Common Elements are further declared to be subject to the restrictions, easements, conditions and limitations now of record affecting the Condominium Property, which easements and restrictions are described on Exhibit "D", attached hereto and made a part hereof for all purposes.

(A) Utility Easements. Utility easements are reserved throughout the whole of the Property, including Units, as may be required for utility services (including, without limitation, water, sewer, gas, electricity, telephone and cable television) in order to adequately serve the Condominium Property.

(B) Utility Equipment. There may be utility equipment located on the Common elements appurtenant to some Units. An easement is hereby reserved in favor of each Unit for the purpose of placement, maintenance, repair and replacement of said utility equipment by the Developer and the Owners of the appurtenant Unit; provided that no utility equipment shall be placed in any part of the Common Elements or Limited Common Elements other than its present location unless the written approval of the Association shall have first been obtained.

(C) Telecommunications Easements. Telecommunications easements are reserved throughout the whole of the Property, including Units, as may be required for telecommunications services and equipment (including, without limitation, telephone, television, cable service, satellite dishes, tower antennas and similar type equipment) in order to adequately serve the Condominium Property. An easement is hereby reserved throughout the whole of the Property, including Units, for the purpose of placement, maintenance, repair and replacement of said telecommunications equipment by the Developer, Developer's agent, employees, successors and assigns.

(D) Easements for Ingress and Egress. The Common Elements shall be, and the same here hereby declared to be, subject to a perpetual nonexclusive easement of way over all roads, parking areas, walkways, halls, stairways, elevators, and other common areas, in favor of all Owners and the Developer for all proper and normal purposes and for the furnishing of services and facilities for which the same are reasonably intended for the enjoyment of said Owners and the Developer, subject to all restrictions in the Condominium Documents. The Limited

Common Elements shall be subject to a nonexclusive easement in favor of the Association for repair, service and other uses reasonably intended or required by the Association.

(E) Easement for Use of Leased or Acquired Property. Each Unit Owner shall have a nonexclusive easement for use of any property hereafter acquired by the Association for the common benefit of the Owners by purchase, lease or otherwise, for all normal and proper purposes for which the same are reasonably intended, subject to all restrictions in the Condominium Documents and the Rules and Regulations.

(F) Easements for Encroachments. To the Extent that any Private Element, Common Element or Limited Common Element encroaches on any other Private Element, Common Element, or Limited Common Element, whether by reason of any deviation from the Plan in the original construction, repair, renovation, restoration or replacement of any improvement, or by reason of the settling or shifting of any land or improvement, a valid easement shall exist for the encroachment and /or the maintenance of the same, so long as the encroaching Private Element, Common Element or Limited Common Element stands. A valid easement shall not relieve an Owner of liability of such Owner's or such Owner's agent's negligence or intentional acts in case of willful and intentional misconduct by an Owner or an Owner's agents or employees. In the event any Unit, an adjoining Unit, or any adjoining Common Elements or Limited Common Elements 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 constructed, reconstructed or repaired, encroachment of parts of the Common Elements or Limited Common Elements upon any Unit or of any Unit upon any of the other Private Elements, Common Elements or Limited Common Elements resulting from such construction, reconstruction or repair shall be permitted, and valid easements for such encroachment and the maintenance thereof shall exist so long as the encroaching improvements shall stand.

(G) Easement of Support. Each Private Element, Common Element and Limited Common Element shall have an easement of support from every other Private Element, Common Element, and Limited Common Element which provide such support.

(H) Easements Appurtenant to Units. The easements and other rights created herein for the Unit Owners shall be appurtenant to the Unit of that Owner and all conveyances of title to the Unit shall include a conveyance of the easements and rights as herein provided even though no specific reference to such easements and rights appear in such instrument. The Owners do hereby designate the Association as their lawful attorney-in-fact to execute any and all instruments on their behalf for the purpose of creating all such easements as are contemplated by the provisions hereof.

(I) Easement for Access to Other Property owned by Declarant. Declarant hereby reserves unto itself, its successors and assigns, a non- exclusive easement over, under and across Common Elements designated as roadways, driveways, parking areas and parking lots, for the purpose of ingress, egress, parking, and the placement of utilities to other lands owned by the Declarant, which are located both East and West of the property described in Exhibit "A". Declarant further reserves an easement over the Common Elements for the purpose of constructing improvements that will join together improvements constructed in Phase I with any future Phase developed and constructed by the Developer, its successors or assigns.

3.02 Ownership of Common Elements and Limited Common Elements. Each Owner shall own an undivided interest in the Common Elements and Limited Common elements with all other Owners, and, except as otherwise limited in this Declaration, shall have the right to use the Common Elements and Limited Common Elements for all purposes incident to the use and occupancy of the Owner's Unit as herein provided, without hindering or encroaching upon the lawful rights of the other Owners, which rights shall be appurtenant to and run with the Unit. The extent or amount of such ownership shall be expressed by a percentage relating to each Unit as set forth on Exhibit "E" attached hereto and made a part hereof for all purposes, and shall remain constant, unless changed in accordance with the provisions hereof in this Declaration or by the unanimous approval of all Owners and Mortgagees. In the event an incremental phasing amendment is filed by the Developer, the percentage of undivided interest of each Owner shall be recomputed in accordance with the formula set forth on Exhibit "E" and the recomputed undivided percentage interest of an Owner shall be as set forth therein. 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 percentage as set out on Exhibit "E", as amended from time to time, shall govern. The Owners of Units with Limited Common Elements which are appurtenant to such Unit as designated or described on the Plan attached hereto or on the Plans attached to an incremental amendment shall have the exclusive right to use such Limited Common Elements so designated or described unless changed by the Developer as permitted herein or by the unanimous approval of the Owners and their respective Mortgagees. Each Owner of a Unit to which a Limited Common Element is attached shall have the right to use the Limited Common Element for all purposes incident to the use and occupancy of such Owner's Unit as herein provided without hindering or encroaching upon the lawful rights of the other Owners, which rights shall be appurtenant to and run with the Units to which the Limited Common Elements are attached.

3.03 Common Elements and Limited Common Elements in Any Additional Phase(s). Any additional Phase, if constructed and dedicated as set forth herein, shall contain Common Elements and Limited Common Elements, as will be depicted on the Plat and Plans for said additional Phase. Developer makes no assurances the Common Elements and Limited Common Elements in any additional Phase(s) will be identical with, or complimentary to those existing in any other Phase. The Developer shall have the unilateral right, privilege, and option, at any time (subject to the provisions of this Declaration) to exercise any Development Rights and/or to submit all or any portion of the property described on Exhibit "J" to this Declaration by the filing of an incremental amendment. The Developer shall have the right to file said amendment without the consent of any Unit Owner, Mortgagee, or other person or entity, provided the incremental amendment complies with the requirements of this Declaration and the Act.

ARTICLE IV

SPECIAL DECLARANT RIGHTS OR DEVELOPMENT RIGHTS

4.01 Amendment of Condominium Plan. The Developer reserves a Special Declarant Right and/or Development Right in accordance with the Act to change the interior design and arrangement of all Units, to alter the boundaries between Units, to create Units, Common Elements or Limited Common Elements with the Condominium, and to increase or decrease the number of Units so long as the Developer owns the Units so altered and to add additional real property to the Condominium, all by the filing of incremental amendments. Changes in the boundaries between Private Elements, as hereinbefore provided, shall be reflected by an amendment to the Plan and, if necessary, an amendment to this Declaration. If two (2) adjoining Units are combined by the Developer to make one (1) large Unit, the Association's assessments and the ownership interest in the Common Elements attributable to the combined Unit shall remain as though there are two (2) separate Units. An incremental amendment to the Plan or this Declaration reflecting an alteration of the boundaries of the Units owned by the Developer must be signed and acknowledged only by the Developer and need not be approved by the Owners and Mortgagees, whether or not such approval may elsewhere be required herein; provided, however, that any change, other than an incremental amendment(s), which shall result in a change in the undivided interest in the Common Elements or the Limited Common Elements or a change in the share of the Common Expenses or the Limited Common Expenses with respect to Owners of Units other than the Developer at the time of such change or which shall result in the alteration of boundaries of Units (other than the common walls separating the Units owned by the Developer) may not be made without an amendment of this Declaration approved by the Owners and Mortgagees in the manner elsewhere required herein. The Special Declarant Right and Development Right set forth in this section must be exercised within fifteen years from the anniversary of the filing of this Declaration.

4.02 Right to Convert Units Into Common Elements. The Developer expressly reserves the right until the fifteenth anniversary of the recordation of this Declaration to convert any Unit into Common Elements or Limited Common Elements, or both. This reserved Development Right may be exercised with respect to all or any portion of the Property in any order and at any time. There is no limitation on this Special Declarant Right, except as set forth herein.

4.03 Use for Sales Purposes. All Units and the Common Elements shall be subject to the statutory right concerning sales and management offices and models in Units and the Common Elements in favor of the Developer provided in Section 35-8A-215 of the Act. The Developer otherwise expressly reserves the right to use one (1) or more Units owned by the Developer as models, and any portion of the Common Elements for management offices and/or sales offices. The Developer reserves the right to relocate office and/or models from time to time within the Property. Upon relocation or sale of a model, the management office or sale office and the furnishings thereof may be removed by the Developer. The

Developer further reserves the right to maintain on the Common Elements advertising signs in any location or locations and from time to time to relocate and/or remove the same, all in the sole discretion of the Developer.

4.04 Use by the Developer. Subject to the rights of the Mortgagees hereunder, neither the Owners nor the Board of Directors nor their use of the Condominium Property or application of this Declaration shall interfere with the completion of the contemplated improvements and sales of the Units in the Condominium until the Developer has completed all of the Developer's contemplated improvements in Phase I or any additional Phase, and closed the sales of all of such Units in Phase I or any additional Phase, but in no event to exceed fifteen (15) years from the date of filing of this Declaration. Subject to the rights of the Mortgagee hereunder, the Developer may make such use of the unsold Units and of the Common Elements as may facilitate such completion and sale, including, but not limited to, maintenance of a sales office, management office and model units, the showing of the Condominium Property and the Units therein, the display of signs thereon and therein, the exercise of Development Rights or Special Declarant Rights reserved by the Developer, and the construction of improvements for the purpose of joining or modifying improvements in Phase I with improvements in any additional Phase or Phases. These Special Declarant Rights exist so long as the Developer holds any Unit in the Condominium for sale in the ordinary course of business or leases any Unit which it owns or contemplates developing additional Phases, but in no event to exceed fifteen (15) years from the date of filing of this Declaration. The Developer expressly reserves the right to (i) construct a Private Marina with Boat Slips in Phase I and in any additional Phase or Phases; (ii) construct additional parking areas and access roads connected thereto in Phase I and in any additional Phase or Phases; and (iii) lease any Unit which it may own in the Condominium Property on such terms as it may deem proper and desirable and may transfer Units subject to such lease.

4.05 Amendment to Include Additional Phase(s) or Exercise Development Rights to the Declaration. The Developer, its successor and/or assigns, expressly reserves the right until the fifteenth (15th) anniversary of the recordation of this Declaration to exercise any Development Right or Special Declarant Right and submit it to this Declaration or submit all or any portion of the real property described on Exhibit "J" to this Declaration and the Condominium form of ownership, by filing an incremental amendment to this Declaration in the Office of the Judge of Probate, Baldwin County, Alabama, submitting said Development Right or parcel or parcels or any portion thereof to the terms and conditions of this Declaration, all in accordance with the provisions in the Act.

4.06 Special Rights as to Commercial Units. The commercial Units, which are designated as Units B-100 and B- 200 on the Plans set out on Exhibit "C" can be used for any commercial enterprise allowed by the local zoning ordinances, including, but in no way limited to real estate sales, leasing, management, marketing activities, restaurants, and convenience store. The Owner of such Unit shall also be granted an easement in, on, over, and through the Common Elements, including the use and access thereof, for the purpose of allowing its guests, licensees, and lessees to use the Common Elements for any use allowed by the Declaration, the

Association's By-Laws and Rules and Regulations for Unit Owners. All other Units shall be restricted for residential use only and the Common Elements, or any portion thereof, may not be used for commercial activities other than as provided in this Article and the Declaration. Provided however the Association, through its Board of Directors, shall have the right to lease, on terms and conditions satisfactory to the Board, portions of the Common Elements for commercial activities.

4.07 Development Rights as to the Private Marina. The Developer, its successor and/or assigns, expressly reserves the right until the fifteenth (15th) anniversary of the recordation of this Declaration to exercise the Development Right to construct a Private Marina along the shoreline of the property described in Exhibit "A", being more particularly described on Exhibit "L" and into the waters of Perdido Pass/Old River. The Private Marina may include, but not be limited to, piers, wharfs, walkways, finger piers, Boat Slips and other associated structures. The lay-out, size, design and location of any piers, wharfs, walkways, finger piers, Boat Slips and other associated structures will be determined solely by the Developer and will be set forth on the Plans filed as an Exhibit to the incremental amendment. The area or areas within the Private Marina that are not designated as Limited Common Elements will be designated as Common Elements. The cost or expense of maintenance, repair, upkeep, and replacement (including but not limited to State of Alabama submerged land lease) of each Limited Common Element Boat Slip shall be the exclusive responsibility of the Unit Owner to which that Boat Slip shall be appurtenant. The Developer makes no assurances the Private Marina will be constructed or dedicated. The total number of Boat Slips designated as Limited Common Elements can not exceed sixty five (65) in Phase I.

4.08 Development Rights as to Additional Parking and Access Roads. The Developer, its successor and/or assigns, expressly reserves the right until the fifteenth (15th) anniversary of the recordation of this Declaration to exercise the Development Right to construct additional parking spaces together with access roads on, over and across all or any portion of the the property located in Phase I and described in Exhibit "K" hereto and set forth on the Plats and Plans set out on Exhibit "C" as Subject to Development Rights. Any parking spaces constructed in connection with the Development Right reserved herein will be designated as Common Elements on the amended Plans filed with the incremental amendment. The Development Rights reserved for the construction of an access road and additional parking spaces is subject to only being exercisable in connection with the construction and dedication of additional Phases to the Condominium. The Developer makes no assurances any access road or parking spaces will be constructed.

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ARTICLE V

ORGANIZATION AND MANAGEMENT

5.01 Management of the Condominium Property. The operation and administration of the Common Elements and the Condominium Property shall be performed by the Association. The powers and duties of the Association shall include those set forth in the Act, the Alabama Nonprofit Corporation Act, Code of Alabama 1975, Section 10-3A-1 et seq., this Declaration, the Articles of Incorporation and the By-Laws.

5.02 Members. The Members of the Association shall constitute all record Owners of the Units. Change of membership in the Association shall be established by recording in the Probate records of Baldwin County, Alabama, the deed or other instrument establishing record title to a Unit of the Condominium Property, and the delivery to the Association of a certified copy of such instrument, the Owner designated by such instrument thereby becoming a record Owner and a Member of the Association. Membership of the prior Owner shall thereby be terminated. All present and future Owners, tenants and Occupants of the Units shall be subject to and shall comply with the provisions of this Declaration, the By-Laws and the Rules and Regulations, as the same may be amended from time to time. The votes shall be cast in the manner provided in the Articles and By-Laws of the Association. Each Unit shall be allocated 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, and as set forth in Exhibit "E" attached hereto and all amendments thereto.

5.03 By-Laws. The By-Laws of the Association shall be in the form attached as Exhibit "B" to this Declaration, and made a part hereof for all purposes, and may be amended from time to time as set forth therein.

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ARTICLE VI

ASSESSMENTS

6.01 Liability, Lien and Enforcement. The Association is given the authority to administer the operation and the management of the Common Elements and the Condominium Property, it being recognized that the delegation of such duties to one entity is in the best interest of the Owners of all Units. To provide the funds necessary for such proper operation, the Association is hereby granted the right to make, levy, and collect assessments against the Owners of all Units to pay Common Expenses and such other expenses which the Association is authorized to incur under the terms and conditions of this Declaration. In furtherance of said grant of authority to the Association to make, levy and collect assessments to pay the costs and expenses for the operation and management of the Condominium Property, the following provisions shall be effective and binding upon the Owners of all Units.

6.02 Assessments. All assessments for the payment of Common Expenses shall be levied annually and paid monthly by the Owners of all Units, and unless specifically otherwise provided for in this Declaration, each Owner of a Unit and each Owner's Unit shall bear the same fractional share of such assessment as the the fractional share of ownership for the undivided interest in the Common Elements and Limited Common Elements appurtenant to said Unit. The assessments for Common Expenses and Limited Common Expenses shall be payable over the course of the year in advance in monthly installments commencing on the date of the purchase of a Unit or in such other installments and at such times as may be determined by the Board of Directors in accordance with the Association's By-Laws. Nothing to the contrary withstanding, the Association may individually assess Units and its Owner for the payment of Limited Common Expenses associated with or incurred in connection with any Limited Common Element allocated to the Owner's Unit.

6.03 Annual Budget. Within sixty (60) days prior to the beginning of each fiscal year of the Association, the Board of Directors shall adopt a proposed annual budget for the next fiscal year, and such budget shall project the amount of funds for the forthcoming year which may be required for the proper operation, management and maintenance of the Condominium Property, including reasonable allowances for contingencies and reserves therefor if the Board of Directors shall so provide, in accordance with the Act and this Declaration. Said budget shall take into account any projected anticipated income which is to be applied in reduction of the amounts required to be collected as an assessment each year. Within thirty (30) days after adoption of such annual budget by the Board of Directors, copies of said budget shall be made available to each Member. The Board of Directors shall set a date for a meeting of the Members to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after mailing or delivering the budget to the Members. Unless at such meeting a majority of the Members present in person or by proxy reject the budget, the budget is ratified. In the event the proposed budget is rejected, the budget for the last year shall continue in effect until such time as a new budget is ratified. If the budget is ratified, the assessment for said year shall be established based upon such budget.

Should the Board of Directors at any time determine in the sole discretion of said Board of Directors that the assessments levied are or may prove to be insufficient for any reason including emergencies and nonpayment of any Owner's assessment, the Board of Directors shall have the authority to levy such additional assessment as it shall deem necessary in accordance with the applicable provisions of the Condominium Documents and the Act. The initial projected and estimated annual maintenance budget for the Condominium Property is attached to this Declaration as Exhibit "F", and made a part hereof for all purposes.

<u>6.04 Omission of Assessment</u>. The omission by the Association, before the expiration of any year, to fix the assessments for that or the next year shall not be deemed a waiver or modification in any respect of the provisions of this Declaration or a release of any Owner from the obligation to pay assessments or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed.

<u>6.05 Detailed Records</u>. The Association shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Common Elements and the Limited Common Elements, specifying and itemizing the maintenance and repair expenses of the Common Elements, Limited Common Elements and any other expenses incurred. Records and vouchers authorizing the payments involved shall be available for examination by any Member or Member's representative at convenient hours on weekdays in a location designated by the Board of Directors in Baldwin County, Alabama.

<u>6.06 Payment of Common Expenses and Limited Common Expenses by Unit Owners.</u> All Unit Owners shall be obligated to pay the assessment for Common Expenses and/or Limited Common Expenses adopted by the Board of Directors pursuant to the terms of this Declaration. No Unit Owner may be exempted from liability for such Unit Owner's contribution toward Common Expenses or Limited Common Expenses by waiver of the use or enjoyment of any of the Common Elements, Limited Common Elements or by abandonment of an Owner's Unit. No Unit Owner shall be liable for the payment of any part of the Common Expenses or Limited Common Expenses assessed against such Owner's Unit subsequent to a sale or other conveyance by the Owner of such Unit. The purchaser of a Unit shall be jointly and severally liable with the selling Unit Owner for all unpaid assessments against such Unit up to the time of conveyance without prejudice to the purchaser's right to recover from the selling Unit Owner the amounts paid by the purchaser thereof. Whenever any Unit may be sold or mortgaged by the Owner thereof, which sale shall be concluded only upon compliance with the other provisions of this Declaration, the Association, upon written request of the Owner or purchaser of such Unit, shall furnish to the Owner, the purchaser or any proposed Mortgagee (within the time period prescribed by the Act) a statement verifying the status of the payment of any assessment which shall be due and payable to the Association by the Owner of

such Unit and the other information required by the Act. Any purchaser or proposed Mortgagee may rely upon such statement in concluding the proposed purchase or mortgage transaction and the Association shall be bound by such statement. In the event that a Unit is to be sold or mortgaged when any assessment is outstanding against the Owner of such Unit and such assessment due the Association is in default, the purchase or mortgage proceeds shall first be applied by the Purchaser or Mortgagee to the payment of any delinquent assessment or installment due the Association before application of the payment to the selling Unit Owner.

6.07 Default in Payment of Assessments. The payment of any assessment or installment thereof due the Association shall be in default if such Assessment or any installment thereof is not paid to the Association on or before the due date for such payment. When in default, the delinquent assessment or delinquent installment due the Association shall bear interest at the rate established by the Board of Directors of the Association not exceeding eighteen percent (18%) per annum until such delinquent assessment or installment and all interest due thereon has been paid in full. The Association shall have a lien against Units for delinquent assessments. Said lien shall secure and does secure the monies due for all assessments then or thereafter levied against the Owner of each Unit, and such lien shall also secure interest, if any, which may be due on the amount of any delinquent assessment owing the Association. Said lien shall also secure all costs and expenses, including late penalties and reasonable attorneys' fees and court costs incurred by the Association in collecting delinquent assessments and enforcing the same upon said Unit and its appurtenant undivided interest in the Common Elements and/or Limited Common Elements. The lien granted to the Association may be foreclosed in the same manner as real estate mortgages in the State of Alabama, which contain a power of sale. The lien granted to the Association shall further secure such advances for taxes and payment on account of superior mortgages, liens, or encumbrances which may be required to be advanced by the Association in order to protect and preserve its lien, and the Association shall further be entitled to interest at the maximum legal rate on judgments or the rate established by the Board of Directors, whichever is greater, on any such advance made for such purpose. 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 rights granted to the Association and shall acquire such interest in any Unit expressly subject to the lien.

The lien herein granted to the Association shall be effective from and after the time of the 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 for assessment under this section is required. Such lien shall include only assessments which are due and payable when the action to enforce the lien in commenced plus late penalties and penalties imposed by the Association for Rules and Regulations violations, interest, costs, reasonable attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided.

6.08 Election of Remedies. Institution of a suit at law to collect payment of any delinquent assessments shall not be deemed to be an election by the Association which shall prevent its thereafter seeking enforcement of the collection by foreclosure of any sums remaining owing to it, nor shall proceeding by foreclosure to effect such collection be deemed to be an election precluding the institution of a suit at law to collect any sum then remaining owing to the Association. The Association shall be entitled to bid at any sale held in connection with the foreclosure of the assessment lien and may apply as a cash credit against its bid all sums secured by the lien enforced.

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ARTICLE VII

MAINTENANCE AND OPERATION OF THE CONDOMINIUM PROPERTY

7.01 The Association's Obligation to Repair. The Association acting through the Board of Directors shall be responsible for the maintenance, repair and replacement of the following, the costs of which shall be charged to all Unit Owners as a Common Expense:

(A) the Common Elements which by definition exclude the surfaces of all interior walls, floors, ceilings, entrance doors, and windows (except the painting of the exterior faces of the exterior doors and window frames which shall be the responsibility of the Association);

(B) incidental damage caused to a Unit by any work done by the Association;

(C) portions of all Units contributing to the support of the building, the outside walls and load bearing columns, excluding, however, interior wall and floor surfaces; and

(D) the Limited Common Elements.

This section shall not relieve a Unit Owner of liability for damage to the Common Elements or Limited Common Elements caused by the Unit Owner, the Unit Owner's family members, guests, invitees, lessees or licensees as a consequence of the negligence, recklessness or willful misconduct of such person. The cost of repair for any damage so caused by the Unit Owner, the Unit Owner's family, members, guests, invitees, lessees or licensees shall be a special assessment against the Unit Owner responsible therefor.

7.02 Each Owner's Obligation to Repair.

(A) Except for those portions of the Condominium Property which the Association is required to maintain and repair, each Owner shall, at such Owner's expense, maintain and repair the Private Elements attributable to such Owner's Unit in good tenantable conditions and repair, and shall be responsible for the repair, maintenance and replacement, if necessary, of the following items in such Owner's Unit;

(1) fixtures and equipment in such Owner's Unit, including the refrigerator, stove and all other appliances within the Unit; drains, sinks, plumbing and plumbing fixtures, and connections within the Unit; electrical panels, wiring, outlets, and electrical fixtures within the Unit; interior doors, window frames, screening and window glass; all exterior doors and windows (except the painting of the exterior faces of the exterior doors and exterior windows which shall be the responsibility of the Association); all wall coverings including paint, wallpaper and light fixtures; and all flooring including carpeting, vinyl and ceramic tile

within a Unit. In the event an exterior door or exterior window, or a portion thereof requires repair, maintenance or replacement and the same is not promptly done by the Unit Owner, the Association may perform the same, and the cost thereof shall constitute an assessment against the Unit Owner responsible therefor.

(2) plumbing, heating, air conditioning and electrical systems serving only that Unit, including the fuse boxes, wiring, flues, and all other plumbing, electrical, gas or mechanical systems. In the event any such system or a portion thereof is within another Unit or requires access to another Unit, the repair, maintenance or replacement thereof, shall be performed by the Association, and the cost thereof shall constitute an assessment against the Unit Owner responsible therefor.

(B) Each Unit Owner agrees as follows:

(1) to perform all maintenance, repairs and replacements which are the Unit Owner's obligations under subparagraph (A) of this Section;

(2) to pay all utilities as herein provided and all taxes levied against the Owner's Unit;

(3) not to make or cause to be made repairs to any plumbing, heating, ventilation or air conditioning system located outside the Owner's Unit, but required to be maintained by such Unit Owner elsewhere herein except by licensed plumbers or electricians authorized to do such work by the Association or its delegate;

(4) not to make any addition or alteration to such Owner's Unit or to the Common Elements or Limited Common Elements or to do any act that would impair the structural soundness, safety or overall design scheme of any part of the Condominium Property or that would impair any easement or right of a Unit Owner or Developer without the prior written consent of the Association and all Unit Owners affected thereby.

(5) not to make any alteration, addition, improvement, decoration, repair, replacement or change to the Common Elements, Limited Common Elements, or to any outside or exterior portion of the Unit, excluding any alteration or addition made pursuant to the procedure described in subparagraph (4) above and including, but not limited to, altering in any way exterior doors, windows, or the exterior faces of the exterior doors or windows, affixing outside shutters to windows or painting any part of the exterior of an Owner's Unit, without the prior written consent of the Association; provided that if such consent is granted, the Unit Owner shall use only a contractor approved by the Association, which approval will not be unreasonable withheld, who shall comply with all Rules and Regulations with respect to the work which may be adopted by the Association and the Unit shall be liable for all damages to another Unit or to the Common Elements or Limited Common Elements caused by any contractor employed by such Unit Owner or by the subcontractors or employees of such contractor, whether said damages are caused by negligence, accident, or otherwise; and

(6) to promptly report to the Association any defects or needed repairs for which the Association is responsible. In the event the Unit Owner fails to promptly notify the Association of any such known defects which need to be repaired, the Unit Owner shall be responsible for the cost of any subsequent repairs which are created due to the initial repairs not being reported.

(C) The Association shall be obligated to answer any request by a Unit Owner for any required approval of a proposed addition, alteration or improvement (by painting or otherwise) within forty-five (45) days after such request, but its failure to do so within the stipulated time shall not constitute a consent of the Association to the proposed addition, alteration or improvement. Any application to any governmental authority for a permit to make an addition, alteration or improvement in or to an Unit shall be executed by the Association, without, however, its incurring any liability on the part of the Board of Directors or any one (1) of them or the Association to any contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any person having any claim of injury to a person or damage to property arising therefrom. The review by the Association under this section shall in no way make the Association liable for any alterations, additions, or improvements by any Unit Owner. Rather, such review is for purposes of Aesthetics and control only. The provisions of this section shall not apply to Units owned by the Developer until a deed for such Unit has been delivered to a purchaser other than the Developer.

<u>7.03 Alterations, Additions and Improvements by the Association</u>. Except in the case of loss or damage to the Common Elements or Limited Common Elements as contemplated by Article XII of this Declaration, the Association shall not make any material structural alterations, capital additions or capital improvements to the Common Elements or Limited Common Elements (other than for the purpose of replacing, restoring or rehabilitating portions of the Common Elements or Limited Common Elements which is in accordance with this Declaration and which does not require an expenditure of more than Fifty Thousand and No/100 ($50,000.00) Dollars, exclusive of any funds applied from the reserves maintained hereunder) unless the same is authorized by the Board of Directors and ratified by the affirmative vote of the voting members casting not less than sixty percent (60%) of the total votes of the Members of the Association present at any regular or special meeting of the Members called for that purpose at which a quorum is present and approved by a majority of the Mortgagees eligible to vote therefor. The cost of the foregoing shall be assessed against the Owners of Units as provided herein except as otherwise provided in this section. Where any alterations or additions as aforesaid are exclusively or substantially exclusively for the benefit of the Unit Owners requesting the same, then the cost of such alterations or additions shall be assessed against and collected solely from the Unit Owners exclusively, or substantially exclusively, benefitting therefrom, and the assessment shall be levied in such proportions as may be determined to be fair and equitable by the Board of Directors. Alterations, improvements or repairs of an emergency nature may be made upon authorization by a vote of the majority of the Directors available for consultation if the same is necessary and in the best interest of the Members.

7.04 Utilities. Each Unit Owner shall be required to pay all charges for utilities, including but not limited to electricity, gas, cable television, and telephone service, used or consumed in an Owner's Unit. The utilities serving the Common Elements only shall be separately metered and paid by the Association as a Common Expense. The Association shall be responsible for the payment of the common water and sewage used in the Units and the Common Elements. The Association shall have authority to pay the cost of the utilities used or consumed in the Units and have the costs thereof apportioned among the Units based upon use of the utility or any other formula the Association may deem appropriate. The cost of any utilities which service an individual Boat Slip in the Private Marina shall be the responsibility of the Owner of the Unit to which it has been allocated.

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ARTICLE VIII

RESTRICTIONS ON USE OF UNITS, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

8.01 Rules and Regulations of the Association. The Association is authorized to promulgate, amend and enforce the Rules and Regulations concerning the operation and use of the Condominium provided that such Rules and Regulations are not contrary to or inconsistent with the Act and the Condominium Documents. A copy of the Rules and Regulations shall be furnished by the Board of Directors to each Unit Owner prior to the time they become effective. All present and future Unit Owners, tenants, Occupants, and any person who uses any part of the Condominium Property in any manner, are subject to, and shall comply with the provisions of the Condominium Documents and the Rules and Regulations. The acquisition, rental or occupancy of a Unit or the use of any part of the Condominium Property by any one (1) person shall constitute such person's agreement to be subject to and bound by the provisions of the Condominium Documents and the Rules and Regulations, and such provisions shall be deemed to be enforceable as equitable servitudes and covenants running with the Land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated in full in each and every deed of conveyance or lease thereof. The Association may promulgate enforcement provisions for violation of any Rule or Regulation by an Owner, an Owner's family members, Occupants, guests, invitees, lessees or renters, including the payment of penalties for such violations.

8.02 Restrictions on Use. The use of the Condominium Property is subject to the following restrictions:

(A) Each Unit, except the commercial Units, is restricted to residential use and the parking spaces located on the Common Elements, shall be used in accordance with the rules and regulations of the Association. The restriction that a Unit can only be used as for residential usage shall not preclude a Unit Owner or Occupant from maintaining a personal professional library in his Unit, nor preclude him from keeping his personal business records or handling his personal business telephone calls or correspondence. A Boat Slip shall not be used for commercial activities or for the hiring of Vessels.

(B) There shall be no obstruction of the Common Elements or Limited Common Elements, nor shall anything be kept or stored in the Common Elements or stored in the Limited Common Elements except in approved storage areas, nor shall anything be constructed on or planted in or removed from the Common Elements or Limited Common Elements, nor shall the Common Elements in any other way be altered without the prior written consent of the Association.

(C) No immoral, improper, offensive or unlawful use shall be made of any Unit, Boat Slip or Common Elements or Limited Common Elements, or any part thereof, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction over the Condominium Property shall be observed.

(D) No owner shall permit anything to be done or kept in an Owner's Unit or Boat Slip or in the Common Elements or Limited Common Elements which will result in any increase of fire, liability or hazard insurance premiums or the cancellation of insurance on any part of the Condominium Property, or which would be in violation of any law. No waste shall be committed to the Common Elements or Limited Common Elements.

(E) No "For Sale" or "For Rent" or similar type sign of any kind shall be displayed to the public view on or from any part of the Condominium Property, all other signs must have prior written consent of the Board of Directors, EXCEPT signs used by the Developer in the selling or leasing of the Units, or signs used in connection with the commercial Units, or signs used in accordance with the Declaration.

(F) No noxious or offensive activities shall be carried on, nor shall any outside lighting or sound speakers or other sound producing devices be used, nor shall anything be done, on any part of the Condominium Property which, in the judgment of the Board of Directors, may be or become an unreasonable annoyance or nuisance to the other owners, or be in violation of the U. S. Fish and Wildlife Permit.

(G) No Owner shall cause or permit anything to be placed on the outside walls of any Owner's Unit or Boat Slip, and no sign, awning, canopy, window air conditioning unit, shutter, or other fixture shall be affixed to or placed upon the exterior walls or roof of any building or any part thereof, without the prior written consent of the Board of Directors.

(H) No Owner (except the Owner of the commercial Unit) shall cause or permit anything to be placed on the outside walls of any Owner's Unit or Boat Slip, and no sign, awning, canopy, window air conditioning unit, shutter, or other fixture shall be affixed to or placed upon the exterior walls or roof of any building or any part thereof, without the prior written consent of the Board of Directors. The Owner of the commercial Unit is allowed to place signs on the outside walls of the commercial Unit, which indicates its name or type of business and does not exceed eight (8) square feet in area per sign. The Owner of the commercial Unit shall have the right to place directional and informational signs throughout the Common Areas, which do not exceed six (6) square feet in area per sign. No electrical signs without the prior written consent of the Board of Directors.

(I) No clothes, sheets, towels, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Common Elements or Limited Common Elements. The Common Elements and Limited Common Elements shall be kept clear of rubbish, debris and other unsightly materials.

(J) No animals or pets of any kind shall be kept in any Unit or Boat Slip or on any portion of the Condominium Property except with the written consent of the Board of Directors and shall be subject to the rules and regulations of the Association governing the keeping of pets; provided that such consent may be terminated without cause at any time by the Board of Directors of the Association. No animal shall be kept for commercial purposes nor be allowed to create or cause any disturbance or nuisance of any kind, and if an animal or pet does cause or create a nuisance or an unreasonable disturbance, said animal or pet shall be permanently removed from the Condominium Property within seven (7) days from the day the owner receives the written notice to remove the animal or pet. The Owner of any pet or animal shall be liable for any and all damage caused by such pet or animal to any part of the Condominium Property. NO CATS SHALL BE ALLOWED UNDER ANY CIRCUMSTANCES.

(K) No Owner shall maintain a Vessel moored in the Private Marina or the Boat Slip in an unsightly, negligent, unseaworthy or dangerous conditions. The Association shall have the right to prescribe rules and regulations concerning and affecting the manner of use, maintenance and rental of, operating procedures and the condition and maintenance of Vessels. No Boat Slip may be occupied by a Vessel unless the Vessel meets the standards of the Association. The minimum standards, as promulgated by the Association, shall be enforced by the Board of Directors and shall require the Vessel to comply with terms hereof, the rules and regulations adopted by the Association and all other documents in connection therewith. The Board of Directors shall have the right to (i) approve or disapprove any Vessel which the Board of Directors determines does not meet the standards of the Board of Directors or (ii) cause the immediate removal of any Vessel which is not in compliance with the Declaration, the rules and regulations or any other documents in connection therewith. The rights and powers granted to the Board of Directors under the Declaration, including the right to approve or disapprove any Vessel, or remove any Vessel as aforesaid, shall not be deemed to create any liability of the Board of Directors or the Association or of their officers, directors or members as to the unsafe or unseaworthy condition of any Vessel or any damage to persons or property arising therefrom.

No Owner or Occupant shall do, suffer or permit to be done anything upon or with a Boat Slip or upon a Vessel moored thereto, which would impair navigation or the soundness or safety of the Private Marina or which would be noxious or offensive or in interference with the peaceful possession or proper use of other Boat Slips, or which would require any alteration of or addition to any of the improvements to be in compliance with any application law or regulation, or which would otherwise be in violation of law. The Association shall the right, but not the obligation, to inspect any Vessel in the Private Marina to determine its seaworthiness, cleanliness and compliance with all applicable City, County, State and Federal fire, safety and other regulations, as well as to determine whether the Vessel fits within the regulations, applicable to Boat Slips. The Association shall have the right (but shall not be required) to remove any Vessel from the Private Marina which fails to comply with said regulations or fails to fit within the Boat Slip. No recreational swimming shall be permitted within the waters of the Private Marina, and no recreational diving shall be permitted from the Private Marina or from any Vessel. No Vessel shall be used as a residence within the Private Marina. No repairs or other maintenance other than routine cleaning, routine interior preventative maintenance, minor interior repairs and/or varnishing may be conducted in a Boat Slip or the Private Marina without the written permission of the Association. No grinding or spray painting may be performed on the Condominium Property. Each Owner or Occupant shall indemnify, defend and save the Association, its agents, employees and designees from and against any loss or damage incurred in connection with the exercise or nonexercise of the rights of the Association hereunder.

The Developer makes no assurances the Private Marina will be constructed.

(L) Motorcycles, motor bikes, motor scooters, recreational vehicles or other similar vehicles shall not be operated within the Condominium Property except for the purpose of ingress or egress or transportation, it being intended that said vehicles shall not be operated so as to annoy or disturb persons or endanger persons or property.

(M) All persons using the swimming pool does so at their own risk and the Association is not responsible for any accident or injury in connection with use of the pools or for any loss or damage to personal property. Persons using the pool areas agree not to hold the Association, its officers, employees or agents liable for any actions of whatever nature occurring within the pool areas. The pool areas shall be used in accordance with such rules and regulations as shall from time to time, be promulgated by the Board of Health of Baldwin County, Alabama, and/or by the Board of Directors of the Association.

(N) The Association shall have the right to promulgate rules and regulations concerning the use and enjoyment of the Common Areas, Limited Common Areas, and in connection with the Permit issued by the U.S. Fish and Wildlife Service.

(O) Units may be leased or rented by the Unit Owners; and the rights of any tenant is hereby made subject to the power of the Association to prescribe reasonable rules and regulations relating to the leasing or rental of a Unit and to enforce the same directly against a tenant or other occupant by the exercise of such remedies as the Board of Directors deems appropriate, including eviction. Each Unit Owner who shall lease or rent his Unit irrevocable empowers the Association or its managing agent to enforce the rules and regulations and to terminate the lease and evict any tenant or occupant who fails to comply with the rules and regulations. The Association, the Board of Directors, or any agent thereof, shall not become liable to any Unit Owner or any person who sublets a Unit, or other party for any loss of rents or other damages resulting from the reasonable exercise of the provisions of this paragraph. Nothing to the contrary withstanding, a Unit Owner is primarily responsible for the acts or omissions of its family, tenants, quests, invitees, or occupants. Individual rooms located within a Unit shall not be leased or rented. The minimum rental or leasing period is one (1) day.

(P) Each Unit which is allocated a Covered Parking Space or Boat Slip in accordance with the Declaration will have the exclusive use and enjoyment of the Covered Parking Space or Boat Slip so allocated to that Unit, subject to the reasonable rules and regulations of the Association.

8.03 Right of Access. Each Unit Owner grants a right of access to such Owner's Unit to the Association, and to any other person authorized by the Association for the purpose of making inspections and for the purpose of correcting any condition originating in an Owner's Unit and threatening other Units, Common Elements or Limited Common Elements, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other Common Elements within an Owner's Unit, if any, or to correct any conditions which violates the provisions of any Mortgage covering another Unit or to enforce any provisions of the Condominium Documents, provided that requests for entry are made in advance and that such entry is at a time reasonably convenient to the Unit Owner. In case of an emergency such right of entry shall be immediate whether the Unit Owner is present at the time or not. Each Unit Owner further grants a right of access to such Owner's Unit to the Developer and/or the Developer's agent for the purpose of making all repairs required by any warranty delivered to the Unit Owner at the closing of an Owner's Unit. To the extent that damages inflicted on the Common Elements, Limited Common Elements or any Unit through which access is taken, the Unit Owner or the Association, if it causes the same, shall be liable for the prompt repair thereof.

8.04 Limitation of Liability. The Association shall not be liable for any failure of water or power supply, telephone, security, fire protection or other service to be obtained by the Association or paid for out of the Common Expense funds or problems resulting from the operation or lack of operation of sewer lines servicing the Condominium Property, or for injury or damage to a person or property caused by the natural elements or resulting from electricity, water, snow or hurricane which may leak or flow from any portion of the Common Elements, Limited Common Elements or from any wire, pipe, drain, conduit, appliance or equipment. The Association shall not be liable to the Owner of any Unit for the loss or damage, by theft or otherwise, of articles which may be stored upon any of the Common Elements or Limited Common Elements. No diminution or abatement of the Common Expense assessments, as herein elsewhere provided, shall be claimed or allowed for any reason, except by action taken by the Board of Directors of the Association in accordance with the By-Laws.

8.05 Abatement of Violations. The violation of any Rule or Regulation adopted by the Board of Directors or breach of the provisions of the Condominium Documents, shall give the Developer, the Association, or any Unit Owner the right, in addition to any other right or remedy elsewhere available, to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach. All expenses of such actions or proceedings against a defaulting Unit Owner, including court costs, attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the highest lawful rate on judgments until paid, shall be charged to and assessed against such defaulting Owner, and the Association shall have a lien for all of the same upon the Unit