

SUPPLEMENTAL
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
GLENLAKES, A PLANNED RESIDENTIAL DEVELOPMENT
THE GARDENS AT GLENLAKES

STATE OF ALABAMA :

COUNTY OF BALDWIN :

This DECLARATION ("DECLARATION") is made this 19th day of May, 2000, by GLENLAKES REALTY CO., an Alabama General Partnership ("DECLARANT").

RECITALS:

1. DECLARANT is the OWNER of the real property located in BALDWIN COUNTY, ALABAMA, described as follows, to-wit:

THE GARDENS AT GLENLAKES as per plat thereof recorded in the OFFICE OF THE JUDGE OF PROBATE OF BALDWIN COUNTY, ALABAMA in Slide 2007E and Slide 2007F.

THE GARDENS AT GLENLAKES is referred to in this DECLARATION as the "PROPERTY" and is more specifically described in Section 1.16 of this DECLARATION.

2. The PROPERTY and this DECLARATION are subject to the terms, conditions and provisions of the MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GLENLAKES, A PLANNED RESIDENTIAL DEVELOPMENT ("MASTER DECLARATION"). The MASTER DECLARATION imposes upon the PROPERTY certain covenants, restrictions, reservations, regulations, burdens and liens as more particularly provided for in the MASTER DECLARATION.

3. DECLARANT intends by this DECLARATION to impose upon the PROPERTY, in addition to the covenants, conditions and restrictions imposed by the MASTER DECLARATION, additional easements, restrictions, covenants and conditions under a general plan of improvement for the benefit of all OWNERS of the PROPERTY and to provide a method whereby ADDITIONAL PROPERTY (as defined in this DECLARATION) may become part of the PROPERTY subject to this DECLARATION and the MASTER DECLARATION by the recordation of a SUPPLEMENTAL DECLARATION (as defined in this DECLARATION).

4. DECLARANT has caused GLENLAKES MASTER ASSOCIATION, INC. ("MASTER ASSOCIATION") to be formed as a MASTER ASSOCIATION for the purpose of providing an Alabama Non-Profit Corporation to serve as representative of the DECLARANT and OWNERS of the PROPERTIES (as defined in the MASTER DECLARATION) which PROPERTIES include the PROPERTY.

5. DECLARANT has caused THE GARDENS AT GLENLAKES PROPERTY OWNER'S

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ASSOCIATION, INC. ("THE GARDENS ASSOCIATION") to be formed as an Association for the purpose of providing an Alabama Non-Profit Corporation to serve as representative of the DECLARANT and OWNERS of the PROPERTY.

6. THE GARDENS ASSOCIATION and the PROPERTY shall be subject to the terms and conditions of the MASTER DECLARATION and this DECLARATION.

NOW, THEREFORE, DECLARANT declares that the PROPERTY and any ADDITIONAL PROPERTY (as defined in this DECLARATION) as may by SUPPLEMENTAL DECLARATION (as defined in this DECLARATION) be added to and subjected to this DECLARATION and the PROPERTY shall be held, sold and conveyed or encumbered, rented, used, occupied, improved and subject to this DECLARATION and the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of and which shall run with the PROPERTY and shall be binding on all parties having any right, title or interest in the PROPERTY or any part of the PROPERTY, their heirs, successors, successors-in-title and assigns, and shall inure to the benefit of each OWNER of the PROPERTY.

ARTICLE I **DEFINITIONS**

The definitions contained in the **MASTER DECLARATION** are incorporated in this **DECLARATION** as if fully set out. The following additional words and terms in all capital letters, when used in this **DECLARATION** or any **SUPPLEMENTAL DECLARATION** (unless the context clearly shall indicate otherwise) shall have the following meanings:

Section 1.1 "ADDITIONAL PROPERTY" shall mean and refer to the **ADDITIONAL PROPERTY** which may be brought within the **PROPERTY** by amendment to this **DECLARATION** or by **SUPPLEMENTAL DECLARATION** (as defined in this **DECLARATION**) as described in this **DECLARATION**.

Section 1.2 "ARCHITECTURAL COMMITTEE" shall mean and refer to the **ARCHITECTURAL COMMITTEE** appointed by the **BOARD OF DIRECTORS** of the **MASTER ASSOCIATION** and as described in the **MASTER DECLARATION**.

Section 1.3 "DECLARANT" shall mean and refer to **GLENLAKES REALTY CO., an Alabama Limited Partnership**, or the successors, successors-in-title or assigns of **DECLARANT** who take title to any portion of the **PROPERTY** (as defined in this **DECLARATION**) for the purpose of development and sale and are designated at the **DECLARANT** in a recorded instrument executed by the immediately preceding **DECLARANT**.

Section 1.4 "THE GARDENS ARTICLES OF INCORPORATION" shall mean and refer to the **ARTICLES OF INCORPORATION OF THE GARDENS AT GLENLAKES PROPERTY OWNER'S ASSOCIATION, INC..**

Section 1.5 "THE GARDENS ASSESSMENT" shall mean and refer to **THE GARDENS BASE ASSESSMENT, THE GARDENS SPECIAL ASSESSMENT and THE GARDENS YARD ASSESSMENT** or any other **ASSESSMENT** levied against the **LOTS** in the **PROPERTY** to fund **THE GARDENS COMMON EXPENSES**, as provided for and described in this **DECLARATION**.

Section 1.6 "THE GARDENS ASSOCIATION" shall mean and refer to **THE GARDENS AT GLENLAKES PROPERTY OWNER'S ASSOCIATION, INC., an Alabama Non-Profit Corporation,** or the successors and assigns of **THE GARDENS ASSOCIATION.** "THE GARDENS BOARD OF DIRECTORS" shall mean and refer to the **BOARD OF DIRECTORS** of **THE GARDENS ASSOCIATION.**

Section 1.7 "THE GARDENS BASE ASSESSMENTS" shall mean and refer to **THE GARDENS BASE ASSESSMENTS** levied against the **LOTS** in the **PROPERTY** by **THE GARDENS ASSOCIATION** to fund **THE GARDENS COMMON EXPENSES**, as provided for and described in this **DECLARATION.**

Section 1.8 "THE GARDENS BY-LAWS" shall mean and refer to the **BY-LAWS** of **THE GARDENS ASSOCIATION.**

Section 1.9 "THE GARDENS COMMON AREA" or "THE GARDENS COMMON PROPERTY" shall mean and refer to any property, buildings, fixtures, facilities or other personal property now owned or otherwise acquired by **THE GARDENS ASSOCIATION** by purchase, gift, easement, lease or otherwise to be devoted to the common use and enjoyment of the **OWNERS** of the **PROPERTY.**

Section 1.10 "THE GARDENS COMMON EXPENSES" shall mean and include the actual and estimated expenses incurred by **THE GARDENS ASSOCIATION** for the general benefit of all **LOT OWNERS** in the **PROPERTY**, including any reasonable reserve, all as may be found to be necessary and appropriate by **THE GARDENS BOARD OF DIRECTORS** pursuant to this **DECLARATION, THE GARDENS ARTICLES OF INCORPORATION** and **THE GARDENS BY-LAWS.**

Section 1.11 "THE GARDENS MEMBER" shall mean and refer to a **PERSON** (as defined in this **DECLARATION**) or entity who holds membership in **THE GARDENS ASSOCIATION** as provided in this **DECLARATION.**

Section 1.12 "THE GARDENS SPECIAL ASSESSMENT" shall mean and refer to **THE GARDENS SPECIAL ASSESSMENT** levied against the **LOTS** in the **PROPERTY** by **THE GARDENS ASSOCIATION** to fund **THE GARDENS COMMON EXPENSES**, as provided for and described in this **DECLARATION.**

Section 1.13 "THE GARDENS YARD ASSESSMENT" shall mean and refer to **THE GARDENS YARD ASSESSMENT** levied against the **LOTS** in the **PROPERTY** by **THE GARDENS ASSOCIATION** to fund **THE GARDENS COMMON EXPENSES**, as provided for and described in this **DECLARATION.**

Section 1.14 "MASTER ASSOCIATION" shall mean and refer to **GLENLAKES MASTER ASSOCIATION, INC., an Alabama Non-Profit Corporation,** or the successors or assigns of said **MASTER ASSOCIATION.**

Section 1.15 "MASTER DECLARATION" shall mean and refer to the **MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GLENLAKES, A PLANNED RESIDENTIAL DEVELOPMENT.**

Section 1.16 "PROPERTY" shall mean and refer to that certain real property described in **Paragraph 1.** under **RECITALS** on **Page 1** of this **DECLARATION** and where the context requires such additions to the **PROPERTY** as may be brought within the jurisdiction of **THE GARDENS ASSOCIATION**.

Section 1.17 "RULES AND REGULATIONS" shall mean and refer to the **RULES AND REGULATIONS** adopted by the **DECLARANT**, the **MASTER ASSOCIATION** or the **ARCHITECTURAL COMMITTEE** as provided for in the **MASTER DECLARATION** or the **RULES AND REGULATIONS** adopted by **THE GARDENS ASSOCIATION**, as the context indicates.

Section 1.18 "SUPPLEMENTAL DECLARATION" shall mean and refer to an amendment or supplement to this **DECLARATION** which subjects **ADDITIONAL PROPERTY** to this **DECLARATION** or imposes, expressly or by reference, additional restrictions and obligations on the land described in said amendment or supplement, or both.

ARTICLE II

MUTUALITY OF BENEFIT AND OBLIGATION

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

ARTICLE III

ZONING AND SPECIFIC RESTRICTIONS

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

ARTICLE IV

PROPERTY RIGHTS AND EASEMENTS

Section 4.1 MASTER DECLARATION. The provisions of **Section 4.1** of the **MASTER DECLARATION** are incorporated in this **DECLARATION** as though **Section 4.1** of the **MASTER DECLARATION** was set out in full in this **DECLARATION**. The provisions of **Section 4.1** of the **MASTER DECLARATION** apply to the **PROPERTY** and to **THE GARDENS COMMON PROPERTY**.

Except as provided in the **MASTER DECLARATION** or in this **DECLARATION**, every **OWNER** of a **LOT** in the **PROPERTY** shall have a right and non-exclusive easement of enjoyment in and to **THE GARDENS COMMON AREA**, if any. Any **OWNER** of a **LOT** in the **PROPERTY** may delegate the right of enjoyment of said **OWNER** to the members of the family and tenants of **THE GARDENS MEMBER** and social invitees, as applicable, subject to reasonable regulation by **THE GARDENS BOARD OF DIRECTORS** and in accordance with procedures **THE GARDENS BOARD OF DIRECTORS** may adopt. An **OWNER** of a **LOT** in the **PROPERTY** who

leases said LOT shall be deemed to have delegated all such rights to the lessee of said LOT.

The right and non-exclusive easement of enjoyment given to every OWNER of a LOT in THE PROPERTY in and to THE GARDENS COMMON AREA as described in this DECLARATION is subject to the following:

A. Terms, conditions and provisions of the MASTER DECLARATION, ARTICLES OF INCORPORATION OF GLENLAKES MASTER ASSOCIATION, INC. and BY-LAWS OF GLENLAKES MASTER ASSOCIATION, INC..

B. The rights reserved to DECLARANT provided for in the MASTER DECLARATION and in this DECLARATION.

C. Restrictions and limitations contained in any DEED conveying THE GARDENS COMMON AREA to THE GARDENS ASSOCIATION.

D. The right of THE GARDENS ASSOCIATION to charge reasonable admission and other fees for the use and maintenance of THE GARDENS COMMON AREA and to impose reasonable limits on the number of guests who may use THE GARDENS COMMON AREA.

E. The right of THE GARDENS ASSOCIATION, in addition to the other rights set forth in this DECLARATION, to suspend the voting rights of an OWNER of a LOT in the PROPERTY and the right to use any of THE GARDENS COMMON AREA for any period during which THE GARDENS ASSESSMENT against that OWNER'S LOT remains unpaid, and for any infraction by an OWNER of a LOT in the PROPERTY of the published RULES AND REGULATIONS of THE GARDENS ASSOCIATION after hearing by THE GARDENS BOARD OF DIRECTORS for the duration of the infraction and for an additional period not to exceed thirty (30) days.

F. The right of DECLARANT, with regard to the PROPERTY which may be owned for the purpose of development, to grant easements in and to THE GARDENS COMMON AREA to any public agency, authority or utility for such purposes as DECLARANT deems appropriate.

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

H. The right of **THE GARDENS ASSOCIATION** or **DECLARANT** to dedicate or transfer all or any part of **THE GARDENS COMMON AREA** to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by **THE GARDENS MEMBERS**. Except as provided in **THE GARDENS DECLARATION**, no such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by at least **two-thirds (2/3)** of the total votes of **THE GARDENS MEMBERS** of **THE GARDENS ASSOCIATION** present at a meeting duly called for such purpose shall approve. **PROVIDED, HOWEVER**, so long as **DECLARANT** owns any **LOT** in the **PROPERTY**, or any property in the **PROPERTY**, or any property described on the **CONCEPTUAL MASTER PLAN** no dedication or transfer need be approved by **two-thirds (2/3)** of the total votes entitled to be cast by **THE GARDENS MEMBERS** of **THE GARDENS ASSOCIATION**.

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

J. The right of the **DECLARANT** and the right of **THE GARDENS ASSOCIATION** to adopt and promulgate reasonable **RULES AND REGULATIONS** pertaining to the use of the **PROPERTY**, which, in the discretion of **THE GARDENS ASSOCIATION**, shall serve to promote the best interests of the **OWNERS** and residents in the **PROPERTY**.

K. The right of **DECLARANT** to add **ADDITIONAL PROPERTY** to the **PROPERTY** as provided for in **THE GARDENS DECLARATION**.

L. The right of **DECLARANT** to amend **THE GARDENS DECLARATION** unilaterally at any time so long as **DECLARANT** owns any **LOTS** in the **PROPERTY**, or owns any property in the **PROPERTY**, or owns any property described on the **CONCEPTUAL MASTER PLAN**, without prior notice and without the consent of any **PERSON**.

Section 4.2 The provisions of **Section 4.2** of the **MASTER DECLARATION** are incorporated in this **DECLARATION** as though **Section 4.2** of the **MASTER DECLARATION** was set out in full in this **DECLARATION**. The rights granted to or reserved to the **DECLARANT** in **Section 4.2** of the **MASTER DECLARATION** apply to the **PROPERTY** and **THE GARDENS COMMON PROPERTY**.

ARTICLE V

THE GARDENS ASSOCIATION AND MASTER ASSOCIATION

Section 5.1 THE GARDENS ASSOCIATION. Subject to the rights granted or reserved to **DECLARANT** and to the **MASTER ASSOCIATION** in the **MASTER DECLARATION** or this **DECLARATION**, the operation and administration of the **PROPERTY** shall be by **THE GARDENS ASSOCIATION**. **THE GARDENS ASSOCIATION** shall be an **Alabama Non-Profit Corporation** incorporated by **THE GARDENS ARTICLES OF INCORPORATION** recorded in the **OFFICE OF THE JUDGE OF PROBATE OF BALDWIN COUNTY, ALABAMA**. **THE GARDENS 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 the powers of **THE GARDENS ASSOCIATION**. **THE GARDENS ASSOCIATION** shall have authority and power to maintain a class action and to settle a cause of

action on behalf of **LOT OWNERS** of the **PROPERTY** with reference to **THE GARDENS COMMON AREA** and **THE GARDENS COMMON PROPERTY** and with reference to any and all other matters in which of the **OWNERS** of **LOTS** in the **PROPERTY** have a common interest. **THE GARDENS ASSOCIATION** shall have all the powers and duties granted to or imposed on **THE GARDENS ASSOCIATION** under **THE GARDENS ARTICLES OF INCORPORATION** and **THE GARDENS BY-LAWS** and under this **DECLARATION** as they may be amended from time to time. **THE GARDENS ASSOCIATION** is specifically authorized to enter into agreements by which the powers and duties of **THE GARDENS ASSOCIATION**, or some of them, may be exercised or performed by some other **PERSON** or **PERSONS**. **THE GARDENS ASSOCIATION** shall have the right to grant permits, licenses and easements over **THE GARDENS COMMON AREAS** for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the **PROPERTY**. **THE GARDENS BOARD OF DIRECTORS** shall have the authority and duty to levy and enforce the collection of **THE GARDENS ASSESSMENT** for **THE GARDENS COMMON EXPENSES** and is further authorized to provide adequate remedies for failure to pay **THE GARDENS ASSESSMENTS**.

Section 5.2 MEMBERSHIP. **THE GARDENS MEMBER** shall be a member of **THE GARDENS ASSOCIATION** so long as **THE GARDENS MEMBER** is a **LOT OWNER** in the **PROPERTY**. The membership of a **LOT OWNER** in the **PROPERTY** shall immediately terminate when the **LOT OWNER** ceases to be a **LOT OWNER** in the **PROPERTY**. The membership of a **LOT OWNER** in the **PROPERTY** cannot be assigned or transferred in any manner except as an appurtenance to said **LOT**.

No **OWNER** of a **LOT** in the **PROPERTY**, whether **one (1)** or more **PERSONS**, shall have more than **one (1)** membership per **LOT** owned in the **PROPERTY**. In the event the **OWNER** of a **LOT** in the **PROPERTY** is more than **one (1) PERSON**, votes and rights of use and enjoyment shall be as provided in **THE GARDENS DECLARATION** and in the **MASTER DECLARATION**. The rights and privileges of membership in **THE GARDENS ASSOCIATION** may be exercised by **THE GARDENS MEMBER**, subject to the provisions of **THE GARDENS DECLARATION**, **THE GARDENS BY-LAWS** and the **MASTER DECLARATION**. The membership rights of a **LOT** in the **PROPERTY** owned by a corporation, partnership, limited liability company or other entity shall be exercised by the individual designated from time to time by the **OWNER** of said **LOT** in a written instrument provided to **THE GARDENS BOARD OF DIRECTORS**, subject to the provisions of **THE GARDENS DECLARATION** and **THE GARDENS BY-LAWS**.

Section 5.3 VOTING IN THE GARDENS ASSOCIATION. Except as provided in **THE GARDENS DECLARATION** or any amendment to **THE GARDENS DECLARATION** or in any **SUPPLEMENTAL DECLARATION**, each **LOT** in the **PROPERTY** shall be entitled to **one (1)** vote in **THE GARDENS ASSOCIATION**, which vote is not divisible. There shall be only **one (1)** vote per **LOT** in the **PROPERTY** in **THE GARDENS ASSOCIATION** unless otherwise specified in this **DECLARATION** or any amendment to this **DECLARATION** or in any **SUPPLEMENTAL DECLARATION** or **THE GARDENS BY-LAWS**. The vote in **THE GARDENS ASSOCIATION** for each **LOT** in the **PROPERTY** shall be exercised by **THE GARDENS MEMBER**. The vote shall be cast by the **LOT OWNER** in the manner provided for in this **DECLARATION** and in **THE GARDENS BY-LAWS**. **PROVIDED, HOWEVER**, until **DECLARANT** has sold all of the **LOTS** in the **PROPERTIES**, and has sold all of the property in the **PROPERTIES**, and has sold all of the property described on the **CONCEPTUAL MASTER PLAN**, or until **DECLARANT** elects to terminate the control of **THE GARDENS ASSOCIATION**, whichever shall first occur, the **LOT OWNER** shall not

be entitled to vote and **THE GARDENS BY-LAWS** and **RULES AND REGULATIONS** adopted by **DECLARANT** shall govern and there shall be no meeting of **THE GARDENS MEMBERS**, unless a meeting is called by **THE GARDENS BOARD OF DIRECTORS**, and neither the **LOT OWNERS** nor **THE GARDENS ASSOCIATION**, nor the use of the **PROPERTIES** by **LOT** occupants shall interfere with the completion of the contemplated improvements and the sale of the **LOTS**, and the control of the **ARCHITECTURAL COMMITTEE** shall remain with **DECLARANT**. **DECLARANT** may make such use of the unsold **LOTS** and of **THE GARDENS COMMON AREAS** and facilities as may facilitate such completion and sale, including, but not limited to, showing of the **PROPERTY** and the display of signs.

Section 5.4 ASSIGNMENT. The share of **THE GARDENS MEMBER** in the funds and assets of **THE GARDENS ASSOCIATION** cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to said **LOT**.

Section 5.5 THE GARDENS BOARD OF DIRECTORS. The affairs of **THE GARDENS ASSOCIATION** shall be conducted by a **THE GARDENS BOARD OF DIRECTORS** which shall consist of such number as shall, from time to time, be determined and fixed by a **MAJORITY** of the voting rights present at any annual or special meeting of **THE GARDENS MEMBERS**. **THE GARDENS ASSOCIATION** shall have the right to amend **THE GARDENS BY-LAWS** for the purposes of changing the number of members on **THE GARDENS BOARD OF DIRECTORS**.

Section 5.6 THE GARDENS BY-LAWS. **THE GARDENS ASSOCIATION** and **THE GARDENS MEMBERS** shall be governed by **THE GARDENS BY-LAWS** which shall be adopted by **THE GARDENS MEMBERS**.

Section 5.7 AVAILABILITY OF RECORDS. **THE GARDENS ASSOCIATION** shall make available to **LOT OWNERS** in the **PROPERTY**, prospective purchasers, **ELIGIBLE MORTGAGE HOLDERS** of **MORTGAGES** on any **LOT** in the **PROPERTY**, current copies of this **DECLARATION**, **THE GARDENS BY-LAWS**, **RULES AND REGULATIONS** and other books, records, financial statements and the most recent annual audited or unaudited financial statement of **THE GARDENS ASSOCIATION**, if such audited or unaudited financial statement is prepared. "**AVAILABLE**" shall mean available for inspection upon request, during normal business hours or under reasonable circumstances.

Section 5.8 INDEMNIFICATION. **THE GARDENS ASSOCIATION** shall indemnify every officer and member of **THE GARDENS BOARD OF DIRECTORS** against any and all expenses, including attorney's fees, imposed upon or reasonably incurred by any officer or member of **THE GARDENS BOARD OF DIRECTORS** in connection with any action, suit or other proceeding (including settlement of any suit or proceedings, if approved by **THE GARDENS BOARD OF DIRECTORS**) to which said member of **THE GARDENS BOARD OF DIRECTORS** may be a party by reason of being or having been an officer or member of **THE GARDENS BOARD OF DIRECTORS**. The officers and members of **THE GARDENS BOARD OF DIRECTORS** shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and members of **THE GARDENS BOARD OF DIRECTORS** shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of **THE GARDENS ASSOCIATION** (except to the extent that such officers or members of **THE GARDENS BOARD OF DIRECTORS** may also be **THE GARDENS MEMBERS**), and **THE GARDENS ASSOCIATION** shall indemnify and forever hold

each such officer and member of **THE GARDENS BOARD OF DIRECTORS** free and harmless against any and all liability to others on account of any such contract or commitment, and any right to indemnification provided for in this **DECLARATION** shall not be exclusive of any other rights to which any officer or member of **THE GARDENS BOARD OF DIRECTORS** or former officer or member of **THE GARDENS BOARD OF DIRECTORS** may be entitled. **THE GARDENS ASSOCIATION** shall maintain adequate general liability and officers and directors liability insurance to fund this obligation, if such coverage is reasonably obtainable.

Section 5.9 RESERVE FUND. **THE GARDENS ASSOCIATION** shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to **THE GARDENS COMMON AREAS**. The fund shall be maintained out of **THE GARDENS ASSESSMENTS** for **THE GARDENS COMMON EXPENSES**.

Section 5.10 MASTER ASSOCIATION.

A. The **MASTER DECLARATION** imposes upon the **PROPERTY** and other property as described in the **MASTER DECLARATION** certain covenants, restrictions, reservations, regulations, burdens and liens, as more particularly provided for in the **MASTER DECLARATION**.

B. The **MASTER ASSOCIATION** has been created for the purpose of maintaining, repairing, renovating, replacing, operating, managing and administering aspects of the **COMMON AREA** as is defined in the **MASTER DECLARATION**. Every **OWNER** of a **LOT** in the **PROPERTIES** including the **OWNERS** of **LOTS** in the **PROPERTY** shall be a **MEMBER** of the **MASTER ASSOCIATION**, all as more particularly provided in the **MASTER DECLARATION**. The **MASTER ASSOCIATION** shall act as a umbrella association. Some or all other associations or similar entities established pursuant to the various other developments annexed into the **PROPERTIES** shall be **MEMBERS** of the **MASTER ASSOCIATION** and shall represent each **LOT OWNER**, Tenant or other **PERSON** within each **NEIGHBORHOOD**. It is further contemplated that each such association and similar entity will appoint **one (1)** or more persons who will represent that association or similar entity before the **MASTER ASSOCIATION**; however, due to the nature of the different types of developments, each said association and similar entity may share in various degrees in the use and enjoyment of the **COMMON AREA** and of the **MASTER ASSOCIATION**, may bear different amounts of the expense of the maintenance, repair, replacement and operation of said **COMMON AREA** and may be entitled to more than **one (1)** vote in the affairs of the **MASTER ASSOCIATION**.

C. **THE GARDENS ASSOCIATION** shall be a member of the **MASTER ASSOCIATION**. **THE GARDENS MEMBERS** shall elect a senior elected officer who shall serve as the **VOTING MEMBER** of **THE GARDENS ASSOCIATION**, as provided for in the **MASTER DECLARATION**, and shall cast all votes attributable to **LOTS** in the **PROPERTY** on all **MASTER ASSOCIATION** matters requiring a membership vote. **THE GARDENS BY-LAWS** shall set out the procedure for the election of a **VOTING MEMBER**.

D. **THE GARDENS ASSOCIATION** (and, in turn, **THE GARDENS MEMBERS**) shall be assessed as a **COMMON EXPENSE** a share of the cost and expense of maintaining, repairing, renovating, replacing, operating, managing and administering, the **COMMON AREA** owned by the **MASTER ASSOCIATION** which **ASSESSMENT** shall be enforceable by the **MASTER ASSOCIATION** against each **LOT OWNER** the same as, in the same manner and with the same

penalties for delinquent or nonpayment, or **ASSESSMENT** for **COMMON EXPENSES** as is set out in the **MASTER DECLARATION**.

E. The **MASTER ASSOCIATION** shall determine the budget required for the **MASTER ASSOCIATION** to carry out and perform the obligations of the **MASTER ASSOCIATION** and each **LOT** in the **PROPERTIES** (including the **PROPERTY**) shall be responsible for the share of said **LOT** of the **ASSESSMENTS** of the **MASTER ASSOCIATION** as more particularly provided in the **MASTER DECLARATION**. The applicable share of such **ASSESSMENTS** due from a **LOT** shall constitute a lien upon such **LOT** all as more particularly provided in the **MASTER DECLARATION**.

F. The **MASTER ASSOCIATION** may promulgate reasonable **RULES AND REGULATIONS** concerning the use and enjoyment of the **COMMON AREA** (including **THE GARDENS COMMON AREA**) which may be amended from time to time, including the right to enforce said **RULES AND REGULATIONS** by assessing fines and monetary penalties against those responsible for violations thereof which said fines and monetary penalties may be collected and enforced in the same manner as **ASSESSMENTS** for **COMMON EXPENSES**, all as provided in the **MASTER DECLARATION**.

G. Any party who accepts or acquires any interest of any kind or nature in the **PROPERTY**, whether by deed, mortgage, judgment lien, or otherwise, shall have appointed and is deemed to have appointed **DECLARANT** as that party's irrevocable true and lawful attorney-in-fact, coupled with an interest, for that party and in that party's name, place and stead to sign, seal, execute and deliver any and all documents and instruments in order to effectuate membership in the **MASTER ASSOCIATION**, and to be bound and liable for the share of **COMMON EXPENSE**. The power of attorney shall be a durable power of attorney and shall not be affected by the disability, incompetency, or incapacity of the principal.

H. It is further contemplated that various of the associations and other similar entities may merge together or consolidate with each other, or with the **MASTER ASSOCIATION**, in which case, upon merger, combination or consolidation, the property rights and obligations may, by operational law, be transferred to another surviving or consolidated association, or, in the alternative, the **PROPERTIES** (including the **PROPERTY**) shall and obligations of another association may, by operation of law, be added to the properties of the surviving association as a surviving association pursuant to a merger, combination or consolidation. The surviving or consolidated association may administer the provisions of this **DECLARATION** within the **PROPERTY** together with the Covenants and Restrictions established upon any other properties as one scheme. No such merger, combination or consolidation, however, shall effect any revocation or change of, or addition to the Covenants and Restrictions established by this **DECLARATION** within the **PROPERTY**, except as provided in this **DECLARATION**.

I. The terms and provisions of the **MASTER DECLARATION**, and **BY-LAWS** of the **MASTER ASSOCIATION**, and any amendments to the aforesaid documents, shall be deemed repeated and re-alleged in this **DECLARATION** just as though they were attached as exhibits to this **DECLARATION**.

ARTICLE VI
RIGHTS AND OBLIGATIONS OF THE GARDENS ASSOCIATION
AND MASTER ASSOCIATION

Section 6.1 MASTER DECLARATION. The provisions of **ARTICLE VI** of the **MASTER DECLARATION** are incorporated in this **DECLARATION** as though **ARTICLE VI** of the **MASTER DECLARATION** was set out in full in this **DECLARATION**. The provisions of **ARTICLE VI** of the **MASTER DECLARATION** apply to the **PROPERTY** and to **THE GARDENS COMMON PROPERTY**.

Section 6.2 THE GARDENS COMMON AREA. **THE GARDENS COMMON AREA** is a **EXCLUSIVE COMMON AREA** for the exclusive use and benefit of the **OWNERS** of the **LOTS** in the **PROPERTY**. **DECLARANT**, or the **MASTER ASSOCIATION** and **THE GARDENS ASSOCIATION**, shall have the right to provide in any instrument of conveyance or agreement that **THE GARDENS COMMON AREA** is an **EXCLUSIVE COMMON AREA** for the exclusive use and benefit of the **OWNERS** of the **LOTS** in the **PROPERTY**. Said instrument of conveyance or agreement may provide for the allocation of the costs associated with maintenance, repair, replacement and insurance of said **EXCLUSIVE COMMON AREA** and the **ASSESSMENT** against some but not all of the **OWNERS** of **LOTS**. The terms and conditions of **Section 1.13** of the **MASTER DECLARATION** are specifically incorporated in this **Section 6.2** as if fully set out.

Section 6.3 PERSONAL PROPERTY AND REAL PROPERTY FOR COMMON USE. **THE GARDENS ASSOCIATION**, through action of the members of **THE GARDENS BOARD OF DIRECTORS**, may acquire, hold and dispose of tangible and intangible personal property and real property. The members of **THE GARDENS BOARD OF DIRECTORS**, acting on behalf of **THE GARDENS ASSOCIATION**, shall accept any real or personal property, leasehold or other property interests within the **PROPERTY** conveyed to **THE GARDENS ASSOCIATION** by **DECLARANT**.

Section 6.4 RULES AND REGULATIONS. The **DECLARANT**, the **MASTER ASSOCIATION** and **THE GARDENS ASSOCIATION** each may make and enforce reasonable **RULES AND REGULATIONS** governing the use of the **PROPERTY**, which **RULES AND REGULATIONS** shall be consistent with the rights and duties established by the **MASTER DECLARATION** or this **DECLARATION**. Sanctions may include reasonable monetary fines and suspension of the right to vote and the right to use any recreational facilities on **THE GARDENS COMMON AREA**. The members of **THE GARDENS BOARD OF DIRECTORS** shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided in **THE GARDENS BY-LAWS**.

THE GARDENS ASSOCIATION, through the members of **THE GARDENS BOARD OF DIRECTORS**, by contract or other agreement, shall have the right to enforce city or county ordinances or permit said City or County to enforce ordinances on the **PROPERTY** for the benefit of **THE GARDENS ASSOCIATION** and **THE GARDENS MEMBERS**.

Section 6.5 IMPLIED RIGHTS. **THE GARDENS ASSOCIATION** may exercise any other right or privilege given to **THE GARDENS ASSOCIATION** expressly by this **DECLARATION** or **THE GARDENS BY-LAWS** and every other right or privilege reasonably to be implied from the existence of any right or privilege given to **THE GARDENS ASSOCIATION** as provided in this **DECLARATION** or reasonably necessary to effectuate any such right or privilege.

Section 6.6 SELF-HELP. In addition to any other remedies provided for in this **DECLARATION, THE GARDENS ASSOCIATION**, or the duly authorized agent of **THE GARDENS ASSOCIATION**, shall have power to enter upon a **LOT** in the **PROPERTY** or any portion of **THE GARDENS COMMON PROPERTY** to abate or remove, using such force as may be reasonably necessary, any erection, thing or condition which violates this **DECLARATION, THE GARDENS BY-LAWS**, the **RULES AND REGULATIONS** or the use restrictions. Unless an emergency situation exists, **THE GARDENS BOARD OF DIRECTORS** shall give the violating **LOT OWNER** **ten (10) days'** written notice of the intent of **THE GARDENS BOARD OF DIRECTORS** to exercise self-help. All costs of self-help including reasonable attorney's fees actually incurred shall be assessed by **THE GARDENS ASSOCIATION** against the violating **LOT OWNER** and shall be collected as provided in this **DECLARATION** for the collection of **THE GARDENS ASSESSMENTS**.

Section 6.7 RIGHT OF ENTRY. **THE GARDENS ASSOCIATION** shall have the right, in addition to and not in limitation of the rights **THE GARDENS ASSOCIATION** may have, to enter into **LOTS** in the **PROPERTY** for emergency, security or safety purposes, which right may be exercised by **THE GARDENS BOARD OF DIRECTORS**, or the officers, agents, employees, managers of **THE GARDENS BOARD OF DIRECTORS** and all police officers, fire fighters, ambulance personnel and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be during reasonable hours and after reasonable notice to the **OWNER** or occupant of the **LOT**.

Section 6.8 GOVERNMENTAL INTERESTS. **THE GARDENS ASSOCIATION** shall permit **DECLARANT** reasonable authority to designate sites within the **PROPERTY** for fire, police, water and sewer facilities.

ARTICLE VII **COVENANTS FOR MAINTENANCE**

Section 7.1 MASTER DECLARATION. The provisions of **ARTICLE VII** of the **MASTER DECLARATION** are incorporated in this **DECLARATION** as though **ARTICLE VII** of the **MASTER DECLARATION** was set out in full in this **DECLARATION**. The provisions of **ARTICLE VII** of the **MASTER DECLARATION** apply to the **PROPERTY** and to **THE GARDENS COMMON PROPERTY**.

Section 7.2 RESPONSIBILITY OF THE GARDENS ASSOCIATION.

A. THE GARDENS ASSOCIATION shall maintain and keep in good repair **THE GARDENS COMMON PROPERTY**, such maintenance to be funded as provided in this **DECLARATION**. This maintenance shall include, but need not be limited to, maintenance, repair and replacement of all landscaping and other flora, structures, and improvements situated upon **THE GARDENS COMMON AREAS**, including, but not limited to, drainage systems, recreation and open space, lighting systems, estuarine systems, utilities, traffic control devices, the mosquito control program, the pedestrian system and such portions of any such property included within **THE GARDENS COMMON AREAS** as may be dictated by this **DECLARATION**, or by a contract or agreement for maintenance thereof by **THE GARDENS ASSOCIATION**.

Except as otherwise specifically provided in the **MASTER DECLARATION** or in this **DECLARATION**, all costs associated with maintenance, repair and replacement of **THE GARDENS COMMON AREAS** shall be **THE GARDENS COMMON EXPENSE** to be allocated among

all **LOTS** in the **PROPERTY** as part of **THE GARDENS BASE ASSESSMENT**.

THE GARDENS ASSOCIATION may maintain property which **THE GARDENS ASSOCIATION** does not own, including, without limitation, property dedicated to the public, if **THE GARDENS BOARD OF DIRECTORS** determines that such maintenance is necessary or desirable to maintain the **COMMUNITY-WIDE STANDARD**.

B. Except as provided in this **DECLARATION**, **THE GARDENS ASSOCIATION** shall maintain the "**yard**" of each **LOT** in the **PROPERTY** including, but not limited to, cutting and edging grass, weeding flower beds, fertilizing grass and plants as needed, replacing grass and plants as needed and maintaining the lawn sprinkler system, if any. Need shall be determined by **THE GARDENS BOARD OF DIRECTORS**. The "**yard**" is defined as all portions of a **LOT** in the **PROPERTY** lying outside the exterior walls of any structure constructed on the **LOT** and shall include all landscaping, improvements and decorative and functional appurtenances to said structure (not including structures or fences). **PROVIDED, HOWEVER**, the **ARCHITECTURAL COMMITTEE** may permit each **LOT OWNER** to install and maintain **one (1)** private garden which private garden must be bordered by materials designed for such use and approved by the **ARCHITECTURAL COMMITTEE**. The private garden must be approved by the **ARCHITECTURAL COMMITTEE** prior to installation. Each **LOT OWNER** shall be responsible for the installation and maintenance of said private garden.

In addition to **THE GARDENS ASSESSMENTS** for **THE GARDENS COMMON AREA** as provided for in this **DECLARATION**, each **LOT** in the **PROPERTY** shall be assessed an equal portion of the budgeted cost and/or actual expenses in excess of the budgeted cost for the maintenance of the **yard** provided for in this **Section 7.2 B.** ("**THE GARDENS YARD ASSESSMENTS**"). **THE GARDENS BOARD OF DIRECTORS** shall fix **THE GARDENS YARD ASSESSMENT** as an annual or monthly **ASSESSMENT** in accordance with the provisions of this **DECLARATION**. Except by amendments as provided in this **DECLARATION**, **THE GARDENS YARD ASSESSMENTS** provided for in this **Section 7.2 B.** shall not be assessed against the **DECLARANT**.

In the event that the need for maintenance of a **LOT** or private garden in the **PROPERTY** is caused through the willful or negligent acts of the **OWNER** of the **LOT** or through the willful and negligent acts of the family, guest or invitees of the **OWNER** of the **LOT** including, but not limited to, the failure to properly install and maintain the private garden needing such maintenance or repair, the actual cost of such maintenance shall be added to and become part of **THE GARDENS ASSESSMENT** to which such **LOT** is subject.

C. The terms and conditions of **ARTICLE VIII** of this **DECLARATION** shall generally apply to **THE GARDENS ASSESSMENTS** provided for in this **Section 7.2**.

Section 7.3 RESPONSIBILITY OF OWNER. Except as provided in **Section 7.2** of this **DECLARATION**, each **OWNER** of a **LOT** in the **PROPERTY** shall keep all **LOTS** owned by said **OWNER**, and all improvements, in a safe, clean and attractive condition and in good order and repair. Such maintenance obligation shall include, without limitation, the following: prompt removal of all litter, trash, refuse and waste; lawn mowing on a regular basis; tree and shrub pruning; watering landscaped areas; keeping improvements, exterior lighting and maintenance facilities in good repair and working order; keeping lawn and garden areas alive, free of weeds and attractive, keeping

driveways in good repair; complying with all governmental health and police requirements; and repair of exterior damage to improvements, all in a manner and with such frequency as is consistent with good property management. If, in the opinion of **THE GARDENS ASSOCIATION**, any **OWNER** of a **LOT** in the **PROPERTY** fails to perform the duties imposed by this Section 7.3 after **fifteen (15) days'** written notice from **THE GARDENS ASSOCIATION** to said **OWNER** to remedy the condition in question, **THE GARDENS ASSOCIATION** shall have the right, through the agents and employees of **THE GARDENS ASSOCIATION**, to enter upon said **LOT** in question and to repair, maintain, repaint and restore the **LOT** or such improvements and the cost thereof shall be a binding, personal obligation of such **OWNER** when billed by **THE GARDENS ASSOCIATION** as well as a lien upon the **LOT** in question. The lien provided in this Section 7.3 shall have the same enforceability and priority as the lien provided for in ARTICLE VIII of this **DECLARATION**.

ARTICLE VIII

COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 8.1 MASTER DECLARATION. The provisions of ARTICLE VIII of the **MASTER DECLARATION** are incorporated in this **DECLARATION** as though ARTICLE VIII of the **MASTER DECLARATION** was set out in full in this **DECLARATION**. The provisions of ARTICLE VIII of the **MASTER DECLARATION** apply to the **PROPERTY** and to **THE GARDENS COMMON PROPERTY**.

Section 8.2 CREATION OF THE GARDENS ASSESSMENTS. Subject to the terms and conditions of this **DECLARATION**, there are created **THE GARDENS ASSESSMENTS** on the **PROPERTY** by this **DECLARATION** for **THE GARDENS ASSOCIATION** expenses as may from time to time specifically be authorized by **THE GARDENS BOARD OF DIRECTORS** to be commenced at the time and in the manner set forth in this **DECLARATION**. **THE GARDENS ASSESSMENTS** do not apply to the property described on the **CONCEPTUAL MASTER PLAN** except the **PROPERTY**. **DECLARANT** shall not be obligated to pay **THE GARDENS ASSESSMENT** on **LOTS** or property owned by **DECLARANT** unless **DECLARANT** voluntarily elects to pay **THE GARDENS ASSESSMENT**. There shall be **three (3)** types of **THE GARDENS ASSESSMENTS**: (a) **THE GARDENS BASE ASSESSMENTS** to fund **THE GARDENS COMMON EXPENSES** for the benefit of **THE GARDENS MEMBERS**; (b) **THE GARDENS YARD ASSESSMENTS** as provided for in this **DECLARATION**; and (c) **THE GARDENS SPECIAL ASSESSMENTS** as described in this **DECLARATION**.

THE GARDENS BASE ASSESSMENTS and **THE GARDENS SPECIAL ASSESSMENTS** shall be levied equally on all **LOTS** in the **PROPERTY** unless otherwise specified in this **DECLARATION** or otherwise specified in any amendments to this **DECLARATION** or otherwise specified in any **SUPPLEMENTAL DECLARATION**. **THE GARDENS YARD ASSESSMENTS** shall be levied as provided for in Section 7.2 B. of this **DECLARATION**. **THE GARDENS ASSESSMENTS** shall be levied on all **LOTS** within the **PROPERTY** as provided in this **DECLARATION**. Except as provided in this **DECLARATION**, each **OWNER**, by acceptance of a deed or recorded contract of sale to any **LOT** in the **PROPERTY** or any other portion of the **PROPERTY**, is deemed to covenant and agree to pay **THE GARDENS ASSESSMENTS**. Anything else contained in this **DECLARATION** to the contrary, **THE GARDENS ASSESSMENTS** shall not be levied on any **LOTS** owned by **DECLARANT**, or levied on any other property owned by **DECLARANT** in the **PROPERTY** nor levied on any property owned by **DECLARANT** and described in the **CONCEPTUAL MASTER PLAN**.

Except as provided in this **DECLARATION, THE GARDENS ASSESSMENTS** together with interest at a rate not to exceed the highest rate allowed by **ALABAMA LAW** as computed from the date the delinquency first occurs, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the **LOT** against which **THE GARDENS ASSESSMENT** is made. **THE GARDENS ASSESSMENT**, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the **PERSON** who was the **OWNER** of such **LOT** at the time **THE GARDENS ASSESSMENT** arose and the grantee of said **OWNER** shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance.

THE GARDENS ASSOCIATION shall, upon demand at any time, furnish to any **OWNER** liable for any type of **THE GARDENS ASSESSMENT** a certificate in writing signed by an officer or management agent of **THE GARDENS ASSOCIATION** setting forth whether **THE GARDENS ASSESSMENT** has been paid as to any particular **LOT**. Such certificate shall be conclusive evidence of payment to **THE GARDENS ASSOCIATION** of **THE GARDENS ASSESSMENT** therein stated to have been paid. **THE GARDENS ASSOCIATION** may require the advance payment of a processing fee for the issuance of such certificate.

THE GARDENS ASSESSMENTS shall be paid in such manner and on such dates as may be fixed by **THE GARDENS BOARD OF DIRECTORS** which may include, without limitation, acceleration of **THE GARDENS ASSESSMENTS** for delinquents.

Except as provided in this **DECLARATION**, no **OWNER** may waive or otherwise be exempted from liability for **THE GARDENS ASSESSMENTS** provided for in this **DECLARATION**, including, by way of illustration and not limitation, by non-use of **THE GARDENS COMMON AREAS** or abandonment of the **LOT**. The obligation to pay **THE GARDENS ASSESSMENT** is a separate and independent covenant on the part of each **OWNER**. No diminution or abatement of **THE GARDENS ASSESSMENT** or set-off shall be claimed or allowed by reason of any alleged failure of **THE GARDENS BOARD OF DIRECTORS** to take some action or perform some function required to be taken or performed by **THE GARDENS BOARD OF DIRECTORS** under this **DECLARATION** or **THE GARDENS BY-LAWS**, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of **THE GARDENS ASSOCIATION**, or from any action taken to comply with any law, ordinance or with any order or directive of any municipal or other governmental authority. **PROVIDED, HOWEVER**, notwithstanding any other provision elsewhere contained in this **DECLARATION**, **DECLARANT** shall not be obligated to pay **THE GARDENS ASSESSMENT**, or otherwise, on **LOTS** or property owned by **DECLARANT** unless **DECLARANT** voluntarily elects to pay said **THE GARDENS ASSESSMENT**.

DECLARANT may elect, at the sole discretion of **DECLARANT**, to pay a part of the actual expenditures required to operate **THE GARDENS ASSOCIATION** during the fiscal year. **DECLARANT** may make said payments in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of these. **DECLARANT** shall not be obligated to make the payments as provided for in this Paragraph.

THE GARDENS ASSOCIATION is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with **DECLARANT** or other entities for the payment of some portion of **THE GARDENS COMMON EXPENSES**.

So long as **DECLARANT** owns any **LOTS** in the **PROPERTY**, or owns any property in the **PROPERTY**, or owns any property described on the **CONCEPTUAL MASTER PLAN**, **DECLARANT** shall have the option, in the sole discretion of **DECLARANT**, to (i) pay **THE GARDENS ASSESSMENTS** on the **LOTS** in the **PROPERTY** owned by **DECLARANT**, or (ii) not to pay **THE GARDENS ASSESSMENTS** on the **LOTS** in the **PROPERTY**. **DECLARANT** may from time to time change the option stated above. When all **LOTS** within the **PROPERTY** are sold and conveyed to purchasers, neither **DECLARANT**, nor the affiliates of **DECLARANT**, shall have any further liability of any kind to **THE GARDENS ASSOCIATION** for the payment of **THE GARDENS ASSESSMENTS**. In no event shall **DECLARANT** ever be obligated to pay **THE GARDENS ASSESSMENTS**.

Section 8.3 COMPUTATION OF THE GARDENS BASE ASSESSMENT. It shall be the duty of **THE GARDENS BOARD OF DIRECTORS**, at least **sixty (60) days** before the beginning of each fiscal year, to prepare a budget covering the estimated **THE GARDENS COMMON EXPENSES** of **THE GARDENS ASSOCIATION** during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared.

Subject to the rights reserved in this **DECLARATION** to **DECLARANT**, **THE GARDENS BOARD OF DIRECTORS** shall cause a copy of **THE GARDENS COMMON EXPENSE** budget and notice of the amount of **THE GARDENS BASE ASSESSMENT** to be levied against each **LOT** in the **PROPERTY** for the following year to be delivered to each **OWNER** at least **thirty (30) days** prior to the beginning of the fiscal year. Such budget and **THE GARDENS BASE ASSESSMENT** shall become effective unless disapproved by the vote of **THE GARDENS MEMBERS** entitled to vote.

Notwithstanding the foregoing, however, in the event the proposed budget is not approved or **THE GARDENS BOARD OF DIRECTORS** fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided in this **DECLARATION**, the budget in effect for the immediately preceding year shall continue for the current year.

Section 8.4 THE GARDENS SPECIAL ASSESSMENTS. Except as provided in this **DECLARATION**, in addition to any other **ASSESSMENT** provided for in this **DECLARATION** including, but not limited to **THE GARDENS BASE ASSESSMENTS** and **THE GARDENS YARD ASSESSMENTS**, **THE GARDENS ASSOCIATION** may levy **THE GARDENS SPECIAL ASSESSMENT** or **THE GARDENS SPECIAL ASSESSMENTS** on the **PROPERTY** from time to time; provided, **THE GARDENS SPECIAL ASSESSMENT** shall have the affirmative vote or written consent of **THE GARDENS MEMBERS** representing at least **fifty-one percent (51%)** of **THE GARDENS MEMBERS**. The obligation to pay **THE GARDENS SPECIAL ASSESSMENTS** shall be computed on the same basis as for **THE GARDENS BASE ASSESSMENTS** and shall be levied only against the **LOTS** in the **PROPERTY**. **THE GARDENS SPECIAL ASSESSMENTS** shall be payable in such manner and at such times as determined by **THE GARDENS BOARD OF DIRECTORS**, and may be payable in installments extending beyond the fiscal year in which **THE GARDENS SPECIAL ASSESSMENT** is approved, if **THE GARDENS BOARD OF DIRECTORS** so determines. **PROVIDED, HOWEVER**, notwithstanding any other provision elsewhere contained in this **DECLARATION**, **DECLARANT** shall not be obligated to pay any **THE GARDENS SPECIAL ASSESSMENT** unless **DECLARANT** voluntarily elects to pay **THE GARDENS SPECIAL ASSESSMENT**.

THE GARDENS ASSOCIATION may also levy **THE GARDENS SPECIAL ASSESSMENT** against **THE GARDENS MEMBERS**, except **DECLARANT**, to reimburse **THE GARDENS ASSOCIATION** for costs incurred in bringing **THE GARDENS MEMBER** and the **LOT** of **THE GARDENS MEMBER** into compliance with the provisions of this **DECLARATION**, any amendments to this **DECLARATION**, **THE GARDENS ARTICLES OF INCORPORATION**, **THE GARDENS BY-LAWS** and the **RULES AND REGULATIONS** which **THE GARDENS SPECIAL ASSESSMENT** may be levied upon the vote of **THE GARDENS BOARD OF DIRECTORS** after notice to **THE GARDENS MEMBER** and an opportunity for a hearing.

Section 8.5 THE GARDENS YARD ASSESSMENT. Except as provided in this **DECLARATION**, in addition to any other **ASSESSMENT** authorized by this **DECLARATION** including, but not limited to, **THE GARDENS BASE ASSESSMENTS** and **THE GARDENS SPECIAL ASSESSMENTS**, **THE GARDENS ASSOCIATION** may levy **THE GARDENS YARD ASSESSMENT** on the **PROPERTY** from time to time pursuant to the provisions of this **DECLARATION**.

Section 8.6 LIEN FOR ASSESSMENTS. Except as provided in this **DECLARATION**, **THE GARDENS ASSOCIATION** is granted a lien on each **LOT** in the **PROPERTY** and upon the goods, furniture and effects belonging to the **LOT OWNER** and located in such **LOT**. Said lien shall secure and does secure the monies due for all **THE GARDENS ASSESSMENTS** levied against the **LOT** in the **PROPERTY** which lien shall also secure such late charges, penalties and interest, if any, which may be due on the amount of any delinquent **THE GARDENS ASSESSMENT** owing to **THE GARDENS ASSOCIATION**, and which lien shall also secure all costs and expenses, including a reasonable attorney's fee, which may be incurred by **THE GARDENS ASSOCIATION** in enforcing this lien upon the **LOT** in the **PROPERTY**. The sale or transfer of any **LOT** shall not affect **THE GARDENS ASSESSMENT** lien. **PROVIDED, HOWEVER**, notwithstanding any other provision elsewhere contained in this **DECLARATION**, no lien for **THE GARDENS ASSESSMENTS** shall be imposed on any **LOT** or other property owned by **DECLARANT**.

Such lien, when delinquent, may be enforced by suit, judgment and foreclosure.

Except as provided for in this **DECLARATION**, the lien for **THE GARDENS ASSESSMENTS**, including interest, late charges and costs (including attorney's fees) provided for in this **DECLARATION**, shall be subordinate to the lien of any **first (1st) MORTGAGE** or **first (1st) vendor's lien** upon any **LOT** held by an **ELIGIBLE MORTGAGE HOLDER**.

A sale or transfer pursuant to a foreclosure of a **first (1st) MORTGAGE** or vendor's lien held by an **ELIGIBLE MORTGAGE HOLDER** shall extinguish a subordinate lien for **THE GARDENS ASSESSMENTS** which became payable prior to such sale or transfer. **PROVIDED, HOWEVER**, a sale or transfer pursuant to a foreclosure of a **first (1st) MORTGAGE** or vendor's lien held by an **ELIGIBLE MORTGAGE HOLDER** shall not extinguish the lien of **THE GARDENS ASSOCIATION** to the extent of the **COMMON EXPENSE ASSESSMENTS** based on the periodic budget adopted by **THE GARDENS ASSOCIATION** which would have become due in the absence of acceleration during the **six (6) months** immediately preceding the institution of an action to enforce the lien. However, any such delinquent **THE GARDENS ASSESSMENTS** which were extinguished pursuant to the foregoing provision may be reallocated and assessed to all of the **LOTS** as **THE GARDENS COMMON EXPENSE**. Any such sale or transfer pursuant to foreclosure does not relieve the purchaser or transferee of a **LOT** from liability for, nor the **LOT** from the lien of, any

THE GARDENS ASSESSMENTS made thereafter.

THE GARDENS ASSOCIATION, acting on behalf of the **OWNERS**, shall have the power to bid for the **LOT** at foreclosure sale and to acquire and hold, lease, **MORTGAGE** and convey the same. During the period in which a **LOT** is owned by **THE GARDENS ASSOCIATION** following foreclosure: (a) No right to vote shall be exercised on behalf of **THE GARDENS ASSOCIATION**; (b) **THE GARDENS ASSESSMENTS** shall not be assessed or levied on **THE GARDENS ASSOCIATION**; and (c) each other **LOT** shall be charged, in addition to **THE GARDENS ASSESSMENTS**, the pro rata share of **THE GARDENS ASSESSMENTS** that would have been charged such **LOT** had said **LOT** not been acquired by **THE GARDENS ASSOCIATION** as a result of foreclosure. Suit to recover a money judgment for unpaid **THE GARDENS COMMON EXPENSES** and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

Section 8.7 CAPITAL BUDGET AND CONTRIBUTION. **THE GARDENS BOARD OF DIRECTORS** shall annually prepare a capital budget to take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. **THE GARDENS BOARD OF DIRECTORS** shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of **THE GARDENS ASSOCIATION**, as shown on the capital budget, with respect both to amount and installments of **THE GARDENS ASSESSMENT** to be paid over the period of the budget. The capital contribution required, if any, shall be fixed by **THE GARDENS BOARD OF DIRECTORS** and included within and distributed with the budget and **THE GARDENS ASSESSMENT**, as provided in this **DECLARATION**.

Section 8.8 DATE OF COMMENCEMENT OF ASSESSMENTS. Except as provided in this **DECLARATION**, **THE GARDENS BASE ASSESSMENT** provided for by this **DECLARATION** shall commence as to each **LOT** in the **PROPERTY** on the first (1st) day of the first (1st) month following the effective date of the first (1st) budget imposed by **THE GARDENS ASSOCIATION**. **THE GARDENS ASSESSMENTS** shall be due and payable in a manner and on a schedule as **THE GARDENS BOARD OF DIRECTORS** may provide. The first (1st) **THE GARDENS BASE ASSESSMENT** shall be adjusted according to the number of days remaining in the fiscal year at the time **THE GARDENS BASE ASSESSMENT** commence on the **LOT** in the **PROPERTY**. **THE GARDENS SPECIAL ASSESSMENT** and **THE GARDENS YARD ASSESSMENT** shall be due and payable in a manner and on a schedule as **THE GARDENS BOARD OF DIRECTORS** may provide.

Section 8.9 CAPITALIZATION OF THE GARDENS ASSOCIATION. Upon acquisition of record title to a **LOT** in the **PROPERTY** by the first (1st) purchaser of a **LOT** in the **PROPERTY** other than **DECLARANT**, or the successor-in-title or assigns of **DECLARANT** who take title to any portion of the **PROPERTY** for purposes of development and sale and are designated as **DECLARANT** in a recorded instrument executed by the immediately preceding **DECLARANT**, a contribution shall be made by or on behalf of the purchaser to the working capital of **THE GARDENS ASSOCIATION** in an amount to be determined by **DECLARANT** prior to the closing. This amount shall be disbursed to **THE GARDENS ASSOCIATION** for use in covering operating expenses and other expenses incurred by **THE GARDENS ASSOCIATION** pursuant to the terms of this **DECLARATION** and **THE GARDENS BY-LAWS**.

Section 8.10 UNIFORM RATE OF THE GARDENS ASSESSMENT. Except as provided in this **DECLARATION** and except for **THE GARDENS YARD ASSESSMENT**, **THE GARDENS ASSESSMENTS** shall be fixed at a uniform rate for all **LOTS** in the **PROPERTY**. The **MASTER**

DECLARATION, THE GARDENS DECLARATION or any SUPPLEMENTAL DECLARATION may provide that the ASSESSMENTS may be fixed at a rate which is not uniform for all LOTS in the PROPERTY. THE GARDENS ASSESSMENTS are ASSESSMENTS that are in addition to the ASSESSMENTS provided for in the MASTER DECLARATION.

Section 8.11 EFFECT OF NONPAYMENT OF THE GARDENS ASSESSMENTS: REMEDIES OF THE GARDENS ASSOCIATION. THE GARDENS ASSESSMENT, if not paid when due, shall be delinquent. THE GARDENS ASSESSMENTS which are delinquent for a period of more than ten (10) days shall incur a late charge and bear interest thereon in an amount and at a rate to be set by THE GARDENS BOARD OF DIRECTORS, but in no event greater than the maximum percentage rate as may then be permitted under the Laws of the STATE OF ALABAMA. In the event THE GARDENS ASSESSMENT remains unpaid after thirty (30) days, THE GARDENS ASSOCIATION may bring an action at law or in equity against the OWNER personally obligated to pay the same, foreclose the lien against the PROPERTY or seek injunctive relief and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of THE GARDENS ASSESSMENT. Each OWNER, by acceptance of a DEED to a LOT in the PROPERTY, or as a party to any other type of conveyance, expressly vests in THE GARDENS ASSOCIATION or the agents of THE GARDENS ASSOCIATION the right and power to bring all actions against such OWNER personally for the collection of each charge as a debt and to foreclose the aforesaid lien by all methods available for the enforcement of such liens, including foreclosures by an action brought in the name of THE GARDENS ASSOCIATION in a like manner as a MORTGAGE lien on real property, and such OWNER expressly grants to THE GARDENS ASSOCIATION a power of sale in connection with said lien. The lien provided for in this DECLARATION shall be in favor of THE GARDENS ASSOCIATION and shall be for the benefit of all LOT OWNERS. THE GARDENS ASSOCIATION, acting on behalf of the LOT OWNERS, shall have the power to bid for an interest foreclosed at foreclosure sale and to acquire and hold, lease, MORTGAGE and convey the same. With the exception of the DECLARANT, no OWNER may waive or otherwise escape liability for THE GARDENS ASSESSMENTS by non-use of THE GARDENS COMMON AREA or abandonment of LOT.

All payments shall be applied first to costs and attorney's fees, then to late charges, then to interest, then to delinquent THE GARDENS ASSESSMENTS, then to any unpaid installments of the annual THE GARDENS ASSESSMENT or THE GARDENS SPECIAL ASSESSMENT or THE GARDENS YARD ASSESSMENT, which are not the subject matter of suit in the order of their coming due, and then to any unpaid installments of THE GARDENS ASSESSMENT which are the subject matter of suit in the order of their coming due.

Section 8.12 EXEMPT PROPERTY. Notwithstanding anything to the contrary in this DECLARATION, the following property shall be exempt from payment of THE GARDENS ASSESSMENT:

- A. THE GARDENS COMMON AREA;**
- B. all property dedicated to and accepted by any governmental authority or public utility; and**
- C. all LOTS or PROPERTY owned by DECLARANT.**

ARTICLE IX
INSURANCE AND CASUALTY LOSS

Section 9.1. MASTER DECLARATION. The provisions of **ARTICLE IX** of the **MASTER DECLARATION** are incorporated in this **DECLARATION** as though **ARTICLE IX** of the **MASTER DECLARATION** was set out in full in this **DECLARATION**. The provisions of **ARTICLE IX** of the **MASTER DECLARATION** apply to the **PROPERTY** and to **THE GARDENS COMMON PROPERTY**.

Section 9.2 THE GARDENS ASSOCIATION. **THE GARDENS ASSOCIATION** is authorized to purchase and maintain insurance on **THE GARDENS COMMON PROPERTY** and on any **LOT** owned by **THE GARDENS ASSOCIATION**, together with any improvements on **THE GARDENS COMMON PROPERTY** or said **LOT**, in such forms and such amounts, with such deductibles, and with such companies as **THE GARDENS BOARD OF DIRECTORS** shall deem appropriate.

A. All hazard insurance policies obtained by **THE GARDENS ASSOCIATION** shall designate **THE GARDENS ASSOCIATION** as the named insured as insurance trustee for the benefit of all **OWNERS** and their **MORTGAGEES** as their respective interests may appear. In the event of loss or damage, all insurance proceeds paid pursuant to a policy purchased by **THE GARDENS ASSOCIATION** shall be paid to **THE GARDENS ASSOCIATION** as insurance trustee under the provisions of this **DECLARATION**.

B. **THE GARDENS ASSOCIATION** shall obtain, if reasonably available, comprehensive public liability insurance with limits and provisions as approved by **THE GARDENS BOARD OF DIRECTORS**.

C. **THE GARDENS ASSOCIATION** shall obtain workers' compensation insurance to meet the requirements of **ALABAMA LAW**.

D. All premiums upon insurance policies purchased by **THE GARDENS ASSOCIATION** shall be assessed as a **THE GARDENS COMMON EXPENSE** to the **OWNERS** as **THE GARDENS ASSESSMENT** of **THE GARDENS ASSOCIATION**.

E. Each **OWNER** shall be deemed to have delegated to **THE GARDENS ASSOCIATION** the right of said **OWNER** to adjust with insurance companies all losses under policies purchased by **THE GARDENS ASSOCIATION**, subject to the rights of **MORTGAGEES**.

Section 9.3 OWNER. Each **OWNER** of a **LOT** in the **PROPERTY** shall be obligated to obtain liability or hazard insurance for the benefit of said **OWNER**.

Section 9.4 RECONSTRUCTION OR REPAIR AFTER CASUALTY. In the event of the damage or destruction of all or part of any improvement or **LOT** in the **PROPERTY**, the **OWNER** shall be responsible for the prompt reconstruction and repair of the damaged or destroyed improvement or **LOT** after such casualty or, at the election of the **OWNER**, the improvement shall be removed and the **LOT** restored to its original condition. **PROVIDED, HOWEVER**, should the **OWNER** fail to repair or replace the damaged or destroyed improvement or **LOT**, or remove the improvements from the **LOT** and restore the **LOT** to the original condition of the **LOT**, within a reasonable period of time (not to exceed **one hundred eighty (180) days**), **THE GARDENS**

ASSOCIATION may, but shall not be obligated to, do so for the account of said **OWNER** and may assess the **LOT** accordingly and, thereafter, be subrogated to any insurance proceeds.

If any **OWNER** fails to perform the duties imposed by on said **OWNER** by this **DECLARATION** after **fifteen (15) days'** written notice from **THE GARDENS BOARD OF DIRECTORS** of **THE GARDENS ASSOCIATION** to the **OWNER** to remedy the condition in question, **THE GARDENS ASSOCIATION** shall have the right, through the agents and employees of **THE GARDENS BOARD OF DIRECTORS** to enter upon the **LOT** in question and to repair, maintain, repaint and restore or remove the improvements on the **LOT** and restore the **LOT** to the original condition of said **LOT** and the cost thereof shall be a binding, personal obligation of such **OWNER** when billed by **THE GARDENS ASSOCIATION** as well as a lien upon the **LOT** in question. The lien provided for in this **Section 9.4** shall have the same enforceability and priority as the lien provided for in **ARTICLE VIII** of this **DECLARATION**.

In the event of the damage or destruction of all or part of the improvements on **THE GARDENS COMMON PROPERTY**, **THE GARDENS ASSOCIATION** shall be responsible for the prompt reconstruction and repair of the improvements after such casualty. **PROVIDED, HOWEVER, THE GARDENS BOARD OF DIRECTORS** of **THE GARDENS ASSOCIATION** may elect not to reconstruct or repair the improvements on **THE GARDENS COMMON PROPERTY**. Reconstruction or repair shall be mandatory unless a **MAJORITY** of **THE GARDENS BOARD OF DIRECTORS** of **THE GARDENS ASSOCIATION** vote that it is not necessary to repair or reconstruct said damaged or destroyed improvement. Any reconstruction or repair must comply in all other respects with the terms, conditions and provisions of this **DECLARATION**.

ARTICLE X **NO PARTITION**

Except as is permitted in this **DECLARATION** or amendments to this **DECLARATION**, there shall be no physical partition of **THE GARDENS COMMON AREA** or any part of **THE GARDENS COMMON AREA**, nor shall any **PERSON** acquiring any interest in the **PROPERTY** or any part of the **PROPERTY** seek any judicial partition unless the **PROPERTY** has been removed from the provisions of this **DECLARATION**. This **ARTICLE X** shall not be construed to prohibit **THE GARDENS BOARD OF DIRECTORS** from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this **DECLARATION**.

ARTICLE XI **CONDEMNATION**

Whenever all or any part of **THE GARDENS COMMON AREA** shall be taken (or conveyed in lieu of and under threat of condemnation by **THE GARDENS BOARD OF DIRECTORS** acting on the written direction of **THE GARDENS MEMBERS** representing at least **two-thirds (2/3)** of the total vote of **THE GARDENS MEMBERS** and **DECLARANT**, as long as **DECLARANT** owns any **LOTS** in the **PROPERTY**, or owns any property in the **PROPERTY**, or owns any property described on the **CONCEPTUAL MASTER PLAN**) by any authority having the power of condemnation or eminent domain, each **OWNER** shall be entitled to notice of said taking. The award made for such taking shall be payable to **THE GARDENS ASSOCIATION** as trustee for all **OWNERS** to be disbursed as follows:

If the taking involves a portion of **THE GARDENS COMMON AREA** on which improvements have been constructed, then, unless within **sixty (60) days** after such taking **DECLARANT**, as long as **DECLARANT** owns any **LOTS** in the **PROPERTY**, or owns any property in the **PROPERTY**, or owns any property described on the **CONCEPTUAL MASTER PLAN** and **THE GARDENS MEMBERS** representing at least **seventy-five (75%) percent** of the total vote of **THE GARDENS MEMBERS** shall otherwise agree, **THE GARDENS ASSOCIATION** shall restore or replace such improvements so taken on the remaining land included in **THE GARDENS COMMON AREA** to the extent lands are available therefor, in accordance with plans approved by **THE GARDENS BOARD OF DIRECTORS**. If such improvements are to be repaired or restored, the provisions in **ARTICLE IX** of this **DECLARATION** regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on **THE GARDENS COMMON AREA**, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to **THE GARDENS ASSOCIATION** and used for such purposes as **THE GARDENS BOARD OF DIRECTORS** shall determine.

ARTICLE XII **ARCHITECTURAL STANDARDS**

The provisions of **ARTICLE XII** of the **MASTER DECLARATION** are incorporated in this **DECLARATION** as though **ARTICLE XII** of the **MASTER DECLARATION** was set out in full in this **DECLARATION**. The provisions of **ARTICLE XII** of the **MASTER DECLARATION** apply to the **PROPERTY** and to **THE GARDENS COMMON PROPERTY**.

ARTICLE XIII **SITE DEVELOPMENT**

The provisions of **ARTICLE XIII** of the **MASTER DECLARATION** are incorporated in this **DECLARATION** as though **ARTICLE XIII** of the **MASTER DECLARATION** was set out in full in this **DECLARATION**. The provisions of **ARTICLE XIII** of the **MASTER DECLARATION** apply to the **PROPERTY** and to **THE GARDENS COMMON PROPERTY**.

ARTICLE XIV **COVENANTS AND RESTRICTIONS**

The **PROPERTY** shall be used only for the purposes designated in the **MASTER DECLARATION** and in this **DECLARATION** and by **DECLARANT** as may more particularly be set forth in the **MASTER DECLARATION** and in this **DECLARATION**.

THE GARDENS ASSOCIATION and/or the **MASTER ASSOCIATION** each shall have authority to make and to enforce the provisions of this **DECLARATION** and standards and restrictions governing the use of the **PROPERTY** and to impose reasonable user fees for use of **THE GARDENS COMMON AREA** facilities.

The terms and conditions of this **ARTICLE XIV** apply only to the **PROPERTY** and do not apply to any property described on the **CONCEPTUAL MASTER PLAN** other than the **PROPERTY**.

Section 14.1 MASTER DECLARATION. The provisions of **ARTICLE XIV** of the **MASTER DECLARATION** are incorporated in this **DECLARATION** as though **ARTICLE XIV** of the **MASTER DECLARATION** was set out in full in this **DECLARATION**. The provisions of **ARTICLE XIV** of the **MASTER DECLARATION** apply to the **PROPERTY** and to **THE GARDENS COMMON PROPERTY**.

Section 14.2 RESIDENTIAL USE. All **LOTS** which are part of the **PROPERTY** and each and every **LOT** are declared to be residential **LOTS**, and no **LOT** shall be used except for single-family residential purposes. Except as may be provided elsewhere in this **DECLARATION** or in the **MASTER DECLARATION**, no building or structure shall be constructed, erected, altered, placed, remodeled, reconstructed, added to or permitted to remain on any **LOT** other than a single-family dwelling. No previously approved structure shall be used for any purpose other than that for which said structure was originally designed.

The minimum finished floor elevations for all improvements on a **LOT** shall be no less than **twelve inches (12")** above the elevation of the center line of the roadway upon which that **LOT** fronts. The maximum finished floor elevation for all improvements on **LOTS** shall be not more than **thirty-six inches (36")** above the elevation of a single line of the roadway upon which that **LOT** fronts. This requirement is in addition to any other requirements imposed by this **DECLARATION** or by the **MASTER DECLARATION** or by federal, state or local law or regulation.

Section 14.3 BUSINESS USE. Except as provided in this **DECLARATION** or in the **MASTER DECLARATION**, no trade or business may be conducted in or from any **LOT**. Notwithstanding the provisions of this **Section 14.3**, the leasing of a **LOT** for single-family residential purposes shall not be considered a trade or business within the meaning of this **Section 14.3**. This **Section 14.3** shall not apply to any activity conducted by **DECLARANT** with respect to the use of any **LOTS** by **DECLARANT** or by builders or assignees specifically designated by **DECLARANT** or to **LOTS** which **DECLARANT** owns within the **PROPERTY** nor to the property designated by **DECLARANT** as the sales office or model home of **DECLARANT**. Also, this **Section 14.3** shall not apply to any land shown on the **CONCEPTUAL MASTER PLAN**, unless specifically annexed as provided elsewhere in this **DECLARATION**. (See other provisions in this **DECLARATION** and the **MASTER DECLARATION** granting special rights to **DECLARANT**).

The foregoing restrictions contained in this **Section 14.3** shall not be construed to prohibit an **OWNER** from:

- A. Maintaining a personal professional library;
- B. Keeping a personal business or professional records or accounts;
- C. Handling a professional business or professional telephone calls or correspondence.

Such uses are declared expressly customarily incidental to the principal single-family residential use and not in violation of this **Section 14.3**.

Section 14.4 LEASING. **LOTS** may be leased for residential purposes; and such lease and the rights of any tenants under said lease are made expressly subject to the power of **THE GARDENS ASSOCIATION** or the **MASTER ASSOCIATION** to prescribe reasonable **RULES AND**

REGULATIONS relating to the lease and rental of **LOTS** and to enforce the same directly against such tenant or other occupant by the exercise of such remedies as **THE GARDENS BOARD OF DIRECTORS** or the **MASTER ASSOCIATION BOARD OF DIRECTORS** deems appropriate, including eviction. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the **MASTER DECLARATION**, the **ARTICLES OF INCORPORATION** of the **MASTER ASSOCIATION**, **BY-LAWS** of the **MASTER ASSOCIATION**, this **DECLARATION**, **THE GARDENS ARTICLES OF INCORPORATION**, **THE GARDENS BY-LAWS**, use restrictions, **RULES AND REGULATIONS**. The lease shall also obligate the tenant to comply with the foregoing and shall provide that in the event of noncompliance, the **MASTER ASSOCIATION BOARD OF DIRECTORS** and/or **THE GARDENS BOARD OF DIRECTORS**, in addition to any other remedies available to either of them, may evict the tenant on behalf of the **OWNER** and specifically assess all costs associated with said eviction against the **OWNER** and the **OWNER'S PROPERTY**.

Section 14.5 MINIMUM DWELLING AREA. The ground floor livable area (heated and cooled area) of the main building or structure, exclusive of open porches and garages, located on a **LOT** shall contain not less than **fifteen hundred (1,500) square feet**.

Section 14.6 MINIMUM BUILDING SETBACK LINES. No building, pool enclosure, improvement or structure located on any **LOT** shall be constructed, erected, altered, placed, remodeled, reconstructed, added to or allowed to remain on any **LOT** so as to be located any nearer to any property boundary line than the setback lines shown on the recorded subdivision plat of the **PROPERTY**, but the **ARCHITECTURAL COMMITTEE**, in the sole discretion of the **ARCHITECTURAL COMMITTEE**, shall have the power to grant exceptions. All setbacks shall comply with all applicable subdivision regulations and zoning ordinances.

Section 14.7 ADJOINING LOT OWNERSHIP. For the purposes of this **DECLARATION**, any **OWNER** having **two (2)** or more adjoining **LOTS** may treat, use and build on them as though they were **one (1)** after making written application and receiving written approval by the **ARCHITECTURAL COMMITTEE**. Said approval shall be recorded and operate as an amendment to this **DECLARATION**. The rights granted by this **Section 14.7** are subject to the easements, if any, granted to others and any applicable subdivision regulations and zoning ordinances.

Section 14.8 USE OF THE GARDENS COMMON AREA. Subject to the rights of the **DECLARANT** or the **MASTER ASSOCIATION** as set out in the **MASTER DECLARATION** and in this **DECLARATION**, the **MASTER ASSOCIATION** shall have full control over **THE GARDENS COMMON AREA** and may establish such **RULES AND REGULATIONS** and conditions for the use of **THE GARDENS COMMON AREA** as the **MASTER ASSOCIATION** may deem adequate or necessary, and the **MASTER ASSOCIATION** shall have full power and authority to suspend or revoke the privilege and license of any such **OWNER**, and any member of the household of such **OWNER** or any of the guests, tenants or invitees of such **OWNER**, from using **THE GARDENS COMMON PROPERTY**, should any such party, while on the **PROPERTY**, act in a manner as to warrant such action in the sole discretion of the **MAJORITY** of the members of the **BOARD OF DIRECTORS** of the **MASTER ASSOCIATION**. **PROVIDED, HOWEVER**, nothing in this **DECLARATION** shall be construed to allow the **MASTER ASSOCIATION** to prohibit any **LOT OWNER** from ingress and egress to and from a **LOT**. **PROVIDED, HOWEVER**, the **MASTER ASSOCIATION** shall be empowered to assign the rights of the **MASTER ASSOCIATION** under this **Section 14.8** to a **SUCCESSOR CORPORATION** (as defined in this **DECLARATION**) and, upon such assignment, the **SUCCESSOR CORPORATION** shall have all the rights and be subject to all

of the duties of the **MASTER ASSOCIATION** under this **Section 14.8**.

Section 14.9 PARKING AND VEHICULAR RESTRICTIONS. Subject to the rights of the **DECLARANT** or the **MASTER ASSOCIATION**, parking in or on the **PROPERTY** or **THE GARDENS COMMON AREA** shall be restricted as provided in the **MASTER DECLARATION** and this **DECLARATION** or **RULES AND REGULATIONS**.

No vehicle, camper, mobile home, motor home, house trailer or trailer of any type, recreational vehicle, motorcycle, golf cart, scooter, go-cart, moped, boat or other water craft, boat trailer, van, bus, automobile or any other transportation device of any kind shall be permitted to be parked or to be stored at any place within the **PROPERTY** or **THE GARDENS COMMON AREA**, except in spaces for some or all of the above specifically designated by the **MASTER ASSOCIATION**. No **OWNER** shall keep any vehicle on the **PROPERTY** or **THE GARDENS COMMON AREA** which is deemed a nuisance by the **BOARD OF DIRECTORS** of the **MASTER ASSOCIATION** or **THE GARDENS BOARD OF DIRECTORS**. No commercial vehicle shall be permitted to be parked or to be stored at any place within the **PROPERTY** or **THE GARDENS COMMON AREA** except in spaces designated by the **ARCHITECTURAL COMMITTEE**. For the purposes of this **Section 14.9**, "commercial vehicle" shall mean those that are not designed and used for customary, personal/family purposes. The absence of commercial type lettering or graphics on a vehicle shall not be dispositive of whether it is a commercial vehicle. No **OWNER** shall conduct repairs (except in an emergency) or restorations of any vehicle on or upon any portion of the **PROPERTY** or **THE GARDENS COMMON AREA** except in an enclosed area with the doors to that area closed at all times. The prohibitions on parking contained in this **Section 14.9** shall not apply to temporary parking of vehicles such as for construction use or providing pick-up and delivery and other commercial services nor to any vehicles of the **DECLARANT**. No overnight on-street parking or parking on lawns shall be permitted.

Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained in this **DECLARATION** or in the **MASTER DECLARATION** or in the **RULES AND REGULATIONS** may be towed by the **MASTER ASSOCIATION** or by **THE GARDENS ASSOCIATION** or by the **ARCHITECTURAL COMMITTEE** at the sole expense of the **OWNER** of the vehicle if the vehicle remains in violation for a period of **twenty-four (24) hours** from the time a notice of violation is placed on the vehicle. Neither the **MASTER ASSOCIATION** nor **THE GARDENS ASSOCIATION** nor the **ARCHITECTURAL COMMITTEE** shall be liable to the **OWNER** of that vehicle for trespass, conversation or otherwise, nor guilty of any criminal act, by reason of the towing, and once the notice is posted, neither the removal of said notice, nor failure of the **OWNER** to receive said notice for any reason, shall be grounds for relief of any kind. An affidavit of the **PERSON** posting said notice stating that said notice was properly posted shall be conclusive evidence of proper posting.

For the purposes of this **Section 14.9**, "vehicle" shall mean and refer to any device on wheels or runners for conveying **PERSONS**, property or objects.

Section 14.10 DRIVEWAYS. Each purchaser of a **LOT** from **DECLARANT** shall be responsible for building, at the sole expense of the purchaser, a concrete or brick driveway. Each driveway must be completed on or prior to the completion of the dwelling. All driveways must connect with the adjoining road and the parking area on the **LOT**. The location, design and construction of all driveways must be approved in writing by the **ARCHITECTURAL COMMITTEE**.

prior to construction.

Unless otherwise approved by the **ARCHITECTURAL COMMITTEE** all driveways located on the **LOTS** must access to and from and all houses must front the adjoining road.

Section 14.11 PRESERVATION OF TREES, TOPOGRAPHY AND VEGETATION. No tree having a diameter of **six (6) inches** or more (measured from a point **two (2) feet** above ground level) shall be removed from any **LOT** without the express written authorization of the **ARCHITECTURAL COMMITTEE**. In order to protect the natural beauty of the vegetation and topography of the **PROPERTY**, and to provide privacy to **LOT OWNERS**, written approval of the **ARCHITECTURAL COMMITTEE** is required for the removal, reduction, cutting down, excavation, filling or alteration of any topographic and vegetation characteristics. The **ARCHITECTURAL COMMITTEE**, in the discretion of the **ARCHITECTURAL COMMITTEE**, may adopt and promulgate **RULES AND REGULATIONS** regarding the **PROPERTY** and in general the preservation of trees and other natural resources and wildlife upon all of the **PROPERTY**. If the **ARCHITECTURAL COMMITTEE** shall deem it appropriate, the **ARCHITECTURAL COMMITTEE** may mark certain trees, regardless of size, as not removable without written authorization. In carrying out the provisions of this **Section 14.11**, **DECLARANT**, the **MASTER ASSOCIATION**, the **GARDENS ASSOCIATION** and the **ARCHITECTURAL COMMITTEE** and the respective agents of each may come upon any **LOT** during reasonable hours for the purpose of inspecting or marking trees or in relation to the enforcement and administration of any **RULES AND REGULATIONS** adopted and promulgated pursuant to the provisions of this **DECLARATION**. Neither the **MASTER ASSOCIATION**, the **GARDENS ASSOCIATION**, nor the **ARCHITECTURAL COMMITTEE**, nor **DECLARANT**, nor their respective agents shall be deemed to have committed a trespass or wrongful act by reason of any such entry or inspection.

Section 14.12 ACCUMULATION OF REFUSE OR NOXIOUS ACTIVITY. No lumber, metals or bulk materials (except lumber, metals and bulk materials as is usual in the maintenance of a private residence and which must be stored in such a manner so that it cannot be seen from adjacent and surrounding property), refuse or trash shall be kept, stored or allowed to accumulate on any **LOT**, except building materials during the course of construction of any approved structure. No harmful or noxious materials shall be stored, either inside any structure, or outside any structure, if said materials pose any significant threat to public health and safety or to individuals employed or living within or in proximity to such structures. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, approved containers may be placed in the open on any day a pick-up is to be made. At all other times, trash and garbage containers shall be screened in such a manner so that they cannot be seen from adjacent and surrounding property, and as approved by the **ARCHITECTURAL COMMITTEE**. All trash and garbage containers shall be kept in a clean and sanitary condition. The **ARCHITECTURAL COMMITTEE**, in the discretion of the **ARCHITECTURAL COMMITTEE**, may adopt and promulgate reasonable **RULES AND REGULATIONS** relating to the size, shape, color and type of containers permitted and the manner of storage and screening of the same on the **PROPERTY**.

No portion of the **PROPERTY** shall be used, in whole or in part, for the storage of any property or thing that will cause the **PROPERTY** to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept on any portion of the **PROPERTY** that will emit foul or obnoxious odors or that will cause any noise or

other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of surrounding property. No noxious, illegal or offensive activity shall be carried on upon any portion of the **PROPERTY** nor shall anything be done on the **PROPERTY** tending to cause embarrassment, discomfort, annoyance or nuisance to any **PERSON** using any portion of the **PROPERTY**. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant or of a nature that may diminish or destroy the enjoyment of the **PROPERTY**. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the **PROPERTY**.

Section 14.13 FENCES, WALLS, HEDGES AND ORNAMENTAL STRUCTURES. No fence, wall, hedge, ornamental structure or gazebo shall be located or constructed on any **LOT** unless approved by the **ARCHITECTURAL COMMITTEE**.

Section 14.14 MAIL OR NEWSPAPER BOXES. The design of all mailboxes and newspaper boxes must be approved by the **ARCHITECTURAL COMMITTEE** and free-standing mail boxes and newspaper boxes equipped with lighting may be required in some or all sections of the **PROPERTY**.

Section 14.15 ARTIFICIAL VEGETATION, EXTERIOR SCULPTURE AND SIMILAR ITEMS. No artificial vegetation shall be permitted on any **PROPERTY** or on the exterior of any portion of any improvement on the **PROPERTY**. Exterior sculpture, fountains, flags and similar items must be approved by the **ARCHITECTURAL COMMITTEE**. **PROVIDED, HOWEVER**, nothing contained in this **DECLARATION** shall prohibit the appropriate display of the **American Flag**.

Section 14.16 ANIMALS AND PETS. No animals, wildlife, livestock, insects, reptiles or poultry of any kind shall be raised, bred, harbored or kept on any **LOT** except that the **OWNER** may keep **three (3)** domesticated household pets. No such pets shall be kept for any commercial purpose, and any such pets may be kept only so long as they or any of them do not become an annoyance or nuisance to the neighborhood. All pets, at all times when they are outside a residence, must be confined on a leash held by a responsible **PERSON** and kept under the close supervision of their **OWNERS**. Pets shall only be permitted in **THE GARDENS COMMON AREA** if portions in **THE GARDENS COMMON AREA** are so designated by the **MASTER ASSOCIATION** or **THE GARDENS ASSOCIATION**. All **PERSONS** bringing a pet onto **THE GARDENS COMMON AREA** shall be responsible for immediately removing any solid waste of said pet. Those pets which, in the sole discretion of the **MASTER ASSOCIATION** or **THE GARDENS ASSOCIATION**, endanger health, make objectionable noise or constitute a nuisance or inconvenience to the **OWNERS** of other **LOTS** or the **OWNER** of any portion of the **PROPERTY** shall be removed upon request of the **MASTER BOARD OF DIRECTORS** or **THE GARDENS ASSOCIATION**.

Section 14.17 TEMPORARY STRUCTURES. No temporary building, trailer, garage or building in the course of construction or other temporary structure shall be used, temporarily or permanently, as a residence or temporary housing or the like on any **LOT**. If approved by the **ARCHITECTURAL COMMITTEE**, such a structure may be used as a security station during construction or other special purpose.

Section 14.18 PIPES. To the extent of the interest of the **OWNERS** of a **LOT**, no water pipe, gas pipe, sewer pipe or drainage pipe shall be installed or maintained on any **LOT** above the surface of the ground.

Section 14.19 CLOTHES LINES. No clothing or any other household fabric shall be hung in the open on any LOT and no clothes lines or clothes hanging devices shall be kept or maintained on any LOT.

Section 14.20 CHIMNEY FLUES. Exposed chimney flues shall be enclosed.

Section 14.21 CARPORTS AND GARAGES. No carports may be constructed on any LOT. Garages shall open toward a road unless approved by the **ARCHITECTURAL COMMITTEE**.

Section 14.22 ENERGY CONSERVATION EQUIPMENT. No solar energy collector panels or attendant hardware or energy conservation equipment shall be constructed or installed on any LOT unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the **ARCHITECTURAL COMMITTEE**. Under no circumstances shall solar panels be installed that will be visible from any road or **THE GARDENS COMMON AREA** in the **PROPERTY**.

Section 14.23 OIL OR GAS TANKS, POOLS, SWIMMING POOL EQUIPMENT. All swimming pool equipment and housing must be placed in walled-in or screened areas or landscaped area so that they are not visible from **THE GARDENS COMMON AREA**, road or adjoining **PROPERTY**. No oil tanks or bottled gas tanks shall be allowed on any LOT or on **THE GARDENS COMMON AREA**. **PROVIDED, HOWEVER, two (2) bottled natural gas tanks no larger than five (5) gallons in size may be kept on a LOT for the purpose of cooking with a gas grill and so long as said natural gas tank is placed in a screened area and so that they are not visible from any THE GARDENS COMMON AREA, road or adjoining PROPERTY.**

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

- A. Composition to be of material thoroughly tested and accepted by the industry for such construction;
- B. Pool screening may not be visible from the street in front of the LOT; and
- C. All screening material shall be of a color in harmony with the LOT. No raw aluminum color screen will be allowed.

Section 14.24 IRRIGATION. No sprinkler or irrigation system of any type that draws upon water from creeks, streams, rivers, lakes, ponds, wetlands, canals or other ground or surface waters within the **PROPERTY** shall be installed, constructed or operated within the **PROPERTY** by any **PERSON**, other than the **MASTER ASSOCIATION, THE GARDENS ASSOCIATION** or the **DECLARANT**, or to be utilized by any group of **LOTS**, unless prior written approval has been received from the **ARCHITECTURAL COMMITTEE**. All sprinkler and irrigation systems must be installed underground and shall be subject to approval of the **ARCHITECTURAL COMMITTEE**.

Section 14.25 WELLS AND DRAINAGE. Except as provided in this **DECLARATION**, no private water system shall be located on any **LOT**. **PROVIDED, HOWEVER, DECLARANT** or the **MASTER ASSOCIATION** or **THE GARDENS ASSOCIATION** shall have the right to install a private water system or systems on any **LOT** or other property owned by the **DECLARANT**. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No community wells or community water systems shall be allowed except the water system provided by any governmental entity.

Section 14.26 STORM PRECAUTIONS. No hurricane or storm shutters shall be permanently installed on any structure on a **LOT** unless first approved by the **ARCHITECTURAL COMMITTEE**. Hurricane or storm shutters may be installed temporarily, and other storm precautions may be taken to protect structures on a **LOT**, while the threat of a hurricane or similar storm is imminent; provided, all such shutters and other exterior alterations or additions made as a storm precaution shall be promptly removed once the storm or imminent threat of the storm has passed.

Section 14.27 WINDOW COVERINGS, ETC. Reflective window coverings are prohibited. No awnings, canopies, shutters, patio cover, building or storage unit of any kind shall be erected, placed or permanently installed on any **LOT** unless first approved by the **ARCHITECTURAL COMMITTEE**.

Section 14.28 PLAY EQUIPMENT, STROLLERS, ETC. All bicycles, tricycles, scooters, skateboards and other play equipment, wading pools, baby strollers and similar items shall be stored so as not to be visible from roads or **PROPERTIES** adjacent to the **LOT**. No such items shall be allowed to remain on **THE GARDENS COMMON AREA** or on **LOTS** so as to be visible from adjacent **PROPERTIES** or the road when not in use. **PROVIDED, HOWEVER,** the **ARCHITECTURAL COMMITTEE** may, but shall not be obligated to, permit swing sets and similar permanent playground equipment to be erected on **LOTS** provided approval is obtained from the **ARCHITECTURAL COMMITTEE**. No baseball cages or similar recreational facilities shall be permitted without approval of the **ARCHITECTURAL COMMITTEE**.

Section 14.29 GOLF CARTS. Golf carts shall be stored only in garages serving the **LOT** of the owner of said **GOLF CART** or other areas specifically designated by the **ARCHITECTURAL COMMITTEE** as golf cart parking areas. No golf cart shall be placed, parked or stored on the lawn of any **LOT**. No golf cart shall be operated on other than designated golf cart paths, if any. All golf carts shall be kept in good order and repair. No child under the age of **sixteen (16)** shall be permitted to operate a golf cart on the **PROPERTIES**.

Section 14.30 MINERAL OPERATIONS PROHIBITED. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind whatsoever shall be permitted upon any **LOT**, nor shall oil wells, derricks, tanks, tunnels, mineral excavations or shafts be erected or permitted to remain on any **LOT**. **PROVIDED, HOWEVER,** it is understood that this prohibition does not affect the rights of mineral **OWNERS** or **OWNERS** of any interest in minerals that may have been previously reserved or conveyed to others.

Section 14.31 INSURANCE RATES. Nothing shall be done or kept on any **LOT** or in any improvement or **THE GARDENS COMMON AREA** which will increase the rate of insurance on any **PROPERTY** insured by **THE GARDENS ASSOCIATION** or the **MASTER ASSOCIATION** without the approval of **THE GARDENS BOARD OF DIRECTORS** or the **MASTER ASSOCIATION BOARD OF**

DIRECTORS, nor shall anything be done or kept on any **LOT** which would result in the cancellation of insurance on any **PROPERTY** insured by **THE GARDENS ASSOCIATION** or the **MASTER ASSOCIATION** or which would be in violation of any law.

Section 14.32 COMPLETION OF CONSTRUCTION. All homes and other structures, landscaping and other improvements must be completed within **six (6) months** after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the **OWNER** or builder due to strikes, fires, national emergencies or natural calamities in which case the **ARCHITECTURAL COMMITTEE** may grant a **three (3) month** extension. Houses and other dwelling structures may not be temporarily or permanently occupied until the exteriors thereof have been completed. During the continuation of construction, the **OWNER** shall require the contractor to maintain the **LOT** in a reasonably clean and uncluttered condition. Upon completion of construction, the **OWNER** shall cause the contractor to immediately remove all equipment, tools, construction material and debris from the **LOT**. Any damage to roads, paths, **THE GARDENS COMMON PROPERTY** or any other property owned by any **PERSON** or entity caused by the **OWNER** or the agent of the **OWNER**, contractor or other party providing labor or services to the **OWNER** shall be repaired by the **OWNER**.

Section 14.33 OCCUPANTS BOUND. All provisions of the **MASTER DECLARATION**, **MASTER BY-LAWS**, this **DECLARATION**, **THE GARDENS BY-LAWS** and of any **RULES AND REGULATIONS** or use restrictions that govern the conduct of **OWNERS** and that provide for sanctions against **OWNERS** shall also apply to all occupants, guests and invitees of any **LOT**. Every **OWNER** shall cause all occupants of said **LOT** to comply with the **MASTER DECLARATION**, **MASTER BY-LAWS**, this **DECLARATION**, **THE GARDENS BY-LAWS** and the **RULES AND REGULATIONS**, and shall be responsible for all violations and losses to the **PROPERTY** caused by those occupants, notwithstanding the fact that those occupants of a **LOT** are fully liable and may be sanctioned for any violation of the **MASTER DECLARATION**, **MASTER BY-LAWS**, this **DECLARATION**, **THE GARDENS BY-LAWS** and **RULES AND REGULATIONS**.

Section 14.34 NO DISCRIMINATION. No action shall at any time be taken by **DECLARANT**, the **MASTER ASSOCIATION**, **MASTER BOARD OF DIRECTORS**, **THE GARDENS ASSOCIATION** or **THE GARDENS BOARD OF DIRECTORS** which in any manner would discriminate against any **OWNER** or **OWNERS** in favor of the other **OWNERS**.

ARTICLE XV **ANNEXATION OF ADDITIONAL PROPERTY**

The provisions of **ARTICLE XV** of the **MASTER DECLARATION** are incorporated in this **DECLARATION** as though **ARTICLE XV** of the **MASTER DECLARATION** was set out in full in this **DECLARATION**. The provisions of **ARTICLE XV** of the **MASTER DECLARATION** apply to the **PROPERTY** and to **THE GARDENS COMMON PROPERTY**.

ARTICLE XVI **AMENDMENT**

DECLARANT may unilaterally amend this **DECLARATION** so long as **DECLARANT** owns any **LOTS** in the **PROPERTIES** (including the **PROPERTY**), or owns any property in the **PROPERTIES**, (including the **PROPERTY**) or owns any property described on the **CONCEPTUAL**

MASTER PLAN. Thereafter and otherwise, this **DECLARATION** may be amended only by the affirmative vote or written consent, or any combination thereof, of **THE GARDENS MEMBERS** representing **seventy-five percent (75%)** of the total votes of **THE GARDENS MEMBERS**. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the public records of **BALDWIN COUNTY, ALABAMA**.

If an **OWNER** consents to any amendment to this **DECLARATION** or **THE GARDENS BY-LAWS**, said consent will be conclusively presumed that such **OWNER** has the authority so to consent and no contrary provision in any **MORTGAGE** or contract between the **OWNER** and a third party will affect the validity of such amendment.

No amendment may remove, revoke or modify any right or privilege of **DECLARANT** without the written consent of **DECLARANT** or the assignee of such right or privilege. No amendment may impair the validity or priority of the lien of any **MORTGAGE** held by a **MORTGAGEE** or impair the rights granted to **MORTGAGEES** in this **DECLARATION** without the prior written consent of such **MORTGAGEES**.

This **DECLARATION** shall not be amended without the prior written consent of **DECLARANT**, so long as **DECLARANT** owns any **LOTS** in the **PROPERTIES** (including **LOTS** in the **PROPERTY**), or owns any property in the **PROPERTIES**, (including any property in the **PROPERTY**) or owns any property described on the **CONCEPTUAL MASTER PLAN**.

ARTICLE XVII **MORTGAGEE RIGHTS**

The provisions of **ARTICLE XVII** of the **MASTER DECLARATION** are incorporated in this **DECLARATION** as though **ARTICLE XVII** of the **MASTER DECLARATION** was set out in full in this **DECLARATION**. The provisions of **ARTICLE XVII** of the **MASTER DECLARATION** apply to the **PROPERTY** and to **THE GARDENS COMMON PROPERTY**.

ARTICLE XVIII **RIGHTS OF DECLARANT**

The provisions of **ARTICLE XVIII** of the **MASTER DECLARATION** are incorporated in this **DECLARATION** as though **ARTICLE XVIII** of the **MASTER DECLARATION** was set out in full in this **DECLARATION**. The provisions of **ARTICLE XVIII** of the **MASTER DECLARATION** apply to the **PROPERTY** and to **THE GARDENS COMMON PROPERTY**.

ARTICLE XIX **GOLF CLUB**

The provisions of **ARTICLE XIX** of the **MASTER DECLARATION** are incorporated in this **DECLARATION** as though **ARTICLE XIX** of the **MASTER DECLARATION** was set out in full in this **DECLARATION**.

ARTICLE XX
LAKE

The provisions of **ARTICLE XX** of the **MASTER DECLARATION** are incorporated in this **DECLARATION** as though **ARTICLE XX** of the **MASTER DECLARATION** was set out in full in this **DECLARATION**.

ARTICLE XXI
GENERAL PROVISIONS

Section 21.1 TERM. The covenants and restrictions of this **DECLARATION** shall run with and bind the **PROPERTY**, and shall inure to the benefit of and shall be enforceable by the **DECLARANT**, the **MASTER ASSOCIATION**, **THE GARDENS ASSOCIATION** or the **OWNER** of any **PROPERTY** subject to this **DECLARATION**, their respective legal representatives, heirs, successors and assigns, for a term of **ninety-nine (99) years** from the date this **DECLARATION** is recorded, after which time they shall be automatically extended for successive periods of **ten (10) years**, unless an instrument in writing, signed by a **MAJORITY** of the then **OWNERS**, has been recorded within the year preceding the beginning of each successive period of **ten (10) years**, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this **DECLARATION** shall be modified or terminated as specified therein.

Section 21.2 SEVERABILITY. If any **ARTICLE**, part, clause, provision or condition of this **DECLARATION** is held to be void, invalid or inoperative, such voidness, invalidity or inoperativeness shall not affect any other **ARTICLE**, clause, provision or condition of this **DECLARATION**, but the remainder of this **DECLARATION** shall be effective as though such **ARTICLE**, clause, provision or condition had not been contained therein.

Section 21.3 LITIGATION. No judicial or administrative proceeding shall be commenced or prosecuted by **THE GARDENS ASSOCIATION** unless approved by a vote of **seventy-five percent (75%)** of **THE GARDENS MEMBERS** and approved by the **DECLARANT** so long as **DECLARANT** owns any **LOTS** in the **PROPERTY**, or any **PROPERTY** described on the **CONCEPTUAL MASTER PLAN**. This **Section 21.3** shall not apply, however, to (a) actions brought by **THE GARDENS ASSOCIATION** to enforce the provisions of this **DECLARATION** (including, without limitation, the foreclosure of liens), (b) the imposition and collection of **THE GARDENS ASSESSMENTS** as provided in this **DECLARATION**, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by **THE GARDENS ASSOCIATION** in proceedings instituted against **THE GARDENS ASSOCIATION**. This **Section 21.3** shall not be amended unless such amendment is made by **DECLARANT** or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 21.4 CUMULATIVE EFFECT; CONFLICT. The covenants, restrictions and provisions of this **DECLARATION** shall be cumulative with those of the **MASTER DECLARATION**. **PROVIDED, HOWEVER**, if there are conflicts between the provisions of this **DECLARATION** and the provisions of the **MASTER DECLARATION** or conflicts in the exercise of any powers between the **MASTER ASSOCIATION** and **THE GARDENS ASSOCIATION**, then the provisions in the **MASTER DECLARATION** and the powers granted to the **MASTER ASSOCIATION** shall prevail and be controlling.

Section 21.5 UNRESTRICTIVE RIGHT OF TRANSFER. The right of a **LOT OWNER** to sell, transfer or otherwise convey said **LOT** shall not be subject to any right of first refusal or a similar restriction.

Section 21.6 NO RESTRICTIONS ON MORTGAGING. Anything construed in this **DECLARATION** to the contrary, there shall be no restrictions on a **LOT OWNER'S** right to **MORTGAGE** a **LOT**.

Section 21.7 ACCEPTANCE BY GRANTEE. The grantee of any **LOT** subject to the coverage of this **DECLARATION**, by acceptance of the **DEED** or other instrument conveying an interest in or title to, or the execution of a contract for the purchase of a **LOT**, whether from **DECLARANT** or a subsequent **OWNER** of such **LOT**, shall accept such **DEED** or other contract upon and subject to each and all of the terms and conditions set out in this **DECLARATION**.

Section 21.8 INDEMNITY FOR DAMAGES. Each and every **LOT OWNER** and future **LOT OWNER**, in accepting a **DEED** or contract for any **LOT** subject to this **DECLARATION**, agrees to indemnify **DECLARANT** for any damage caused by such **OWNER**, or the contractor, agent or employees of such **OWNER**, to private access areas, streets, roads, gutters, walkways or other aspects of private or public ways, including all surfacing thereon or to water, drainage or storm sewer lines or sanitary sewer lines owned by **DECLARANT**, or for which **DECLARANT** has responsibility, at the time of such damage.

Section 21.9 CAPTIONS, GENDER AND GRAMMAR. The captions preceding the various sections, paragraphs and subparagraphs of this **DECLARATION** are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provision in this **DECLARATION**. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

Section 21.10 EFFECT OF VIOLATION ON MORTGAGE LIEN. No violation of any of the terms and conditions of this **DECLARATION** shall defeat or render invalid the lien of any **MORTGAGE** made or reserved in good faith and for value upon any portion of the **PROPERTY**. **PROVIDED, HOWEVER**, that any **MORTGAGEE** in actual possession, or any purchaser at any judicial or non-judicial foreclosure by a **MORTGAGE** sale shall be bound by and subject to this **DECLARATION** as fully as any other **OWNER** of any portion of the **PROPERTY**.

Section 21.11 NO REVERTER. No provision of this **DECLARATION** is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

Section 21.12 ENFORCEMENT. In the event of a violation or breach of any of this **DECLARATION**, **THE GARDENS BY-LAWS** or the **RULES AND REGULATIONS** by any **OWNER**, or employee, agent, or lessee of such **OWNER**, the **OWNER(S)** of **LOT(S)**, the **MASTER ASSOCIATION**, **THE GARDENS ASSOCIATION**, **DECLARANT** (so long as **DECLARANT** owns any **LOTS** in the **PROPERTY**, or any property in the **PROPERTY**, or any property described on the **CONCEPTUAL MASTER PLAN**) their successors and assigns, shall each have the right to proceed at law or in equity to compel compliance with the terms and conditions of this **DECLARATION**, to prevent the violation or breach of **THE GARDENS DECLARATION**, **THE GARDENS BY-LAWS** or the **RULES AND REGULATIONS** to sue for and recover damages or other dues, or take all such

courses of action at the same time, or such other legal remedy it may deem appropriate. No delay or failure on the part of an aggrieved party to initiate an available remedy set forth in this **DECLARATION** shall be held to be a waiver of that party or an estoppel of that party or of any other party to assert any right available to said party upon the recurrence or continuation of said violation or the occurrence of a different violation.

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

Any party to a proceeding who succeeds in enforcing this **DECLARATION**, **THE GARDENS BY-LAWS** or the **RULES AND REGULATIONS** or enjoining the violation of this **DECLARATION** against a **LOT OWNER** may be awarded a reasonable attorney's fee against such **LOT OWNER**.

Section 21.13 CERTIFICATE OF VIOLATION. In addition to any other rights or remedies available to the **MASTER ASSOCIATION**, **THE GARDENS ASSOCIATION** or the **DECLARANT** under this **DECLARATION** or at law or equity, the **DECLARANT**, the **MASTER ASSOCIATION** or **THE GARDENS ASSOCIATION** shall have the right to file in the records of **BALDWIN COUNTY, ALABAMA**, a Certificate or Notice of Violation of this **DECLARATION** (which violation shall include, without limitation, nonpayment of the annual charges and/or failure to comply with architectural guidelines) upon failure of a **LOT OWNER** to correct a violation of this **DECLARATION** within **thirty (30) days** after written notice of the violation has been given by **DECLARANT**, the **MASTER ASSOCIATION** or **THE GARDENS ASSOCIATION** to the **LOT OWNER**.

Section 21.14 ESTOPPEL CERTIFICATE. Upon the request of any of **THE GARDENS MEMBERS**, **THE GARDENS BOARD OF DIRECTORS**, or designee, shall furnish a written certificate signed by an officer or agent of **THE GARDENS ASSOCIATION** regarding unpaid **THE GARDENS ASSESSMENTS** levied against the property of **THE GARDENS MEMBER** in violation of this **DECLARATION**, **THE GARDENS BY-LAWS**, use restrictions, **RULES AND REGULATIONS** by any **OWNER** or occupant of the property. Such certificate shall bind **THE GARDENS ASSOCIATION** with respect to the foregoing matters. **THE GARDENS ASSOCIATION** may require the advance payment of a reasonable processing fee.

Section 21.15 INTERPRETATION OF THIS DECLARATION. The **DECLARANT**, the **MASTER ASSOCIATION** or **THE GARDENS ASSOCIATION** shall have the right to construe and interpret the provisions of this **DECLARATION**, and in absence of an adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all **PERSONS** or **PROPERTY** benefitted or bound by the provisions of this **DECLARATION**.

Section 21.16 ASSIGNMENT BY THE MASTER ASSOCIATION OR THE GARDENS ASSOCIATION. The **MASTER ASSOCIATION** or **THE GARDENS ASSOCIATION** shall be empowered to assign the rights of the **MASTER ASSOCIATION** or **THE GARDENS ASSOCIATION** under this **DECLARATION** to any successor non-profit membership corporation ("**SUCCESSOR CORPORATION**") and, upon such assignment, the **SUCCESSOR CORPORATION** shall have all the rights and be subject to all the duties of the **MASTER ASSOCIATION** or **THE GARDENS ASSOCIATION** under this **DECLARATION**.

Section 21.17 DEVIATION. THE BOARD OF DIRECTORS of the MASTER ASSOCIATION or THE GARDENS ASSOCIATION or designee may, in the exercise of reasonable discretion, permit deviations from the restrictions contained in this DECLARATION, THE GARDENS BY-LAWS, the RULES AND REGULATIONS, the use restrictions and the architectural guidelines.

Section 21.18 USE OF THE WORDS "GLENLAKES" OR "THE GARDENS AT GLENLAKES" OR "GLENLAKES MASTER ASSOCIATION" OR "GLENLAKES PROPERTY OWNER'S ASSOCIATION" OR "THE GARDENS AT GLENLAKES PROPERTY OWNER'S ASSOCIATION". No PERSON shall use the words "GLENLAKES" or "THE GARDENS AT GLENLAKES" or "GLENLAKES MASTER ASSOCIATION" or "GLENLAKES PROPERTY OWNER'S ASSOCIATION" or any derivative thereof in any printed or promotional material without the prior written consent of DECLARANT. PROVIDED, HOWEVER, OWNERS may use the terms "GLENLAKES" or "GLENLAKES MASTER ASSOCIATION" or "THE GARDENS AT GLENLAKES" or "GLENLAKES PROPERTY OWNER'S ASSOCIATION" or "THE GARDENS AT GLENLAKES PROPERTY OWNER'S ASSOCIATION" in printed or promotional matter where such term is used solely to specify that particular property is located within the PROPERTY.

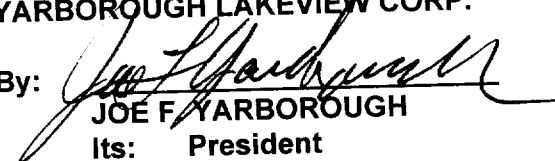
Section 21.19 SECURITY. THE GARDENS ASSOCIATION will strive to maintain the PROPERTY as a safe, secure environment. HOWEVER, NEITHER THE GARDENS ASSOCIATION, NOR THE DECLARANT, SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS, TENANTS, GUESTS AND INVITES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE GARDENS ASSOCIATION, AND DECLARANT AND COMMITTEES ESTABLISHED BY ANY OF THE FOREGOING ENTITIES, ARE NOT INSURERS AND THAT EACH OWNER, TENANT, GUEST AND INVITEE ASSUMES ALL RISK OF LOSS OR DAMAGE TO PERSONS, TO LOTS, AND TO THE CONTENTS OF LOTS AND FURTHER ACKNOWLEDGE THAT THE DECLARANT HAS MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO ANY SECURITY MEASURES RECOMMENDED OR UNDERTAKEN.

IN WITNESS WHEREOF, the undersigned, being the DECLARANT, has caused this DECLARATION to be duly executed on this the 19th day of May, 2000.

DECLARANT:

GLENLAKES REALTY CO., an Alabama
General Partnership

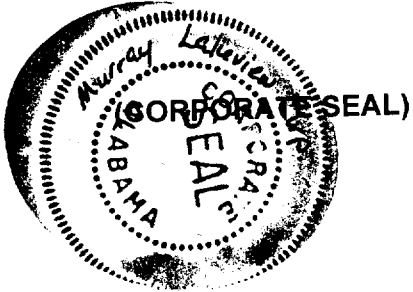
By: YARBOROUGH LAKEVIEW CORP.

By: 
JOE F. YARBOROUGH
Its: President



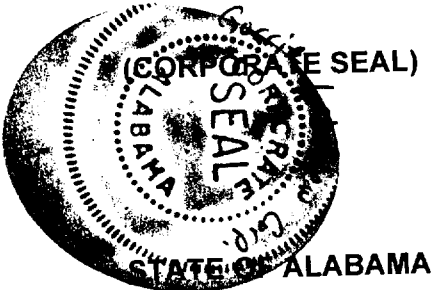
By: MURRAY LAKEVIEW CORP.

By: *Roger Murray*
ROGER MURRAY
Its: President



By: GORRIE LAKEVIEW CORP.

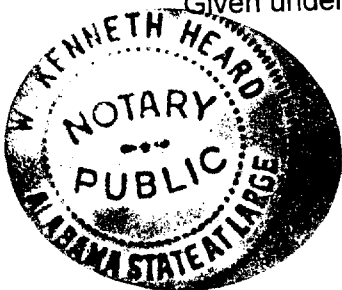
By: *M. Miller Gorrie*
M. MILLER GORRIE
Its: President



COUNTY OF BALDWIN

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that JOE F. YARBOROUGH, whose name as **President** of YARBOROUGH LAKEVIEW CORP., acting in its capacity as a **Partner** of GLENLAKES REALTY CO., an Alabama General Partnership, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such **President** and with full authority, executed the same voluntarily for and as the act of said YARBOROUGH LAKEVIEW CORP., acting in its capacity as a **Partner** of GLENLAKES REALTY CO., an Alabama General Partnership.

Given under my hand and seal this 19th day of May, 2000.

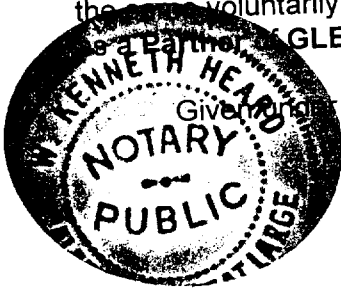


Kenneth Heard
NOTARY PUBLIC
My Commission Expires: 8/12/01

STATE OF ALABAMA

COUNTY OF BALDWIN

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that **ROGER MURRAY**, whose name as **President** of **MURRAY LAKEVIEW CORP.**, acting in its capacity as a **Partner** of **GLENLAKES REALTY CO.**, an Alabama General Partnership, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such **President** and with full authority, executed the same voluntarily for and as the act of said **MURRAY LAKEVIEW CORP.**, acting in its capacity as a **Partner** of **GLENLAKES REALTY CO.**, an Alabama General Partnership.



Given under my hand and seal this 19th day of May, 2000.

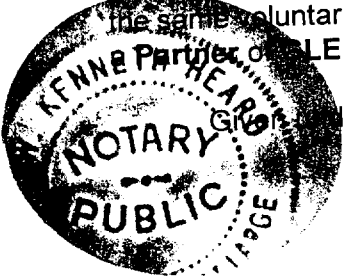
W. Kenneth Heard
NOTARY PUBLIC

My Commission Expires: 8/12/01

STATE OF ALABAMA

COUNTY OF BALDWIN

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that **M. MILLER GORRIE**, whose name as **President** of **GORRIE LAKEVIEW CORP.**, acting in its capacity as a **Partner** of **GLENLAKES REALTY CO.**, an Alabama General Partnership, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such **President** and with full authority, executed the same voluntarily for and as the act of said **GORRIE LAKEVIEW CORP.**, acting in its capacity as a **Partner** of **GLENLAKES REALTY CO.**, an Alabama General Partnership.



Given under my hand and seal this 19th day of May, 2000.

W. Kenneth Heard
NOTARY PUBLIC

My Commission Expires: 8/12/01

THIS INSTRUMENT PREPARED BY:

Sam W. Irby
Irby & Heard, P.C.
Attorneys at Law
Post Office Box 1031
Fairhope, Alabama 36533
(334)928-4555

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

2000 June - 2 12:34PM

Instrument Number 548497 Pages 37
Recording 111.00 Mortgage
Deed Min Tax
Index DP 1.00
Archive 3.00
Adrian T. Johns, Judge of Probate