

Revised Book

Revised R. 11

**ORINOCO COVE,
A PLANNED UNIT DEVELOPMENT**

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FINAL RECORDED DOCUMENTS

ORINOCO COVE, A PLANNED UNIT DEVELOPMENT

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FINAL RECORDED DOCUMENTS

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
ORINOCO COVE**

RECORD FEE 105.00
STATE OF ALABAMA
BALDWIN COUNTY
CERTIFY THIS INSTRUMENT WAS
FILED AND TAXES COLLECTED ON

Nov 3 2 06 PM '95

DEED
MIN TAX
RECORDED BY ALICE R. HARRIS -1088
JUDGE OF PROBATE

STATE OF ALABAMA :

COUNTY OF BALDWIN :

This DECLARATION made on the date hereinafter set forth by
MESS ABOUT MARINA, INC., an Alabama Corporation (the "DECLARANT").

R E C I T A L S;

(1) DECLARANT is the owner of that certain property which is known as ORINOCO COVE, A PLANNED UNIT DEVELOPMENT, as per plat thereof recorded in the Office of the Judge of Probate of Baldwin County, Alabama, in Slide 1604-B, together with improvements and appurtenances including certain riparian rights and rights to construct piers and docking facilities, all as more particularly described on the Plat of ORINOCO COVE (sometimes hereinafter referred to as the "PROPERTY").

(2) DECLARANT is the owner of the permits issued by the applicable federal, state and local government agencies, having jurisdiction over the PROPERTY, including the right, pursuant to two (2) United States Army Corps of Engineers Permit Numbers AL88-01320-Y and AL92-02766-Y authorizing the construction of certain piers and docking facilities.

(3) DECLARANT intends to develop the PROPERTY as a PLANNED UNIT DEVELOPMENT as described in this DECLARATION in one (1) or more phases and to subject the PROPERTY to this DECLARATION.

(4) DECLARANT has caused the ORINOCO COVE PROPERTY OWNER'S ASSOCIATION, INC. (the "ASSOCIATION") to be formed for the purpose of providing an Alabama non-profit corporation to serve as representative of the DECLARANT and OWNERS of the PROPERTY.

(5) The ASSOCIATION and the PROPERTY shall be subject to the terms and conditions of this DECLARATION.

NOW, THEREFORE, DECLARANT hereby declares that the PROPERTY shall be held, sold and conveyed or encumbered, rented, used, occupied and improved, mortgaged or otherwise encumbered subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the PROPERTY subject to this DECLARATION and which shall be binding on all parties having any right, title or interest in the PROPERTY or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof. This DECLARATION does not and is not intended to create a condominium within the meaning of the Alabama Uniform Condominium Act of 1991, Code of Alabama (1975), Section 35-8A-101, et seq.

ARTICLE I

DEFINITIONS

The following words and terms as used in this DECLARATION (unless the context clearly shall indicate otherwise) shall have the following meaning:

Section 1.1 "ADDITIONAL PROPERTY" means such property (real, personal or mixed) as may be added to the PROPERTY by amendment to this DECLARATION.

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Section 1.2 "ARTICLES OF INCORPORATION" or "ARTICLES" shall mean and refer to the ARTICLES OF INCORPORATION of the ASSOCIATION.

Section 1.3 "ASSESSMENTS" shall mean and refer to the ASSESSMENTS referred to in this DECLARATION.

Section 1.4 "ASSOCIATION" shall mean and refer to ORINOCO COVE PROPERTY OWNER'S ASSOCIATION, INC., a non-profit Corporation, its successors and assigns.

Section 1.5 "BOARD OF DIRECTORS" or "BOARD" shall mean and refer to the BOARD OF DIRECTORS of the ASSOCIATION.

Section 1.6 "BOAT SLIP" shall mean and refer to the BOAT SLIP as described in ARTICLE III below.

Section 1.7 "BY-LAWS" shall mean and refer to the BY-LAWS of the ASSOCIATION.

Section 1.8 "COMMON AREA" or "COMMON PROPERTY" shall mean and refer to the portions of the PROPERTY not included in the LOTS. (See ARTICLE III below for a more detailed definition of COMMON AREA).

Section 1.9 "COMMON EXPENSES" shall mean and include the actual and estimated expenses of operating the ASSOCIATION, including any reasonable reserve, as may be found to be necessary and appropriate by the BOARD pursuant to this DECLARATION, the ARTICLES OF INCORPORATION of the ASSOCIATION and the BY-LAWS of the ASSOCIATION.

Section 1.10 "DECLARANT" shall mean and refer to MESS ABOUT MARINA, INC., an Alabama Corporation and the successors and assigns of DECLARANT, if such successors and assigns should acquire more than one (1) undeveloped LOT or UNDIVIDED UNIT from the DECLARANT for the purpose of development and if DECLARANT specifically designates such successors and assigns as a successor DECLARANT.

Section 1.11 "DECLARATION" shall mean and refer to this DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, which shall be recorded in the Probate Records of Baldwin County, Alabama, as the same may from time to time be supplemented or amended in the manner described herein.

Section 1.12 "DEED" shall mean and refer to any DEED, assignment, lease or other instrument conveying fee simple title or a leasehold interest in any part of the PROPERTY.

Section 1.13 "LOT" shall mean and refer to any improved or unimproved plot, parcel or portion of land shown upon any recorded final subdivision map of the PROPERTY, with the exception of the COMMON AREA as herein defined, and shall include, where the context may indicate, any improvement or fixture located thereon.

Section 1.14 "MAJORITY" shall mean and refer to those eligible votes, OWNERS or other groups as the context may indicate totaling more than fifty percent (50%) of the total eligible number.

Section 1.15 "MARINA" shall mean and refer to the piers, bulkheads, pilings, docking facilities, BOAT SLIPS and navigable waterways, as identified on the PLAT.

Section 1.16 "MEMBER" shall mean and refer to every person or entity who holds membership in the ASSOCIATION, as provided herein.

Section 1.17 "MORTGAGE" shall mean and refer to any MORTGAGE, DEED with vendor's lien reserved and any and all other

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similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

Section 1.18 "OWNER" of "OWNERS" shall mean and refer to the record OWNER or OWNERS, whether one (1) or more persons or entities, of a fee simple title to any LOT or fee simple title to any UNDIVIDED UNIT, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.19 "PERSON" shall mean and refer to a natural person, corporation, partnership, trustee or other legal entity.

Section 1.20 "PLAT" shall mean and refer to the PLAT of ORINOCO COVE, a Planned Unit Development, referred to in Paragraph (1) in the recitals on Page 1 of this DECLARATION.

Section 1.21 "PROPERTY" or "PROPERTIES" or "PLANNED UNIT DEVELOPMENT" shall mean and refer to that certain property described in Paragraph (1) in the RECITALS on Page 1 of this DECLARATION, and such additions thereto as may hereafter to brought within the jurisdiction of the ASSOCIATION.

Section 1.22 "SUPPLEMENTAL DECLARATION" shall mean 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 therein, or both.

Section 1.23 "UNDIVIDED UNIT" shall mean and refer to the UNDIVIDED UNIT as defined in ARTICLE III below.

Section 1.24 "VESSEL" shall mean and refer to any craft for traveling on water including a boat, sailboat or other watercraft which is motorized or self-propelled and in a seaworthy condition, together with any tender thereto. In the event of any dispute as to whether a particular VESSEL is permitted to be kept in a BOAT SLIP or otherwise operated within the MARINA, the determination of the ASSOCIATION made in its sole discretion shall be dispositive. The term VESSEL shall include all VESSELS kept in a BOAT SLIP or otherwise operated within the MARINA.

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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

THE PLAN AND GENERAL DESCRIPTION

Section 3.1 General Description. The PROPERTY consists of eighteen (18) LOTS (as described in ARTICLE III, Section 2, below) and the COMMON AREA (as described in ARTICLE III, Section 4, below). The COMMON AREA includes twenty (20) UNDIVIDED UNITS (as described in ARTICLE III, Section 3, below) and the BOAT SLIPS (as described in ARTICLE III, Section 5, below). The LOTS and the COMMON AREA (including the BOAT SLIPS) are identified and labeled on the PLAT.

Section 3.2 LOT. The eighteen (18) LOTS are identified on the PLAT and are as follows:

- A. There are four (4) BUNGALOW LOTS.
- B. There are six (6) TOWNHOUSE LOTS.
- C. There are seven (7) COTTAGE LOTS.
- D. There is one (1) HARBOR MASTER LOT.

Each LOT OWNER shall be entitled to the fee simple ownership and exclusive possession of his/her LOT.

Any right, title or interest in a LOT shall automatically carry with it as an appurtenance and without the necessity of specific reference thereto its respective undivided fee simple share of the COMMON AREA as described herein and the right to use the COMMON AREA (subject to the right to possess a BOAT SLIP as described herein) as a tenant in common with the other LOT OWNERS and UNDIVIDED UNIT OWNERS. The percent of undivided fee simple interest in the COMMON AREA appurtenant to each LOT is set out in ARTICLE III, Section 6. below.

Each LOT shall automatically carry with it as an appurtenance the right to possess a BOAT SLIP. The specific BOAT SLIP shall be assigned to a LOT as an appurtenance to the LOT at the time the LOT is conveyed from the DECLARANT to the LOT OWNER. Thereafter, the right to possess the BOAT SLIP shall become a permanent appurtenance to the LOT and shall not be conveyed, transferred, encumbered or otherwise affected separate from the ownership of the LOT.

Section 3.3 UNDIVIDED UNIT. An UNDIVIDED UNIT is defined as a fee simple undivided interest in the COMMON AREA which is not an appurtenance to a LOT but is separate from the LOTS. In other words, there are eighteen (18) LOTS in the PROPERTY which include as an appurtenance an undivided fee simple interest in the COMMON AREA as defined in ARTICLE III, Section 2. above and there are twenty (20) UNDIVIDED UNITS in the PROPERTY which are separate undivided fee simple interests in the COMMON AREA and not an appurtenance to any LOT. The percent of undivided fee simple interests in the COMMON AREA for each UNDIVIDED UNIT is set out in ARTICLE III, Section 6. below. Any right, title or interest in a UNDIVIDED UNIT shall automatically carry with it as an appurtenance its respective fee simple undivided share of the COMMON AREA and the right to use the COMMON AREA (subject to the right to possess a BOAT SLIP as described herein) as a tenant in common with the LOT OWNERS and the other UNDIVIDED UNIT OWNERS.

Each UNDIVIDED UNIT shall automatically carry with it as an appurtenance the right to possess a BOAT SLIP. The specific BOAT SLIP shall be assigned to a UNDIVIDED UNIT as an appurtenance to the UNDIVIDED UNIT at the time the UNDIVIDED UNIT is conveyed from the DECLARANT to the UNDIVIDED UNIT OWNER. Thereafter, the right to possess a BOAT SLIP shall become a permanent appurtenance to the UNDIVIDED UNIT and shall not be conveyed, transferred, encumbered or otherwise affected separate from the ownership of the UNDIVIDED UNIT.

An UNDIVIDED UNIT OWNER shall not be entitled to the exclusive possession of any part of the PROPERTY except that an UNDIVIDED UNIT OWNER shall be entitled to possess the appurtenant BOAT SLIP which is assigned to the UNDIVIDED UNIT as provided herein.

See Section 7. of ARTICLE III of this DECLARATION which sets out the right of the DECLARANT to add additional UNDIVIDED UNITS as ADDITIONAL PROPERTY.

Section 3.4 Common Area. The COMMON AREA of the PROPERTY is all portions of the PROPERTY other than the LOTS and will include the COMMON AREA and facilities located substantially as shown on the PLAT. The COMMON AREA and facilities include the following:

- A. All of the REAL PROPERTY except the LOTS.
- B. All of the right to access to the waters, littoral and riparian rights.
- C. All tangible personal property required for the maintenance and operation of the COMMON AREA and for the common use and enjoyment of the LOT OWNERS and UNDIVIDED UNIT OWNERS.
- D. The BOAT SLIPS (subject to the right to possess the BOAT SLIPS by LOT OWNERS and UNDIVIDED UNIT OWNERS as described herein) piers, docks, bulkheads, retaining walls, utility lines, dock facilities and the harbor basin to the extent of its ownership by DECLARANT, an internal gravity sewage system and sewage pump station, and an internal water distribution system, together with other improvements shown on the PLAT.

Fee simple title to the COMMON AREA shall be owned by the LOT OWNERS and the UNDIVIDED UNIT OWNERS as tenants in common and as described herein. The ASSOCIATION shall not own the COMMON AREA shown on the PLAT. PROVIDED, HOWEVER, the ASSOCIATION may acquire and own real or personal property as additional COMMON AREA.

Subject to the terms and conditions of this DECLARATION, each LOT OWNER and each UNDIVIDED UNIT OWNER shall own an undivided fee simple interest in the COMMON AREA as a tenant in common as set out in Section 6. below and shall have the non-exclusive right to use the COMMON AREA (except the BOAT SLIPS which are designated for the use and possession of a LOT OWNER or UNDIVIDED UNIT OWNER as described in Section 5. below) in conjunction with the OWNERS of the other LOTS and the OWNERS of the other UNDIVIDED UNITS as may be required for the purpose of access, ingress to, egress from, use, occupancy and enjoyment of the PROPERTY. The right of a LOT OWNER or UNDIVIDED UNIT OWNER to use the COMMON AREA shall be subject to and governed by the provisions of this DECLARATION and the Rules and Regulations of the ASSOCIATION. In addition, the ASSOCIATION shall have the authority to lease, grant concessions or grant easements with respect to parts of the COMMON AREA subject to the provisions of this DECLARATION and the BY-LAWS. The DECLARANT shall have the right to use the COMMON AREA as elsewhere described in this DECLARATION.

Section 3.5 BOAT SLIP. The thirty-eight ⁴²(38) BOAT SLIPS are identified on the PLAT and are part of the COMMON AREA but are subject to the right of a LOT OWNER or UNDIVIDED UNIT OWNER to possess his or her BOAT SLIP as described herein. The right of each LOT OWNER and UNDIVIDED UNIT OWNER to possess a BOAT SLIP shall be in the nature of an easement which is appurtenant to a LOT or an UNDIVIDED UNIT.

The BOAT SLIP shall consist of the space located within the area generally described as follows. The horizontal and vertical boundaries of each BOAT SLIP shall typically consist of the interior face of the docks, piers and the mooring piles assigned to each BOAT SLIP and falling within the BOAT SLIP and if no surface (no docks, piers or mooring piles), the horizontal or vertical extended plane of the perimeter of said surface extended to the distances shown on the PLAT. There are no specific upper boundaries for the BOAT SLIP. The vertical or upper boundaries extend upward to such a height that would accommodate and include the VESSEL moored in the BOAT SLIP from time to time. The lower boundary of

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the BOAT SLIP extends beneath the surface of the water enough to accommodate and include the keel of the VESSEL moored in the BOAT SLIP from time to time to (but not including) the bottom of the harbor basin or Terry Cove.

See Section 7. of ARTICLE III of this DECLARATION which sets out the right of the DECLARANT to add additional BOAT SLIPS as ADDITIONAL PROPERTY.

Each BOAT SLIP OWNER shall have the riparian right and easement to use the water space within the BOAT SLIP as well as the water immediately adjacent to the BOAT SLIP extending to within one (1) foot of the mooring pile or boundary line between VESSELS as shown on the PLAT for the purpose of mooring a VESSEL. The rights of a OWNER to use a BOAT SLIP or the waterways is exclusive as to all other LOT OWNERS and UNDIVIDED UNIT OWNERS but is non-exclusive and is subject to the rights of other parties, the United States of America or the State of Alabama, in and to the shore, littoral or riparian rights of the PROPERTY lying adjacent to Terry Cove and the rights of said parties to use and/or regulate said waterways.

Section 3.6 Fee Simple Interest in COMMON AREA. Subject to the right of the DECLARANT to annex additional UNDIVIDED UNITS and additional BOAT SLIPS as provided herein, the percentage of undivided fee simple interest in the COMMON AREA appurtenant to each LOT and appurtenant to each UNDIVIDED UNIT is equal. Each LOT and each UNDIVIDED UNIT shall own an undivided fee simple interest of 2.6316% in the COMMON AREA as a tenant in common and subject to the terms and conditions of this DECLARATION.

<u>LOT AND</u> <u>UNDIVIDED UNIT NUMBERS</u>	<u>Percent of</u> <u>Undivided Fee Simple</u> <u>Interest in COMMON AREA</u>
<u>BUNGALOW LOT Number 1.</u>	2.6316 %
<u>BUNGALOW LOT Number 2.</u>	2.6316 %
<u>BUNGALOW LOT Number 3.</u>	2.6316 %
<u>BUNGALOW LOT Number 4.</u>	2.6316 %
<u>TOWNHOUSE LOT Number 1.</u>	2.6316 %
<u>TOWNHOUSE LOT Number 2.</u>	2.6316 %
<u>TOWNHOUSE LOT Number 3.</u>	2.6316 %
<u>TOWNHOUSE LOT Number 4.</u>	2.6316 %
<u>TOWNHOUSE LOT Number 5.</u>	2.6316 %
<u>TOWNHOUSE LOT Number 6.</u>	2.6316 %
<u>COTTAGE LOT Number 1.</u>	2.6316 %
<u>COTTAGE LOT Number 2.</u>	2.6316 %
<u>COTTAGE LOT Number 3.</u>	2.6316 %
<u>COTTAGE LOT Number 4.</u>	2.6316 %
<u>COTTAGE LOT Number 5.</u>	2.6316 %
<u>COTTAGE LOT Number 6.</u>	2.6316 %

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<u>COTTAGE LOT Number 7.</u>	2.6316 %
<u>HARBOR MASTER LOT.</u>	2.6316 %
<u>UNDIVIDED UNIT Number 1.</u>	2.6316 %
<u>UNDIVIDED UNIT Number 2.</u>	2.6316 %
<u>UNDIVIDED UNIT Number 3.</u>	2.6316 %
<u>UNDIVIDED UNIT Number 4.</u>	2.6316 %
<u>UNDIVIDED UNIT Number 5.</u>	2.6316 %
<u>UNDIVIDED UNIT Number 6.</u>	2.6316 %
<u>UNDIVIDED UNIT Number 7.</u>	2.6316 %
<u>UNDIVIDED UNIT Number 8.</u>	2.6316 %
<u>UNDIVIDED UNIT Number 9.</u>	2.6316 %
<u>UNDIVIDED UNIT Number 10.</u>	2.6316 %
<u>UNDIVIDED UNIT Number 11.</u>	2.6316 %
<u>UNDIVIDED UNIT Number 12.</u>	2.6316 %
<u>UNDIVIDED UNIT Number 13.</u>	2.6316 %
<u>UNDIVIDED UNIT Number 14.</u>	2.6316 %
<u>UNDIVIDED UNIT Number 15.</u>	2.6316 %
<u>UNDIVIDED UNIT Number 16.</u>	2.6316 %
<u>UNDIVIDED UNIT Number 17.</u>	2.6316 %
<u>UNDIVIDED UNIT Number 18.</u>	2.6316 %
<u>UNDIVIDED UNIT Number 19.</u>	2.6316 %
<u>UNDIVIDED UNIT Number 20.</u>	2.6316 %

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Section 3.7 Annexation of Additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS. The DECLARANT shall have the unilateral right, privilege and option, at any time and from time to time, at the sole option of the DECLARANT, to add additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS to the PLANNED UNIT DEVELOPMENT by recording in the public records of Baldwin County, Alabama, an amendment or amendments to this DECLARATION, describing such COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS and setting forth any interest in the COMMON AREA, use restrictions, voting rights, maintenance requirements, user fees, dues or other provisions pertaining to the additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS. Any amendment or supplement to this DECLARATION which subjects ADDITIONAL PROPERTY to this DECLARATION or imposes, expressly or by reference, additional restrictions and obligations shall be made by SUPPLEMENTAL DECLARATION. Notwithstanding the fact that the submission by the DECLARANT of additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS to the PLANNED UNIT DEVELOPMENT may result in a change in the undivided interest in the COMMON AREA, and/or an overall increase of ASSESSMENTS attributable to each LOT and to each UNDIVIDED UNIT, and/or may result in an overall increase in the number of BOAT SLIPS, or may result in an overall increase of the total number of votes or MEMBERS in the ASSOCIATION, such amendment or amendments by DECLARANT shall not require the joinder

or consent of the ASSOCIATION, or OWNERS or MORTGAGEES of any portion of the PROPERTY, or any other person or entity. Any property submitted to the DECLARATION pursuant to the terms hereof shall be included in the term PROPERTY and shall be part of the PROPERTY. The right of the DECLARANT to annex additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS is herein referred to as "SPECIAL DECLARANT RIGHTS".

The DECLARANT may add, at the sole option of DECLARANT, a maximum of twenty-two (22) UNDIVIDED UNITS and twenty-two (22) BOAT SLIPS to the PROPERTY. DECLARANT has the right, but not the obligation, to construct on the ADDITIONAL PROPERTY such facilities and improvements as DECLARANT, in the sole discretion of DECLARANT, shall deem desirable, provided that no assurances are made by DECLARANT that any such improvements shall be constructed.

No limitations are placed on the right of DECLARANT to create or add COMMON AREA, UNDIVIDED UNITS or BOAT SLIPS or to designate COMMON AREA therein which may subsequently be assigned as BOAT SLIPS. The undivided fee simple interest in the COMMON AREA and the liability for common expenses in the PLANNED UNIT DEVELOPMENT will be reallocated among all LOTS and UNDIVIDED UNITS in the PROPERTY, after the addition of additional UNDIVIDED UNITS and/or additional BOAT SLIPS. The LOTS and UNDIVIDED UNITS and interest percentages or fractions in the COMMON AREA are subject to reallocation and change in accordance with the SUPPLEMENTAL DECLARATION which annexes such additional phase or phases to the PLANNED UNIT DEVELOPMENT. Each UNDIVIDED UNIT created in the additional phase or phases and added to the PLANNED UNIT DEVELOPMENT will be allocated voting rights so that all LOTS and UNDIVIDED UNITS shall have an equal vote and the voting rights of OWNERS of LOTS and OWNERS of UNDIVIDED UNITS and any other property previously dedicated shall thereupon be adjusted.

The option reserved by DECLARANT to cause all or any portion of the additional phase or phases to become part of the PLANNED UNIT DEVELOPMENT shall expire twenty (20) years from the date of this DECLARATION and shall not be construed to impose upon the DECLARANT any obligation to add all or any portion of the additional phase or phases to the PLANNED UNIT DEVELOPMENT or to construct thereon any improvements of any nature whatsoever.

No assurance is made concerning whether or not any phase or portion thereof will be or will not be submitted to the PLANNED UNIT DEVELOPMENT nor is any assurance made concerning the boundaries of the phases, COMMON AREA or BOAT SLIPS, or portions thereof, the number of the phases or BOAT SLIPS, or the order in which any phase, COMMON AREA or BOAT SLIP, or portion thereof, may be or may not be subject to the exercise of these SPECIAL DECLARANT RIGHTS. The exercise by the DECLARANT of any SPECIAL DECLARANT RIGHTS as described herein on any portion of the PROPERTY does not obligate the DECLARANT to exercise said right in all or any other portion of the remainder of the PROPERTY.

No assurances are made that any improvement that may be erected pursuant to any SPECIAL DECLARANT RIGHTS in any part of the PLANNED UNIT DEVELOPMENT will be compatible or will not be compatible with any existing improvement in the PLANNED UNIT DEVELOPMENT in terms of architectural style, quality of construction and size.

No assurances are made as to the locations of any improvement that may be made within any part of the PLANNED UNIT DEVELOPMENT pursuant to any SPECIAL DECLARANT RIGHTS reserved by the DECLARANT.

Once a phase has been submitted to the terms and provisions of this DECLARATION by the recording of the SUPPLEMENTAL DECLARATION, it shall comprise a portion of the PLANNED UNIT DEVELOPMENT to be governed by and subject to all of the provisions of this

DECLARATION to the extent that said documents are not inconsistent with the provisions of the SUPPLEMENTAL DECLARATION.

Each PERSON or entity who shall acquire any LOT or UNDIVIDED UNIT in the PLANNED UNIT DEVELOPMENT or interest in or lien upon any such LOT or UNDIVIDED UNIT, regardless of whether said LOT or UNDIVIDED UNIT shall be located in any phase or any portion of said phases shall be deemed, by accepting a conveyance of or otherwise acquiring such LOT or UNDIVIDED UNIT, interest or lien, to have agreed and consented, within the meaning of this DECLARATION to be bound by the terms and provisions hereof and to have further agreed and consented that any amendment to this DECLARATION executed by the DECLARANT alone pursuant hereto shall be binding and effective as written notwithstanding the fact that the undivided interest of the UNIT OWNERS and UNDIVIDED UNIT OWNERS in the COMMON ELEMENTS will be changed thereby.

Section 3.8 No Partition. The ownership interest in the COMMON AREA or BOAT SLIP shall not be conveyed, transferred, encumbered or otherwise affected separate from the ownership of the LOT or separate from the ownership of the UNDIVIDED UNIT and any agreement to the contrary shall be void.

Section 3.9 Submerged Land. All activities on or over and all uses of submerged land affected hereby are subject to the jurisdiction of the State of Alabama, the United States Department of Army Corps of Engineers, and other governmental agencies having jurisdiction. Each OWNER shall be responsible to the extent of his or her ownership for any damages to, any illegal or uses not permitted of, and any duties or responsibilities concerning, the use of submerged lands, coastal areas and any other critical area. The rights of a OWNER to use the COMMON AREA or the waterways is subject to State, Federal and local law and further subject to rules and regulations imposed by any governmental entity having jurisdiction.

ARTICLE IV

PROPERTY RIGHTS AND EASEMENTS

Section 4.1 OWNER'S Easement of Enjoyment. Subject to the rights of the DECLARANT, every OWNER shall have and is hereby granted a nonexclusive right and easement of ingress, egress, use and enjoyment in and to the COMMON AREA necessary for access to his or her LOT or the COMMON AREA and such rights shall be appurtenant to and shall pass with the title to every LOT or UNDIVIDED UNIT, subject to the terms and conditions of this DECLARATION and subject to the following provisions:

A. The right of a LOT OWNER or UNDIVIDED UNIT OWNER to the possession of a BOAT SLIP as described in ARTICLE III above.

B. The right of the ASSOCIATION to charge reasonable admission and other fees for the use and maintenance of the COMMON AREA and to impose reasonable limits on the number of guests who may use the COMMON AREA or BOAT SLIP.

C. The right of the ASSOCIATION, in addition to its other rights as hereinafter set forth, to suspend the voting rights of an OWNER and the right to use any of the COMMON AREA for any period during which any ASSESSMENT against that OWNER'S LOT or OWNER'S UNDIVIDED UNIT remains unpaid, or for any infraction by an OWNER of the published rules and regulations of the ASSOCIATION after hearing by the BOARD OF DIRECTORS of the ASSOCIATION for the duration of the infraction and for an additional period thereafter not to exceed thirty (30) days.

D. The right of the DECLARANT, with regard to the property which may be owned for the purpose of development, to

grant easements in and to the COMMON AREA to any public agency, authority or utility for such purposes as benefit only the PROPERTY or portions thereof and OWNERS, the COMMON AREA, LOTS or UNDIVIDED UNITS.

E. The right of the DECLARANT, or the successors and assigns of DECLARANT, to operate any commercial business on the PROPERTY including, but not limited to, a VESSEL leasing or VESSEL brokerage business.

2/3 ALL }
F. The right of the ASSOCIATION to borrow money for the purpose of improving the COMMON AREA or any portion thereof, for acquiring additional COMMON PROPERTY, or for constructing, repairing or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a MORTGAGE conveying all or any portion of the COMMON AREA, provided two-thirds (2/3) of the total votes entitled to be cast by MEMBERS of the ASSOCIATION present at a meeting called for such purpose shall approve; provided, however, the lien and encumbrance of any such MORTGAGE given by the ASSOCIATION shall be subject and subordinate to any and all rights, interests, options, easements and privileges reserved or established in this DECLARATION for the benefit of DECLARANT or any OWNER, or the holder of any MORTGAGE, irrespective of when executed, given by DECLARANT or any OWNER encumbering any LOT, UNDIVIDED UNIT or other property located within the PLANNED UNIT DEVELOPMENT.

2/3 ALL
G. The right of the ASSOCIATION to dedicate or transfer all or any part of the COMMON AREA to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the MEMBERS. No such dedication or transfer 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 entitled to be cast by MEMBERS of the ASSOCIATION which are present or represented by proxy and are entitled to be cast at a meeting duly called for such purpose.

H. The parking of automobiles in the designated area within the COMMON AREA is restricted to OWNERS and guests, invitees and tenants of OWNERS and shall not interfere with the rights of ingress and egress of the OWNER of any particular LOT or UNDIVIDED UNIT.

I. The docking of VESSELS is restricted to OWNERS and guests, invitees and tenants of OWNERS and shall not interfere with the rights of ingress and egress of the person entitled to the possession of any part of the COMMON AREA.

J. The right of the ASSOCIATION to adopt and promulgate reasonable rules and regulations pertaining to the use of the PROPERTY, which, in the discretion of the ASSOCIATION, shall serve to promote the best interests of the OWNERS and residents in the PLANNED UNIT DEVELOPMENT.

K. Rights of other parties, the United States of America or State of Alabama, in and to the shore, littoral or riparian rights of the PROPERTY lying adjacent to Terry Cove. The rights of the State of Alabama to the bottoms of Terry Cove.

L. All of the provisions of this DECLARATION, the ARTICLES OF INCORPORATION and BY-LAWS of the ASSOCIATION and all exhibits thereto, and all rules and regulations adopted by the ASSOCIATION, as same may be amended from time to time.

M. The right of the DECLARANT to develop the PROPERTY, or to annex ADDITIONAL PROPERTY as provided for herein, including the construction of improvements thereon, which may include additional UNDIVIDED UNITS, COMMON AREA or BOAT SLIPS.

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N. The right of the DECLARANT or the ASSOCIATION and their designees, successors and assigns, to dredge the submerged land as deemed necessary by the DECLARANT or the ASSOCIATION from time to time.

O. The right of the ASSOCIATION or the DECLARANT to require an OWNER of a VESSEL to relocate the VESSEL due to construction of improvements or violation of any rules or regulations or of this DECLARATION. The ASSOCIATION and the DECLARANT shall have a non-exclusive easement over and across each BOAT SLIP and the MARINA for purposes of relocating a VESSEL. The ASSOCIATION, the DECLARANT and the management company shall not be liable for any damage or destruction to a VESSEL caused by the negligence of the DECLARANT, ASSOCIATION or management company in connection with the relocation of any VESSEL.

P. The right of the DECLARANT, or the successors and assigns of DECLARANT, or any party associated with the DECLARANT to the right of access to provide the business services provided by the DECLARANT.

Q. If (i) any portion of the COMMON AREA encroaches upon any BOAT SLIP; (ii) any BOAT SLIP encroaches upon any portion of the COMMON AREA; or (iii) a VESSEL shall encroach upon any adjoining BOAT SLIP or COMMON AREA as a result of, but only as a result of (a) a wake caused by the movement of other VESSELS through the MARINA, (b) tidal movement, (c) storms or other acts of God, or (d) as permitted by duly adopted rules of the ASSOCIATION, then in any such event, a valid easement shall exist for such encroachment. Notwithstanding any of the foregoing, however, an OWNER shall be liable for all damages to the BOAT SLIP or VESSEL or property of another OWNER or to the COMMON AREA where the cause of such damage is the failure of such OWNER to properly secure (or, if required, remove) his or her VESSEL to (or from) its mooring.

R. No OWNER shall grant any easement upon any portion of the PROPERTY (including any BOAT SLIP) to any person or entity without the prior consent of the DECLARANT and the ASSOCIATION.

S. The right of access over and across the COMMON AREA as set out herein shall be subject to the right of the DECLARANT or ASSOCIATION to adopt and promulgate reasonable rules and regulations pertaining to the use of said access areas, the safety and convenience of the users thereof, or which, in the discretion of the DECLARANT or ASSOCIATION, shall serve to promote the best interest of the OWNERS and occupants of the PROPERTY.

Section 4.2 ~~Delegation of Use~~. Any OWNER may delegate, in accordance with the BY-LAWS and subject to reasonable rules, regulations and limitations as may be adopted in accordance herewith, his or her right of enjoyment of the COMMON AREA and facilities to the members of his or her family, tenants and social guests or contract purchasers who reside on the PROPERTY.

Section 4.3 COMMON AREA. The COMMON AREA designated on the PLAT is not DONATED, DEDICATED NOR GRANTED to the public, but shall be owned by the LOT OWNERS and the UNDIVIDED UNIT OWNERS subject to the right to possess a BOAT SLIP as provided for in this DECLARATION and subject to the rights granted to the DECLARANT or ASSOCIATION in this DECLARATION.

Section 4.4 Drainage Easements. Except with prior written permission from DECLARANT, or (when so designated by DECLARANT) from the ARCHITECTURAL COMMITTEE, drainage flow shall not be obstructed nor be diverted from drainage swales, storm sewers and/or utility easements as designated herein, or as may hereafter appear on any plat of record in which reference is made to this DECLARATION or any part thereof. DECLARANT may cut drainways for surface water wherever and whenever such action may appear to

DECLARANT to be necessary in order to maintain reasonable standards of health, safety and appearance; provided, however, that the right of DECLARANT to cut drainways on the property of an OWNER shall terminate when the principal structure and approved landscaping on such property have been completed. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installment and to maintain reasonable standards of health and appearance. The provisions hereof shall not be construed to impose any obligation upon DECLARANT to cut such drainways.

Section 4.5 Grading. DECLARANT may at any time make such cuts and fills upon any LOT or other part of the PROPERTY and do such grading and moving of earth as, in its judgment, may be necessary to improve or maintain the access areas or driveways in or adjacent to the PROPERTY and to drain surface waters therefrom; and may assign such rights to the appropriate governmental authority; provided, however, that after plans for the principal structure upon a LOT shall have been approved by the ARCHITECTURAL COMMITTEE as provided herein, the rights of DECLARANT under this Section 4.5 shall terminate with respect to all parts of such LOT other than the easement area thereof, except that DECLARANT or any such municipal or public authority shall thereafter have the right to maintain existing roads and drainage structures.

Section 4.6 Easements for Utility. There is hereby reserved to the ASSOCIATION blanket easements upon, across, above and under all property within the PLANNED UNIT DEVELOPMENT for access, ingress, egress, installation, repairing, replacing and maintaining all utilities serving the PLANNED UNIT DEVELOPMENT or any portion thereof, including but not limited to gas, water, sanitary sewer, telephone, cable television and electricity, as well as storm drainage and any other service which the ASSOCIATION might decide to install to serve the PLANNED UNIT DEVELOPMENT. It shall be expressly permissible for the ASSOCIATION or its designee, as the case may be, to install, repair, replace and maintain or to authorize the installation, repair, replacement and maintenance of such wires, conduits, cables and other equipment relating to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the BOARD shall have the right to grant such easement.

Section 4.7 Easement for Governmental, Health, Sanitation and Emergency Services. There is hereby granted to the appropriate governmental authorities and to the appropriate private organizations supplying health, sanitation, police services and any emergency services such as fire, ambulance and rescue services, a nonexclusive easement, for purposes of ingress and egress over the COMMON AREA.

Section 4.8 Reserved Easement for DECLARANT. Notwithstanding any provisions contained in this DECLARATION to the contrary, DECLARANT hereby expressly reserves unto itself and its successors and assigns a nonexclusive, perpetual right, privilege and easement with respect to the PLANNED UNIT DEVELOPMENT for the benefit of the DECLARANT, its successors and assigns, over, under, in and/or on the PLANNED UNIT DEVELOPMENT, without further obligation and without charge to the DECLARANT, for the purposes of construction, installation, relocation, development, sale, maintenance, replacement, use and enjoyment and/or otherwise dealing with the PLANNED UNIT DEVELOPMENT. The reserved easement shall constitute a burden on the title to the PLANNED UNIT DEVELOPMENT and specifically includes, but is not limited to:

A. The right of access, ingress and egress for vehicular, or VESSEL and pedestrian traffic over, under, on or in the PLANNED UNIT DEVELOPMENT including but not limited to all

right-of-ways, ramps, gang planks, walkways, piers, dock facilities and the harbor basin, from time to time located within the PROPERTY; and the right to tie into any portion of the PLANNED UNIT DEVELOPMENT with driveways, parking areas, walkways, piers, bulkheads and docking facilities; and the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, cable television, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the PLANNED UNIT DEVELOPMENT; and

B. The right to construct, install, replace, relocate, maintain, repair, use and enjoy piers, bulkheads, docking facilities and the harbor basin, signs, model residences, sales offices, construction offices and business offices as, in the sole opinion of DECLARANT, may be required, convenient or incidental to the construction and sale by DECLARANT of the improvements in the PLANNED UNIT DEVELOPMENT or in any portion of the ADDITIONAL PROPERTY.

C. No rights, privileges and easements granted or reserved herein shall be merged into the title of any property, including, without limitation, the PLANNED UNIT DEVELOPMENT, but shall be held independent of such title, and no such right, privilege or easement shall be surrendered, conveyed or released unless and until and except by delivery of a quitclaim deed from DECLARANT releasing such right, privilege or easement by express reference thereto.

D. The COMMON AREA is hereby declared to be subject to a perpetual non-exclusive easement in favor of the DECLARANT or any management entity or agent connected with the DECLARANT, in order that the DECLARANT or any such management entity or agent may carry on their duties and have access to the COMMON AREA.

E. Nothing herein shall be construed so as to impose on the DECLARANT any obligation for duties of installation, maintenance or repair.

F. DECLARANT expressly reserves unto the DECLARANT, or the successors and assigns of DECLARANT, the right to construct and/or operate for the benefit of DECLARANT such commercial facilities as DECLARANT may deem appropriate, including without limitation a boat repair, boat dealership, marine supplies and equipment, charters and/or marine brokers. The DECLARANT shall be entitled to all revenues derived from the commercial activities and facilities described above. DECLARANT may construct for the benefit of DECLARANT such other improvements, whether commercial or not, which DECLARANT may use as DECLARANT deems appropriate in its sole discretion, including, without limitation, using the same in connection with social memberships, which DECLARANT may market as it sees fit. All rights of DECLARANT, whether not specifically or expressly reserved or created in this DECLARATION, shall inure to the benefit of DECLARANT and the successors and assigns of DECLARANT.

This Section may not be amended without the written consent of DECLARANT.

Section 4.9 Exceptions to Title. The property rights and easements of a LOT OWNER or UNDIVIDED UNIT OWNER are subject to the following:

A. Rights of other parties, the United States of America or State of Alabama, in and to the shore, littoral or riparian rights of the PROPERTY lying adjacent to Terry Cove.

- B. Reservation of all oil, gas and minerals as contained in Deed from Wendell Lee Haddox and Illa Verne Haddox to The Sportsman Marina, Inc., dated November 10, 1978 and recorded in Real Property Book 37, Page 562.
- C. Right-of-way deed granted by Roy and Evalyn Walker to Baldwin County, dated April 22, 1971 and recorded in Deed Book 412, Page 880.

Section 4.10 Reasonable Care. All LOT OWNERS and UNDIVIDED UNIT OWNERS and their family, guests and invitees shall use reasonable care and good navigation in connection with the use and enjoyment of the dock facilities and waterways and will exercise the rights hereunder in a reasonable manner to minimize interference with or inconvenience to other persons.

The DECLARANT, and the successors and assigns of DECLARANT, and the management company contracted by the ASSOCIATION shall be indemnified and held harmless from and against any and all expenses or liabilities incurred as a result of damage or destruction in connection with the use of the BOAT SLIP, piers, MARINA, bulkheads, docking facilities or waterways.

ARTICLE V

ARCHITECTURAL COMMITTEE; ARCHITECTURAL CONTROL

Section 5.1 Architectural Committee. The Architectural Committee (the "ARCHITECTURAL COMMITTEE") shall be composed of at least three (3) (but not more than five (5)) individuals designated and redesignated from time to time (i) by DECLARANT until control of the ARCHITECTURAL COMMITTEE is specifically delegated by the DECLARANT to the ASSOCIATION and (ii) by the ASSOCIATION after delegation of such control. Delegation of control of the ARCHITECTURAL COMMITTEE from the DECLARANT to the ASSOCIATION shall be evidenced by an instrument signed by the DECLARANT and filed for record in the Probate Records of Baldwin County, Alabama.

Except as hereinafter provided, the affirmative vote of a majority of the membership of the ARCHITECTURAL COMMITTEE shall be required in order to approve any plans and specifications submitted under this ARTICLE V.

Section 5.2 Approval Required. No structure shall be commenced, erected, placed, moved on to or permitted to remain on any LOT nor shall any existing structure upon any LOT be altered in any way which materially changes the exterior appearance thereof, nor shall any new use be commenced on any LOT unless plans and specifications (including a description of any proposed new use) thereof shall have been submitted to and approved in writing by the ARCHITECTURAL COMMITTEE. Such plans and specifications shall be in such form and shall contain such information as may be required by the ARCHITECTURAL COMMITTEE, including: (i) architectural plans, elevations and specifications showing the nature, kind, exterior color schemes, shape, height and materials of all structures proposed for the LOT; (ii) a site plan of the LOT showing the location with respect to the particular LOT (including proposed front, rear and side setbacks and free spaces, if any are proposed) of all structures, the location thereof with reference to structures on adjoining portions of the PROPERTY, and the number and location of all parking spaces and driveways on the LOT; (iii) a grading plan for the particular LOT; (iv) a drainage plan; and (v) a plan for landscaping for the LOT. All of said plans shall address the matters set forth in ARTICLE V, as applicable.

No structure shall be commenced, altered, placed, moved onto or permitted to remain on any COMMON AREA, BOAT SLIP or the MARINA unless specifically approved by the BOARD OF DIRECTORS of the ASSOCIATION. Only the BOARD OF DIRECTORS of the ASSOCIATION or the

DECLARANT shall have the authority to make alterations or improvements to the BOAT SLIPS or MARINA. PROVIDED, HOWEVER, the ASSOCIATION or the DECLARANT shall have the right to contract with or assign to others the authority to make alterations and improvements on the MARINA.

Section 5.3 Basis for Disapproval of Plans. The ARCHITECTURAL COMMITTEE shall have the right to disapprove any plans and specifications submitted hereunder because of any of the following:

- (a) Failure of such plans or specifications to comply with this DECLARATION;
- (b) failure to include information in such plans and specifications as may have been reasonably requested;
- (c) objection to the exterior design, appearance or materials of any proposed structure;
- (d) incompatibility of any proposed structure or use with existing structures or uses upon other LOTS in the vicinity;
- (e) objections to the location of any proposed structure upon any LOT or with reference to other LOTS in the vicinity;
- (f) objection to the site plan, grading plan, drainage plan or landscaping plan for any LOT;
- (g) objection to the color scheme, finish, proportions, style of architecture, materials, height, bulk or appropriateness of any proposed structure;
- (h) objection to parking areas proposed for any LOT on the grounds of (i) incompatibility to proposed uses and structures on such LOT or (ii) the insufficiency of the size of parking areas in relation to the proposed use of the LOT;
- (i) failure of plans to take into consideration the particular topography, vegetative characteristics, natural environment and storm water runoff of the LOT; or
- (j) any other matter which, in the judgment of the ARCHITECTURAL COMMITTEE, would render the proposed structure, structures or uses inharmonious with the general plan of improvement of the PROPERTY or with structures or uses located upon other LOTS in the vicinity.

Approval of any such plans shall terminate and be rendered void if construction is not begun within six (6) months after such approval unless such six (6) month period is extended by written agreement with the ARCHITECTURAL COMMITTEE in which event the extended time period shall be applicable.

In any case where the ARCHITECTURAL COMMITTEE shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the ARCHITECTURAL COMMITTEE shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal can be prepared and submitted for approval.

THE SCOPE OF REVIEW BY THE ARCHITECTURAL COMMITTEE IS LIMITED TO APPEARANCE ONLY AND DOES NOT INCLUDE ANY RESPONSIBILITY OR AUTHORITY TO REVIEW FOR STRUCTURAL SOUNDNESS, COMPLIANCE WITH BUILDING OR ZONING CODES OR STANDARDS, OR ANY OTHER SIMILAR OR DISSIMILAR FACTORS.

Section 5.4 Retention of Copy of Plans. Upon approval by the ARCHITECTURAL COMMITTEE of any plans and specifications submitted hereunder, a copy of such plans and specifications, as approved, shall be deposited for permanent record with the ARCHITECTURAL COMMITTEE, and shall be retained for a period of no more than six (6) months after completion of the improvements, and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same.

Section 5.5 Rules of ARCHITECTURAL COMMITTEE; Effect of Approval and Disapproval; Time for Approval. The ARCHITECTURAL COMMITTEE may promulgate Rules governing the form and content of plans to be submitted for approval or requiring specific improvements on LOTS, including, without limitation, exterior lighting and planting, and may issue statements of policy with respect to approval or disapproval of the architectural styles or details, or other matters, which may be presented for approval. Such Rules and such statements of policy may be amended or revoked by the ARCHITECTURAL COMMITTEE at any time, and no inclusion in, omission from or amendment of any such rule or statement shall be deemed to bind the ARCHITECTURAL COMMITTEE to approve or disapprove any feature or matter subject to approval, or to waive the exercise of the discretion of the ARCHITECTURAL COMMITTEE as to any such matter, but no change of policy shall affect the finality of any approval granted prior to such change. Approval for use on any LOT of any plans or specifications shall not be deemed a waiver of the right of the ARCHITECTURAL COMMITTEE, in its discretion, to disapprove such plans or specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use on any other LOT or LOTS. Approval of any such plans and specifications relating to any LOT, however, shall be final as to that LOT and such approval may not be revoked or rescinded thereafter, provided, (i) that the structure or uses shown or described on or in such plans and specifications do not violate any specific prohibition contained in this DECLARATION and (ii) that the plans and specifications, as approved, and any condition attached to any such approval, have been adhered to and complied with in regard to all structures on and uses of the LOT in question.

In the event that the ARCHITECTURAL COMMITTEE fails to approve, disapprove or approve conditionally any plans and specifications as herein provided within thirty (30) days after proper submission thereof, the same shall be deemed to have been approved, as submitted, and no further action shall be required.

Section 5.6 Certificate of Compliance. Upon completion of the construction or alteration of any structure in accordance with plans and specification or alteration of any structure in accordance with plans and specifications approved by the ARCHITECTURAL COMMITTEE, the ARCHITECTURAL COMMITTEE shall, upon written request of the OWNER thereof, issue a certificate of compliance in form suitable for recordation, identifying such structure and the LOT on which such structure is placed, and stating that the plans and specifications, the location of such structure and the use or uses to be conducted thereon have been approved and that such structure complies with the requirements of the ARCHITECTURAL COMMITTEE. Preparation and recording of such certificate shall be at the expense of such OWNER. Any certificate of compliance issued in accordance with the provisions of this Section 5.6 shall be prima facie evidence of the facts therein stated, and as to any purchaser or encumbrancer in good faith and for value, or as to any title insurer, such certificate shall be conclusive evidence that, as of the date of the certificate, all structures and the use or uses described therein comply with all the requirements of this ARTICLE V, and with all other requirements of this DECLARATION as to which the ARCHITECTURAL COMMITTEE exercises any discretionary or interpretive powers.

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Section 5.7 Inspection and Testing Rights. Any agent of DECLARANT, ASSOCIATION or the ARCHITECTURAL COMMITTEE may at any reasonable time or times enter upon and inspect any LOT or BOAT SLIP and any improvements thereon for the purpose of ascertaining whether the maintenance, construction or alteration of the structures thereon are in compliance with the provisions hereof; and neither DECLARANT, ASSOCIATION nor the ARCHITECTURAL COMMITTEE nor any such agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection. Without limitation upon other inspection rights, in order to implement inspection and testing of sanitary sewer lines, each OWNER agrees to notify the ARCHITECTURAL COMMITTEE prior to its installation of the sanitary sewer service lines and to permit such inspection and testing thereof by the ARCHITECTURAL COMMITTEE both before and after backfill as is required by the ARCHITECTURAL COMMITTEE. Any such inspection shall be for the sole purpose of determining compliance with this DECLARATION, and neither the making of any such inspection, nor the failure to make any such inspection, shall be relied upon by the OWNER or any third persons or entities for any purpose whatsoever; nor shall any such inspection obligate the DECLARANT, the ASSOCIATION or the ARCHITECTURAL COMMITTEE to take any particular action based on the inspection.

Section 5.8 Waiver of Liability. Neither the ARCHITECTURAL COMMITTEE nor any architect nor agent thereof, nor the ASSOCIATION, nor the DECLARANT, nor any agent or employee of the foregoing, shall be responsible in any way for any failure of structures to comply with requirements of this DECLARATION, although a certificate of compliance has been issued, nor for any defects in any plans and specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications, and all persons relying thereon or benefiting therefrom agree not to sue or claim against the entities and persons referred to in this Section 5.8 for any cause arising out of the matters referred to in this Section 5.8 and further agree to and do hereby release said entities and persons for any and every such cause.

Section 5.9 Proviso. Notwithstanding any other provisions contained in this ARTICLE V, the DECLARANT, or the successors and assigns of DECLARANT, shall not be burdened by the provisions of this ARTICLE V. The DECLARANT may construct such improvements on the PROPERTY and make such uses as the DECLARANT decides without having to satisfy the requirements of this ARTICLE V.

ARTICLE VI

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 VII

SITE DEVELOPMENT

Section 7.1 Site to be Staked Prior to Tree Cutting. After the plan for the structure to be constructed on a LOT is approved, the site of the structure must be staked out and such site approved by the ARCHITECTURAL COMMITTEE before tree cutting is done. Existing vegetation shall be saved whenever it is practical to do so. All areas on site and outside the areas of disturbance shall be "corded off" with high visibility surveyor's flagging tape and

no vegetation shall be removed from the corded areas and no materials may be stored over the roots of this vegetation without prior approval of the ARCHITECTURAL COMMITTEE. Removal of "underbrush" from the corded areas is expressly prohibited except on ARCHITECTURAL COMMITTEE approval. No tree may be cut or removed without consent of the ARCHITECTURAL COMMITTEE until the building plans, site plans and site staking are approved by the ARCHITECTURAL COMMITTEE.

Section 7.2 Erosion Control. Erosion control measures shall be taken by the OWNER of a LOT, or contractors of OWNER, to protect adjacent property during construction on such LOT and thereafter until the soil is stabilized on the LOT. This may be accomplished by the use of temporary retention ponds, silt fencing or other protective measures intended to intercept and filter the excess storm water runoff from the LOT. All erosion control measures, including slope stabilization, must be specified on the grading plan and must be approved by the ARCHITECTURAL COMMITTEE prior to commencement of grading activities.

Any storm water retention ponds created during construction on a LOT shall not remain as permanent ponds after completion of construction unless so provided in the grading, site and landscaping plans submitted to and approved by the ARCHITECTURAL COMMITTEE.

If any portion of the PROPERTY has been identified as "wetlands" pursuant to Federal law and regulation, such wetlands area shall not be utilized or otherwise developed and improved upon unless and in accordance with all Federal, state and local laws and regulations.

If any portion of the PROPERTY is located within an area designated as "flood prone" pursuant to Federal law and regulations, all improvements constructed in said flood prone area must be constructed in accordance with all Federal, state and local laws and regulations pertaining to flood prone areas.

Section 7.3 Utility Lines and Appurtenances. All gas, water, sewer, telephone, television cable and electrical feeder and service lines shall be installed as underground service unless otherwise approved by the ARCHITECTURAL COMMITTEE. All said utility services located on the piers, docking facilities and BOAT SLIPS shall be covered and approved by the ARCHITECTURAL COMMITTEE. All transformer boxes, meters or other such fixtures shall be adequately screened with plants or other materials approved by the ARCHITECTURAL COMMITTEE; provided that no planting or screening devices shall be placed so as to obstruct the normal servicing of either transformers, telephone pedestals or other utility hardware. To the extent of the interest of the OWNER of a LOT or the OWNER of an UNDIVIDED UNIT, the OWNER of a LOT or UNDIVIDED UNIT will not erect or grant to any person, firm or corporation the right, license or privilege to erect or use or permit the use of overhead wires, poles or overhead facilities of any kind for electrical, television cable or telephone service on the PROPERTY (except such poles and overhead facilities as may be required at those places where distribution facilities enter and leave the particular area) without the prior written consent of the ARCHITECTURAL COMMITTEE. Nothing herein shall be construed to prohibit overhead lighting or ornamental lighting, where serviced by underground wires or cables. Where underground electric service is to be installed, in order to permit installation of underground electric service for the mutual benefit of all OWNERS therein, no OWNER will commence construction of any improvement until such OWNER (1) notifies the electric utility that such construction is proposed, (2) grants in writing to the electric utility such rights and easements as the electric utility requires in connection with its construction, operation, maintenance and removal of underground service laterals and (3) otherwise complies with the Rules and Regulations for Underground

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Residential Distribution on file with and approved by the Alabama Public Service Commission.

If required by the electric utility, such electric utility, its successors and assigns, may retain title to the underground service lateral and outdoor metering trough, the house power box (exclusive of circuit breakers) serving each said house, and said service entrance facilities provided by such utility will not in any way be considered a fixture or fixtures and thereby a part of said real estate, but will remain personal property belonging to such utility, its successors and assigns, in accordance with applicable Rules and Regulations filed with and approved by the Alabama Public Service Commission.

Section 7.4 Connection Points for Utility Service Lines. To the extent of the interests of the OWNER of each LOT or BOAT SLIP, each OWNER agrees to connect utility service lines (including, but not limited to, gas, water, sewer, telephone, television cable and electricity) at points designated by ARCHITECTURAL COMMITTEE.

Section 7.5 Sanitary Sewer Service Lines. The material for sanitary sewer service lines must be approved by the ARCHITECTURAL COMMITTEE.

Section 7.6 Landscaping. The landscape plan must be approved by the ARCHITECTURAL COMMITTEE prior to any site disturbance. The landscape plan shall indicate the proposed type, location, size and quantity of all plant materials to be planted. The OWNER must faithfully execute the landscape plan as submitted to and approved by the ARCHITECTURAL COMMITTEE. If the OWNER should fail to faithfully execute the landscape plan, the ASSOCIATION shall have the right to enter into a contract with a third party for the execution of the landscape plan as approved, and the cost thereof shall be a binding, personal obligation of the OWNER when billed by the ASSOCIATION as well as a lien upon the property in question. The lien provided in this Section 7.6 shall have the same enforceability and priority as the lien provided for in ARTICLE XII below. All landscaping plants shall be limited to native or historically significant (such as citrus trees) vegetation.

Section 7.7 Colors; Architectural Styles. All exterior building materials and colors must be approved by the ARCHITECTURAL COMMITTEE. Excessively bright colors or objectionable noticeable colors are prohibited. All architecture must be compatible with the "Southern" atmosphere of this PLANNED UNIT DEVELOPMENT and must be compatible with surrounding buildings within the PROPERTY. The building materials for the MARINA, piers and docking facilities shall be compatible with existing materials, unless otherwise approved by the BOARD OF DIRECTORS.

Section 7.8 Exterior Lighting. Exterior lighting plans must be set forth on the architectural or landscape plans and must be approved by the ARCHITECTURAL COMMITTEE. Exterior lighting shall be "low-key" and shall be compatible with lighting used on other structures in the development.

ARTICLE VIII

GENERAL COVENANTS AND RESTRICTIONS

The ASSOCIATION is empowered to enforce the following covenants and restrictions which shall pertain to the PROPERTY and to set forth policy as to enforcement thereof in accordance with this DECLARATION and the BY-LAWS.

Section 8.1 Permitted Uses and Structures. Except for the HARBOR MASTER LOT, all LOTS in the PROPERTY and each and every one

thereof are hereby declared to be residential LOTS, and no LOT shall be used except for single-family residential purposes. No building or structure shall be erected, altered, placed or permitted to remain on any LOT other than a single-family dwelling, not to exceed two and one-half (2½) stories and forty (40) feet in height (except that an attic or a basement under the bottom floor of the livable area shall not be considered a story for this purpose) and a private enclosed garage for not more than two (2) automobiles. The HARBOR MASTER LOT may be used for residential purposes and may also be used for any commercial, trade or business which is allowed by City of Orange Beach zoning.

All BOAT SLIPS shall be used only for the mooring of one (1) VESSEL in a seaworthy condition and its tender regularly carried for pleasure purposes only by the OWNER of the BOAT SLIP, or his or her guests, invitees and tenants under VESSEL lease; and no part of any BOAT SLIP shall be used for storage of any supplies, equipment or other articles. No VESSEL carrying more than six (6) passengers for hire may be permitted to occupy any BOAT SLIP unless otherwise approved by the ASSOCIATION. This restriction shall not apply to the DECLARANT or the successors and assigns of DECLARANT. This restriction shall not apply to ADDITIONAL PROPERTY or additional BOAT SLIPS annexed to the PROPERTY as provided for herein unless otherwise specified by the DECLARANT. This restriction is not intended to prohibit legitimate bare boat charters by persons entitled to possession of BOAT SLIPS unless otherwise specifically prohibited by the DECLARANT or the ASSOCIATION.

Section 8.2 Business Use. Except for the HARBOR MASTER LOT and the rights reserved to the DECLARANT, no trade or business may be conducted in or from any LOT or on the COMMON AREA or within a BOAT SLIP. Notwithstanding the above, the leasing of a LOT for residential purposes or the leasing of a BOAT SLIP for uses that comply with the terms and conditions of this DECLARATION shall not be considered a trade or business within the meaning of this Section. No LOT may be leased for a term of less than seven (7) days. BOAT SLIPS may be leased subject to reasonable rules and regulations prescribed by the ASSOCIATION. Except for the rights given to the DECLARANT herein, no BOAT SLIP may be leased for a term of less than sixty (60) consecutive days except through the DECLARANT or Management Agent. OWNERS shall provide notice to the ASSOCIATION of the names and addresses of the tenants, the names of the VESSEL of the tenant and, upon request, a copy of the lease. This Section shall not apply to the HARBOR MASTER LOT nor to any activity conducted by the DECLARANT with respect to the use of any LOTS, COMMON AREAS, BOAT SLIPS or the MARINA by DECLARANT nor to the property designated by the DECLARANT as the sales or leasing office or model home of DECLARANT. The DECLARANT may make such use of the COMMON AREA or property owned by the DECLARANT as the DECLARANT sees fit. In addition, the foregoing shall not apply to any lawful dredging operation nor shall the foregoing prohibit or interfere with the right of the DECLARANT to utilize or lease BOAT SLIPS owned by the DECLARANT for commercial marine purposes. Certain commercial uses not inconsistent with the operation of the MARINA, as determined by the DECLARANT, including without limitation, yacht brokerage, shall be permitted in the MARINA. The HARBOR MASTER LOT may be used for any commercial, trade or business which is allowed by City of Orange Beach zoning.

Section 8.3 Minimum Dwelling Area. The ground floor livable area (heated and cooled area) of the main building or structure, exclusive of open porches and garages, on a BUNGALOW LOT shall not be restricted by this DECLARATION as to its minimum or maximum square footage.

The first floor livable area (heated and cooled area) of the main building or structure, exclusive of open porches and garages, on a TOWNHOUSE LOT shall contain not less than six hundred (600) square feet in the case of a one (1) story building or structure;

or not less than one thousand eight hundred (1,800) square feet in the case of anything greater; with a total minimum square footage for the main building or structure of six hundred (600) square feet; unless otherwise approved in writing by the ARCHITECTURAL COMMITTEE.

The first floor livable area (heated and cooled area) of the main building or structure, exclusive of open porches and garages, on a COTTAGE LOT shall contain not less than one thousand (1000) square feet in the case of a one (1) story building or structure; or not less than one thousand two hundred (1,200) square feet in the case of anything greater; with a total minimum square footage for the main building or structure of one thousand (1000) square feet; unless otherwise approved in writing by the ARCHITECTURAL COMMITTEE.

The first floor livable area (heated and cooled area) of the main building or structure, exclusive of open porches and garages, on the HARBOR MASTER LOT shall contain not less than six hundred (600) square feet in the case of a one (1) story building or structure; or not less than one thousand four hundred (1,400) square feet in the case of anything greater; with a total minimum square footage for the main building or structure of six hundred (600) square feet; unless otherwise approved in writing by the ARCHITECTURAL COMMITTEE.

For the purpose of this Section 8.3, a basement floor or other area beneath the bottom floor of the livable area and/or an attic shall not be included in computing the designated minimum square footage. No building, structure or residence shall be erected, altered, remodeled, reconstructed or added to without the prior written approval of the ARCHITECTURAL COMMITTEE.

Section 8.4 Subdivision of LOT, BOAT SLIP and Time Sharing. No LOT or BOAT SLIP shall be split, divided or subdivided or its boundary lines changed. The ARCHITECTURAL COMMITTEE may permit a division in ownership of any TOWNHOUSE LOT intended for a single family detached residence as shown on a plat, but solely for the purpose of increasing the size of the adjacent LOTS. DECLARANT hereby expressly reserves the right to replat any LOTS or BOAT SLIPS owned by DECLARANT. Any such division, boundary line change or replatting shall not be in violation of the applicable subdivision and zoning regulations.

No LOT or BOAT SLIP shall be made subject to any kind of time-share program, interval ownership or similar program whereby the right to exclusive use of the LOT or BOAT SLIP rotates among multiple OWNERS or MEMBERS of the program on a fixed or floating time schedule over a period of years.

Section 8.5 Adjoining LOT Ownership. For the purposes of this instrument, any OWNER having two (2) or more adjoining TOWNHOUSE 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 instrument.

Section 8.6 Use of Common Area. Subject to the rights granted to the DECLARANT herein, the ASSOCIATION shall have full control over the COMMON AREA and may establish such rules and regulations and conditions for the use of the COMMON AREA as it may deem adequate or necessary and the ASSOCIATION shall have full power and authority to suspend or revoke the privilege and license of any such OWNER, and any MEMBER of the household of an OWNER or any of the guests, tenants or invitees of an OWNER, from using the COMMON AREA, should any such party, while in said Area, conduct himself in such a manner as to warrant such action in the sole discretion of the majority of the ASSOCIATION. PROVIDED, HOWEVER, nothing herein shall be construed to allow the ASSOCIATION to

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prohibit any OWNER from ingress and egress to and from the LOT or BOAT SLIP owned by OWNER nor prohibit any OWNER from the possession of his or her BOAT SLIP. PROVIDED, HOWEVER, nothing herein shall be construed to allow the ASSOCIATION or any person to interfere with the rights granted in this DECLARATION to the DECLARANT.

Section 8.7 Preservation of Trees. 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. The ARCHITECTURAL COMMITTEE, in its discretion, may adopt and promulgate rules and regulations regarding the preservation of trees and other natural resources and wildlife upon the PROPERTY. If it 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 8.7, the DECLARANT, the ASSOCIATION and the ARCHITECTURAL COMMITTEE and the respective agents of each may come upon any LOT during reasonable hours for the purpose of inspecting or marking trees or in relation to the enforcement and administration of any rules and regulations adopted and promulgated pursuant to the provisions hereof. Neither the ASSOCIATION, nor the ARCHITECTURAL COMMITTEE, nor DECLARANT, nor their respective agents shall be deemed to have committed a trespass or wrongful act by reason of any such entry or inspection.

Section 8.8 Artificial Vegetation, Exterior Sculpture and Similar Items. No artificial vegetation shall be permitted on any PROPERTY or VESSEL or on the exterior of any portion of any improvement on the PROPERTY or on any VESSEL. Exterior sculpture, fountains, flags and similar items must be approved by the ARCHITECTURAL COMMITTEE; provided, however, that nothing herein shall prohibit the appropriate display of the American Flag.

Section 8.9 Permitted Animals. No animals, livestock or other poultry of any kind shall be raised, bred, harbored or kept on the PROPERTY or any VESSEL except that the OWNER may keep two (2) 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 shall be kept under the close supervision of their OWNERS and shall, at the written request of the ARCHITECTURAL COMMITTEE, be kept on a leash.

Section 8.10 Signs. Except as provided herein, no sign, billboard, advertising or other advertising device of any nature shall be placed upon any LOT, BOAT SLIP, COMMON AREA or VESSEL except as provided herein. The ARCHITECTURAL COMMITTEE may, in its discretion, adopt and promulgate rules and regulations relating to signs which may be employed. Signs and other advertising devices may be erected and maintained upon any portion of the PROPERTY, if approved by the ARCHITECTURAL COMMITTEE, as to color, location, nature, size and other characteristics of such signs or devices. PROVIDED, HOWEVER, DECLARANT, or the successors and assigns of DECLARANT, shall be allowed to place signs on the PROPERTY.

Section 8.11 Temporary Structures. No temporary building, trailer, garage or other temporary structure shall be used, temporarily or permanently, as a residence or for any other purpose on the PROPERTY. If approved by the ARCHITECTURAL COMMITTEE, such a structure may be used as a security station during construction or other special purpose.

Section 8.12 Pipes. No water pipe, gas pipe, sewer pipe or drainage pipe shall be installed or maintained on the PROPERTY above the surface of the ground. No water pipe, gas pipe, sewer pipe or drainage pipe shall be installed or maintained in the MARINA unless approved by the BOARD OF DIRECTORS.

Section 8.13 Wall and Window Air Conditioning Units. Wall and window air conditioning units shall not be permitted except on dwellings built on BUNGALOW LOTS.

Section 8.14 Chimney Flues. Exposed chimney flues shall be enclosed.

Section 8.15 Carports and Garages. All carports shall be screened or enclosed.

Section 8.16 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 outside a building or outside a VESSEL. No such items shall be allowed to remain on the COMMON AREA, VESSELS or LOTS so as to be visible from adjacent property when not in use. Notwithstanding the above, the BOARD may, but shall not be obligated to, permit swing sets and similar permanent playground equipment to be erected on the PROPERTY provided it is approved by the ARCHITECTURAL COMMITTEE. No baseball cages or similar recreational facilities shall be permitted without approval of the ARCHITECTURAL COMMITTEE.

Section 8.17 Energy Conservation Equipment. No solar energy collector panels or attendant hardware or energy conservation equipment shall be constructed or installed on the PROPERTY or VESSEL unless it is an integral and harmonious part of the architectural design of a structure or the VESSEL, as determined in the sole discretion of the ARCHITECTURAL COMMITTEE.

Section 8.18 Outside Installations. No exterior antennas, aerials, satellite dishes, towers or other apparatus, or support thereof, for the reception or transmission of television, radio or other signals of any kind shall be erected, installed, placed, allowed or maintained upon any portion of the PROPERTY or VESSEL unless specifically approved by the ARCHITECTURAL COMMITTEE. The DECLARANT and/or the ASSOCIATION shall have the right, without obligation, to erect an aerial, satellite dish or other apparatus for a master antenna or cable system for the benefit of all or a portion of the PROPERTY, should master system or systems to be used by the ASSOCIATION require any such exterior apparatus. No radio transmissions of any kind shall be made from any building or COMMON AREA except for communication equipment used by the ASSOCIATION or by the DECLARANT. PROVIDED, HOWEVER, VESSELS may contain communications equipment and antennas which are approved by the ARCHITECTURAL COMMITTEE. No machinery shall be placed or operated upon the PROPERTY except such machinery as is usual in maintenance of a private residence or a VESSEL. No roof penetrations, such as vents and pipes, shall be placed on any roof so as to be visible from any road or COMMON AREA.

Section 8.19 Irrigation. No sprinkler or irrigation system of any type that draw upon water from bays, creeks, streams, rivers, lakes, ponds, wetlands, canals or other ground or surface waters within or adjacent to the PROPERTY shall be installed, constructed or operated within the PROPERTY by any PERSON, other than the ASSOCIATION or the DECLARANT, 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. This Section shall not apply to the DECLARANT.

Section 8.20 Wells and Drainage. Except for the DECLARANT or the ASSOCIATION, no private water system shall be constructed on the PROPERTY. 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 or the ASSOCIATION or the DECLARANT.

Section 8.21 Storm Precautions. No hurricane or storm shutters shall be permanently installed 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 the PROPERTY and VESSELS, 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 8.22 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 the PROPERTY unless first approved by the ARCHITECTURAL COMMITTEE.

Section 8.23 Firearms. The discharge of firearms within the PROPERTY is prohibited except with the prior approval of the BOARD OF DIRECTORS. The term "firearms" includes "B-B" guns, pellet guns and other firearms of all types, regardless of size notwithstanding anything to the contrary contained herein or in the BY-LAWS. The ASSOCIATION shall not be obligated to take action to enforce this Section.

Section 8.24 Insurance Rates. Nothing shall be done or kept on the PROPERTY, a VESSEL or in any improvement or the COMMON AREA which will increase the rate of insurance on any PROPERTY insured by the ASSOCIATION without the approval of the BOARD nor shall anything be done or kept on the PROPERTY which would result in the cancellation of insurance on any PROPERTY insured by the ASSOCIATION or which would be in violation of any law.

Section 8.25 Completion of Construction. All homes and other structures, landscaping and other improvements must be completed within twelve (12) 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. 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 maintain the LOT in a reasonably clean and uncluttered condition. Upon completion of construction, the OWNER shall cause the immediate removal of all equipment, tools, construction material and debris from the LOT. Any damage to roads, paths, COMMON AREA 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 8.26 Accumulation of Refuse. 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 the PROPERTY, 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, containers may be placed in areas designated by the ASSOCIATION at times designated by the ASSOCIATION. At all other times, trash and garbage containers shall be screened in such a manner so that they cannot be seen from adjacent and surrounding property, and as approved by the ARCHITECTURAL COMMITTEE. All trash and garbage containers shall be kept in a clean and sanitary condition. The ARCHITECTURAL COMMITTEE, in its discretion, may adopt and promulgate reasonable

rules 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.

Section 8.27 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 the PROPERTY; 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 8.28 Fences, Walls, Hedges and Ornamental Structures. No hedge shall be located nearer the front property line of any LOT than the front of the dwelling on such LOT without the written approval of the ARCHITECTURAL COMMITTEE, and no fence, wall, ornamental structure or gazebo, shall be constructed without the prior written approval of the ARCHITECTURAL COMMITTEE. The ASSOCIATION shall have the right to enter upon the PROPERTY and trim or prune, at the expense of the OWNER, any hedge or other planting which in the opinion of the ASSOCIATION, by reason of its location upon the PROPERTY or the height to which it is permitted to grow, is unreasonably detrimental to the adjoining property or obscures the view of road traffic or is unattractive in appearance; provided, however, that the OWNER shall be given fifteen (15) days prior written notice of such action.

Section 8.29 Clothes Lines. No clothing or any other household fabric shall be hung in the open on the PROPERTY or on any VESSEL and no clothes lines or clothes hanging devices shall be kept or maintained on the PROPERTY or on any VESSEL.

Section 8.30 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 may be required in some or all sections of the PROPERTY.

Section 8.31 Commercial Vehicles. Unless as otherwise permitted in this DECLARATION, no trucks, commercial vehicles, campers, mobile homes, motor homes, house trailers or trailers of any other type, recreational vehicles or vans shall be permitted to be parked or to be stored at any place on the COMMON AREA, nor shall any boat or watercraft be stored or parked on any portion of the PROPERTY except that each OWNER may moor a VESSEL in his BOAT SLIP. This Section shall specifically prohibit vehicles to be located on any portion of the PROPERTY and used for purposes of transporting or discharging fuel to VESSELS except that the foregoing shall not apply to such vehicles authorized by DECLARANT or its designees. Any vehicle or VESSEL parked or stored in violation of these or other restrictions contained herein or in the rules and regulations now or hereafter adopted may be towed or removed by the ASSOCIATION at the sole expense of the OWNER of such vehicle or VESSEL. The ASSOCIATION shall not be liable to the OWNER for trespass, conversion or otherwise, nor guilty of any criminal act by reason of such lawful towing.

Section 8.32 Community Appearance.

A. No OWNER shall maintain a VESSEL moored in the MARINA or the BOAT SLIP in an unsightly, negligent, unseaworthy or dangerous condition.

B. So long as the DECLARANT owns any property in the PLANNED UNIT DEVELOPMENT, DECLARANT shall have the right to prescribe rules and regulations concerning and affecting the manner of use, maintenance and rental of, operating procedures and the condition and maintenance of VESSELS. No BOAT SLIP may be occupied by a VESSEL unless such VESSEL meets the standards of the DECLARANT

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or the ASSOCIATION. The minimum standards, as promulgated by the DECLARANT or the ASSOCIATION, shall be enforced by the DECLARANT or the BOARD OF DIRECTORS and shall require the VESSEL to comply with the terms hereof, the rules and regulations adopted by the DECLARANT and the ASSOCIATION and all other documents in connection therewith. The DECLARANT and the BOARD OF DIRECTORS shall have the right to (i) approve or disapprove any VESSEL which the DECLARANT or the BOARD OF DIRECTORS determines does not meet the standards of the DECLARANT or the BOARD OF DIRECTORS or (ii) cause the immediate removal of any VESSEL which is not in compliance with this DECLARATION, the rules and regulations or any other documents in connection therewith. The rights and powers granted to the DECLARANT or the BOARD OF DIRECTORS under this DECLARATION, including the right to approve or disapprove any VESSEL, or remove any VESSEL as aforesaid, shall not be deemed to create any liability of the DECLARANT or the BOARD OF DIRECTORS or the ASSOCIATION or of their officers, directors or members as to the unsafe or unseaworthy condition of any VESSEL or any damage to persons or property arising therefrom.

C. Neither the DECLARANT, the directors or officers of the ASSOCIATION, the members of the BOARD OF DIRECTORS nor any person acting on behalf of any of them, shall be liable for any costs or damages incurred by any OWNER or any other party due to any mistakes in judgment, negligence or any action of the BOARD OF DIRECTORS in connection with the approval or disapproval of any proposed Improvements or any VESSEL. Each OWNER and occupant of the property within the MARINA, by acquiring title thereto or an interest therein, or by assuming possession thereof, agrees that they shall not bring any action or suit against the DECLARANT, the directors or officers of the ASSOCIATION, the members of the BOARD OF DIRECTORS or their respective agents, in order to recover any damages caused by the actions of the BOARD OF DIRECTORS. The ASSOCIATION shall indemnify, defend and hold harmless the BOARD OF DIRECTORS and each of its members from all costs, expenses and liabilities, including attorneys fees, of all nature resulting by virtue of the acts of the BOARD OF DIRECTORS or its members.

Section 8.33 Mooring. Each OWNER is solely responsible for the mooring of his or her VESSEL and is required to maintain mooring lines in good condition and sufficiently strong to secure the VESSEL at all times. Any special mooring rules or procedures issued by the ASSOCIATION shall be complied with at all times. No OWNER may install a boat lift for the dry storage of VESSELS without prior approval of the ARCHITECTURAL COMMITTEE, nor shall dry storage of VESSELS be permitted by any other means whatsoever.

No OWNER shall do, suffer or permit to be done anything upon or with a BOAT SLIP or upon a VESSEL moored thereto, which would impair navigation or the soundness or safety of the MARINA (including the harbor) or which would be noxious or offensive or in interference with the peaceful possession or proper use of other BOAT SLIPS, or which would require any alteration of or addition to any of the improvements to be in compliance with any applicable law or regulation, or which would otherwise be in violation of law.

Section 8.34 Hurricane and High Wind Threat. During hurricanes and other high velocity wind threats, each OWNER shall be responsible for following all safety precautions that may be issued or recommended by the National Hurricane Center, National Weather Service, U.S. Coast Guard, the ASSOCIATION or any other applicable agency. If an OWNER'S VESSEL sinks as a result of a storm, or for any other reason, the OWNER must remove the sunken VESSEL from the MARINA immediately after the occurrence of such event and, if not so removed within seventy-two (72) hours after the sinking, the ASSOCIATION may, (but shall not be obligated to) remove the sunken VESSEL and impose an individual ASSESSMENT against the OWNER for the cost of such removal. Each OWNER agrees to indemnify, defend and save the ASSOCIATION, its agents,

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employees and designees for and from any and all loss or damage incurred in connection with the exercise or nonexercise of the ASSOCIATION'S rights hereunder. If an OWNER plans to be absent during the hurricane season, such OWNER must prepare his BOAT SLIP and secure or remove, as appropriate, his VESSEL prior to his departure in accordance with the standards established by the BOARD OF DIRECTORS (or in the absence thereof, with all due care), designate a responsible firm or individual to care for his BOAT SLIP and VESSEL should there be a hurricane or other storm, and furnish the ASSOCIATION with the name, address and telephone number of such firm or individual. Such firm or individual shall be subject to the approval of the ASSOCIATION. The OWNER shall be liable for all damages caused to the COMMON AREA and to the BOAT SLIPS, VESSELS or other property of other OWNERS for such OWNER'S improper preparation or failure to remove, as the case may be, of his BOAT SLIP and VESSEL for hurricanes and other storms. Notwithstanding anything contained herein to the contrary, the ASSOCIATION may also levy fines in accordance with the rules and regulations if the OWNER fails to abide by the provisions of this paragraph. Notwithstanding the right of the ASSOCIATION to enforce the foregoing requirements, neither the ASSOCIATION, the DECLARANT nor any management company shall be liable to any OWNER or other person or entity for any damage to persons or property caused by a hurricane or other high wind.

Section 8.35 Open Fires. No open fires shall be permitted on any VESSEL or any PROPERTY, except in any areas which may be approved for such use by the BOARD, and no charcoal, starting fluids or similarly used substances shall be kept in any portion of the PROPERTY.

Section 8.36 Cleaning of Fish. No fish or other marine life of any kind shall be cleaned, prepared or processed in any manner on the COMMON AREA except in those portions of the COMMON AREA specifically designated for such use by the BOARD. All fish carcasses shall be placed in a fish waste grinder. No waste products may be disposed of in the waters of the MARINA or Terry Cove.

Section 8.37 Inspection and Removal of VESSELS. The ASSOCIATION shall have the right to inspect any VESSEL in the MARINA to determine its seaworthiness, cleanliness and compliance with all applicable City, County, State and Federal fire, safety and other regulations, as well as to determine whether the VESSEL fits within the applicable BOAT SLIP. The ASSOCIATION shall have the right (but shall not be required) to remove any VESSEL from the MARINA which fails to comply with said regulations or fails to fit within the applicable BOAT SLIP. Each OWNER shall indemnify, defend and save the ASSOCIATION, its agents, employees and designees from and against any loss or damage incurred in connection with the exercise or nonexercise of the rights of the ASSOCIATION hereunder.

Section 8.38 Public Authorities. Notwithstanding anything contained herein to the contrary, the DECLARANT and/or the ASSOCIATION may permit police, U.S. Coast Guard and similar watercraft of public authorities to tie up to and be kept on any portion of the COMMON AREA designed for such use by the ASSOCIATION or the DECLARANT.

Section 8.39 Enforcement of Violations. The ASSOCIATION shall have the right to levy reasonable fines against OWNERS for violations of its Rules and Regulations or this DECLARATION by the OWNERS or their family, members, guests, invitees, licensees, employees or agents and such fines shall be treated as individual ASSESSMENTS and shall be collectible as such and upon any delinquency in the payment of any fine the ASSOCIATION shall have all rights as set forth in this DECLARATION, including, without limitation, lien rights against the OWNER. In addition, the

ASSOCIATION will have the right to have any vehicle which is in violation of a parking regulation towed at the OWNER'S expense.

Section 8.40 Hazardous or Toxic Waste. The handling, storage, transportation and disposal of hazardous or toxic materials shall be prohibited within the PROPERTY or MARINA; provided, however, that this shall not prohibit the proper handling, storage and transportation of petroleum products used by an OWNER in connection with the operation of his VESSEL. The ASSOCIATION shall have the right to immediately remove, or cause the removal of, any hazardous or toxic material within the PROPERTY or MARINA. No fueling facilities shall be allowed at the MARINA or on the PROPERTY.

Section 8.41 Pumping of Bilges. Each OWNER is responsible to insure that any bilge water pumped into the waters of the MARINA does not contain any petroleum or other hazardous or toxic materials. Each OWNER shall indemnify, defend and save the DECLARANT, the ASSOCIATION and any management company harmless from and against any damages, claims and liability resulting from or arising out of the violation of the requirements of this paragraph by such OWNER. All expenses incurred by the DECLARANT and the ASSOCIATION in connection with compliance with all environmental and related laws shall be a COMMON EXPENSE of the ASSOCIATION.

Section 8.42 Sanitary Equipment. Each VESSEL must have such sanitary equipment on board as is required by all applicable Federal, State and local authorities. No VESSEL shall be deemed to be in compliance with this Section if such equipment is not fully operational or if such equipment such as a holding tank or approved marine sanitary system is bypassed or altered contrary to such requirements. The ASSOCIATION shall have the right to board all VESSELS upon reasonable notice to inspect same for compliance with this requirement.

Section 8.43 Swimming. No recreational swimming shall be permitted within the waters of the MARINA, and no recreational diving shall be permitted from the COMMON AREA or from any VESSEL.

Section 8.44 VESSELS as residence. No VESSELS shall be used as a residence within the MARINA.

Section 8.45 VESSEL Size. Except as provided below, each VESSEL must fit within the boundaries of its BOAT SLIP, including all bowsprits, booms, pulpits and other projections and overhangs. PROVIDED, HOWEVER, a VESSEL may extend outside the entrance boundary of the BOAT SLIP a maximum of five percent (5%) of the length of the BOAT SLIP. 10%

Section 8.46 VESSEL Requirements. All VESSELS must: (a) be fully equipped and operable for operation on the sea (except during a period of temporary repairs not to exceed fifteen (15) days); (b) be equipped with all safety of life at sea equipment required by U.S. Coast Guard Regulations and Federal, State and Local laws; and (c) comply with all licensing and registration requirements.

Section 8.47 Temporary Removal of VESSELS. From time to time, the DECLARANT or the ASSOCIATION may require that all VESSELS be removed for maintenance, repairs and dredging at which time the BOAT SLIP may be entered for such period as may be necessary. To the extent that submerged land may be removed from the BOAT SLIP, it will be treated as the property of the DECLARANT or the ASSOCIATION, and need not be replaced.

Section 8.48 Repairs and Maintenance. No repairs or other maintenance other than routine cleaning, routine interior preventative maintenance and/or varnishing may be conducted in a BOAT SLIP or the MARINA without the written permission of the ASSOCIATION or its designated agent. No grinding or spray painting

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may be performed on the PROPERTY.

Section 8.49 Occupants Bound. All provisions of the DECLARATION and BY-LAWS and of any rules and regulations or use restrictions promulgated pursuant hereto that govern the conduct of OWNERS and that provide for sanctions against OWNERS shall also apply to all occupants, guests and invitees. Every OWNER shall cause all occupants of the OWNER'S LOT or OWNER'S BOAT SLIP to comply with the DECLARATION and BY-LAWS and the rules and regulations adopted pursuant hereto, and shall be responsible for all violations and losses to the PROPERTY caused by those occupants, notwithstanding the fact that those occupants are fully liable and may be sanctioned for any violation of the DECLARATION and BY-LAWS and rules and regulations adopted pursuant hereto.

Section 8.50 Nuisance. No obnoxious, offensive or illegal activities shall be carried on upon the PROPERTY nor shall anything be done on the PROPERTY which may be or may become an annoyance or nuisance to the neighborhood.

Section 8.51 No Discrimination. No action shall at any time be taken by the ASSOCIATION or its BOARD OF DIRECTORS which in any manner would discriminate against any OWNER or OWNERS in favor of the other OWNERS.

ARTICLE IX

PARTY WALL

Section 9.1 General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the PROPERTY and placed on the dividing line between the LOTS shall constitute a Party Wall, and, to the extent not inconsistent with the provisions of this ARTICLE, the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 9.2 Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a Party Wall shall be shared equally by the LOT OWNERS of the property upon which the Party Wall is situated; provided that, should a Party Wall be damaged by the negligent or intentional act of any OWNER or any member of his family or his tenant or guest, then all such repair costs shall be borne by such OWNER.

Section 9.3 Destruction by Fire or Other Casualty. If a Party Wall is destroyed or damaged by fire or other casualty, any OWNER who has used the Wall may restore it, and if the other OWNERS thereafter make use of the Wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any other OWNERS to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 9.4 Water Proofing. Notwithstanding any other provision of this ARTICLE, an OWNER who by his negligent or willful act causes the Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 9.5 Right to Contribution Runs With Land. The right of any OWNER to contribution from any other OWNER under this ARTICLE shall be appurtenant to the land and shall pass to such OWNER'S successors in title.

Section 9.6 Arbitration. In the event of any dispute arising concerning a Party Wall or under the provisions of this ARTICLE, each party shall choose one (1) arbitrator, and such arbitrators shall choose one (1) additional arbitrator, and the

decision shall be by a majority of all the arbitrators.

ARTICLE X

MEMBERSHIP AND VOTING RIGHTS

Section 10.1 The ASSOCIATION. The operation and administration of the PROPERTY shall be by the ASSOCIATION of OWNERS. The ASSOCIATION shall be a not-for-profit Alabama Corporation incorporated by ARTICLES OF INCORPORATION recorded in the Office of the Judge of Probate of Baldwin County, Alabama. The ASSOCIATION shall be an entity which shall have the capability of bringing suit and being sued with respect to the exercise or nonexercise of its powers. The ASSOCIATION shall have exclusive authority and power to maintain a class action and to settle a cause of action on behalf of OWNERS of the PROPERTY with reference to the COMMON AREA and COMMON PROPERTY with reference to any and all other matters in which all of the OWNERS have a common interest. The ASSOCIATION shall have all the powers and duties granted to or imposed on it under its ARTICLES OF INCORPORATION and BY-LAWS and under this DECLARATION as they may be amended from time to time. The ASSOCIATION is specifically authorized to enter into agreements by which its powers and duties, or some of them, may be exercised or performed by some other person or persons. The ASSOCIATION shall have the right to grant permits, licenses and easements over the COMMON AREAS for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the PROPERTY. The BOARD shall have the authority and duty to levy and enforce the collection of general and specific assessments for common expenses and is further authorized to provide adequate remedies for failure to pay such assessments. The ASSOCIATION may enter into a management agreement with DECLARANT or other entity which management agreement may authorize the DECLARANT to operate and administer the PROPERTY as provided for herein.

Section 10.2 Membership. Each LOT OWNER and UNDIVIDED UNIT OWNER shall be a MEMBER of the ASSOCIATION so long as he or she is a LOT OWNER or UNDIVIDED UNIT OWNER. The membership of a LOT OWNER or UNDIVIDED UNIT OWNER shall immediately terminate when the LOT OWNER or UNDIVIDED UNIT OWNER ceases to be a LOT OWNER or UNDIVIDED UNIT OWNER. The membership of a LOT OWNER or UNDIVIDED UNIT OWNER cannot be assigned or transferred in any manner except as an appurtenance to his or her LOT or his or her UNDIVIDED UNIT. See Section 7. of ARTICLE III for provisions pertaining to membership and voting rights upon annexation of additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS.

Section 10.3 Voting. Except as provided below, each LOT and each UNDIVIDED UNIT shall be entitled to one (1) vote, which vote is not divisible. The vote shall be cast by the LOT OWNER or UNDIVIDED UNIT OWNER in the manner provided for herein and in the BY-LAWS. PROVIDED, HOWEVER, that until the DECLARANT has completed and sold all of the LOTS and all of the UNDIVIDED UNITS in the PROPERTY or in any ADDITIONAL PROPERTY or until the DECLARANT elects to terminate its control of the ASSOCIATION, whichever shall first occur, the BY-LAWS and rules adopted by the DECLARANT shall govern and there shall be no meeting of the MEMBERS of the ASSOCIATION, unless a meeting is called by the BOARD OF DIRECTORS of the ASSOCIATION, and neither the LOT OWNERS nor the UNDIVIDED UNIT OWNERS nor the ASSOCIATION nor the use of the PROPERTY by occupants shall interfere with the completion of the contemplated improvements and the sale of the LOTS, UNDIVIDED UNITS or BOAT SLIPS and the control of the ARCHITECTURAL COMMITTEE shall remain with the DECLARANT. The DECLARANT may make such use of the unsold LOTS, UNDIVIDED UNITS and of the COMMON AREAS (including BOAT SLIPS) and facilities as may facilitate such completion and sale, including, but not limited to, showing of the PROPERTY and the display of signs.

Section 10.4 Rules and Regulations. The ASSOCIATION, through its BOARD OF DIRECTORS, 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 this DECLARATION. Copies of such Rules and Regulations and amendments thereto shall be furnished by the ASSOCIATION to all OWNERS. Sanctions may include reasonable monetary fines and suspension of the right to vote and the right to use the COMMON AREA. The BOARD 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 BY-LAWS of the ASSOCIATION. In addition, the ASSOCIATION, through the BOARD, may, by contract or other agreement, enforce local ordinances on the PROPERTY for the benefit of the ASSOCIATION and its MEMBERS.

Section 10.5 Implied Rights. The ASSOCIATION may exercise any other right or privilege given to it expressly by this DECLARATION or the BY-LAWS, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 10.6 Self-Help. In addition to any other remedies provided for herein, the ASSOCIATION or its duly authorized agent shall have power to enter upon a LOT or any portion of the COMMON AREA (including BOAT SLIPS) to abate or remove, using such force as may be reasonably necessary, any thing or condition which violates this DECLARATION, the BY-LAWS, the rules and regulations or the use restrictions. Unless an emergency situation exists, the BOARD shall give the violating LOT OWNER or UNDIVIDED UNIT OWNER ten (10) days written notice of its intent to exercise self-help. All costs of self-help, including reasonable attorney's fees actually incurred, shall be assessed against the violating LOT OWNER or UNDIVIDED UNIT OWNER and shall be collected as provided for herein for the collection of ASSESSMENTS.

Section 10.7 Right of Entry. The ASSOCIATION shall have the right, in addition to and not in limitation of the rights it may have, to enter into LOTS or BOAT SLIPS for emergency, security or safety purposes, which right may be exercised by the BOARD, its officers, agents, employees, managers 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.

Section 10.8 Assignment. The share of a MEMBER in the funds and assets of the ASSOCIATION cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his or her LOT or to his or her UNDIVIDED UNIT.

Section 10.9 BOARD OF DIRECTORS. The affairs of the ASSOCIATION shall be conducted by a BOARD OF DIRECTORS which shall consist of such number not less than three (3) nor more than five (5) as shall, from time to time, be determined and fixed by a majority of the voting rights present at any annual meeting of the MEMBERS.

Section 10.10 BY-LAWS. The ASSOCIATION and its MEMBERS shall be governed by the BY-LAWS which shall be adopted by the MEMBERS.

Section 10.11 Reserve Fund. The ASSOCIATION may, but shall not be obligated to, establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the COMMON AREAS. The fund shall be maintained out of regular assessments for COMMON EXPENSES.

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ARTICLE XI

COVENANTS FOR MAINTENANCE

Section 11.1 Responsibility of ASSOCIATION. The ASSOCIATION shall, either by virtue of appointment of a management agent, or through its own personnel, be responsible for the maintenance of the COMMON AREA including structural portions of the BOAT SLIPS; provided, however, that the expense of any maintenance, repair or reconstruction of any portion of the COMMON AREA necessitated by the negligence or willful acts of an OWNER, or the lessees, invitees, licensees, families or guests of an OWNER shall be borne solely by such OWNER, and the LOT OWNER or UNDIVIDED UNIT OWNER shall be subject to an individual ASSESSMENT for such expense. The ASSOCIATION shall be obligated to repair or reconstruct the COMMON AREA in the event of damage or destruction. The ASSOCIATION shall use insurance proceeds to fund such repair or reconstruction, to the extent that the insurance proceeds are sufficient to do so. The MARINA may not be insured for hazards. Any excess funds necessitated to complete the repair or reconstruction of the COMMON AREA shall be obtained through a special assessment against all OWNERS. All repair and reconstruction shall be completed in a good and workmanlike manner and in accordance with the Plans and Specifications approved by the DECLARANT. In the event that the ASSOCIATION fails to repair or reconstruct as required by this DECLARATION, then either the DECLARANT or the ASSOCIATION shall have the right to do so, and all expenses incurred in connection therewith shall be reimbursed to the DECLARANT or the ASSOCIATION to the extent the DECLARANT or ASSOCIATION incurs said expenses.

DECLARANT, or the successors and assigns of DECLARANT, may be the management agent for the ASSOCIATION and may hire such employees, including but not limited to: attorneys, accountants, bookkeepers, gardeners and laborers, as the DECLARANT may deem necessary to maintain the PLANNED UNIT DEVELOPMENT. No management agreement between the ASSOCIATION and DECLARANT or the successors and assigns of DECLARANT shall be held invalid solely for the reason that the employees, officers or agents of DECLARANT, or the successors and assigns of DECLARANT are also officers, directors and/or employees of the ASSOCIATION.

As ADDITIONAL PROPERTY, including without limitation UNDIVIDED UNITS and COMMON AREA (including BOAT SLIPS), is subjected to this DECLARATION the DECLARANT may have the absolute right to change, amend or alter the maintenance provisions set forth herein and to add additional maintenance provisions for such ADDITIONAL PROPERTY as deemed appropriate by DECLARANT in its sole and absolute discretion.

Section 11.2 Responsibility of OWNER. Each OWNER shall keep his or her LOT, VESSEL and interior portion of his or her BOAT SLIP and all improvements therein or thereon, in a neat, attractive and safe condition and in good order and repair, and in the case of a LOT, including the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management. Each OWNER shall be responsible for the condition of the VESSEL moored at the MARINA or within a BOAT SLIP to which said OWNER is entitled to possession. If, in the opinion of the ASSOCIATION, any OWNER fails to perform the duties imposed by this Section after fifteen (15) days' written notice from the ASSOCIATION to the OWNER to remedy the condition in question, the ASSOCIATION shall have the right, through its agents and employees, to enter upon the LOT, BOAT SLIP or VESSEL in question and to repair, maintain, repaint and restore the LOT, BOAT SLIP or VESSEL or such improvements or remove the VESSEL from the MARINA and the cost thereof shall be a binding, personal obligation of such OWNER when billed by the ASSOCIATION as well as a lien upon

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the LOT and BOAT SLIP in question. The lien provided in this Section shall have the same enforceability and priority as the lien provided for in ARTICLE XII below. If the ASSOCIATION takes the action provided for in this Section, such action taken shall not be deemed a trespass, and the ASSOCIATION shall not be liable to the OWNER for any damages, costs, or liability incurred as a result of such action taken by the ASSOCIATION, except for conduct constituting gross negligence or willful misconduct.

Section 11.3 Utilities. Each OWNER of a BOAT SLIP shall be charged by the utility company providing such service or the ASSOCIATION for utilities to include electricity, telephone service and cable television based on the base service rates and actual usage. Utilities and water used in connection with the COMMON ELEMENTS shall be allocated as a COMMON EXPENSE.

ARTICLE XII

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 12.1 Creation of the Lien and Personal Obligation of Assessments. Except as provided herein, the DECLARANT, for each LOT or UNDIVIDED UNIT owned within the PROPERTY, hereby covenants, and each OWNER of any LOT or UNDIVIDED UNIT by acceptance of a DEED therefor, whether or not it shall be so expressed in such DEED, is deemed to covenant and agree to pay to the ASSOCIATION: (i) annual and special assessments or charges, and (ii) special assessments for capital improvements to the COMMON AREA, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the LOT or UNDIVIDED UNIT and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the OWNER of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall pass to successors in title. PROVIDED, HOWEVER, the DECLARANT shall not be obligated to pay the assessments provided for herein on any PROPERTY owned by the DECLARANT.

Section 12.2 Special Assessments for Capital Improvements Upon COMMON AREA. Except as provided herein, in addition to the annual and special assessments authorized above, the ASSOCIATION may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the COMMON AREA, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of three-fourths (3/4) of the votes of MEMBERS who are voting in person or by proxy at a meeting duly called for this purpose. PROVIDED, HOWEVER, the DECLARANT shall not be obligated to pay any special assessments for capital improvements upon the COMMON AREA.

Section 12.3 Dredging Assessment. Except as provided herein, the ASSOCIATION shall collect funds from the OWNERS necessary to properly dredge the boat basin and BOAT SLIPS. The ASSOCIATION or its designated agent shall cause the boat basin and BOAT SLIP to be dredged as determined by the ASSOCIATION. If the depth of the boat basin and/or BOAT SLIP shall be determined to be less than six (6) (or such other minimum depth established by the ASSOCIATION from time to time) feet by a certified licensed civil engineer, then the ASSOCIATION or its designated agent shall take the necessary steps to dredge the same to a minimum depth of eight (8) feet. PROVIDED, HOWEVER, the DECLARANT shall not be obligated to pay the assessments provided for in this Section on any PROPERTY owned by the DECLARANT.

Section 12.4 Uniform Rate of Assessment. The assessments

herein described shall be fixed at a uniform rate for all LOTS and UNDIVIDED UNITS.

Section 12.5 Date of Commencement of Annual Assessments:
Due Dates. Except as provided herein, the annual assessments provided for herein shall commence as to all LOTS and UNDIVIDED UNITS on the first day of the month following the date of this DECLARATION. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The BOARD shall fix the amount of the annual assessment against each LOT at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every OWNER subject thereto. The due date of any assessment shall be fixed by the BOARD in the resolution authorizing such assessment, and any such assessment shall be payable in advance in monthly, quarterly, semiannually or annual installments as determined by the BOARD. The ASSOCIATION shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the ASSOCIATION, setting forth whether the assessments on a specified LOT or specified UNDIVIDED UNIT have been paid. A properly executed certificate of the ASSOCIATION as to the status of assessments on a LOT or on a UNDIVIDED UNIT is binding upon the ASSOCIATION as of the date of its issuance. PROVIDED, HOWEVER, the DECLARANT shall not be obligated to pay any ASSESSMENTS on any PROPERTY owned by the DECLARANT.

Section 12.6 Effect of Nonpayment of Assessments: Remedies of the ASSOCIATION. Any assessment not paid within thirty (30) days after the due date shall bear interest thereon at a rate to be set by the BOARD OF DIRECTORS of the ASSOCIATION, but in no event greater than the maximum percentage rate as may then be permitted under the Laws of the State of Alabama. The ASSOCIATION may bring an action at law or in equity against the OWNER personally obligated to pay the same, foreclose a lien against the property or seek injunctive relief, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each such OWNER, by his or her acceptance of a DEED to a LOT or UNDIVIDED UNIT, hereby expressly vests in the ASSOCIATION the right and power to bring all actions against such OWNER personally for the collection of each charge as a debt and to foreclose the aforesaid lien by all methods available for the enforcement of such liens, including foreclosures by an action brought in the name of the ASSOCIATION in a like manner as a MORTGAGE lien on real property, and such OWNER hereby expressly grants to the ASSOCIATION a power of sale in connection with said lien. The lien provided for in this Section 12.6 shall be in favor of the ASSOCIATION and shall be for the benefit of all LOT OWNERS and UNDIVIDED UNIT OWNERS. The ASSOCIATION, acting on behalf of the LOT OWNERS and UNDIVIDED UNIT 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. Except as provided in this ARTICLE XII no OWNER may waive or otherwise escape liability for the assessments provided for herein by non-use of the COMMON AREA or abandonment of his LOT. The DECLARANT shall not be obligated to pay the assessments provided for herein on any property owned by the DECLARANT.

Section 12.7 Subordination of the Lien to MORTGAGES. The lien of the assessments provided for herein shall be subordinate to the lien of any first MORTGAGE or vendor's lien. Sale or transfer of any LOT shall not affect the assessment lien. However, the sale or transfer of any LOT or UNDIVIDED UNIT pursuant to MORTGAGE or vendor's lien foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such LOT or UNDIVIDED UNIT from liability for any assessments thereafter becoming due or from the lien thereof or relieve the prior OWNER from any personal liability for any unpaid assessments occurring prior to said sale or transfer.

Section 12.8 Capitalization of ASSOCIATION. Upon acquisition of record title to a LOT or UNDIVIDED UNIT from DECLARANT, each OWNER shall contribute to the capital of the ASSOCIATION an amount equal to a sum to be determined by the DECLARANT for that LOT or UNDIVIDED UNIT. This amount shall be deposited by the buyer into the purchase and sales escrow and disbursed therefrom to the ASSOCIATION. The provisions of this Section 12.8 shall not apply to the DECLARANT.

Section 12.9 Effect on DECLARANT. Notwithstanding any provision that may be contained to the contrary herein, for so long as DECLARANT (or any of DECLARANT'S affiliates) is the OWNER of any LOT or UNDIVIDED UNIT, the DECLARANT shall be exempt from the payment of any assessments, whether general or special, and exempt from any lien provided for herein.

ARTICLE XIII

INSURANCE AND CASUALTY LOSS

Section 13.1 The ASSOCIATION. The ASSOCIATION is hereby authorized to purchase and maintain insurance on the COMMON AREA in such forms and such amounts, with such deductibles, and with such companies as the BOARD OF DIRECTORS shall deem appropriate.

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

B. **Public Liability Insurance.** The ASSOCIATION may obtain comprehensive public liability insurance with limits and provisions as it deems desirable.

C. **Workmen's Compensation Insurance.** The ASSOCIATION shall obtain worker's compensation insurance to meet the requirements of Alabama Law.

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

E. **Adjustment.** Each OWNER shall be deemed to have delegated to the ASSOCIATION his or her right to adjust with insurance companies all losses under policies purchased by the ASSOCIATION, subject to the rights of mortgagees.

Section 13.2 The OWNER.

A. **Public Liability Insurance.** Each OWNER shall obtain, maintain and pay for comprehensive public liability insurance on his or her interest in the PROPERTY and the VESSEL occupying his or her BOAT SLIP with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence, combined single limits, covering the activities of such OWNER on or about the PROPERTY. The ASSOCIATION may, from time to time, increase minimum limits required of all OWNERS. The deductibles allowed on said insurance shall be in an amount approved by the ASSOCIATION. Each comprehensive public liability insurance policy shall name the ASSOCIATION, DECLARANT and any management company as additional insured under said policy.

B. **Hazard Insurance.** Each LOT OWNER shall be and is hereby deemed responsible for maintaining sufficient hazard insurance upon the improvements on his or her LOT so as to provide full

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replacement value thereof in the event of a casualty, including, without limitation: (1) loss or damage by fire and other hazards covered by a standard extended coverage endorsement; (2) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location, and use as the buildings on the land, including, but not limited to, vandalism, malicious mischief, and windstorm; and (3) flood insurance, if it can reasonably be obtained. Each LOT OWNER shall provide the ASSOCIATION with evidence that such insurance is in full force and effect. In the event an OWNER of any LOT in the PROPERTY shall fail to maintain sufficient insurance as provided for herein, the ASSOCIATION, after approval by two-thirds (2/3) of the BOARD OF DIRECTORS, shall have the right to purchase said insurance, the cost of which shall become the personal obligation of the LOT OWNER and a lien on the LOT.

C. Miscellaneous. All insurance policies provided for in this Section 13.2 shall include, however, provisions waiving (i) any right of the insured to subrogation claims against the ASSOCIATION and against individual OWNERS, as well as their agents, servants, employees and guests; and (ii) any right of the insurer to contribution or proration because of a master hazard policy.

Section 13.3 Reconstruction Or Repair After Casualty. In the event of the damage or destruction of all or part of the improvements on a LOT, the LOT OWNER shall be responsible for the prompt reconstruction and repair of the improvements after such casualty; provided that should the LOT OWNER fail to repair or replace the improvements within a reasonable period, the ASSOCIATION may do so for his or her account and may assess his or her PROPERTY accordingly and, thereafter, be subrogated to any insurance proceeds.

In the event of the damage or destruction of all or part of the improvements on the COMMON AREA, the ASSOCIATION shall be responsible for the prompt reconstruction and repair of the improvements after such casualty.

Reconstruction or repair shall be mandatory unless seventy-five percent (75%) or more of the votes of the ASSOCIATION, and the DECLARANT so long as DECLARANT owns any PROPERTY in the PLANNED UNIT DEVELOPMENT, elect not to repair or reconstruct. Any reconstruction or repair must follow substantially the original plans and specifications of the improvements unless seventy-five percent (75%) or more of the votes of the ASSOCIATION, and the DECLARANT so long as DECLARANT owns any PROPERTY in the PLANNED UNIT DEVELOPMENT, vote to adopt different plans and specifications.

ARTICLE XIV

AMENDMENT

This DECLARATION shall be amended in the following manner:

Section 14.1 Notice. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting of the ASSOCIATION at which a proposed amendment is to be considered.

Section 14.2 Resolution. An amendment may be proposed by either a majority of the BOARD or by MEMBERS holding one-third (1/3) of the votes of the ASSOCIATION. A resolution adopting a proposed amendment must be adopted by an affirmative vote of not less than a majority of the BOARD and the consent of the OWNERS of the LOTS to which sixty-seven percent (67%) of the votes in the ASSOCIATION are allocated and the approval of fifty-one percent (51%) of the holders of first MORTGAGES on LOTS. PROVIDED, HOWEVER, until the DECLARANT has completed and sold all of the LOTS and UNDIVIDED UNITS in the PROPERTY and the ADDITIONAL PROPERTY or

Amended
2/3
2/3

until the DECLARANT elects to terminate its control of the ASSOCIATION, whichever shall first occur, no amendment may be made unless DECLARANT shall join in the execution of such amendment, nor shall any amendment make any change that would in any way affect the rights, privileges or powers of the DECLARANT unless the DECLARANT shall join in the execution thereof.

Section 14.3 Recording. A copy of each amendment shall be certified by the President and Secretary of the ASSOCIATION as having been duly adopted and shall be effective when recorded in the Office of the Judge of Probate of Baldwin County, Alabama.

Section 14.4 Agreement. In the alternative, an amendment may be made by an agreement signed and acknowledged by all record OWNERS, including all first MORTGAGES of LOTS and UNDIVIDED UNITS in the PROPERTY in the manner required for the execution of a DEED, and such amendment shall be effective when recorded in the Office of the Judge of Probate of Baldwin County, Alabama.

If any provision or provisions of this DECLARATION, or any section, sentence, clause, phrase or word herein, or the application thereof, is in any circumstances held invalid, the validity of the remainder of this DECLARATION and the application thereof shall not be affected thereby.

Section 14.5 Proviso. This DECLARATION may be amended unilaterally at any time and from time to time by DECLARANT (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the LOTS and UNDIVIDED UNITS subject to this DECLARATION; or (c) if such amendment is required by an institutional or governmental lender or purchaser of MORTGAGE loans to enable such lender or purchaser to make or purchase MORTGAGE loans on the LOTS or UNDIVIDED UNITS subject to this DECLARATION. Further, so long as the DECLARANT owns any PROPERTY in the PLANNED UNIT DEVELOPMENT, DECLARANT may unilaterally amend this DECLARATION for any other purpose; PROVIDED, HOWEVER, any such amendment shall not materially adversely affect the substantive rights of any LOT OWNER or UNDIVIDED UNIT OWNER hereunder without his or her approval.

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ARTICLE XV

MORTGAGE PROVISIONS

The following provisions are for the benefit of holders of first MORTGAGES on LOTS and UNDIVIDED UNITS in the PROPERTY. The provisions of this ARTICLE apply to both this DECLARATION and to the BY-LAWS, notwithstanding any other provisions contained therein.

Section 15.1 Notices of Action. An institutional holder, insurer or guarantor of a first MORTGAGE who provides written request to the ASSOCIATION (such request to state the name and address of such holder, insurer or guarantor and the LOT number and UNDIVIDED UNIT number, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

- (a) any condemnation loss or any casualty loss which affects a material portion of the PROPERTY or which affects any LOT or UNDIVIDED UNIT on which there is a first MORTGAGE held, insured or guaranteed by such eligible holder;
- (b) any delinquency in the payment of assessments or charges owed by an OWNER of a LOT or UNDIVIDED UNIT subject to the MORTGAGE of such eligible holder, where such

delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first MORTGAGE, upon request, is entitled to written notice from the ASSOCIATION of any default in the performance by an OWNER of a LOT or UNDIVIDED UNIT of any obligation under the DECLARATION or BY-LAWS of the ASSOCIATION which is not cured within sixty (60) days;

- (c) any lapse, cancellation or material modification of any insurance policy maintained by the ASSOCIATION; or
- (d) any proposed action which would require the consent of a specified percentage of eligible holders.

Section 15.2 No Priority. No provision of this DECLARATION or the BY-LAWS gives or shall be construed as giving any OWNER or other party priority over any rights of the first MORTGAGEE of any LOT or UNDIVIDED UNIT in the case of distribution to such OWNER of insurance proceeds or condemnation awards for losses to or a taking of the COMMON AREA.

Section 15.3 Notice to ASSOCIATION. Upon request, each OWNER shall be obligated to furnish to the ASSOCIATION the name and address of the holder of any MORTGAGE encumbering the LOT of a OWNER or UNDIVIDED UNIT of an OWNER.

Section 15.4 Applicability of ARTICLE XV. Nothing contained in this ARTICLE shall be construed to reduce the percentage vote that must otherwise be obtained under the DECLARATION, BY-LAWS or Alabama Corporate Law for any of the acts set out in this ARTICLE.

Section 15.5 Failure of MORTGAGEE to Respond. Any MORTGAGEE who receives a written request from the BOARD to respond to or consent to any action shall be deemed to have approved such action if the ASSOCIATION does not receive a written response from the MORTGAGEE within thirty (30) days of the date of the request by the ASSOCIATION.

ARTICLE XVI

RIGHT OF REPURCHASE

Except as provided below, in the event a OWNER sells or otherwise attempts to dispose of a LOT or UNDIVIDED UNIT, such OWNER must promptly furnish to the ASSOCIATION or its designated agent, in writing the name and address of such prospective purchaser or transferee, and the proposed consideration and terms therefor. The ASSOCIATION may require that this information be in specific form and may require a copy of the executed purchase contract. The ASSOCIATION shall have thirty (30) days to purchase the LOT or UNDIVIDED UNIT on equal terms offered by the bona fide third party or waive said right in writing. If the ASSOCIATION does not exercise said right within thirty (30) days after receipt of written notice, the right shall be considered waived without any further documentation. PROVIDED, HOWEVER, so long as the DECLARANT owns any property in the PLANNED UNIT DEVELOPMENT, the DECLARANT shall be vested with the sole and exclusive right of first refusal to purchase a LOT or UNDIVIDED UNIT as provided for above unless waived or transferred to the ASSOCIATION. PROVIDED, FURTHER, in the event an OWNER sells or otherwise attempts to dispose of a LOT or UNDIVIDED UNIT to a "FAMILY MEMBER" (i.e., FAMILY MEMBER is defined as a spouse, blood relative, step child, adopted child or adopted grandchild) then the provisions in this ARTICLE pertaining to right of repurchase by the ASSOCIATION or the DECLARANT shall not apply. The foregoing exception shall not be interpreted as a waiver of any right to repurchase set out in this ARTICLE in the case of a future transfer by a FAMILY MEMBER of an interest in a LOT or UNDIVIDED UNIT.

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ARTICLE XVII

MISCELLANEOUS

Section 17.1 Indemnity for Damages. Each and every LOT OWNER or UNDIVIDED UNIT OWNER and future LOT OWNER or UNDIVIDED UNIT OWNER, in accepting a DEED or contract for any LOT or UNDIVIDED UNIT 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, roads, streets, gutters, walkways or other aspects of private or public ways, including all surfaces 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 17.2 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 hereof; but the remainder of this DECLARATION shall be effective as though such ARTICLE, clause, provision or condition had not been contained therein.

Section 17.3 Right of DECLARANT to Modify Restrictions with Respect to Unsold LOTS. With respect to any unsold LOT or UNDIVIDED UNIT, DECLARANT may include in any contract or DEED hereinafter made or entered into such modifications and/or additions to this DECLARATION as DECLARANT in its discretion desires.

Section 17.4 Captions. 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 17.5 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 MORTGAGEE or vendor's lien made or reserved in good faith and for value upon any portion of the PROPERTY; provided, however, that any MORTGAGE or vendor in actual possession, or any purchaser at any MORTGAGEE'S or vendor's lien foreclosure sale shall be bound by and subject to this DECLARATION as fully as any other OWNER of any portion of the PROPERTY.

Section 17.6 No Reverter. No provisions of this DECLARATION is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

Section 17.7 Duration and Amendment. 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 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 any 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 17.8 Enforcement. In the event of a violation or

breach of any part of this DECLARATION or any amendments thereto by any residential OWNER, or employee, agent or lessee of such OWNER, the OWNER(S) of LOT(S) or UNDIVIDED UNIT(S), the ASSOCIATION, DECLARANT (so long as it is a MEMBER of the ASSOCIATION), their successors and assigns, shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof, to prevent the violation or breach of this DECLARATION, 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 herein shall be held to be a waiver of that party or an estoppel of that party or of any other party to assert any right available to him upon the recurrence or continuation of said violation or the occurrence of a different violation.

Damages shall not be deemed adequate compensation for any breach or violation of any provision hereof, but any person or entity entitled to enforce any provision hereof 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 or enjoining the violation of this DECLARATION against a LOT OWNER or UNDIVIDED UNIT OWNER may be awarded a reasonable attorney's fee against such LOT OWNER or UNDIVIDED UNIT OWNER.

Section 17.9 Certificate of Violation. In addition to any other rights or remedies available to the ASSOCIATION hereunder or at law or equity, the ASSOCIATION shall have the right to file in the records of Baldwin County, Alabama, a Certificate or Notice of Violation of this DECLARATION (which violation shall include, without limitation, nonpayment of the annual charges and/or failure to comply with architectural guidelines) upon failure of a LOT OWNER or UNDIVIDED UNIT OWNER to correct a violation of this DECLARATION within thirty (30) days after written notice of the violation has been given by the ASSOCIATION to the LOT OWNER or UNDIVIDED UNIT OWNER.

Section 17.10 Interpretation by ASSOCIATION. The ASSOCIATION shall have the right to construe and interpret the provisions of this DECLARATION, and in absence of an adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or PROPERTY benefited or bound by the provisions hereof.

Section 17.11 Assignment by ASSOCIATION. The ASSOCIATION shall be empowered to assign its rights hereunder to any successor nonprofit membership corporation (herein referred to as the "SUCCESSOR CORPORATION") and, upon such assignment the SUCCESSOR CORPORATION shall have all the rights and be subject to all the duties of the ASSOCIATION hereunder.

Section 17.12 No Waiver. The failure of any party entitled to enforce this DECLARATION shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such a violation or breach occurring prior or subsequent thereto; provided, however, that approval of plans pursuant to ARTICLE IV shall be binding on any and all parties as a conclusive determination that such plans are in conformity with this DECLARATION.

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IN WITNESS WHEREOF, the undersigned, being the DECLARANT herein, has set the hand and seal of DECLARANT on this 21 day of November, 1995.

DECLARANT:

MESS ABOUT MARINA, INC., an
Alabama Corporation

By:

Richard E. Holk
RICHARD E. HOLK
Its: President



STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that RICHARD E. HOLK, whose name as President of MESS ABOUT MARINA, INC., an Alabama Corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and seal on this 2 day of November, 1995.



W. dly
NOTARY PUBLIC

My Commission Expires: 4-24-96

JOINDER OF MORTGAGEE

The undersigned, COMPASS BANK, being the holder of the first MORTGAGE on the PROPERTY covered by this DECLARATION, does hereby consent to this DECLARATION.

Dated this 2 day of November, 1995.

COMPASS BANK

By:

Phillip R. Webb
PHILLIP R. WEBB

Its: Vice President

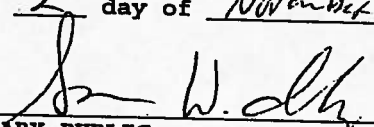
MISC0085 PAGE 1087

STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that PHILIP R. WEBB, whose name as Vice President of COMPASS BANK, a Corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, that he, as such officer and with full authority, executed the same voluntarily for and as the act of said Corporation.

Given under my hand and seal this 2 day of November, 1995.


NOTARY PUBLIC

My Commission Expires: 4-24-96



MISC0065 PAGE 1088

THIS INSTRUMENT PREPARED BY:

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

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ARTICLES OF INCORPORATION

OF

ORINOCO COVE PROPERTY OWNER'S ASSOCIATION, INC.

The undersigned, acting as incorporator for a not-for-profit corporation under the Alabama Non-Profit Corporation Act, Code of Alabama (1975), Section 10-3A-1, et seq., (hereinafter referred to as the "ACT") adopts the following Articles of Incorporation:

ARTICLE ONE

NAME

The name of the Corporation is ORINOCO COVE PROPERTY OWNER'S ASSOCIATION, INC. The Corporation is herein referred to as the "ASSOCIATION".

ARTICLE TWO

DEFINITIONS

The terms used herein shall have the meaning for each stated in the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ORINOCO COVE, A PLANNED UNIT DEVELOPMENT ("PLANNED UNIT DEVELOPMENT") or as the context otherwise requires.

ARTICLE THREE

PERIOD OF DURATION

The period of duration for the ASSOCIATION is perpetual unless and until hereafter legally dissolved.

ARTICLE FOUR

PURPOSES AND POWERS OF THE ASSOCIATION

This ASSOCIATION does not contemplate pecuniary gain or profit, direct or indirect, to the MEMBERS. The specific purposes for which the ASSOCIATION is formed are to provide for maintenance, preservation and architectural control of the LOTS and COMMON AREA shown on the Plat of ORINOCO COVE, A PLANNED UNIT DEVELOPMENT recorded in the Office of the Judge of Probate, Baldwin County, Alabama, in Slide 1604-B and to promote the health, safety and welfare of the OWNERS and occupants within the PLANNED UNIT DEVELOPMENT and any additions thereto as may hereafter be brought within the jurisdiction of this ASSOCIATION. The ASSOCIATION will not own the COMMON AREA as shown on the PLAT. See the terms and

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conditions of the DECLARATION for a more specific description of the PLANNED UNIT DEVELOPMENT. In addition to the foregoing and by way of explanation and not of limitation, the purposes for which the ASSOCIATION are formed are to:

1. Exercise all of the powers and privileges and to perform all of the duties and obligations of the ASSOCIATION as set forth in the DECLARATION applicable to the PLANNED UNIT DEVELOPMENT and recorded or to be recorded in the Office of the Judge of Probate of Baldwin County, Alabama, and as the same may be amended from time to time as therein provided, the DECLARATION being incorporated herein as if set forth at length;
2. Fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the DECLARATION; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the ASSOCIATION, including all licenses, taxes or governmental charges levied or imposed against the property of the ASSOCIATION;
3. Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the ASSOCIATION;
4. Borrow money, and with the assent of the vote of two-thirds (2/3) of the total votes entitled to be cast by MEMBERS of the ASSOCIATION, mortgage, pledge, deed in trust or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;
5. Dedicate, sell or transfer all or any part of the COMMON AREA or COMMON PROPERTY to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the MEMBERS according to the terms of the DECLARATION;
6. Participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex ADDITIONAL PROPERTY and COMMON AREA, according to the terms of the DECLARATION;

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7. Have and to exercise any and all powers, rights and privileges which a corporation organized under the ACT may now or hereafter have or exercise.

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

ARTICLE FIVE

NOT FOR PROFIT

The ASSOCIATION is not organized for pecuniary profit, and it shall pay no dividend, and shall distribute no part of its income to its MEMBERS, directors or officers. Nevertheless, the ASSOCIATION may pay compensation in a reasonable amount to its MEMBERS, directors, and officers for services rendered, and it may confer benefits on its MEMBERS in conformity with the DECLARATION and for the purposes of the ASSOCIATION. On termination, the ASSOCIATION may make distributions to its MEMBERS as permitted by law, and no such payment, benefit or distribution shall be deemed to be a dividend or distribution of income. All funds and property acquired by the ASSOCIATION and all proceeds therefrom shall be held and used for the benefit of the MEMBERS of the ASSOCIATION in accordance with the provisions of the DECLARATION, these ARTICLES and the BY-LAWS.

ARTICLE SIX

MEMBERSHIP AND VOTING RIGHTS

This ASSOCIATION shall issue no shares of stock of any kind or nature whatsoever. Every person or entity who is a record owner of a LOT or a record owner of a UNDIVIDED UNIT, including contract sellers, shall be a MEMBER of the ASSOCIATION. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from the ownership of any LOT or UNDIVIDED UNIT. The MEMBERS shall enjoy such qualifications, rights and voting rights as may be fixed in the DECLARATION and in the BY-LAWS of the ASSOCIATION.

ARTICLE SEVEN

BOARD OF DIRECTORS

The property, business and affairs of the ASSOCIATION shall be managed by a BOARD OF DIRECTORS which shall consist of such number as shall, from time to time, be determined and fixed by a vote of a majority of the voting rights present at any annual meeting of the MEMBERS. The number of directors may be changed by amendment of the BY-LAWS of the ASSOCIATION. Except as may otherwise be provided in the BY-LAWS, each director may be either a person designated by the DECLARANT or a person entitled to cast a vote in the ASSOCIATION. Directors may be designated or elected and removed, and vacancies on the BOARD OF DIRECTORS shall be filled as provided in the BY-LAWS. All the duties and powers of the ASSOCIATION existing under the DECLARATION, these ARTICLES and the BY-LAWS shall be exercised exclusively by the BOARD OF DIRECTORS, its agents, contractors or employees, subject only to approval by MEMBERS when such approval is specifically required by the DECLARATION these ARTICLES or the BY-LAWS.

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

<u>NAME</u>	<u>ADDRESS</u>
Richard E. Holk	4688 Walker Avenue Orange Beach, Alabama 36561
William L. Luckie	3 Captiva Row Charleston, South Carolina 29407
Leonard A. Kaiser	Post Office Drawer 1018 Gulf Shores, Alabama 36547-1018

ARTICLE EIGHT

BYLAWS

The BY-LAWS of the ASSOCIATION shall be adopted by the BOARD OF DIRECTORS and may be altered, amended or rescinded in the manner provided by the BY-LAWS.

ARTICLE NINE

OFFICERS

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

<u>NAME</u>	<u>OFFICE</u>	<u>ADDRESS</u>
Richard E. Holk	President	4688 Walker Avenue Orange Beach, Alabama 36561
William L. Luckie	Secretary- Treasurer	3 Captiva Row Charleston, South Carolina 29407

ARTICLE TEN

INCORPORATOR

The name and address of the incorporator of the ASSOCIATION is:

<u>NAME</u>	<u>ADDRESS</u>
Mess About Marina, Inc. an Alabama Corporation	4688 Walker Avenue Orange Beach, Alabama 36561

ARTICLE ELEVEN

REGISTERED OFFICE AND AGENT

The location and mailing address of the initial registered office of the corporation are as follows:

Location: 4688 Walker Avenue, Orange Beach, Alabama 36561

Mailing Address: 4688 Walker Avenue, Orange Beach, Alabama 36561.

The name of its initial registered agent at such address is
RICHARD E. HOLK.

ARTICLE TWELVE

AMENDMENT

These ARTICLES may be amended as provided in the ACT, provided that no amendment shall be in conflict with the DECLARATION and provided further that no amendment shall be effective to impair or dilute any rights of any MEMBERS that are governed by the DECLARATION.

ARTICLE THIRTEEN

DECLARANT CONTROL

The DECLARANT shall retain control of the ASSOCIATION in accordance with the terms and conditions of the DECLARATION.

ARTICLE FOURTEEN

DISSOLUTION

The ASSOCIATION shall be dissolved upon the termination of the PLANNED UNIT DEVELOPMENT in the manner provided by the DECLARATION. Upon dissolution of the ASSOCIATION, the assets of the ASSOCIATION, if any, and all money received by the ASSOCIATION from its operations, after the payment in full of all debts and obligations of the ASSOCIATION of whatsoever kind and nature, shall be used and distributed solely and exclusively in the manner provided for in the Act.

IN WITNESS WHEREOF, the Incorporator has caused this instrument to be executed this 2nd day of November, 1995.

MESS ABOUT MARINA, INC.,
an Alabama Corporation



(CORPORATE SEAL)

By:

Richard E. Holk
RICHARD E. HOLK
Its: President

STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said State and County, personally appeared RICHARD E. HOLK being known to me and who, being by me first duly sworn, deposes and says that he is the President of MESS ABOUT MARINA, INC., and that he is authorized to make this verification on behalf of the incorporator of the ASSOCIATION and that the facts contained in the above and foregoing Articles of Incorporation are true and correct.

Richard E. Holk
RICHARD E. HOLK

Subscribed and sworn to
before me this 2 day
of November, 1995.

Sam W. Irby
NOTARY PUBLIC
STATE OF ALABAMA AT LARGE
My Commission Expires: 4-24-96



MS0005 PAGE 1046

THIS INSTRUMENT PREPARED BY:

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

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OF

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BY-LAWS

OF

ORINOCO COVE PROPERTY OWNER'S ASSOCIATION, INC.

GENERAL

1.1 Name. The name of the ASSOCIATION shall be ORINOCO COVE PROPERTY OWNER'S ASSOCIATION, INC. (the "ASSOCIATION").

1.2 Terms Defined. "DECLARATION" shall mean that certain DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF ORINOCO COVE filed in the Office of the Judge of Probate of Baldwin County, Alabama, as the same may be amended from time to time in accordance with the terms thereof. All other terms used herein shall have the meaning given to them in the DECLARATION and are hereby incorporated by reference and made a part hereof.

1.3 Purpose. These are the BY-LAWS of the ASSOCIATION which is a not-for-profit Corporation organized pursuant to the provisions of the Code of Alabama (1975), Section 10-3A-1, et seq., (the "ACT") for the purpose of administering the Planned Unit Development known as ORINOCO COVE hereinafter referred to as the "PLANNED UNIT DEVELOPMENT", which is located in Baldwin County, Alabama. The ASSOCIATION shall issue no shares of stock of any kind or nature whatsoever.

1.4 Applicability of BY-LAWS. The provisions of these BY-LAWS are applicable to the PROPERTY and COMMON AREA of the PLANNED UNIT DEVELOPMENT and to the use and occupancy thereof. All present and future OWNERS, MORTGAGEES, lessees and occupants of LOTS and UNDIVIDED UNITS and their employees and any other persons who may use the facilities of the PLANNED UNIT DEVELOPMENT in any manner are subject to these BY-LAWS, the DECLARATION and the Rules and Regulations made in accordance therewith. The acceptance of a DEED of conveyance or the entering into of a lease or the act of occupancy of a LOT or UNDIVIDED UNIT shall constitute an agreement that these BY-LAWS, the Rules and Regulations made in accordance therewith, and the provisions of the DECLARATION, as they may be amended from time to time, are accepted, ratified, and will be complied with.

1.5 Principal Office. The principal office of the ASSOCIATION shall be located in Baldwin County, Alabama, or at such other place as may be designated subsequently by the BOARD OF DIRECTORS or as the business of the ASSOCIATION may require. All books and records of the ASSOCIATION shall be kept at its principal office.

MEMBERSHIP

2. Qualification. The qualification for membership shall be ownership of a LOT or UNDIVIDED UNIT in the PLANNED UNIT DEVELOPMENT. No membership may be separated from the LOT or UNDIVIDED UNIT to which it is appurtenant. The qualification for membership is more fully set out in the DECLARATION, the terms of which pertaining to membership are specifically incorporated herein by reference.

MEETINGS OF MEMBERS

3.1 Place of Meetings. Meetings of the ASSOCIATION shall be held at the principal office of the ASSOCIATION or at such other suitable place convenient to the MEMBERS as may be designated by the BOARD OF DIRECTORS either in the PLANNED UNIT DEVELOPMENT or as convenient thereto as possible and practicable.

3.2 Annual Meeting. Except as provided herein, the annual meeting of MEMBERS shall be held at the office of the ASSOCIATION

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Changed at 6:30 p.m., local time, on the second Tuesday of January of each year for the purpose of electing DIRECTORS and transacting any other business authorized to be transacted by the MEMBERS; provided, however, if that day is a legal holiday, the meeting shall be held at the same hour on the next day following that is not a legal holiday.

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

3.4 Special Meeting. Except as provided herein, the President of the BOARD may call special meetings. In addition, special meetings of the MEMBERS may be called at any time by a MAJORITY of the BOARD, and must be called by the officers of the ASSOCIATION upon receipt of a written request from MEMBERS entitled to cast twenty-five percent (25%) of the total votes in the ASSOCIATION. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. The business conducted at a special meeting shall be limited to that stated in the notice of the meeting.

3.5 Notice of Meeting. Notice of all meetings of MEMBERS stating the time and place and the objects for which the meeting is called shall be given by the President or Vice President or Secretary unless waived in writing. Such notice shall be in writing to each MEMBER and to each first MORTGAGEE who has given the ASSOCIATION a written request to receive notice at the address as it appears on the books of the ASSOCIATION and shall be mailed not less than ten (10) days nor more than sixty (60) days prior to the date of the meeting. A copy of the notice of any meeting of MEMBERS shall be posted in a conspicuous place on the PLANNED UNIT DEVELOPMENT PROPERTY at least ten (10) days prior to the meeting. Proof of such notice shall be given by the affidavit of the person giving the notice.

3.6 Waiver of Notice. Any MEMBER or first MORTGAGEE may waive the right to receive notice of any meeting by sending a written waiver to the BOARD OF DIRECTORS. Notice of any meeting may be waived before or after the meeting, orally or in writing. Attendance by a MEMBER at any meeting, either in person or by proxy, shall constitute waiver of notice of such meeting.

3.7 Quorum. A quorum of MEMBERS for any meeting shall be deemed present throughout such meeting if MEMBERS, represented in person or by proxy, holding more than fifty-one percent (51%) of the total votes entitled to be cast at such meeting are present at the beginning of such meeting, except as otherwise provided by law, by the ARTICLES, by the DECLARATION, or by these BY-LAWS. Any provision in the DECLARATION concerning quorums is specifically incorporated herein.

3.8 Adjournment for Lack of Quorum. In the absence of a quorum at any meeting of MEMBERS, a MAJORITY of those MEMBERS entitled to vote thereat, present in person or by proxy, shall have the power to adjourn the meeting, from time to time, without notice other than announcement at the meeting, until the requisite number of MEMBERS, present in person or by proxy, shall be present. At such adjourned meeting at which the requisite number of votes shall be present, any business may be transacted which might have been transacted at the meeting as originally noticed. Any provision in the DECLARATION concerning adjournment for lack of quorum is specifically incorporated herein.

3.9 Action without Meeting. Any action which may be taken at a regular or special meeting of the MEMBERS may also be taken without a meeting if a consent in writing setting forth the action so taken is signed by the number of MEMBERS required to take such action at a meeting and is filed with the Secretary of the ASSOCIATION.

3.10 Minutes of Meeting. The minutes of all meetings of MEMBERS shall be kept in a book available for inspection by LOT OWNERS and UNDIVIDED UNIT OWNERS or authorized representatives.

3.11 Proviso. PROVIDED, HOWEVER, until that the DECLARANT has completed and sold all of the LOTS and UNDIVIDED UNITS in all phases of the PLANNED UNIT DEVELOPMENT or until DECLARANT elects to terminate the control of DECLARANT of the PLANNED UNIT DEVELOPMENT, whichever shall occur first, the BY-LAWS and rules adopted by the DECLARANT shall govern, and there shall be no meeting of MEMBERS of the ASSOCIATION, unless a meeting is called by the BOARD OF DIRECTORS of the ASSOCIATION, and neither the LOT OWNERS nor the UNDIVIDED UNIT OWNERS nor the ASSOCIATION nor the use of the PLANNED UNIT DEVELOPMENT PROPERTY by LOT occupants or UNDIVIDED UNIT OCCUPANTS shall interfere with the contemplated improvements and the sale of the LOTS or UNDIVIDED UNITS. The DECLARANT may make such use of the unsold LOTS, UNDIVIDED UNITS and the COMMON AREAS (including the MARINA) and facilities as may facilitate such completion and sale, including, but not limited to, showing of the property and the display of signs.

VOTING RIGHTS

4.1 Votes. The voting rights attached to each LOT and UNDIVIDED UNIT shall be in accordance with that stated in the DECLARATION. The vote of a LOT or UNDIVIDED UNIT shall not be divisible. The designation of the voting MEMBER shall be determined as set out in the DECLARATION.

4.2 Votes Required to Transact Business. When a quorum is present at any meeting, the holders of a MAJORITY of the voting rights present in person or represented by written proxy shall decide any questions brought before the meeting, unless the question is one upon which, by express provision of the ACT, the DECLARATION, or the BY-LAWS, a different number is required, in which case, the express provision shall govern and control the decision in question.

4.3 MAJORITY of OWNERS. As used in these BY-LAWS, the term "MAJORITY" shall mean those votes, OWNERS or other group as the context may indicate totalling more than fifty percent (50%) of the total number.

4.4 Voting by Proxy. Votes may be cast in person or by proxy. All proxies must be in writing, dated, signed by the MEMBER generating the proxy, and filed with the Secretary of the ASSOCIATION before the appointed time of the meeting to which it applies. A MEMBER may revoke a proxy at any time by delivering a written notice of revocation to the ASSOCIATION. Every proxy shall automatically cease upon conveyance by the MEMBER of his or her LOT or UNDIVIDED UNIT or upon receipt of notice by the Secretary of the BOARD of the death or judicially declared incompetency of a MEMBER or upon the expiration of eleven (11) months from the date of the proxy.

4.5 Voting by Mortgagee. The execution and delivery of a mortgage on a LOT or UNDIVIDED UNIT by its owner shall be construed as conferring upon the mortgagee a conditional proxy to cast the vote or votes attributable to such LOT or UNDIVIDED UNIT at any regular or special meeting of the ASSOCIATION. The condition of such proxy shall be noticed by such mortgagee to the ASSOCIATION, in writing, of its intent to exercise the conditional proxy rights granted to it, as mortgagee, by the terms of this Subparagraph. In

the absence of such written notice, the ASSOCIATION shall be entitled to recognize the LOT OWNER or UNDIVIDED UNIT OWNER of the mortgaged LOTS or mortgaged UNDIVIDED UNITS as fully entitled to cast the vote or votes attributable. However, once such written notice is received by the ASSOCIATION, the right of a mortgagee to cast the vote or votes attributable to that LOT and UNDIVIDED UNIT shall be recognized by the ASSOCIATION until the mortgagee withdraws its intent to cast such votes in writing or until the MORTGAGE is paid in full and satisfied of record, whichever first occurs.

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

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

BOARD OF DIRECTORS

5.1 Governing Body. The affairs of the ASSOCIATION shall be governed by a BOARD OF DIRECTORS. Except as provided herein, the DIRECTORS shall be MEMBERS.

5.2 DIRECTORS During Declarant Control. The DIRECTORS shall be selected by the DECLARANT acting in the sole discretion of the DECLARANT and shall serve at the pleasure of the DECLARANT so long as DECLARANT shall retain control as set forth in the DECLARATION, unless the DECLARANT shall earlier surrender this right to select DIRECTORS. The DIRECTORS selected by the DECLARANT need not be OWNERS or OCCUPANTS in the PLANNED UNIT DEVELOPMENT.

5.3 Number. The initial number of DIRECTORS in the ASSOCIATION shall be three (3). The MEMBERS of the ASSOCIATION shall have the right to amend the number of the BOARD OF DIRECTORS at any regular or special meeting called for the purpose.

5.4 Qualification. Except for DIRECTORS appointed by the DECLARANT, each DIRECTOR shall be a LOT OWNER or UNDIVIDED UNIT OWNER. If a LOT OWNER or UNDIVIDED UNIT is a trust, then the beneficiary of the trust may be a DIRECTOR; and if a LOT OWNER or UNDIVIDED UNIT OWNER is a corporation or partnership, then an officer, partner or employee of such LOT OWNER or UNDIVIDED UNIT OWNER may be a DIRECTOR. If a DIRECTOR shall cease to meet such qualifications during his term, he shall cease to be a DIRECTOR and his place on the BOARD shall be vacant.

5.5 Nomination for Election. Except with respect to the DIRECTORS selected by the DECLARANT, nomination for election to the BOARD OF DIRECTORS shall be made from the floor at the annual meeting of MEMBERS or at any other meeting of MEMBERS called for the purpose of electing DIRECTORS. Nominations shall be made also by a nominating committee appointed by the BOARD prior to the annual meeting of the MEMBERS or prior to any other meeting of MEMBERS called for the purpose of electing DIRECTORS.

5.6 Initial Election of DIRECTORS. Within thirty (30) days after the LOT OWNERS or UNDIVIDED UNIT OWNERS are entitled to elect one (1) or more DIRECTORS, the ASSOCIATION shall call a meeting of the MEMBERS to elect the DIRECTOR. The ASSOCIATION shall give not less than ten (10) days nor more than sixty (60) days notice of the meeting to each MEMBER. The meeting may be called and the notice

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may be given by any LOT OWNER or UNDIVIDED UNIT OWNER if the ASSOCIATION fails to do so. The election shall be conducted in the manner specified herein.

5.7 Election of DIRECTORS. DIRECTORS shall be elected at the annual meeting of MEMBERS or at a special meeting called for that purpose. The election shall be by secret ballot (unless dispensed with by unanimous consent) and each MEMBER shall be entitled to vote for each vacancy. There shall be no cumulative voting. Those candidates receiving the greatest number of votes cast either in person or by proxy shall be elected. At the initial election, the candidate receiving the most votes shall serve a two (2) year term, and the next two candidates receiving the most votes shall serve one (1) year terms. At subsequent annual elections, the two (2) vacancies shall be filled as follows: two DIRECTORS shall be elected, with the candidate receiving the most votes to serve a two (2) year term, and the remaining candidate to serve a one (1) year term.

5.8 Term. Each DIRECTOR elected by the MEMBERS shall hold office until their respective successors have been elected and qualified or until he resigns or is removed in any manner provided elsewhere herein. Each DIRECTOR appointed by the DECLARANT shall hold office until he resigns, is removed by the DECLARANT, or his term expires as provided for herein.

5.9 Vacancies. Any vacancy in the position of a DIRECTOR elected by the MEMBERS of the ASSOCIATION shall be filled by a MAJORITY vote of the remaining DIRECTORS, and any DIRECTOR so elected shall hold office for a term equal to the unexpired term of the DIRECTOR whom he succeeds. Any vacancy in the position of a DIRECTOR appointed by the DECLARANT shall be filled by the DECLARANT.

5.10 Removal. Any DIRECTOR may be removed for cause by the concurrence of two-thirds (2/3) of the votes of the ASSOCIATION at a meeting of MEMBERS called for that purpose. The vacancy in the BOARD OF DIRECTORS so created shall be filled by the MEMBERS at the same meeting.

5.11 Compensation. A DIRECTOR shall not receive any compensation for any services he may render to the ASSOCIATION as a DIRECTOR; provided, however, that any DIRECTOR may be reimbursed for actual out-of-pocket expenses incurred by him in his performance of his duties.

MEETINGS OF DIRECTORS

6.1 Regular Meetings. Regular meetings of the BOARD OF DIRECTORS may be held at such time and place as shall be determined from time to time by a MAJORITY of the DIRECTORS, but at least four (4) such meetings shall be held during each fiscal year, with at least one (1) per quarter. Notice of regular meetings shall be given to each DIRECTOR, personally or by mail, telephone, or telegraph at least ten (10) days prior to the day named for such meeting.

6.2 Special Meetings. Special meetings of the DIRECTORS shall be held when called by written notice signed by the President, Vice President, or Secretary of the ASSOCIATION or by two (2) or more DIRECTORS. Not less than three (3) days notice of the meeting shall be given personally or by mail, telephone, or telegraph, which notice shall state the time, place, and purpose of the meeting.

6.3 Open Meetings. All meetings of the BOARD OF DIRECTORS shall be open to all MEMBERS of the ASSOCIATION, and notice of such meetings shall be posted conspicuously on the PLANNED UNIT DEVELOPMENT PROPERTY at least forty-eight (48) hours prior to the meeting, except in the event of an emergency.

48 hr
Notice

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

6.5 Quorum. A quorum shall consist of the number of DIRECTORS entitled to cast a MAJORITY of the votes of the entire BOARD OF DIRECTORS. The acts of the DIRECTORS approved by a MAJORITY of the votes present at a meeting at which a quorum is present shall constitute the acts of the BOARD OF DIRECTORS. The joinder of a DIRECTOR in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such a DIRECTOR for the purpose of determining a quorum.

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

6.7 Minutes of Meetings. The minutes of all meetings of the BOARD OF DIRECTORS shall be kept in a minute book available for inspection by LOT OWNERS and UNDIVIDED UNIT OWNERS or their authorized representatives or any DIRECTORS at any reasonable time.

6.8 Presiding Officer. The presiding officer of DIRECTOR'S meetings shall be the President. In the absence of the President, the DIRECTORS present shall designate one (1) of their number to preside.

6.9 Executive Session. The BOARD may, with approval of a MAJORITY of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personal matters, litigation in which the ASSOCIATION is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

6.10 Proviso. Anything else contained herein to the contrary, until the DECLARANT has completed and sold all of the LOTS and UNDIVIDED UNITS in all phases in the PLANNED UNIT DEVELOPMENT or until DECLARANT elects to terminate the control of DECLARANT of the PLANNED UNIT DEVELOPMENT, whichever shall first occur, no meetings of the BOARD OF DIRECTORS shall take place unless called by the DECLARANT.

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

7.1 Powers Defined. The BOARD OF DIRECTORS shall have the power to exercise all powers, duties and authority vested in the ASSOCIATION by the ACT, the DECLARATION, the ARTICLES or these BY-LAWS, except for such powers and duties reserved thereby to the MEMBERS or the DECLARANT.

7.2 Committees. The BOARD OF DIRECTORS may, by resolution, appoint such committees as deemed appropriate in carrying out its purpose, and such committees shall have the powers of the BOARD OF DIRECTORS for the management of the affairs and business of the ASSOCIATION to the extent provided in the resolution designating such a committee. Any such committee shall keep regular minutes of its proceedings and shall report the same to the BOARD OF DIRECTORS.

7.3 Architectural Committee. The BOARD OF DIRECTORS shall appoint an ARCHITECTURAL COMMITTEE in accordance with the provisions of the DECLARATION.

7.4 Managing Agent. Subject to the terms of the DECLARATION, the BOARD OF DIRECTORS shall be authorized to employ the services of a manager or managing agent, who may either be a DIRECTOR, officer, or employee of the ASSOCIATION, or an independent person or firm qualified to manage the PROPERTY and affairs of the PLANNED UNIT DEVELOPMENT under the supervision of the BOARD. The compensation paid to any such manager or managing agent shall be in the amount established from time to time by the BOARD.

DECLARANT, or its successors and assigns, may be the management agent for the ASSOCIATION and may hire such employees, including but not limited to: attorneys, accountants, bookkeepers, gardeners and laborers, as the DECLARANT may deem necessary to maintain the PLANNED UNIT DEVELOPMENT. No management agreement between the ASSOCIATION and DECLARANT or the successors and assigns of DECLARANT shall be held invalid solely for the reason that at the time of entering into the management agreement the employees, officers or agents of DECLARANT, or the successors and assigns of DECLARANT, or officers, directors and/or employees of the ASSOCIATION.

7.5 Order of Business. The order of business at DIRECTOR'S meetings shall be:

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

7.6 Borrowing. The BOARD OF DIRECTORS shall have the power to borrow money for the purposes of repair or restoration of the COMMON PROPERTY pursuant to the terms and conditions of the DECLARATION. 2/3 vote

7.7 DECLARANT'S Veto. DECLARANT shall have the veto power over all actions of the BOARD as more fully provided in the DECLARATION.

OFFICERS

8.1 Executive Officers. The executive officers of the ASSOCIATION shall be a President, who shall be a DIRECTOR; a Vice President, who shall be a DIRECTOR; and a Secretary-Treasurer, who shall be a DIRECTOR, all of whom shall be elected annually by the BOARD OF DIRECTORS and who may be peremptorily removed by vote of the DIRECTORS at any meeting. Any PERSON may hold two (2) or more offices, except that the President shall not also be the Secretary. The BOARD OF DIRECTORS shall from time to time elect such other officers and designate their powers and duties as the BOARD shall find to be required to manage the affairs of the ASSOCIATION.

8.2 Term. Each officer shall hold office for the term of one (1) year and until his successor shall have been appointed or elected and qualified, provided that any officer may succeed himself.

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

8.4 Vacancies. A vacancy in any office shall be filled by a

MAJORITY vote of the DIRECTORS at any meeting.
An officer elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds.

8.5 Compensation. An officer shall not receive any compensation for any service he may render to the ASSOCIATION as an officer; provided, however, that any officer may be reimbursed for actual out-of-pocket expenses incurred by him in the performance of his duties.

8.6 President. The President, who shall be a DIRECTOR, is the chief executive officer of the ASSOCIATION and shall have all the powers and duties that are usually vested in the office of President of a PLANNED UNIT DEVELOPMENT ASSOCIATION, including but not limited to the following powers:

A. To preside over all meetings of the MEMBERS and of the BOARD.

B. To sign as President all deeds, contracts, and other instruments that have been duly approved by the BOARD.

C. To call meetings of the BOARD whenever he deems it necessary in accordance with the Rules.

D. To have the general supervision, direction, and control of the affairs of the ASSOCIATION.

8.7 Vice President. The Vice President, who shall be a DIRECTOR, shall have all the powers and duties that are usually vested in the office of the Vice President of a PLANNED UNIT DEVELOPMENT ASSOCIATION. The Vice President shall, in the absence of or disability of the President, exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the DIRECTORS.

8.8 Secretary. The Secretary, who shall be a DIRECTOR, shall have all the powers and duties that are usually vested in the Secretary of a PLANNED UNIT DEVELOPMENT ASSOCIATION. The Secretary shall keep the minutes of all proceedings of the DIRECTORS and the MEMBERS. He shall attend to the giving and serving of all notices to the MEMBERS and DIRECTORS and other notices required by law. He shall have custody of the seal of the ASSOCIATION and affix the same to instruments requiring a seal when duly signed. He shall sign as Secretary all deeds, contracts and all other instruments which have been duly approved by the BOARD, if said instrument requires the signature or attestation of the Secretary. He shall keep the records of the ASSOCIATION, except those of the Treasurer, and shall perform all other duties incident to the office of the Secretary of an ASSOCIATION as may be required by the DIRECTORS or the President.

8.9 Treasurer. The Treasurer, who shall be a DIRECTOR, shall be the financial officer of the ASSOCIATION and shall have all the powers and duties that are usually vested in the Treasurer of a PLANNED UNIT DEVELOPMENT ASSOCIATION. The Treasurer shall have custody of all PROPERTY of the ASSOCIATION, including funds, securities, and evidences of indebtedness. He shall keep the financial records and books of account of the ASSOCIATION in accordance with good accounting practices. He shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the common areas and facilities, specifying and itemizing the maintenance and repair expenses of the common areas and facilities and any other expenses incurred; and he shall perform all other duties incident to the office of the Treasurer. The records, books of account, and the vouchers authorizing payments shall be available for examination by a MEMBER of the ASSOCIATION at convenient hours of week days as more specifically provided in the DECLARATION.

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FISCAL MANAGEMENT

9.1 The Fiscal Year. The fiscal year of the ASSOCIATION shall be such as shall from time to time be established by the ASSOCIATION.

9.2 Maintenance and Maintenance Assessments. The BOARD OF DIRECTORS shall comply with all of the provisions of the DECLARATION pertaining to maintenance and maintenance assessment.

9.3 Insurance and Casualty Loss. The BOARD OF DIRECTORS shall comply with all of the provisions of the DECLARATION pertaining to insurance and casualty loss.

9.4 Lender's Notices. The ASSOCIATION shall provide the lender's notices required by the DECLARATION.

9.5 Depository. The depository of the ASSOCIATION shall be such bank or banks and/or savings and loan associations as shall be designated from time to time by the DIRECTORS and in which moneys of the ASSOCIATION shall be deposited. Withdrawal of moneys from such account shall be only by checks signed by such PERSONS as are authorized by the DIRECTORS.

9.6 Miscellaneous. The terms and provisions of the DECLARATION pertaining to fiscal management is incorporated herein as if fully set out as an exhibit.

RULES AND REGULATIONS

10.1 House Rules. The BOARD OF DIRECTORS may from time to time and subject to the rights of DECLARANT to control, adopt, modify, amend, or add to Rules and Regulations concerning the use of the PLANNED UNIT DEVELOPMENT. Copies of such Rules and Regulations or any amendments, additions, or modifications shall be delivered to each LOT OWNER and UNDIVIDED UNIT OWNER not less than fourteen (14) days prior to the effective date thereof. No rule or regulation may be adopted by the ASSOCIATION that conflicts with the DECLARATION, ARTICLES OF INCORPORATION of the ASSOCIATION or these BY-LAWS.

10.2 Hearing Procedure. The BOARD shall not impose a fine, suspend voting, or infringe upon any of the rights of a MEMBER or other occupant for violations of the rules of the ASSOCIATION, or the DECLARATION, BY-LAWS or ARTICLES, unless and until the following procedure is followed:

A. Demand. Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying: (i) the alleged violation; (ii) the action required to abate the violation; and (iii) a time period not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one, or a statement that any further violation of the same rule may result in the imposition of a sanction after notice and a hearing that the violation is not continuing.

B. Notice. At any time within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty or if the same is subsequently violated, the BOARD or its delegate shall serve the violator with written notice of a hearing to be held by the BOARD or a committee appointed by the BOARD. The notice shall contain: (i) the nature of the violation; (ii) the time and place of the hearing, which time shall not be less than ten (10) days from the giving of the notice; (iii) an invitation to attend the hearing and produce any statement, evidence and witness on his or her behalf; and (iv) the proposed sanction to be imposed.

C. Hearing. The hearing shall be held in executive

session pursuant to the notice affording the MEMBER a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, DIRECTOR, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall obtain a written statement of the results of the hearing and the sanction, if any, imposed.

D. Appeal. If a hearing is before a committee of the BOARD, following said committee hearing, the violator shall have the right to appeal the decision to the BOARD. To perfect this right, written notice of appeal must be received by the President or Secretary of the ASSOCIATION within thirty (30) days after the hearing date.

AMENDMENTS TO THE BY-LAWS

11. Amendment. The procedure for amending these BY-LAWS shall be the same as the procedure set out in the DECLARATION for amendment of the DECLARATION.

MISCELLANEOUS

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

12.2 Captions. The captions herein are inserted only as a matter of convenience for all reference and in no way define, limit, or describe the scope of these BY-LAWS or the intent of any provision hereof.

12.3 Conflicts. If there are conflicts or inconsistencies between the provisions of Alabama Law, the ARTICLES OF INCORPORATION, the DECLARATION, and these BY-LAWS, the provisions of Alabama, the DECLARATION, the ARTICLES OF INCORPORATION and the BY-LAWS (in that order) shall prevail.

12.4 Compliance. These BY-LAWS are set forth to comply with the requirements of the ACT and shall be considered an appendage to the DECLARATION filed prior hereto in accordance with said ACT.

12.5 Parliamentary Rules. Roberts Rules of Order (latest edition) shall govern the conduct of ASSOCIATION meetings when not in conflict with the ACT, DECLARATION or these BY-LAWS.

REGISTERED OFFICE AND AGENT

13. Name and Address. The location and the mailing address of the initial registered office is:

Location Address: 4688 Walker Avenue, Orange Beach, Alabama 36561.

Mailing Address: 4688 Walker Avenue, Orange Beach, Alabama 36561.

The name of its initial registered agent is RICHARD E. HOLK.

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The foregoing were adopted as the BY-LAWS of ORINOCO COVE
PROPERTY OWNER'S ASSOCIATION, INC., at the first meeting of the
BOARD OF DIRECTORS on the 2nd day of November, 1995.

William L. Lydie
Secretary

Approved:

Richard E. Hark
President

(CORPORATE SEAL)



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THIS INSTRUMENT PREPARED BY:

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

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WRITTEN CONSENT TO ACTION IN LIEU OF
THE ORGANIZATIONAL MEETING OF
THE INCORPORATOR AND BOARD OF DIRECTORS OF
ORINOCO COVE PROPERTY OWNER'S ASSOCIATION, INC.,
AN ALABAMA NONPROFIT CORPORATION

The undersigned, being the sole incorporator and all of the members of the initial Board of Directors of ORINOCO COVE PROPERTY OWNER'S ASSOCIATION, INC., an Alabama Nonprofit Corporation (the "CORPORATION"), named in the Articles of Incorporation, in lieu of an organizational meeting of the Incorporator and Board of Directors, hereby consent to the taking of the following actions by the Incorporator and Board of Directors of the CORPORATION without a meeting:

1. APPROVAL OF ACTIONS OF INCORPORATOR: The actions of the Incorporator in executing and filing the Articles of Incorporation are approved, confirmed and ratified.

2. ELECTION OF DIRECTORS: The following are elected to serve as Directors of the CORPORATION until the first annual meeting of the members and thereafter until their successors are duly qualified and elected as provided in the DECLARATION:

RICHARD E. HOLK

WILLIAM L. LUCKIE

LEONARD A. KAISER

3. ELECTION OF OFFICERS: The following are elected to serve as officers of the CORPORATION until the first annual meeting of the Board of Directors and thereafter until their successors are duly qualified and elected as provided in the DECLARATION:

RICHARD E. HOLK

- President

WILLIAM L. LUCKIE

- Secretary-Treasurer

4. CORPORATE BOOKS: The Secretary is authorized and directed to procure the necessary corporate books.

5. SEAL OF THE CORPORATION: The corporate seal, an impression of which is herewith affixed, is adopted as the official seal of the CORPORATION.

(Affix Corporate Seal)

6. INSERTION OF ARTICLES OF INCORPORATION IN MINUTE BOOK: The Secretary is instructed to insert the Articles of Incorporation in the Minute Book.

7. APPROVAL OF BY-LAWS: The By-Laws of the CORPORATION are approved and adopted for and as the By-Laws of the CORPORATION.

This 2nd day of November, 1995.

INCORPORATOR:

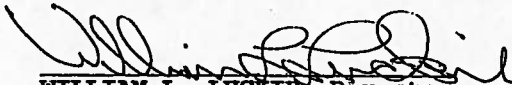
MESS ABOUT MARINA, INC.,
An Alabama Corporation

BY: 
RICHARD E. HOLK
Its: President

(CORPORATE SEAL)

DIRECTORS:


RICHARD E. HOLK, Director


WILLIAM L. LUCKIE, Director


LEONARD A. KAISER, Director

STATE OF ALABAMA :

COUNTY OF BALDWIN:

**SUPPLEMENTAL DECLARATION OF
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR ORINOCO COVE, A PLANNED UNIT DEVELOPMENT**

This SUPPLEMENTAL DECLARATION made this 11 day of September 1996, by MESS ABOUT MARINA, INC., an Alabama Corporation ("DECLARANT") for itself, its successors, its grantees and assigns.

R E C I T A L S :

1. The DECLARANT did subdivide certain property located in Baldwin County, Alabama, under the name ORINOCO COVE, a Planned Unit Development, as per plat thereof recorded in Slide 1604-B ("PLAT") and subjected the property described on the PLAT to that certain DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, dated the 2nd day of November, 1995 and recorded in Miscellaneous Book 85, Pages 1047 through 1088 ("DECLARATION"). The terms used herein shall have the same meaning as those contained in the DECLARATION, unless the context otherwise requires.

2. The DECLARATION and the PLAT provided for the annexation of additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS.

3. An ASSOCIATION of Owners for the operation of the PROPERTY was formed under the Laws of the State of Alabama, known as ORINOCO COVE PROPERTY OWNER'S ASSOCIATION, INC., (the "ASSOCIATION").

4. The DECLARANT desires to annex additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS to ORINOCO COVE, a Planned Unit Development, as provided in Section 3.7 of the DECLARATION. The DECLARANT desires to add the UNDIVIDED UNITS and BOAT SLIPS as described in this SUPPLEMENTAL DECLARATION and the property described on the Plat of ORINOCO COVE, BOAT SLIPS 1 through 4, a Planned Unit Development, recorded in Slide 1672B ("BOAT SLIPS 1 THROUGH 4 PLAT") to the DECLARATION by incorporating the same into the DECLARATION, the same as if the UNDIVIDED UNITS and BOAT SLIPS as described in this SUPPLEMENTAL DECLARATION and the property described on the BOAT SLIPS 1 THROUGH 4 PLAT had been originally included therein, all in accordance with Section 3.7 of the DECLARATION.

The recording references referred to herein are to the Office of the Judge of Probate, Baldwin County, Alabama.

NOW, THEREFORE, DECLARANT hereby makes the following SUPPLEMENTAL DECLARATION as to the use to which the additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS and the property described on the BOAT SLIPS 1 THROUGH 4 PLAT and the property described on the PLAT and the improvements thereon may be put, hereby specifying that the DECLARATION, as amended by this SUPPLEMENTAL DECLARATION, shall be binding upon the DECLARANT, its successors and assigns, and all OWNERS of all or any part thereof of the property and improvements described or located on the PLAT and the property and improvements described or located on the BOAT SLIPS 1 THROUGH 4 PLAT together with their grantees, successors, heirs, executors, administrators, devisees or assigns.

A. Increment. As provided in Section 3.7 of the DECLARATION, the DECLARANT elects to incorporate additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS and the property described on the BOAT SLIPS 1 THROUGH 4 PLAT into ORINOCO COVE, a Planned Unit Development. The property described on the BOAT SLIPS 1 THROUGH 4 PLAT shall be held, sold or conveyed subject to the easements,

restrictions, covenants and conditions set out in the DECLARATION which shall run with the property described on the BOAT SLIPS 1 THROUGH 4 PLAT and be binding on all parties having any right, title or interest in the property described on the BOAT SLIPS 1 THROUGH 4 PLAT.

B. Purpose and Property. The purpose of this SUPPLEMENTAL DECLARATION is to bring the additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS as described herein and the property described on the BOAT SLIPS 1 THROUGH 4 PLAT within the scheme and operation of the DECLARATION as provided in Section 3.7 thereof. The BOAT SLIPS 1 THROUGH 4 PLAT adds four (4) additional BOAT SLIPS and four (4) additional UNDIVIDED UNITS to the PROPERTY. The operation and effect of the DECLARATION is hereby extended to the additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS as described herein and the property described on the BOAT SLIPS 1 THROUGH 4 PLAT.

C. Fee Simple Interest in COMMON AREA. Subject to the right of the DECLARANT to annex additional UNDIVIDED UNITS and additional BOAT SLIPS as provided herein and as provided in the DECLARATION, the percentage of undivided fee simple interest in the COMMON AREA appurtenant to each LOT and appurtenant to each UNDIVIDED UNIT is hereby readjusted to provide that the undivided fee simple interest in the COMMON AREA appurtenant to all LOTS and appurtenant to all UNDIVIDED UNITS in the property described on the PLAT and the property described on the BOAT SLIPS 1 THROUGH 4 PLAT is equal. The result of the foregoing is an increase in the number of UNDIVIDED UNITS by four (4) UNDIVIDED UNITS and the number of BOAT SLIPS by four (4) BOAT SLIPS and results in an increase in the total number of votes or MEMBERS in the ASSOCIATION. The OWNER of each LOT and each UNDIVIDED UNIT shall own an undivided fee simple interest of 2.38095% in the COMMON AREA as a tenant in common and subject to the terms and conditions of the DECLARATION and this SUPPLEMENTAL DECLARATION.

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<u>LOT AND</u> <u>UNDIVIDED UNIT NUMBERS</u>	<u>Percent of</u> <u>Undivided Fee Simple</u> <u>Interest in COMMON AREA</u>
<u>BUNGALOW LOT Number 1.</u>	2.38095 %
<u>BUNGALOW LOT Number 2.</u>	2.38095 %
<u>BUNGALOW LOT Number 3.</u>	2.38095 %
<u>BUNGALOW LOT Number 4.</u>	2.38095 %
<u>TOWNHOUSE LOT Number 1.</u>	2.38095 %
<u>TOWNHOUSE LOT Number 2.</u>	2.38095 %
<u>TOWNHOUSE LOT Number 3.</u>	2.38095 %
<u>TOWNHOUSE LOT Number 4.</u>	2.38095 %
<u>TOWNHOUSE LOT Number 5.</u>	2.38095 %
<u>TOWNHOUSE LOT Number 6.</u>	2.38095 %
<u>COTTAGE LOT Number 1.</u>	2.38095 %
<u>COTTAGE LOT Number 2.</u>	2.83095 %
<u>COTTAGE LOT Number 3.</u>	2.38095 %
<u>COTTAGE LOT Number 4.</u>	2.38095 %

<u>COTTAGE LOT Number 5.</u>	2.38095 %
<u>COTTAGE LOT Number 6.</u>	2.38095 %
<u>COTTAGE LOT Number 7.</u>	2.38095 %
<u>HARBOR MASTER LOT.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 1.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 2.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 3.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 4.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 5.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 6.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 7.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 8.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 9.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 10.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 11.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 12.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 13.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 14.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 15.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 16.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 17.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 18.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 19.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 20.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 21.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 22.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 23.</u>	2.38095 %
<u>UNDIVIDED UNIT Number 24.</u>	2.38095 %

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D. **ADDITIONAL PROPERTY.** The DECLARANT shall have the unilateral right, privilege and option, at any time and from time to time, at the sole option of the DECLARANT, to add additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS to the PLANNED UNIT DEVELOPMENT by recording in the public records of Baldwin County, Alabama, an amendment or amendments to the DECLARATION and this SUPPLEMENTAL DECLARATION, describing such COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS and setting forth any interest in the COMMON AREA, use restrictions, voting rights, maintenance requirements, user fees, dues or other provisions pertaining to the additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS. Any amendment or supplement to the DECLARATION or this SUPPLEMENTAL DECLARATION

which subjects **ADDITIONAL PROPERTY** to the **DECLARATION** or this **SUPPLEMENTAL DECLARATION** or imposes, expressly or by reference, additional restrictions and obligations shall be made by **SUPPLEMENTAL DECLARATION**. Notwithstanding the fact that the submission by the **DECLARANT** of additional **COMMON AREA**, **UNDIVIDED UNITS** and **BOAT SLIPS** to the **PLANNED UNIT DEVELOPMENT** may result in a change in the undivided interest in the **COMMON AREA**, and/or an overall increase of **ASSESSMENTS** attributable to each **LOT** and to each **UNDIVIDED UNIT**, and/or may result in an overall increase in the number of **BOAT SLIPS**, or may result in an overall increase of the total number of votes or **MEMBERS** in the **ASSOCIATION**, such amendment or amendments by **DECLARANT** shall not require the joinder or consent of the **ASSOCIATION**, or **OWNERS** or **MORTGAGEES** of any portion of the **PROPERTY**, or any other person or entity. Any property submitted to the **DECLARATION** pursuant to the terms hereof shall be included in the term **PROPERTY** and shall be part of the **PROPERTY**. The right of the **DECLARANT** to annex additional **COMMON AREA**, **UNDIVIDED UNITS** and **BOAT SLIPS** is herein referred to as "**SPECIAL DECLARANT RIGHTS**".

The **DECLARANT** may add, in addition to the existing **BOAT SLIPS** shown on the **PLAT** (**BOAT SLIP 5** through **BOAT SLIP 42**) and on the **BOAT SLIPS 1 THROUGH 4 PLAT** (**BOAT SLIP 1** through **BOAT SLIP 4**), at the sole option of **DECLARANT**, a maximum of eighteen (18) additional **UNDIVIDED UNITS** and eighteen (18) additional **BOAT SLIPS** to the **PROPERTY**. **DECLARANT** has the right, but not the obligation, to construct on the **ADDITIONAL PROPERTY** such facilities and improvements as **DECLARANT**, in the sole discretion of **DECLARANT**, shall deem desirable, provided that no assurances are made by **DECLARANT** that any such improvements shall be constructed.

No limitations are placed on the right of **DECLARANT** to create or add **COMMON AREA**, **UNDIVIDED UNITS** or **BOAT SLIPS** or to designate **COMMON AREA** therein which may subsequently be assigned as **BOAT SLIPS**. The undivided fee simple interest in the **COMMON AREA** and the liability for **COMMON EXPENSES** in the **PLANNED UNIT DEVELOPMENT** will be reallocated among all **LOTS** and **UNDIVIDED UNITS** in the **PROPERTY**, after the addition of additional **UNDIVIDED UNITS** and/or additional **BOAT SLIPS**. The **LOTS** and **UNDIVIDED UNITS** and interest percentages or fractions in the **COMMON AREA** are subject to reallocation and change in accordance with the **SUPPLEMENTAL DECLARATION** which annexes such additional phase or phases to the **PLANNED UNIT DEVELOPMENT**. Each **UNDIVIDED UNIT** created in the additional phase or phases and added to the **PLANNED UNIT DEVELOPMENT** will be allocated voting rights so that all **LOTS** and **UNDIVIDED UNITS** shall have an equal vote and the voting rights of **OWNERS** of **LOTS** and **OWNERS** of **UNDIVIDED UNITS** and any other property previously dedicated shall thereupon be adjusted.

The option reserved by **DECLARANT** to cause all or any portion of the additional phase or phases to become part of the **PLANNED UNIT DEVELOPMENT** shall expire twenty (20) years from the date of the **DECLARATION** and shall not be construed to impose upon the **DECLARANT** any obligation to add all or any portion of the additional phase or phases to the **PLANNED UNIT DEVELOPMENT** or to construct thereon any improvements of any nature whatsoever.

No assurance is made concerning whether or not any phase or portion thereof will be or will not be submitted to the **PLANNED UNIT DEVELOPMENT** nor is any assurance made concerning the boundaries of the phases, **COMMON AREA** or **BOAT SLIPS**, or portions thereof, the number of the phases or **BOAT SLIPS**, or the order in which any phase, **COMMON AREA** or **BOAT SLIP**, or portion thereof, may be or may not be subject to the exercise of these **SPECIAL DECLARANT RIGHTS**. The exercise by the **DECLARANT** of any **SPECIAL DECLARANT RIGHTS** as described herein on any portion of the **PROPERTY** does not obligate the **DECLARANT** to exercise said right in all or any other portion of the remainder of the **PROPERTY**.

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No assurances are made that any improvement that may be erected pursuant to any SPECIAL DECLARANT RIGHTS in any part of the PLANNED UNIT DEVELOPMENT will be compatible or will not be compatible with any existing improvement in the PLANNED UNIT DEVELOPMENT in terms of architectural style, quality of construction and size.

No assurances are made as to the locations of any improvement that may be made within any part of the PLANNED UNIT DEVELOPMENT pursuant to any SPECIAL DECLARANT RIGHTS reserved by the DECLARANT.

Once a phase has been submitted to the terms and provisions of the DECLARATION by the recording of the SUPPLEMENTAL DECLARATION, it shall comprise a portion of the PLANNED UNIT DEVELOPMENT to be governed by and subject to all of the provisions of the DECLARATION to the extent that said documents are not inconsistent with the provisions of the SUPPLEMENTAL DECLARATION.

Each PERSON or entity who shall acquire any LOT or UNDIVIDED UNIT in the PLANNED UNIT DEVELOPMENT or interest in or lien upon any such LOT or UNDIVIDED UNIT, regardless of whether said LOT or UNDIVIDED UNIT shall be located in any phase or any portion of said phases shall be deemed, by accepting a conveyance of or otherwise acquiring such LOT or UNDIVIDED UNIT, interest or lien, to have agreed and consented, within the meaning of the DECLARATION to be bound by the terms and provisions hereof and to have further agreed and consented that any amendment to the DECLARATION executed by the DECLARANT alone pursuant hereto shall be binding and effective as written notwithstanding the fact that the undivided interest of the UNIT OWNERS and UNDIVIDED UNIT OWNERS in the COMMON ELEMENTS will be changed thereby.

E. Proviso. Provided, however, the COMMON AREA shown on the PLAT and the COMMON AREA shown on the BOAT SLIPS 1 THROUGH 4 PLAT are NOT DONATED NOR GRANTED TO THE PUBLIC, but are private property to be owned by the LOT OWNERS and UNDIVIDED UNIT OWNERS as tenants in common pursuant to the terms and conditions of the DECLARATION as amended by this SUPPLEMENTAL DECLARATION.

F. Right of Repurchase. Except as provided below, in the event a OWNER sells or otherwise attempts to dispose of a LOT or UNDIVIDED UNIT, such OWNER must promptly furnish to the ASSOCIATION or its designated agent, in writing the name and address of such prospective purchaser or transferee, and the proposed consideration and terms therefor. The ASSOCIATION may require that this information be in specific form and may require a copy of the executed purchase contract. The ASSOCIATION shall have thirty (30) days to purchase the LOT or UNDIVIDED UNIT on equal terms offered by the bona fide third party or waive said right in writing. If the ASSOCIATION does not exercise said right within thirty (30) days after receipt of written notice, the right shall be considered waived without any further documentation. PROVIDED, HOWEVER, so long as the DECLARANT owns any property in the PLANNED UNIT DEVELOPMENT, the DECLARANT shall be vested with the sole and exclusive right of first refusal to purchase a LOT or UNDIVIDED UNIT as provided for above unless waived or transferred to the ASSOCIATION. PROVIDED, FURTHER, in the event an OWNER sells or otherwise attempts to dispose of a LOT or UNDIVIDED UNIT to a "FAMILY MEMBER" (i.e., FAMILY MEMBER is defined as a spouse, blood relative, step child, adopted child or adopted grandchild) then the provisions in this ARTICLE pertaining to right of repurchase by the ASSOCIATION or the DECLARANT shall not apply. The foregoing exception shall not be interpreted as a waiver of any right to repurchase set out in this ARTICLE in the case of a future transfer by a FAMILY MEMBER of an interest in a LOT or UNDIVIDED UNIT.

G. Adoption. As herein altered and amended, the DECLARATION and every part and provision thereof is in all respects ratified and confirmed and by reference adopted and incorporated herein, the same as if fully set forth herein.

IN WITNESS WHEREOF, the DECLARANT has caused this instrument to be executed on the day and year first above referred to.

MESS ABOUT MARINA, INC.,
an Alabama Corporation

By:

RICHARD E. HOLK
Its: President



STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that RICHARD E. HOLK, whose name as President of MESS ABOUT MARINA, INC., an Alabama Corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and seal on this 11th day of September, 1996.



NOTARY PUBLIC
My Commission Expires:

MY COMMISSION EXPIRES JANUARY 13, 1998

THIS INSTRUMENT PREPARED BY:
Sam W. Irbly
Irbly & Heard, P.C.
Attorneys At Law
317 Magnolia Avenue
Post Office Box 1031
Fairhope, Alabama 36533
(334) 928-4555

\\files\files.95\95153\Amend

RECORD FEE \$15.00
STATE OF ALABAMA
BALDWIN COUNTY
I CERTIFY THIS INSTRUMENT WAS
FILED AND INDEXED FOR RECORDATION

SEP 12 3 42 PM '96

DEED
NOTARY
RECORDED IN DATE 9/12/96
JUDGE OF PROBATE

STATE OF ALABAMA :

COUNTY OF BALDWIN:

SUPPLEMENTAL DECLARATION OF
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR ORINOCO COVE, A PLANNED UNIT DEVELOPMENT

This SUPPLEMENTAL DECLARATION made this 22nd day of January, 1997, by MESS ABOUT MARINA, INC., an Alabama Corporation ("DECLARANT") for itself, its successors, its grantees and assigns.

R E C I T A L S :

1. The DECLARANT did subdivide certain property located in Baldwin County, Alabama, under the name ORINOCO COVE, a Planned Unit Development, as per plat thereof recorded in Slide 1604-B ("PLAT") and subjected the property described on the PLAT to that certain DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, dated November 2, 1995 and recorded November 3, 1995 in Miscellaneous Book 85, Pages 1047 through 1088 ("DECLARATION"). The terms used herein shall have the same meaning as those contained in the DECLARATION, unless the context otherwise requires.

2. The DECLARATION and the PLAT provided for the annexation of additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS.

3. An ASSOCIATION of Owners for the operation of the PROPERTY was formed under the Laws of the State of Alabama known as ORINOCO COVE PROPERTY OWNER'S ASSOCIATION, INC. (the "ASSOCIATION").

4. The DECLARANT did annex additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS to ORINOCO COVE, a Planned Unit Development, as provided in Section 3.7 of the DECLARATION by the recording of a SUPPLEMENTAL DECLARATION OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ORINOCO COVE, a Planned Unit Development, dated September 11, 1996 and recorded September 12, 1996 in Miscellaneous Book 90, Pages 285 through 290. The DECLARANT did record the PLAT of BOAT SLIPS 1 THROUGH 4 in Slide 1672-B ("BOAT SLIPS 1 THROUGH 4 PLAT").

5. The DECLARANT desires to annex additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS to ORINOCO COVE, a Planned Unit Development, as provided in Section 3.7 of the DECLARATION. The DECLARANT desires to add the UNDIVIDED UNITS and BOAT SLIPS as described in this SUPPLEMENTAL DECLARATION and the property described on the Plat of ORINOCO COVE, BOAT SLIPS 43 THROUGH 60, a Planned Unit Development, recorded in Slide 1703A ("BOAT SLIPS 43 THROUGH 60 PLAT") to the DECLARATION by incorporating the same into the DECLARATION, the same as if the UNDIVIDED UNITS and BOAT SLIPS as described in this SUPPLEMENTAL DECLARATION and the property described on the BOAT SLIPS 43 THROUGH 60 PLAT had been originally included therein, all in accordance with Section 3.7 of the DECLARATION.

The recording references referred to herein are to the Office of the Judge of Probate, Baldwin County, Alabama.

NOW, THEREFORE, DECLARANT hereby makes the following SUPPLEMENTAL DECLARATION as to the use to which the additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS and the property described on the BOAT SLIPS 43 THROUGH 60 PLAT, the property described on the BOAT SLIPS 1 THROUGH 4 PLAT and the property described on the PLAT and the improvements thereon may be put, hereby specifying that the DECLARATION, as amended by this

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SUPPLEMENTAL DECLARATION, shall be binding upon the DECLARANT, its successors and assigns, and all OWNERS of all or any part thereof of the property and improvements described or located on the PLAT, the property and improvements described or located on the BOAT SLIPS 1 THROUGH 4 PLAT and the property and improvements described or located on the BOAT SLIPS 43 THROUGH 60 PLAT together with their grantees, successors, heirs, executors, administrators, devisees or assigns.

A. Increment. As provided in Section 3.7 of the DECLARATION, the DECLARANT elects to incorporate additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS and the property described on the BOAT SLIPS 43 THROUGH 60 PLAT into ORINOCO COVE, a Planned Unit Development. The property described on the BOAT SLIPS 43 THROUGH 60 PLAT shall be held, sold or conveyed subject to the easements, restrictions, covenants and conditions set out in the DECLARATION which shall run with the property described on the BOAT SLIPS 43 THROUGH 60 PLAT and be binding on all parties having any right, title or interest in the property described on the BOAT SLIPS 43 THROUGH 60 PLAT.

B. Purpose and Property. The purpose of this SUPPLEMENTAL DECLARATION is to bring the additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS as described herein and the property described on the BOAT SLIPS 43 THROUGH 60 PLAT within the scheme and operation of the DECLARATION as provided in Section 3.7 thereof. The BOAT SLIPS 43 THROUGH 60 PLAT adds eighteen (18) additional BOAT SLIPS and eighteen (18) additional UNDIVIDED UNITS to the PROPERTY. The operation and effect of the DECLARATION is hereby extended to the additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS as described herein and the property described on the BOAT SLIPS 43 THROUGH 60 PLAT.

C. Fee Simple Interest in COMMON AREA. The percentage of undivided fee simple interest in the COMMON AREA appurtenant to each LOT and appurtenant to each UNDIVIDED UNIT is hereby readjusted to provide that the undivided fee simple interest in the COMMON AREA appurtenant to all LOTS and appurtenant to all UNDIVIDED UNITS in the property described on the PLAT and in the property described on the BOAT SLIPS 1 THROUGH 4 PLAT and in the property described on the BOAT SLIPS 43 THROUGH 60 PLAT is equal. The result of the foregoing is an increase in the number of UNDIVIDED UNITS by eighteen (18) UNDIVIDED UNITS and the number of BOAT SLIPS by eighteen (18) BOAT SLIPS and results in an increase in the total number of votes or MEMBERS in the ASSOCIATION. The OWNER of each LOT and each UNDIVIDED UNIT shall own an undivided fee simple interest of 1.66666% in the COMMON AREA as a tenant in common and subject to the terms and conditions of the DECLARATION and this SUPPLEMENTAL DECLARATION.

<u>LOT AND</u> <u>UNDIVIDED UNIT NUMBERS</u>	<u>Percent of</u> <u>Undivided Fee Simple</u> <u>Interest in COMMON AREA</u>
<u>BUNGALOW LOT Number 1.</u>	1.66666 %
<u>BUNGALOW LOT Number 2.</u>	1.66666 %
<u>BUNGALOW LOT Number 3.</u>	1.66666 %
<u>BUNGALOW LOT Number 4.</u>	1.66666 %
<u>TOWNHOUSE LOT Number 1.</u>	1.66666 %
<u>TOWNHOUSE LOT Number 2.</u>	1.66666 %
<u>TOWNHOUSE LOT Number 3.</u>	1.66666 %

<u>TOWNHOUSE LOT Number 4.</u>	1.66666 %
<u>TOWNHOUSE LOT Number 5.</u>	1.66666 %
<u>TOWNHOUSE LOT Number 6.</u>	1.66666 %
<u>COTTAGE LOT Number 1.</u>	1.66666 %
<u>COTTAGE LOT Number 2.</u>	1.66666 %
<u>COTTAGE LOT Number 3.</u>	1.66666 %
<u>COTTAGE LOT Number 4.</u>	1.66666 %
<u>COTTAGE LOT Number 5.</u>	1.66666 %
<u>COTTAGE LOT Number 6.</u>	1.66666 %
<u>COTTAGE LOT Number 7.</u>	1.66666 %
<u>HARBOR MASTER LOT.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 1.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 2.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 3.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 4.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 5.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 6.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 7.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 8.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 9.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 10.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 11.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 12.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 13.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 14.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 15.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 16.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 17.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 18.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 19.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 20.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 21.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 22.</u>	1.66666 %

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<u>UNDIVIDED UNIT Number 23.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 24.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 25.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 26.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 27.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 28.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 29.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 30.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 31.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 32.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 33.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 34.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 35.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 36.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 37.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 38.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 39.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 40.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 41.</u>	1.66666 %
<u>UNDIVIDED UNIT Number 42.</u>	1.66666 %

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D. Proviso. Provided, however, the COMMON AREA shown on the PLAT and the COMMON AREA shown on the BOAT SLIPS 1 THROUGH 4 PLAT and the COMMON AREA shown on the BOAT SLIPS 43 THROUGH 60 PLAT is NOT DONATED NOR GRANTED TO THE PUBLIC, but is private property to be owned by the LOT OWNERS and UNDIVIDED UNIT OWNERS as tenants in common pursuant to the terms and conditions of the DECLARATION as amended by this SUPPLEMENTAL DECLARATION.

E. Right of Repurchase. Except as provided below, in the event a OWNER sells or otherwise attempts to dispose of a LOT or UNDIVIDED UNIT, such OWNER must promptly furnish to the ASSOCIATION or its designated agent, in writing the name and address of such prospective purchaser or transferee, and the proposed consideration and terms therefor. The ASSOCIATION may require that this information be in specific form and may require a copy of the executed purchase contract. The ASSOCIATION shall have thirty (30) days to purchase the LOT or UNDIVIDED UNIT on equal terms offered by the bona fide third party or waive said right in writing. If the ASSOCIATION does not exercise said right within thirty (30) days after receipt of written notice, the right shall be considered waived without any further documentation. PROVIDED, HOWEVER, so long as the DECLARANT owns any property in the PLANNED UNIT DEVELOPMENT, the DECLARANT shall be vested with the sole and exclusive right of first refusal to purchase a LOT or UNDIVIDED UNIT as provided for above unless waived or transferred to the ASSOCIATION. PROVIDED, FURTHER, in the event an OWNER sells or otherwise attempts to dispose of a LOT or UNDIVIDED UNIT to a "FAMILY MEMBER" (i.e., FAMILY MEMBER is defined as a spouse, blood relative, step child, adopted child or adopted grandchild) then the

provisions in this ARTICLE pertaining to right of repurchase by the ASSOCIATION or the DECLARANT shall not apply. The foregoing exception shall not be interpreted as a waiver of any right to repurchase set out in this ARTICLE in the case of a future transfer by a FAMILY MEMBER of an interest in a LOT or UNDIVIDED UNIT.

F. Adoption. As herein altered and amended, the DECLARATION and every part and provision thereof is in all respects ratified and confirmed and by reference adopted and incorporated herein, the same as if fully set forth herein.

IN WITNESS WHEREOF, the DECLARANT has caused this instrument to be executed on the day and year first above referred to.

MESS ABOUT MARINA, INC.,
an Alabama Corporation

By:


RICHARD E. HOLK
Its: President

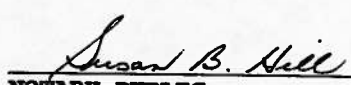


STATE OF ALABAMA :

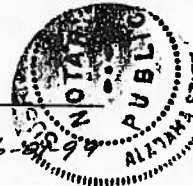
COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that RICHARD E. HOLK, whose name as President of MESS ABOUT MARINA, INC., an Alabama Corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and seal on this 22nd day of January, 1997.


NOTARY PUBLIC

My Commission Expires: 6-22-99



THIS INSTRUMENT PREPARED BY:

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

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Page 5 of 5 Pages

REC-0091 PAGE 1785

JAN 24 12 52 PM '97

RECORDED
STATE OF ALABAMA
JAN 24 1997
FILED IN 1785

JAN 24 1997

STATE OF ALABAMA :

COUNTY OF BALDWIN:

AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR ORINOCO COVE, A PLANNED UNIT DEVELOPMENT

This AMENDMENT TO DECLARATION made this 14 day of January, 1998, by MESS ABOUT MARINA, INC., an Alabama Corporation ("DECLARANT") for itself, its successors, its grantees and assigns.

R E C I T A L S:

1. DECLARANT did subdivide certain property located in Baldwin County, Alabama, under the name ORINOCO COVE, a Planned Unit Development, as per plat thereof recorded in Slide 1604-B ("PLAT") and subjected the property described on the PLAT to that certain DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, dated November 2, 1995 and recorded November 3, 1995 in Miscellaneous Book 85, Pages 1047 through 1088 ("DECLARATION"). The terms used herein shall have the same meaning as those contained in the DECLARATION, unless the context otherwise requires.

2. DECLARANT did annex additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS to ORINOCO COVE, a Planned Unit Development, as provided in Section 3.7 of the DECLARATION by the recording of a SUPPLEMENTAL DECLARATION OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ORINOCO COVE, a Planned Unit Development, dated September 11, 1996 and recorded September 12, 1996 in Miscellaneous Book 90, Pages 285 through 290. DECLARANT did record the PLAT of BOAT SLIPS 1 THROUGH 4 in Slide 1672-B ("BOAT SLIPS 1 THROUGH 4 PLAT").

3. DECLARANT did annex additional COMMON AREA, UNDIVIDED UNITS and BOAT SLIPS to ORINOCO COVE, a Planned Unit Development, as provided in Section 3.7 of the DECLARATION by the recording of a SUPPLEMENTAL DECLARATION OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ORINOCO COVE, a Planned Unit Development, dated January 22, 1997 and recorded January 24, 1997 in Miscellaneous Book 91, Pages 1781 through 1785. DECLARANT did record the PLAT of BOAT SLIPS 43 THROUGH 60 in Slide 1703-A ("BOAT SLIPS 43 THROUGH 60 PLAT").

4. Section 14.5 of the DECLARATION provides that so long as DECLARANT owns any PROPERTY in the PLANNED UNIT DEVELOPMENT, DECLARANT may unilaterally amend the DECLARATION.

5. DECLARANT desires to unilaterally amend the DECLARATION as provided for in Section 14.5 of the DECLARATION and in this AMENDMENT TO DECLARATION.

The recording references referred to herein are to the Office of the Judge of Probate, Baldwin County, Alabama.

NOW, THEREFORE, DECLARANT hereby makes the following AMENDMENT TO DECLARATION.

A. No building or structure shall be erected, altered, placed or permitted to remain on LOT C1, LOT C2, LOT C3, LOT C4, LOT C5, LOT C6 and LOT C7 as shown on the PLAT unless said building or structure complies with the following:

1. The finished first (1st) floor elevation of any building or structure shall not exceed sixteen inches (16") above the existing LOT elevation measured from the geometric center of the LOT.

2. No building or structure shall exceed thirty-seven feet (37') in overall height from the finished first (1st) floor elevation.

3. No continuous wall may extend closer than twelve feet (12') to the pool side of the LOT. An open porch, as defined by the ARCHITECTURAL COMMITTEE, with a maximum projection of nine feet (9') into this twelve (12) foot setback area is permitted on all levels.

4. In two and one-half (2½) story houses the height of the East and West exterior walls on the third (3rd) level may not exceed six feet (6') from the third (3rd) level sub-floor to the top of the exterior wall plate.

5. Each dwelling shall include a enclosed garage which shall accommodate the parking of two (2) automobiles.

B. Section 8.45 of the DECLARATION is deleted in its entirety and amended as follows:

Section 8.45 VESSEL Size. Except as provided below, each VESSEL must fit within the boundaries of its BOAT SLIP, including all bowsprits, booms, pulpits and other projections and overhangs. PROVIDED, HOWEVER, a VESSEL may extend outside the entrance boundary of the BOAT SLIP a maximum of ten percent (10%) of the length of the BOAT SLIP.

C. Adoption. As herein altered and amended, the DECLARATION and every part and provision thereof is in all respects ratified and confirmed and by reference adopted and incorporated herein, the same as if fully set forth herein.

IN WITNESS WHEREOF, DECLARANT has caused this instrument to be executed on the day and year first above referred to.

MESS ABOUT MARINA, INC.,
an Alabama Corporation

By:


RICHARD E. HOLK
Its: President

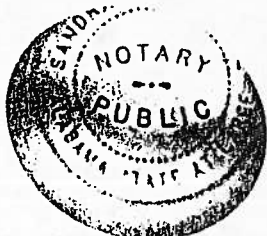


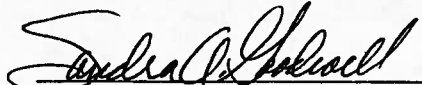
STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that RICHARD E. HOLK, whose name as President of MESS ABOUT MARINA, INC., an Alabama Corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and on behalf of said Corporation.

Given under my hand and seal on this 14th day of January, 1998.




NOTARY PUBLIC

My Commission Expires: JAN. 30 2000

THIS INSTRUMENT PREPARED BY:
Sam W. Irby
Irby & Heard, P.C.
Attorneys At Law
317 Magnolia Avenue
Post Office Box 1031
Fairhope, Alabama 36533
(334) 928-4555

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MISC0097 PAGE 0143

RECORD FEE 7.50
STATE OF ALABAMA
BALDWIN COUNTY
I CERTIFY THIS INSTRUMENT WAS
FILED AND TAXES COLLECTED ON
1998 JAN 21 P 1:47
RECORDED IN INDEX 113-43
JUDGE OF PROBATE
William S. Oliver

**MINUTES OF A SPECIAL MEETING
OF
MEMBERS OF
ORINOCO COVE PROPERTY OWNERS ASSOCIATION, INC.,
An Alabama Non-Profit Corporation**

The special meeting of the members of the Orinoco Cove Property Owners Association, Inc. (hereinafter referred to as "POA"), an Alabama non-profit corporation, was held in Orange Beach, Alabama, on the first day of April, 2006.

Roy McMillan, the President of the POA, acted as Chairman of the meeting, and Ottis Jacobs, as Secretary thereof.

A roll call of the members was taken by the Secretary and a quorum was pronounced present.

The Chairman announced that the purpose of the meeting was to consider the amendment of the Declaration of Covenants, Conditions and Restrictions for Orinoco Cove, a planned unit development. After discussion, the following resolution was adopted by an affirmative vote of at least two-thirds of the membership of the association:

WHEREAS, it is deemed to be desirable and in the best interest of this non-profit corporation and its members that the Declaration of Covenants, Conditions and Restriction for Orinoco Cove planned unit development be amended as hereinafter provided:

RESOLVED, that Article XIV, Section 14.2 of the Declaration of Covenants, Conditions and Restrictions for Orinoco Cove, a planned unit development, which Declaration is recorded in Miscellaneous Book 0085, Page 1047, of the Records of the

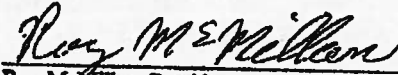
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Judge of Probate of Baldwin County, Alabama, shall be deleted in its entirety, and
instead the Section shall hereafter read as follows:

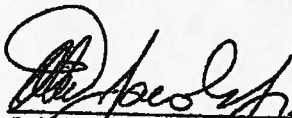
Section 14.2 - Resolution. An amendment may be proposed by either majority of the BOARD or by MEMBERS holding one-third (1/3) of the votes of the ASSOCIATION. A resolution adopting a proposed amendment must be adopted by an affirmative vote of not less than majority of the BOARD, and the consent of two-thirds (2/3) of the owners of the lots together with the consent of two-thirds (2/3) of the owners of the undivided units of the ASSOCIATION, and the approval of 51% of the holders of the first Mortgages on LOTS.

RESOLVED FURTHER, that the President and Secretary of the non-profit corporation are hereby authorized and directed on behalf of the Corporation to file the present document in the Office of the Judge of Probate of Baldwin County, Alabama, as notice to the world of the amendment to said Declaration, said corporation noting that the Board of Directors have previously by more than fifty percent (50%) of the vote approved said amendment.

DONE this the 1 day of April, 2006.



Roy McMillan, President
Orinoco Cove Property Owners Association, Inc.



Ottis Jacobs, Secretary
Orinoco Cove Property Owners Association, Inc.

State of Alabama, Baldwin County
I certify this instrument was filed
and taxes collected on:
2006 August -15 11:14AM
Instrument Number 994323 Pages 2
Recording 6.80 Mortgage
Deed Min Tax
Index BP 5.80
Archive 5.80
Adrian T. Johns, Judge of Probate

**MINUTES OF THE REGULAR ANNUAL MEETING
OF
MEMBERS OF
ORINOCO COVE PROPERTY OWNERS ASSOCIATION, INC.,
An Alabama Non-Profit Corporation**

The regular annual meeting of the members of the Orinoco Cove Property Owners Association, Inc. (hereinafter referred to as "POA"), an Alabama non-profit corporation, was held in Orange Beach, Alabama, on the 10th day of October, 2009.

Roy McMillan, the President of the POA, acted as Chairman of the meeting, and Ottis Jacobs, as Secretary thereof.

A roll call of the members was taken by the Secretary and a quorum was pronounced present.

The Chairman announced that the purpose of the meeting was to consider the amendment of the Declaration of Covenants, Conditions and Restrictions for Orinoco Cove, a planned unit development. It is noted that no holders of first mortgages to any real property owned within the Orinoco Cove subdivision have registered with the POA as eligible holders, as required by Article XV of the Declaration of Covenants, Conditions and Restrictions for Orinoco Cove, in order to receive notice of the proposal of said amendment to the Covenants, or the right to vote on the issue. After discussion, the following resolution was adopted by a vote of at least two-thirds of the owners of lots and two-thirds of the owner of the undivided units within said subdivision:

WHEREAS, it is deemed to be desirable and in the best interest of this non-profit corporation and its members that the Declaration of Covenants, Conditions and Restriction for Orinoco Cove planned unit development be amended as hereinafter provided:

BALDWIN COUNTY, ALABAMA
JUDGE ADRIAN T. JONES
Filed/cert 11/25/2009 10:01 AM
TOTAL \$ 10.00
3 Pages



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RESOLVED, that contained within the second paragraph of Article VIII, Section 8.1 of the Declaration of Covenants, Conditions and Restrictions for Orinoco Cove, a planned unit development, which Declaration is recorded in Miscellaneous Book 0085, Page 1047, of the Records of the Judge of Probate of Baldwin County, Alabama, is a phrase, which shall be amended within said Declaration of Covenants, and which reads, as follows:

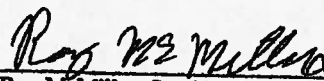
"and no part of any BOAT SLIP shall be used for storage of any supplies, equipment or other articles."

In its stead, the following language shall be substituted:

"...and no part of any BOAT SLIP shall be used for storage of any supplies, equipment or other articles, except that the Owner of each BOAT SLIP may erect and maintain an aluminum dock box. No such dock box may be larger than 26" wide, nor higher than 26" high, nor longer than 72". Placement of such dock boxes must be between the cleats on the main dock and may not extend beyond the pedestals on the dock. Dock boxes must be secured to the dock by use of stainless steel or aluminum fasteners. Placement, erection and maintenance of all dock boxes shall be first approved by the Architectural Review Committee. Owners may store supplies, equipment and other articles within said dock boxes."

RESOLVED FURTHER, that the President and Secretary of the non-profit corporation are hereby authorized and directed on behalf of the Corporation to file the present document in the Office of the Judge of Probate of Baldwin County, Alabama, as notice to the world of the amendment to said Declaration, said corporation noting that the Board of Directors have previously by more than fifty percent (50%) of the vote approved said amendment.

DONE this the 10th day of October, 2009.



Roy McMillan, President
Orinoco Cove Property Owners Association, Inc.



James Linton, Secretary
Orinoco Cove Property Owners Association, Inc.

STATE OF ALABAMA :

COUNTY OF BALDWIN :

**SECOND AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR ORINOCO COVE, A PLANNED UNIT DEVELOPMENT**

State of Alabama, Baldwin County
I certify this instrument was filed
and taxes collected on:
2002 June -24 3:38PM
Instrument Number 665558 Pages
Recording 21.00 Mortgage
Deed Min Tax
Index IP
Archive 3.00
Adrian T. Johns, Judge of Probate

This Second Amendment to Declaration of Covenants, Conditions and Restrictions for Orinoco Cove, a Planned Unit Development, (this "Amendment"), made effective on the recording of this Amendment in the Office of the Judge of Probate of Baldwin County, Alabama, (the "Effective Date"), by Mess About Marina, Inc., an Alabama Corporation (the "Declarant"). The Board of Directors of Orinoco Cove Property Owners's Association, Inc. joins in the execution of this Amendment for the purpose of consenting.

RECITALS:

1. The Declarant did subdivide certain property located in Baldwin County, Alabama, under the name Orinoco Cove, a Planned Unit Development, as per plat thereof recorded in Slide 1604-B and subjected the property described on the Plat to that certain Declaration of Covenants, Conditions and Restrictions for Orinoco Cove, dated November 2, 1995 and recorded November 3, 1995, in Miscellaneous Book 85, Pages 1047 through 1088 (the "Declaration").
2. An Association of Owners for the operation of the Property was formed under the Laws of the State of Alabama known as Orinoco Cove Property Owner's Association, Inc. (the "Association").
3. The By-Laws of the Association were adopted on November 2, 1995 and recorded November 17, 1995 in Miscellaneous Book 85, Pages 1420 through 1432 (the "By-Laws").
4. The Declarant did annex additional Common Area, Undivided Units and Boat Slips to Orinoco Cove, a Planned Unit Development, as provided in Section 3.7 of the Declaration by the recording of a Supplemental Declaration of Declaration of Covenants, Conditions and Restrictions for Orinoco Cove, a Planned Unit Development, dated September 11, 1996 and recorded September 12, 1996 in Miscellaneous Book 90, Pages 285 through 290 (the "Supplemental Declaration Number One").
5. The Declarant did annex additional Common Area, Undivided Units and Boat Slips to Orinoco Cove, a Planned Unit Development, as provided in Section 3.7 of the Declaration by the recording of a Supplemental Declaration of Declaration of Covenants, Conditions and Restrictions for Orinoco Cove, a Planned Unit Development, dated January 22, 1997 and recorded January 24, 1997, in Miscellaneous Book 91, Pages 1781 through 1785 (the "Supplemental Declaration Number Two").
6. The Declarant did amend the Declaration by the recording of an Amendment to Declaration of Covenants, Conditions and Restrictions for Orinoco Cove, a Planned Unit Development, dated January 14, 1998 and recorded January 21, 1998, in Miscellaneous Book 97, Pages 141 through 143 (the "First Amendment").
7. The Declarant desires to further amend the Declaration as provided for in this Amendment.

The recording references referred to in this Amendment are to the Office of the Judge of Probate, Baldwin County, Alabama. The terms used in this Amendment shall have the same meaning as those contained in the Declaration, unless the context otherwise requires.

NOW, THEREFORE, pursuant to the powers granted to the Declarant in the Declaration, the Declarant amends the Declaration to be effective as of the Effective Date as follows:

665558

- A. Release of Right to Annexation of Additional Common Area, Undivided Units and Boat Slips.** The Declarant does release the rights reserved to the Declarant contained in Section 3.7 and Section 4.1 M. of the Declaration and as contained in Paragraph D. of the Supplemental Declaration Number One to add additional Common Area, Undivided Units and Boat Slips to the Planned Unit Development.
- B. Release of Rights Reserved to the Declarant contained in Section 4.1 D of the Declaration.** The Declarant does release the right of the Declarant reserved in Section 4.1 D. of the Declaration to grant easements in and to the Common Area.
- C. Release of Rights Reserved to the Declarant contained in Section 4.1 E. of the Declaration.** Except as provided for in this Amendment, the Declarant does release the special right of the Declarant reserved in Section 4.1 E. of the Declaration to operate any commercial business on the Property. The Declarant shall be subject to the same covenants and restrictions contained in the Declaration as any other Lot Owner or Undivided Unit Owner.
- D. Release of Rights Reserved to the Declarant contained in Section 4.1 N. of the Declaration.** The Declarant does release the right of the Declarant reserved in Section 4.1 N. of the Declaration to dredge the submerged land as deemed necessary by the Declarant.
- E. Release of Rights Reserved to the Declarant contained in Section 4.1 O. of the Declaration.** The Declarant does release the right of the Declarant reserved in Section 4.1 O. of the Declaration.
- F. Release of Rights Reserved to the Declarant contained in Section 4.1 P. of the Declaration.** Except as provided in this Agreement, the Declarant does release the right of the Declarant reserved in Section 4.1 P. of the Declaration to provide the business services provided by the Declarant.
- G. Release of Rights Reserved to the Declarant contained in Section 4.1 R. of the Declaration.** The Declarant does release the right of the Declarant reserved in Section 4.1 R. of the Declaration to consent to any easement.
- H. Release of Rights Reserved to the Declarant contained in Section 4.1 S. of the Declaration.** The Declarant does release the right of the Declarant reserved in Section 4.1 S. of the Declaration to adopt and promulgate reasonable rules and regulations.
- I. Release of Rights Reserved to the Declarant contained in Section 4.8 of the Declaration.** Except as provided in this Amendment, the Declarant does release the reserved easement for the Declarant contained in Section 4.8 of the Declaration but retains all easement rights granted to any other Lot Owner or Undivided Unit Owner so long as the Declarant owns a Lot or Undivided Unit in the Planned Unit Development.
- J. Delegation of Control of the Architectural Committee to the Association.** The Declarant does delegate to the Association control of the Architectural Committee as provided for in Section 5.1 of the Declaration.
- K. Release of Right Reserved to the Declarant contained in Section 5.9 of the Declaration.** Except as provided in this Amendment, the Declarant does release the rights reserved for the Declarant contained in Section 5.9 of the Declaration and the Declarant must, as to any Lot or Undivided Unit owned by the Declarant after the Effective Date of this Amendment, meet the requirements of Article V of the Declaration.

L. **Amendment of Article VIII of the Declaration.** Except as provided in this Amendment, any provision contained in **Article VIII** of the Declaration which exempts the Declarant from the general covenants and restrictions is deleted. It is the intention of this **Paragraph L**, that after the Effective Date of this Amendment any Lot or Undivided Unit owned by the Declarant shall be subject to the same covenants and restrictions as any other Lot or Undivided Unit in the Planned Unit Development.

M. **Amendment of Section 8.32 B. of the Declaration.** The Declarant does release the right of the Declarant reserved in **Section 8.32 B.**, granting to the Declarant the right to prescribe rules and regulations concerning and affecting the manner of use, maintenance and rental of, operating procedures and the condition and maintenance of Vessels.

N. **Release of Rights Reserved to the Declarant contained in Section 8.47 of the Declaration.** The Declarant does release the right of the Declarant reserved in **Section 8.47** of the Declaration.

O. **Amendment of Article X of the Declaration.** **Article X** of the Declaration is amended to provide that the Declarant does release control of the Association. The Declarant shall have the same rights and privileges contained in the Declaration as any other Lot Owner or Undivided Unit Owner.

P. **Amendment of Article XII of the Declaration.** **Article XII** of the Declaration is amended to provide that the Declarant shall be obligated to pay the assessments provided for in the Declaration on any Lot or Undivided Unit owned by the Declarant. The Declarant shall not be obligated to pay any assessments provided for in the Declaration in effect prior to the Effective Date of this Amendment.

Q. **Release of Right Reserved to the Declarant contained in Section 13.3 of the Declaration.** The Declarant does release the right of the Declarant reserved in **Section 13.3** of the Declaration requiring the Declarant to vote to adopt different plans and specifications.

R. **Release of Right of the Declarant to Amend the Declaration.** **Section 14.5** and **Section 17.3** of the Declaration are amended to delete the provision granting to the Declarant the unilateral right to amend the Declaration.

S. **Release of Right of Repurchase.** The Declarant does release the right reserved to the Declarant to repurchase as provided for in **Article XVI** of the Declaration and as contained in **Paragraph F.** of the Supplemental Declaration Number One and as contained in **Paragraph E.** of the Supplemental Declaration Number Two. The release by the Declarant as provided for in this **Paragraph S.** shall not affect the right of the Association to repurchase as provided for in **Article XVI** of the Declaration, **Paragraph F.** of the Supplemental Declaration Number One and **Paragraph E.** of the Supplemental Declaration Number Two.

T. **Amendment of By-Laws.** Except as provided in this Amendment, **Section 3.11**, **Section 6.10** and **Section 7.7** of the By-Laws are deleted.

U. **Reservation of Rights to the Declarant.** Provided, However, anything else contained in this Amendment to the contrary notwithstanding, the (i) Declarant shall have all of the rights and privileges granted to any other Lot Owner or Undivided Unit Owner provided for in the Declaration, and (ii) Declarant does retain for the Declarant, and the successors and assigns of the Declarant, the right to maintain signs, model residences, sales offices, construction offices and business offices as, in the sole opinion of the Declarant, may be required, convenient or incidental to the construction and/or sale of the improvements in Orinico Cove.

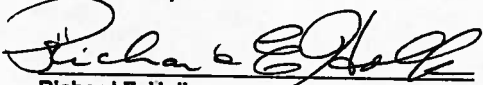
V. **Adoption and Ratification.** As altered and amended by this Amendment, the Declaration, the Supplemental Declaration Number One, the Supplemental Declaration Number Two and the First Amendment are in all respects ratified and confirmed and by reference adopted and incorporated in this Amendment, the same as if the Declaration, the Supplemental Declaration Number One, the Supplemental Declaration Number Two and the First Amendment are fully set out. All actions taken by the Declarant prior to the Effective Date of this Amendment pursuant to the powers granted to the Declarant in the Declaration are acknowledged and ratified.

W. **Effective Date.** The Effective Date of this Amendment is the date of the recording of this Amendment in the Office of the Judge of Probate of Baldwin County, Alabama.

IN WITNESS WHEREOF, the Declarant has caused this Amendment to be executed on the day and year affixed to the acknowledgment.

Mess About Marina, Inc., an
Alabama Corporation

By:


Richard E. Holk
Its: President

(Corporate Seal)

STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that Richard E. Holk, whose name as President of Mess About Marina, Inc., an Alabama Corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and on behalf of said Corporation on the day the same bears date.

Given under my hand and seal on this 1st day of May, 2002.




Notary Public

My Commission Expires: ~~My Commission Expires~~ 8-11-2008

CONSENT BY BOARD OF DIRECTORS

The Board of Directors of Orinico Cove Property Owner's Association, Inc. joins in the execution of this Amendment for the purpose of consenting.

Allen P. McElroy, Jr.
Allen P. McElroy, Jr., President and Director

William D. Oliver, Sr.
William D. Oliver, Sr., Vice President and Director

Erlinda Luckie
Erlinda Luckie, Secretary-Treasurer and Director

Cecil Kline
Cecil Kline, Director

Richard E. Holk
Richard E. Holk, Director

STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that Allen P. McElroy, Jr., whose name as President and Director of Orinico Cove Property Owner's Association, Inc., is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and on behalf of said Corporation on the day the same bears date.

Given under my hand and seal on this 30 day of April, 2002.

Annette M. Grube
Notary Public
My Commission Expires: 2-15-2006

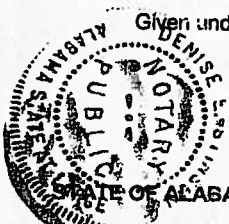


STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that William D. Oliver, Sr., whose name as Vice President and Director of Orinico Cove Property Owner's Association, Inc., is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and on behalf of said Corporation on the day the same bears date.

Given under my hand and seal on this 1st day of May, 2002.



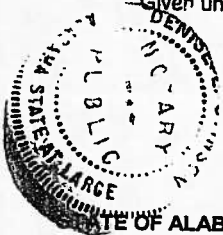
Denise E. Stinson
Notary Public

My Commission Expires: My Commission Expires 8-11-2003

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that Erlinda Luckie, whose name as Secretary-Treasurer and Director of Orinico Cove Property Owner's Association, Inc., is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, she, as such officer and with full authority, executed the same voluntarily for and on behalf of said Corporation on the day the same bears date.

Given under my hand and seal on this 1st day of May, 2002.



Denise E. Stinson
Notary Public

My Commission Expires: My Commission Expires 8-11-2003

STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that J. Cecil Kline, whose name as Director of Orinico Cove Property Owner's Association, Inc., is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and on behalf of said Corporation on the day the same bears date.

Given under my hand and seal on this 7th day of May, 2002.



J. Cecil Kline
Notary Public

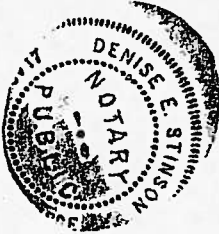
My Commission Expires: 2-15-06

STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that Richard E. Holk, whose name as Director of Orinico Cove Property Owner's Association, Inc., is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and on behalf of said Corporation on the day the same bears date.

Given under my hand and seal on this 1st day of May, 2002.



Denise E. Stinson
Notary Public

My Commission Expires: ~~My Commission Expires~~ 8-11-2003

THIS INSTRUMENT PREPARED BY:

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