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DECLARATION OF CONDOMINIUM

OF

PHOENIX WEST II, A CONDOMINIUM

THIS DECLARATION, is made this the 24th day of August, 2013, by PHOENIX WEST II, L.L.C., an Alabama limited liability company, hereinafter called "DEVELOPER," for its successors, grantees and assigns.

WHEREIN, Developer makes the following declaration; and

WHEREAS, Developer is the fee simple owner of that certain parcel of real property situated in the County of Baldwin, State of Alabama, and has improved said real property in the manner set out herein, which said parcel of land is more particularly described in Exhibit "A" attached hereto and incorporated herein as if fully set out.

NOW, THEREFORE, Developer hereby makes the following declaration as to the uses to which said real property and improvements thereon may be put, hereby specifying that said Declaration shall constitute covenants to run with the land and shall be binding upon Developer, it successors and assigns, and all subsequent owners of all or any part of said real property and improvements, together with their grantees, successors, heirs, executors, administrators, devisees or assigns.

DEFINITIONS

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

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

1.02. "ARTICLES" means the Articles of Incorporation of the Association, recorded in the Office of the Judge of Probate of Baldwin County, Alabama.

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

1.04. "ASSOCIATION" means Phoenix West II Owners Association, Inc., an Alabama not for profit corporation, and its successors, and is the corporation organized under the ACT.

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

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

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

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

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

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

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

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

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

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

1.15. "DEVELOPER" means Phoenix West II, L.L.C., an Alabama limited liability company.

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

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

1.18. "LIMITED COMMON ELEMENT" shall have the same meaning as is defined in the ACT and as set out in the Declaration.

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

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

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

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

1.23. "PLANS" mean the floor plans and elevations of the Condominium prepared by an independent registered engineer or registered architect, which are marked Exhibit "B" and attached hereto, or recorded concurrently with this instrument as slides in the Office of the Judge of Probate of Baldwin County, Alabama, and expressly made a part hereof as though fully set out herein. The Plans are preceded by a certificate of completion executed by an independent registered engineer or registered architect in accordance with the ACT. It also certifies that the Plans contain all the information required by the ACT.

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

1.25. "SPECIAL DECLARANT RIGHTS" shall have the same meaning as is defined in the ACT and as set out in the Declaration. "Declarant" as used herein means the Developer.

1.26. "UNIT" or "PRIVATE ELEMENT" shall have the same meaning as "Unit" is defined in the ACT. The Units are designated and described on the Plans.

1.27. "UNIT OWNER" means the Owner of a Unit.

1.28. "UTILITY SERVICES" shall include but not be limited to cable, internet connections, telephone, wi-fi, electrical power, gas, garbage and sewage disposal.

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

NAME

The name by which this condominium is identified is Phoenix West II, a condominium.

THE REAL PROPERTY

The lands owned by the Developer, which are herewith submitted to the condominium form of ownership, are the lands described hereafter, lying and being in the County of Baldwin, State of Alabama, which description is attached hereto as Exhibit "A."

PURPOSE

The purpose of this Declaration is to submit the lands hereinafter described and the improvements constructed thereon to the condominium form of ownership and use in the manner provided by the Alabama Uniform Condominium Act § 35-8A-101, et seq., *Code of Alabama* (1975).

DEVELOPMENT PLAN

5.01. Improvements. The improvements are as shown upon the plans attached hereto as "Exhibit B," which plans were prepared by John M. Senkarik, A.I.A., including a set of floor plans of the building showing the lay-out, location, the designating letters and numbers of each unit, as well as his verified statement, attached hereto as Exhibit "B," that such plans have been completed and are in sufficient detail to identify the common elements and the private elements comprising the units as built and which said plans are supplemented and complimented by the narrative and the graphic descriptions herein contained.

5.02. Changes. In order to meet the possible unforeseen or varying demands for the number and type of unit, or in order to meet particular requirements of prospective purchasers, lending institutions or title insurance companies, or for any other reason, the Developer reserves the right to change the size, dimensions, number and location of buildings, units and other improvements, and the size, dimensions, lay-out location and undivided percentage of ownership in the common elements of any unit for which a purchase agreement has not been executed by the Developer or with respect to which the purchaser is in default, provided such changes do not change the common elements of any unit already sold or under an executed purchase and sale agreement as to which the purchaser is not in default. The Developer further reserves the right to substitute for any of the materials, equipment and other articles herein mentioned, materials, equipment and articles of equal or better quality.

5.03. Amendment of Plans. This Declaration may be amended by the filing of such additional plans as may be required to accurately describe the improvements or the condominium and in order to show completion of improvements. Such completion may be shown by the filing of a verified statement of a registered architect or licensed professional engineer certifying that the completed improvements have been constructed as herein represented and upon the plans herewith filed, or, if not so constructed, then designating the changes made and certifying that the plans being filed simultaneously with such certificate fully and accurately depict the lay-out, location, numbers, size and dimensions of the units. Such plans or certificate, or both, when signed and acknowledged by such a registered architect or licensed professional engineer, and by the Developers, shall constitute an amendment to this Declaration without approval of the Association, whether or not elsewhere required for an amendment.

5.04. Easements. Easements are reserved to the Developer throughout the Common Elements as may be reasonably necessary for the purpose of discharging the Developer's obligations or exercising any Development Rights or Special Declarant Rights.

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

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

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

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

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

5.05. Street Access. Each unit has a right of access to a public street or highway, that is to say Perdido Beach Boulevard (a/k/a Highway 182), upon and over common elements, providing such access all as shown upon the site plan (attached hereto as part of Exhibit "B"). The immediate common elements by which each unit has access to such public street or highway are: (i) the concrete walkways running along the face of the buildings and ground; and (ii) the parking area, driveways and streets all as shown upon the site plan (attached hereto as part of Exhibit "B").

5.06. Rights of First Lien Holders and Guarantors. Notwithstanding any provision to the contrary in this declaration or the By-laws of the Association any holder of a first mortgage lien on a Unit or any party which is a holder, insurer, or guarantor of such a lien shall, upon giving notice to the Secretary of the Association that such party wishes to be notified, be given timely written notice of:

a. Any condemnation or casualty loss that affects either a material portion of the condominium project of the unit which is subject to the mortgage;

b. Any 60-day delinquency in the payment of assessments or charges owed by the owner of any unit on which its holds the mortgage;

c. Any lapse, cancellation, or material modification of any insurance policy maintained by the Association;

d. Any proposed action that requires the consent of a specified percentage of mortgagees. In such cases, however, a mortgagee shall be considered to have given implied consent when it fails to submit a response to any written proposal for a proposed action within 60 days after it receives proper notice of the proposal as evidenced by delivery of such notice by certified or registered mail, with a "return receipt" returned by the postal service indicating proper delivery.

DESCRIPTION OF IMPROVEMENTS

6.01. The Building. The condominium will include access areas, parking areas, lawn areas, swimming pools, racket ball courts, saunas, meeting rooms with kitchens, tennis courts and gazebos.

6.02. Private Elements.

a) The description of the private elements and the appurtenances thereto are determined with the aid of the plans therefore, attached hereto, and as follows: Each Unit is assigned a number or letter or a combination thereof, which is indicated on the Plans so that no Unit bears the same designation as any other Unit. The first number designates the floor number on which the unit is located. There is no floor numbered 13. The legal description of each Unit shall consist of the identifying number or letter or a combination thereof as shown on the Plans, the name of the Condominium, the name of the County in which the Unit is situated, the name of the office in which this Declaration is recorded, and the Instrument Number under which this Declaration is recorded, the description and location of the particular Units and the appurtenances are determined with the aid of the Plans. Attached to this declaration as Exhibit "C" are (a) a grid depicting the location of each residential unit and (b) a schedule setting out the name or designation assigned to each unit, the square footage, more or less, of each unit and the percentage of ownership of the common elements appurtenant to each unit.

b) Non-residential units are as described in the plans. There are four non-residential private elements (Units). The first is designated on the plans as "O1A, 01B, 01C" which, collectively, shall be referred to as the Front Desk Unit and shall be treated as a single unit. Other non-residential units are "O2," the Sales Office Unit; M1," the Maintenance Unit, and "H1," the Housekeeping Unit all as shown on the plans. O1 [A, B, and C] includes the front desk and two offices in the lobby area, including an area extending five feet in front of the front desk counter and has approximately 1219 square feet. O2 includes the Sales Office in the lobby area and has approximately 518 square feet. M1 includes the Maintenance Room on the Ground Floor Parking area and has approximately 815 square feet. H1 includes the housekeeping office space on the east end of the ground floor and has approximately354 square feet.

6.03. Common Elements. The common elements of the condominium includes all parts of the condominium property not located within the perimeter boundaries of the apartment units, as hereinafter described, being the facilities located substantially as shown upon the plans hereto attached, and include but are not limited to the following:

a) The land described in Exhibit "A" attached hereto, subject to the exceptions set out herein.

b) All central and appurtenant installations for services such as power, light, telephone, storm drains, sewer and water, television cables, heat and air conditioning, including all pipes, ducts, wires, cables and conduits used in connection therewith, whether located in common areas or in units, and all utility and mechanical equipment, buildings and spaces, which are not used or reserved for the exclusive use of certain units.

c) Automobile parking spaces in the parking areas.

d) All outdoor and exterior lights.

e) Balconies and decking.

f) All attics, foundations, columns, girders, beams, and supports of buildings, and such component parts of walls, roofs, floors and ceilings as are not located within the units.

g) Lawn areas, landscaping, trees, curbs and walkways.

h) Recreation areas and facilities, including but not limited to, the swimming pools, sun deck, whirlpools, saunas, tennis courts, meeting room, public restrooms, lobby and reception area, gazebos and guard house.

i) Exterior steps, ramps, handrails, stair and stairwells.

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

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

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

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

6.04. Limited Common Elements. The limited common elements include items listed as such in the Alabama Uniform Condominium Act. If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated solely to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements. Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, and all exterior doors and windows or other fixtures designed to serve a single unit, but located outside the unit's boundaries, are limited common elements allocated exclusively to that unit.

In addition, the Linen Chute extending from floors one through thirty-two, Linen Storage rooms on floors two through thirty, Storage Rooms in the parking deck area on floors four through seven, House Keeping space comprising of three rooms on the east end of the ground or first floor, all as depicted on the Plans, are Limited Common Elements assigned to Unit H1. The unit owner of H1 has the easement rights of all unit owners and the specific right to access the limited common elements appurtenant to this unit. A rectangular area extending five feet from and along the outer west wall and a similar area extending five feet from and along the north wall of Unit O2 are Limited Common Elements assigned to Unit O2. However, Unit Owners are granted easement rights of ingress and egress through these areas.

Storage lockers are assigned or allocated to Residential Units as limited common elements as set out in Exhibit "F," attached hereto. (The letter which designates the unit type is omitted; the first and/or second number refers to the floor level; the last two numbers indicate the unit on that floor.)

6.05. Unit Boundaries. Each unit consists of that part of the building containing the unit which lies within the boundaries of the unit, exclusive of interior load-bearing walls and pillars and any pipes, wires, conduits, ducts, vents and other servicing utility lines which are utilized for or serve more than one (1) condominium unit. The vertical boundaries of each unit shall be the plane of the inside surfaces of the studs which are the component parts of the exterior walls and of interior walls separating a unit from another unit, and are as shown on the drawings in Exhibit "B" attached hereto. Where the unit is bounded by an exterior wall, the walls shall be considered to include any door, window or other closure therein in the closed position, and the boundary shall be the plane of the inside surfaces of the studs which are the component parts of such walls to the effect that the private elements of the boundary walls shall include the surfacing materials. The upper horizontal boundary of each unit shall be the plane of the under surfaces of the ceiling slabs. The lower horizontal boundary of floors of the units shall be the upper surfaces of the floor slab.

6.06. Surfaces. An owner shall not be deemed to own the studs and structural components of the perimeter walls and/or of load-bearing walls, nor the windows and doors bounding the unit, nor balconies, nor balcony railings enclosing a balcony area assigned to the exclusive use of the unit. An owner shall not be deemed to own the windows and doors bounding the Units, nor the door handles and locks giving access to the Unit. An owner, however, shall be deemed to own and shall, except as provided in Article 10, have the exclusive right and duty to repair, maintain, replace, paint, repaint, tile, wax, paper or otherwise finish and decorate the surfacing materials on the interior of the exterior walls and on the interior walls separating a unit from other units, and, the surfacing materials of the floors of his unit, and all appurtenant installations, including all pipes, ducts, wires, cables and conduits used in connection therewith for services such as power, light, telephone, sewer, water, heat, air conditioning and television, whether located in the boundaries of the unit or in the common areas, which are the exclusive use the unit; and all ceilings and partition walls. An owner shall have the exclusive right and duty to wash and keep clean the interior and exterior surfaces of windows and doors bounding his unit.

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

6.08. Developer's Limited Warranty. By recording this Declaration, the Developer herewith provides a limited warranty covering latent defects of the common areas or common elements for one (1) year from the date of recordation. A latent defect is hereby defined as a defect not apparent at the time of occupancy or closing, but which becomes apparent within one (1) year, and such defect has been directly caused by the failure of construction of the building in accordance with the standards of construction prevailing in the geographical area of the Unit. Developer shall not be liable under this limited warranty unless written notice of the latent defect shall be given by the Association to Developer before the expiration of said one (1) year warranty period. Steps taken by Developer to correct any such defect shall not act to extend the warranty period as to other matters. Developer shall not be responsible or provide coverage for any of the following:

(a) defects in appliances and pieces of equipment which are covered by manufacturer's warranties;

(b) incidental, consequential or secondary damages caused by a breach of this warranty;

(c) defects which are the result of characteristics common to the materials used, such as, but not limited to: warping and deflection of wood; mildew and fading; chalking and checking of paint due to sunlight; cracks due to drying and curing of concrete, stucco, plaster, bricks and masonry; drying, shrinking and cracking of caulking and weatherstripping;

(d) conditions resulting from condensation on, or expansion or contraction of materials;

(e) damages due to ordinary wear and tear, abusive use or lack of proper maintenance; and

(f) chips, scratches or mars in tile, woodwork, walls, porcelain, brick, plumbing fixtures, formica and glass.

THE LIMITED WARRANTY IS GIVEN IN LIEU OF ANY AND ALL OTHER WARRANTIES, EITHER EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, HABITABILITY OR WORKMANSHIP, EACH OF WHICH ARE SEPARATELY HEREBY DISCLAIMED BY DEVELOPER.

DETERMINATION OF PERCENTAGES OF OWNERSHIP IN COMMON ELEMENTS, COMMON SURPLUS AND VOTING

7.01. Ownership and Voting Percentages. A schedule setting forth the percentage of undivided interest of each unit in the common areas is attached hereto, marked Exhibit "C" and by reference made a part hereof. The formula to determine the percentage of ownership in the common elements is also shown on Exhibit "C." The common expenses shall be charged to the unit owners according to the formula shown on Exhibit "C." The formula to determine the percentage of common surplus and voting in all matters requiring action by the owners is shown on Exhibit "C." The common surplus shall be a trust fund for the unit owners according to the respective units' ownership in the common elements or applied against the following year's assessment, unless otherwise determined by the Board of Directors of the Association, which shall not in any event use such surplus or any part thereof in any way other than to furnish services, insurance, goods or other items of value to the unit owners.

ENCROACHMENTS

8.01. If any portion of the common elements now encroaches upon any unit, or if any unit now encroaches upon any other unit or upon any portion of the common elements, as a result of the construction of any building, or if any such encroachment shall occur hereafter as a result of settling or shifting of any building, a valid easement for the encroachment and for the maintenance of the same so long as such building stands shall exist. In the event any building, any unit, any adjoining unit, or any adjoining common element shall be partially or totally destroyed as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachments of parts of the common elements upon any unit or of any unit upon any other unit or upon any portion of the common elements, due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as such building shall stand.

UNITS SUBJECT TO ACT, DECLARATION, BY-LAWS AND RULES AND REGULATIONS

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

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

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

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

MAINTENANCE

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

10.01. Units.

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

i) To maintain, repair and replace all portions of a unit, except interior fixtures, personal property, surfaces and surfacing materials (unless, after a casualty, the same are covered by insurance carried by the Association), whether or not contributing to the support of the building, which portions shall include but not be limited to the outside walls of the building and all fixtures thereon, and boundary walls of units, floors, load-bearing columns and load-bearing walls.

ii) To maintain, repair and replace all conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services, including those which are contained within a unit which service part or parts of the condominium other than the unit within which contained or which, in the absence of such work, have damaged or are likely to damage the common elements or other units. The expense of such work may be charged back to the Unit Owner if the Unit Owner's negligence or action is the proximate cause of such damage.

iii) To maintain and replace all exterior doors, screens, balconies and balcony railings.

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

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

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

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

iii) To maintain the surfacing materials within the unit

iv) To maintain, repair and replace the heating, air conditioning, utility and mechanical equipment, and all sewer and water lines including all pipes, ducts, wires, cables and conduits used in connection therewith, which are for the exclusive use of his unit, whether or not located within the boundaries of his unit.

v) To maintain, repair and replace the interior appurtenances of his unit, including but not limited to the floor coverings, wall coverings, window shades, draperies, furniture, furnishing light fixtures, and all appliances located therein.

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

vii) To be responsible for the cost of all incidental damage caused to the common elements in the performance of the foregoing work.

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

10.02. <u>Common Elements</u>.

a) By the Association. The maintenance and operation of the common elements, including the limited common elements, shall be the responsibility and the expense of the Association.

b) Additions, Alterations and Improvements. After the completion of the improvements included in the common elements which are contemplated by this Declaration, there shall be no further additions to common elements (except by incremental development as elsewhere herein provided) without the prior approval in writing of seventy-five percent (75%) of votes of the Unit Owners, and the approval in writing of the mortgagees who are the holders of mortgages comprising first liens on the units so approving, provided, however, that any alteration or improvements of common elements which constitute or are contained in the boundaries of units bearing the approval in writing of unit owners entitled to cast fifty-one percent (51%) of the votes in the Association, and the approval in writing of all mortgagees who are the holders of mortgages comprising first liens on the units of such approving unit owners and which does not prejudice the rights of any owners not consenting, may be done if the owners who do not approve are relieved from the initial cost thereof. There shall be no change in the share and rights and obligations of a unit owner in the common elements which are altered or further improved, whether or not the unit owner contributes to the initial costs thereof. Any such alteration or addition shall be done in accordance with complete plans and specifications therefor first approved in writing by the Board; and promptly upon completion of such additional building or structural alteration or addition to any structure, the Association shall duly record or file of record in the Office of the Judge of Probate of Baldwin County, Alabama, such amendment, together with a complete set of plans of the condominium, as so altered, certified "as built" by a licensed or registered engineer or architect.

ASSESSMENTS

The making and collection of assessments against unit owners for common expenses and other charges shall be pursuant to the By-Laws and subject to the following provisions:

11.01. Share of Common Expenses and Other Charges. Each unit owner shall be liable for a share of the common expenses and other charges, such share being determined by the formulas referred to as set out in paragraph 7.01. herein.

11.02. Interest, Application of Payments. Assessments, and installments thereon, are due on the 1st day of the month, in arrears if not paid on or before ten (10) days after the date when due, and shall not bear interest if not paid before that date. All sums not paid on or before ten (10) days after the date when due shall be added a $15.00 penalty and interest at the rate of ten percent (10%) per annum after date due until paid.

11.03. Liens for Assessments. The Association is hereby granted a lien upon each unit and its appurtenant undivided interest in common elements, which lien shall secure and does secure the moneys due for all assessments now or hereafter levied or subject to being levied against the owner of each unit, which lien shall also secure interest, if any, which may be due on the amount of any delinquent assessment owing to the Association, and which lien shall also secure all costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association in enforcing this lien upon said unit and its appurtenant undivided interest in the common elements. The said lien for non-payment of assessments shall have priority over all other liens and encumbrances, recorded or unrecorded, except only: i) tax lien on the unit in favor of the state, the county, any municipality and any special district; and ii) all sums unpaid on a first mortgage of record. In any suit for the foreclosure of said lien, the Association shall be entitled to rental from the owner of any unit from the date on which the payment of any assessment or installment thereof becomes delinquent and shall be entitled to the appointment of a receiver for said unit without notice to the owner of such unit. The rental required to be paid shall be equal to the rental charged on comparable types of dwelling units in Gulf Shores, Alabama. The lien granted to the Association shall further secure such advances for taxes and other payments which may be required to be advanced or paid by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at the rate of ten percent (10%) per annum on any such advances made for such purposes. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any unit, or who may be given or acquire a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien granted to the Association.

11.04. Rental Pending Foreclosure. In any foreclosure of a lien for assessments, the owner of the unit subject to the lien shall be required to pay a reasonable rental for the unit.

11.05. No Exemption from Assessments. No owner of a unit may exempt himself from liability for contribution toward the common expenses and other charges by waiver of the use or enjoyment of any of the common elements or by the abandonment of his unit, or by any other means; except that any holder of a mortgage which comes into possession of the unit pursuant to the remedies provided in the mortgage, foreclosure of mortgage, or deed in lieu of foreclosure shall take the property free of any claims for unpaid assessments against the mortgaged unit which accrue prior to the time such holder comes into possession (except for claims for a pro rata share of such assessments resulting from a pro rata allocation of such assessment to all units including the mortgaged unit) and shall not be liable for contribution toward common expenses and other charges until the subject unit shall be been leased or sold.

11.06. Statement of Unpaid Assessments. The Association shall promptly provide any unit owner and/or the holder of a mortgage comprising a first lien on any unit or the grantee in any voluntary conveyance of a unit so requesting the same in writing with a written statement of all unpaid assessments due from the unit owner.

ASSOCIATION

The operation and administration of condominium shall be by the Association of the unit owners, pursuant to the provision of the Alabama Uniform Condominium Act, which said Association shall be incorporated by the Articles of Incorporation recorded in the Office of the Judge of Probate of Baldwin County, Alabama. The Association shall be an entity which shall have the capability of bringing suit and being sued with respect to the exercise or non-exercise of its powers. It shall have authority and the power to maintain a class action and to settle a cause of action on behalf of unit owners of the condominium of the condominium with reference to the common elements, the roof and structural components of a building or other improvements, and mechanical, electrical and plumbing elements serving in improvement or a building as distinguished from mechanical elements serving only a unit, and with reference to any and all other matters in which all the unit owners of the condominium have a common interest. The Association shall be further organized and shall fulfill its functions pursuant to the following provisions.

12.01. Name. The name of the Association shall be Phoenix West II Owners Association, Inc.

12.02. Powers. The powers and duties of the Association shall include those set forth in the

Alabama Uniform Condominium Act, the By-Laws of the Association s attached hereto as Exhibit "D" and made a part hereof, and those set forth in its Articles of Incorporation, and shall have the power to purchase a unit of the condominium. The powers of the Association shall included but not be limited to the maintenance, management and operation of the condominium property.

12.03. Members:

a) Qualification. The members of the Association shall consist of all of the record owners of units.

b) Change of Membership. Change of membership in the Association shall be established by the recording in the Public Records of Baldwin County, Alabama, of a deed or other instrument establishing a record title to a unit in the condominium, and the delivery to the Association of a certified copy of such instrument, the owner designated by such instrument thereby becoming a member of the Association. The membership of the prior owner shall be thereby terminated.

c) Voting Rights. Each unit shall be entitled to one (1) vote, which vote shall be the percentage assigned to the unit as stated in Exhibit "C" attached hereto. The vote for a unit shall be cast by the owner thereof or the owner of possessory interest therein, or in the case of a corporate owner, by the officer or employee thereof designated as the voting representative of such unit, as hereinafter provided, owners of more than one (1) unit shall be entitled to a vote for each unit owned. However, should the Association be a unit owner, it shall not have the voting rights for that unit.

d) Designation of Voting Representative. In the event a unit is owned by one (1) person, his right to vote shall be established by the record title to his unit. If a unit is owned by more than one (1) person, the person entitled to cast the vote for the unit shall be designated by a certificate signed by all of the record owners of the unit and filed with the Secretary of the Association. If a unit is owned by a corporation, the officer or employee thereof entitled to cast the vote for the unit shall be designated by a certificate of appointment signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association. If such a certificate is not on file with the Secretary of the Association for a unit owned by more than one (1) person or by a corporation, the membership or vote of the unit concerned shall not be considered in determining the requirement for a quorum nor for any purpose requiring the approval of the person entitled to cast the vote for the unit. Such certificate shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the unit concerned is effected. A certificate designating the person entitled to cast the vote of a unit may be revoked by any owner thereof.

e) Approval or Disapproval by Unit Owners. Whenever the approval or disapproval of a unit owner is required upon any matter, whether or not the subject of an Association meeting, such approval or disapproval shall be expressed by the same person who would cast the vote of such owner if in an Association meeting, unless the joinder of all record owners is specifically required by this Declaration.

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

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

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

12.06. Limitation of Liability. Notwithstanding the liability of the Association to maintain and repair parts of the condominium property, the Association shall not be liable for injury or damage caused by a latent condition of the property to be maintained and repaired by the Association, nor for the injury or damage caused by the elements, or other owners or persons.

12.07. By-Laws. The By-Laws of the Association shall be in the form attached hereto as Exhibit "D."

12.08. Reserves for Replacements. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Elements and Limited Common Elements at a minimum sufficient to satisfy Fannie Mae lender guidelines. The fund shall be maintained out of regular Assessments for Common Expenses and Limited Common Expenses or as provided in Article 14.05 (d).

INSURANCE

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

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

(1) Loss or damage by fire and all other hazards that are normally covered by the standard extended coverage endorsement;

(2) All other perils which are customarily covered with respect to condominiums similar in construction shall be obtained so as to meet the requirements of the ACT.

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

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

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

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

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

E. Other Insurance. The Board may purchase and maintain in force debris removal insurance, fidelity bonds, and other insurance an/or bonds as it may deem necessary. The Board is authorized to provide coverage for payment of maintenance charges on behalf of an owner whose unit is rendered uninhabitable by a peril insured against, and to absolve such an owner of the obligation to pay maintenance charges to the extent that the same are offset by proceeds from such coverage. The Association shall obtain other insurance required by the ACT and shall have authority to obtain such other insurance as it deems desirable, in such amounts, from such sources and in such forms as it deems desirable. The premiums for such insurance shall be a Common Expense. The Association also, if reasonably available, shall obtain, maintain and pay the premiums upon, as a Common Expense, insurance as may from time to time be called for by Lender Guidelines issued by Fannie Mae, or any similar successor entity as a condition for a conforming condominium unit loans.

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

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

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

A. Provide that the policy shall be primary, even if the Unit Owner has other insurance that covers that same loss, and further provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right of set-off, counterclaim, apportionment, pro-ration or contribution by reason of any other insurance obtained by or for any Unit Owner.

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

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

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

E. Contain a standard Mortgagee clause which shall:

(1) Provide that any reference to a Mortgagee in such policy shall mean and include all holders of mortgages of any Unit, whether or not named therein; and

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

(3) Waive any provisions invalidating such Mortgage clause by reason of the failure of the Mortgagee to notify the insurer of any hazardous use or conveyance, any requirement that the Mortgagee pay any premium thereon, and any contribution clause.

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

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

13.06. Insurance Trustee; Share of Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their Mortgagees as their interest may appear, and shall provide that all proceeds covering Property losses shall be paid to the Association, as Insurance Trustee for each of the Unit Owners in the percentages as established by the Declaration, which said Association, for the purpose of these provisions, is herein referred to as the Insurance Trustee. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the same in trust for the purpose elsewhere stated herein and for the benefit of the Unit Owners and their Mortgages. The Insurance Trustee shall have the power to adjust all claims arising under insurance policies purchased by the Association; to bring suit thereon in its name and/or in the name of other insured; to deliver releases on payment of claims; to compromise and settle such claims; and otherwise to exercise all the rights, powers, and privileges of the Association and each Unit Owner and any other holder of an insured interest in the Condominium Property under such insurance policies; provided however, the actions of the Insurance Trustee shall be subject to the approval of any first Mortgagee if the claim shall involve more than one Unit, and if only one Unit is involved, such actions shall be subject to approval of any first Mortgagee holding a mortgage and encumbering such Unit.

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

A. Common Elements. An undivided share of the proceeds on account of damage to Common Elements shall be held for each Unit Owner, with such share's portion of the total proceeds being the same percentage as the share of the Common Elements appurtenant to his Unit.

B. Units and Limited Common Elements. Except as provided elsewhere in this Declaration:

(1) When the Condominium Property is to be restored, the proceeds shall be held for the Unit Owners of damaged Units and damaged Limited Common Elements, with the share of each in the total proceeds being in the proportion that the cost of repairing the damage suffered by such Unit Owner bears to the total cost of repair, which cost shall be determined by the Board.

(2) When the Condominium Property is not to be restored, the proceeds shall be held for the Unit Owners in the undivided shares that are the same as their respective

shares in the Common Elements.

C. Mortgages. In the event a Mortgagee endorsement has been issued with respect to a Unit, the share of the Owner of that Unit shall be held in trust for the Mortgagee and the Unit Owner as their interests may appear; provided, however, that no Mortgagee shall have any right to determine or participate in the determination of whether or not any damaged Property shall be reconstructed or repaired except as may be specifically provided to the contrary elsewhere in this Declaration.

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

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

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

RECONSTRUCTION OR REPAIR AFTER CASUALTY

In the event of the damage or destruction of all or part of the property, then, unless it be determined as provided in Article 20.01 to terminate the condominium form of ownership, the following provisions shall apply:

14.01. Reconstruction or Repair. If any part of the condominium property shall be damaged by casualty, it shall be reconstructed or repaired.

a) Building.

i) Partial Destruction. If the damaged improvement is part of a building, the damaged property shall be reconstructed or repaired.

ii) Total Destruction. If a building is so damaged that the same is untenantable, the building should be reconstructed.

b) Plans and Specifications. Any such reconstruction or repair must be substantially in accordance with the plans and specifications for the original building, or as the building was last constructed, or according to plans approved by the Board of Directors of the Association, which approval shall not be unreasonably withheld.

14.02. Responsibility. If the damage is only to those parts of a unit for which the responsibility of maintenance and repair is that of a unit owner and is not covered by the insurance required to be maintained by the Association as set out in Article 13.02 , then the unit owner shall be responsible for the reconstruction and repair after casualty. In all other instances, the responsibility for reconstruction and repair after casualty shall be that of the Association.

14.03. Estimates of Costs. Immediately after a casualty causing damage to property for which the Association has the responsibility of maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair so as to place the damaged property in condition as good as that before the casualty.

14.04. Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, assessments shall be made against the unit owners who own the damaged property, and against all unit owners in the case of damage to common areas and facilities, in sufficient amounts to provide funds to pay the estimated costs. If at any time during the reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against the unit owners who own the damaged property, and against all unit owners in the case of damage to common areas and facilities, in sufficient amounts to provide funds for the payment of such costs. Such assessment against unit owners from reconstruction and/or repair of damages to units shall be in proportion to the cost of reconstruction and/or repair of damage to common areas and facilities shall be in proportion to the owner's share in the common areas and facilities.

14.05. Construction Funds. The funds for payment of costs of reconstruction and repair after casualty for which the Association is responsible, which shall consist of the proceeds of insurance collected on account of a casualty, and the sums deposited with the Association from collections of assessments against the unit owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

a) Unit Owner. The portion of insurance proceeds representing damage for which responsibility of reconstruction and repair lies with the unit owner shall be paid by the Insurance Trustee to the unit owner, or if there is a mortgagee endorsement, then to the unit owner and the mortgagee jointly.

b) Association - Lesser Damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is less than the total of the annual assessments for recurring expense to be made during the year in which the casualty occurs, then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided, however, that upon request to the Insurance Trustee by a mortgagee which is a beneficiary of an insurance policy the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereinafter provided for the reconstruction and repair of major damage.

c) Association - Major Damage. If the amount of estimated costs of reconstruction and repair which is the responsibility of the Association is more than the total of the annual assessments for recurring expenses to be made during the year in which the casualty occurs, then the construction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors of the Association and upon approval of an architect qualified to practice in Alabama, and employed by the Association to supervise the work.

d) Surplus. It shall be presumed that the first moneys disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds; and if there is a balance in the construction fund after payment of all costs of reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere herein provided. However, at the discretion of the Board, such proceeds may be retained by the Association and placed in the Association's Reserve Fund as provided in Paragraph 12.08.

USE RESTRICTIONS

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

15.01. Residential Units. Residential units in the property shall be used only as a family residence by the Unit Owner, or his tenants and all are subject to the provisions of Article 15.02.

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

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

15.04. Leasing. Units may be leased; provided, however, that such lease and the rights of any tenant thereunder are hereby made expressly subject to the power of the Association to prescribe reasonable rules and regulations as provided in Article 15.05 relating to the conduct of tenants and to enforce the same directly against such tenants or other occupant by the exercise of such remedies as the Board deems appropriate, including eviction. Anything to the contrary notwithstanding, the Developer, and its assigns, retain the right to maintain sales offices, management offices, leasing and operations offices and models on the Condominium property.

15.05. Rules and Regulations. Reasonable Rules and Regulations concerning the use of the condominium property may be made by the Developer and amended from time to time by the Board of Directors of the Association; provided, however, that all such amendments thereto shall be approved by not less than a majority of the votes of the Association before such shall become effective. Members not present at meetings considering such Rules and Regulations or amendments thereto may express their approval or disapproval in writing. Copies of such Rules and Regulations or amendments thereto shall be furnished by the Association to all unit owners and residents of the condominium upon request.

COMPLIANCE AND DEFAULT

Each unit owner shall be governed by and shall comply with the terms of the condominium documents and regulations they may be amended from time to time. A default shall entitle the Association or other unit owners to the following relief in addition to the remedies provided by the Condominium Ownership Act:

16.01. Negligence. A unit owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, negligence or carelessness or by that of any member of his family or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a unit or its appurtenances.

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

16.03. No Waiver of Rights. The failure of the Association or any unit owner to enforce any covenant, restriction or other provision of the Condominium Ownership Act, this Declaration, the By-Laws or the Rules and Regulations shall not constitute a waiver of the rights to do so thereafter.

COVENANT AGAINST PARTITION

17.01. There shall be no judicial or other partition of the project or any part thereof, nor shall Developer or any person acquiring any interest in the project or any part thereof seek any such partition unless the project has been removed from the provisions of the Condominium Ownership Act, as in said Act provided.

AMENDMENT

This Declaration of Condominium and the By-Laws of Phoenix West II Owners

Association, Inc., may be amended in the following manner:

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

18.02. Resolution. A resolution adopting a proposed amendment may be proposed by either the Board of Directors of the Association or by members having not less than ten percent (10%) of the total percentage values of those votes entitled to be cast at a meeting, and after being so proposed and thereafter approved by one (1) of such bodies, it must then be approved by the other to become effective. Directors and members not present at the meeting considering the amendment may express their approval or disapproval in writing provided such approval or disapproval is delivered to the Secretary at or prior to the meeting. Such approvals must be not be by less than a majority of the Directors and by not less than two-thirds (2/3) of the votes of the Association; provided, however, that any such amendment shall have been approved in writing by all mortgagees who are the holder of the mortgages which liens on the units of the approving owners; and provided, further, that every amendment that alters the percentage of undivided interest of an owner in the common areas and facilities or that alters or impairs any common area and facility or any easement or hereditament shall require the unanimous approval of all such owners and all such mortgagees. Approval by a mortgagee is implied when a mortgagee fails to submit a response to any written proposal for an amendment within 60 days after a mortgagee actually receives proper notice of the proposed amendment, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

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

18.04. Agreement. In the alternative, an amendment may be made by an agreement signed and acknowledged by all of the record owners, including first mortgagees, of units in the condominium in the manner required for the execution of a deed, and such amendment shall be effective when recorded in the Office of the Judge of Probate of Baldwin County, Alabama.

18.05. Proviso. Provided, however, that no amendment shall discriminate against any unit owner nor against any unit or class or group of units, nor change any condominium unit nor increase the owner's liability for common expenses unless the record owner thereof and all record owners of liens thereon shall join in the execution of the amendment.

18.06. Provisions Pertaining to the Developer.

Subject to the provisions herein, until the earliest of: (i) sixty (60) days after conveyance of seventy-five percent (75%) of the Units which may be created to Unit Owners other than the Developer; (ii) two (2) years after the Developer, its successors or assigns, have ceased to offer Units for sale in the ordinary course of business; or (iii) two (2) years after any Development Right to add new units was last exercised, the By-Laws and rules adopted by the Developer shall govern and the Developer shall have the exclusive right to appoint, remove, and designate the officers and members of the Board of Directors (which need not be Unit Owners), and neither the Unit Owners nor the Association nor the use of the Condominium Property by Unit Occupants shall interfere with the completion of the contemplated improvements and the sale of the Units.

The Developer may voluntarily surrender the right to appoint and remove officers and members of the Board; but, in that event, the Developer may require, for the duration of the period of Developer control, that specified actions of the Association or Board, as described in a recorded instrument executed by the Developer, be approved by the Developer before they become effective. Provided, however, not later than ninety (90) days after conveyance of twenty-five percent (25%) of the Units which may be conveyed to Unit Owners other than the Developer, at least one (1) member and not less than twenty-five percent (25%) of the members of the Board must be elected by Unit Owners other than the Developer. Not later than ninety (90) days after conveyance of fifty percent (50%) of the Units which may be conveyed to Unit Owners other than the Developer, not less than thirty-three and one-third percent (33⅓%) of the members of the Board must be elected by Unit Owners other than the Developer. Except as provided for in the ACT, not later than the termination of any period of Developer control, the Unit Owners shall elect a Board of at least three (3) members, at least a majority of whom must be Unit Owners other than the Developer.

The Developer may make such use of the unsold Units and of the common areas and facilities as may facilitate such completion and sale, including but not limited to showing of the Property and the display of signs. The Developer may maintain sales offices, management offices, leasing and operations offices, and models in any Unit of the Condominium or on Common Elements in the Condominium without restriction as to the number, size, or location of said sales offices, management offices, leasing and operations offices, and models. The Developer shall be permitted to relocate said sales offices, management offices, leasing and operations offices, and models from one Unit location to another or from one area of the Common Elements to another area of the Common Elements in the Condominium. The Developer may maintain signs on the Common Elements advertising the Condominium. The rights of the Developer as provided for in this paragraph shall cease and terminate ten (10) years from the date of the recording of this Declaration in the Office of the Judge of Probate of Baldwin County, Alabama.

PROPORTIONATE CHANGES IN COMMON EXPENSES, COMMON SURPLUS AND VOTING RIGHTS

19.01. In the event of any one or more of the units are not rebuilt by reason of the loss of lands as a result of destruction, condemnation or otherwise, and therefore the number of units is reduced, or in the event the number of units is reduced because of its lien as heretofore provided, or an entity has acquired title to a unit as a result of owning a mortgage upon the unit concerned, whether by deed from the mortgagor or through foreclosure proceedings, then the proportionate share of the common expenses and of the common surplus and the voting rights of each unit shall be increased by adding to each remaining unit their proportionate percentages of ownership out of the percentages of ownership of the units so reduced.

TERMINATION

20.01. The condominium may be terminated in the manner provided by the Alabama Uniform Condominium Act; provided, however, that in the event of termination, each unit shall be subject to the payment of a share of the common expenses as heretofore defined, subject to increase as provided in Paragraph 21 hereof; and further provided, however, that the termination be agreed to by mortgagees that represent at least 51% of the votes of units which are subject to mortgages.

EMINENT DOMAIN

21.01. Partial Taking Without Direct Effect on Units. If part of the condominium shall be taken or condemned by any authority having the power of eminent domain in such manner that no unit is taken, compensation and damages for and on account of the taking of the common elements, exclusive of compensation for consequential damages to affected units shall be payable to the Association as Trustee for all unit owners and mortgagees of record according to the loss or damages to their respective interests in the common elements. The Association, acting through its Board of Directors, shall have the right to act on behalf of the unit owners with respect to the taking and compensation affecting the common elements, without limitation of the right of the unit owners to represent their own interests. Such proceeds shall be paid to the Association and shall be used promptly to the extent necessary for restoring or replacing improvements so taken on the remaining property in a substantial compliance with the original plans and elevations of the improvements as soon as possible and so as to restore the general value of the condominium. In the event such restoration or reconstruction is impossible or impractical, or in the event there is an award in excess of the amount necessary to so substantially restore or reconstruct the common elements, the amount of such award or the excess, as the case may be, shall be distributed by the Association to the unit owners in proportion to their share of undivided interest in the common elements. Nothing herein shall be deemed to prevent unit owners whose units are affected by the taking or condemnation from joining in the condemnation proceedings and petitioning on their behalf for damages relating to loss of value of the affected units, or personal improvements therein, exclusive of damages related to the taking of common elements. In the event the condemnation award does not allocate damages to specific units, but includes an award for reduction in value of the units without such allocation, the award shall be distributed to the affected unit owners and mortgagees of record in proportion to each unit owner's undivided interest in the common elements.

21.02. Partial or Total Taking Directly Affecting Units. If part or all of the condominium shall be taken or condemned by any authority having the power of eminent domain in such manner that any unit or part thereof is taken, the Association shall have the right to act on behalf of the unit owners with respect to common areas as in subsection .1. of this Paragraph 21, and the proceeds shall be used or distributed as outlined therein. The Association, acting through its Board of Directors, shall have the right to act on behalf of the unit owners affected with respect to the negotiation and litigation of the issues with respect to the taking and compensation affecting the taken area, without limitation on the right of the unit owners to represent their own interests. The awards so made shall be used by the Association first to restore the units and improvements on the remaining common elements in the same manner as provided for restoration or reconstruction under Paragraph 14 of this Declaration, to the extent possible attempting to rebuild buildings containing new units of the same number, size and basic plan as the units taken, and with any excess award distributed as provided in subsection .1. of this Paragraph 21. In the event that the Board of Directors determines that such a taking so removed land and buildings containing units that they cannot effectively restore or replace substantially in compliance with the building plans, and unless seventy-five percent (75%) of the units vote to accept an alternative plan, the award shall be distributed as provided in subsection .01. of this Paragraph 21.

21.03. Notice to Mortgagees. The Board of Directors, immediately upon having knowledge of the institution or threat of institution of any proceedings or other action with respect to the taking of condominium units, the common elements or any portion of any condominium unit or common element in condemnation, eminent domain or other proceeding or actions involving any unit of government or other entity having the power of eminent domain, shall notify mortgagees holding liens of record on any of the units. Any such mortgagee may, at its option, and if permitted by law, participate in any such proceedings or actions or, in the event, may at its option, participate in negotiations in connection therewith, but shall have no obligation to do so.

ENVIRONMENTAL PROTECTION

The owners and the Association of Phoenix West II, a condominium, are jointly responsible for complying with environment regulations issued by various government agencies and each owner shall comply with the terms of various Easements for Placement, Construction, Maintenance, and use of Sand and Associated Sand Stabilization Structures, Vegetation, Vegetation Irrigation Systems, and Access Structures.

TABLE AND HEADINGS

This table of contents and headings used in this Declaration have been inserted for convenience and do not constitute matter to be construed in interpretation.

SEVERABILITY

The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration of Condominium and the By-Laws of the Association shall not affect the validity of the remaining portions thereof.

IN WITNESS WHEREOF, the said Phoenix West II, L.L.C., an Alabama limited liability company, has caused **THESE PRESENTS** to be executed this day and year as first above written.

PHOENIX WEST II, L.L.C.,
an Alabama limited liability company

By: Tillis M. Brett
TILLIS M. BRETT
Its: Managing Member

By: Thomas E. Brett
THOMAS E. BRETT
Its: Managing Member

By: William T. Robinson, Jr.
WILLIAM T. ROBINSON, JR.
Its: Managing Member

STATE OF ALABAMA)

COUNTY OF BALDWIN)

I, Rhonda J. Ford, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that TILLIS M. BRETT, whose name as Managing Member of Phoenix West II, L.L.C., an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that being informed of the contents of said conveyance, he, as such member and with full authority, has executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the 24th day of August, 2013.

Rhonda J. Ford
Notary Public
My Commission Expires: March 15, 2014

STATE OF ALABAMA)

COUNTY OF BALDWIN)

I, Rhonda J. Ford, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that THOMAS E. BRETT, whose name as Managing Member of Phoenix West II, L.L.C., an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that being informed of the contents of said instrument, he, as such member and with full authority, has executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the 24th day of August, 2013.

Rhonda J. Ford
Notary Public
My Commission Expires: March 15, 2014

STATE OF ALABAMA)

COUNTY OF BALDWIN)

I, Rhonda J. Ford, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that WILLIAM T. ROBINSON, JR., whose name as Managing Member of Phoenix West II, L.L.C., an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that being informed of the contents of said instrument, he, as such member and with full authority, has executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the 24th day of August, 2013.

Rhonda J. Ford
Notary Public
My Commission Expires: March 15, 2014

THIS INSTRUMENT PREPARED BY:

Jule R. Herbert Jr.
Herbert Law Firm LLC
Attorney at Law
P.O. Drawer 3889
Gulf Shores, AL 36547
(251) 968-4764

EXHIBIT A

COMMENCING AT THE NORTHEAST CORNER OF SUBDIVISION "D", FRACTIONAL SECTION 13, TOWNSHIP 9 SOUTH, RANGE 4 EAST, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 1689.11 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF ALABAMA HIGHWAY 182 (A 120 FOOT RIGHT OF WAY) AND THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE RUN SOUTH 75°00'50" WEST ALONG THE SAID SOUTH RIGHT OF WAY LINE 217.41 FEET TO A POINT; THENCE RUN SOUTH 75°04'16"WEST ALONG SAID SOUTH RIGHT OF WAY LINE 20.71 FEET TO A POINT; THENCE RUN SOUTH 75°01'38" WEST ALONG SAID SOUTH RIGHT OF WAY LINE 113.82 FEET TO A POINT; THENCE RUN SOUTH 75°02'03" WEST ALONG SAID SOUTH RIGHT OF WAY LINE 20.76 FEET TO A POINT; THENCE RUN SOUTH 74°11'57" WEST ALONG SAID SOUTH RIGHT OF WAY LINE 25.99 FEET TO A POINT; THENCE RUN SOUTH 75°22'25" WEST ALONG SAID SOUTH RIGHT OF WAY LINE 51.33 FEET TO A POINT; THENCE RUN SOUTH 00°05'33" WEST 268.07 FEET TO A POINT; THENCE RUN SOUTH 00°00'23" EAST 436 FEET, MORE OR LESS, TO A POINT ON THE NORTH MARGIN OF THE GULF OF MEXICO; THENCE RUN NORTHEASTWARDLY ALONG THE MEANDERS OF SAID NORTH MARGIN 570 FEET, MORE OR LESS, TO A POINT; THENCE RUN NORTH 194 FEET, MORE OR LESS, TO A POINT; THENCE CONTINUE NORTH 458.40 FEET TO THE SAID SOUTH RIGHT OF WAY LINE OF ALABAMA HIGHWAY 182; THENCE RUN SOUTH 75°00'50" WEST ALONG SAID SOUTH RIGHT OF WAY LINE 103.58 FEET TO THE POINT OF BEGINNING; CONTAINS 8.31 ACRES, MORE OR LESS.

PROPERTY CONTAINS LOT 1, LOT 2, AND LOT 3, SEASCAPE SUBDIVISION AS RECORDED IN MAP BOOK 9, PAGE 160 IN THE OFFICE OF THE JUDGE OF PROBATE BALDWIN COUNTY, ALABAMA; A PORTION OF LOT B SEA OATS SUBDIVISION AS RECORDED IN MAP BOOK 11, PAGE 1 IN THE OFFICE OF THE JUDGE OF PROBATE BALDWIN COUNTY, ALABAMA; AND A PORTION OF LOT A-1 AND LOT A-2, RESUBDIVISION OF LOT A, SEA OATS SUBDIVISION AS RECORDED ON SLIDE NUMBER 1405-B IN THE OFFICE OF THE JUDGE OF PROBATE BALDWIN COUNTY, ALABAMA.

THIS CONVEYANCE IS MADE SUBJECT TO THE FOLLOWING:

1. Subdivision Regulations of the City of Orange Beach, Alabama as recorded at Instrument No. 1028536, and any amendments thereto.

2. Rights of the United States of America, State of Alabama, or other parties in and to the bed, shore, and water of the Gulf of Mexico. Riparian rights, rights of accretion or reliction are neither guaranteed nor insured and title to no portion of the herein described land lying below ordinary mean high water mark is insured hereby. (Parcels A, B, and C)

3. Rights, if any, of the public to use as a public beach or recreation area any part of the herein described land lying between the body of water abutting said land and

the natural line of vegetation, dunes, extreme high water line or other apparent boundary lines separating the publicly used area from the upland private area. (Parcels A, B, and C)

4. Any portion of the herein described property lying within the right-of-way of a public road.

5. Power line easement to the Rural Electrification Authority, as referenced in a deed dated July 5, 1945, and recorded in Deed Book 93, Page 268. (Parcel B)

6. Oil, gas, and mineral lease from Charles C. Heisler to Larry A. Force, dated August 30, 1982 and recorded in Real Property Book 130, Page 1134. (Parcel B)

7. Any part of the land described which may constitute wetlands or tidelands and any restriction on use of development arising out of a determination that the land, or some portion thereof, may be subject to provisions of Alabama Coastal Preservation statutes. (Parcel C)

8. Any adverse claim arising by reason of rules or regulations being imposed upon the land by any environmental agency of the State of Alabama or of the United States of America. (Parcel C)

9. Terms and conditions of any agreement by and between Phoenix West II, L.L.C. and Covey Rise, LLP pertaining to the land described herein.

10. Covenants, restrictions, reservations, limitations, conditions, uses, agreements, easements, options and other provisions contained in that certain Declaration of Condominium of Phoenix West II, L.L.C., recorded in Instrument No. 1419064, et seq. and all exhibits thereto, including the By-Laws of Phoenix West II Owners Association, Inc.

11. Electric Line Right of Way Easement granted Baldwin County Electric Membership Corporation dated April 30, 2007 and recorded at Instrument No. 1073207.

12. City of Orange Beach Community Preservation and Growth Management Plan filed August 7, 2007 at Instrument No. 1066859, and all amendments thereto.

Exhibit B Page 1 of 2

To

DECLARATION OF CONDOMINIUM OF PHOENIX WEST II, A CONDOMINIUM

For Plats and Plans see Apt. BK 24 pages 114-145

For Elevations see Exhibit B-1 Pages 1 **to** 3

CERTIFICATION

I, the undersigned, John M. Senkarik Jr., a Registered Architect in the Sate of Alabama, Registration Number 1912, pursuant to Section 35-8A-209, *Code of Alabama* (1975) (as amended), hereby certify that the PLANS recorded contemporaneously with this certification in the Office of the Judge of Probate, Baldwin County, Alabama, and made a part of the Declaration of Condominium of Phoenix West II, a condominium, show the layout, location, Unit numbers and dimensions of the Units and the improvements. I further certify that the Units shown on the PLANS located on Floors 24 through 30 are substantially complete. I further certify that to the best of my knowledge and belief, the PLANS contain all of the information required by *Code of Alabama* (1975), §35-8A-209.

JOHN M. SENKARIK JR.
Registered Architect Number: 1912
License Number: 1912

Date: 9-4-2013

Subscribed and sworn to before me, this 4th day of September, 20013

Notary Public

My Commission Expires:
3/1/2016

13-106.130904

EXHIBIT "B"

ELEVATIONS ON PHOENIX WEST II AT ORANGE BEACH, ALABAMA

LEVEL	UNIT NUMBER	FLOOR ELEV.	CEILING ELEV.
1ST FLOOR	M1	16.87	31.23
	LC1	16.87	31.36
	H1	16.87	31.29
	HK1	16.87	31.32
	HK2	16.87	31.28
	HK3	16.87	31.29
2ND FLOOR	LC2	32.09	46.46
	LS2	32.09	46.49
	O1A	32.09	46.93
	O1B	32.09	46.93
	O1C	32.09	46.93
	O2	32.09	46.93
	2AR1	32.09	46.26
	2BR2	32.09	46.26
	2B3	32.09	46.26
	2B7	32.09	46.26
	2B8	32.09	46.26
	2B9	32.09	46.26
	2B10	32.09	46.26
	2A11	32.09	46.26
3RD FLOOR	LC3	47.34	57.22
	LS3	47.34	57.21
	3AR1	47.34	57.17
	3BR2	47.34	57.17
	3B3	47.34	57.17
	3B4	47.34	57.17
	3B5	47.34	57.17
	3B6	47.34	57.17
	3B7	47.34	57.17
	3B8	47.34	57.17
	3B9	47.34	57.17
	3B10	47.34	57.17
	3A11	47.34	57.17
4TH FLOOR	SR4	58.01	67.95
	LC4	58.01	67.93
	LS4	58.01	67.84
	4AR1	58.01	67.84
	4BR2	58.01	67.84
	4B3	58.01	67.84
	4B4	58.01	67.84
	4B5	58.01	67.84
	4B6	58.01	67.84
	4B7	58.01	67.84
	4B8	58.01	67.84
	4B9	58.01	67.84
	4B10	58.01	67.84
	4A11	58.01	67.84

LEVEL	UNIT NUMBER	FLOOR ELEV.	CEILING ELEV.
5TH FLOOR	SR5	68.63	78.56
	LC5	68.63	78.54
	LS5	68.63	78.53
	5AR1	68.63	78.46
	5BR2	68.63	78.46
	5B3	68.63	78.46
	5B4	68.63	78.46
	5B5	68.63	78.46
	5B6	68.63	78.46
	5B7	68.63	78.46
	5B8	68.63	78.46
	5B9	68.63	78.46
	5B10	68.63	78.46
	5A11	68.63	78.46
6TH FLOOR	SR6	79.26	89.06
	LC6	79.26	89.16
	LS6	79.26	89.16
	6AR1	79.26	89.09
	6BR2	79.26	89.09
	6B3	79.26	89.09
	6B4	79.26	89.09
	6B5	79.26	89.09
	6B6	79.26	89.09
	6B7	79.26	89.09
	6B8	79.26	89.09
	6B9	79.26	89.09
	6B10	79.26	89.09
	6A11	79.26	89.09
7TH FLOOR	SR7	89.94	99.81
	LC7	89.94	99.83
	LS7	89.94	99.82
	7AR1	89.94	99.77
	7BR2	89.94	99.77
	7B3	89.94	99.77
	7B4	89.94	99.77
	7B5	89.94	99.77
	7B6	89.94	99.77
	7B7	89.94	99.77
	7B8	89.94	99.77
	7B9	89.94	99.77
	7B10	89.94	99.77
	7A11	89.94	99.77
8TH FLOOR	LC8	100.59	110.52
	LS8	100.59	110.55
	8AR1	100.59	110.42
	8BR2	100.59	110.42
	8B3	100.59	110.42
	8B4	100.59	110.42

LEVEL	UNIT NUMBER	FLOOR ELEV.	CEILING ELEV.
8TH FLOOR	8B5	100.59	110.42
	8B6	100.59	110.42
	8B7	100.59	110.42
	8B8	100.59	110.42
	8B9	100.59	110.42
	8B10	100.59	110.42
	8A11	100.59	110.42
9TH FLOOR	LC9	111.29	121.22
	LS9	111.29	121.20
	9AR1	111.29	121.12
	9BR2	111.29	121.12
	9B3	111.29	121.12
	9B4	111.29	121.12
	9B5	111.29	121.12
	9B6	111.29	121.12
	9B7	111.29	121.12
	9B8	111.29	121.12
	9B9	111.29	121.12
	9B10	111.29	121.12
	9A11	111.29	121.12
10TH FLOOR	LC10	121.95	131.83
	LS10	121.95	131.89
	10AR1	121.95	131.78
	10BR2	121.95	131.78
	10B3	121.95	131.78
	10B4	121.95	131.78
	10B5	121.95	131.78
	10B6	121.95	131.78
	10B7	121.95	131.78
	10B8	121.95	131.78
	10B9	121.95	131.78
	10B10	121.95	131.78
	10A11	121.95	131.78
11TH FLOOR	LC11	132.60	142.51
	LS11	132.60	142.52
	11AR1	132.60	142.43
	11BR2	132.60	142.43
	11B3	132.60	142.43
	11B4	132.60	142.43
	11B5	132.60	142.43
	11B6	132.60	142.43
	11B7	132.60	142.43
	11B8	132.60	142.43
	11B9	132.60	142.43
	11B10	132.60	142.43
	11A11	132.60	142.43

I MIKELL D. SPEAKS, A REGISTERED LAND SURVEYOR IN THE STATE OF ALABAMA, HEREBY CERTIFY THAT THE FOLLOWING ELEVATIONS FOR THE UNITS IN PHOENIX WEST II ARE TRUE AND CORRECT.

ALABAMA REGISTRATION NO. 9127

JUNE 13, 2013

ELEVATIONS ON PHOENIX WEST II AT ORANGE BEACH, ALABAMA

LEVEL	UNIT NUMBER	FLOOR ELEV.	CEILING ELEV.
12TH FLOOR	LC12	143.24	153.17
	LS12	143.24	153.17
	12AR1	143.24	153.07
	12BR2	143.24	153.07
	12B3	143.24	153.07
	12B4	143.24	153.07
	12B5	143.24	153.07
	12B6	143.24	153.07
	12B7	143.24	153.07
	12B8	143.24	153.07
	12B9	143.24	153.07
	12B10	143.24	153.07
	12A11	143.24	153.07
14TH FLOOR	LC14	153.97	163.87
	LS14	153.97	163.87
	14AR1	153.97	163.80
	14BR2	153.97	163.80
	14B3	153.97	163.80
	14B4	153.97	163.80
	14B5	153.97	163.80
	14B6	153.97	163.80
	14B7	153.97	163.80
	14B8	153.97	163.80
	14B9	153.97	163.80
	14B10	153.97	163.80
	14A11	153.97	163.80
15TH FLOOR	LC15	164.62	174.52
	LS15	164.62	174.52
	15AR1	164.62	174.45
	15BR2	164.62	174.45
	15B3	164.62	174.45
	15B4	164.62	174.45
	15B5	164.62	174.45
	15B6	164.62	174.45
	15B7	164.62	174.45
	15B8	164.62	174.45
	15B9	164.62	174.45
	15B10	164.62	174.45
	15A11	164.62	174.45
16TH FLOOR	LC16	175.29	185.22
	LS16	175.29	185.24
	16AR1	175.29	185.12
	16BR2	175.29	185.12
	16B3	175.29	185.12
	16B4	175.29	185.12
	16B5	175.29	185.12
	16B6	175.29	185.12
	16B7	175.29	185.12

LEVEL	UNIT NUMBER	FLOOR ELEV.	CEILING ELEV.
16TH FLOOR	16B8	175.29	185.12
	16B9	175.29	185.12
	16B10	175.29	185.12
	16A11	175.29	185.12
17TH FLOOR	LC17	185.95	195.86
	LS17	185.95	195.87
	17AR1	185.95	195.78
	17BR2	185.95	195.78
	17B3	185.95	195.78
	17B4	185.95	195.78
	17B5	185.95	195.78
	17B6	185.95	195.78
	17B7	185.95	195.78
	17B8	185.95	195.78
	17B9	185.95	195.78
	17B10	185.95	195.78
	17A11	185.95	195.78
	17BN12	185.95	195.78
18TH FLOOR	LC18	196.60	206.51
	LS18	196.60	206.50
	18AR1	196.60	206.43
	18BR2	196.60	206.43
	18B3	196.60	206.43
	18B4	196.60	206.43
	18B5	196.60	206.43
	18B6	196.60	206.43
	18B7	196.60	206.43
	18B8	196.60	206.43
	18B9	196.60	206.43
	18B10	196.60	206.43
	18A11	196.60	206.43
	18BN12	196.60	206.43
	18BN13	196.60	206.43
	18BN14	196.60	206.43
	18BN15	196.60	206.43
	18BN16	196.60	206.43
	18BN17	196.60	206.43
19TH FLOOR	LC19	207.26	217.20
	LS19	207.26	217.20
	19AR1	207.26	217.09
	19BR2	207.26	217.09
	19B3	207.26	217.09
	19B4	207.26	217.09
	19B5	207.26	217.09
	19B6	207.26	217.09
	19B7	207.26	217.09
	19B8	207.26	217.09
	19B9	207.26	217.09
	19B10	207.26	217.09

LEVEL	UNIT NUMBER	FLOOR ELEV.	CEILING ELEV.
19TH FLOOR	19A11	207.26	217.09
	19BN12	207.26	217.09
	19BN13	207.26	217.09
	19BN14	207.26	217.09
	19BN15	207.26	217.09
	19BN16	207.26	217.09
	19BN17	207.26	217.09
20TH FLOOR	LC20	217.94	227.87
	LS20	217.94	227.87
	20AR1	217.94	227.77
	20BR2	217.94	227.77
	20B3	217.94	227.77
	20B4	217.94	227.77
	20B5	217.94	227.77
	20B6	217.94	227.77
	20B7	217.94	227.77
	20B8	217.94	227.77
	20B9	217.94	227.77
	20B10	217.94	227.77
	20A11	217.94	227.77
	20BN12	217.94	227.77
	20BN13	217.94	227.77
	20BN14	217.94	227.77
	20BN15	217.94	227.77
	20BN16	217.94	227.77
	20BN17	217.94	227.77
21ST FLOOR	LC21	228.59	238.49
	LS21	228.59	238.52
	21AR1	228.59	238.42
	21BR2	228.59	238.42
	21B3	228.59	238.42
	21B4	228.59	238.42
	21B5	228.59	238.42
	21B6	228.59	238.42
	21B7	228.59	238.42
	21B8	228.59	238.42
	21B9	228.59	238.42
	21B10	228.59	238.42
	21A11	228.59	238.42
	21BN13	228.59	238.42
	21BN14	228.59	238.42
	21BN15	228.59	238.42
	21BN16	228.59	238.42
22ND FLOOR	LC22	239.22	249.17
	LS22	239.22	249.16
	22AR1	239.22	249.05
	22BR2	239.22	249.05
	22B3	239.22	249.05

I, MIKELL D. SPEAKS, A REGISTERED LAND SURVEYOR IN THE STATE OF ALABAMA, HEREBY CERTIFY THAT THE FOLLOWING ELEVATIONS FOR THE UNITS IN PHOENIX WEST II ARE TRUE AND CORRECT.

ALABAMA REGISTRATION NO. 9127

JUNE 13, 2013

ELEVATIONS ON PHOENIX WEST II AT ORANGE BEACH, ALABAMA

LEVEL	UNIT NUMBER	FLOOR ELEV.	CEILING ELEV.
22ND FLOOR	22B4	239.22	249.05
	22B5	239.22	249.05
	22B6	239.22	249.05
	22B7	239.22	249.05
	22B8	239.22	249.05
	22B9	239.22	249.05
	22B10	239.22	249.05
	22A11	239.22	249.05
	22BN13	239.22	249.05
	22BN14	239.22	249.05
	22BN15	239.22	249.05
	22BN16	239.22	249.05
23RD FLOOR	LC23	249.91	259.79
	LS23	249.91	259.81
	23AR1	249.91	259.74
	23BR2	249.91	259.74
	23B3	249.91	259.74
	23B4	249.91	259.74
	23B5	249.91	259.74
	23B6	249.91	259.74
	23B7	249.91	259.74
	23B8	249.91	259.74
	23B9	249.91	259.74
	23B10	249.91	259.74
	23A11	249.91	259.74
	23BN13	249.91	259.74
	23BN14	249.91	259.74
	23BN15	249.91	259.74
	23BN16	249.91	259.74
24TH FLOOR	LC24	260.55	270.49
	LS24	260.55	270.50
	24AR1	260.55	270.38
	24BR2	260.55	270.38
	24B3	260.55	270.38
	24B4	260.55	270.38
	24B5	260.55	270.38
	24B6	260.55	270.38
	24B7	260.55	270.38
	24B8	260.55	270.38
	24B9	260.55	270.38
	24B10	260.55	270.38
	24A11	260.55	270.38
	24BN13	260.55	270.38
	24BN14	260.55	270.38
	24BN15	260.55	270.38
	24BN16	260.55	270.38
25TH FLOOR	LC25	271.23	281.13
	LS25	271.23	281.13
	25AR1	271.23	281.06

LEVEL	UNIT NUMBER	FLOOR ELEV.	CEILING ELEV.
25TH FLOOR	25BR2	271.23	281.06
	25B3	271.23	281.06
	25B4	271.23	281.06
	25B5	271.23	281.06
	25B6	271.23	281.06
	25B7	271.23	281.06
	25B8	271.23	281.06
	25B9	271.23	281.06
	25B10	271.23	281.06
	25A11	271.23	281.06
26TH FLOOR	LC26	281.90	291.79
	LS26	281.90	291.78
	26AR1	281.90	291.73
	26BR2	281.90	291.73
	26B3	281.90	291.73
	26B4	281.90	291.73
	26B5	281.90	291.73
	26B6	281.90	291.73
	26B7	281.90	291.73
	26B8	281.90	291.73
	26B9	281.90	291.73
	26B10	281.90	291.73
	26A11	281.90	291.73
27TH FLOOR	LC27	292.55	302.49
	LS27	292.55	302.47
	27AR1	292.55	302.38
	27BR2	292.55	302.38
	27B3	292.55	302.38
	27B4	292.55	302.38
	27B5	292.55	302.38
	27B6	292.55	302.38
	27B7	292.55	302.38
	27B8	292.55	302.38
	27B9	292.55	302.38
	27B10	292.55	302.38
	27A11	292.55	302.38
28TH FLOOR	LC28	303.25	313.13
	LS28	303.25	313.13
	28AR1	303.25	313.08
	28BR2	303.25	313.08
	28B3	303.25	313.08
	28B4	303.25	313.08
	28B5	303.25	313.08
	28B6	303.25	313.08
	28B7	303.25	313.08
	28B8	303.25	313.08
	28B9	303.25	313.08
	28B10	303.25	313.08
	28A11	303.25	313.08

LEVEL	UNIT NUMBER	FLOOR ELEV.	CEILING ELEV.
29TH FLOOR	LC29	313.89	323.75
	LS29	313.89	323.75
	29AR1	313.89	323.72
	29BR2	313.89	323.72
	29B3	313.89	323.72
	29B4	313.89	323.72
	29B5	313.89	323.72
	29B6	313.89	323.72
	29B7	313.89	323.72
	29B8	313.89	323.72
	29B9	313.89	323.72
	29B10	313.89	323.72
	29A11	313.89	323.72
30TH FLOOR	LC30	324.56	335.55
	LS30	324.56	335.61
	30AR1	324.56	335.56
	30BR2	324.56	335.56
	30B3	324.56	335.56
	30B4	324.56	335.56
	30B5	324.56	335.56
	30B6	324.56	335.56
	30B7	324.56	335.56
	30B8	324.56	335.56
	30B9	324.56	335.56
	30B10	324.56	335.56
	30A11	324.56	335.56
31ST FLOOR	LC31	336.33	347.35
	31AR2	336.33	347.33
	31B3	336.33	347.33
	31B4	336.33	347.33
	31B5	336.33	347.33
	31B6	336.33	347.33
	31B7	336.33	347.33
	31B8	336.33	347.33
	31B9	336.33	347.33
	31A10	336.33	347.33
32ND FLOOR	LC32	348.11	359.10
	32AR2	348.11	359.11
	32B3	348.11	359.11
	32B4	348.11	359.11
	32B5	348.11	359.11
	32B6	348.11	359.11
	32B7	348.11	359.11
	32B8	348.11	359.11
	32B9	348.11	359.11
	32A10	348.11	359.11

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ALABAMA REGISTRATION NO. 9127

JUNE 13, 2013

PHOENIX WEST II

Gulf Front Units

WEST | EAST

	32AR2++	32B3++	32B4++	32B5++	32B6++	32B7++	32B8++	32B9++	32A10++	
	31AR2++	31B3+	31B4+	31B5+	31B6+	31B7+	31B8+	31B9+	31A10++	
30AR1++	30BR2	30B3	30B4	30B5	30B6	30B7	30B8	30B9	30B10	30A11++
29AR++	29BR2	29B3	29B4	29B5	29B6	29B7	29B8	29B9	29B10	29A11++
28AR1+	28BR2	28B3	28B4	28B5	28B6	28B7	28B8	28B9	28B10	28A11++
27AR1+	27BR2	27B3	27B4	27B5	27B6	27B7	27B8	27B9	27B10	27A11++
26AR1+	26BR2	26B3	26B4	26B5	26B6	26B7	26B8	26B9	26B10	26A11++
25AR1+	25BR2	25B3	25B4	25B5*	25B6	25B7	25B8	25B9	25B10	25A11++
24AR1+	24BR2	24B3	24B4	24B5	24B6	24B7	24B8	24B9	24B10	24A11++
23AR1+	23BR2	23B3	23B4	23B5	23B6	23B7	23B8	23B9	23B10	23A11++
22AR1+	22BR2	22B3	22B4	22B5	22B6	22B7	22B8	22B9	22B10	22A11++
21AR1+	21BR2	21B3	21B4	21B5	21B6	21B7	21B8	21B9	21B10	21A11++
20AR1+	20BR2	20B3	20B4	20B5	20B6	20B7	20B8	20B9	20B10	20A11++
19AR1+	19BR2	19B3	19B4	19B5	19B6	19B7	19B8	19B9	19B10	19A11++
18AR1+	18BR2	18B3	18B4	18B5	18B6	18B7	18B8	18B9	18B10	18A11++
17AR1+	17BR2	17B3	17B4	17B5	17B6	17B7	17B8	17B9	17B10	17A11++
16AR1+	16BR2	16B3	16B4	16B5	16B6	16B7	16B8	16B9	16B10	16A11++
15AR1+	15BR2	15B3	15B4	15B5	15B6	15B7	15B8	15B9	15B10	15A11++
14AR1+	14BR2	14B3	14B4	14B5	14B6	14B7	14B8	14B9	14B10	14A11++
12AR1+	12BR2	12B3	12B4	12B5	12B6	12B7	12B8	12B9	12B10	12A11++
11AR1+	11BR2	11B3	11B4	11B5	11B6	11B7	11B8	11B9	11B10	11A11++
10AR1+	10BR2	10B3	10B4	10B5	10B6	10B7	10B8	10B9	10B10	10A11++
9AR1+	9BR2	9B3	9B4	9B5	9B6	9B7	9B8	9B9	9B10	9A11++
8AR1+	8BR2	8B3	8B4	8B5	8B6	8B7	8B8	8B9	8B10	8A11++
7AR1+	7BR2	7B3	7B4	7B5	7B6	7B7	7B8	7B9	7B10	7A11++
6AR1+	6BR2	6B3	6B4	6B5	6B6	6B7	6B8	6B9	6B10	6A11++
5AR1+	5BR2	5B3	5B4	5B5	5B6	5B7	5B8	5B9	5B10	5A11++
4AR1+	4BR2	4B3	4B4	4B5	4B6	4B7	4B8	4B9	4B10	4A11++
3AR1+	3BR2	3B3	3B4	3B5	3B6	3B7	3B8	3B9	3B10	3A11++
2AR1+	2BR2+	2B3+	LOBBY			2B7+	2B8+	2B9+	2B10+	2A11++
COMMON	COMMON	COMMON	INDOOR POOL				COMMON	COMMON	COMMON	COMMON

NORTH FACING UNITS

EAST | WEST

	24BN13++	24BN14++	24BN15++	24BN16++	
	23BN13+	23BN14	23BN15	23BN16+	
	22BN13+	22BN14	22BN15	22BN16+	
	21BN13+	21BN14	21BN15	21BN16+	
20BN12++	20BN13	20BN14	20BN15	20BN16	20BN17++
19BN12+	19BN13	19BN14	19BN15	19BN16	19BN17+
18BN12+	18BN13	18BN14	18BN15	18BN16	18BN17
17BN12+					

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PHOENIX WEST II
PERCENTAGE OF OWNERSHIP
CALCULATIONS BY SQUARE FEET

F	U	B	Square Feet	% of Ownership
2	AR	1	2549	0.340%
2	BR	2	1959	0.262%
2	B	3	1959	0.262%
2	B	7	1959	0.262%
2	B	8	1959	0.262%
2	B	9	1959	0.262%
2	B	10	1959	0.262%
2	A	11	2549	0.340%
3	AR	1	2549	0.340%
3	BR	2	1959	0.262%
3	B	3	1959	0.262%
3	B	4	1959	0.262%
3	B	5	1959	0.262%
3	B	6	1959	0.262%
3	B	7	1959	0.262%
3	B	8	1959	0.262%
3	B	9	1959	0.262%
3	B	10	1959	0.262%
3	A	11	2549	0.340%
4	AR	1	2549	0.340%
4	BR	2	2194	0.293%
4	B	3	1959	0.262%
4	B	4	1959	0.262%
4	B	5	1959	0.262%
4	B	6	1959	0.262%
4	B	7	1959	0.262%
4	B	8	1959	0.262%
4	B	9	1959	0.262%
4	B	10	1959	0.262%
4	A	11	2549	0.340%

F	U	B	Square Feet	% of Ownership
5	AR	1	2549	0.340%
5	BR	2	1959	0.262%
5	B	3	1959	0.262%
5	B	4	1959	0.262%
5	B	5	1959	0.262%
5	B	6	1959	0.262%
5	B	7	1959	0.262%
5	B	8	1959	0.262%
5	B	9	1959	0.262%
5	B	10	1959	0.262%
5	A	11	2549	0.340%
6	AR	1	2549	0.340%
6	BR	2	1959	0.262%
6	B	3	1959	0.262%
6	B	4	1959	0.262%
6	B	5	1959	0.262%
6	B	6	1959	0.262%
6	B	7	1959	0.262%
6	B	8	1959	0.262%
6	B	9	1959	0.262%
6	B	10	1959	0.262%
6	A	11	2549	0.340%
7	AR	1	2549	0.340%
7	BR	2	1959	0.262%
7	B	3	1959	0.262%
7	B	4	1959	0.262%
7	B	5	1959	0.262%
7	B	6	1959	0.262%
7	B	7	1959	0.262%
7	B	8	1959	0.262%
7	B	9	1959	0.262%
7	B	10	1959	0.262%
7	A	11	2549	0.340%

F	U	B	Square Feet	% of Ownership
8	AR	1	2549	0.340%
8	BR	2	1959	0.262%
8	B	3	1959	0.262%
8	B	4	1959	0.262%
8	B	5	1959	0.262%
8	B	6	1959	0.262%
8	B	7	1959	0.262%
8	B	8	1959	0.262%
8	B	9	1959	0.262%
8	B	10	1959	0.262%
8	A	11	2549	0.340%
9	AR	1	2549	0.340%
9	BR	2	1959	0.262%
9	B	3	1959	0.262%
9	B	4	1959	0.262%
9	B	5	1959	0.262%
9	B	6	1959	0.262%
9	B	7	1959	0.262%
9	B	8	1959	0.262%
9	B	9	1959	0.262%
9	B	10	1959	0.262%
9	A	11	2549	0.340%
10	AR	1	2549	0.340%
10	BR	2	1959	0.262%
10	B	3	1959	0.262%
10	B	4	1959	0.262%
10	B	5	1959	0.262%
10	B	6	1959	0.262%
10	B	7	1959	0.262%
10	B	8	1959	0.262%
10	B	9	1959	0.262%
10	B	10	1959	0.262%
10	A	11	2549	0.340%

F	U	B	Square Feet	% of Ownership
11	AR	1	2549	0.340%
11	BR	2	1959	0.262%
11	B	3	1959	0.262%
11	B	4	1959	0.262%
11	B	5	1959	0.262%
11	B	6	1959	0.262%
11	B	7	1959	0.262%
11	B	8	1959	0.262%
11	B	9	1959	0.262%
11	B	10	1959	0.262%
11	A	11	2549	0.340%
12	AR	1	2549	0.340%
12	BR	2	1959	0.262%
12	B	3	1959	0.262%
12	B	4	1959	0.262%
12	B	5	1959	0.262%
12	B	6	1959	0.262%
12	B	7	1959	0.262%
12	B	8	1959	0.262%
12	B	9	1959	0.262%
12	B	10	1959	0.262%
12	A	11	2549	0.340%
14	AR	1	2549	0.340%
14	BR	2	1959	0.262%
14	B	3	1959	0.262%
14	B	4	1959	0.262%
14	B	5	1959	0.262%
14	B	6	1959	0.262%
14	B	7	1959	0.262%
14	B	8	1959	0.262%
14	B	9	1959	0.262%
14	B	10	1959	0.262%
14	A	11	2549	0.340%

F	U	B	Square Feet	% of Ownership
15	AR	1	2549	0.340%
15	BR	2	1959	0.262%
15	B	3	1959	0.262%
15	B	4	1959	0.262%
15	B	5	1959	0.262%
15	B	6	1959	0.262%
15	B	7	1959	0.262%
15	B	8	1959	0.262%
15	B	9	1959	0.262%
15	B	10	1959	0.262%
15	A	11	2549	0.340%
16	AR	1	2549	0.340%
16	BR	2	1959	0.262%
16	B	3	1959	0.262%
16	B	4	1959	0.262%
16	B	5	1959	0.262%
16	B	6	1959	0.262%
16	B	7	1959	0.262%
16	B	8	1959	0.262%
16	B	9	1959	0.262%
16	B	10	1959	0.262%
16	A	11	2549	0.340%
17	AR	1	2549	0.340%
17	BR	2	1959	0.262%
17	B	3	1959	0.262%
17	B	4	1959	0.262%
17	B	5	1959	0.262%
17	B	6	1959	0.262%
17	B	7	1959	0.262%
17	B	8	1959	0.262%
17	B	9	1959	0.262%
17	B	10	1959	0.262%
17	A	11	2549	0.340%
17	BN	12	2550	0.341%

F	U	B	Square Feet	% of Ownership
18	AR	1	2549	0.340%
18	BR	2	1959	0.262%
18	B	3	1959	0.262%
18	B	4	1959	0.262%
18	B	5	1959	0.262%
18	B	6	1959	0.262%
18	B	7	1959	0.262%
18	B	8	1959	0.262%
18	B	9	1959	0.262%
18	B	10	1959	0.262%
18	A	11	2549	0.340%
18	BN	12	2550	0.341%
18	BN	13	1959	0.262%
18	BN	14	1959	0.262%
18	BN	15	1959	0.262%
18	BN	16	1959	0.262%
18	BN	17	3015	0.403%
19	AR	1	2549	0.340%
19	BR	2	1959	0.262%
19	B	3	1959	0.262%
19	B	4	1959	0.262%
19	B	5	1959	0.262%
19	B	6	1959	0.262%
19	B	7	1959	0.262%
19	B	8	1959	0.262%
19	B	9	1959	0.262%
19	B	10	1959	0.262%
19	A	11	2549	0.340%
19	BN	12	2550	0.341%
19	BN	13	1959	0.262%
19	BN	14	1959	0.262%
19	BN	15	1959	0.262%
19	BN	16	1959	0.262%
19	BN	17	1959	0.262%

F	U	B	Square Feet	% of Ownership
20	AR	1	2549	0.340%
20	BR	2	1959	0.262%
20	B	3	1959	0.262%
20	B	4	1959	0.262%
20	B	5	1959	0.262%
20	B	6	1959	0.262%
20	B	7	1959	0.262%
20	B	8	1959	0.262%
20	B	9	1959	0.262%
20	B	10	1959	0.262%
20	A	11	2549	0.340%
20	BN	12	2565	0.343%
20	BN	13	1959	0.262%
20	BN	14	1959	0.262%
20	BN	15	1959	0.262%
20	BN	16	1959	0.262%
20	BN	17	3015	0.403%
21	AR	1	2549	0.340%
21	BR	2	1959	0.262%
21	B	3	1959	0.262%
21	B	4	1959	0.262%
21	B	5	1959	0.262%
21	B	6	1959	0.262%
21	B	7	1959	0.262%
21	B	8	1959	0.262%
21	B	9	1959	0.262%
21	B	10	1959	0.262%
21	A	11	2549	0.340%
21	BN	13	2275	0.304%
21	BN	14	1959	0.262%
21	BN	15	1959	0.262%
21	BN	16	1959	0.262%

F	U	B	Square Feet	% of Ownership
22	AR	1	2549	0.340%
22	BR	2	1959	0.262%
22	B	3	1959	0.262%
22	B	4	1959	0.262%
22	B	5	1959	0.262%
22	B	6	1959	0.262%
22	B	7	1959	0.262%
22	B	8	1959	0.262%
22	B	9	1959	0.262%
22	B	10	1959	0.262%
22	A	11	2549	0.340%
22	BN	13	2275	0.304%
22	BN	14	1959	0.262%
22	BN	15	1959	0.262%
22	BN	16	2840	0.379%
23	AR	1	2549	0.340%
23	BR	2	1959	0.262%
23	B	3	1959	0.262%
23	B	4	2044	0.273%
23	B	5	1959	0.262%
23	B	6	1959	0.262%
23	B	7	1959	0.262%
23	B	8	1959	0.262%
23	B	9	1959	0.262%
23	B	10	1959	0.262%
23	A	11	2549	0.340%
23	BN	13	2275	0.304%
23	BN	14	1959	0.262%
23	BN	15	1959	0.262%
23	BN	16	2840	0.379%

F	U	B	Square Feet	% of Ownership
24	AR	1	2549	0.340%
24	BR	2	1959	0.262%
24	B	3	1959	0.262%
24	B	4	1959	0.262%
24	B	5	1959	0.262%
24	B	6	1959	0.262%
24	B	7	1959	0.262%
24	B	8	1959	0.262%
24	B	9	1959	0.262%
24	B	10	1959	0.262%
24	A	11	2549	0.340%
24	BN	13	2275	0.304%
24	BN	14	1959	0.262%
24	BN	15	1959	0.262%
24	BN	16	2840	0.379%
25	AR	1	2549	0.340%
25	BR	2	1959	0.262%
25	B	3	1959	0.262%
25	B	4	1959	0.262%
25	B	5	1959	0.262%
25	B	6	1959	0.262%
25	B	7	1959	0.262%
25	B	8	1959	0.262%
25	B	9	1959	0.262%
25	B	10	1959	0.262%
25	A	11	2549	0.340%

F	U	B	Square Feet	% of Ownership
26	AR	1	2549	0.340%
26	BR	2	1959	0.262%
26	B	3	1959	0.262%
26	B	4	1959	0.262%
26	B	5	1959	0.262%
26	B	6	1959	0.262%
26	B	7	1959	0.262%
26	B	8	1959	0.262%
26	B	9	1959	0.262%
26	B	10	1959	0.262%
26	A	11	2549	0.340%
27	AR	1	2549	0.340%
27	BR	2	1959	0.262%
27	B	3	1959	0.262%
27	B	4	1959	0.262%
27	B	5	1959	0.262%
27	B	6	1959	0.262%
27	B	7	1959	0.262%
27	B	8	1959	0.262%
27	B	9	1959	0.262%
27	B	10	1959	0.262%
27	A	11	2549	0.340%
28	AR	1	2549	0.340%
28	BR	2	1959	0.262%
28	B	3	1959	0.262%
28	B	4	1959	0.262%
28	B	5	1959	0.262%
28	B	6	1959	0.262%
28	B	7	1959	0.262%
28	B	8	1959	0.262%
28	B	9	1959	0.262%
28	B	10	1959	0.262%
28	A	11	2549	0.340%

F	U	B	Square Feet	% of Ownership
29	AR	1	2549	0.340%
29	BR	2	1959	0.262%
29	B	3	1959	0.262%
29	B	4	1959	0.262%
29	B	5	1959	0.262%
29	B	6	1959	0.262%
29	B	7	1959	0.262%
29	B	8	1959	0.262%
29	B	9	1959	0.262%
29	B	10	1959	0.262%
29	A	11	2549	0.340%
30	AR	1	2549	0.340%
30	BR	2	1959	0.262%
30	B	3	1959	0.262%
30	B	4	1959	0.262%
30	B	5	1959	0.262%
30	B	6	1959	0.262%
30	B	7	1959	0.262%
30	B	8	1959	0.262%
30	B	9	1959	0.262%
30	B	10	1959	0.262%
30	A	11	2549	0.340%
31	AR	2	2695	0.360%
31	B	3	1959	0.262%
31	B	4	1959	0.262%
31	B	5	1959	0.262%
31	B	6	1959	0.262%
31	B	7	1959	0.262%
31	B	8	1959	0.262%
31	B	9	1959	0.262%
31	A	10	2695	0.360%

F	U	B	Square Feet	% of Ownership
32	AR	2	2585	0.345%
32	B	3	1959	0.262%
32	B	4	1959	0.262%
32	B	5	1959	0.262%
32	B	6	1959	0.262%
32	B	7	1959	0.262%
32	B	8	1959	0.262%
32	B	9	1959	0.262%
32	A	10	2585	0.345%
Front Desk, [01A, 01B & 01C]			1219	0.163%
Maintenance, M1			815	0.109%
Housekeeping, H1			354	0.047%
Sales Office, 02			518	0.069%
Bldg. Totals			748710	100.000%

EXHIBIT "D"

BY-LAWS

OF

PHOENIX WEST II OWNERS ASSOCIATION, INC.

1. **IDENTITY.**

These are the By-Laws of PHOENIX WEST II OWNERS ASSOCIATION, INC., an association organized pursuant to the Alabama Uniform Condominium Act, 35-8A-101 et seq., *Code of Alabama*, as amended, for the purpose of administering Phoenix West II, a Condominium, located in Baldwin County, Alabama.

1.01. The office of the Association shall be at 24024 Perdido Beach Boulevard, Orange Beach, Alabama 36561, with a mailing address Post Office Box 4009, Gulf Shores, Alabama, 36547.

1.0.2. The fiscal year of the Association shall be such as may from time to time be established by the Association.

2. **MEMBERS' MEETINGS.**

2.01. The first meeting of the unit owners to organize the Association shall be called as soon as practicable by the Directors of the Association after the closing and conveyance of the units commences and progresses, all in accord with the provisions, of the Alabama Uniform Condominium Act.

2.02. Thereafter, the annual meeting of the unit owners shall be held at the office of the Association at 9:00 p.m., the local time, or at a location chosen by the Directors, on the first Saturday in March of each year for the purpose of electing Directors and of transacting any other business authorized to be transacted by the members; provided, however, if that day is a legal holiday, the meeting shall be held at the same hour on the next day following that is not a legal holiday.

2.03. Change of Date. The time of holding the annual meeting of members may be changed at any time prior to fifteen (15) days before the regular day for holding such meeting by a resolution duly adopted by the Board of Directors or by the members, provided that such notice of change be mailed to each member of record at such address as appears upon the records of the Association not less than ten (10) days before the holding of such meeting; and further provided that each annual meeting of members shall be held within one (1) month of the date on which it should regularly have been held but for such change.

2.04. Special members' meetings shall be held whenever called by the President or Vice President or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from members entitled to cast twenty percent (20%) of the votes in the Association.

2.05. Notice of all members' meetings stating the time and place and the objects for which a meeting is called shall be given by the President or Vice President or Secretary unless waived in writing. Such notice shall be in writing to each member at his address as it appears on the books of the Association and shall be mailed not less than ten (10) days nor more than sixty (60) days prior to the date of the meeting. Proof of such mailing shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived before or after meetings.

2.06. Voting shall be on a percentage basis and the percentage of the vote to which a member is entitled is the percentage assigned to the unit of which the member is an owner, as stated in the Declaration of Condominium.

2.07. A quorum is present throughout any members' meeting if persons entitled to cast 40 percent (40%) of the votes which may be cast for election of the board are present in person or by proxy at the beginning of the meeting.

2.08. Proxies. Votes may be cast in person or by proxy. Proxies may be made by any person entitled to vote and shall be valid only for the particular meeting designated therein and must be filed with the Secretary before the appointed time of the meeting.

2.09. Vote required to transact business. When a quorum is present at any meeting, the holders of a majority of the voting rights present in person or represented by written proxy shall decide on any questions brought before the meeting, unless the question is one upon which, by express provision of the statutes, the Declaration of Condominium or the By-Laws, a different number is required, in which case the express provision shall govern and control the decision in question.

2.10. Adjourned meetings. Any meeting of the Association may be adjourned from time to time to such date and time as may be determined by the majority vote of the members present, whether a quorum be present or not, without notice other than the announcement at the meeting. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted by a quorum at the meeting as originally called.

2.11. The order of business at annual members' meetings and, as far as practical, at all other members' meetings, shall be:

(a) Call to Order,

(b) Calling of the roll and certifying of proxies,
(c) Proof of notice of meeting or waiver of notice,
(d) Reading and disposal of any unapproved minutes,
(e) Report of Officers,
(f) Reports of Committees,
(g) Election of Directors,
(h) Unfinished Business,
(i) New Business,
(j) Adjournment.

2.12. Cumulative Voting shall not be permitted at any meeting of the owners.

2.13. Proviso. Provided, however, that until the Developer has sold seventy-five percent (75%) of the units of the Condominium, or until two (2) years after the units have ceased to be sold, or until Developer elects to terminate its control over the Condominium, whichever shall first occur, there shall be no meeting of the members of the Association unless a meeting is called by the Board of Directors.

3. **BOARD OF DIRECTORS**.

3.01. Membership. The affairs of the Association shall be conducted by the Board of Directors, which shall consist of such number not less than three (3) nor more than seven (7), with staggered terms, as shall from time to time be determined and affixed by a vote of the voting rights present at any annual meeting of the members. Each Director shall be an owner of a unit, except as provided in subparagraph 3.02(d) below.

3.02. Election of Directors shall be conducted in the following manner:

(a) Directors shall be elected at the annual meeting of the members of the Association, except during the period the Association is under the control of the Developer.

(b) Except as to vacancies created by removal of Directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining Directors.

(c) Any Director may be removed by concurrence of two-thirds (2/3) of the members of the Association at a special meeting of the members called for that purpose. The vacancy thus created shall be filled at the same meeting by the members of the Association in the same manner as was provided for the election of the removed Director.

3.03. The term of each Director's services shall extend until the next annual meeting of the members of the year that his term is set to end and thereafter until his successor is duly elected and qualified or until he is removed in the manner elsewhere provided.

3.04. The organization meeting of a newly elected Board of Directors shall be held within ten (10) days of their election at such place and time as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of organization meeting shall be necessary, provided a quorum shall be present.

3.05. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegraph, at least three (3) days prior to the day named for such meeting.

3.06. Special meetings of the Directors may be called by the President, and must be called by the Secretary at the written request of one-third (1/3) of the votes of the Board. Not less than three (3) days notice of the meeting shall be given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting.

3.07. Waiver of notice. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice.

3.08. A quorum at Directors' meetings shall consist of the Directors entitled to cast a majority of the votes of the entire Board of Directors. The acts of the Board approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except where approval by a greater number of Directors is required by the Declaration of Condominium or by these By-Laws. If at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting from any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.

3.09. The presiding officer of the Directors' meetings shall be the President. In the absence of the President, the Directors present shall designate one of their members to preside.

3.10. Directors shall serve without compensation, and a Director may not be an employee of the Association.

4. **POWERS AND DUTIES OF THE BOARD OF DIRECTORS**.

The Board of Directors, for the benefit of the owners, shall have the following powers and duties:

4.01. To exercise all of the powers of the Association with respect to the operation and regulation of the condominium project which are conferred upon the Board by the

Condominium Ownership Act or which may be conferred upon the Board by these By-Laws pursuant to such Act, and to exercise all of the powers of the Association which are conferred upon it by law and by its Articles of Incorporation.

4.02. To make contracts and incur liabilities in connection with the exercise of any of the powers and duties of the Board, including the right to borrow money and to secure the same by pledging, as security, the assignment of future periodic assessments and the right to collect the same to the lender.

4.03. To provide or cause to be provided all goods and services required by the By-Laws or by law, or which the Board, at its discretion, deems necessary for the proper operation of the condominium project, or which are used in common or jointly by the common elements and condominium units, in each case to the extent such goods and services shall not be otherwise provided.

4.04. To collect monthly assessments from the owners, and to render or cause to be rendered statements, when required or useful, of any assessments which remain unpaid by any owner.

4.05. To maintain a class action, and to settle a cause of action on behalf of owners with references to the common elements, the roof and structural components of a building or other improvement, and mechanical, electrical and plumbing elements serving an improvement or a building as distinguished from mechanical elements serving only a unit; and to bring an action and to settle the same on behalf of two (2) or more of the owners, as their respective interests may appear, with respect to any cause of action relating to the common elements or more than one (1) condominium; all as the Board deems advisable.

4.06. To elect the officers of the Association and otherwise exercise the powers regarding officers of the Association as set forth in these By-Laws.

4.07. To determine who shall be authorized to make and sign all instruments on behalf of the Association and the Board.

4.08. To employ a management agent or manager, at a compensation established by the Board, to perform such duties and services as the Board shall authorize, including, but not limited to, the duties listed in this Section, and any such duties so conferred upon the managing agent or manager by the Board of Directors may at any moment be revoked, modified or amplified by the majority of the votes in a duly constituted meeting.

4.09. To procure such property and other insurance of all kinds and such fidelity bonds as the Board deems advisable covering officers and employees of the Association handling and responsible for the Association's funds and personal property, and to procure advisable; and the premium of such bonds and insurance shall be paid by the Association as common expense.

4.10. To determine policies and to adopt administrative rules and regulations governing the details of the operation and use of the condominium project, including the common elements, and to amend such administrative rules and regulations from time to time as the Board deems advisable.

4.11. To designate, by resolution passed by a majority of the whole Board, one (1) or more committees to consist of one (1) or more of the Directors. Any such committee, to the extent provided in such resolution, shall have and may exercise all of the authority of the Board of Directors in the management of the business and affairs of the corporation, except where action of the full Board of Directors is required by law, the Articles of Incorporation and the Declaration or the By-Laws.

4.12. All committees so appointed shall keep regular minutes of the transactions of their meetings, and shall cause them to be recorded in books kept for that purpose in the office of the Association, and shall report the same to the Board of Directors at the next meeting of such Board.

5. **OFFICERS.**

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

5.02. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of the president of an association.

5.03. The Vice-President shall, in the absence of or disability of the President, exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

5.04. The Secretary shall keep the minutes of all proceedings of the Directors and the members. He shall attend to the giving and serving of all notices to the members and Directors and other notices required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an association as may be required by the Directors or the President.

5.05. The Treasurer shall have custody of all property of the Association, including funds, securities and evidence of indebtedness. He shall keep the financial records and books of account of the Association in accordance with good accounting practices; shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the common areas and facilities, specifying and itemizing the maintenance and repair expense of the common area and facilities and any other expenses incurred; and he shall perform all other duties incident to the office of Treasurer. The records, books of account and the vouchers authorizing payments, shall be available for examination by a member of the Association at convenient hours of weekdays.

6. **FISCAL MANAGEMENT.**

6.01. Budget. The Board of Directors shall determine the common expenses of the Association and adopt a budget for each calendar year of such estimated common expenses, including a reasonable allowance for contingencies and reserves, less the unneeded fund balances on hand.

Within thirty (30) days after the adoption of a proposed budget for the condominium, the Board shall provide a copy of the budget and proposed assessments to all the unit owners, and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after delivery or mailing of the budget to the unit owners. Unless at that meeting a majority of all the unit owners present, in person or by proxy or any larger vote specified in the Declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the unit owners shall be continued until such time as the unit owners ratify a subsequent budget proposed by the Board.

6.02. Assessments for Recurring Expenses. Assessments for recurring common expenses shall be made for the calendar year annually in advance and transmitted to each member as provided supra. The Board may include a Maintenance Fund Reserve for contingencies in such assessments, and such Maintenance Fund Reserve may from time to time be increased or reduced at the discretion of the Board. The proportionate interest of each unit owner in said Fund cannot be withdrawn or separately assigned but shall be deemed to be transferred with such unit even though not expressly mentioned or described in the conveyance thereof. In case the condominium regime hereby created shall be terminated and the property removed from the Alabama Uniform Condominium Act, any part of the said Fund remaining after full payment of all common expenses of the Association shall be distributed to all unit owners in the respective proportionate shares. Such assessments shall be due in monthly installments on the first day of the year for which the assessments are made. If such annual assessment is not made as required, an installment in the amount required by the last prior assessment shall be due upon each installment payment date until changed by a new assessment. The total of the assessments for recurring common expenses shall be not more than one hundred twenty percent (120%) of the assessments for this purpose for the prior year unless approved in writing by unit owners entitled to cast a majority of the votes in the Association. In the event such an annual assessment proves to be insufficient, it may be amended at any time after approval in writing by unit owners entitled to cast a majority of the votes in the Association, and the amended assessment for the remaining portion of the calendar year shall be due at the time the next monthly installment is due. The date of the first assessment shall be determined by the Board of Directors of the Association.

6.03. Assessments for Capital Improvements. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Elements and Limited Common Elements at a minimum sufficient to satisfy Fannie Mae lender guidelines. Upon written notice to all the unit owners and upon approval in writing by unit owners entitled to cast a majority of the votes of the Association, the Board may establish and maintain one (1) or more capital reserve accounts, but the assessment of and payment by all of the unit owners in equal monthly installments of their respective proportion shares of such reasonable annual amount, for such term of years as the Board may estimate as needed to cover each unit owner's obligation to provide for specified capital improvements, such as, by way of illustration and not limitation, the purchase of additional property, the paving or repaving of streets and areas, the construction or reconstruction of common elements and the like. Each such capital reserve account shall not be commingled with the general assessment funds of the Association, but shall be deposited in a special account, shall be earmarked and designated. The proportionate interest of each owner in each such capital reserve account cannot be withdrawn or separately assigned, but shall be deemed to be transferred with such unit even though not expressly mentioned or described in the conveyance thereof. In case the condominium regime hereby created shall be terminated and the property removed from the Condominium Ownership Act, any part of each such capital reserve account remaining after full payment of all common expenses of the Association shall be distributed to all unit owners in the respective proportionate shares.

6.04. Assessments for Emergencies. Assessments for common expenses for emergencies which cannot be paid from the assessments for recurring expenses shall be made only after notice of the need therefor to the unit owners concerned. After such notice and upon approval in writing of more than one-half (½) of such unit owners concerned, the assessment shall become effective, and it shall be due after thirty (30) days notice thereof in such manner as the Board of Directors may require.

6.05. Acceleration of Assessment Installment Upon Default. If a unit owner shall be in default in the payments of an installment upon any assessment, the Board of Directors may accelerate the remaining installments of such assessment upon notice thereof to the unit owner, and thereupon the unpaid balance of the assessment shall come due upon the date stated in the notice, but not less than ten (10) days delivery thereof to the unit owner, or not less than twenty (20) days after the mailing of such notice to him by registered or certified mail, whichever shall first occur.

6.06. Default.

(a) In the event an owner of a unit does not pay any sums, charges or assessments required to be paid to the Association within thirty (30) days from due date, the Association may foreclose the lien encumbering the unit created by non-payment of the required moneys in the same fashion as mortgage liens are foreclosed; provided that thirty (30) days prior to the foreclosure, notice of such intention shall be mailed, postage prepaid, to the unit owner and to all persons having a mortgage lien or other interest of record in such unit as shown in the Association's record of ownership. The Association shall be entitled to the appointment of a Receiver, if it so requests. The Association shall have the right to bid on the unit at a foreclosure sale and to acquire, hold, mortgage and convey the same. In any such foreclosure action, the lien of the Association shall be subordinate and inferior to tax liens in favor of the state, county, any municipality and any special district and any first mortgage liens of record encumbering such unit at the time of commencement of the foreclosure action by the Association. In lieu of foreclosing its lien, the Association may bring suit to recover a money judgment for any sums, charges or assessments required to be paid to the Association without waiving its lien securing the same. In any action either to foreclose its lien or to recover a money judgment brought by or on behalf of the Association against a unit owner, the losing defendant shall pay the cost thereof together with a reasonable attorney's fee.

(b) If the Association becomes the owner of a unit by reason of foreclosure, it shall offer said unit for sale and at such time as a sale is consummated it shall deduct from such proceeds all sums of money due it for monthly assessments and charges, all costs incurred in the bringing of the foreclosure suit, including reasonable attorney's fees, and any and all expenses incurred in the resale of the unit, which shall include but not be limited to advertising expenses, real estate brokerage fees, abstract or title insurance costs and expenses necessary for the repairing and refurbishing of the unit in question. All moneys remaining after deducting the foregoing items of expense shall be returned to the former owner of the unit in question.

6.07. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which moneys of the Association shall be deposited. Withdrawal of moneys from such accounts shall be only by such persons as are authorized by the Directors.

6.08. An audit of the accounts of the Association shall be made annually by a certified public accountant, not a member of the Association, and a copy of the report shall be available to each member not later than April 1st of the year following the year for which the report is made.

7. **OBLIGATIONS OF THE OWNERS.**

7.01. Assessments. Every owner of any unit in the condominium shall contribute pro rata toward the expense of administration of the condominium as provided in the Declaration and in these By-Laws.

7.02. Maintenance and Repair.

(a) Every owner must perform promptly all maintenance and repair work within his unit, which, if omitted, would affect the condominium in its entirety or in a part belonging to other owners, and is expressly responsible for the damages and liabilities that his failure to do so may endanger.

(b) All the repairs of internal or appurtenant installations of the unit, such as water, lights, power, air conditioning, heat, sewage, telephones, sanitary installations, doors, windows, lamps and all other accessories belonging to the unit area, shall be maintained at the owner's expense.

(c) An owner shall reimburse the Association for any expenditures incurred in repairing or replacing any common areas and facilities damaged through his fault.

7.03. Use of Units. Every owner shall comply strictly with the provisions of the Act, the Declaration, the By-Laws and the Rules. In the event of the failure of any owner to do so, the Association may sue to recover sums due, and/or damages, and/or injunctive relief, and for its costs and expenses therein, including a reasonable attorney's fee.

7.04. Right of entry. The manager and any person authorized by the Board of Directors shall have the right to enter each unit in case of any emergency originating in or threatening such unit whether or not the owner or occupant, when so required, shall permit other unit owners or their representative to enter his unit at reasonable times for purpose of performing authorized installations, alterations or repairs to the common elements therein for central services, provided that requests for entry are made in advance.

7.05. Title. Every unit owner shall promptly cause to be duly recorded in the office of the Judge of Probate of Baldwin County, Alabama, the deed or other conveyance to him of his unit or other evidence of title thereto and file such evidence of his title with the Association, and the Secretary shall maintain such information in the record of ownership of the Association.

7.06. Mortgages.

(a) Any mortgagee or guarantor of a mortgage of a unit may file a copy of the mortgage with the Association, and the Secretary shall maintain such information in the record of ownership of the Association. After the filing of the mortgage with it, the Association shall be required to notify the mortgagee or guarantor to written notification from the Association of any default by mortgagor of such unit in the performance of such mortgagor's obligations under the condominium documents which is not cured within thirty (30) days.

(b) Unless all holders of first mortgage liens on units have given their prior written approval the Association shall not be entitled to:

(i) Change of pro rata interest or obligations of any unit for the purposes of levying assessments and charges, and determining shares of undivided interest in the common elements and proceeds of the project;

(ii) Partition or subdivide any unit or the common elements of the project; nor

(iii) By act of omission seek to abandon the condominium status of the property.

(c) The Association must give the mortgagee and any guarantor of the mortgage on any unit, who has given notice under Section 7.06(a), the right to timely written notice of:

(i) Any condemnation or casualty loss that affects either a material portion of the project or the units securing the mortgage;

(ii) Any 60-day delinquency in the payment of assessments or charged owed by the unit owner of any unit on which it holds the mortgage;

(iii) A lapse, cancellation, or material modification of any insurance policy maintained by the Association.

(iv) Any proposed action that requires the consent of a specified percentage of mortgagees.

(d) As to any action which requires the consent of a mortgagee or a majority of mortgagees, the approval of any such mortgagee may be implied if the mortgagee fails to submit a response to written notice of the proposed action within 60 days after it receives written notice of the proposal, provided the notice was delivered by certified mail or overnight courier with proof of delivery and a "return receipt" has been delivered to the Board.

8. **<u>AGENT TO RECEIVE SERVICE OF PROCESS</u>**.

The following person, who is a resident of the State of Alabama, is designated as agent to receive service of process upon the Association:

NAME:	Tillis M. Brett
Mailing Address:	Post Office Box 4009 Gulf Shores, AL 36547

Physical Address: 1090 Industrial Pkwy.
Saraland AL 36571

9. **PARLIAMENTARY RULES**.

Roberts Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Condominium Ownership Act, Declaration of Condominium or these By-Laws.

10. **AMENDMENTS.**

These By-Laws may be amended by following the provision of Paragraph 19 of the Declaration of Condominium.

The foregoing were adopted as the By-Laws of Phoenix West II Owners Association, Inc., at the first meeting of the Board of Directors on August 28, 2013.

Thomas E. Brett
SECRETARY

APPROVED:

Lillie M. Brett
PRESIDENT

EXHIBIT "E"

RULES AND REGULATIONS CONCERNING USE OF PHOENIX WEST II, A CONDOMINIUM

The Phoenix West II Owners Association, Inc. (hereinafter "Association"), acting through its Board of Directors (hereinafter "Board"), has adopted the following Rules and Regulations (hereinafter "Regulations"). These Regulations may be amended from time to time by resolution of the Board.

As used in these Regulations the term "Unit Owners" shall apply to the Owner of any Unit, to his family, tenants (whether or not in residence), servants, employees, agents and visitors, and to any guests, invitees or licensees of that Unit Owner, his family or tenant of that Unit Owner. As used in these Regulations the term "Association" shall include the Association and the Managing Agent when the Managing Agent is acting on behalf of the Association.

1. The Association reserves the right to alter, amend, modify, repeal or revoke these Regulations, and any consent or approval given hereunder, at any time, by resolution of the Association or the Board.

2. All Owners of any Unit are to inform non-owners upon the Condominium Property of these Rules and Regulations.

3. Unit Owners are reminded that alteration and repair of the common elements are the responsibility of the Association, except for those matters which are stated in the Declaration to be the responsibility of a Unit Owner. No work of any kind is to be done upon or affecting those portions of exterior building walls or interior boundary walls which are the responsibility of the Association without first obtaining the approval required by the Declaration of Condominium.

No Owner may install any plumbing, wiring or air conditioning equipment without the prior written approval of the Board.

4. The sidewalks, entrances, passages, elevators, corridors and stairways of, or appurtenant to, the Building shall not be obstructed or used for any other purpose than ingress to and egress from the Building.

5. No article (including, but not limited to, garbage cans, bottles or mats) shall be placed in any of the Common Areas, except those areas specifically designated by the Association. Nothing shall be hung or shaken from any doors, windows, roofs, balconies, terraces or patios, or placed upon the window sills of the Building.

6. Neither occupants nor their guests shall play or lounge in the entrances, passages, elevators, corridors, stairways or fire towers of the Building.

7. Except as otherwise provided in the By-Laws, no common area of the Building shall be decorated or furnished by any Unit Owner in any manner.

8. Each Unit Owner shall keep his Unit in a good state of preservation and cleanliness, and shall not sweep or throw (or permit to be swept or thrown) therefrom or from the doors or windows thereof, any dirt or other substance.

9. No window guards or other window decorations shall be used in or about any Unit except such as shall have been approved in writing by the Board.

10. Nothing shall be done in any Unit or on the Common Elements that may impair the structural integrity of the Building or that may change the Building structurally, nor shall anything be altered or constructed on or removed from the common elements, except upon the prior written consent of the Board.

11. No radio or television aerial shall be attached to or hung from the exterior of the Building and no sign, notice, advertisement or illumination shall be inscribed or exposed on or at any window or other part of the Building except such as are permitted pursuant to the Declaration or the By-Laws and shall have been approved in writing by the Board; nor shall anything be projected from any window of a Unit without similar approval.

12. No ventilator or air conditioning device shall be installed in any Unit without the prior written approval of the Board.

13. All electrical equipment (of any kind or nature) installed or used in each Unit shall fully comply with all rules, regulations, requirements of recommendations of the local fire department and the public authorities having jurisdiction, and the Unit Owner alone shall be liable for any damage or injury caused by any electrical equipment in such Unit Owner's Unit.

14. No bicycles, scooters or similar vehicles shall be taken into or from the Building through the main entrance or be allowed in any of the elevators other than the elevator designed by the Board for that purpose, and no baby carriages or any of the above-mentioned vehicles shall be allowed to stand in the common halls, passageways or other common areas of the Building.

15. An Owner may identify his Unit with a name plate of a type and size approved by the Association and mounted in a place and manner approved by the Association. No other signs may be displayed except as approved by the Association. This restriction shall not apply to the Developer until after all Units are sold, or to the owner(s) of the non-residential units.

16. No Unit Owner shall make or permit any disturbing noises or activity in the Building, or do or permit anything to be done therein, which will interfere with the rights, comforts or conveniences of other Unit Owners or tenants. No Unit Owner shall play upon or cause to be

played upon any musical instrument, or operate or permit to be operated a phonograph, radio, television set, loud speaker or other sound amplification device in such Unit Owner's Unit between 10 p.m. and the following 9 a.m., if the same shall disturb or annoy other occupants of the Building, and in no event shall practice or cause to be practiced either vocal or instrumental music between the hours of 10 p.m. and the following 9 a.m. No construction or repair work or other installation involving noise shall be conducted in any Unit except on weekdays (not including legal holidays) and only between the hours of 8 a.m. and 5 p.m., unless such construction or repair work is necessitated by an emergency. Unit Owners shall not cause or permit any unusual or objectionable noises or odors to be produced upon or to emanate from their Units or any terrace or deck appurtenant thereto.

17. All service and delivery persons will be required to use the entrance designated by the Board.

18. Toilet facilities and other water apparatus in the Building shall not be used for any purpose other than those for which they are designed, nor shall any sweepings, rubbish, rags or any other article be thrown into the same. Any damage resulting from misuse of any water-related apparatus in a Unit shall be repaired and paid for by the Owner of such Unit.

19. The agents of the Board, and any contractor or workman authorized by the Board, may enter any room or Unit at any reasonable hour of the day for the purpose of inspecting such Unit for the presence of any vermin, insects or other pests and for the purpose of taking such measures as may be necessary to control or exterminate in a reasonable manner so as not to unreasonably interfere with the use of such Unit for its permitted purposes.

20. The Association must be provided two (2) pass keys (or, in the alternative, workable

and current code or combination) to each unit. If a key, one will be held for the fire department knox box and one by the Association for any emergencies that may arise. If a key is not provided and the owner is not personally present to open and permit entry the Board or its agents may forcibly enter such unit without liability for damages to the door, frame or lock. Lock designs may be changed, subject to the approval of the Board. The Board may publish a list of approved substitute lock designs, models, and manufacturers, in order to maintain esthetic appearances. For any lock not furnished by the Developer, the individual unit owner will be responsible for the purchase, installation, repair, upkeep and/or replacement of the lock as well as any liability should the lock fail. If a lock is changed by the owner, the original lock shall be turned over to the Association for safe-keeping. If the unit is sold, the original entry lock will be replaced at owner's expense, unless the new owner wishes to keep the new lock.

21. No vehicle belonging to a Unit Owner or to a member of the family or guest, tenant or employee of a Unit Owner shall be parked in such manner as to impede or prevent ready access to any entrance to or exit from the Building by another vehicle.

22. Unless otherwise authorized by the Association, the parking areas may not be used for any purpose other than parking automobiles. No buses, trucks, trailers, boats, recreational or commercial vehicles shall be parked in the parking areas or in driveways except in those areas, if any, designated specifically for such parking by the Board. All vehicles must have current license plates and be in good operating condition. No vehicles shall be parked on the Property with conspicuous "For Sale" signs attached.

23. All Unit Owners shall observe and abide by all parking and traffic regulations as postedle by the Association or by municipal authorities. Vehicles parked in violation of any such

regulations may be towed away at the Unit owner's sole risk and expense.

24. The Board may from time to time curtail or relocate any portion of the Common Elements devoted to storage, recreation or service purposes in the Building.

25. Complaints regarding the service of the Property shall be made in writing to the Board.

26. Any consent or approval given under these Rules and Regulations may be added to, amended or repealed at any time by resolution of the Board.

27. Except as permitted under the Declaration and By-Laws, Unit Owners, their families, guests, servants, employees, agents, visitors or licenses shall not at any time or for any reason whatsoever enter upon or attempt to enter upon the roof of the Building.

28. No Unit Owner or any of his agents, servants, employees, licenses or visitors shall at any time bring into or keep in his Unit any inflammable, combustible or explosive fluid, material, chemical or substance, except as shall be necessary and appropriate for the permitted uses of such Unit.

29. Employees and agents of the Association are not authorized to accept packages, keys, money (except for condominium assessments) or articles of any description from or for the benefit of a Unit Owner. If packages, keys (whether for a Unit or an automobile), money or articles of any description are left with the employees or agents of the Association, the Unit Owner assumes the sole risk therefor and the Unit Owner, not the Association, shall be liable for injury, loss or damage of any nature whatsoever directly or indirectly resulting therefrom or connected therewith. The Association does not assume any responsibility for loss or damage in such cases. Deliveries requiring entrance to a Unit Owner's Unit will not be accepted without the prior written permission of the Unit Owner accompanied by a written waiver of all liability in

connection with such deliveries.

30. If any key or keys are entrusted by a Unit Owner or by any member of his family or by his agent, servant, employee, licensee or visitor to an employee of the Association, whether for such Unit Owner's Unit or an automobile, trunk or other item of personal property, the acceptance of the key shall be at the sole risk of such Unit Owner, and the Board shall not be liable for injury, loss or damage of any nature whatsoever, directly or indirectly resulting therefrom or connected therewith.

31. Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance of the Building or contents thereof without the prior written consent of the Board. No Unit Owner or occupant shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance on the Building or which would be in violation of any law. No waste shall be committed in the Common Elements.

32. The Common Elements shall be used only by the Unit Owners and their agents, servants, tenants, family members, invitees and licensees for access, ingress to, and egress from the respective Units and for such other purposes incidental to use of the Units. However, other areas designed for a specific use shall be used for the purposes approved by the Board. The use, maintenance and operation of the Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Unit Owner, and shall be subject to any lease, concession or easement, presently in existence or entered into by the Board at some future time, affecting any part or all of said Common Elements. No Unit Owner or Occupant of a Residential Unit shall place, distribute or maintain any sign, poster or bill in any portion of the Common Elements outside his Unit without the approval of the Board of Directors, nor shall "For Sale" signs or

similar signs be posted in Unit windows.

33. No group tour or exhibition of any Unit or its contents shall be conducted, nor shall any auction sale be held in any Unit without the consent of the Board.

34. No Unit Owner shall install any plantings on any terrace, patio or roof except with the permission of the Board.

35. All occupants of Units and Unit Owners must comply with the requirements of the Alabama Uniform Condominium Act of 1991, Articles of Incorporation of the Association, By-Laws of the Association, the Declaration, and these Rules and Regulations.

36. The Association regulates the presence of pets on the condominium property. Owner's pets are permitted under such restrictions and conditions as the Board shall impose from time to time. Persons other than Unit Owners, their children and immediate family, may not bring pets upon the condominium property.

37. All persons shall be properly attired when appearing in any of the following portions of the property public halls, community buildings and any other public spaces of the condominium.

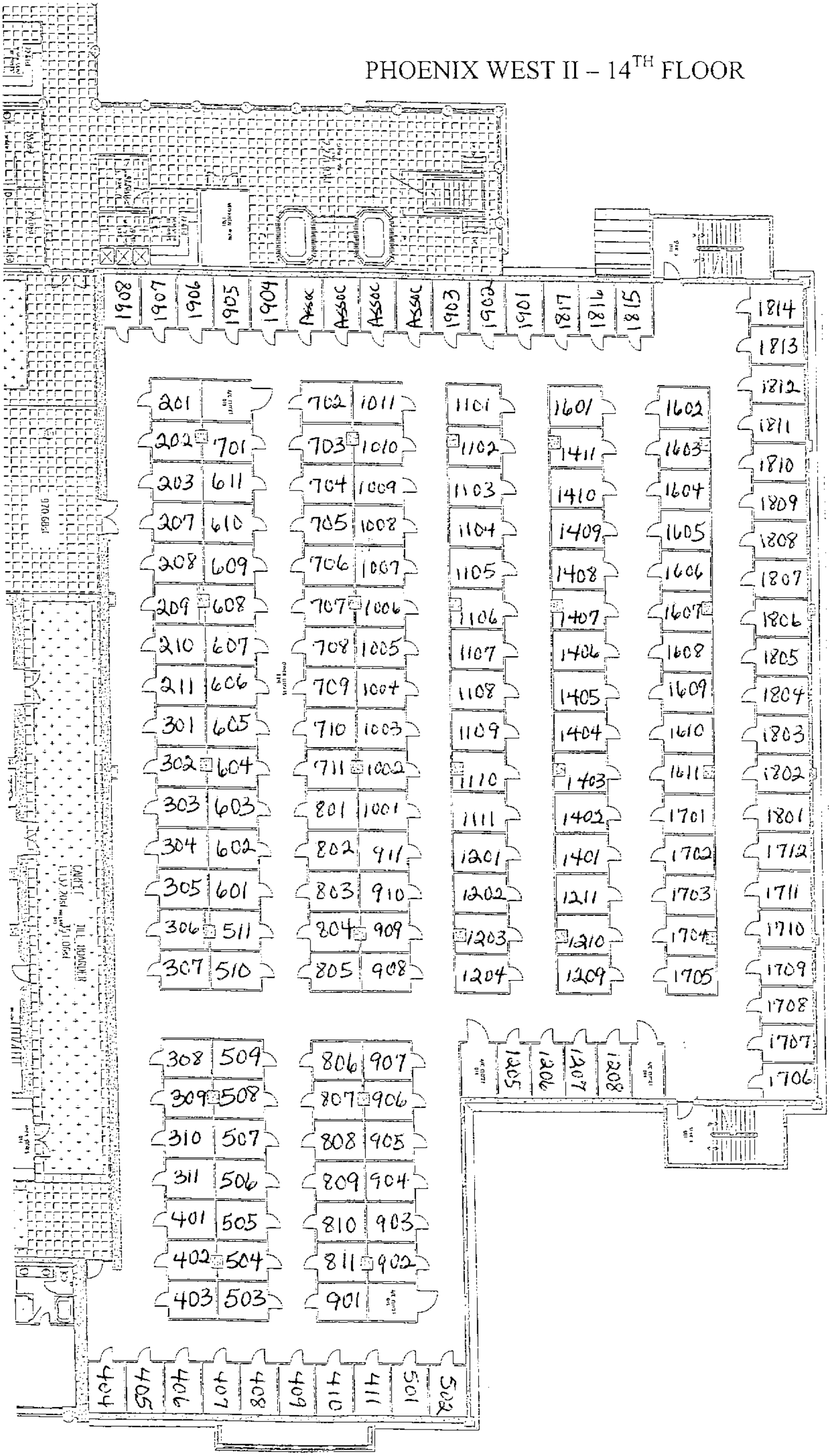
38. Rules of behavior regarding the swimming pool, and other recreational and storage areas shall be promulgated by the Board of Directors of the Association and all Unit Owners shall comply with such Rules.

I certify that the above set out Rules and Regulations were adopted by the Phoenix West II Owners Association, Inc., acting through its Board of Directors, at its regular meeting held on the 24th day of August, 2013.

Thomas E. Brett

Secretary

PHOENIX WEST II – 14TH FLOOR



EXHIBIT

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PHOENIX WEST II – 15TH FLOOR