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STATE OF ALABAMA

COUNTY OF BALDWIN

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DECLARATION OF RIGHTS, COVENANTS, RESTRICTIONS, AFFIRMATIVE OBLIGATIONS AND CONDITIONS APPLICABLE TO TERRY COVE HARBOR, A PLANNED UNIT DEVELOPMENT OWNED BY TERRY COVE HARBOR, INC.

This Declaration made this 8th day of November, 1992 by TERRY COVE HARBOR, INC., an Alabama corporation (the "Developer") applicable to Terry Cove Harbor, a planned unit development (the "Development").

WITNESSETH

WHEREAS, the Developer owns that certain land, as more particularly described in Exhibit "A" attached hereto, located in Baldwin County, Alabama (the "Property") and as shown on the Plat of Terry Cove Harbor, as recorded at Slide 1365A Thru 1366B in the records of the Office of the Judge of Probate of Baldwin County, Alabama;

WHEREAS, the Developer desires to provide for the preservation of the value of the Development and for the maintenance of the Common Properties; and to this end, the Developer has consented to subject the Property to the covenants, restrictions, easements, 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 thereof.

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.

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 Property Owners Association of Terry Cove Harbor, Inc., an Alabama non-profit corporation, its successors and assigns. This is the 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 PROPERTY OR PROPERTIES OR COMMON AREA PROPERTY OR PROPERTIES shall mean and refer to that certain real and/or personal property conveyed to the Association by the Developer in accordance with Section 8.02. In addition, the median to any portion of a private or dedicated public road or street, within or abutting the Property shall be included in the Common Properties unless otherwise provided. None of the Wilderness Areas shown on the Plat of the Property or property owned by Terry Cove Harbor, Inc. are part of the Common Properties.

Section 1.03 DEVELOPER shall mean and refer to Terry Cove Harbor, Inc., an Alabama corporation, its successors and assigns.

Section 1.04 DEVELOPMENT shall mean Terry Cove Harbor, a planned unit development, as shown on the Plat of Terry Cove Harbor, recorded in the Public Records.

Section 1.05 DWELLING UNIT shall mean and refer to that portion of any Improved Lot intended for use, or being used, as a detached single-family dwelling.

Section 1.06 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 1.07 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 1.08 LOT shall mean and refer to any of the ninety-three (93) numbered and delineated parcels shown on the Plat.

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 theory of any mortgage, "Owner" shall not mean or refer to the mortgagee, his or its successors or assigns or heirs, 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 a life estate, regardless of who owns a fee interest.

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Section 1.11 PLAT OR DEVELOPMENT PLAT shall mean and refer to the Plat of Terry Cove Harbor, as recorded at Slide 1365A THru 1366B in the records in the Office of the Judge of Probate, Baldwin County, Alabama.

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

Section 1.14 WILDERNESS AREAS shall mean and refer to those areas designated on the Plat as "Wilderness Areas".

ARTICLE II

FUTURE DEVELOPMENT AND ADDITIONS TO THE PROPERTY

Section 2.01 FUTURE DEVELOPMENT. The Developer, its successors and assigns, may develop additional 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 Properties. 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 TO PROPERTY. Additional lands may become subject to this Declaration in the following manner:

(a) Additions. During the period of development, which shall by definition extend from the date hereof to December 31, 1999, the Developer, its successors and assigns, shall have the right, without further consent of the Association, 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 and the succeeding subsection shall be made by filing a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the operation and effect of this Declaration to such additional property.

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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 and as are not inconsistent with this Declaration, but such modifications shall have no effect on the property described in Section 2.01 of this Article.

(b) Mergers. Upon merger or consolidation of the Association with another association as provided for in the By-Laws of the Association, the Association's property rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or in the alternative, the properties, rights and obligations of another association may, by operation of law, be added to the property of the Association as the surviving corporation pursuant to a merger. The surviving or consolidated association may administer the property, together with the covenants and restrictions established upon any other properties, as one plan. No merger or consolidation shall affect any revocation, change or addition to this Declaration with respect to the property including, without limitation, the maximum limits on assessments of the Association, or any other matter substantially affecting the interest of Members of the Association.

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

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ARTICLE III
GENERAL COVENANTS

Section 3.01 PURPOSES. The primary purpose of these Covenants and restrictions and the foremost consideration in the origin of same has been the creation of a development that is aesthetically pleasing and functionally convenient. The establishment of objective standards relating to design, size and locations of dwellings and other structures makes it impossible to take full advantage of the individual characteristics of each parcel of property and of technological advances and environmental values. For this reason such standards are not established by these Covenants. In order to implement the purposes of these Covenants, the Developer shall establish and amend from time to time objective standards which shall be in addition to these Covenants and shall be called the Architectural & Design Review Guidelines.

Section 3.02 LOTS LIMITED TO RESIDENTIAL USE. All Lots shall be used for 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 in accordance with the Architectural and Design Review Guidelines published from time to time by the Developer.

Section 3.03 ARCHITECTURAL AND DESIGN REVIEW

(a) Purpose. In order to preserve the natural beauty of Terry Cove Harbor and its setting, to maintain Terry Cove Harbor as a pleasant and desirable environment, to establish and preserve a harmonious design for the community, and to protect and promote the value of property, no building, fence, paving materials of any kind, dock, pier, bulkhead, shrubbery, or any other structure or improvement of any nature or addition shall be erected, placed, attached to or altered until the proposed plans, specifications, exterior color or finish, plot plan (showing the proposed location of such building or 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.

(b) Objectives. Architectural and design review shall be directed toward attaining the following:

(1) Preventing excessive or unsightly grading, indiscriminate earth moving, clearing of property, or removal of trees and vegetation which could cause disruption of natural water courses or scar natural landforms.

(2) Ensuring that the location and configuration of structures are visually harmonious with the terrain and vegetation of the Lots, and with surrounding Lots and structures, and do not unnecessarily block scenic views from existing structures or tend to dominate any general development or natural landscape.

(3) Ensuring that the architectural design of structures and their materials and colors are visually harmonious with the Development's overall appearance, with the surrounding development, with natural landforms and native vegetation, and with development plans, officially approved by the Developer, or any governmental or public authority, if any, for the areas in which the structures are proposed to be located.

(4) Ensuring that the plans for landscaping provide visually pleasing settings for structures on the same Lot

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and on adjoining or nearby Lots and blend harmoniously with the natural landscape.

(5) Ensuring that any development, structure, building or landscaping complies with the provisions of these Covenants.

(6) Promoting building design and construction techniques that respond to energy consumption and environment quality considerations such as heat loss, air emissions, and run-off water quality.

(c) Submission, Approval And Refusal Of Architecture, Siting, Landscaping And Other Building Plans. Two copies of all plans and related data shall be submitted to the Developer. 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 One Hundred Fifty And No/100 ($150.00) Dollars 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.

(d) Architectural And Design Guidelines. The Developer will publish Architectural and Design Review Guidelines from time to time which will set forth minimum criteria and controls for construction of improvements on the Property. In order to further carry out the objectives set forth in this section, the Architectural and Design Review Guidelines will provide for Lot line setbacks, Lot coverage and clearing limitations, and specify types of materials approved for incorporation in the exterior construction of structures. All plans submitted to the Developer must incorporate the provisions of these Guidelines prior to the Developer becoming obligated to review the plans, and the failure by the Developer to review non-conforming plans shall not be deemed a waiver of any of the provisions of this section.

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(e) Design Elements Which Are Prohibited. The following design elements are not acceptable in the Development:

(1) flat roofs;

(2) roof pitches in excess of twelve (12) inches rise in a twelve (12) inch run;

(3) roof pitches less than three and one-half (3 1/2) inches in a twelve (12) inch run;

(4) exposed prefab chimney flue pipes;

(5) asphalt drives;

(6) fences, with the exception of fences around garbage can storage areas or limited fencing around swimming pools;

(7) exposed concrete framing;

(8) exposed concrete block;

(9) exposed piping, electrical or heating/air conditioning system components, with the exception of air conditioning condensers;

(10) aluminum siding or vinyl siding;

(11) single glazed windows or doors;

(12) towers or turrets;

(13) barrel tile or cement tile shingles;

(14) color extremes;

(15) unstained or unpainted siding or trim; or

(16) inconsistent roof forms.

(f) Design Elements Which Are Required. The following design elements are required:

(1) Clearing of a Lot should be limited to the "footprint" of the Dwelling Unit, driveway and parking areas.

(2) As much existing plant materials as possible should be preserved.

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(3) New plant materials should be types native to the Orange Beach area.

(4) Landscape lighting should be soft.

(5) Adjacent Lot Owners' privacy should be considered.

(6) Electrical service from the street to the Dwelling Unit shall be underground.

(7) Any open area under a house shall have approved lattice work or other perimeter screening.

(8) All Dwelling Units located on Lots 1 through 28 shall be built no less than one foot above existing grade and no higher than four feet above existing grade or the minimum height required by the applicable flood zone regulations of the United States or other regulatory authority.

(9) All Dwelling Units located on Lots 29 through 93 shall be built on piling with parking underneath.

(g) Approval Not A Guarantee Or Representation Of Proper Design Or Good Workmanship. No approval of plans, location or specifications, and no publication of Architectural and Design Review Guidelines 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 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 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.

Section 3.04 SITING. All dwelling structures, buildings, and other structures must be located within the setback lines as

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shown on the Plat, the coastal construction lines, and all applicable federal, state, and local building restrictions, if any. To assure that buildings and other structures will be located so that the maximum view, privacy and breeze will be available to each building or structure, and that buildings and structures will be located with regard to the topography of each property 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 building or structure on any property in the Development. The location shall be determined only after reasonable opportunity is afforded by 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 local county regulations, the Developer shall approve automatically such location for a residence or group of residences.

Section 3.05 SIGNS AND MAILBOXES. No signs, except one (1) "For Sale" and/or "For Rent" sign not exceeding four (4) square feet, or ornaments shall be erected or maintained on the Property by anyone, including, but not limited to, the Property Owner, a realtor, a contractor or subcontractor, or except with the written permission of the Developer or except as may be required by legal proceedings. In addition, no such signs may be displayed in any manner within a residence so as to be visible from the exterior, except one (1) "For Sale" and/or "For Rent" sign not exceeding four (4) square feet. If such permission is granted, the Developer reserves the right to restrict size, color and content of such signs. Notwithstanding the above, the Developer has designed a sign for the use of contractors and architects to display during construction. These signs can be displayed for eight (8) months or until completion of construction, whichever shall first occur. No mailboxes may be erected or maintained on the Property except mailboxes approved and provided by the Developer to a Property Owner. The actual cost of providing, erecting and maintaining a mailbox, including Developer approved numbering or lettering, shall be paid by the Property Owner.

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 property either before, during or after 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

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a whole or the specific area. A garbage pick-up receptacle will be provided along the main highway.

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 night-time environment of any adjacent property.

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 one Dwelling Unit, provided said pets must be secured by a leash or lead, or under the control of a responsible person and obedient to that person's command at any time they are permitted outside a Dwelling Unit or other enclosed area approved by the Developer for the maintenance and confinement of pets.

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 into any creek, marsh, river, harbor, sound, waterway, beach, or shoreline thereof.

Section 3.10 WATER. No private water wells may be drilled or maintained on any Lot or any other portion of the Property without the approval of the Developer.

Section 3.11 REPAIRS AND HAZARDS. Any building or other improvement on any Lot attached thereto 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 at the direction of the Association or the Developer and the cost of such repairs shall become a lien against the pertinent Lot and become the personal obligation of the Owner(s) of such Lot. Any entry upon a Lot to effect such emergency repairs 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 shall have the express right, in its sole discretion, to publish rules from time to time to prohibit, regulate or otherwise deal with activities which violate this paragraph.

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Section 3.13 CERTAIN 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 without limitation the Common Properties and 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, further, an easement on, over, and under any area of the Property specifically designated on the Plat for such purpose; 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 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 on a plot plan or for erection of a building 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 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 Development. Nor shall radio, television signals, nor any other form of electromagnetic radiation be permitted to originate from any 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 of such properties. 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 Development.

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.

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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 Unimproved 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 the Lot or easements, walkways, rights-of-way, roadways, and recreational facilities. The provision of this section shall also not prohibit the combining of two (2) or more contiguous Lots into one (1) large Lot.

Section 3.17 INGRESS AND EGRESS. The Property Owner, in accepting title to property 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 rights 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 its property 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 Development to any portion or part of the Development 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 Development.

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

Section 3.19 TIME-SHARING. No Dwelling Unit or other portion of the Property within the Development shall be used for or subject to any type of vacation Time-Sharing Plan, as defined by Title 34-27-50 et. seq. of the Code of Alabama (1975), as amended.

Section 3.20 MINIMUM LEASE TERMS. No Dwelling Unit shall be leased by a Property Owner for a lease term of less than one (1) week which shall be defined as seven (7) calendar days.

Section 3.21 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 docks, bridges, walkways, or fixed spans across any or all natural or man-made waters, canals, creeks, paths, or lagoons in the Development. Nothing in this section shall be construed as placing an affirmative obligation on the Developer to provide or construct any such improvement.

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ARTICLE IV

DWELLING UNITS

Section 4.01 BUILDING HEIGHT. No Dwelling Unit shall be constructed on a Lot which has a height exceeding two (2) habitable stories. The first floor slab of Dwelling Units located on Lots 29 through 93 shall be at a minimum elevation of nine (9) feet above existing grade or the minimum height established by applicable flood zone regulations of the United States or other regulatory authority, whichever is higher. The first floor slab of Dwelling Units located on Lots 1 through 28 shall be at a minimum elevation of one foot above existing grade and no higher than four feet above existing grade or the minimum height established by applicable flood zone regulations of the United States or other regulatory authority. No habitable space shall be allowed below the first floor elevation. A raised level below the first habitable floor of a Dwelling Unit to comply with the minimum height established by applicable flood zone regulations of the United States and/or used for parking and storage shall not be considered a story for purposes of this section. 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 and shall be subject to all applicable governmental guidelines and approvals.

Section 4.02 BUILDING SIZE.

All Dwelling Unit structures shall be one, one and one-half, or two story buildings and shall have a minimum of one thousand two hundred (1,200) square feet of Enclosed Livable Area for Lots 1-55 according to the Plat thereof, and an additional minimum of two hundred forty (240) square feet of porches or verandas; a minimum of one thousand four hundred (1,400) square feet of Enclosed Livable Area for Lots 54-93 according to the Plat thereof, and an additional minimum of three hundred (300) square feet of porches or verandas.

All Dwelling Unit Structures over one story must be designed and constructed in an architecturally aesthetic manner in order to carry out the objectives set forth in Section 3.03.

Section 4.03 PARKING. Each Owner shall provide sufficient space, off Development roadways, for the parking of approved vehicles for their use and the use of their guests prior to the occupancy of any building or structure constructed on said property in accordance with reasonable standards established by the Developer.

(a) Lots 1 through 28. Enclosed parking shall be provided for two (2) vehicles for each Dwelling Unit and shall have approved lattice work or other perimeter screening. Carports must be

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behind the Dwelling Unit out of view from the street. No detached garages or carports shall be allowed.

(b) Lots 29 through 93. Enclosed parking shall be provided for two (2) vehicles for each Dwelling Unit. No attached or detached garages shall be allowed.

Section 4.04 COMPLETION OF CONSTRUCTION. The exterior of all Dwelling Units and other structures must be completed within six (6) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the Property Owner or builder due to strikes, fires, national emergency or natural calamities. Dwelling structures may not be temporarily or permanently occupied until the exteriors thereof have been completed. During the continuance of construction the Property Owner shall require the contractor to maintain the Lot in a reasonably 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 Properties 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. The landscaping plan for all Dwelling Units and other structures must be completed within ninety (90) days of occupancy or substantial completion, whichever date shall first occur.

Section 4.05 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 or in any structure on any Lot. No clothes lines are allowed on any Lot.

Section 4.06 BOAT DOCKS, PIERS AND ASSOCIATED STRUCTURES. Only the Owners of Lots 54, 55, and 59 through 93 of the Development, which have direct frontage on the water or Boat Basin as shown on the Plat, shall be permitted to construct a pier to be attached to their Lots in compliance with the Terry Cove Harbor Pier Layout Plan dated February 19, 1992, as amended, (the "Pier Plan"). Size, design and location of said pier and other associated structures shall be subject to the Developer's right to control all architectural designs and structure locations as set forth in this Article and the Pier Plan. No boat lifts, piers, docks, seawall (rip rap), bulkhead or similar erosion control device shall be erected unless and until its location and design shall have been approved by the Developer pursuant to this article

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and approved by the appropriate federal, state and local regulatory board, including but not limited to the U.S. Army Corps Of Engineers. No boat houses, gazebos, or other raised structures of any kind may be built on any piers.

Section 4.07 OTHER BUILDINGS, VEHICLES AND BOATS. No mobile home, trailer, tent, recreational vehicle or other similar vehicle, or out-building or structure shall be placed on any Lot, or any other portion of the Property at any time, either temporarily or permanently, without prior approval from the Developer. No boat may be stored on any Lot unless concealed from view by parking underneath the Dwelling Unit. No boats or trailers may at any time be parked in any front yard, guest parking area, Wilderness Area, or Common Property. No Recreational Vehicle shall be allowed on a Lot for more than seven (7) days, consecutive or non-consecutive, in any successive three (3) month calendar period.

ARTICLE V

ADDITIONAL RESTRICTIONS TO IMPLEMENT EFFECTIVE ENVIRONMENTAL CONTROLS

In order to protect the natural beauty of the vegetation, topography, and other natural features of all properties within the Development and in furtherance of the safety and aesthetic enjoyment of the Development, the following environmental controls and restrictions are hereby established.

Section 5.01 TOPOGRAPHY AND VEGETATION. In order to protect the natural beauty of the vegetation and topography of the shoreline, woodlands, and other areas within the Development, written approval of the Developer is hereby required for the removal, reduction, cutting down, excavation, filling or alteration of topographic and vegetation characteristics. Written approval will be granted for the amount of earth movement required in plans and specifications approved pursuant to the provisions of Section 3.03.

Section 5.02 TREE OR UNDERBRUSH REMOVAL. Prior to approval of a Property Owner's landscaping plan by the Developer, no trees or underbrush may be removed without the written consent of the Developer.

Section 5.03 VEHICLE CONTROL. In the interest of the health, safety and aesthetic enjoyment of the Owners and visitors within the Development, the Developer reserves unto itself, its successors and assigns, the right to prescribe or otherwise limit the type, size, axle length, tires, weight and engine or motor characteristics of all vehicles, automobiles, boats, jitneys,

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carriages or other modes of transportation to be used within the Development, including without limitation, the Boat Basin and adjoining waterways, and further, to establish and enforce speed limits, noise level limits and other traffic and vehicle rules and regulations within the Development as the Developer deems appropriate. Nothing contained in this paragraph shall affect or limit the City of Orange Beach from regulating and enforcing the use of the roads and waterways within the Development.

Section 5.04 PARKING. Parking on the paved portion of any roadway not identified as parking areas within the Development shall be prohibited at all times. Any vehicle violating this restriction may be removed by the Developer or its designated agent and towing charges assessed with the impounding of the vehicle.

Section 5.05 BOAT BASIN AND LAUNCH. In order that Property Owners, their guests and the guests of the Developer may enjoy free and uninterrupted usage of the Common Property, Boat Basin, and Pier and Launching Ramp facilities as identified on the Plat of the Development, the use of any boat or mode of transportation of any nature in the Boat Basin of the Development shall be restricted and governed by such rules and regulations as may be adopted from time to time by the Developer in its sole discretion and may be in effect by any municipal, state, or federal agency or governmental authority.

Section 5.06 SETBACK AND SIDE LINE REQUIREMENTS. All buildings built on any Lot shall comply with the setback and side line restrictions as required upon such Lot as set forth in the applicable Architectural & Design Review Guidelines and the recorded Plat. Such setback restrictions shall be a covenant running with the land.

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ARTICLE VI

PROVISIONS RELATED TO COMMON PROPERTY

Section 6.01 COMMON PROPERTY. The Developer intends to convey by statutory warranty deed to the Association as Common Property 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 Property Areas 1, 2 and 3 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 Development that the Developer elects in its sole discretion to become Common Property.

Section 6.02 EROSION CONTROL. The Developer shall have the right, but not the obligation, to protect from erosion any Property in the Development including the Common Property 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, remove diseased, dead or dangerous trees or underbrush, and carry out other similar activities.

Section 6.03 UTILITY AND GOVERNMENTAL SERVICES AND PRIVATE EASEMENTS. All Lots within the Development 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, its successors, assigns, contractors, licensees and agents a perpetual, alienable and releasable easement and right on, over and under the ground along both sides of all roads and rights-of-way and along the side and rear lines of each Lot as shown on the Plat.

Section 6.04 PUBLIC RIGHTS LIMITED. The granting of the easement in Common Properties in this part in no way grants to the public or to the owners of any land outside of the Development the right to enter such Common Properties or use the roadways or designated access routes located on the Common Properties without the express permission of the Developer, or the Association after the Common Properties are conveyed to the Association by the Developer.

Section 6.05 RESERVATIONS. The Developer expressly reserves to itself, its successors, assigns, guests, licensees and agents every reasonable use and enjoyment of the Common Properties, recreational areas, boat basin, and Wilderness 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 Development.

Section 6.06 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.

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Section 6.07 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.

Section 6.08 WILDERNESS AREAS. Those areas designated on the Plat as Wilderness Areas shall be owned by the Developer, its successors and assigns, and shall not be conveyed to the Association unless the Developer, in its sole discretion, elects to do so.

ARTICLE VII

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

The Developer has formed or will cause to be formed The Property Owners Association of Terry Cove Harbor, Inc., an Alabama non-profit corporation.

Section 7.01 MEMBERSHIP. Each Owner shall be a Member of the Association.

Section 7.02 VOTING RIGHTS. The Association shall have one (1) class of regular voting membership. Members shall be all Owners (including the Developer) of Unimproved Lots and Improved Lots. Each Member who has presented to the Corporation satisfactory proof that such Member is an owner of any such Lot prior to the close of business on the Record Date established in accordance with the Corporation's By-laws, shall be entitled to notice of and shall be entitled to one (1) vote for each Unimproved or Improved Lot owned in all matters in which membership voting is authorized in these Articles, the Corporation's By-Laws or any other rules and regulations binding upon the Corporation and its members with respect to members' voting rights.

Each Member who has provided satisfactory proof of ownership as set forth above prior to the applicable Record Date, so long as such Member is not then delinquent in the payment of assessments, shall be entitled to vote at any meeting of Members, or on any matter requiring a vote of Members, occurring subsequent to the date upon which the Member becomes an Owner, and each such Member shall be entitled to the number of votes calculated above as if each Member had been a Member for a full year and had paid the Regular Annual Assessment for the year in which the vote takes place. Payment of any Special Assessment shall not entitle Members to additional votes.

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When any Lot entitling the Owner thereof to membership in the Association has Owners which are corporations, trusts, partnerships or where two 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 officer, trustee, person or entity shall be designated the Voting Member to bind all the others. Written evidence of such designation in a form satisfactory to the Board shall be delivered to the Board prior to the exercise of a vote by such Owners.

Section 7.03 GOVERNANCE. The Association shall be governed by a Board of Directors, consisting of not fewer than three (3) nor more than five (5) Members. Initially, the Board shall consist of three (3) Members, with the number in subsequent years to be determined by the Members of the Board of Directors as provided in the By-Laws of the Association.

Section 7.04 ELECTION TO THE BOARD OF DIRECTORS.

(a) The Board of Directors shall be elected by the Members.

(b) In electing Directors of the Association, each Member shall be entitled to cast one (1) vote per Lot owned by such Member for each Director's position to be filled. No cumulative voting is permitted.

Section 7.05 QUORUM REQUIRED FOR ANY ACTION AUTHORIZED AT REGULAR OR SPECIAL MEETINGS OF THE ASSOCIATION. The quorum required for any action which is subject to a vote of the Members at a meeting of the Association shall be as follows:

With respect to any particular proposed action, the presence at the meeting of the Association of Members or proxies entitled to cast fifty-one percent (51%) of the total vote of the Membership shall constitute a quorum. If the required quorum is not present at any such meeting, one or more subsequent meetings may be called, subject to ten (10) days written notice of each such subsequent meeting being provided to all Members; and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. If a quorum is present, a majority of the votes which are properly voted at any meeting shall determine any matter coming before the meeting unless a different vote is required by a statute, by the Declaration, by the Articles of Incorporation or the By-Laws of the Association. The Members at a meeting at which a quorum is once present may continue to transact business at the meeting or any adjournment thereof, notwithstanding the withdrawal of enough Members to have less than a quorum. Notwithstanding the foregoing, except with respect to an amendment effected by the Developer pursuant to Section 12.02, no action to amend this

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Declaration shall be effective unless taken at a meeting at which Members entitled to cast sixty-six and two-thirds percent (66 2/3%) or more of the total vote of the Membership are present, either in person or by proxy.

Section 7.06 PROXIES. Each Member of the Association entitled to vote may vote in person or by proxy at any meeting of the Association. Each proxy shall be executed in writing by the Member or by his duly authorized attorney-in-fact, shall state the meeting for which such proxy is given and shall be filed with the Secretary of the Association. No proxy shall extend beyond the date of the meeting for which it is given unless such meeting is adjourned to a subsequent date.

Section 7.07 BALLOTS BY MAIL. When authorized by the Board of Directors, there shall be sent with notices of regular or special meetings of the Association, a statement of certain motions to be introduced for a vote of the Members and a ballot on which each Member may vote for or against the motion. Each ballot which is presented at such meeting shall be counted in calculating the quorum requirements set out in Section 7.05. However, such ballots shall not be counted in determining whether a quorum is present to vote upon motions not appearing on the ballot.

ARTICLE VIII

MEMBERS' RIGHTS IN THE COMMON PROPERTIES

Section 8.01 MEMBERS' EASEMENTS OF ENJOYMENT IN COMMON PROPERTIES. 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 Properties 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 in the Development 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 or use by lessees or guests of specific Association properties.

Section 8.02 TITLE TO COMMON PROPERTIES. The Developer has or will convey the Common Properties by statutory warranty deed to the Association, subject to all restrictions and limitations of record and to all additional restrictions and covenants set forth

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in the deed of conveyance. The Association shall be required to accept such conveyance of the Common Properties 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 Properties 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 Sections 3.13 and 6.03, to use certain Common Properties.

Section 8.03 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 Properties 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 Properties against foreclosures;

(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 or 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 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 Properties 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 without applying uniformly to all classes of users of the Association's facilities;

(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 roadways shown on the Plat as being within the Development, 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 said roadways, the maximum and minimum speeds of vehicles using said roadways, all

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other necessary traffic and parking regulations, and the maximum noise level of vehicles using said roadways. The fact that such restrictions on the use of the roadways 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 Properties, 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 Properties;

(h) the right of the Association, in accordance with its By-Laws, to give or sell all or any part of the Common Properties 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 votes cast at a duly constituted meeting of the Association. 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 Development as set forth in the General Covenants; and

(j) the rights that others may have, as referred to in Sections 3.13 and 6.03, to use certain Common Properties.

Section 8.04 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 Properties as Members who own or occupy such property

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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 Properties, 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, stepson, daughter, step-daughter) subject to a maximum of two (2) primary families per Dwelling Unit or Lot.

ARTICLE IX

COVENANTS FOR ASSESSMENTS

Section 9.01 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 ("Annual Assessment" or "Regular Annual Assessment"); and (2) special assessments or charges for the purposes set forth in this Article ("Special Assessment"), 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 eighteen percent (18%) from the date of delinquency until collected (unless waived by the Board), and the cost 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

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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 9.02 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 Properties, all assessments of any nature provided for herein shall be due and payable to the Developer, its successors or assigns, and all rights hereby established in 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 the improvement, replacement, maintenance, repair, enhancement, enlargement and operation of the recreational amenities, roadways, paths, boardwalks, bridges, security systems, patrols and gates, insect control, vegetation control, drainage systems and similar purposes which are for the benefit of Property Owners, including Common Properties, 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 9.03 APPLICATION OF "MAXIMUM" ASSESSMENT. The annual assessments, as set forth in the schedule hereinbelow, and as annually increased pursuant to the provisions of subparagraph (e) below, shall be levied by the Association or by the Developer pursuant to Section 9.01. 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.

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(a) The maximum regular annual assessment shall be the sums determined by the Board of Directors. The regular annual assessment for the year ending December 31, 1992 is One Hundred And No/100 ($100.00) Dollars.

(b) All assessments charged by the Association shall be rounded to the nearest dollar.

(c) From and after January 1, 1993, the maximum regular annual assessment for Improved Lots 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 9.04 SPECIAL ASSESSMENTS FOR IMPROVEMENTS AND ADDITIONS. In addition to the maximum regular annual assessment authorized by Section 9.03 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 Properties including the necessary fixtures and personal property related thereto;

(b) additions to the Common Properties;

(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.

The proportion of each special assessment to be paid by the Owners of the assessable property shall be equal to their respective proportions of the annual assessments made for the assessment year during which such special assessments are levied.

Section 9.05 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.

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Section 9.06 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, 1993. The annual assessment for the remainder of the year 1993 shall be due and payable on the date the Lot is purchased.

Section 9.07 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 9.08 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 9.09 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 Properties; and

(d) property which is used in the maintenance and service of facilities within Common Properties, or by non-profit, governmental or charitable institutions.

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Section 9.10 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 9.11 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 X

FUNCTIONS OF ASSOCIATION

Section 10.01 OWNERSHIP AND MAINTENANCE OF COMMON PROPERTIES. The Association shall be authorized to own and/or operate and maintain Common Properties and equipment, furnishings, and improvements devoted thereto. Land included in "Common Properties" shall be used in the manner set forth by the Developer and/or the Association.

Section 10.02 SERVICES. The Association shall be authorized, but not required, to provide the following services which shall not limit or affect any services provided by any municipality, county, state, or federal agency:

(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 Properties 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;

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(c) landscaping and landscape maintenance of roadways, sidewalks, walking and bicycle paths, and any Common Properties;

(d) lighting of roadways, sidewalks and paths through the Property;

(e) police protection and security, including but not limited to the employment of police and security guards and the maintenance of electronic and other security devices and control centers, for the protection of persons and property within the Property and assistance in the apprehension and prosecution of persons who violate the laws of Alabama, the United States, or other governing body within the Property;

(f) fire protection and prevention;

(g) garbage and trash collection and disposal;

(h) insect and pest control to the extent that it is necessary and desirable in the judgment of the Board of Directors of the Association;

(i) legal and scientific resources for the improvement of air and water quality within the Property;

(j) safety equipment for storm emergencies;

(k) construction of improvements on Common Properties as may be required to provide the services and equipment as authorized in this article;

(l) 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;

(m) liability and hazard insurance covering improvements and activities on the Common Properties;

(n) water, sewage and any necessary utility services not provided by a public body, private utility or the Developer;

(o) maintenance of water pollution and shoreline erosion abatement measures;

(p) 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;

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(q) 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 10.03 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 10.02 to be furnished by the Association in any given year.

Section 10.04 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 10.05 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 any outstanding amounts owing the Developer from loans made by the Developer to the Association.

Section 10.06 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 XI

ARCHITECTURAL CONTROL BY ASSOCIATION

Section 11.01 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 11.02 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 Development, 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 11.03 TRANSFER OF ARCHITECTURAL REVIEW AND APPROVAL. The Developer may assign its architectural control functions as provided in this Declaration, including those set forth in Section 3.03, at any time. The Association shall be required to accept such assignment and comply with the provisions contained in this Declaration.

ARTICLE XII

GENERAL PROVISIONS

Section 12.01 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 signed by the Owners of at least two-thirds (2/3) of the Lots.

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Section 12.02 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 is subject to the limitations set forth herein and provided, further, 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 below.

Section 12.03 AMENDMENT BY ASSOCIATION.

(a) 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 the affirmative vote of Members of the Association who own not less than a majority of the Lots, 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 who own not less than two-thirds (2/3rds) of the total Lots of the Property in order for such amendment or amendments to become effective. Thereupon, such amendment or amendments to the Declaration shall be transcribed and certified by the President and Secretary of the Association as

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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 refer specifically 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.

Section 12.04 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 12.05 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 12.06 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 12.07 AUTHORIZED ACTION. All actions which the Association is allowed to take under this instrument shall be authorized actions of the Association in the manner provided for in the By-Laws of the Association, unless the terms of this instrument provide otherwise.

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Section 12.08 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 ten (10) 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 his predecessor in title.

Section 12.09 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 and 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 12.10 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 in Section 12.01, all Common Properties 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 Properties 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 VII.

(b) The Trustee shall be required to use the funds collected as annual assessments for the operation, maintenance, repair and upkeep of the Common Properties 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

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provided. Trustee shall not have the obligation to provide for the operation, maintenance, repair and upkeep of the Common Properties once the funds provided by the annual assessments provided by this article have been exhausted.

Section 12.11 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 12.12 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 right to approve (or disapprove) plans and specifications of proposed improvements, its right to amend this Declaration, and its rights of enforcement.

Section 12.13 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, Terry Cove Harbor, Inc., has caused these presents to be executed by its duly authorized President this 8th day of December, 1992.

TERRY COVE HARBOR, INC.,
an Alabama corporation

By: W. Allen Cox
W. ALLEN COX, President

STATE OF ALABAMA
COUNTY OF MOBILE

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that W. ALLEN COX, whose name as President of TERRY COVE HARBOR, INC., an Alabama corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

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Given under my hand this the 8th day of December, 1992.

Notary Public
My Commission Expires: 6/20/94

This Instrument Prepared By:
Joseph P. Jones, Jr., Esq.
Sirote & Permutt, P.C.
One St. Louis Centre, Suite 1000
P. O. Drawer 2025
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ref:d-tcove2.jpj (12/08/92)

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