BALDWIN COUNTY, ALABAMA
TIM RUSSELL PROBATE JUDGE
Filed/cert. 11/23/2015 4:03 PM
TOTAL $ 111.00
35 Pages

1544065

STATE OF ALABAMA

AMENDMENT OF COVENANTS,
CONDITIONS, & RESTRICTIONS
OF CHELCEY PLACE SUBDIVISION

BALDWIN COUNTY

KNOW ALL MEN BY THESE PRESENTS: That, WHEREAS, the subdivision known as "Chelcey Place," containing 124 residential lots, was created by plats therefor recorded as Chelcey Place, Unit One, at Slides 2152C-D and Chelcey Place, Unit Two, at Slides 2283C-D in the Office of the Judge of Probate of Baldwin County, Alabama (the "Plats"); and

WHEREAS, Chelcey Place subdivision is subject to that certain Declaration Of Covenants, Conditions, & Restrictions of Chelcey Place recorded on April 15, 2004 at Instrument 802882 and re-recorded on May 4, 2004 at Instrument 806683 in the Office of the Judge of Probate of Baldwin County, Alabama (hereafter the "Covenants"); and

WHEREAS, capitalized terms used herein not specifically defined herein shall have the meaning ascribed thereto in the Covenants; and

WHEREAS, Chelcey Place Property Owners Association, Inc., an Alabama non-profit corporation (hereafter the "Association"), was formed by Articles of Incorporation recorded on April 15, 2004 at Instrument Number 802880 in the Office of the Judge of Probate of Baldwin County, Alabama; and

WHEREAS, pursuant to the Covenants all Owners of lots within Chelcey Place are Members of the Association; and

WHEREAS, TRB Development, Inc. was the original developer of Chelcey Place subdivision, which subsequently assigned all Developer rights related to Chelcey Place, Unit Two to Hons Builders, Inc. pursuant to documents recorded as Instrument Numbers 998295 and 998303 recorded in the Office of the Judge of Probate of Baldwin County, Alabama; and

WHEREAS, TRB Development, Inc., as of the execution hereof, owns no lots within Chelcey Place and has expressly relinquished and extinguished any rights it held as Developer related to Chelcey Place, Unit One, by that certain document recorded at Instrument Number _____ recorded in the Office of the Judge of Probate of Baldwin County, Alabama; and

WHEREAS, Hons Builders, Inc., as of the execution hereof, owns no lots within Chelcey Place and has expressly relinquished and extinguished any rights it held as Developer related to Chelcey Place, Unit Two, by that certain document recorded at Instrument Number _____ recorded in the Office of the Judge of Probate of Baldwin County, Alabama; and

WHEREAS, at a duly noticed and called meeting of the Association held on the ____ day of _____, 2015, _____ Owners were present in person or proxy; and

WHEREAS, this Amendment of Covenants, Conditions, & Restrictions of Chelcey Place evidenced hereby was submitted to the Owners and was approved by affirmative vote of _____ Owners, which represents a majority of said owners; and

WHEREAS, the undersigned, do hereby execute and record this Amendment of Covenants, Conditions, & Restrictions of Chelcey Place in order that the same shall be and become effective upon recording in the Office of the Judge of Probate of Baldwin County, Alabama.

NOW, THEREFORE, in consideration of the foregoing, the undersigned as Owners do consent to and hereby alter, amend, and modify the Covenants, Conditions, & Restrictions of Chelcey Place such that all Property described on the Plats shall be held, sold, leased, and conveyed, subject to the following easements,

restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all the parties having any right, title, or interest in the described property or any part thereof, their heirs, successors, assigns, and personal representatives, and shall inure to the benefit of each owner and lessee of any of the lands described therein as follows:

1. Definitions:

(A) "Association" shall mean and refer to Chelcey Place Property Owners Association, Inc., an Alabama non-profit corporation, which owns all right, title, and interest in the Common Area for the benefit of the Owners and is charged with the maintenance, preservation, and architectural control of Chelcey Place subdivision as more specifically set forth herein and in its Articles of Incorporation and By-laws.

(B) "Owner" shall mean and refer to the record title holder, whether one or more persons or entities, of any Lot that is a part of the Property, including contract sellers, but excluding those having such interest merely as a security for the performance of an obligation.

(C) "Property" shall mean and refer to that certain real property known as Chelcey Place subdivision as depicted on

plats thereof recorded as Chelcey Place, Unit One, at Slides 2152C-D and Chelcey Place, Unit Two, at Slides 2283C-D in the Office of the Judge of Probate of Baldwin County, Alabama.

(D) "Common Area" shall mean all parks, common area, drainage, detention, access and maintenance area, or other area of property (including improvements) not within the confines of a Lot within Chelcey Place subdivision as depicted on plats thereof recorded as Chelcey Place, Unit One, at Slides 2152C-D and Chelcey Place, Unit Two, at Slides 2283C-D in the Office of the Judge of Probate of Baldwin County, Alabama.

(E) "Lot" shall mean and refer to any numbered parcel or plot of land, excluding any Common Area, within Chelcey Place subdivision as depicted on plats thereof recorded as Chelcey Place, Unit One, at Slides 2152C-D and Chelcey Place, Unit Two, at Slides 2283C-D in the Office of the Judge of Probate of Baldwin County, Alabama.

2. Association:

(A) *Purpose and Powers.* The Association shall have all powers and obligations set forth herein and within its Articles of Incorporation and By-laws. The Association shall own, maintain, regulate the Common Area, and levy assessments for common expenses of the Association as set forth and within its Articles of Incorporation and By-laws. Every Owner shall have a

right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the lease to every Lot, subject to the rules and regulations herein and as promulgated by the Board of Directors of the Association.

(B) *Membership.* By virtue of ownership of a Lot, every Owner shall be a member of the Association. Transfer of ownership of any Lot shall automatically transfer membership in the Association. Membership or the rights and benefits in the Association may not be transferred, assigned, conveyed, or otherwise alienated in any manner separately and apart from the ownership of a Lot. Each member of these Association shall at all times comply with the provisions of these covenants and the Association Articles of Incorporation, By-laws, and all rules and regulations that may from time to time be adopted by the Board of Directors of the Association.

(C) *Board of Directors.* The Board of Directors of the Association shall have the rights and duties set forth in its Articles of Incorporation and By-laws.

(D) *Voting Rights.* The Owner of each Lot shall be entitled to one vote in any matter submitted to the members of the Association for approval. No Owner, whether one or more persons or an entity, shall have more than one membership and one vote per Lot. Fractional voting shall be permitted. An Owner

may attend meetings of the Association and vote via a proxy provided that written notice of the appointment of proxy and the intent to attend and act via proxy is delivered to the President of the Board of Directors of the Association in advance of any meeting.

(E) *Maintenance.* Unless specifically identified herein as being the responsibility of the Association, the maintenance and repair of all Lots and all improvements situated thereon or therein and all landscaping on or within a Lot shall be the responsibility of the Owner of such Lot. The Association shall repair and provide maintenance of all drainage facilities extending from the street inlets to the retention ponds as they may be located within the drainage easement areas as reflected on the recorded plats of the Property. The Association shall maintain, with the consent of governmental authorities the median areas and entrance features, if any. In addition to the rights, duties, responsibilities, and obligations of the Association otherwise set forth in these covenants, the Association shall have the power to perform or cause to be performed any of the duties and powers set forth in its Articles of Incorporation and the By-laws.

(F) *Rules and Regulations.* The Board of Directors may establish and enforce reasonable rules and regulations

governing the use of all Common Areas owned or managed by the Association. Each such rule and regulation shall be binding upon all Owners, lessees, invitees, and guests until and unless any such rule or regulation is specifically overruled, canceled, or modified by the Board of Directors or by the majority vote of the total votes of the Associations at any regular or special meeting of an Association.

3. Usage Restrictions:

(A) *Residential*: The Property shall be used for single family residential purposes only. There shall be only one residence per Lot.

(B) *Commercial Activity*: No trade or business shall be conducted upon the Property.

(C) *Leasing*: No Lot or portion thereof shall be leased for a period of less than twelve (12) consecutive months.

(D) *Parking*: Owners, tenants, and their guests shall park within confines of the garage and/or driveway on their respective Lot. Parking of any kind within the common areas or undeveloped Lots for periods in excess of twenty-four (24) hours is prohibited.

(E) *Commercial Vehicles*: No commercial truck, vehicle, or equipment shall be permitted to be parked or to be stored at any place on the Property. This prohibition on parking

shall not apply to temporary parking of trucks and commercial vehicles used for pick up and delivery. Further, provided an automobile, van, or pick-up regularly used by owner as personal transportation to and from work and which is capable of being parked inside Owner's residential garage shall not be considered a commercial vehicle even though it may have a sign or logo on the side or rear thereof.

(F) *Recreational Vehicles, Boats, Campers, and Trailers*: No boat, boat trailer, or other trailer of any kind, camper, mobile home, motor home, or disabled vehicle shall be permitted to be parked or stored on the Property unless fully hidden behind a fence or enclosed inside a structure on an Owner's Lot except for weekends from Friday at 5:00 P.M. through Monday at 5:00 A.M. and an additional day shall be allowed for weeks when national holidays are celebrated on Friday or Monday, such as Memorial Day, 4th of July, and Labor Day. None of the aforementioned vehicles shall be used as a domicile or residence, either permanent or temporary.

(G) *Firearms*: No hunting of any kind, nor any discharge of any firearm of any kind is allowed on the Property.

4. Architectural Review Committee. No home, building, gazebo, fence, garage, 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 and finish, plot plan (showing proposed location of such home, building, or structure, drives and parking area), building height and grading, and drainage plans shall have been approved by an affirmative vote of a majority of the members of the Architectural Review Committee.

(A) *Committee Members*: The Committee shall be composed of three (3) Owners who shall be appointed by the Board of Directors of the Association each year at the first Board of Directors meeting held after the annual Owners' meeting. Until the next annual Owners' meeting, the following Owners shall serve on the Committee: _____, _____, and _____.

(B) *Purpose*: The architectural and design review shall be directed toward preventing excessive or unsightly grading, indiscriminate earth moving or clearing of property, removal of trees and vegetation which could cause disruptions of natural water courses or sear natural land forms; insuring that the architectural design of structures and their materials and colors are visually harmonious with the overall appearance of the Property; and insuring that any development, structure, or landscaping complies with the provisions of these covenants.

(C) *Process*: Two (2) copies of all plans and related data shall be submitted to the Architectural Review Committee. Approvals shall be evidenced by a written notice to the Owner for commencement of construction dated and shall not be effective for construction commenced more than twelve (12) months after such approval. Disapproved plans and related data shall be accompanied by a reasonable statement of the items found unacceptable. In the event approval of such plans is neither granted nor denied within 30 days following receipt by the Architectural Review Committee of the written request for approval, the provisions of these sections shall be thereby waived. Refusal or approvals of plans, site location, building height, or specifications may be based by the Architectural Review Committee upon any ground which is consistent with the objectives of these covenants, including purely aesthetic considerations, so long as such ground is not arbitrary of capricious.

(D) *Variance*: Requests for variances from these restrictions related only to setbacks set forth herein or on the Plats in order to further goals set forth in Paragraph (B) herein above may be granted upon written application therefor to the Architectural Review Committee. A request for a variance must be submitted in writing to the Committee by the Owner with a plat or

survey that depicts the Lot dimensions, the applicable setbacks, and the dimensions of the setback or structure for which a variance is sought. The Committee shall issue a written certificate granting or denying the variance suitable for recording within sixty (60) days following receipt by the Architectural Review Committee of the written request therefor. The failure to by the Committee shall be deemed to have recommended approval of said variance and the President of the Association shall execute the certificate of variance. The Owner shall be responsible for all costs associated with the preparation of the documentation and recording of the variance.

(E) *No Representation or Warranty*: No approval of plans, location or specification shall ever be construed as representing or implying that such plans, specifications, or design, if followed, will result in a properly designed residence or that it will comply with applicable federal, state or local governmental laws, regulations and ordinances (and each owner shall be responsible for ensuring that his plans, specifications, etc. and construction pursuant thereto as well as the use of the Lot comply in all respects with all federal, state or local governmental laws, regulations and ordinances). 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 Architectural Review Committee 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 and constructions pursuant to such plans and specifications. The Owner shall have sole responsibility for compliance with approved plans and does hereby hold the Architectural Review Committee and the Association harmless for any failures thereof.

5. Aesthetics/Construction Requirements: The Owners desire to maintain standards that will insure that each residence and appurtenant structures within Chelcey Place will be of such design and construction to be compatible with their neighbors and with the design theme in the subdivision.

(A) *Building Construction in General*: No construction whatsoever shall be commenced until the Owner and/or his agent responsible for construction shall have obtained all construction and work permits necessary from all governmental agencies having jurisdiction over any aspect of such construction and the Architectural Review Committee.

(B) *Structure Size*: All residential structures must contain at least 1,600 square feet of heated and cooled enclosed living area, exclusive of porches, decks, patios, garages. Each structure shall contain a two (2) car garage. No residential

structure shall contain more than two (2) stories and if a structure does contain two (2) stories, the bottom story must contain at least 1,200 square feet of heated and cooled enclosed living area, exclusive of porches, decks, patios, garages.

(C) *Setback Lines*: Building setbacks shall be subject to applicable zoning ordinances; however, in no case shall such setback lines be less than as shown on the recorded plat or plats of such property.

(D) *Exterior Finish*: The Architectural Review Committee prior to construction must approve all exterior finishes. As a minimum guideline, any part of the lower story of a residence or any appurtenant structure shall be constructed of brick, durarock, drivit, or other material approved by the Architectural Review Committee; hardboard, press board, and vinyl siding shall not be utilized; and vinyl and/or painted aluminum soffit and fascia board covering shall be allowed.

(E) *Wood Finishes*: All wood finishes of all improvements shall be either painted or stained, as approved by the Architectural Review Committee.

(F) *Grade Level*: The lower finished floor of any residence shall be a minimum of twelve (12) inches above the finished grade of the lot.

(G) *Roofing*: Roofs must be asphalt architectural shingle material only. No turbines of any kind shall be allowed on the roof of any residence. Roof pitch must be at least seven (7) in twelve (12). Roofing of less pitch shall be allowed only in minor areas not to exceed twenty percent (20%) of total roofing area or as may be approved by the Architectural Review Committee. All appurtenant structure roofs shall be of a material compatible with the main structure.

(H) *Chimneys*: All exposed chimney flues shall be enclosed so to be architecturally compatible with the main structure.

(I) *Exterior Lighting*: Exterior lighting of residences, appurtenant structures, or landscaping shall be in character and keeping with the general subdivision. Landscape lighting shall be directed away from adjacent Lots.

(J) *Landscaping*: Prior to occupancy of any residence, the Lot shall, at a minimum, shall be completely sodded in the front and side yards and no less than three-fourths of the back yard shall be sodded.

(K) *Mailboxes/Newspaper Boxes*: The Architectural Review Committee must approve the design of all mail and/or newspaper boxes and is authorized to designate one style or model of acceptable mail and/or newspaper boxes.

(L) *Outdoor Equipment and Sports Equipment*: All garbage and trash containers, bottled gas tanks, swimming pool equipment and housing, sprinkler pumps, or other outdoor equipment must be underground or placed in walled or sight screened fenced areas so that they shall not be readily visible from any adjacent street or property, and adequate landscaping shall be installed and maintained around these facilities. All outdoor sports equipment, except for portable basketball goals, shall be stored in the garage or backyard such that it is not visible from the street or adjacent Lot when not in use. Portable basketball goals may be maintained and stored within that portion of a driveway servicing a Lot between the edge of the sidewalk and the residence or garage.

(M) *Driveways*: Each residence must have a permanent driveway constructed of concrete or brick pavers. All driveways must be completed prior to occupancy of the residence and must be designed in a fashion to accommodate cars for both owners and guests. The Architectural Review Committee shall approve all locations of driveways. Entryways on Lots that may front on two (2) streets or roadways shall require Architectural Review Committee approval. Within 90 days of transfer of any Lot, a sidewalk across the front of said Lot shall be constructed. Said

sidewalk must be uniform with the balance of the subdivision and meet the approval of the Architectural Review Committee.

(N) *Fences*: Fencing is not required. However, no fencing in excess of six (6) feet in height shall be constructed. No chain link fences shall be allowed on any Lot. The Architectural Review Committee prior to construction thereof must approve all fences, hedges, or ornamental structure. All fences five (5) feet in height or more shall be of the same aesthetics of the neighborhood.

(O) *Pools and Pool Enclosures*: All pools and pool enclosures must be designed to compliment the architectural components of the dwelling. Pools must be in ground only. Pool enclosures may not be free standing. If screening is desired, the enclosure must be designed as an integral part of the roof and walls and not appear as an added appendage. All pool equipment, pumps, and etc. shall be stored out of view and pump houses must be architecturally related. Above ground spa or Jacuzzi may be permitted with prior written approval of the Architectural Review Committee.

(P) *Signs*: No signs, free standing, or otherwise installed, shall be erected or displayed in or on any Lot or structure, unless the placement, character, form, size, lighting, and time of placement of such sign shall be first approved in

writing by the Architectural Review Committee. No sign shall be in excess of two (2) square feet.

(Q) *Antenna*: No exterior antenna, antenna poles, antenna masks, antenna towers, or other such apparatus shall be permitted. Satellite dishes of a diameter of twenty (20) inches or less shall be allowed, however, such satellite dish must be located as close to the rear of the residential structure as is possible while securing a proper signal.

(R) *Clotheslines*: No exterior clotheslines shall be allowed.

(S) *Window Coverings*: Reflective window coverings are not allowed. The Architectural Review Committee must approve all awnings, canopies, shutters, patio covers or other such window coverings in writing. No wall or window air conditioning units shall be allowed.

6. Pets and Animals:

(A) Commonly accepted household pets such as dogs, cats, and pet birds may be kept in reasonable numbers. All animals shall be contained on the Owner's Lot and shall not be permitted to roam free. Such domestic pets shall not be used or kept for any commercial purpose and further said domestic pets shall do not constitute a disturbance or nuisance to other Owners.

(B) No hogs, pigs, swine, goats, chickens, pigeons or other obnoxious animals, fowl or reptile, shall be kept or permitted to be kept on the Property.

7. Water System. No private water system may be constructed except for private irrigation systems. All such irrigation systems, including the pumps and tanks utilized therein, must be screened from public view.

8. Garbage, Refuse and Neatness. All lots and adjacent rights-of-ways, whether occupied or unoccupied, and any improvements placed thereon, shall at all times be maintained by the Owner of all such lots in a neat, attractive, and presentable condition, even when such improvements are under construction. They shall be maintained in such manner as to prevent their becoming unsightly by reason of weeds, underbrush, or unattractive growth on such lot or the accumulation of piles, rubbish, debris, or unsightly objects thereon; nor shall any such rubbish, debris, or unsightly objects be dumped on any other lot or on any adjoining property, or otherwise disposed of in any manner not consistent with applicable laws. No lumber, metals, or bulk materials shall be kept, stored or allowed to accumulate on any lot within the property, except building materials during the course of construction. Builders must provide dumpsters on the property during construction and reasonable clean up shall be

completed upon the construction site on a daily basis. Trash, garbage, or other waste material shall not be kept on any lot except in sanitary containers. Also, Owners shall be responsible for periodic clean ups on their respective lots during the period the house is under construction to prevent their trash from blowing onto other lots and causing an unsightly situation for the neighborhood.

After ten (10) days' written notice to an Owner of the existence of a condition in, on or upon his, her, their Lot, which in the sole discretion of the Association, detracts from the overall beauty or safety of the Property, the Association is authorized, but not obligated, to enter upon any Lot with such equipment and devices as may be necessary for the purpose of mowing, removing, clearing, or cutting underbrush, weeds or other unsightly growth and trash between the hours of 7:00 A.M. and 6:00 P.M. on any day except Sunday and said entry and work shall not be a trespass. The Association shall invoice the Owner for its actual costs for any such work together with a twenty-five percent (25%) administrative charge and interest at the annual rate of twelve percent (12%) until paid, which sums due shall constitute a lien upon the Lot upon which the work was done enforceable by appropriate proceedings at law or equity. The provisions of this section shall not be construed as an

obligation on the part of the Association to mow, clear, cut, or prune any lot nor to provide garbage or trash removal services.

9. Repairs and Hazards. Any structure damaged or destroyed by casualty loss, partially or totally, shall be repaired or demolished within a reasonable period of time and the Lot on which it was located restored to an orderly and attractive condition.

10. Nuisance. No obnoxious, offensive, or illegal activity shall be carried on upon the Property nor shall anything be done on any Lot that may become an annoyance or nuisance to other Owners. Each Owner shall maintain his/her unimproved Lot by mowing said Lot.

11. Assessments.

(A) *Assessments and Creation of Lien*: Each Owner of a Lot, by acceptance of a deed or other instrument conveying any interest therein, regardless of whether such deed or instrument contains a reference to these covenants, is hereby deemed to covenant and agree to pay to the Association (i) an annual assessment, as established and to be collected as provided herein below; and (ii) special assessments, to be established and collected as provided herein below. All assessments, together with late charges, interest, and all attorneys' fees and costs incurred by the Association to enforce or collect such

assessments, shall be an equitable charge and a continuing lien upon each Lot for which the Owner thereof is responsible for the payment of the same, which lien may be enforced in the manner provided below. Each Owner shall be personally liable for the payment of all assessments coming due while he, she, or it is the Owner of any Lot and such Owner's grantee shall take title to such Lot subject to the equitable charge and continuing lien therefor, but without prejudice to the rights of such grantee to recover from his, her, or its grantor any amounts paid by such grantee to the Association that were the legal obligations of such grantor. All assessments, together with late charges, interest, and all attorneys' fees and costs incurred by the Association shall also be a personal obligation of the person who was the Owner of the Lot at the time such assessment and other costs and charges were assessed or incurred. In the event of co-ownership of any Lot, all of the Owners shall be jointly and severally liable for the entire amount of such assessments, late charges, interest, and all attorneys' fees and costs due. Foreclosure by a mortgagee shall not relieve any Owner whose Lot has been foreclosed from the personal obligation to pay all assessments and any other charges levied, assessed, or incurred by the Association shall have the right to pursue all rights and

remedies against a defaulting Owner notwithstanding the foreclosure of a mortgage by third party on such Owner's Lot.

(B) *Purpose of Assessments*: The annual and special assessments provided for herein shall be used for the payment of expenses incurred by the Association as contemplated hereunder for the general upkeep and maintenance of the Common Area, any improvements thereto, cost of insurance, or other expense or cost all as may be more specifically authorized from time to time by the Association.

(C) *Uniform Rate*: Any annual or special assessment shall be assessed against each Lot in the Property at a uniform rate, with the Owner of each Lot being required to pay that Owner's pro rata portion of such annual and special assessment, as determined by a fraction, the numerator of which shall be one and the denominator of which shall be the total number of Lots within the Property.

(D) *Computation of Annual Assessments*: Commencing with the fiscal year of the Association that begins on the date of its incorporation through December 31st of that year, and annually thereafter, on January 1st for each subsequent fiscal year of the Association (that is, from January 1st in each year through December 31st in each year), the Association shall determine and adopt annually an annual budget covering the

estimated expenses for the Common Area for the upcoming year, such budget to include a capital contribution or reserve account if necessary for the capital needs of the Association. The amount set forth in such budget shall constitute the aggregate amount of annual assessments for the then applicable year and each Owner shall pay the pro rata share of the same as provided above. A copy of the budget setting forth the amount of the annual assessments to be levied against the Lot for the following year shall be delivered by the Association to each Owner.

(E) *Special Assessments*: In addition to the maximum regular annual assessment, the Association may also levy a special assessment for the purpose of repair or replacement of drainage or detention structures, lighting, or other such infrastructure; insect control; extraordinary legal or accounting costs; capital improvements to the Common Area, repayment of any loan made by the Association to enable it to perform the duties and obligations authorized herein.

(F) *Payment*: Assessments shall be paid in such manner and on such dates as may be fixed by the Association. All assessments shall be payable without offset, diminution, or abatement by reason of fire or other casualty or any taking as a result of, in lieu of, or in anticipation of the exercise of the right of eminent domain, condemnation, or by private purchase in

lieu thereof with respect to any Lot, Common Area, or any other portion of the Property or any other cause or reason of any nature.

12. Effect of Non-Payment of Assessment; Remedies.

(A) *Default*: Each Owner of a Lot is and shall be deemed to covenant and agree to pay to the Association all assessments provided for herein. If any assessments or any portion thereof are not paid when due, the same shall be subject to a late charge in an amount determined and uniformly applied from time to time, and the Owner of such Lot shall be deemed in default herewith. If any assessments or any portion thereof are not paid within thirty (30) days after the due date of the same, then the unpaid portion of the Assessment shall accrue simple interest at the legal rate from the thirtieth (30^{th}) day from the due date until the same is paid in full. If the Association employs an attorney or otherwise takes any legal action in attempting to collect any amounts due from any Owner, such Owner agrees to pay all attorneys' fees, court costs, and all other expenses paid or incurred by the Association. The lien and equitable charge upon each Lot for assessments as provided above shall also include all late charges, interest at the legal rate, and all attorneys' fees, court costs, and all other expenses paid

or incurred by the Association in attempting to collect any unpaid assessments.

(B) *Remedies*: In the event any assessments or other amounts due to the Association are not paid by any Owner when the same becomes due, then in addition to all other rights and remedies provided at law or in equity, the Association, acting through its Board of Directors, or through any of its officers or authorized representatives, may undertake any or all of the following remedies:

(i) the Association may commence and maintain a suit at law against an Owner to enforce such charges and obligations for Assessments and any such judgment rendered in any such action shall include the late charge and interest at the legal rate, together with attorneys' fees, court costs, and all other expenses paid and incurred by the Association in collecting such unpaid assessments; and/or

(ii) the Association may enforce the lien created pursuant hereto in the manner hereinafter provided.

(C) *Lien and Power of Sale*: The lien upon each Lot for assessments is with power of sale that secures the payment to the Association of any and all assessments levied against or upon such Lot, all late charges, interest at the legal rate, and all attorneys' fees, court costs, and all other expenses paid or

incurred by the Association in collecting any assessment. If any Assessments remain unpaid for more than sixty (60) days, then the Association may, but shall not be obligated to, make written demand on such defaulting Owner, which demand shall state the date and amount of delinquency. Each default shall constitute a separate basis for a demand and claim of lien, but any number of defaults may be included in a single demand. If such delinquency is not paid in full within ten (10) days after the giving of such demand or, even without giving demand, the Association may file a claim of lien and perfect its lien against the Lot of such delinquent Owner, which claim shall be executed by any member of the Board of Directors of the Association, contain the following information, and be recorded in the Office of the Judge of Probate of Baldwin County, Alabama:

(i) the name of the delinquent Owner;

(ii) the legal description and street address of the Lot upon which the lien claim is made;

(iii) the total amount claimed to be due including late charges, interest at the legal rate, collection costs, and attorneys' fees incurred to date and a statement, if applicable, that such charges and costs shall continue to accrue and be charged until full payment has been received; and

(iv) a statement that the claim of lien is made by the Association pursuant to these covenants and is claimed against such Lot in an amount equal to that stated therein. Except as provided herein below, said lien provided shall be in favor of the Association, shall be for the benefit of all other Owners (other than those Owners in default) and may be foreclosed in the same manner as now provided by law in the case of past mortgages, and the Association shall be authorized, at its option, to sell the Lot under the power of sale that is hereby given to the Association, at public outcry, to the highest bidder for cash, at the front or main door of the Baldwin County Courthouse in Bay Minette, Alabama, after first having given notice by publication once a week for three successive weeks of the time, place, and terms of such sale, together with a description of the Lot to be sold, by publication in some newspaper published in Baldwin County. The sale shall be held between the hours of 11:00 A.M. and 4:00 P.M. on the day designated for the exercise of the power of sale hereunder. The Association shall have the right and power to bid at any such foreclosure sale and to purchase, acquire, hold, lease, mortgage, convey, and sell any such Lot. Each Owner, by acceptance of a deed to any Lot, shall be deemed to:

(a) grant to and vest in the Association or its agents the right and power to exercise the power of sale granted herein and foreclose the lien created herein;

(b) grant to and vest in the Association or its agents the right and power to bring all actions against such Owner personally for the collection of all amounts due from such Owner;

(c) expressly waive any objection to the enforcement and foreclosure of the lien created herein; and

(d) expressly waive the defense of the statute of limitations that may be applicable to the commencement of any such suit or action for foreclosure.

(D) *Subordination of Lien*: Notwithstanding anything provided herein to the contrary, the lien for Assessments and other charges authorized herein with respect to any Lot is and shall be subordinate to the lien of any first mortgage or purchase money mortgage, but only to the extent that such mortgage is recorded in the Office of the Judge of Probate of Baldwin County, Alabama prior to the filing of a claim of lien by the Association.

(E) *Certificates*: The Association or any officer or authorized representative thereof shall, upon request and at such reasonable times as may from time to time be adopted by the Board

of Directors, furnish to any Owner a certificate in writing setting forth whether the assessments for which such Owner is responsible have been paid and, if not paid, the outstanding amount due and other costs and expenses due from such Owner. Such certificate shall be conclusive evidence of payment of any assessments stated therein.

13. Enforcement/Waiver: As a means to enforce these covenants, conditions, restrictions, architectural controls, or any such other rule or regulation adopted by the Association, the Association shall send written notice to any Owner whose actions or inactions are in violation thereof. Said written notice shall set forth the date by which the Owner shall cure and abate the violation. Upon failure of the Owner to time cure and abate the violation, the Association is authorized to impose reasonable fines (including daily fines) or other sanctions against the Owner responsible for said violation, which such abatement costs or fines shall be collected as provided herein for the collection assessments. Such fines and other sanctions or assessments shall be a lien which runs with the property and which takes precedence over all other liens excepting property tax liens and mortgages recorded prior to the date of recording of this amendment.

In no event shall violation of these covenants effect a reversion or forfeiture of estate. The failure to enforce any

covenant 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 the same thereafter. In the event of any violation or attempted violation or circumvention of these covenants, conditions, restrictions, architectural controls, or any such other rule or regulation adopted by the Association, the Association or any Owner may prosecute any proceedings at law or in equity against the person or person violating or attempting to violate or circumvent any of these covenants, conditions, restrictions, architectural controls or any such other rule or regulation adopted by the Association, either to prevent her, him or them from so doing or to recover damages, assessments, fees, penalties, and/or attorney's fees for such violation, and in the event that it is the Association who has filed the legal action, it shall be entitled to receive an award or reasonable attorney's fees for the successful prosecution of such an action.

14. Severability: Should any provision, clause, restriction, limitation, or condition of these restrictive covenants be declared to be unenforceable, against public policy, illegal, or inconsistent with or contrary to the Constitution or laws of the United States, or the Constitution or laws of the State of Alabama, by any court of competent jurisdiction or by a legislative declaration by the United States Congress or the

legislature of the State of Alabama, the other provisions, clauses, restrictions, limitations, and conditions shall in no way be affected, altered, or invalidated. These restrictive covenants shall not be altered, affected, or in any way diminished by the annexation of the lands to which they apply by any Alabama municipality.

15. Term. The covenants contained herein shall run with the land and shall be binding on all parties and all persons claiming under them and all persons, firms, or corporations owning any Lot within the Property for a period of twenty (20) years from the date of the execution hereof, after which period said covenants shall be automatically extended for successive ten (10) year periods unless, at any time, an instrument, signed by the then Owners of the fee simple title to eighty percent (80%) of the Lots, is recorded in the office of the Judge of Probate of Baldwin County, Alabama, indicating an intent to cancel, alter, or otherwise modify said covenants.

16. Amendment: These covenants may be amended, altered, or annulled at any time by the written consent of the Owners representing a majority of the total membership of the Association at a duly called meeting of the Association. Such consent shall be in the form appropriate for recording in the probate records of Baldwin County, Alabama and executed by the

President and attested by the Secretary of the Association. No amendment shall be effective until recordation of the same in the Office of the Judge of Probate of Baldwin County, Alabama.

IN WITNESS WHEREOF, the undersigned, do cause these presents to executed upon affirmative vote of Lot Owners in Chelcey Place subdivision as set forth above on the 9th day of November, 2015.

CHELCEY PLACE PROPERTY OWNERS ASSOCIATION INC., an Alabama non-profit corporation

By: _____ (SEAL)
Steven P. Savarese,
As its President

ATTEST:

Steven Savarese
As Its President

By: Angie Paquette (SEAL)
Angie Paquette,
As its Secretary

ATTEST:

Angie Paquette
As Its Secretary

STATE OF ALABAMA

COUNTY OF BALDWIN

I, Wanda L. Brown, a Notary Public, in and for said County in said State, hereby certify that **STEVEN P. SAVARESE**, whose name as President of Chelcey Place Property Owners Association, Inc., an Alabama non-profit corporation, is signed to the foregoing instrument and 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 on the day the same bears date for and as the act of said corporation.

Given under my hand and seal this 9th day of November, 2015.

Wanda L. Brown
NOTARY PUBLIC, Baldwin County, Alabama
My Commission Expires: 1/28/2017

STATE OF ALABAMA

COUNTY OF BALDWIN

I, Wanda L. Brown, a Notary Public, in and for said County in said State, hereby certify that **ANGIE PAQUETTE**, whose name as Secretary of Chelcey Place Property Owners Association, Inc., an Alabama non-profit corporation, is signed to the foregoing instrument and is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, she, as such officer and with full authority, executed the same voluntarily on the day the same bears date for and as the act of said corporation.

Given under my hand and seal this 9th day of November, 2015.

Wanda L. Brown
NOTARY PUBLIC, Baldwin County, Alabama
My Commission Expires: 1/28/17

This instrument prepared by:

JESSICA M. MCDILL

of the firm of CHASON & CHASON, P.C.
P. O. Box 100
Bay Minette, Alabama 36507
(251) 937-2191

00024159.WPDver3