

STATE OF ALABAMA)

COUNTY OF BALDWIN)

BALDWIN COUNTY, ALABAMA
TIM RUSSELL PROBATE JUDGE
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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

ORANGE BEACH VILLAS

This Declaration is made on the date hereinafter set forth by Sanders Real Estate, LLC, hereinafter referred to as the "Declarant".

RECITALS:

Declarant is the owner of that certain real property which is known as Orange Beach Villas, as per the plat thereof recorded in the Office of the Judge of Probate of Baldwin County, Alabama in Slide Number 2504-B (Instrument Number 1449784) together with all improvements and appurtenances (sometimes hereinafter referred to as "the Property").

Declarant intends by this Declaration to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all Owners of the Property and to provide a method whereby other property may become part of the Planned Unit Development subject to this Declaration by the recordation of a supplement to this Declaration.

Declarant has caused Orange Beach Villas Property Owners Association, Inc., hereinafter referred to as the "Association", to be formed for the purpose of providing an Alabama Nonprofit Corporation to serve as representative of the Declarant and Owners of the Property.

The Association and the Property shall be subject to the terms and conditions of this Declaration.

NOW, THEREFORE, DECLARANT hereby declares that the Property and any additional property as may by subsequent amendment be added to and subjected to this Declaration shall be held, sold and conveyed or encumbered, rented, used, occupied and improved, 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. PROVIDED, HOWEVER, by one (1) or more subsequent amendment, Declarant has the right, but is not obligated, to subject other real property or additional property to this Declaration, as hereinafter provided.

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:

1.1 “Additional Property” shall mean and refer to additional real property subject to the unilateral right of Declarant of annexation as provided elsewhere in this Declaration.

1.2 “Articles of Incorporation” or “Articles” shall mean and refer to the Articles of Orange Beach Villas Property Owners Association, Inc.

1.3 “Assessments” shall mean and refer to the Assessments referred to in this Declaration.

1.4 “Association” shall mean and refer to Orange Beach Villas Property Owners Association, Inc.

1.5 “Board of Directors” or “Board” shall mean and refer to the Board of Directors of the Association.

1.6 “By-Laws” shall mean and refer to the By-Laws of the Association.

1.7 “Common Area” or “Common Property” shall mean and refer to all real property so designated on any recorded subdivision plat of the Property or any property, building, fixtures, facilities or other personal property now owned or otherwise acquired by the Association by purchase, gift, lease or otherwise to be devoted to the common use and enjoyment of the Owners of the Property. The Common Area to be owned by the Association is as described on the recorded subdivision plat of the Property.

1.8 “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.

1.9 “Declarant” shall mean and refer to Sanders Real Estate, LLC, an Alabama Corporation, and the successors and assigns of Declarant.

1.10 “Declaration” shall mean and refer to this Declaration of Covenants, Conditions and Restrictions of Orange Beach Villas, which shall be recorded in the Office of the Judge of Probate of Baldwin County, Alabama, as the same may from time to time be supplemented or amended in the manner described herein.

1.11 “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.

1.12 “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.

1.13 “Member” shall mean and refer to every person or entity who holds membership in the Association, as provided herein.

1.14 “Mortgage” shall mean and refer to any Mortgage, Deed with vendor’s lien reserved and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

1.15 “Owner” or “Owners” shall mean and refer to the record Owner or Owners, whether one (1) or more persons or entities, or a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.16 “Person” shall mean and refer to a natural person, corporation, partnership, trustee or other legal entity.

1.17 “Property” or “Properties” or “Development” shall mean and refer to that certain real property described in the Recitals of this Declaration, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

1.18 “Supplemental Declaration” shall mean and refer to an amendment or supplement to this Declaration which subjects additional property to this Declaration. Such subsequent amendment may, but is not required to, impose, expressly or by reference, additional restrictions and obligations on the land submitted by the Amendment to the provisions of this Declaration.

1.19 “Lots” shall refer to any one of the villas at Orange Beach Villas.

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 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 Lots, their heirs, successors and assigns.

ARTICLE III

PROPERTY RIGHTS AND EASEMENTS

3.1 Owner’s Easement of Enjoyment. 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 and such rights shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

a. 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 Property.

b. 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 remains unpaid, and 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.

c. 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 or Lots contained therein.

d. The right of the Association to borrow money for the purpose of improving the Common Property, 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 Property, provided a majority 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 or other property located within the Development.

e. 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 effective unless an instrument agreeing to such dedication or transfer has been approved by at least two-thirds ($\frac{2}{3}$) of the total votes entitled to be cast by Members of the Association which are present or represented by proxy and are entitled to cast at a meeting duly called for such purposes.

f. 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.

g. 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 Development.

3.2 Delegation of Use. Any Owner may delegate, in accordance with the By-Laws and subject to reasonable Rules and 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.

3.3 Common Area. The Common Area designated on the plat of the development is NOT DONATED, DEDICATED NOR GRANTED TO THE PUBLIC, but shall be conveyed by the Declarant to the Association for use as Common Property for the benefit of the Association.

3.4 Drainage Easements. Except with prior written permission from the 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 Declaration to be necessary in order to maintain reasonable standards of health, safety and appearance. 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.

3.5 Easements for Utility. There is hereby reserved to the Association blanket easements upon, across, above and under all property within the Development for access, ingress, egress, installation, repairing, replacing and maintaining all utilities serving the Development or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone, cable television, internet, and electricity, as well as storm drainage, and any other service which the Association might decide to install to serve the 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 of Directors shall have the right to grant such easement.

3.6 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, utilities, police services and any emergency services such as fire, ambulance and rescue services, a nonexclusive easement, for purpose of ingress and egress over the Common Area.

3.7 Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Lot and such portion or portions of the Common Area adjacent thereto or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions); PROVIDED, HOWEVER, in no event shall an easement for encroachment exist if such

encroachment occurred due to willful and knowing conduct on the part of an Owner, tenant, or the Association.

3.8 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 Development for the benefit of the Declarant, its successors and assigns, over, under, in and/or on the Development, without further obligation and without charge to the Declarant, for the purposes of construction, installation, relocation, development, sale, lease, maintenance, replacement, use and enjoyment and/or otherwise dealing with the Development or the property owned or acquired by the Declarant which adjoins the Property. The reserved easement shall constitute a burden on the title to the Development and specifically includes, but is not limited to:

a. The right of access, ingress and egress for vehicular and pedestrian traffic over, under, on or in the Development and the right to tie into any portion of the Development with driveways, parking areas and walkways; and the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for doing so), replace, relocate, maintain and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, cable television, internet, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Development;

b. The right to construct, install, replace, relocate, maintain, repair, use and enjoy signs, model residences, sales offices, construction offices and business offices as, in the sole option of Declarant, may be required, convenient or incidental to the construction and sale by Declarant of the improvements in the Development or in any portion of the additional property; and

c. No rights, privileges and easements granted or reserved herein shall be merged into the title of any property, including, without limitation, the 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.

This section may not be amended without the written consent of Declarant.

3.9 Private Roadway. The private road is NOT DONATED, DEDICATED, NOR GRANTED TO THE PUBLIC, but is being conveyed by the Declarant to the Association for use as a private roadway and as Common Area for the benefit of the Association, subject to the rights and privileges reserved or granted to the Declarant. Every Owner, by reason of such ownership, shall have a right and nonexclusive private easement of enjoyment in and to the private roadway and the Common Area which shall be appurtenant to and shall pass with every Lot upon transfer. All such rights, private easements and privileges, however, shall be subject to the right of the Association to adopt and promulgate reasonable Rules and Regulations pertaining to the use of said areas which

shall enhance the preservation of such areas, the safety and convenience of the users thereof, or which, in the discretion of the Association, shall serve to promote the best interest of the Owners and residents of the Property. All Owners, their household members, invitees, guests or tenants shall have the right of ingress and egress to and from public roads over and across the area designated as the private road.

The private road shall be owned and maintained by the Association and neither the recording of the plat nor any other act of Declarant shall be construed as a dedication of said private road to the public. The foregoing notwithstanding, there shall exist a right of ingress and egress on, over and across said private road for publicly employed personnel and equipment for any and all necessary and appropriate public purposes, and for inspection and maintenance of utilities.

Declarant hereby expressly reserved for itself, its successors and assigns, the right to grant to certain, but not necessarily all, owners of real property adjacent to the Properties which is not part of the Properties a nonexclusive easement and right to use the Private Nonexclusive Roadway Easement for ingress and egress access, which shall include the right to pass through any security gate. This right of access shall be limited to the Declarant, those of its successors and assigns specifically designated by Declarant and occupants of lots, units or other property located on the property adjacent to the Properties and shall be subject to such other conditions, limitations and obligations as Declarant, in the exercise of its sole and absolute discretion, shall determine.

ARTICLE IV

ARCHITECTURAL COMMITTEE; ARCHITECTURAL CONTROL

4.1 *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 of record in the Office of the Judge of Probate 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 IV.

4.2 *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, unless plans and specifications 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) appropriate governmental permits. All of said plans shall address the matters set for in

Article V, as applicable.

4.3 *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. Objection to the color scheme, finish, proportions, style of architecture, materials, height, bulk or appropriateness of any proposed structure; and
- f. 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 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 or standards, or any other similar or dissimilar factors. Such shall be the responsibility of the architect and/or engineer of record.

4.4 *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 improvement, and a copy such plans

and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same.

4.5 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 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 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 sixty (60) days after proper submission thereof, the same shall be deemed to have been approved, as submitted, and no further action shall be required.

4.6 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 4.6 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 on the Lot, and the use or uses described therein comply with all requirements of this Article VI and with all other requirements of this Declaration as to which the Architectural Committee exercises any discretionary or interpretive powers.

4.7 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 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 or repair 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, shall be relied upon by the Owner of a Lot or any third persons or entities for any purpose whatsoever; nor shall any such inspection obligate the Declarant, the Association nor the Architectural Committee to take any particular action based on the inspection.

4.8 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, 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 benefitting therefrom agree not to sue or claim against the entities and persons referred to in this Section 4.8 for any cause arising out of the matters referred to in this Section 4.8 and further agree to and do hereby release said entities and persons for any and every such cause.

ARTICLE V

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 VI

SITE DEVELOPMENT

6.1 Erosion Control. Erosion control measures shall be taken by the Owner of a Lot, or contractors of Owner, to protect adjacent property during construction, reconstruction or repair on such Lot and thereafter.

If any portion of the Property has been identified as 'wetlands' pursuant to Federal or State 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.

6.2 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. To the extent of the interest of the Owner of a Lot, the Owner of a Lot 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 an 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 road lighting or ornamental yard lighting, where serviced by underground wires or cables.

If required by the electric utility, such electric utility, its successors and assigns, may retain title to the underground service lateral and outdoor metering through, the house power box (exclusive of circuit breakers) serving each said villa, 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.

6.3 Connection Points for Utility Service Lines. To the extent of the interest of the Owner of each Lot, each Owner agrees to connect utility service lines (including, but not limited to, gas, water, sewer, telephone, television cable, internet and electricity) at points designated by the Architectural Committee.

6.4 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 atmosphere of this Development and must be compatible with surrounding buildings within the Property.

6.5 Exterior Lighting. Exterior lighting plans must be set forth on the architectural plans for a Lot, and must be approved by the Architectural Committee.

ARTICLE VII **COVENANTS FOR MAINTENANCE**

7.1 Common Area. The Association shall maintain and keep in good repair the Common Area, such maintenance to be funded as hereinafter provided.

7.2 Responsibility of Association for Upkeep and Maintenance of Lots and Exterior of

Units. The Association shall be responsible for the maintenance of all Lots and shall maintain, the exterior of each Lot, including, but not limited to, paint, repair, replacement and care of roofs and exterior building surfaces. Each owner(s) of a unit hereby grants the Association an easement and all rights and privileges necessary to perform these functions.

7.3 Responsibility of Owner. Each Owner shall be responsible for the maintenance, upkeep and repair of his or her unit except for those parts that are the responsibility of the Association.

7.4 Termite Inspection, Treatment & Bond. The Association shall be responsible for providing and arranging for termite inspection and treatment and for procuring termite bond(s) for the entire property and each owner(s) or a unit hereby grants the Association and its assigns the right of access to the lots and units to perform said tasks.

In the event that the need for maintenance or repair of a Lot or the improvements thereon is caused through the willful or negligent acts of its Owner or through the willful or negligent acts of the family, guests or invitees of the Owner of the Lot needing such maintenance or repair, the costs of such exterior maintenance shall be added to and become part of the Assessment to which such Lot is subject.

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.

8.1 Permitted Uses and Structures. All Lots in the Development 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 in compliance with the current architectural scheme of the Development.

8.2 Business Use. Except as herein provided, no trade or business may be conducted in or from any Lot. Notwithstanding the above, the leasing of a Villa for residential purposes shall not be considered a trade or business within the meaning of this section. This section shall not apply to any activity conducted by the Declarant with respect to the use of any Lots by Declarant which Declarant owns within the Property nor to the property designated by the Declarant as the sales office or model home of Declarant.

8.3 Subdivision of Lot and Time Sharing. No Lot shall be split, divided or subdivided or its boundary lines changed except with the prior written approval of the Architectural Committee.

No Lot shall be made subject to any kind of time-share program, interval ownership or similar programs whereby the right to exclusive use of the Lot rotates among multiple Owners or Members of the program on a fixed or floating time schedule over a period of years.

8.4 Parking. Parking in the Property shall be restricted to private automobiles and passenger vans, and only within the parking areas designed and/or designated for that purpose. No Owner shall conduct repairs (except in an emergency) or restorations of any motor vehicle or other vehicle upon any portion of the Property.

No commercial vehicles or campers, mobile homes, motor homes, house trailers or trailers of any type, recreational vehicles, or boats shall be permitted to be parked or to be stored at any place within the Property, except in spaces for some or all of the above specifically designated by the Declarant. No Owner shall keep any vehicle on the Common Area which is deemed a nuisance by the Board of Directors. For purposes of this section, 'commercial vehicles' shall mean those which are not designed and used for customary, personal/family purposes. The absence of commercial-type lettering or graphics on a vehicle shall not be dispositive of whether it is a commercial vehicle. The prohibitions on parking contained in this section shall not apply to temporary parking of commercial vehicles such as for construction use or providing pick-up and delivery and other commercial services nor to any vehicles of the Declarant. No overnight on-street parking or parking on lawns shall be permitted.

Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained in these Use Restrictions or in the Rules and Regulations of the Association may be towed by the Association at the sole expense of the Owner of the vehicle if the vehicle remains in violation for a period of twenty-four (24) hours from the time a notice of violation is placed on the vehicle. The Association shall not be liable to the Owner of that vehicle for trespass, conversion, or otherwise, nor guilty of any criminal act, by reason of the towing, and once the notice is posted, neither its removal, nor failure of the Owner to receive it for any other reason, shall be grounds for relief of any kind. For purposes of this paragraph, 'vehicle' shall also mean campers, mobile homes, and trailers. An affidavit of the person posting the aforesaid notice stating that it was properly posted shall be conclusive evidence of proper posting.

8.5 Use of Common Area. 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 Common Area, conduct himself in such 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 prohibit any Lot Owner from ingress and egress to and from the Lot owned by Owner.

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

8.7 Permitted Animals. No animals, livestock or poultry of any kind shall be raised, bred, harbored or kept on in any Lot except that the Owner, guest, tenants or invitees, may keep cumulatively 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 be on a leash when outside a Villa.

8.8 Signs. No sign, billboard, advertising or other advertising device of any nature shall be placed upon any Lot 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, this section shall not apply to the Declarant.

8.9 Wall and Window Air Conditioning Units. Wall and window air conditioning units shall not be permitted.

8.10 Play Equipment, Strollers, Etc. All bicycles, tricycles, scooters, skateboards and other play equipment, baby strollers and similar items shall not be allowed to remain on the Common Area so as to be visible from adjacent Property or the road when not in use.

8.11 Energy Conservation Equipment. No solar energy collector panels or attendant hardware or energy conservation equipment shall be constructed or installed on any Lot.

8.12 Outside Installations. Except as provided herein, 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. Provided, however, the Owner of Lot shall be allowed to place one (1) eighteen inch (18") diameter satellite dish, or smaller, on a building located on a Lot so long as said satellite dish is not visible from any roadway and is approved by the Architectural Committee and so long as it complies with the requirements of 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 Lot or Common Area, except for communication equipment used by the Association. No machinery shall be placed or operated upon any Lot except such machinery as is usual in maintenance of a private residence. No new roof penetrations, such as vents and pipes, shall be placed on any roof so as to be visible from any road or Common Area.

8.13 Irrigation. No sprinkler or irrigation system of any type that draw upon water from creeks, streams, rivers, lakes, ponds, wetlands, canals or other ground or surface waters within the Property shall be installed, constructed or operated within the Property by any Person, other than the

Association or the Declarant. This section shall not apply to the Declarant.

8.14 Window Coverings, Etc. Reflective window coverings are prohibited. No awnings, canopies, shutters, patio cover, building or storage unit of any kind shall be erected, placed or permanently installed on any Lot unless first approved by the Architectural Committee.

8.15 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.

8.16 Insurance Rates. Nothing shall be done or kept on any Lot 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 of Directors nor shall anything be done or kept on any Lot which would result in the cancellation of insurance on any Property insured by the Association or which would be in violation of any law.

8.17 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 of any Lot. Every Owner shall cause all occupants of the Owner's Lot 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 cause by those occupants, notwithstanding the fact that those occupants of a Lot are fully liable and may be sanctioned for any violation of the Declaration and By-Laws and rules and regulations adopted pursuant hereto.

8.18 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 any Lot, except building materials during the course of construction of any approved structure. No harmful or noxious materials shall be stored, either inside any structure, or outside any structure, if said materials pose any significant threat to public health and safety or to individuals employed or living within or in proximity to such structures. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open only in areas designated by the Architectural Committee. 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.

8.19 Clothes Lines. No clothing or any other household fabric shall be hung in the open

and no clothes line or clothes hanging device shall be kept or maintained.

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

ARTICLE IX **PARTY WALL**

9.1 General Rules of Law to Apply. Each wall which is built as a part of the original construction of the villas 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.

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, tenant, guest or invitee, then all such repair costs shall be borne by such Owner.

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.

9.4 Waterproofing. 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.

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.

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 arbitrator shall choose one (1) additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE X

MEMBERSHIP AND VOTING RIGHTS

10.1 The Association. The operation and administration of the Property shall be by the Association of Lot 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 Lot Owners of the Property with reference to the common elements and with reference to any and all other matters in which all of the Lot 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 of Directors shall have the authority and duty to levy and enforce the collection of dues and special assessments for common expenses and is further authorized to provide adequate remedies for failure to pay such assessments.

10.2 Membership. Each Lot Owner shall be a Member of the Association so long as he is a Lot Owner. The membership of a Lot Owner shall immediately terminate when the Lot Owner ceases to be a Lot Owner. The membership of a Lot Owner cannot be assigned or transferred in any manner except as an appurtenance to his Lot.

10.3 Voting. Each Lot shall be entitled to one (1) vote, which vote is not divisible. The vote shall be cast by the Lot Owner in the manner provided for herein and in the By-Laws. Provided, however, that until four (4) months after the Declarant has completed and sold seventy-five percent (75%) of the Lots in the all phases of the Development or until five (5) years from the date the first Lot is sold 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 Association, nor the use of the Property by Lot occupants shall interfere with the contemplated improvements and the sale, or lease, of the Lots, and the control of the Architectural Committee shall remain with the Declarant. The Declarant may make such use of the unsold Lots and of the Common Areas and facilities as may facilitate such completion and sale, including, but not limited to, showing of the Property and the display of signs.

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 violation 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.

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.

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 to abate or remove, using such force as may be reasonably necessary, anything 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 ten (10) days written notice of its intent to exercise self-help, including reasonable attorney's fees incurred, shall be assessed against the violating Lot Owner and shall be collected as provided for herein for the collection of Assessments.

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 for emergency, security or safety purposes, which right may be exercised by the Board of Directors, 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 not be during unreasonable hours and after reasonable notice to the Owner or occupant of the Lot.

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 Lot.

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.

10.10 By-Laws. The Association and its Members shall be governed by the By-Laws which shall be adopted by the Members.

10.11 Availability of Records. The Association shall make available to Lot Owners, prospective purchasers, first mortgage and insurers of first mortgages of any Lot, current copies of this Declaration, By-Laws, Rules and Regulations and other books, records, financial statements and the most recent annual audited or unaudited financial statements of the Association, if such audited or unaudited financial statement is prepared. 'Available' shall mean available for inspection upon request, during normal business hours or under reasonable circumstances.

10.12 Reserve Fund. The Association shall 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 dues.

ARTICLE XI

COVENANT FOR MAINTENANCE ASSESSMENTS

11.1 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Development, hereby covenants, and each Owner of any Lot by acceptance of a Deed therefore, 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 dues and special assessments, together with interest, costs and reasonably attorney's fees, shall be a charge on the Lot and shall be a continuing lien upon the Lots 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.

11.2 Special Assessments for Capital Improvements Upon Common Area. 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 consent of a majority of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

11.3 Annual Assessment. The Board of Directors shall set the annual assessment each year, on, or before January 1.

11.4 Uniform Rate of Assessment. The assessments herein described shall be fixed at a uniform rate of all Lots.

11.5 Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots 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 of Directors 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 of Directors. 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 has been paid. A properly executed certificate of the Association as

to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

11.6 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 attorneys fees of any such action shall be added to the amount of such assessment. Each such Owner, by his acceptance of a Deed to a Lot, 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 shall be in favor of the Association and shall be for the benefit of all Lot Owners. The Association, acting on behalf of the Lot Owners, shall have the power to bid for an interest foreclosed at foreclosure date and to acquire and hold, lease, mortgage and convey the same. 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 or her Lot.

11.7 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 pursuant to mortgage or vendor's lien foreclosure or any proceedings 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 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.

11.8 Notice and Quorum for any Action Authorized under Sections 11.2 and 11.3 above. Written notice of any meeting called for the purpose of taking any action authorized under Section 11.2 shall be sent to all members not less than ten (10) and no more than sixty (60) days in advance of said meeting. If a required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

11.9 Effect on Declarant. Notwithstanding any provision that may be contained to the contrary herein, for so long as Declarant (or any of the affiliates of Declarant) is the Owner of any Lot, the Declarant shall have the option, at the sole discretion of Declarant, to (a) pay assessments on the Lots owned by Declarant; or (b) not paying assessments on any Lots in lieu thereof funding any resulting deficit in the operating expense of the Association not produced by assessments receivable from Owners other than the Declarant. The deficit to be paid under option (b) above, shall be the difference between (1) actual operating expenses of the Association (exclusive of capital

improvement costs, reserves and management fees), and (2) the sum of all monies receivable by the Association (including, without limitation, assessments, interest, late charges, fines and incidental income) and any surplus carried forward from the preceding year(s). The Declarant may from time to time change the option stated above under which the Declarant is making payments to the Association by written notice to such effect to the Association. When all Lots within the Development are sold and conveyed to purchasers, neither the Declarant, nor the affiliates of Declarant, shall have further liability of any kind to the Association for the payment of assessments, deficits or contributions. In no event shall Declarant ever be obligated to pay a special assessment.

ARTICLE XII

INSURANCE AND CASUALTY LOSS

12.1 *The Association.* The Association shall purchase and maintain insurance on the Common Area and the Property which the Association is obligated to maintain in accordance with the provisions of Section 7.1 above.

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 an 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 12.2 *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 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 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 required. 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 Development 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. Notwithstanding the above, no lot owner shall obtain coverage in an amount that would trigger a co-insurance penalty in the event of a claim.

C. Miscellaneous. All insurance policies provided for in this Section 12.2 shall include, however, provisions waiving (1) any right of the insured to subrogation claims against the Association and against individual Owners, as well as their agents, servants, employees, guests and invitees; and (2) any right of the insurer to contribution or proration because of a master hazard policy.

12.3 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 to the Association for funding work required under subparagraph 7.2 above and 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 and/or fail to fund the Association under subparagraph 7.2 above, the Association may do so for his or her account and/or 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 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 Development, vote to adopt different plans and specifications.

ARTICLE XIII

AMENDMENT

This Declaration shall be amended in the following manner:

13.1 *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.

13.2 *Resolution.* An amendment may be proposed by either a majority of the Board or by Member holding one-third ($\frac{1}{3}$) 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. Provided, however, that until four (4) months after the Declarant has completed and sold seventy-five percent (75%) of the Lots of the Property or until five (5) years from the date the first Lot is sold or 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 changes that would in any way affect the rights, privileges or powers of the Declarant unless the Declarant shall join in the execution thereof.

13.3 *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.

13.4 *Agreement.* In the alternative, an amendment may be made by an agreement signed and acknowledged by all record Owners 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.

ARTICLE XIV

ANNEXATION OF ADDITIONAL PROPERTY

14.1 *Existing Property.* The Property which is and shall be held, transferred, sold, conveyed, leased, and occupied subject to this Declaration is located in Baldwin County, Alabama and is referred to as Twin Lakes Villas, a Subdivision, and is herein referred to as the Property and is also herein referred to as the 'Existing Property'.

14.2 *Additions to Existing Property.* Lands in addition to the Existing Property described above may hereafter become subject to this Declaration in the following manner:

A. *Additions in Accordance with General Plan of Development.* The Declarant, its successors and assigns, shall have the right at any time or times at the sole discretion of Declarant and without the further consent of the Association, to bring within the scheme and operation of this Declaration. Provided, however, that such additions shall be limited to lands which are contiguous to the Existing Property, and which Additional Property is to be

developed as part of the Development, subject to the covenants and restrictions herein set forth. Such Additional Property shall be deemed to be 'contiguous' even though separated from the Existing Property by roads, highways, rivers, streams, rights-of-way, railroads, utilities or other intervening physical features or property in question. Such Additional Property shall be developed in a manner consistent with a general plan of development of the Existing Property.

The additions authorized under this and the succeeding subsections shall be made by filing of record in the Office of the Judge of Probate of Baldwin County, Alabama, a Supplementary Declaration with respect to such Additional Property which shall extend the operation and effect of the Covenants and Restrictions of this Declaration to such Additional Property.

The Supplementary Declaration may contain such complementary additions and modifications of the Covenants and Restrictions contained in this Declaration as may be necessary or convenient, in the judgment of the Declarant, to reflect and adapt to any difference in character of the added Property and as are not inconsistent with the scheme of this Declaration. In no event, however, shall such Supplementary Declaration so as to affect the Existing Property. The Declarant shall not be obligated to develop Additional Property as provided herein. The discretion to develop future lands shall be solely with the Declarant.

B. Additional Common Property. The Declarant, its successors and assigns, shall have the right at any time or times at the sole discretion of Declarant and without the further consent of the Association, to bring within the scheme and operation of this Declaration additional Common Property. The additional Common Property may or may not be contiguous and may or may not be owned in joint ownership with other property owners associations or other parties and may or may not be subject to contractual obligations, which may include assessments and liens for assessments on the Property, to maintain said Common Property.

C. Other Additions. Upon approval in writing of the Association, pursuant to the authorization of two-thirds ($\frac{2}{3}$) of the votes of all of its Members, voting as provided for herein, the Owner of any property who desires to add such property to the jurisdiction of the Association may file of record a Supplementary Declaration.

D. Mergers, Combination or Consolidations. Upon merger, combination or consolidation of the Association with another association, the Property, rights and obligations of the Association may, by operation of law, be transferred to another surviving or consolidated association, or in the alternative, the Property, rights and obligations of another association may, by operation of law, be added to the Property of the Association as a surviving corporation pursuant to a merger, combination or consolidation. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Existing Property, together with the covenants and restrictions established upon any other Property as one scheme. No such merger combination, or

consolidation, however, shall affect any revocation or change of or addition to the covenants and restrictions established by this Declaration within the Existing Property, except as herein provided.

ARTICLE XV **MORTGAGEE PROVISIONS**

The following provisions are for the benefit of the holders of first mortgages on Lots in the Development. The provisions of this Articles apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

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, 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 Properties or which affects any Lot 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 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 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.

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 in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

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.

15.4 Applicability of Article XIV. 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 Law for any of the acts set out in this Article.

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 **MISCELLANEOUS**

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

16.2 Leasing. Villas may be leased by the Lot Owners; Provided, however, that such lease and the rights of any tenants thereunder are hereby made expressly subject to the power of the Association to prescribe reasonable rules and regulations relating to the lease and rental of Villas and to enforce the same directly against such tenant or other occupant by the exercise of such remedies as the Board deems appropriate, including eviction. Villas may not be leased for a period less than three (3) consecutive days.

16.3 No Restrictions on Mortgaging. Anything construed in any of the Property documents to the contrary, there shall be no restrictions on a Lot Owner's right to mortgage his Lot.

16.4 Acceptance by Grantee. The grantee of any Lot subject to the coverage of this Declaration, by acceptance of the Deed or other instrument conveying an interest in or title to, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot, shall accept such Deed or other contract upon and subject to each and all of the terms and conditions set out in this Declaration.

16.5 Indemnity for Damages. Each and every Lot Owner and future Lot Owner, in accepting a Deed or contract for any Lot subject to this Declaration, agrees to indemnify Declarant for any damage caused by such Owner, or the contractor, agent or employees of such Owner, to private access areas, roads, streets, gutters, walkways or other aspects of private or public ways, including all surfacing thereon or to water, drainage or storm sewer lines or sanitary sewer lines owned by Declarant, or for which Declarant has responsibility, at the time of such damage.

16.6 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.

16.7 Right of Declarant to Modify Restrictions with Respect to Unsold Lots. With respect to any unsold Lot, 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;

Provided, however, that this Declaration may not be modified in any contract or Deed to except a Lot from the assessment provisions of Article XI or to lessen or extend the voting rights as provided in this Declaration or in the Articles of Incorporation and By-Laws of the Association.

16.8 Captions. The captions preceding the various sections, paragraphs and subparagraphs of this Declaration are for the convenience of reference only, and non 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 feminine or to the neuter.

16.9 Effect of Violation on Mortgage Lien. No violation of any of the terms and conditions of this Declaration shall defeat or render invalid the lien of any mortgage or vendor's lien made or reserved in good faith and for value upon any portion of the Property; Provided, however, that any mortgagee 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.

16.10 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.

16.11 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 of this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

16.12 Enforcement. In the event of a violation or breach of any of this Declaration or any amendments thereto by any Owner, or employees, agent, guests, invitees or lessees of such Owner, the Owner(s) of Lot(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 reoccurrence 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.

of Baldwin County, Alabama, a Certificate or Notice of Violation of this Declaration (which violation shall include, without limitation, nonpayment of the annual charges and/or failure to comply with architectural guidelines) upon failure of a Lot Owner to correct a violation of this Declaration within thirty (30) days after written notice of the violation has been given by the Association to the Lot Owner.

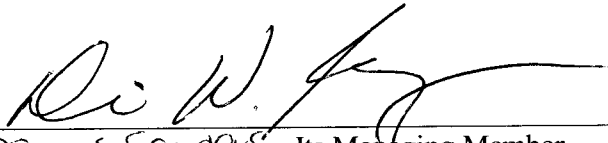
16.14 Interpretation by Association. The Association shall have the right to construe and interpret the provisions of this Declaration, and in absence of an adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or Property benefitted or bound by the provisions hereof.

16.15 Assignment by Association. The Association shall be empowered to assign its rights hereunder to any successor nonprofit membership corporation (herein referred 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.

16.16 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.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed on this the 21 day of FEBRUARY, 2014.

SANDERS REAL ESTATE, LLC


BY: Dennis Sanders, Its Managing Member

STATE OF MS)
COUNTY OF Hinds)

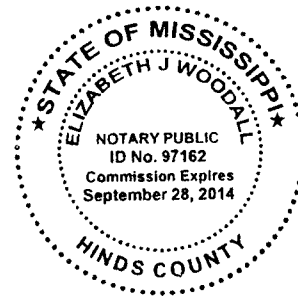
I, the undersigned, a Notary Public in and for said State and County, hereby certify that Dennis W. Sanders, whose name as Managing Member of Sanders Real Estate, LLC, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such member and with full authority, executed the same voluntarily for and as the act of said Corporation on the day the same bears date.

GIVEN under my hand and seal on this the 21 day of February, 2014.

Elizabeth J. Woodall

NOTARY PUBLIC

My Commission Expires: 9-29-14



This Instrument Prepared By:
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