

STATE OF ALABAMA
COUNTY OF BALDWIN

PROTECTIVE COVENANTS

DECLARATION OF RIGHTS, COVENANTS, RESTRICTIONS, AFFIRMATIVE OBLIGATIONS AND CONDITIONS APPLICABLE TO THE WOODLANDS AT FAIRHOPE, A SUBDIVISION

This Declaration of Rights, Covenants, Restrictions, Affirmative Obligations and Conditions Applicable to The Woodlands at Fairhope, a Subdivision (the "Declaration") made as of the 8TH day of OCTOBER, 1993 by The Woodlands at Fairhope, Inc. an Alabama corporation (the "Developer"), applicable to The Woodlands at Fairhope, a subdivision (the "Subdivision").

WHEREAS, the Developer owns that certain land located in Baldwin County, Alabama as shown on the Subdivision Plat of The Woodlands at Fairhope, Unit One, recorded at Slide 1395A in the records of the Office of the Judge of Probate of Baldwin County, Alabama and other adjacent land to be developed as subsequent units (all of which is sometimes herein referred to as the "Property";

WHEREAS, the Developer desires to provide for the preservation of the value of the Subdivision and for the maintenance of the Common Area; and to this end, the Developer has consented to affirmative obligations, charges and liens hereinafter set forth (the "General Covenants" or "these Covenants"), each and all of which is and are hereby declared to be for the benefit of the Property and every owner of any and all parts hereof;

W I T N E S S E T H:

NOW, THEREFORE, the Developer hereby declares that the Property is and shall be held, transferred, sold, conveyed, given, purchased, leased, occupied and used subject to these Covenants. These Covenants, the benefits of these Covenants and the affirmative and negative burdens of these Covenants shall touch and concern and run with the Property.

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ARTICLE I

In this Declaration, the following words will have the meaning ascribed to them in this Article I:

Section 1.01 ASSOCIATION shall mean and refer to The Woodlands Homeowners Association, Inc., an Alabama non-profit corporation, its successors and assigns. This is the Protective Covenants, Declaration of Rights, Covenants, Restrictions, Affirmative Obligations and Conditions to which the Articles of Incorporation and By-Laws of the Association make reference.

Section 1.02 COMMON AREA OR AREAS shall mean and refer to that certain real and/or personal property conveyed, or to be conveyed, to the Association by the Developer in accordance with Section 7.01. In addition, the Common Area as shown on the Plat and the median to any portion of a private or dedicated road or street, within or abutting the Property, shall be included in the Common Area unless otherwise provided.

Section 1.03 DEVELOPER shall mean and refer to The Woodlands at Fairhope, Inc., an Alabama corporation, its successors and assigns.

Section 1.04 DWELLING UNIT shall mean and refer to that portion of any Improved Lot intended for use, or being used, as a single-family residential dwelling.

Section 1.05 ENCLOSED LIVABLE AREA shall mean and refer to that area of the Dwelling Unit that is completely enclosed and protected from the weather (heated and cooled) and intended as the living quarters of the Dwelling Unit.

Section 1.06 IMPROVED LOT shall mean and refer to a Lot on which is located a building and/or other structure(s) as to which required approvals for use and occupancy have been obtained.

Section 1.07 INSTITUTIONAL MORTGAGEE shall mean and refer to any federal or state chartered bank, life insurance company, federal or state savings and loan association or real estate investment trust which holds a first mortgage or other first lien or charge upon the Property or portion of the Property or any interest therein which is of record in the Office of the Judge of Probate of Baldwin County, Alabama.

Section 1.08 LOT shall mean and refer to any of the number and delineated parcels shown as Lots 1 through 22 (but excluding that parcel numbered 23) on the Plat, as the same may be amended from time to time, and any additional Lots added by Developer pursuant to Section 2.02.

Section 1.09 MEMBERS OR MEMBERSHIP shall mean and refer to the Association's members.

Section 1.10 OWNER OR PROPERTY OWNER shall mean and refer to the holder of record of fee simple title to any Lot. Notwithstanding any applicable legal theory of any mortgagee, "Owner" shall not mean or refer to the mortgagee, mortgagee's heirs, successors or assigns, unless such mortgagee has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee of any Owner, nor shall the term "Owner" mean or refer to any person holding title merely as security for the payment of a debt. In the event there is of record a deed granting one or more parties a life estate in any Lot, the Owner of said Lot shall be deemed to be the holder or holders of the life estate, regardless of who owns the fee interest.

Section 1.11 PLAT OR SUBDIVISION PLAT shall mean and refer to the Subdivision plat of The Woodlands at Fairhope, Unit One, as recorded at Slide #1395A in the records in the Office of the Judge of Probate, Baldwin County, Alabama; or such subsequent plats as may be filed in connection with the development of the Property, as the context deems appropriate.

Section 1.12 PUBLIC RECORDS shall mean and refer to the records of the Office of the Judge of Probate, Baldwin County, Alabama.

Section 1.13 SUBDIVISION shall mean The Woodlands at Fairhope, a subdivision, as shown on the Plat of The Woodlands at Fairhope, Unit One, recorded in the Public Records, and any additional units added thereto by Developer.

Section 1.14 UNIMPROVED LOT shall mean and refer to any Lot that is not an Improved Lot.

ARTICLE II

FUTURE DEVELOPMENT AND ADDITIONS TO THE PROPERTY

Section 2.01 FUTURE DEVELOPMENT. The Developer, its successors and assigns, may develop other property and may as a matter of right, without the consent of the Association or the Owners, convey additional parcels to the Association without regard to the location of such parcels of land within the Property. At the time of conveyance to the Association, these properties shall be designated as Common Area. The Developer shall not be required to follow any predetermined sequence, schedule or order of improvements and development; and it may take, subject to this Declaration, additional lands and develop the same before completing the development of the Lots and Common Areas as shown on

the Plat. Any property conveyed by the Developer to the Association may also be subject to additional covenants and restrictions as specifically set forth in the deed of conveyance.

Section 2.02 ADDITIONS AND WITHDRAWALS OF PROPERTY. Additional property may become subject to this Declaration or be withdrawn from this Declaration in the following manner:

(a) Additions. The Developer, its successors and assigns, shall have the right, without further consent of the Association or the Owners, to bring within this Declaration any additional property. Such property may be subjected to this Declaration as one parcel or as several smaller parcels at different times. The additions authorized under this subsection shall be made by filing in the Office of the Judge of Probate, Baldwin County, Alabama a supplementary Declaration with respect to the additional property which shall extend the operation and the effect of this Declaration to such additional property.

Any supplementary Declaration may contain such additions and/or modifications of the covenants and restrictions contained in this Declaration as may be necessary or convenient, in the sole judgment of the Developer, to reflect the different character, if any, of the additional properties.

(b) Withdrawal. The Developer, its successors and assigns, without consent from the Association or the Owners, shall have the right, at any time or from time to time, to withdraw portions of the Property from this Declaration. The withdrawal authorized by this subsection shall be made by filing in the Office of the Judge of Probate, Baldwin County, Alabama, a supplementary Declaration with respect to the property which has been withdrawn.

Section 2.03 PLATTING AND SUBDIVISION OF THE PROPERTY. The Developer, its successors and assigns, without consent from the Association or the Owners, shall be entitled at any time and from time to time to subdivide, plat and/or re-plat all or any portion or part of the Property, and to file subdivision restrictions and/or amendments thereto with respect to any undeveloped portion or portions of the Property.

Section 2.04 CREEK MODIFICATIONS. The Developer, its successors and assigns, specifically reserves the right, but not the obligation to undertake or allow others to undertake the modification of the flow and course of Fly Creek, including the construction of lakes, ponds, dams, and weirs.

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ARTICLE III

GENERAL COVENANTS AND RESTRICTIONS

Section 3.01 PURPOSES. The primary purpose of these covenants and restrictions is the creation of a subdivision that is aesthetically pleasing and functionally convenient.

Section 3.02 LOTS LIMITED TO RESIDENTIAL USE. All lots shall be used for single-family residential purposes exclusively. No structure, except as hereinafter provided, shall be erected, altered, placed, attached to or permitted to remain on any Lot other than those structures and improvements approved for use and occupancy by the Developer.

Section 3.03. SITING. All Dwelling Units, buildings, and other improvements must be located within the setback lines as shown on the Subdivision Plat. All improvements shall be located so that the maximum view and privacy will be available to each Dwelling Unit, and all improvements will be ideally located with regard to the topography of each Lot taking into consideration the location of trees or plants, and other aesthetic and environmental considerations. The Developer reserves unto itself, its successors and assigns, the right to control and to decide solely (so long as (a) Developer's decisions are not arbitrary or capricious and (b) subject to the provisions of the pertinent land use regulations of public authorities having jurisdiction) the precise site and location of any Dwelling Unit, building, structure or other improvement including driveways on any property in the Subdivision. The location shall be determined only after reasonable opportunity is afforded to the Property Owner to recommend a specific site; provided however, that in the event an agreed location is stipulated in writing in the contract of purchase from the Developer, and such location complies with the applicable local city and county subdivision regulations, the Developer shall approve such location for a residence or group of residences.

Section 3.04 SIGNS. No signs shall be erected or maintained on the property or on any Lot at any time by anyone, including without limitation, a Property Owner, realtor, contractor, or subcontractor, except the following approved signs: (1) one (1) "For Sale" or "For Rent" sign; (2) one(1) sign for a contractor displayed during construction for a maximum of twelve (12) months or until completion of construction, whichever shall first occur; (3) a sign which must be posted as a result of legal proceedings pursuant to a statute or court order; or (4) a sign which has been specifically approved in writing by the Developer. The Developer reserves the right to restrict the size, color, content, location, number and method of display or each approved sign. All approved signs shall not exceed three (3) square feet in size and shall have a white background with black lettering. All "For Sale" or "For Rent" signs shall contain only the Lot number, real estate company

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(or individual agent if desired) and telephone number. All contractor signs shall contain only the Lot number, name of Owner, the general contractor, and telephone number. Signs must be placed parallel to the street and may not be displayed from the interior of any Dwelling Unit, building, or other improvement so as to be visible from the exterior.

Section 3.05 MAILBOXES. No mailboxes may be erected or maintained on the Property except mailboxes approved by the Developer. The actual cost of providing, erecting and maintaining a mailbox, including Developer approved numbering or lettering, shall be paid by the Property Owner. The Developer reserves the right to specify, require and/or provide (at a reasonable cost to Property Owner) uniform mailboxes of Developer's choice. The Developer also reserves the right to designate the location of all mailboxes.

Section 3.06 UNSIGHTLY CONDITIONS. It shall be the responsibility of each Property Owner and tenant thereof to prevent the accumulation of litter, trash, packing crates or rubbish or the development of any unclean, unsightly, or unkempt condition of buildings or grounds on their Lot either before, during or after construction. Each Owner must provide or require an on-site dumpster for trash and litter during construction. It shall also be the responsibility of each Property Owner and tenant thereof to prevent accumulations which shall tend to substantially decrease the beauty of the community as a whole or the specific area.

Section 3.07 LIGHTS. The design and location of all exterior lighting fixtures shall be subject to the approval of the Developer. Neither these nor any other illumination devices located anywhere on the structures or grounds of any Dwelling Unit shall be located, directed, or of such intensity as to affect adversely the enjoyment of any adjacent Property Owner.

Section 3.08 ANIMALS. No animals, livestock, or poultry of any kind shall be raised, bred, kept or pastured on the Property, except that a reasonable number of common household pets such as dogs and cats may be kept in any own Dwelling Unit, provided said pets must be secured by a leash or lead, under the control of a responsible person and obedient to that person's command at any time they are permitted outside a Dwelling Unit. Any areas located on a Lot for the maintenance or confinement of pets are subject to the prior approval by the Developer.

Section 3.09 SEWAGE. Prior to the occupancy of a Dwelling Unit, proper and suitable provisions shall be made for the disposal of sewage by connection with the sewer mains. No sewage or other waste material shall be emptied or discharged except into the sanitary sewer system.

Section 3.10 WATER. All Dwelling Units must be connected to the municipal water supply system. Shallow private water wells used for non-household purposes only may be drilled or maintained on any Lot or any other portion of the Property with the approval of the Developer.

Section 3.11 REPAIRS AND HAZARDS. Any building or other improvement on any LOT that is destroyed partially or totally by fire, storm or any other means shall be repaired or demolished within a reasonable period of time, and the land on which it was located restored to an orderly and attractive condition. Any damage which causes a dangerous or unsafe condition to persons or which is unsightly and which is not repaired within a reasonable time (in no event longer than sixty (60) days) following notice, may be repaired or removed at the direction of the Association or the Developer, and the cost of such repairs or removal shall become a lien against the pertinent Lot and become the personal obligation of the Owner of such Lot. Any entry upon a LOT to effect such repairs or removal shall not be deemed a trespass.

Section 3.12 OFFENSIVE ACTIVITY. No noxious or offensive activity shall be carried on upon any Lot or any other portion of the Property, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to the community. The Developer and Association shall have the express right, in their sole discretion, to publish rules from time to time to prohibit, regulate or otherwise deal with activities which violate this Section.

Section 3.13 UTILITIES. All electrical, cable and telecommunication lines located upon the Property, other than those existing on the date of this Declaration, shall be installed and maintained underground unless the Developer specifically approves above ground installation of such lines.

Section 3.14 ANTENNAS. No television antenna, receiving "dish," radio receiver or sender or other similar device shall be attached to or installed on any Lot or structure within the Subdivision without the prior written consent of the Developer. Nor shall radio, television signals, nor any other form of electromagnetic radiation be permitted to originate from any building, Dwelling Unit, Lot or any other portion of the Property which may unreasonably interfere with the reception of television or radio signals upon any other part of the Property. However, the provisions of this Section shall not prohibit the Developer from installing equipment necessary for a master antenna system, security system, cable television and mobile radio systems or other similar systems within the Subdivision.

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Section 3.15 TRESPASS. Whenever the Developer is permitted by this Declaration to correct, repair, clean, preserve, clear out or do any action on any of the Property or on the easement areas adjacent thereto, entering such Property and taking such action shall not be deemed a trespass.

Section 3.16 PARCELS. No Lot shall be subdivided, or its boundary lines changed, except with the prior written consent of the Developer. However, the Developer hereby expressly reserves to itself, its successors and assigns, the right to replat any Lot and to take such other steps as are reasonably necessary to make such replatted Lot suitable and fit as a building site, including but not limited to, the relocation of any Lot or easements, walkways, tunnels, rights-of-way, roadways, and recreational facilities. The provisions of this Section shall also not prohibit the combining of two (2) or more contiguous Lots into one (1) large Lot. Three (3) Lots may be divided into two (2) Lots with the approval by the Developer. With the approval of Developer, adjacent lot owners may adjust or relocate their common lot line.

Section 3.17 INGRESS AND EGRESS. The Owner, in accepting title to the LOT conveyed subject to the covenants and restrictions of this Declaration, waives all rights of uncontrolled and unlimited egress and ingress to such Property (and waives such right for any person claiming entry rights by virtue of any relationship or permission of such Property Owner and successors in title) and agrees that such ingress and egress to the Owner's Lot may be limited to roadways built or approved by the Developer. The Developer, its successors, assigns, agents, employees and licensees, expressly reserve a right of ingress and egress upon and through any and all roads, roadways, bridges and any other designated access routes in the Subdivision to any portion or part of the Subdivision or Property. Nothing in this Section shall be construed as placing an affirmative obligation on the Developer to provide or construct any road, bridge, or other means of ingress and egress to or within the Subdivision.

Section 3.18 FIREARMS. No hunting by any means or discharge of firearms of any type shall be allowed in the Subdivision.

Section 3.19 BRIDGES. The Developer expressly reserves to itself, its successors, assigns, agents, employees, and licensees, any other provisions of this Declaration notwithstanding, the right to build bridges, walkways, tunnels or fixed spans across any or all natural or man-made waters, canals, creeks, ditches, drains, ravines, paths, or lagoons in the Subdivision. Nothing in this Section shall be construed as placing an affirmative obligation on the Developer to provide or construct any such improvement.

Section 3.20 LANDSCAPING. No weeds, underbrush or other unsightly growth which would unreasonably interfere with the enjoyment of adjacent Property Owners shall be permitted to grow or

remain upon any part of a Lot and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain upon any part of a Lot, including vacant parcels, Common Area, or road right-of-way. Owner shall use best efforts to avoid destroying any growing trees 3" in diameter (breast height) that do not interfere with the actual location of improvements. All landscaping of any Lot shall be completed within ninety (90) days from the completion of construction of the improvements, including complete sodding with grass, or other ground cover approved by Developer, of the front yard and all other parts of the LOT visible from the streets. These provisions shall not apply to the Developer.

3.21 TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement, tent or shack shall be used at any time as a residence either temporarily or permanently. No storage building of any type shall be permitted unless such building is designed as part of the main Dwelling Unit and approved by the Developer. There shall be no occupancy of any Dwelling Unit until the interior and exterior of the Dwelling Unit are completed and a certificate of occupancy, or other satisfactory evidence of completion, is received and approved by the Developer.

3.22 FENCES AND HEDGES. All fences, hedges, and similar improvements must be constructed, installed, and maintained in accordance with plans to be submitted to and approved by Developer. Chain link or any other wire fences shall not be used. A wooden, brick, stucco, wrought iron or similar approved fence or privacy screen may be used if constructed and placed in accordance with plans approved by Developer.

Section 3.23 GARAGES. All Dwelling Units must have a minimum of a two (2) vehicle enclosed garage. No carports will be allowed. Garage openings may not be constructed on the front of Dwelling Units unless specifically approved by the Developer in those limited instances when it is unavoidable. In all cases electric automatic door openers/closers shall be installed and used. Any garages visible from the street must be kept closed when not in use.

Section 3.24 RECREATIONAL VEHICLES AND BOATS. No boat, boat trailer, house trailer, horse trailer, trailer, camper, motor home, unmaintained cars, truck, or any similar items shall be stored on or at any Lot for a period of time in excess of twenty-four (24) hours, unless housed in an enclosed garage or parked or stored in an area of the Property specifically designated for such use by the Developer or Association.

Section 3.25 REMEDIES FOR VEHICLE AND RECREATIONAL EQUIPMENT VIOLATIONS. Any such vehicle or recreational equipment parked in violation of these or other regulations contained herein or in the rules and regulations now or hereafter adopted by the Association may be towed by the Association or the Developer, at the sole

expense of the Owner of such vehicle or recreational equipment, if it remains in violation for a period of twenty-four (24) hours. The Association or the Developer shall not be liable to the Owner of such vehicle or recreational equipment for trespass, conversion or otherwise, nor guilty of any criminal act by reason of such towing, and neither its removal or failure of the Owner to receive any notice of said violation shall be grounds for relief of any kind.

Section 3.26 APPROVAL OF BUILDER. All improvements constructed on any Lot shall be made by a builder or contractor acceptable to the Developer. No Owner may act as a general contractor for the construction of a Dwelling Unit or other improvement on an Owner's own Lot, except that an acceptable builder or contractor may build improvements on a Lot owned by such approved builder or contractor.

Section 3.27 LEASING RESTRICTIONS. No Dwelling Unit or other structure shall be leased by the Property Owner for a lease term of less than six (6) months, and only one primary family per Dwelling Unit shall be allowed. No boarders or persons with similar living arrangements shall be allowed.

Section 3.28 PARKING AND DRIVEWAYS. Each Owner shall provide sufficient space, off Subdivision roadways, for the parking of approved vehicles for the Owner's and Owner's family's use and the use of the Owner's guests in accordance with reasonable standards established by the Developer. Parking on the paved portion of any roadway not identified as parking areas within the Subdivision shall be prohibited at all times. Any vehicle violating this restriction may be removed by the Developer or its designated agent, and the owner of the vehicle shall be responsible for all charges for towing and storing the vehicle. Driveways shall be only at such locations and constructed of concrete, brick pavers, or other material specifically approved by Developer.

ARTICLE IV

EASEMENTS

Section 4.01 DEVELOPER EASEMENTS. The Developer reserves unto itself, its successors, assigns, contractors, licensees, and agents a perpetual, alienable and releasable easement and right on, over and under the ground of the Property (including each Lot) to erect, maintain and use electric, cable television and telephone poles, wires, cables, conduits, drainage ways, sewers, wells, pumping stations, tanks, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, drainage, or other public conveniences or utilities on, in or over those portions of the Property as may be reasonably required for any purposes and to grant access easements

or relocate any existing access easements in, on, or over any portion of the Property as the Developer shall deem necessary or desirable for the proper operation and maintenance of the Property, or any portion thereof, or for the reason of carrying out the purposes of this Declaration; provided, however, that no such easement shall be applicable to any portion of the Property as may (a) have been used prior to the installation of such utilities for construction of a building or structure whose plans were approved pursuant to this Declaration by the Developer, or (b) such portion of the Property as may be designated as the site for a building or structure on a site plan or for erection of a building or structure which has been filed with the Developer and which has been approved in writing by the Developer. 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 installation and to maintain reasonable standards of health, safety and appearance. Any material disturbance to the grounds of any Property Owner caused by such utility installation shall be repaired and said grounds returned to their prior condition by the Developer, or prompt and reasonable remuneration for such repairs shall be made to such Property Owner by the Developer.

Section 4.02 UTILITY AND GOVERNMENTAL SERVICES AND PRIVATE EASEMENTS. All Lots within the Subdivision shall be subject to utility, governmental services and private drainage easements as shown on the face of the recorded plat and all rights of ingress, egress and access for persons and equipment associated therewith. In addition to the foregoing, the Developer reserves unto itself, perpetual, alienable and releasable easement and right on, over and under the ground located ten (10) feet along both sides of all roads and rights-of-way and ten (10) feet along the side and rear lines of each Lot.

ARTICLE V

DWELLING UNITS

Section 5.01 BUILDING HEIGHT. No Dwelling Unit shall be constructed on a Lot which has a height exceeding two and one-half habitable stories, excluding basements. The height of any structure, including all Dwelling Units, within the Property shall be subject to the prior review and approval in writing by the Developer.

Section 5.02 BUILDING SIZE. All Dwelling Units shall have at least Two Thousand Four Hundred (2,400) square feet of heated and cooled areas, at least One Thousand Four Hundred (1,400) of which must be located on the ground floor.

Section 5.03 SETBACK AND SIDE LINE REQUIREMENTS. All buildings built on any Lot shall comply with the setback and side lines restrictions as required upon such Lot as set forth in the applicable City of Fairhope zoning regulations and on the recorded plat for such Lot, but in no event within ten feet of any adjacent Lot. Such setback restrictions shall be a covenant running with the land.

Section 5.04 MISCELLANEOUS CONSTRUCTION CRITERIA. Unless waived by the Developer or the Architectural Review Board on a case by case basis, the following shall apply: Roof pitch must be a minimum of 6" rise in a 12" run and a maximum of 12" rise in a 12" run. No roof penetrations may be placed on the front of the house. Metal siding may not be used and vinyl siding may be used only if less than 10% of the outside surface of the house. No aluminum or other metal windows are allowed. Reflective glass is prohibited.

Section 5.05 YARD STRUCTURES. Swimming pools, decks, patios, gazebos, arbors, trellises, fountains and/or ponds are allowed only if approved by Developer. Tennis courts and outdoor lights that shine onto another's property are not allowed.

Section 5.06 COMPLETION OF CONSTRUCTION. Dwelling Units may not be temporarily or permanently occupied until the exteriors thereof have been completed. During construction, the Property Owner shall require the contractor to maintain the Lot in a clean and uncluttered condition. Upon completion of construction, the Property Owner shall cause the contractor to immediately remove all equipment, tools, construction material and other debris from the Lot. Any damage to roadways, paths, Common Areas or any other Property owned by any person or entity caused by the Property Owner's contractor or other parties providing labor or services to the Property Owner shall be repaired by the Property Owner, or by the Developer at the Property Owner's expense.

Section 5.07 SERVICE YARDS. Each Property Owner shall provide a visually screened area to serve as a service yard and an area in which garbage receptacles, electric meters, air conditioning equipment, and other unsightly objects must be placed or stored in order to conceal them from view from the road and adjacent properties. No window air conditioning units may be installed or used on any Lot. No clothes lines are allowed on any Lot.

Section 5.08 GOVERNMENTAL APPROVAL. All construction and alterations shall also be subject to applicable permit requirements and to all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees.

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ARTICLE VI

ARCHITECTURAL AND DESIGN REVIEW

Section 6.01 PURPOSE. In order to preserve the natural beauty of The Woodlands at Fairhope and its setting, to maintain The Woodlands at Fairhope as a pleasant and desirable environment, to establish and preserve a harmonious design for the community, to provide for the community's organized development, and to protect and promote the value of property; no building, fence, paving materials of any kind, screen enclosures, sewer drains, disposal systems, landscaping, or any other structure or improvement of any nature or any future addition or improvement shall be erected, placed, attached to or altered unless and until the proposed plans, design, specifications, exterior color or finish, plot plan (showing the proposed location of such building structure, drives and parking areas), building height, landscape plan, size and construction schedule shall have been approved in writing by the Developer prior to commencement of construction and a permit shall have been issued authorizing the structure ~~or~~ improvement.

Section 6.02 SUBMISSION, APPROVAL AND REFUSAL OR ARCHITECTURE, SITING, LANDSCAPING AND OTHER BUILDING PLANS. Two copies of all plans and related data shall be submitted to the Developer prior to any improvements or modifications of any kind being made to any Lot. The Developer shall establish a fee sufficient to cover the expense of reviewing plans and related data at the time they are submitted for review and to compensate any consulting architects, landscape architects, urban designers, or attorney's retainer. The fee initially established by these General Covenants shall be Two Hundred and No/100 Dollars (\$200.00) for each submission. The Developer shall have the right to increase this amount not more than once in any subsequent twelve (12) month period. Approvals shall be dated and shall not be effective for construction commenced more than nine (9) months after such approval. Disapproved plans and related data shall be accompanied by a reasonable statement of items found unacceptable. In the event approval of such plans is neither granted nor denied within sixty (60) days following receipt by the Developer of the written request for approval, the provisions of this Section shall be thereby waived. Refusal or approval of plans, site location, building height, or specifications may be based by the Developer upon any ground which is consistent with the objectives of these Covenants, including purely aesthetic considerations, so long as such ground is not arbitrary or capricious.

Section 6.03 ARCHITECTURAL AND DESIGN REQUIREMENTS. All plans submitted to the Developer must be in sufficient detail to allow the builder to construct such improvement, or in such greater detail as Developer may reasonable require prior to the Developer becoming obligated to review the plans, and the failure by the Developer to review plans which Developer deems of insufficient

detail shall not be deemed a waiver of any of the provisions of this Section.

Section 6.04 APPROVAL NOT A GUARANTEE OR REPRESENTATION OF PROPER DESIGN OR GOOD WORKMANSHIP. No approval of plans, location or specifications shall ever be construed as representing or implying that such plans, specifications or standards will, if followed, result in a properly designed residence or that it will comply with applicable federal, state or local governmental regulations. Such approvals and standards shall in no event be construed as representing or guaranteeing that any residence or improvement thereto will be built in a good and workmanlike manner. The Developer, its agents and assigns, shall not be responsible or liable for any defects in any plans or specifications submitted, revised or approved under these Covenants nor for any defects in construction pursuant to such plans and specifications. The Property Owner shall have sole responsibility for compliance with approved plans and does hereby hold the Developer, its agents or assigns, harmless for any failure thereof caused by the Property Owner's architect or builder. The Developer reserves the right to prohibit the Property Owner's builder and/or general contractor from the site in the event it is determined that failure to comply with approved plans is determined by the Developer, in its sole discretion, to be intentional or due to gross negligence.

ARTICLE VII

PROVISIONS RELATING TO COMMON AREAS

Section 7.01 COMMON AREAS. The Developer intends to convey by statutory warranty deed to the Association as Common Areas the following, subject to all restrictions and limitations of record and to all additional restrictions and covenants set forth in the deed of conveyance:

(a) Those certain Common Areas as shown on the Plat as such, subject to any and all applicable restrictions, reservations, encumbrances and limitations of record and to all additional restrictions and covenants set forth in the deed of conveyance; and

(b) Any other property located within or without the Subdivision that the Developer elects in its sole discretion to become Common Area.

Section 7.02 EROSION CONTROL. The Developer shall have the right, but not the obligation, to protect from erosion any property in the Subdivision including the Common Area by planting trees, plants, and shrubs where and to the extent necessary or by such mechanical means as construction and maintenance of siltation basins, or other means deemed expedient or necessary by the

Developer. The right is likewise reserved to the Developer to take steps necessary to provide and ensure adequate drainage ways, to remove diseased, dead or dangerous trees or underbrush, and to carry out other similar activities.

Section 7.03 RESERVATION OF EASEMENTS The Developer reserves unto itself, its successors, licensees, contractors, agents, and assigns, a perpetual alienable and releasable easement, to go on, over, and under the Common Areas to erect, maintain, and use electric, community antenna television, telephone poles, wires, cables, conduit, drainage ways, sewers, water mains, and other suitable equipment for the conveyance and use of electricity, telephone and television equipment, gas, sewer, water, drainage, or other public conveniences or utilities in the Common Properties. These reservations and rights expressly include the right to cut trees, bushes or shrubbery as is reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. Such rights may be exercised by any licensee or assignee of the Developer, but this reservation shall not be considered an obligation of the Developer to provide or maintain any such utility or service.

Section 7.04 PUBLIC RIGHTS LIMITED. The granting of the easement in Common Areas in this part in no way grants to the public or to the owners of any land outside of the Subdivision the right to enter such Common Areas or use the roadways or designated access routes located on the Common Areas without the express permission of the Developer, or the Association after the Common Areas are conveyed to the Association by the Developer.

Section 7.05 RESERVATIONS. The Developer expressly reserves to itself, its successors, assigns, licensees and agents every reasonable use and enjoyment of said Common Areas, in a manner not inconsistent with the provisions of this Declaration, including but not limited to the use of the roadways and designated access routes located in the Common Areas.

Section 7.06 DEVELOPER ACTIONS. Where the Developer is permitted by this Declaration to correct, repair, clean, preserve, clear out or do any action on any Property, entering the Property and taking such action shall not be deemed a trespass or breach of these Covenants.

Section 7.07 NO OBLIGATION ON DEVELOPER. It is expressly understood and agreed that the granting of the easements set out in this Article in no way places a burden of affirmative action on the Developer.

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ARTICLE VIII

MEMBERSHIP IN THE ASSOCIATION

The Developer has formed or will cause to be formed The Woodlands Homeowners Association Inc., an Alabama non-profit corporation.

Section 8.01 MEMBERSHIP. Every Owner, including the Developer, shall automatically, and by virtue of such status as an Owner, be a Member of the Association. Membership shall be automatic and shall be appurtenant to and may not be separated from ownership of any Lot. Transfer of record of the ownership of any Lot shall automatically transfer membership in the Association.

Section 8.02 VOTING RIGHTS AND GOVERNANCE OF THE ASSOCIATION. Voting rights of Members are as follows:

A. Class A Members, consisting of all Members others than the Developer, shall be entitled to cast one (1) vote for each Improved or Unimproved Lot owned in all matters in which membership voting is authorized in the Declarations, the Articles of Incorporation, the By-Laws or any other rules and regulations binding upon the Association, except as specifically provided herein.

B. The Class B Member, being the Developer, shall be entitled to cast five (5) votes for each Improved or Unimproved lot and five (5) votes for each acre of the Property owned by the Developer in all matters in which membership voting is authorized in the Declaration, the Articles of Incorporation, the By-Laws or any other rules and regulations binding upon the Association. So long as there is a Class B Member of the Association, the Class B Member shall be entitled to elect a majority of the members of the Board of Directors of the Association.

C. Notwithstanding any provision herein to the contrary, no amendment to the Declaration or to the Articles of Incorporation shall be effective without the written consent of the Class B Member, so long as there is a Class B Member of the Association, that is, until the Developer has sold or otherwise conveyed all of the Property.

D. Notwithstanding the preceding paragraphs, if any assessment required to be paid by a Member is past due as of the time a vote is being taken, such Member shall not be entitled to cast any vote at such time with respect to the Lot on which the assessment is past due.

E. A Member entitled to more than one (1) vote must vote all of the Member's votes for or against a matter submitted to the Members for a vote, or such Member may abstain from voting

entirely, i.e., a Member entitled to more than one (1) vote may not split or fragment such Member's votes, but must vote (or abstain from voting) as a single unit.

F. When any Lot entitling the Owner thereof to membership in the Association has Owners which are corporations, trusts or partnerships, or where two (2) or more persons or entities are Owners, whether fiduciaries, joint tenants, tenants in common, tenants in partnership or in any other manner of joint or common ownership, one (1) officer, trustee, person or entity shall be designated the Voting Member for all the others. Written evidence of such designation in a form satisfactory to the Association shall be delivered to the Association prior to the exercise of a vote by such Owners.

ARTICLE IX

MEMBERS' RIGHT IN THE COMMON AREAS

Section 9.01 MEMBERS' EASEMENTS OF ENJOYMENT IN COMMON AREAS. Subject to the provisions of this Declaration, the rules and regulations of the Association, and any fees or charges established by the Association, every Member and every guest or lessee of such Member shall have an easement of enjoyment in and to the Common Areas, and such easement shall be appurtenant to and shall pass with the title to every Lot. A Member's or lessee's spouse and children who reside with such Member or lessee on the Property shall have the same easement of enjoyment hereunder as a Member. The easement of enjoyment herein shall pass from a Member to a lessee during the lease term; provided, however, the Association may adopt additional restrictions to its rules and regulations limiting the easement of enjoyment of guests and lessees, including but not limited to the specification of minimum lease terms, the number of guests allowed, or the prohibition of use by lessees or guests of specific Association properties.

Section 9.02 TITLE TO COMMON AREAS. The Developer has or will convey the Common Areas by statutory warranty deed to the Association, subject to all restrictions and limitations of record and to all additional restrictions and covenants set forth in the deed of conveyance. The Association shall be required to accept such conveyance of the Common Areas and shall, after such conveyance, immediately become responsible for all maintenance, operation and such additional construction of improvements as may be authorized by the Association's Board of Directors, subject to this Declaration. The Common Areas shall also be conveyed subject to all easements and restrictive covenants of record at the time of conveyance and the rights that others may have, as referred to in Section 10.01, to use certain Common Areas.

Section 9.03 EXTENT OF MEMBERS' EASEMENTS. The easements of enjoyment created hereby shall be subject to the following:

(a) the right of the Association, in accordance with its By-Laws, to place mortgages or other encumbrances on the Common Areas as security for borrowings by the Association;

(b) the right of the Association, in accordance with its By-Laws, to take such steps as are reasonably necessary to protect Common Areas;

(c) the right of the Association, in accordance with its By-Laws, to suspend the voting rights and easements of enjoyment of any Member, lessee or guest of any Member for any period during which the payment of any assessment against the Property owned by such Member is delinquent, and for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any assessment or a breach of the rules and regulations of the Association shall not constitute a waiver of discharge of the Member's obligation to pay such assessment, and provided that the Association shall not suspend the right to use any roadways belonging to the Association, if any, although such use shall be subject to the rules and regulations established by the Association for such use;

(d) the right of the Association, in accordance with its By-Laws, to charge reasonable user, admission or other fees for the use of the Common Areas and any facilities included therein, it being understood that this right of the Association allows it to have fees and charges apply to any Member, guest or lessee;

(e) the right of the Association, in accordance with its By-Laws and subject to the general covenants, to place any reasonable restrictions upon the use of the Common Areas, subject to an Owner's or lessee's right of ingress and egress, including but not limited to, the types and sizes of the vehicles permitted to use the pathways and access routes, the maximum and minimum speeds to vehicles using said routes, and all necessary traffic and parking regulations. The fact that such restrictions on the use of the access routes shall be more restrictive than the laws of a state or local government shall not make such restrictions unreasonable;

(f) the right of the Association, in accordance with its By-Laws, to adopt and publish rules and regulations governing the use of the Common Areas, and the conduct of Members, their lessees or guests, and to establish penalties for the infraction of such rules and regulations;

(g) the right of the Developer, or the Association in accordance with its By-Laws, to dedicate or transfer to any public or private utility company, utility or drainage easements on, over or under any part of the Common Areas;

(h) the right of the Association, in accordance with its By-Laws, to give or sell all or any part of the Common Areas including a leasehold interest, to any public agency, public authority, public service district, utility company or private concern for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such gift or sale or determination as to the purposes or as to the conditions thereof shall be effective unless such gift, sale or determination as to purposes and conditions shall be authorized by the affirmative vote of at least two-thirds (2/3) of the total number of votes which may be voted by all the Members regardless of class, present or represented by proxy at a meeting called for such purposes, a quorum being present. Notwithstanding the foregoing, such a vote to give or sell as contemplated by this paragraph shall not be effective without the written consent of the Class B Member, so long as there is a Class B Member with voting rights, as set forth herein. A true copy of such resolution together with a certificate of the results of the vote taken thereon shall be made and acknowledged by the President or Vice President and Secretary or Assistant Secretary of the Association, and such certificate shall be annexed to any instrument or dedication or transfer affecting the Common Properties prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by the Members;

(i) restrictions and limitations affecting all Property of the Subdivision as set forth in the general covenants; and

(j) the rights that others may have, as referred to in Section 9.01, to use certain Common Areas.

Section 9.04 EASEMENTS OF JOINT OWNERS. In those instances where a Lot or Dwelling Unit is owned by two (2) or more entities or persons (who do not have the relationship of spouse, parent or minor child, one to the other) or by a trust, corporation, partnership or any other form of legal entity, such owners, trust, corporation or partnership or other entity shall annually appoint by written designation one (1) person as the "Primary Member." Such Primary Member shall have the same easement of enjoyment of Common Areas as Members who own or occupy such Property singularly. The remaining Members, fiduciaries, beneficiaries, officers or partners [in a number not to exceed six (6)] shall be entitled an easement of enjoyment subject to the limitations set forth in this Declaration in the Common Areas, by each paying to the Association annually an amount equal to ten percent (10%) of the annual assessment charged against the Property owned by such persons, trusts, partnership, corporation or entity. This provision shall not apply to primary family members (husband, wife, son, step-son, daughter, step-daughter), subject to a maximum of two (2) primary families per Dwelling Unit or Lot.

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ARTICLE X

COVENANTS FOR ASSESSMENTS

Section 10.01 CREATION OF THE LIEN AND PERSONAL OBLIGATIONS FOR ASSESSMENTS. Each Owner, except the Developer, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to all the terms and provisions of this Declaration and to pay to the Developer or the Association as provided below the following: (1) annual assessments or charges; and (2) special assessment or charges for the purposes set forth in this Article, both such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments shall be a charge and continuing lien on the real Property and improvements thereon against which each such assessment is made. Each such assessment, together with interest thereon at a rate per annum equal to ten percent (10%) from the date of delinquency until collected (unless waived by the Board), and the costs of collection thereof, including reasonable attorneys' fees, shall also be the personal obligation of the Owner of such real Property at the time when the assessment first becomes due and payable. In the case of co-ownership of a Lot, all of such co-Owners shall be jointly and severally liable for the entire amount of the assessment, interest, penalties, and cost of collection. If an assessment is not paid within forty-five (45) days after the due date, such assessment shall then be delinquent and interest shall be added to the amount as provided herein and a penalty in an amount to be determined annually by the Board of Directors of the Association and consistently applied shall be added to such assessment, and further, the Association may bring an action at law against the Owner personally, and there shall be added to the amount of such assessment the Association's actual attorneys' fees and disbursements related to such action. In the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and such actual counsel fees and disbursements together with the costs of the action. Unless otherwise provided by the Board of Directors, annual assessments shall be due and payable on or before the first day of the calendar year for which the assessment is due.

Section 10.02 PURPOSE OF THE ASSESSMENTS AND PAYMENT TO DEVELOPER. Notwithstanding any provision contained herein, until such time that the Developer has in fact conveyed to the Association all of the Common Areas, all assessment of any nature provided for herein shall be due and payable to the Developer, its successors or assigns, and all rights hereby established on behalf of the Association, including all remedies in event of default by an Owner, shall accrue to the benefit of the Developer. The assessments levied by the Association or the Developer shall be used exclusively for one or more of the following, if applicable, the improvement, landscaping, irrigation, replacement, maintenance,

repair, enhancement, enlargement and operation of the recreational amenities, roadways, paths, tunnels, boardwalks, bridges, entrance and street signs, security systems, patrols and gates, entrance and street lights, insect control, vegetation control, drainage and/or irrigation systems and similar purposes which are for the benefit of Property Owners, including Common Areas, and to provide all services which the Developer or Association is authorized to provide hereunder; including, but not limited to, payment of taxes and insurance, cost of labor and equipment, erosion control devices, materials, management supervision, accounting and Property owner information services, repayment of loans and such other action as is necessary to carry out its authorized functions. Such assessments shall not be used to maintain or repair any Property not belonging to the Association comprising a portion of the Common Properties.

Section 10.03 APPLICATION OF "MAXIMUM" ASSESSMENT. The annual assessments, as set forth in the schedule hereinbelow, and as annually increased pursuant to the provisions of subparagraph (c) below, shall be levied by the Association or by the Developer pursuant to Section 10.01. If, however, the Board of Directors of the Association, by majority vote, determines that the important and essential functions of the Association may be properly funded by annual assessments less than those set out below, it may levy such lesser assessments. However, so long as the Developer is engaged in the Development of properties which are subject to the terms of this Declaration, the Association may not reduce annual assessments below those set out in subparagraph (a) of this Section without prior written consent of the Developer. The levy of annual assessments less than the maximum regular annual assessments in one year shall not affect the Board's right to levy the maximum regular annual assessments in subsequent years. If the Board of Directors shall levy less than the maximum regular annual assessments for any assessment year and if thereafter, during such assessment year, the Board of Directors shall determine that the important and essential functions of the Association cannot be funded by such lesser assessments, the Board may, by majority vote, levy supplemental assessments.

(a) The maximum regular annual assessment shall be the sum determined by the Board of Directors. There shall be no regular annual assessment for 1993. The regular annual assessment for the year ending December 31, 1994 is Three Hundred Twenty and No/100 Dollars (\$320.00) payable quarterly, including a Twenty-Five and No/100 Dollars (\$25.00) late charge if such quarterly payment is over forty-five (45) days delinquent.

(b) From and after January 1, 1994, the maximum regular annual assessment for Improved and for Unimproved Lots may be increased, adjusted or reduced from year to year by the Board of Directors of the Association as the needs of the Property, in the Board's sole judgment, may require.

Section 10.04 SPECIAL ASSESSMENTS FOR IMPROVEMENTS AND ADDITIONS. In addition to the maximum regular annual assessment authorized by Section 11.03 hereof, the Association may also levy special assessments against the Property Owners for the following purposes:

(a) construction or reconstruction, repair or replacement of capital improvements upon the Common Areas, including the necessary fixtures and personal property related thereto;

(b) additions to the Common Areas;

(c) facilities and equipment required to offer the services authorized herein;

(d) repayment of any loan made by the Association to enable it to perform the duties and functions authorized herein.

Section 10.05 RESERVE FUNDS. The Association may establish reserve funds from its annual assessments to be held in reserve in an interest bearing account or in obligations of the United States, State of Alabama, or any agency of either, or in Triple-A debt, or in prime commercial paper with a maturity of not more than nine (9) months, as a reserve for (a) major rehabilitation or major repairs, (b) emergency and other repairs required as a result of storm, fire, natural disaster, or other casualty loss, (c) recurring periodic maintenance, and (d) initial costs of any new service to be performed by the Association.

Section 10.06 DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS. Notwithstanding anything in the foregoing to the contrary, the annual assessments provided for herein shall commence on January 1, 1994. The annual assessment for the remainder of the year 1994 shall be due and payable on the date the Lot is purchased.

Section 10.07 DUTIES OF THE BOARD OF DIRECTORS. The Board of Directors of the Association shall fix the amount of the annual assessment against each Lot, in accordance with the assessment schedule as provided hereinabove, and shall at that time direct the preparation of an index of the properties and assessments applicable thereto which shall be sent promptly to every Member subject thereto.

The Association shall upon written demand from any Owner at any time furnish to such Owner liable for any assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence against all but the Owner of payment of any assessment therein stated to have been paid.

Section 10.08 SUBORDINATION OF THE LIEN OF MORTGAGE. The lien of the assessments provided for herein shall be subordinate to

the lien of any mortgage now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments occurring subsequent to the date such mortgage becomes of record and, provided further, that upon a sale or transfer of such Property pursuant to foreclosure, or any other proceeding or deed in lieu of foreclosure, the title acquired by the purchaser of such Property shall be subject to the lien of such subsequent assessments.

Section 10.09 EXEMPT PROPERTY. The following property, individuals, partnerships, or corporations subject to this Declaration shall be exempted from the assessments, charges and lien created herein:

- (a) the Developer and any Lot(s) owned by the Developer;
- (b) the grantee in conveyances made for the purpose of granting utility and drainage easements;
- (c) the Common Areas;
- (d) property which is used in the maintenance and service of facilities within Common Areas, or by non-profit, governmental or charitable institutions; and
- (e) Lots owned by approved builder and contractors, as designated by the Developer in accordance with Section 3.26 of the Declaration, during the calendar year 1994 only.

Section 10.10 ANNUAL STATEMENTS. The President, Treasurer, or such other officer as may have custody of the funds of the Association, within ninety (90) days after the close of each fiscal year of the Association, shall prepare and execute general itemized statements as of the close of such fiscal year showing the actual assets and liabilities of the Association, and a statement of revenues, costs and expenses. The name of any creditor to which an amount of more than Two Hundred Fifty and No/100 Dollars (\$250.00) is owed by the Association shall be set out in such statement. The Association shall furnish to each Member of the Association who may make a request therefor in writing, a copy of such statement within thirty (30) days after receipt of such request. Such copies may be furnished to the Member either in person or by mail.

Section 10.11 ANNUAL BUDGET. The Board of Directors shall cause to be prepared and make available to all Members at the office of the Association at least sixty (60) days prior to the first day of the following fiscal year, a budget outlining anticipated receipts and expenses for such fiscal year. The financial books of the Association shall be available for inspection by all Members at the office of the Association at all reasonable times.

ARTICLE XI

FUNCTIONS OF ASSOCIATION

Section 11.01 OWNERSHIP AND MAINTENANCE OF COMMON AREAS. The Association shall be authorized to own and/or operate and maintain the Common Areas and equipment, furnishings, and improvements devoted thereto. Land included in Common Areas shall be used in the manner set forth by the Developer and/or the Association.

Section 11.02 SERVICES. The Association shall be authorized, but not required, to provide the following services:

- (a) employment of a manager, an independent contractor, or such other employees as are necessary to perform services for the Association;
- (b) cleanup and maintenance of all roadways, road medians and Common Areas within the Property and also all public properties which are located within or in a reasonable proximity to the Property such that their deterioration would affect the appearance of the Property as a whole;
- (c) landscaping and landscape maintenance of roadways, sidewalks, walking and bicycle paths, access routes, and any Common Areas;
- (d) lighting of roadways, sidewalks and paths through the Property;
- (e) insect and pest control to the extent that it is necessary and desirable in the judgment of the Board of Directors of the Association;
- (f) legal and scientific resources for the improvement of air and water quality within the Property;
- (g) construction of improvements on Common Areas as may be required to provide the services and equipment as authorized in this Article;
- (h) administrative services including but not limited to legal, accounting and financial services; and communication services informing Members of activities, notice of meetings, referenda and other matters incident to the above listed services;
- (i) liability and hazard insurance covering improvements and activities on the Common Areas;
- (j) water, sewage and any necessary utility services not provided by a public body, private utility or the Developer;

(k) exercise of any rights reserved by the Developer and transferred by the Developer to the Association, including but not limited to all rights and functions of the Developer under the general covenants; and

(l) taking of any and all actions necessary in the discretion of the Board of Directors to enforce this Declaration and all other covenants and restrictions affecting the properties of the Association and to perform any of the functions or services delegated to the Association in this Declaration or other covenants or restrictions or authorized by the Board of Directors.

Section 11.03 REDUCTION OF SERVICES. The Board of Directors of the Association shall periodically define and list a minimum level of services of the sort described in Section 12.02 to be furnished by the Association in any given year.

Section 11.04 OBLIGATIONS OF THE ASSOCIATION. The Association shall not be obligated to carry out or offer any of the functions or services specified by the provisions of this Article. The functions and services to be carried out or offered by the Association at any particular time shall be determined by the Board of Directors of the Association or set forth in the By-Laws, taking into consideration the funds available to the Association and the needs of the Members of the Association.

Section 11.05 MORTGAGE AND PLEDGE. The Board of Directors of the Association shall have the power and authority to mortgage the Property of the Association and to pledge the revenues of the Association as security for loans made to the Association to perform its authorized functions. The Developer may make loans to the Association, subject to approval by the Developer of the use to which such loan proceeds will be put and the terms pursuant to which such loans will be repaid. Notwithstanding anything in this Declaration to the contrary, the Association shall not be allowed to reduce the limits of the maximum regular annual assessments at any time there are outstanding any amounts owing the Developer from loans made by the Developer to the Association.

Section 11.06 TRANSFER OF AUTHORITY. This Declaration provides the Developer with various controls and rights, to be exercised (if at all) at the discretion of the Developer. This Declaration further provides that any of the Developer's rights and powers set forth herein may be specifically assigned to the Association. In the event that such powers are assigned of record to the Association, the Association shall promptly provide for appropriate procedures to perform its obligations pursuant to the powers transferred to it.

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ARTICLE XII

ARCHITECTURAL CONTROL BY ASSOCIATION

Section 12.01 BOARD. Upon assignment of the architectural control function by the Developer to the Association, the Association shall appoint an Architectural Review Board composed of three (3) people, all of whom shall be appointed by the Board of Directors of the Association. At least one (1) Member of the Association other than the officers, employees or agents of the Developer shall be a member of the Architectural Review Board. The Board of Directors of the Association may establish the rules of procedure for the Architectural Review Board in connection with the general covenants.

Section 12.02 ARCHITECTURAL REVIEW AND APPROVAL FOR THE PROPERTY. Upon assignment by the Developer of architectural control functions to the Association with respect to any Lot within the Subdivision, the Architectural Review Board shall function to ensure compliance with the restrictions set forth herein and shall in all respects with regard to such Lot succeed to the powers of the Developer with respect to architectural review and approval. The Architectural Review Board shall have the general rights of enforcement as set forth in this Declaration, including without limitation the right to enjoin violations.

Section 12.03 TRANSFER OF ARCHITECTURAL REVIEW AND APPROVAL. The Developer may assign its architectural control functions as provided in this Declaration, including those set forth in Article VI, at any time. The Association shall be required to accept such assignment and comply with the provisions contained in this Declaration. Thereafter, all architectural control functions of the Developer as provided in this Declaration shall be performed by the Association.

ARTICLE XIII

AMENDMENT OF DECLARATION

Section 13.01 AMENDMENT BY DEVELOPER. The Developer reserves the right unilaterally to amend this Declaration, and to do so at such time, and upon such conditions, in such form and for such purposes as it, in its sole discretion, shall deem appropriate by preparing and recording an amendment hereto; provided, however, that this right of unilateral amendment shall expire after all Lots included herein or hereafter added by Developer pursuant to Section 2.02 have been sold to Owners other than the Developer, or fifteen (15) years from the date of the recording of this Declaration, whichever shall first occur, after which time this Declaration may be amended only in the manner set forth in Section 13.02 below.

Section 13.02 AMENDMENT BY ASSOCIATION.

(a) After the expiration of the right of the Developer to unilaterally amend this Declaration as provided in Section 13.01 above, amendments to this Declaration may be proposed by either the Board of Directors of the Association acting upon a vote of the majority of the Directors, or by an affirmative vote of Members of the Association entitled to vote not less than a majority of the votes entitled to be cast by all Members, regardless of class, as provided in the Declaration, the Association's Articles and By-Laws, whether meeting as Members or by instrument in writing signed by them. Upon any amendment or amendments to the Declaration being proposed by the said Board of Directors or Members, such proposed amendment or amendments shall be transmitted to the President of the Association or, in the absence of the President, such other officer of the Association, who shall thereupon call a special meeting of the members of the Association for a date not sooner than twenty (20) days, nor later than sixty (60) days, from receipt by such officer of the proposed amendment or amendments, and it shall be the duty of the Secretary of the Association to give each Member written or printed notice of such special meeting, stating the time and place thereof, and reciting the proposed amendment or amendments in reasonably detailed form, which notice shall be mailed not less than ten (10) days or more than fifty (50) days before the date set for such special meeting. Such notice shall be given to any Institutional Mortgagee of record who requests such notices and provides an address therefor to the Association. If mailed, such notice shall be deemed to be properly given when deposited in the United States mail, addressed to the Member at the Member's mailing address as it appears on the records of the Association, the postage thereon being prepaid. Any Member may, by written waiver of notice signed by such Member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such Member. At such special meeting, the amendment or amendments proposed must be approved by the affirmative vote of Members of the Association entitled to vote not less than two-thirds (2/3) of the total number of votes which may be voted by all of the Members, regardless of class, present or represented by proxy at a meeting called for such purposes, a quorum being present. Thereupon, such amendment or amendments to the Declaration shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted and the original or executed copy of such amendment or amendments so certified and executed with the same formalities as a deed shall be recorded in the Office of the Judge of Probate of Baldwin County, Alabama, within twenty (20) days from the date on which the same became effective, such amendment or amendments to specifically refer to the recording identifying the Declaration. Thereafter, a copy of said amendment or amendments, in the form in which the same were placed of record, shall be delivered to all of the Owners, but mailing or delivering a copy thereof shall not be

a condition precedent to the effectiveness of such amendment or amendments. The written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association at or prior to such meeting.

ARTICLE XIV

GENERAL PROVISIONS

Section 14.01 DURATION. All covenants, restrictions, and affirmative obligations set forth in this Declaration shall run with the land and shall be binding on all parties and persons claiming under them specifically including, but not limited to, the successors and assigns, if any, of the Developer for a period of thirty (30) years from the execution date of the Declaration, after which time all said covenants shall be automatically extended for successive periods of ten (10) years each, unless changed in whole or in part by an instrument approved by the affirmative vote of a majority of all of the Members, regardless of class, present or represented by proxy at a meeting called for such purposes.

Section 14.02 ENFORCEMENT. This Declaration shall be enforceable by the Association, the Developer, the Architectural Review Board, or any Member of the Association by a proceeding at law or in equity against any person or persons violating or attempting to violate or circumvent any covenant or restriction, either to restrain violation or to recover damages, and to enforce any lien created by this Declaration. Failure by the Association or any Member or the Developer to enforce any covenant or restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right of any of the foregoing to enforce same thereafter.

Section 14.03 INTERPRETATION. The Board of Directors of the Association shall have the right to determine all questions arising in connection with this Declaration and to construe and interpret its provisions, and the determination of the Board shall be final and binding.

Section 14.04 SEVERABILITY. Should any covenant or restriction herein contained, or any article, section subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 14.05 NOTICE. Any notice required to be sent to any Member under the provisions of this Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, with the proper postage affixed, to the address of such Member appearing on the Association's Membership list not less than thirty (30) days prior to the date of the meeting at which any proposed action is to be considered. Notice to one or more co-Owners or co-tenants of a Lot shall be considered notice to all co-Owners. It shall be the obligation of every Member to immediately notify the Secretary of the Association in writing of any change of address. Any person who becomes a Member following the first day of the calendar month in which said notice is mailed shall be deemed to have been given notice if notice was given to the Member's predecessor in title.

Section 14.06 LIMITED LIABILITY. In connection with all reviews, acceptances, inspections, permissions, consents or required approvals by or from the Developer contemplated under this Declaration, the Developer shall not be liable to an Owner or to any other person on account of any claim, liability, damage or expense suffered or incurred by or threatened against an Owner or such other person arising out of or in any way relating to the subject matter of any such review, acceptance, inspection, permission, consent, or required approval, whether given, granted, or withheld.

Section 14.07 TERMINATION OF ASSOCIATION. In the event that this Declaration is declared to be void, invalid, illegal, or unenforceable in its entirety, or in such a significant manner that the association is not able to function substantially as contemplated by the terms hereof, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, or if the Members of the Association should vote not to renew and extend this Declaration as provided for herein, all Common Areas owned by the Association at such time shall be transferred to a Trustee appointed by the Circuit Court of Baldwin County, Alabama, which Trustee shall own and operate said Common Areas for the use and benefit of Owners within the Property as set forth below.

(a) Each Owner of any Lot shall be subject to an annual assessment which shall be paid by the Owner to the Trustee. The amount of such annual assessment and its due date shall be determined by the Trustee, in accordance with the provisions of Article XI.

(b) The Trustee shall be required to use the funds collected as annual assessments for the operation, maintenance, repair and upkeep of the Common Areas as provided in this Declaration. The Trustee may charge as part of the cost of such functions the reasonable value of its services in carrying out the duties herein provided. The Trustee shall not have the obligation to provide for

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the operation, maintenance, repair and upkeep of the Common Areas once the funds provided by the annual assessments have been exhausted.

Section 14.08 OTHER PROPERTY NOT SUBJECT TO DECLARATION. This Declaration shall not apply to or affect any other property owned by the Developer or located adjacent to or contiguous to the Property which is not specifically subjected to this Declaration by the Developer by written instrument recorded in the Public Records.

Section 14.9 ADDITIONAL RESTRICTIONS. The Developer hereby reserves the right to add additional restrictive covenants in the future which may apply to any portion of the Property which has not been conveyed by the Developer to any grantee.

Section 14.10 SUCCESSORS TO DEVELOPER. The Developer reserves the right to assign to the Association or to any other entity any of its rights or functions reserved in these Covenants including, but not limited to, its rights to approve (or disapprove) plans and specifications of proposed improvements, its right to amend this Declaration, and its right of enforcement.

Section 14.11 CAPTIONS. The captions in this Declaration are for convenience only and are not a part of this Declaration and do not in any way limit or amplify the terms and provisions of this Declaration.

IN WITNESS WHEREOF, the Developer has caused this instrument to be executed by its duly authorized officers on the date set forth in the acknowledgment below, but as of the date above first set forth.

THE WOODLANDS AT FAIRHOPE,
an Alabama corporation

By: Angelo A. Corte
ANGELO A. CORTE
As its President

ATTEST:

L. W. CAVE
As its Secretary

STATE OF ALABAMA

COUNTY OF Baldwin

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that ANGELO A. CORTE and L. W. CAVE, whose names as President and Secretary, respectively of THE WOODLANDS AT FAIRHOPE, an Alabama corporation, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under by hand and seal this the 8th day of October, 1993.

(Affix Seal)

Melissa M. Phillips
Notary Public
My Commission Expires: My Commission Expires 9/3/97



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