DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE COMMUNITIES OF SUNSET BAY FOR SUNSET BAY

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SUNSET BAY, PHASE I

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE COMMUNITIES OF SUNSET BAY FOR SUNSET BAY, PHASE I

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This Declaration of Covenants, Conditions and Restrictions For Sunset Bay, Phase I (the "Declaration") is made on this the 23rd day of September, 2003, by Tugboat Properties, LLC ("Declarant").

The Declarant is the owner of the property described in Exhibit AA attached hereto, and certain additional property which Declarant or its affiliates now own or may hereafter acquire described in Exhibit BB attached hereto ("Additional Property") the Communities of Sunset Bay property, and by reference hereto made a part hereof for all purposes.

The Declarant desires to create and develop a residential community and a private boat docking facility on that portion of the property described in Exhibit AA attached hereto (the "Property"), which shall have designated common areas ("Common Areas"), which include, but are not limited to, private streets, landscaped entrance with landscaping along the front and islands in the streets, front fence, electronic gate, walkways, drives, cart paths, yacht club, swimming pool, pool fence, a boating canal, bath house and other common facilities ("Common Facilities") for the benefit of the members of Sunset Bay Owners Association (the "Association"). The Declarant shall make the Property subject to this Declaration and will cause the Property to be plated and subdivided into residential lots and a boat docking facility with not more than seventy-nine (79) boat slips.

The Declarant desires to provide for the preservation of the values and amenities in, and the enhancement of the charm and beauty of, the Communities of Sunset Bay, and for the designation, administration and maintenance of the Common Areas and Common Facilities within the Communities of Sunset Bay. Therefore, the Declarant desires to subject all of the Property, described in Exhibit AA, to this Declaration, including any and all improvements constructed or to be constructed on Property (some times herein referred to as "Phase I") to the covenants, conditions, restrictions, uses, limitations, obligations, easements, servitudes, charges, assessments and liens contained in this Declaration which, individually and collectively, are for the benefit of Phase I, each Owner of a Lot and each Owner of a Boat Slip in Phase I, and the Declarant. Therefore, the Declarant has created and organized Sunset Bay Owners Association, an Alabama nonprofit corporation (" Association"), and has delegated and assigned the powers and duties created by and in this Declaration to the Association for the administration and maintenance of the Common Areas, Common Facilities and other matters as set forth in this Declaration.

The preservation and maintenance of the Common Areas and Common Facilities, the administration and enforcement of the provisions of this Declaration and the determination, collection and disbursement of actual maintenance assessments and special assessments and other charges (collectively "Assessments") shall be performed and administered by the Association.

Now, therefore, the Declarant declares that all of the Property as described on Exhibit AA shall be leased, held, transferred, assigned, sold, conveyed, rented, used, occupied, hypothecated or encumbered, and improved subject to the provisions of this declaration which (i) are agreed and declared to be beneficial for and in aid of the development of the residential community and the

improvements of the Property, (ii) shall be deemed to run with and bind the Property, and (iii) shall inure to the benefit of the enforceable by the Declarant, its successors and assigns, and each Person who has or acquires any interest in any portion of the Property or the improvements on the Property, including the Association, any Owner and any Person who holds such interest solely as security for the performance of an obligation or the payment of a debt.

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ARTICLE I.
DEFINITIONS

Section 1.01. Definitions. For all purposes of this Declaration, the following words and terms shall have the meanings assigned in this Section 1.01 unless otherwise specified or the context requires a different construction.

"Additional Property" shall mean the property described on Exhibit BB attached hereto and any other property situated in Baldwin County, Alabama, in the proximity to said property, now or hereafter owned by the Declarant or any of its members or any other entity in which the Declarant or its members own an interest.

"Architectural Review Committee" shall mean and refer to the committee which shall be appointed by the Association's Board of Directors to approve exterior and structural improvements, additions, and changes within the Development as provided in Article X hereof.

"Assessment" shall mean a Lot Assessment or a Boat Slip Assessment.

"Association" shall mean the Sunset Bay Owners Association, an Alabama not for profit corporation, and its successors and assigns.

"Board of Directors" shall mean the Board of Directors of the Association.

"Boat Slip" shall mean each subdivided parcel, plot or tract of land constituting a portion of the Property which is shown and designated as a numbered Boat Slip on the subdivision plat filed for record in the office of the probate judge of Baldwin County, Alabama, and is improved with a Boat Slip, but does not include the Common Areas, which includes, but is not limited to the Boat Canal, the retaining wall around the Boat Canal, any boardwalk abutting the retaining wall or any Lots. One Boat Slip will be assigned to each Lot in Sunset Bay, Phase I. The remaining Boat Sips may be sold by the Declarant to any other individual or to an owner of a lot in any portion of the Additional Property annexed to the Property as herein provided. (See Section 9.02)

"Boat Slip Assessment" shall mean the share allocated to a Boat Slip, and thereby the Owners of such Boat Slip, of the Association's (i) maintenance Assessments, if levied by said Board of Directors, as described under Section 5.02, (ii) special Assessments under Section 5.03, and (iii) expenses, costs, charges and other amounts incurred with respect to either such Boat Slip or the satisfaction, discharge or compliance with any obligations or duties of the Owners of such Boat Slip as specified in this Declaration.

"Bylaws" shall mean the bylaws of the Association as amended from time to time.

"Charter" means The Articles of Incorporation of the Association, as amended from time to time.

"Common Areas" shall mean all of that portion of the Property shown and designated on the Plat of Phase I as Common Area, including, but not limited to, all land that is within the boundaries of the private streets, access easements, boardwalk easements and that portion of the boat canal that is not a part of the subdivided Boat Slips all as depicted on the Plat and which Common Area is owned by or otherwise made available to the Association for the common use, benefit and enjoyment of the Members.

"Common Facilities" shall mean all the buildings and improvements, including, but not limited to the walkways, cart paths, boardwalks, bulkheads, yacht club, swimming pool, pool fence, bath house, fences and gates and any other improvements constructed on any portion of the Common Area for the common use, benefit and enjoyment of the Members.

"Declarant" shall mean Tugboat Properties, LLC, a Mississippi limited liability company authorized to do business in Alabama and its successors and assigns.

"Declaration" shall mean this Declaration of Covenants, and Restrictions for the Communities of Sunset Bay for Sunset Bay, Phase I, as Supplemented from time to time.

"Developer" means the Declarant and each Person who is a successor in title to or acquires a fee simple interest from the Declarant with respect to any Lot, except the Association, and with the Declarant's permission is engaged in the business of the development, improvement and sale of any Lot, including the construction and sale of a Dwelling and related improvements or appurtenances on any lot.

"Dwelling" shall mean a fully detached residence which is designed and used as a conventional single family home, and which should be designed to maximize views, climatic conditions, and the environmental amenities of the site.

"Eligible Mortgage Holder" shall mean those holders of a First Mortgage on a Lot who have requested, in writing, the Association to notify them on any proposed action that requires the consent of a specified percentage of eligible mortgage holders or of any Assessment or installment thereof, which shall become and remain delinquent for a period in excess of sixty (60) days.

"First Mortgage" shall mean a mortgage, deed of trust or similar encumbrance creating a lien or encumbrance against a Lot which has priority over all other mortgages, deeds of trusts or similar encumbrances creating liens or encumbrances against such Lot.

"Guidelines" shall mean the Development Guidelines adopted by the Declarant and the Board of Directors as a part of this Declaration to serve as a reference tool and decision-making guide for the proper development and construction of Dwellings and any improvements or repairs thereto approved by the Architectural Review Committee on any Lot or Boat Slip in Sunset Bay, Phase I or any portion of the Additional Property that may be annexed to the Property, from time to time, as provided by Section 2.03 hereof. No such guideline, statement, criteria or the like shall be construed

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as a waiver of the provisions of any other provision or requirement of this Declaration.

"Invitees" shall mean an Owner's tenants, guests, patrons, employees or other guests or invitees.

"Limited Common Area" shall mean that portion of the property which has been assigned for the exclusive use of owners of fewer than all of the Lots and Boat Slip Owners.

"Lot" shall mean each subdivided parcel, plot or tract of land constituting a portion of the Property which is shown and designated as a numbered lot on any subdivision plat filed for record in the office of the probate judge of Baldwin County, Alabama, and is intended to be improved with a Dwelling, including, but not limited to, all Lots in Sunset Bay, Phase I and all other Additional Property annexed hereto, but does not include the Common Areas. A Boat Slip shall be assigned to each and every Lot in Sunset Bay, Phase I as an appurtenance to such Lot. Lots 3 through Lot 20, inclusive, are hereby permanently assigned the Boat Slip that abuts the west boundary line of each of said Lots as depicted on the Plat. Lots 1, 2, and 21 through 48 will be assigned a Boat Slip at the time each of said Lots are conveyed by the Declarant to an Owner other than the Declarant. (See Section 9.02)

"Lot Assessment" shall mean the share allocated to a Lot, and thereby the Owners of such Lot, of the Association's (i) maintenance Assessments if elected by the Board of Directors and Class A Members as described under Section 5.02, (ii) special Assessments under Section 5.03, and (iii) expenses, costs, charges and other amounts incurred with respect to either such Lot or the satisfaction, discharge or compliance with any obligations or duties of the Owners of such Lot as specified in this Declaration.

"Management Agent" means the Person, if any, employed or retained by the Board of Directors for the purpose of conducting and managing the daily operations of the Association.

"Member" shall mean each Person who holds or has any class of membership in the Association as provided by Article III.

"Mortgagee" shall mean any Person who owns, holds or is the beneficiary of a mortgage, deed of trust or similar encumbrance creating a lien or encumbrance against any Lot, including, but not limited, to (i) a bank, (ii) a savings and loan association, (iii) a trust company, (iv) an insurance company, (v) a mortgage company, (vi) a trust, (vii) a mortgage insurance company, (viii) a mutual savings bank, (ix) a real estate investment trust, (x) a credit union, (xi) a pension fund, (xii) the Federal National Mortgage Association, (xiii) the Federal Home Loan Mortgage Corporation, (xiv) a recognized institutional type lender or loan correspondent, (xv) any agency or a department of The United States of America or any state, county or municipal government, (xvi) a corporation, or (xvii) an individual.

"Owner" shall mean the record holder, whether one or more Persons, of a fee or undivided fee interest in or to any Lot and a Boat Slip or a Boat Slip, including contract sellers, but excluding those Persons who hold an interest in a Lot merely as security for the performance of an obligation or payment of a debt.

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"Person" shall mean an individual, a corporation, a general or limited partnership, an association, a trust, an estate or any other legal entity.

"Plans" means the plans, blueprints, drawings, specifications and samples prepared by or for a Developer or other builder or owner in connection with the development or improvement of a lot.

"Plat" shall mean the subdivision map(s) or plat(s) of the Property which has been or shall be filed for record in the office of the probate judge of Baldwin County, Alabama..

"Property" shall mean all real property situated in Baldwin County, Alabama, which is described in Exhibit AA.

"Supplement" means any amendment, modification, change or restatement of or to this Declaration.

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ARTICLE II.
PROPERTY SUBJECT TO DECLARATION

Section 2.01. The Property. The real property which is and shall be owned, leased, held, transferred, assigned, sold, conveyed, rented, used occupied, hypothecated or encumbered, and improved subject to this Declaration is the Property which is located in Baldwin County, Alabama., and is more particularly described in Exhibit AA.

Section 2.02. Common Areas. The designation of any portion of the Property as a Common Area shall not mean that the public at large acquires any easement of benefit and enjoyment in or to the Common Areas.

Section 2.03. Annexation of Additional Property. At any one or more times prior to December 1, 2008, and without the assent of the Class A members, the Declarant or any other person with the written assent of the Declarant, shall have the right, privilege or option to annex to the Property any of the Additional Property. Any such annexation shall have the effect of making the annexed property part of the Property and extending the scheme of the within covenants and restrictions to such annexed property. However, no such annexation shall occur until same has been accomplished in the manner herein prescribed.

Any annexations of additional real property to the Property shall be made by recording a Supplementary Declaration of Covenants, Conditions and Restrictions in the land records in the office of the probate judge of Baldwin County, Alabama, which Supplementary Declaration shall extend the scheme of the within covenants and restrictions to the annexed additional property therein described. Such Supplementary Declaration shall be executed by the person who owns the fee simple title to the additional property being annexed, and if such person is other than the Declarant, shall be executed also by the Declarant. Such Supplementary Declaration may contain whatever complimentary additions and modifications to the provisions of the Declaration as may be appropriate to reflect the different character or use, if any, of the annexed additional property, including, but not limited to setback lines, total square footage to be contained within any residence, easements, the assignment and use of Boat Slips and the degree of care and assessments for any care

not rendered to all of the Property; provided, however that in no event shall any such addition or modification be substantially inconsistent with the provisions of this Declaration. At the present time there are thirty (30) Boat Slips that have been reserved by the Declarant to be assigned to the Owners of Lots in the Additional Property annexed to the Property subject to the provisions of this Declaration on such basis as the Declarant or its successor or assigns may deem appropriate, however in the event that no Additional Property is annexed as herein provided prior to December 31, 2008, or such earlier time as the Declarant may determine that it is not feasible to annex any of the Additional Property to the Property, then and in that event, the Declarant may sale or transfer the reserved boats slips to individual owners who are not Lot owners, but will be the owners of a Boat Slip subject to the provisions of this Declaration.

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ARTICLE III.
ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 3.01. Membership. The Members of the Association shall be and consist of every Person who is or who becomes, an owner of record of the fee title to a Lot and a Boat Slip or a Boat Slip and is included in the definition of an Owner under Article I. When more than one Person owns or holds an interest or interests in a Lot, then all such Persons shall be Members.

Section 3.02. Action by Members. The Association shall have three classes of voting Members. Class A members shall consist of all members who own a Lot and a Boat Slip, except the Declarant. Class B members shall consist of all members who own a Boat Slip, but do not own a Lot, except the Declarant. Class C member is the Declarant. Whenever any provision of this Declaration requires a vote of a specified percentage of the voting power of each class of Members, then such provision shall require a separate vote by the specified percentage of the voting power of the Class A Members and by the specified percentage of the voting power of the Class B Members and by the specified percentage of the voting power of the Class C Member. Whenever any provision of this Declaration requires a vote of a specified percentage of the voting power of the Members, then such provision shall require a vote by the specified percentage of the combined voting power of all Members.

Section 3.03. Members' Voting Rights. Except as otherwise specifically provided in the Charter or the Bylaws, the voting rights of the Members shall be as follows:

(a) Whenever a vote of the Class A Members is required or permitted under this Declaration, the aggregate voting power of all Class A Members shall be equal to the aggregate number of Lots owned by all Class A Members. Class A Members shall be entitled to one vote for each Lot owned by such Class A Members. When more than one Member owns or otherwise holds an interest or interests in a Lot, then the one vote for such Lot shall be exercised as such Members shall determine, but in no event shall more than one vote be cast with respect to any Lot.

(b) Whenever a vote of the Class B Members is required or permitted under this Declaration, the aggregate voting power of all Class B Members shall be equal to the aggregate number of Boat Slips owned by all Class B Members. Class B Members shall be entitled to one vote for each Boat Slip owned by such Class B Members. When more than one Member owns or otherwise holds an interest or interests in a Boat Slip, then the one vote for such Boat Slip shall be exercised as such

Members shall determine, but in no event shall more than one vote be cast with respect to any Boat Slip.

(b) The Class C Members shall be the Declarant who shall be entitled to four votes for each Lot and four votes for each separate Boat Slip owned by the Declarant that is in excess of the number of Lots owned by the Declarant, until all Lots and Boats Slips have been sold and conveyed by Declarant.

Section 3.04. Membership Appurtenant to Real Property. The membership of the Class A Members, the Class B Members and the Class C Member shall be appurtenant to the ownership of a Lot and a Boat Slip or a Boat Slip. A membership shall not be held, assigned, transferred, pledged, hypothecated, encumbered, conveyed or alienated in any manner except in conjunction with and as an appurtenance to the ownership, assignment, transfer, pledge, hypothecation, encumbrance, conveyance or alienation of the Lot and Boat Slip or the Boat Slip to which the membership is appurtenant.

Section 3.05. Voting Conflict Between Members. If the fee title to a particular Lot is owned of record by more than one Member, then the one vote appurtenant to such Lot may be exercised by any one of such Members, unless the other Members who own an interest in such fee title to the Lot shall object prior to the completion of voting upon the particular matter under consideration. In the event of any such objection, the one vote appurtenant to such Lot shall not be counted.

Section 3.06. Other Voting Provisions. The Charter and/or the Bylaws contain other provisions relating to voting rights of Members with respect to matters or issues unrelated to this Declaration, including, but not limited to, the election of individuals to the Board of Directors.

ARTICLE IV.
BOARD OF DIRECTORS AND OFFICERS OF THE ASSOCIATION AND MANAGEMENT AGENT

Section 4.01. Board of Directors. The Association and the affairs of the Association shall be managed and controlled by the Board of Directors which shall have all the power, authority and duty necessary or appropriate for such management and control. The Board of Directors shall consist of three individuals or such greater number of individuals as may be prescribed in the Bylaws from time to time. Directors are not required to be Members, and shall be appointed by the Declarant or elected by the Members in the manner prescribed in the Bylaws.

Section 4.02. Officers. The Association shall have such officers as are prescribed by the Bylaws. The officers shall conduct affairs of the Association and implement the policies and decisions of the Board of Directors.

ARTICLE V.
ASSESSMENTS

Section 5.01. Covenants For Assessments. Each owner by acceptance of a Deed or other conveyance document for a Lot and a Boat Slip or a Boat Slip, whether or not expressed in any such

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Deed or other conveyance document shall be deemed to covenant and agree to pay to the Association any maintenance or special assessments which shall be levied by the Association. Each such assessment shall be a charge on the land, and shall be a continuing lien upon each Lot and Boat Slip or Boat Slip, as the case may be, and the personal obligation of the Person who is the owner of such Lot and Boat Slip or Boat Slip at the time the assessment fell due. No Class A member may become exempt from or otherwise avoid liability for the payment of any assessment by the abandonment of any Lot or Boat slip or by the abandonment or release of the member's rights to use, benefit and enjoy the Common Area and/or Common Facilities. No Class B member may become exempt from or otherwise avoid liability for the payment of any assessment by the abandonment of any Boat slip or by the abandonment or release of the member's rights to use, benefit and enjoy the Common Area and/or Common Facilities.

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Section 5.02. Maintenance Assessments. Except as permitted by Section 5.07 and as divided and shared by the Members as stated in Section 5.03 hereof, any maintenance Assessments levied by the Association shall be used exclusively (i) to promote the health, safety and welfare of the Members, their assigns, guest and invitees, including the improvement, maintenance and repair of the Common Areas and/or Common Facilities and (ii) to pay the cost of labor, the purchase or rental of equipment and materials used or required for, and the management, care and supervision of, the Common Areas and/or Common Facilities. The purposes for which the maintenance Assessments may be levied include, but are not limited to, the following purposes:

(a) The amount of all operating expenses of or for the Common Areas and/or Common Facilities and the services furnished or provided to or in connection with the Common Areas and/or Common Facilities, including charges for any services furnished or provided by the Association.

(b) The costs of appropriate or necessary management and administration of the Common Areas, including fees or other compensation paid to a Management Agent.

(c) The amount of all taxes and assessments levied against for the Common Areas.

(d) The costs of fire and extended coverage and liability insurance on the Common Areas and/or Common Facilities and the Association's other assets and the costs of such other insurance with respect to the Common Areas and/or Common Facilities and the Association's other assets and affairs as the Board of Directors considers appropriate.

(e) The costs of garbage and trash collection to the extent provided by the Association, and of utilities and other services which may be provided by or for the Association for or to the Common Areas, and/or the Lots or Boat Slips.

(f) The costs to maintain, replace, repair and landscape the Common Areas and Common Facilities and to keep same in a good and safe condition, including, but not limited to, the costs to maintain, replace and repair the private streets, landscaped entrance, front and islands, fence, electronic gate, walkways, drives, cart paths, sidewalks, yacht club, swimming pool, dredging and maintenance of boating canal, boardwalk, bulkhead, piers, support columns and other improvements and such Common Facilities and equipment as the Board of Directors shall determine to be necessary or appropriate in connection with such maintenance, replacement, repair, landscaping and

safe operating condition.

(g) The costs to fund all reserves established by the Association, including any appropriate general operating reserve and/or reserve for replacement of assets.

Section 5.03. Annual Maintenance Assessment. Prior to the first day of January in each year the Board of Directors shall adopt two (2) budgets as follows:

(i) one budget (the "Class A Member's Budget") estimated by the Board of Directors to be sufficient to meet the cost and expenses described in Section 5.02 that is applicable to that portion of the property that lies east of the west boundary line of the Lots and the extension of said line to the North boundary line of the Property and is designated for the exclusive use and benefit of the Owners of Lots and the Board of Directors shall fix and levy upon each Lot and the Owners thereof that portion of the Annual Maintenance Assessment deemed to be an amount sufficient to meet the Class A Member's Budget adopted by the Board of Directors.

(ii) a second budget (the "Class A and Class B Member's Budget") estimated by the Board of Directors to be sufficient to meet the cost and expenses described in Section 5.02 that is applicable to that portion of the property that lies west of the west boundary line of the Lots and the extension of said line to the North boundary line of the Property and is designated for the exclusive use and benefit of the Owners of Lots and Boat Slips and Owners of Boat Slips and the Board of Directors shall fix and levy upon each Boat Slip and the Owners thereof that portion of the Annual Maintenance Assessment deemed to be an amount sufficient to meet the Class A and Class B Member's Budget adopted by the Board of Directors.

Section 5.04. Special Assessments. In addition to the maintenance Assessments authorized in Section 5.01, the Association may levy special Assessments as follows:

(a) In any fiscal year the Association may levy a special Assessment applicable only to that fiscal year (i) for the purpose of paying all or a portion of the costs of any construction, reconstruction, replacement or inordinate repair or maintenance of improvements on the Common Areas, including the fixtures and personal property on or related to the Common Areas and/or Common Facilities, or (ii) for such other purposes as the Board of Directors may consider to be appropriate. Any such Assessment shall be applicable only to the Class or Classes of Members having access to and the benefit of such improvements as stated in Section 5.03 and shall be approved by a vote of two-thirds of the voting power of the class of classes of such Members.

(b) The Association may levy a special Assessment against any Lot and the Owners of any Lot for reimbursement (i) of or for repairs occasioned by the willful or negligent acts of the Owners of such Lot, their guest or invitees, or (ii) of or for any and all costs, expenses and expenditures made or incurred by the Association with respect to either such Lot, including work or activities performed on the yard and/or improvements on such Lot, or the Owners of such Lot pursuant to the provisions of this Declaration, including the discharge or satisfaction of any obligation or duty imposed on such Owners under this Declaration.

(c) The Association may levy a special Assessment against any Boat Slip and the Owners of any Boat Slip for reimbursement (i) of or for repairs to any boardwalk, pier or supporting column

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occasioned by the willful or negligent acts of the Owners of such Boat Slip, their guest or invitees, or (ii) of or for any and all costs, expenses and expenditures made or incurred by the Association in the event that a Member's boat sinks and such Member fails or refuses to raise such boat within seven days after written request from the Declarant or the Board of Directors of the Association, the Board of Directors may cause such boat to be raised or (iii) of or for any and all cost, expense and expenditures made or incurred by the Association with respect to either such Boat Slip, including work or activities performed on such Boat Slip pursuant to the provisions of this Declaration, including the discharge or satisfaction of any obligation or duty imposed on such Owners under this Declaration.

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Section 5.05. Dwelling and Lawn Maintenance. Generally, this Declaration does not contemplate that the Association shall have any responsibility for the maintenance or repair of any Dwelling or its appurtenances or the maintenance and care of lawn, garden and landscaped areas on any Lot. The Association shall have the responsibility and duty only for the maintenance, repair and care of the Common Areas and Facilities, unless, by the majority vote of the Class A Members, the Association elects to provide to its members lawn care and yard maintenance in which event, a charge determined by the Board of Directors shall be levied against and assessed to every Lot, and only such Lot, so maintained by the Association. In the event a Member fails or neglects to maintain such Member's yard and lawn in a clean and well kept manner, then and in that event, the Association may, upon the majority vote of the members of the Board of Directors elects to have such lawn care and yard maintenance performed, at such members expense and a charge determined by the Board of Directors shall be levied against and assessed to such members Lot and the Owner thereof by the Association, as provided by Section 5.04 (b) above.

Section 5.06. Assessments Are Not Dues. No portion of the annual maintenance and special Assessments provided in or permitted by this Article V are intended to be, or shall be construed to be, dues for membership in the Association.

Section 5.07. Costs and Expenses of Certain Damage. Whether or not specifically provided in this Declaration, if the Board of Directors determine that any Owner (i) has failed or refused to properly satisfy or discharge any maintenance, repair, care, upkeep, replacement or any other obligations or duties for which the Owner is responsible under this Declaration, or (ii) is responsible for damage to the area of common responsibility which is not covered by insurance, then, if deemed to be necessary or appropriate by the Board of Directors, the Association may provide such maintenance, repair, care, upkeep or replacement or satisfy or discharge any such other obligations or duties at the Owner's sole cost and expense. Such costs and expenses shall be increased by all amounts described in Section 6.03. All such amounts shall be considered to be a special Assessment under Section 5.04 against the Lot, and the Owners of such Lot shall be personally responsible and liable for the payment of all such amounts immediately upon notice from the Association, and all such amounts shall become a lien against such Lot which shall be enforceable by the Association.

Section 5.08. Meetings to Approve Assessments. If the consent or approval of any class of the Members is required for any action under this Article V, then the Board of Directors shall call a meeting of the Members pursuant to the Bylaws for the purpose of considering the consent or approval for such action. All Assessments requiring the consent or approval of the Members must be approved by a vote of two-thirds of the voting power of each class of the Members of if only the

vote of one Class of Members is required by two-thirds of the voting power of such Class of Members.

Section 5.09. Uniform Rate for Assessments. All Assessments applicable to a Class A Member shall be levied at a uniform rate for each Lot to which Class A membership is appurtenant and all Assessments applicable to a Class B Member shall be levied at a uniform rate for each Boat Slip to which Class A and Class B membership is appurtenant, except special Assessments under Section 5.04(b).

Section 5.10. Commencement of Assessments. The Association is hereby authorized and empowered to collect any assessment, or portion thereof, levied by the Association against any Lot and Boat Slip or a Boat Slip from the Owner and Purchaser of such Lot and Boat Slip or a Boat Slip at the time of the transfer of such Lot and Boat Slip or a Boat Slip from the Declarant. Thereafter the Association may collect such assessments from its Members on an annual, quarterly of monthly basis as determined by the Board.

Section 5.11. Exempt Property. No Assessments of any kind or nature shall be levied by the Association against (i) any portion of the Streets and other real property and improvements dedicated and accepted by the local public authority and devoted to public use, (ii) all areas unplatted or reserved for future development by this Declaration of the Plat of the Property, (iii) the Common Areas or Common Facilities and (iv) no portion of the Common Area or Common Facilities within the boundaries of any Parcel depicted on the Plat, including all portion or portions of the Property within the boundaries of any private drive or street, sidewalk or other easement.

Section 5.12. Equitable Adjustments. If a Supplement is filed for record which annexes additional property to the property and specifies that a greater or lesser level of use, benefit or enjoyment of the common area or of services shall be available or provided by the Association with respect to any portion of the annexed additional property, then the supplement may provide a different method or basis for the establishment, determination and calculation of the annual maintenance or special assessments under Section 5.02, Section 5.04 or Section 5.05 with respect to such annexed additional property. In such event, the Association shall have the authority and the duty to make equitable adjustments in and to the procedures described in this Article V for the establishment, determination and calculation of the annual maintenance and special assessments to reflect any such different level of use, benefit and enjoyment of the common area or services available or provided by the Association.

ARTICLE VI.
ENFORCEMENT OF ASSESSMENTS

Section 6.01. Lien of Assessments. Each Assessment, levied under the provisions of Article IV hereof, with respect to or against a Lot and Boat Slip or a Boat Slip plus such additional amounts as are specified in Section 6.03 shall be (i) a charge on the land, (ii) a continuing lien upon and against the Lot and Boat Slip or a Boat Slip, (iii) binding upon such Lot and Boat Slip or a Boat Slip, and (iv) the continuing joint and several personal obligation and liability of each Person who was an Owner of such Lot and Boat Slip or a Boat Slip when any portion of the Assessment became due and payable, their heirs, devisees, personal representatives, successors and assigns, which shall not be extinguished or diminished by any transfer or conveyance of any Lot and Boat Slip or a Boat Slip.

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The personal obligation of each Member to pay all Assessments levied against his Lot and Boat Slip or a Boat Slip shall continue for the full statutory period permitted by law, and a suit to recover a monetary judgment for the non-payment of all or any portion of any Assessment, including any installment, may be commenced and maintained by the Association without the foreclosure or waiver of any lien created under this Declaration to secure the payment of the Assessment. Any judgment may include all amounts specified in Section 6.03. The Association may commence and maintain an action at law against any Member personally obligated or liable to pay any Assessment and/or may foreclose the lien against any Lot and Boat Slip or a Boat Slip in the manner now or hereafter provided in the State of Alabama for foreclosure of mortgages and other liens on real property containing a power of sale provision. Any such foreclosure by the Association shall be subject to the substantive and procedural requirements prescribed by the laws of the State of Alabama applicable to the foreclosure of mortgages and other liens on real property containing the power of sale provision.

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The Association shall have the right to reject partial payments of an Assessment and to demand the full payment of such Assessment. The lien for unpaid Assessments shall be unaffected by any sale or other transfer or conveyance of the Lot and Boat Slip or a Boat Slip subject to the Assessments, and the lien shall continue in full force and effect. No Member may waive or otherwise avoid or escape personal liability for payment of any Assessment by abandonment of his Lot and Boat Slip or a Boat Slip or by abandonment or release of the Member's rights to the use, benefit and enjoyment of the Common Areas and Facilities.

Section 6.02. Assessment Certificate. Upon five days notice, the Board of Directors shall furnish a certificate signed by an Association officer to any Member liable for the payment of any Assessment or to any other Person having legitimate interest in the payment of such Assessment stating whether or not the Assessment has been paid. The certificate shall be conclusive evidence of the payment of any Assessment stated to have been paid in the certificate. The Board of Directors may require the payment of reasonable charge for the issuance of a certificate.

Section 6.03. Amount of Lien. Upon the default by any Owner of any Lot and Boat Slip or a Boat Slip in the payment of any installment of an Assessment, the entire unpaid balance of all Assessments against the Lot and Boat Slip or a Boat Slip and the Owners of the Lot and Boat Slip or a Boat Slip, as the case may be, shall immediately be and become due and payable, unless the Board of Directors shall otherwise direct. In addition to the amount of the unpaid annual maintenance and special Assessments, the following amount shall be considered to be special Assessments against the Lot and Boat Slip or a Boat Slip and the Owners of such Lot and Boat Slip or a Boat Slip and shall be subject to the lien of Assessments provided under Section 6.01:

(a) All reasonable costs and expenses of collection incurred or paid by the Association, including attorneys' fees, court costs and other costs and expenses relating to the collection or enforcement of the lien of Assessments.

(b) Such late payment charges or fees as shall be established by the Board of Directors from time to time.

(c) Such Association overhead charges as shall be established by the Board of Directors from

time to time to reimburse or compensate the Association for overhead or indirect costs and expenses incurred to collect unpaid Assessments or to perform or satisfy any obligation or duty imposed upon such Owners under this Declaration.

(d) Interest on or with respect to all amounts specified in this Section 6.03, including the unpaid balance of all Assessments, and such interest shall accrue from the due date until the payment of each such amount until paid in full at the maximum rate of interest permitted by law in the State of Alabama on loans to the Owners from Persons similar to the Association.

Section 6.04. Priority of Lien. The lien to secure payment of an Assessment against a Lot and Boat Slip or a Boat Slip shall have preference over any other liens, assessments, judgments or charges of whatever nature, except (i) general and special assessments for ad valorem property taxes on or against such Lot and Boat Slip or a Boat Slip, (ii) the lien of any First Mortgage on such Lot and Boat Slip or a Boat Slip made in good faith and for value received and duly recorded prior to the Assessment creating the lien against the Lot and Boat Slip or a Boat Slip, or duly recorded after receipt of a certificate under Section 6.02 stating that payment of the Assessment was current as of the date the First Mortgage was filed for record.

Section 6.05. Subordination to Mortgages. As provided by Section 6.04, the lien against any Lot and Boat Slip or a Boat Slip to secure payment of any Assessment shall be subordinate to the lien of any duly recorded First Mortgage on or against the Lot and Boat Slip or a Boat Slip made in good faith and for value received, and shall not affect the rights of the holder of any First Mortgage. However, the lien shall be subordinate only to Assessments which have become due and payable prior to the sale or other transfer of or conveyance of the Lot and Boat Slip or a Boat Slip pursuant to a foreclosure of any such First Mortgage, or prior to the execution of any deed, assignment or other proceeding or arrangement in lieu of foreclosure. Any such holder of a First Mortgage who acquires possession of such Lot and Boat Slip or a Boat Slip pursuant to a foreclosure or pursuant to the execution of any deed, assignment or other proceeding or arrangement in lieu of foreclosure, and any purchaser or assignee at a foreclosure sale or any transferee under any deed, assignment or other proceeding or arrangement in lieu of foreclosure, shall acquire the Lot and Boat Slip or a Boat Slip free of any claims for unpaid Assessments levied against the Lot and Boat Slip or a Boat Slip which accrued prior to the time such holder acquires possession of the Lot and Boat Slip or a Boat Slip, or prior to foreclosure sale or prior to the execution of any deed, assignment or other proceeding or arrangement in lieu of foreclosure, except for claims for a proportionate share of such unpaid Assessments resulting from a reallocation of such unpaid Assessments among the various Lots and Boat Slips or Boat Slips. However, such foreclosure, deed, assignment of other proceeding or arrangement in lieu of foreclosure shall not relieve the holder of the First Mortgage in possession or the purchaser or assignee at foreclosure or the transferee under any deed, assignment, or other proceeding or arrangement in lieu of foreclosure, from any liability for payment of any Assessments thereafter becoming due, or from the lien created to secure the payment of such Assessments, and the lien for the payment of such Assessments thereafter becoming due and payable shall have the same effect and shall be enforced in the same manner as provided in this Article VI.

No amendment to this Section 6.05 shall adversely affect the rights of the holder of any First Mortgage on any Lot and Boat Slip or a Boat Slip filed for record prior to the amendment being filed for record of the holder or any indebtedness secured by such First Mortgage, unless such holders execute, approve or consent to the amendment.

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In its sole and absolute discretion, the Board of Directors may extend the provisions of this Section 6.05 to Mortgagees not otherwise entitled to the benefits of this Section 6.05.

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Section 6.06. Additional Default. Any First Mortgage encumbering a Lot and Boat Slip or a Boat Slip shall provide that any default by the mortgagor in the payment of any Assessment or any installment of an Assessment shall be a default under the First Mortgage. The failure to include such a provision in any First Mortgage shall not affect the validity or priority of the First Mortgage, and the protection extended by Section 6.04 and Section 6.05 to the holder of the First Mortgage or the holder of the indebtedness secured by the First Mortgage shall not be altered, modified or diminished by reason of or as result of such failure.

ARTICLE VII.
INSURANCE

Section 7.01. Association's Insurance. The Association, as a Common Expense, must obtain, maintain, and pay the premiums upon the property insurance on the Common Area and Common Elements in an amount determined by the Board of Directors. The Board of Directors shall have the authority to and shall obtain insurance for all of the improvements on the Common Area owned by the Association against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief, flood and hurricane in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The type of policy shall be a "master" or "blanket" type policy of property insurance covering all of the Common Area and Common Elements of the Property (except land, foundation, excavation, and other items usually excluded from coverage) including fixtures, building service equipment and supplies, and other personal property belonging to the Association. The policy shall be in an amount deemed appropriate by the Association but not less than the greater of eighty percent (80%) of the actual cash value of the insured Property at the time the insurance is purchased or such greater percentage of such actual cash value as may be necessary to prevent the applicability of any coinsurance provision at any renewal date, exclusive of land, excavation, foundation, and other items normally excluded from property policies. The policy shall include an "Agreed Amount Endorsement" or its equivalent and, if available, an "Inflation Guard Endorsement." The Board of Directors shall also obtain a public liability policy covering all Common Area and all damage or injury caused by the negligence of the Association or any of its agents, which public liability policy shall be at least $1,000,000.00 single limit as respects bodily injury and property damage. Premiums for all such insurance coverage shall be common expenses. All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association for the benefit of its Members. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company, admitted or non-admitted, holding a Best's Rating Classification of "A" or better and a Financial Size Category of "X" or better as reflected from time to time in the current edition of BEST'S KEY RATING GUIDE, PROPERTY-CASUALTY.

(b) In no event shall the insurance overage obtained and maintained by the Association be brought into contribution with insurance purchased by individual owners or their mortgagees.

(c) Each Owner may obtain additional insurance at his own expense on behalf of such Owner and such Owner's mortgagee.

(d) It shall be the individual responsibility of each Owner at his own expense to provide, as he sees fit, owner's title insurance on his individual Lot and the improvements thereon, homeowner's liability insurance, theft and other insurance covering improvements, betterments and personal property damage and losses.

(e) The Association's Board of Directors shall conduct an annual insurance review of all improvements on the property, including the fixtures or equipment located within Common Facilities by one or more qualified persons, at least one of whom should be a qualified building cost estimator, and at least every three (3) years a replacement cost appraisal, without respect to depreciation.

(f) The Association's Board of Directors shall be required to make every reasonable effort to secure insurable policies that will provide for the following: (1) a waiver of subornation by the insurer as to any claims against the Association's Board of Directors, its Manager, the owners and their respective servants, agents and guests; (2) a waiver by the insurer of its right to repair and reconstruct instead of paying cash; (3) that the policy on the property cannot be canceled, invalidated or suspended on account of any one or more individual owners; (4) that the master policy on the property cannot be canceled, invalidated or suspended on account of the conduct of any director, officer or employee of the Association or its duly authorized Manager without a prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its Manager, any Owner or mortgagee; and (5) that any "other insurance" clause in the master policy exclude individual owner's policies from consideration.

Section 7.02. Owner's Insurance. Each Owner shall insure his Dwelling and other improvements on his Lot and Boat Slip or a Boat Slip at all times for full replacement value against losses due to hazards which may be insured or covered under extended coverage provisions, including fire, windstorm, hail explosion, riot, civil commotion, aircraft, vehicles, and smoke, and other hazards. Each Owner shall be responsible at his own expense and cost for his own personal insurance on his boat, the contents of his Dwelling and other improvements, including decorations, furnishings and personal property in or on such Dwelling or the other improvements, and his personal property stored elsewhere on his Lot and Boat Slip or a Boat Slip or the Property, and for his personal liability to Persons which is not covered by liability insurance for all Owners obtained by the Association and included in the annual maintenance Assessments.

ARTICLE VIII.
AD VALOREM TAXES

Section 8.01. Owners. Each Owner shall be responsible for the payment of and shall promptly pay all ad valorem taxes assessed on or against his Lot and Boat Slip or a Boat Slip and improvements on his Lot and Boat Slip or a Boat Slip.

Section 8.02. Association. The Association shall pay the ad valorem taxes assessed on or

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against the Common Areas, Common Facilities and the Association's other assets.

ARTICLE IX.
PROPERTY RIGHTS

Section 9.01. Member's Easements of Enjoyment. Every Member shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot and the Boat Slip appurtenant to such Lot or to the Boat Slip conveyed to such Member, as the case may be, subject to the following provisions:

(a) The right of the Association, acting by and through its Board of Directors, to levy reasonable admission and other fees for the use of any Common Areas and Common Facilities by the Members and their families and Invitees. Any such fees shall be charged on a uniform basis for each Member. No admission or other fees shall be charged or levied for the use of any Streets.

(b) The right of the Association, acting by and through its Board of Directors, to suspend any Member's voting rights and any Member's rights to use the Common Areas and Common Facilities for any period during which any Assessment remains unpaid and for any period not exceeding 60 days for any infraction, breach or violation of rules and regulations of the Association. The rights of the Members to use the Streets may not be suspended by the Association for any reason whatsoever.

(c) The right of the Association, acting by and through its Board of Directors, to dedicate or transfer all or any part of the Common Areas to any governmental agency or authority or any utility for such purposes and subject to such conditions as may be determined by the Association. No such dedication or transfer shall be effective unless either Members representing at least two-thirds of the voting power of each class of Members approve or consent to such dedication, transfer, purpose and conditions, or an instrument agreeing or consenting to such dedication or transfer executed by Members representing at least two-thirds of the voting power of each class of Members has been filed for record.

(d) In accordance with the Charter and the Bylaws, the right of the Association to borrow money to repair, maintain or improve all or any portion of the Common Areas and Common Facilities in a manner designed to promote the enjoyment and welfare of the Members, and in connection with any such loan to subject all or any portion of the Common Areas and Common Facilities to the liens of deeds of trust or other security interests. The Association shall not borrow money or subject all or any portion of the Common Areas or Common Facilities to the lien of a deed of trust or other security interest unless approved by Members representing at least two-thirds of the voting power of each class of Members.

(e) The right of the Association and/or its Board of Directors to take any action permitted by this Declaration as is reasonably appropriate or necessary to prevent a default of any of the Association's obligations or to protect the assets of the Association against or from foreclosure or enforcement of a security interest by a creditor.

(f) The right of the Association and/or its Board of Directors to adopt reasonable rules and regulations with respect to the use of the Common Areas and Common Facilities.

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(g) The right of Declarant to dedicate or grant the streets, roads, parking areas, sidewalks and/or rights of way as shown and designated on the plat to any governmental authority having jurisdiction over the Property.

(h) The right of the Association to grant licenses, rights of way, and easements for access or for the construction, reconstruction, maintenance and repair of any public or private utility lines or appurtenances to any governmental agency or authority or any utility, the Declarant or any other person, provided that no such license, right of way or easement shall be unreasonably and permanently inconsistent with the rights of the members to the use, benefit and enjoyment of the Common Area.

(i) The right of the Association to maintain guarded or electronically monitored gates to restrict or monitor vehicular traffic over, on or across any private streets and roads located or situated in or on any portion of the Common Area.

(j) The right of the Association to sell, transfer or convey any part of the Common Area which it determines to be beneficial to the Members, upon the consent of two-thirds of the voting power of each class of members, or upon the filing for record of an instrument agreeing or consenting to such sale, transfer or conveyance executed by Members representing at least two-thirds of the voting power of each class of members.

Section 9.02 Assignment of Boat Slips. A Boat Slip shall be assigned to each and every Lot in Sunset Bay, Phase I as an appurtenance to such Lot. Lot 1 is hereby permanently assigned Boat Slip No. 20 and Lots 3 through Lot 20, inclusive, are hereby permanently assigned the Boat Slip that abuts the west boundary line of each of said Lots as depicted on the Plat. Lot 24 is hereby permanently assigned Boat Slip No. 18. Lot 2, Lots 21 through 23 and Lots 25 through 48 will be assigned a Boat Slip at the time each of said Lots are conveyed by the Declarant to an Owner other than the Declarant. No Owner or Owners of Lot 2 and Lots 21 through 23 and Lots 25 through 48 may separate such Owner's assigned Boat Slip from such Owner's Lot until after the Declarant has sold and conveyed all Boat Slips to an Owner. Thereafter the Owner or Owners of Lot 2, Lots 21 through 23 and Lots 25 through 48 may sell or transfer its assigned Boat Slip as herein elsewhere provided. An Owner may own more than one Boat Slip, but can only sell such additional Boat Slip to another Owner or to a purchaser of such Owner's Lot prior to the sell of all Boat Slips by the Declarant and then only to a Lot Owner, unless the Declarant has sold a Boat Slip to an individual who is not a Lot Owner and then, in such case, only with the approval of the Board of Governors.

Section 9.03. Delegation of Use. In accordance with the Bylaws and subject to such reasonable rules and regulations as the Board of Directors may adopt or promulgate and uniformly apply and enforce, any Member may delegate his rights to the use, benefit and enjoyment of the Common Areas and Common Facilities to (i) family members who reside permanently with such Owner, (ii) contract purchasers who reside on the Property, and (iii) Invitees.

Section 9.04. Limited Common Area. (a) Every Owner of a Lot shall be entitle to the exclusive use of the private streets that abut the Lots and that portion of the Common Area east of the western most boundary line of the Lots abutting the east wall of the boating canal extended north

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to the north boundary line of the Property, except for the entrance gates and other facilities used in connection with such entrance and that portion of the streets leading to the yacht club and parking area, for ingress, egress and regress to the Lots.

(b) The construction of private boardwalks, starting at the rear of certain Lots on the east side of Sunset Bay, Phase I over the marsh land to the water known as Bay John as depicted on the plat attached hereto as Exhibit CC has been approved by The Department of the Army, Corps of Engineers. The boardwalks are to be designed and constructed to serve two abutting Lots as shown on Exhibit CC. An easement fifteen feet in width is hereby established as Limited Common Area for the construction of such boardwalks and the maintenance, repair, upkeep and use of same by the respective Owner of the Lot or Owners of the Lots. The easement shall be seven and one-half feet on either side of the center of the boardwalk which is to be constructed within the respective Limited Common Area easement for such boardwalk as depicted on Exhibit CC . The cost of constructing and installing the boardwalk will be the obligation, liability and responsibility of the Owner electing to commence construction unless other mutually satisfactory arrangements for the sharing of the cost of such constructing have been made with the adjacent Owner which Owner is hereby granted the use of such boardwalk and easement as a part of such Owners Limited Common Area. All boardwalks constructed in the Limited Common Area Easements are private property of the Owner(s) paying the cost of construction, as the case may be, and the Limited Common Area of the abutting Lot Owners as shown on Exhibit CC. All cost and expense of construction, repair, maintenance and upkeep and all claims, damages or injuries of whatsoever nature are the obligation and responsibility of the Owner(s) of the such Limited Common Area and such Owner(s) do hereby agree to hold and save the Association, its Board of Directors, officers, members, employees and agents harmless from all matters or claims of whatsoever nature arising or accruing from the construction, existence or use of such boardwalks. All such boardwalks shall be constructed in compliance with the provision contained in that certain letter issued by the Corps of Engineers dated September 5, 2002, a copy of which is attached hereto as Exhibit DD and by reference made a part hereof. **All governmental permits must be obtained by the Owner(s) desiring to construct any such boardwalk. All plans, specifications and construction must be approved by the Architectural Review Committee prior to the commencement of any such construction.**

(c) Owners, Developers and/or other builders, except for the Declarant and the Association, shall not construct, erect or place any improvement(s) on any portion of the Common Area or on any property abutting or adjacent to the Property, unless such Owner has ownership and title to such property.

ARTICLE X.
ARCHITECTURAL CONTROL

Section 10.01. Establishment of the Architectural Review Committee. There is hereby established for all the Property an Architectural Review Committee (referred to herein as "Architectural Review Committee"). The Architectural Review Committee shall be appointed by the Declarant as long as Declarant owns of record any Lot. Thereafter, the Architectural Review Committee shall be appointed by the Board of Directors.

Section 10.02. Architectural Review Committee. After the Declarant has sold all Lots in the

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Property, the Architectural Review Committee shall consist of not less than three nor more than five individuals who shall be appointed or designated from time to time by the Board of Directors and who may be but are not required to be Members. The members of the Architectural Review Committee shall serve at the pleasure of the Board of Directors and may be removed at any time by the Board of Directors with or without cause. The affirmative vote of a majority of the members of the Architectural Review Committee shall be required to make any finding, determination, ruling or order or to issue any permit, consent, approval or disapproval under this Declaration, including this Article X and the approval or disapproval of all or any portion of any Plans, or to recommend that the Board of Directors adopt any rule or regulation relating to the provisions of this Article X.

Section 10.03. General Requirements. Except for the purposes of proper maintenance and repair, no improvement, including, but not limited to, buildings, fences, walls or other structures, and no exterior addition, change or alteration to any improvement, including any change or alteration of color, shall be commenced, erected, constructed, placed, altered, moved, maintained or permitted to remain on any portion of the Property, including any Lot and Boat Slip or a Boat Slip, until after compliance with the review process of this Article X and approval of the Plans by the Architectural Review Committee. Any Developer or other builder, including any Owner or lessee of a Lot and Boat Slip or a Boat Slip shall not remodel or alter existing improvements on any Lot and Boat Slip or a Boat Slip until approval has been granted by the Architectural Review Committee in accordance with the review process of this Article X. The Developer or other builder, at its expense, shall complete and submit to the Architectural Review Committee two complete sets of Plans for review by the Architectural Review Committee. The Plans shall provide for a first class structure, workmanship and materials. Specific requirements of the submittals shall be established by the Architectural Review Committee and approved by the Board of Directors and may include the following:

(a) Building plans, at a reasonable scale, and building specifications, which shall include the location, nature, shape, height, materials, color and finish of materials, type of construction, floor plans and elevations, details of exterior wall construction and other exterior features, gross square footage and other characteristics of the improvements and other information required or specified by the Architectural Review Committee.

(b) A drainage plan which will coordinate with the overall area drainage.

(c) A site plan, at a reasonable scale, which will include an accurate grading plan and which shall show the location of all (i) improvements, (ii) exterior lighting and signs, (iii) pedestrian walkways, vehicular circulation and parking areas, and (iv) designation of all proposed utility lines, air-conditioning units, aerial lines, pipes, conducts, transformers and similar equipment.

(d) A landscape plan.

(e) A statement by the Developer's or other builder's architect and engineer or, if none, by the Developer or other builder that the proposed construction complies with all applicable building and zoning codes and regulations and this Declaration, including all building codes.

(f) A construction time table or schedule, including anticipated completion date.

Until after compliance with the review process of this Article X and approval of the Plans by the Architectural Review Committee, no Owner, Developer or other builder shall (i) install, erect, attach, apply, paste, hinge, screw, nail, guild, alter, remove or construct any (1) lighting, (2) shade, screen, awning or patio cover, (3) exterior decoration, (4) fence, wall or flagpole (5) aerial line, (6) antenna, radio or television broadcasting or receiving device, (7) slab, sidewalk, driveway, road, curb or gutter, or (8) patio, balcony or porch, (ii) make any change or otherwise alter, including any change or alteration of color, in any manner whatsoever to the exterior of any improvement constructed upon any Lot and Boat Slip or a Boat Slip or upon any portion of the Common Areas, (iii) combine or otherwise join two or more Dwellings except on Lots specifically permitted by this Declaration and/or as shown and designated on the Plat, or partition such Dwellings after combination, or (iv) make any change or alteration to the interior or exterior of any Dwelling which will alter the structural integrity of the building or otherwise affect the Lot or the Property, the interest or welfare of any other Owner or the Association, materially increase the cost of operating or insuring any of the Common Areas, Common Facilities, or impair any easement.

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Section 10.04. Review Process. Within 30 business days after receipt of all of the Plans, the Architectural Review Committee shall review the Plans and shall either approve or disapprove all or any portion of the Plans. Written notice of such decision shall be given to the Developer or other builder, and such notice shall specify the reasons for any disapproval. The Architectural Review Committee's right to disapprove the Plans shall be limited to (i) the failure of the Developer or other builder to include information required by, or otherwise satisfy the requirements of, this Article X or other provisions of this Declaration, (ii) objections to the design, general massing, color, materials or development of any proposed building or improvement which the Architectural Review Committee determines to be incompatible with the existing or surrounding structures on, or the topography and conformity with the design concept of or for, the Property, (iii) objections that the Plans do not provide for first-class structure, workmanship or materials, (iv) failure to provide a landscape plan which is consistent with the quality, development or design of the Property, or (v) any other reason or reasons which are not arbitrary or capricious, including, but not limited to, aesthetic considerations.

If any portion of the Plans are not approved, the Developer or other builder shall amend and modify the Plans to conform to the requirements of, and to cure any objections made by, the Architectural Review Committee. Upon the completion of each amendment and modification, the Plans shall be resubmitted to the Architectural Review Committee for review and approval or disapproval. The Architectural Review Committee's right to disapprove the amended and modified Plans shall be confined to (i) the portion of the Plans not previously approved, (ii) new matters not disclosed by or included in the Plans previously submitted, or (iii) matters which do not satisfy the requirements of this Article X or other provisions of this Declaration.

The Developer or other builder must obtain written approval of the Plans from the Architectural Review Committee prior to commencement of any on-site construction, installation, clearing, grading, paving or landscaping, except to the extent the Developer or other builder may receive written permission from the Architectural Review Committee to engage in any or some of such activities prior to the review or approval of the Plans.

If the Developer or other builder desires to materially modify or change the Plans after

approval of the Plans, but not including modifications or changes of or to the interior design, then the Developer or other builder shall submit two complete copies of such proposed changes to the Architectural Review Committee for review and approval or disapproval.

If the Architectural Review Committee shall fail to approve or disapprove the Plans, amended and modified Plans and/or proposed modifications or changes to the Plans within 30 business days after receipt of the Plans, then such Plans, amended or modified Plans or proposed modifications or changes to the Plans will be deemed to have been disapproved by the Architectural Review Committee.

The decisions of the Architectural Review Committee shall be final except that any decision may be appealed to the Board of Directors by any Member who is aggrieved by any action or forbearance from action by the Architectural Review Committee or by any policy, standard, or guideline established by the Architectural Review Committee, and upon written request such Member shall be entitled to a hearing before the Board of Directors.

The Owner, Developer or other builder will be responsible for the payment of reasonable charges established by the Board of Directors from time to time for the Architectural Review Committee's review of the Plans or amendments, modifications or changes to Plans, but no charges shall be imposed on any governmental authority using any portion of the Property. The Architectural Review Committee shall retain one copy of the Plans as approved or disapproved in the Association's permanent records and shall return to the Developer or other builder on copy of the Plans, as approved, marked or stamped with such approval.

The Owner, Developer or other builder does hereby covenant and warrant that the Plans and Specifications for any building or other improvements will not be submitted to the City of Gulf Shores or any governmental authority for the purpose of obtaining a building permit until such Plans and Specifications have been approved by the Architectural Review Committee. Only then and only the Plans and Specifications approved by the Architectural Review Committee shall be submitted to such authorities for any such permit or permits.

Section 10.05. Disclaimer. The Board of Directors, the Architectural Review Committee, each director and each officer of the Association, each member of the Architectural Review Committee and the Association and, if applicable, the Declarant shall not be liable to any Owner or to any other Person on account of any claim, liability or expense suffered, incurred or paid by or threatened against such Owner or other Person arising or resulting from or in any way relating to the subject matter of any reviews, acceptances, inspections, permissions, consents or required approvals which must be obtained from the Architectural Review Committee or public authorities, whether given, granted or withheld. No approval of Plans and no publication of architectural standards or bulletins shall be construed either to represent, guarantee or imply that such Plans or architectural standards will result in a properly designed Dwelling or other improvement, or to represent, guarantee or imply that any Dwelling or other structure or improvement will be built or constructed in a good, workmanlike manner. Approval of any particular Plans shall not be construed as a waiver of the right of the Architectural Review Committee to disapprove all of any portion of the Plans if such Plans are subsequently submitted for use in any other instance.

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Section 10.06. Rules and Regulations. Upon the recommendation of the Architectural Review Committee, from time to time the Board of Directors may (i) adopt and promulgate such rules and regulations regarding the construction or alteration of any structure or improvement and the form and content of Plans to be submitted to the Architectural Review Committee for review and approval or disapproval, and (ii) publish and/or file for record such statements of policy, standards, guidelines, and establish such criteria relating to architectural styles or details, colors, size, set-backs, materials or other matters relating to architectural control, protection of the environment, including the use and application of fertilizers, pesticides and other chemicals, and the preservation of such aesthetic values and characteristics and amenities, as may be considered necessary and appropriate. No such rules, regulations, statements or criteria shall be construed as a waiver of any provision of this Article X or any other provision of requirement of this Declaration.

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Section 10.07. Limitations. Construction in accordance with approved Plans shall be commenced within six months after approval and shall be substantially completed either within eighteen (18) months after construction commences, or within such other period as the Architectural Review Committee shall specify in the approval of the Plans. If construction is not commenced or is not completed as required in this Section 10.06, then approval of the Plans shall be conclusively deemed to have lapsed and compliance with the provisions of this Article X shall be required again.

Section 10.08. Guidelines. Before an Owner contemplates or considers the construction, erection or placement of any improvements on any Lot or Boat Slip, such Owner, the Owner's Architect and Builder should throughly study and understand all of the provisions, requirements and suggestions of the Development Guidelines for Sunset Bay which has been adopted by the Architectural Review Committee and approved by the Board of Directors for assistance of all Owners in the preparation and submittal of Plans.

ARTICLE XI.
EASEMENTS

Section 11.01. Utility Easements. The Declarant, the Association, and each utility providing service to the Property shall have and is granted or reserved non-exclusive easements and rights-of-way in through, across, on, over and under the portions of the Property which are not improved with Dwellings, buildings or other structures, including full rights of ingress and egress, for the installation, operation, use, maintenance, repair and removal of utilities and drainage facilities and floodway easements located in utility or drainage easements as shown and designated on a Plat, and the right to remove any obstruction in any utility or drainage easement which may interfere either with the use of any utility or drainage easement or with the installation, operation, use, maintenance, repair and removal of such utility or drainage facility.

The Declarant shall have non-exclusive easements and rights-of-way in, through, across, on, over and under the portion of the Common Areas which is not improved with the buildings or structures to store building supplies and materials, install, construct, maintain, reconstruct and repair sewers, water pipes, irrigation pipes, electrical wires or cables, telephone wires or cables, gas lines, storm drains, television cables, underground conduits, and any related improvements or appurtenances and for all other purposes reasonably related to the completion of construction, and the provision of public or private utility services to any portion of the Property. Any and all

conveyance documents from the Declarant to the Association with respect to the Common Areas shall be conclusively deemed to incorporate the provisions of this Section 11.01, whether or not specifically contained in such conveyance documents or assignments. At the Declarant's request, the Association shall from time to time acknowledge, and deliver to the Declarant such documents the Declarant considers it necessary to implement the provisions of this Section 11.01.

The reservation and rights in this Section 11.01 expressly include the right to (i) cut any trees, bushes, or shrubbery, (ii) make any gradings of the soil, and (iii) take any other similar action reasonably necessary to provide economical and safe utility and drainage facility installment, repair and maintenance and to maintain reasonable standards of health, safety and appearance.

Section 11.02. Damage from Ingress and Egress. Any entry by the Declarant, the Association, or any utility upon any Lot and Boat Slip or a Boat Slip for the purposes permitted or contemplated by this Article XI shall be made with as little inconvenience to the Owner as reasonably practical, and all physical damage to any Lot and Boat Slip or a Boat Slip or improvement on a Lot and Boat Slip or a Boat Slip resulting from or caused by such entry shall be promptly repaired and restored.

Section 11.03. Maintenance and Support Easements. Where Dwellings are permitted on or in close proximity to the boundaries of a Lot, the Common Areas and each Lot and Dwelling on such Lot shall be subject to irrevocable easements for the benefit of the Association and the Owners of the adjoining Lots and abutting Dwellings for (i) drainage (ii) the maintenance and unobstructed and uninterrupted use of any and all pipes, ducts, flutes, chutes, conduits, cables and wire outlets and utility lines, (iii) maintenance and lateral support of adjoining and abutting buildings and improvements, (iv) such portions of any building or improvements that may overhang a Lot or any portion of the Common Areas, and (v) the walks and sidewalks serving such adjoining and abutting areas.

Section 11.04. Street and Common Area Easements. Declarant hereby creates for the Owners of all Lots, a perpetual non-exclusive easement for pedestrian and vehicular traffic over and across the private streets, common walkways, drives and ways, as may be located on the Common Area, including the two boardwalks to be constructed by the Declarant over the marsh land on the east side of Sunset Bay, Phase I to Bay John as depicted on the plat attached hereto as Exhibit CC and as stated in Section 9.04(b) above.

Section 11.05. Drainage Easements. Declarant hereby creates for the Owners of all Lots, the Association and the Declarant a perpetual non-exclusive easement for drainage purposes over and across a strip of land ten feet (10') in width abutting the private street in front of each Lot. The use and regulations of said easement shall be under the supervision and control of the Architectural Review Committee.

Section 11.06. Limited Common Area Easements. Declarant hereby creates for the Owners of those certain Lots located on the east side of Sunset Bay, Phase I, a perpetual Limited Common Area Easement for the construction, maintenance and repair of boardwalks for pedestrian traffic over and across the private boardwalks constructed by the Owners of such Lots over the Common Area marsh land as depicted on the plat attached hereto as Exhibit CC. The easement hereby created shall be seven and one-half feet on either side of the center of the boardwalk which is to be

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constructed within the respective Limited Common Area easement for such boardwalk as depicted on Exhibit CC.

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Section 11.07. Easements to Run with Land. All easements and rights described herein are easements running with the land, perpetually in full force and effect, and at all times shall inure to the benefit and be binding upon the Declarant, its successors and assigns, and any Owner, purchaser, mortgagee and other person having an interest in the property or any part or portion thereof

ARTICLE XII.
USE AND OTHER RESTRICTIONS AND REQUIREMENTS

Section 12.01. Use of Lots, Dwellings and Boat Slips. Except (i) for the activities of a Developer or other builder during the construction and development of a Lot or the Common Areas (ii) for activities and uses expressly permitted and not substantially inconsistent with the provisions of this Declaration (iii) as may be necessary or appropriate in connection with reasonable and necessary repairs or maintenance to any Dwelling or other improvements on a Lot and Boat Slip, the Common Areas and (iv) as permitted by Section 12.03, each Lot and Dwelling shall be used for residential purposes only and each Boat Slip shall be used for boat docking purposes only, and no trade and business of any kind or nature may be conducted on or in such Lot, Dwelling, boat or Boat Slip. The use of a portion of a Dwelling as an office by the Owner or his tenant shall not be considered to be a violation of this Section 12.01 if such use does not create regular or continual customer, client, or employee traffic. In no event shall any Lot or Dwelling or other improvements on a Lot be used as a storage area for any building contractor or real estate developer, except as specifically permitted by this Declaration.

Section 12.02. Lease of Dwelling or Boat Slip. The lease or rental of a Dwelling for residential purposes shall not violate Section 12.01 if (i) the entire Dwelling and all the improvements on the Lot are leased, (ii) the term of the lease is at least one week, (iii) the lease otherwise complies with the rules and regulations adopted and promulgated from time to time by the Board of Directors, and (iv) the lease is subordinate and subject to this Declaration and is in writing. Prior to commencement of any lease term, the Owner shall provide the Association and Management Agent, if any, with copies of the lease.

The lease or rental of a Boat Slip shall not violate Section 12.01 if (i) the term of the lease is for a term of at least one week, (ii) the lease otherwise complies with the rules and regulations adopted and promulgated from time to time by the Board of Directors, and (iv) the lease is subordinate and subject to this Declaration and is in writing. If the Boat Slip is not included in the lease with the Owner's Dwelling, then and in that event, the Boat Slip may be leased or rented only to another Owner, pursuant to the provisions hereof. Prior to commencement of any lease term, the Owner shall provide the Association and Management Agent, if any, with copies of the lease.

Section 12.03. Sales and Construction Activities. The Declarant is expressly permitted and authorized to maintain and conduct such facilities and activities as may be reasonably appropriate, necessary, required, convenient or incidental to the construction, completion, improvement and sale of Boat Slips, Lots and/or Dwellings or the development of Lots, Dwellings and other improvements,

and the Common Areas, including, without limitation, the installation and operation of sales and construction trailers, offices and other structures or other improvements. The Location of any construction trailers of any Developer or other builder shall be subject to the Declarant's approval. The right to maintain and conduct such facilities and activities specifically includes the right to use Dwellings as model residences, as offices for the sale of Lots and/or Dwellings, and for related activities. The Declarant is expressly permitted and authorized to use, stock, maintain, locate, store and place on any portion of the Property any and all equipment, tools and vehicles as may be reasonably appropriate, necessary, required, convenient or incidental to such construction, improvement, completion, sale or development, including, but not limited to, construction equipment and construction machinery and vehicles.

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Section 12.04. Time Sharing. No Boat Slips, Lots or Dwellings shall be sold, assigned or leased under any time sharing, time interval or right-to-use programs or investments.

Section 12.05. Trespass. Whenever the Association and/or the Declarant is permitted by this Declaration to repair, clean, clear out or do any action on any part of the Property, including perform obligations or duties imposed on any Owner under this Declaration, then entering any Boat Slip, Lot or any portion of the Property for such purposes and taking such action shall not be or be deemed to be a trespass.

Section 12.06. Easement Interference. No structure, planting or other material shall be placed or permitted to remain upon any Lot of Boat Slip which may damage or interfere with any easement for the installation or maintenance of utilities, or which may unreasonably change, diminish, obstruct, or retard the direction of flow of surface water runoff in any drainage easement, swale or channel.

Section 12.07. Reconstruction after Fire or Other Casualty Loss. If a Dwelling is partially or completely destroyed by fire or other casualty, the Owner of such Dwelling shall promptly clear the Lot or restore or reconstruct such Dwelling, within a reasonable time, at his own expense, in accordance with the original Plans. 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 Board of Directors of the Association or the Declarant and the cost of such repairs shall become a lien against such Owner's 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.

If a Boat Slip is partially or completely destroyed by fire or other casualty, the Association in cooperation with the Owner of such Boat Slip shall promptly restore or reconstruct such Boat Slip, in accordance with the original Plans. Should the hazard insurance carried by the Association be insufficient to pay the cost of such repair the balance of such cost shall be paid by the Owner of such Boat Slip.

Section 12.08. Vacant Lot Maintenance. Each owner shall be responsible for the proper seeding, fertilization, watering, mowing, removal of litter and maintenance of any Lot which is undeveloped. If fill is placed on the Lot and the construction of the improvements is not promptly commenced and completed, then the Owner will be required to maintain such Lot.

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Section 12.09. Signs. Except as may be required by legal proceedings, no signs, advertising or ornaments of any kind shall be placed, maintained or permitted on a Boat Slip and/or within any windows or on the exterior of any Boat or other structure located on any Boat and/or Boat Slip by any Person, including the Owner and no signs, advertising or ornaments of any kind shall be placed, maintained or permitted on a Lot or within any windows or on the exterior of any Dwelling or other structure located on any Lot by any Person, including the Owner, without the approval of the Declarant and/or the Architectural Review Committee. The approval of any signs and posters, including name and address signs, shall be upon such conditions the Declarant and/or the Architectural Review Committee shall determine from time to time, and approval may be arbitrarily withheld. Any approved sign or advertising device shall only contain one name and/or one number plate which shall not exceed 120 square inches, and, if advertising the Lot or Leasehold Interest and/or Dwelling "for sale" or "for lease," such sign shall not exceed three square feet in area and shall be subject to the Architectural Review Committee's right to restrict color and content. The restrictions of this Section 12.09 shall not apply to the Declarant. The Board of Directors shall have the right to erect reasonable and appropriate signs on any portion of the Common Areas and Common Facilities and within easement areas established by this Declaration.

Section 12.10. Lot Division and Addition. No Lot shall be further subdivided so as to make two Lots out of one Lot, however nothing herein shall prohibit an Owner from making one Lot out of two Lots, but no other division or combination, provided that no more than one single-family dwelling shall be constructed or permitted on each such Lot, provided however, the Declarant hereby reserves the right to replat any Lot or Lots and to take such other steps as are reasonably necessary to make such replatted Lot or Lots suitable and fit as a building site or sites including, but not limited to, the relocation of the Lot or easements, walkways, right-of-way. Roadways, and common area and common facilities. Any such changes as might occur by placing one house on two residential lots must be approved by the Declarant until all Declarant's lots are sold and thereafter by the Board of Directors and the Architectural Review Committee.

Section 12.11. Antenna, etc. No Owner or occupant of any residential lot may allow anything to be hung from windows or displayed from the outside wall of any residence other than the American Flag, plants, or similar items. No speakers, basketball goal, radio, or television antenna or dish, except a small satellite dish less than eighteen inches (18") in diameter, the size, shape and location of which shall have been approved by the Architectural Review Committee, shall be placed, hung or displayed on the exterior of any residence or other improvement. Each residence may contain a built-in concealed T.V. antenna or cable system if desired. No yard art of any type shall be placed or erected on any lawn or yard.

Section 12.12. Pets. No animals, livestock or poultry of any kind, shall be raised, bred, kept, staked or pastured on any Lot or on portion of the Common Areas, except dogs, cats, birds or other household pets for non-commercial purposes and which are kept in Dwellings and are not a source of annoyance or a nuisance to the Property or any Member. All pets must be registered with the Boad of Directors or their designated agent, however the Board of Directors shall have the right, but not the obligation, to prohibit or bar certain dogs or breeds of dogs or other household pets from any boat, Boat Slip, Lot or Dwelling or other structure on the Lot or any portion of the Property. Pets shall be attended at all times and shall be registered, licensed and inoculated as required by law. Pets shall not be permitted upon the Common Areas unless accompanied by an adult individual and either

carried or leashed. Any animal waste from a pet shall immediately be cleaned up and removed by the owner of the pet or the adult responsible for such pet. The Board of Directors shall have the right to adopt such additional rules and regulations regarding pets from time to time as considered necessary or appropriate, including more restrictive "leash" regulations.

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Section 12.13. Vehicle Use and Storage. All vehicles shall be currently licensed and maintained in operating condition, so as not to cause or create hazards or nuisances by excessive noise levels, exhaust emissions, or appearance. Inoperative motor vehicles are strictly prohibited from the subdivision except for emergency situations. Off-street parking, adequate to accommodate the parking needs of the Owner and Occupants shall be provided by the Owner of each Lot, provided however, all residents constructed on a Lot must provide for a minimum of two parking spaces beneath the residence and restricted to automobile use only. The intent of this provision is to eliminate the need for any on-street parking; provided, however, that nothing herein shall be deemed to prohibit short-term on-street parking of employees' or visitors' vehicles.

Overnight parking of all recreational vehicles and related trailers, trucks, boats and/or sports equipment shall be in garages or appropriately screened enclosures, designed for parking.

No motor vehicle may be repaired (except for emergency repairs) on any lot, street, or Common Areas within the subdivision except where such repairs are made on a vehicle owned by an Owner and are done within such Owner's enclosed garage or in an area screened from public view.

In the interest of the health, safety and aesthetic enjoyment of the Owners and visitors within the Property, the Declarant reserves unto itself, its successors and assigns, the exclusive and absolute right to prescribe or otherwise limit the type, size, axle length, tires, weight and engine or motor characteristics of all vehicles, automobile, boats, jitneys, carriages or other modes of transportation to be used within the Property, and further, to establish and enforce speed limits, noise level limits and other matters pertaining to the use of such vehicles and boats.

Section 12.14. Mobile Homes and Trailers. No house trailer or mobile home shall be admitted in Sunset Bay Subdivision at any time, whether used for residential purposes or not. Camper trailers, recreational vehicles, and boat trailers must be parked within an enclosed garage and not on the required two parking spaces reserved for automobiles. Boats must be left in Owner's boat slip or parked in an enclosed garage and not on the required parking spaces reserved for automobiles.

Section 12.15 Private Streets, Cart Pathways, Additional Parking. Owners, their employees, guest, invitees and/or tenants shall not block or allow the streets, cart passage ways to be blocked and Owners of a Lot shall not use the extra parking spaces on the north and west sides of the Yacht Club.

Section 12.16 Unsightly Conditions. It shall be the responsibility of each Owner and Owner's tenant, if any, 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 Owner

and such Owner's tenant, if any, to prevent accumulations which shall tend to substantially decrease the beauty of the community as a whole or the specific area.

Section 12.17 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 Board of Directors 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.

Section 12.18 Ingress and Egress. The Owner, in accepting title to a Lot waives all rights of uncontrolled and unlimited egress and ingress to such Lot (and waives such rights for any person claiming entry rights by virtue of any relationship or permission of such Owner and successors in title) and agrees that such ingress and egress to such Lot may be limited to roadways built and conveyed to the Association as a part of the Common Area. The Declarant , its successors, assigns, agents, employees and licensees, expressly reserve a right of ingress and egress upon and through any and all roadways, and any other designated access routes in the Property to any portion or part of the Property. Nothing in this section shall be construed as placing an affirmative obligation on the Declarant to provide or construct any road or other means of ingress and egress to or within the Property.

Section 12.19 Firearms. No hunting by any means or discharge of firearms of any type shall be allowed on the Property.

Section 12.20 Boat Sizes, Speed and Noise. The restrictions and conditions contained in the rules and regulations adopted by the Board of Directors pertaining to boats and the use thereof must be complied with at all times.

Section 12.21 Submerged or Partially Submerged Boats. Any totally submerged boat or any boat partial submerged below its natural draw line and not in good operational condition shall be raised, repaired and restored to a good operational condition within thirty (30) days of such occurrence. In the event that the owner of such boat fails to comply with this requirement, the Board of Directors may, but shall not be obligated to, cause such boat to be surfaced and removed from the Property at no cost or expense and without responsibility or liability of any nature whatsoever to the Owner of such boat. All cost and expense incurred by the Association shall be shall be levied against such Owners Lot and Boat Slip and /or Boat Slip as a Special Assessment as provided under Section 5.04 and Sections 6.01 and 6.03 above.

Section 12.22 Maintenance of Dwellings, Lawns, Boats and Boat Slips. Except as may elsewhere herein provided, the Owner of a Lot and a Boat Slip shall be responsible for the care and maintenance required to keep and preserve such Owners Lot, landscaping, lawn, dwelling, boat slip and boat in a good, clean, well kept and functional condition at all times.

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ARTICLE XIII.
BUILDING AND CONSTRUCTION CRITERIA AND REQUIREMENTS

Section 13.01. Parking Requirements. All buildings and other structures and improvements shall be designed, located and constructed to permit all vehicles entering upon any Lot to be parked, maneuvered, loaded or unloaded entirely or completely on such Lot. All driveways and parking areas shall be concrete and the finish must be approved by the Architectural Review Committee. Each single-family residence shall provide for a minimum of two permanent garaged parking spaces on the ground floor of the residence reserved for automobiles use. Parking requirements for the Class B Members are contained in the rules and regulations adopted by the Board of Directors.

Section 13.02. Fencing Swimming Pools. All private residential swimming pools shall be screened from the street and constructed in the rear yard. The actual pool (not surrounding patio or deck) may not be built closer to the side lot line than side yard lot minium setback line or 10' from the rear property line. Swimming Pool and Spas must be screened from the street, the location, design and fencing must all be approved by the Architectural Committee.

Section 13.03. Storage Areas. Outside storage areas shall not be permitted.

Section 13.04. Utility Lines. All telephone, electrical, cable television and other similar lines located outside and between any building and any power transmission or other lines of poles shall be underground and shall conform to existing electrical codes.

Section 13.05. Building Sizes and Locations. All residential buildings in all phases of the Communities of Sunset Bay must contain at least 1,400 square feet of heated and cooled livable area, exclusive of garages, porches and enclosed storage areas.

Section 13.06. Sewage Disposal. The use of privies, septic tanks, cesspools, or disposal plants for the disposal of sewage is prohibited. Each and every residences constructed in Sunset Bay, Phase I must be connected to the public sewage system and have a grinder pump installed for such dwelling's sewer connection. No sewage or other waste material shall be emptied or discharged into any creek, marsh, river, harbor, sound, waterway, beach or shorelines thereof. Sewage disposal for boats and Boat slips are contained in the rules and regulations adopted by the Board of Directors and must be followed.

Section 13.07. Water Supply System. No individual potable water supply system is permitted on any Property. No private water wells may be drilled or maintained on any Lot or any other portion of the Property without the approval of the Declarant.

Section 13.08. Location and Facing. The Architectural Review Committee will establish and approve the location of all improvements, constructed or placed on all Lots.

Section 13.09. Setback Lines. No building shall be located nearer to the property line of any Lot than the building setback line established in the Architectural Guidelines for the Communities of Sunset Bay.

Section 13.10 Commencement and Completion of Construction. It is the intention of the Declarant that all Lots will be improved with a Single-Family Dwelling to ensure the values of the residences and property within the Property, therefore once the Declarant has conveyed a Lot to another purchaser, the subsequent Owner shall commence the construction of a dwelling approved by the Architectural Review Committee as herein provided within three (3) year from the date of the purchase of such Lot from the Declarant and completely finish construction of said dwelling within five (5) years from the date of such purchase. The exterior of all Single-Family Dwelling Units and other structures must be completed within nine (9) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the Owner or builder due to strikes, fires, national emergency or natural calamities. Dwelling structures may not be temporarily or permanently occupied or used until the exteriors thereof have been completed. During the continuance of construction, the Owner shall require the contractor to maintain the Lot in a reasonably clean and uncluttered condition. Upon completion of construction, the Owner shall cause the contractor to immediately remove all equipment, tools, construction material and other debris from the Lot. Any damage to roadways, paths, Common Areas or any other property owned by any person or entity caused by the Owner's contractor or other parties providing labor or services to the Owner shall be repaired by the Owner or by the Declarant of the Board of Directors at the Owner's expense. The landscaping plan for all Single-Family Dwelling Units and other structures must be completed at occupancy or substantial completion, whichever event shall first occur.

Section 13.11 Service Areas. Each Owner shall provide one or more visually screened areas to serve as a service 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 roadway and adjacent properties. No window air conditioning units may be installed or used on any Lot. No clothes lines are allowed on any Lot.

Section 13.12 Lights. The design and location of all exterior lighting fixtures shall be subject to the approval of the Architectural Review Committee. Neither these nor any other illumination devices located anywhere on the structures or grounds of any Single-Family Dwelling Unit shall be located, directed, or of such intensity to affect adversely the night-time environment of any adjacent property or Lot.

Section 13.13 Piers, Prohibited. No Owner whose Lot abuts any body of water may build or erect a pier, dock, wharf, boat houses, boat launch or ramp on such Owner's Lot or the abutting body of water, except for boardwalks and piers as shown on Exhibit CC.

Section 13.14 Bulkheads. No seawall, rip rap, bulkhead or other erosion control device may be erected or installed on any Lot without the prior written approval of the Architectural Review Committee.

Section 13.15 Topography and Vegetation. In order to protect the natural beauty of the vegetation and topography of the shoreline, woodlands, and other areas within the Property, written approval of the Declarant or the Architectural Review Committee 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 by the Architectural Review Committee.

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ARTICLE XIV
ENFORCEMENT OF DECLARATION

Section 14.01. Compliance. If any provision of this Declaration is breached or violated or threatened to be breached or violated by any Owner or other Person, then each of the other Owners, the Declarant and/or the Association, jointly or severally, shall have the right, but not the obligation, to proceed at law or in equity to compel a compliance with, or to prevent the threatened violation or breach of, the provisions of this Declaration. If any structure or other improvement located on any portion of the Property, including any Lot, violates any provision of this Declaration, then the Declarant and/or the Association, jointly or severally, shall have the right, but not the obligation, to enter upon any portion of the Property, including any Lot, to abate or remove such structure or other improvement at the cost and expense of the Owners of the Lot where such structure or improvement is located or who otherwise causes such violation, if the violation is not corrected by such Owners within 30 days after written notice of such violation. Any Person entitled to file or maintain a legal action or proceeding for the actual or threatened violation or breach of this Declaration shall be entitled to recover attorney's fees and other costs and expenses attributable to such action or proceeding, and the Association shall be entitled to recover and receive any other amounts specified in Section 6.03. Any such entry and abatement or removal shall not be or be deemed to be a trespass. The failure by any Person for any period of time to enforce any provision of this Declaration shall not be or be deemed a waiver of the right to enforce or otherwise bar or affect the enforcement of any and all provisions of this Declaration at any time, including any future time.

Section 14.02. Enforcement. This Declaration shall be enforced by any appropriate proceeding at law or in equity (I) against any Person who breaches or violates of threatens to breach or violate any provision of this Declaration, (ii) to recover damages for any such breach or violation, (iii) to collect any amounts payable by any Owner to the Association under this Declaration, including Assessments, attorneys' fees, costs of collection, late charges, overhead charges or other amounts incurred by the Association to perform or discharge any obligation or duty of an Owner under this Declaration or otherwise specified in this Declaration, including Section 6.03, and (iv) to enforce any lien created by this Declaration. There is hereby created and declared to be a conclusive presumption that any actual or threatened violation or breach of this Declaration cannot be adequately remedied by an action at law exclusively for recovery of monetary damages. The Declarant, the Association and each Owner by acceptance of a deed or other document to a Lot waives and agrees not to assert any claim or defense that injunctive relief or other equitable relief is not an appropriate remedy.

ARTICLE XV.
GENERAL PROVISIONS

Section 15.01. Duration. This Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by the Declarant, the Association and the Owners of any land subject to this Declaration, their respective legal representatives, heirs, devisees, successors and assigns, until January 1, 2042. After such date this Declaration shall be automatically extended for successive periods of ten years unless a Supplement signed by a majority

of the Owners has been properly filed for record to abolish or terminate all or a substantial portion of this Declaration at least one year prior to the effective date of such abolishment or termination.

Section 15.02. Amendments. Notwithstanding Section 14.01 this Declaration may be amended, modified and/or changed either (i) by the Declarant properly filing for record a Supplement prior to December 31, 2007 or (ii) by a Supplement properly filed for record and executed by the owners of at least 75% of the Lots if amended, modified and/or changed prior to January 1, 2050, and thereafter by the Owners of at least 51% of the Lots.

Section 15.03. Interpretation. The provision of this Declaration shall be construed to implement the purpose of the creation of a uniform plan for the development of the Property.

Section 15.04. Severability. Invalidation of any provision of this Declaration by judgment or court order shall not affect any other provisions of this Declaration which shall remain in full force and effect.

Section 15.05. Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

Section 15.06. Notices to Owner. Any notice required to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States mails, postage prepaid, addressed to the last known address of the Person who appears as Owner on the records of the Association or, if applicable, the Declarant at the time of such notice is mailed.

Section 15.07. Successors of Declarant. All or any portion of any and all rights, reservations, easements, interests, exemptions, privileges and powers of the Declarant under this Declaration may be assigned and transferred exclusively by the Declarant with or without notice to the Association.

Section 15.08. Incorporation by Reference on Resale. In the event any Owner sells of otherwise transfers any Lot, any deed or assignment purporting to such transfer shall contain a provision incorporating the provisions of this Declaration by reference.

Section 15.09. No Dedication to Public Use. No provision of this Declaration shall be construed as a dedication to public use of as an acceptance for maintenance of any Common Areas by any public agency of authority or by any utility or shall be interpreted as imposing upon any public agency or authority or any utility any responsibility or liability for the maintenance or operation of any portion of the Common Areas.

Section 15.10. Consents of Eligible Mortgage Holders. The Owners, or the Board of Directors, or the Association, by any act or omission, shall not do any of the following things without the prior written consent and approval of the holders of fifty-one percent (51%) of the outstanding first mortgages who have requested notice from the Association of any proposed action that requires the consent of a specified percentage of Eligible Mortgage Holders:

(a) Abandon, partition, subdivide, encumber, sell, assign or transfer any of the Common

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Areas or Common Facilities, but the realignment of boundaries, the granting of rights-of-way, easements and similar rights or interests for utilities or for other purposes consistent with the use of the Common Areas by the Members of the Association shall not be considered to be such an encumbrance, sale, assignment or transfer.

(b) Abandon or terminate this Declaration.

(c) Modify or amend any material or substantive provision of this Declaration or the Bylaws pertaining to the rights of the holders of First Mortgages.

(d) Substantially modify the method of determining and collecting Assessments as provided in this Declaration.

Section 15.11. Notice to and Rights of Eligible Mortgage Holders. The Association shall promptly notify any Eligible Mortgage Holder on any Lot or Boat Slip for which any Assessment remains delinquent for at least 60 days, and the Association shall promptly notify the holder of the First Mortgage on any Lot or Boat Slip for which there is default by the Owner with respect to performance of any other obligation or duty under this Declaration which remains uncured for at least 60 days following the date of such default. Any failure to give any such notice shall not affect the validity of priority of any First Mortgage on any Lot or Boat Slip, and the protection provided in this Declaration to any Eligible Mortgage Holder on any Lot or Boat Slip shall not be altered, modified or diminished by reason of such failure, nor shall any such failure affect the validity of the lien of any Assessment or affect any of the priorities for liens as specified in Article V.

No suit or other proceeding may be brought to foreclosure the lien for any Assessment levied pursuant to this Declaration, except after 10 days written notice to any Eligible Mortgage Holder holding a first mortgage encumbering the Lot or Boat Slip which is the subject matter of such suit or proceeding.

Any holder of a First Mortgage of any Lot or Boat Slip may pay any taxes, rents, utility charges or other charges levied against the Common Area which are in default and which may or have become a charge or lien against any of the Common Area and may pay any overdue premiums on any hazard or liability insurance policy, or secure new hazard or liability insurance coverage on the lapse of any policy, relating to the Common Area. Any holder of a First Mortgage who advances any such payment shall be due reimbursement of the advanced amount from the Association.

Section 15.12. Captions and Gender. The captions contained in this Declaration are for convenience only and are not a part of this Declaration and are not intended to limit or enlarge the terms and provisions of this Declaration. Whenever the context requires, the male shall include all genders and singular shall include the plural.

Section 15.13. Exhibits. All Exhibits which are referred to in this Declaration are made a part of and incorporated into this Declaration by reference.

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ARTICLE XVI.
DECLARANT'S RIGHTS AND RESERVATIONS

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Section 16.01. Declarant's Rights and Reservations. No provisions in the Charter, the Bylaws or this Declaration shall limit, and no Owner or the Association shall interfere with, the right of Declarant to subdivide or resubdivide any portions of the Property; to complete or alter improvements or refurbishments to and on the Common Areas and Common Facilities or any portion of the Property owned by Declarant, or alter the construction plans and designs, or construct such additional improvements or add future phases as Declarant deems advisable during development of the Property. Such right shall include, but shall not be limited to, the right to install and maintain such structures, displays, signs, billboards, flags and sales offices as may be reasonably necessary for the conduct of Declarant's business or completion of the work and disposition of the Lots by sale, lease or otherwise. Each Owner by accepting a deed or other conveyance document to a Lot or Boat Slip hereby acknowledges that the activities of Declarant may temporarily or permanently constitute an inconvenience or nuisance to the Owners, and each Owner hereby consents to such inconvenience or nuisance. This Declaration shall not limit the right of the Declarant at any time prior to acquisition of title to a Lot by a purchaser from Declarant to establish on that Lot, Common Areas, additional licenses, easements, reservations and rights of way, to itself, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Property. The Declarant need not seek or obtain Board approval of any improvement constructed or placed by Declarant on any portion of the Property. The rights of the Declarant under this Declaration may be assigned by Declarant to any successor and any interest or portion of Declarant's interest in any portion of the Property by a recorded, written assignment. Notwithstanding any other provision of this Declaration, the prior written approval of Declarant will be required before any amendment to this Article XVI shall be effective while Declarant owns a Lot or Boat Slip. Declarant shall be entitled to the nonexclusive use of the Common Area, without further cost, for access, egress, ingress, use or enjoyment, in order to show the Property to its prospective purchasers or lessees and dispose of the Property as provided herein. Each Owner hereby grants, by acceptance of the deed to such owner's Lot or Boat Slip, an irrevocable, special power of attorney to Declarant to execute and record all documents and maps necessary to allow Declarant to exercise its rights under this Article XVI. This Article XVI shall be applicable for so long as the Declarant owns any portion of the Property.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed by its duly authorized Manager, on the day and year first above written.

TUGBOAT PROPERTIES, LLC, a
Mississippi limited liability company

By: _____
Steve H. Bryan, Managing Member

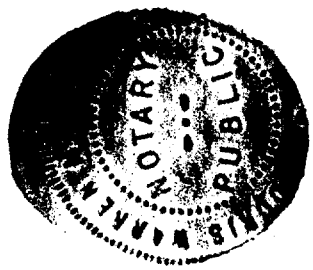
STATE OF MISSISSIPPI
COUNTY OF MADISON

The State of Mississippi, Madison County, I Doris Warren, a Notary Public in and for said County in said State, hereby certify that Steve H. Bryan, whose name as Manager of Tugboat Properties, LLC, a Mississippi limited liability company, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company. Given under my hand this 7th day of October, A.D. 2003

Doris Warren
Notary Public

My Commission Expires:

MISSISSIPPI STATEWIDE NOTARY PUBLIC
MY COMMISSION EXPIRES AUG. 12, 2007
BONDED THRU STEGALL NOTARY SERVICE



H:\BRYAN\Sunset Bay\Sunset Bay, Phase I- LAST REVISED 6-10-03.wpd

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EXHIBIT AA
THE PROPERTY

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A parcel or tract of land situated in Baldwin County, Alabama, more particular described as follows:

Begin at the Northwest corner of Section 2, Township 9 South, Range 3 East, run thence East for 4014.86 feet; run thence South 38 degrees 39 minutes 34 seconds West for 950.75 feet; run thence South 00 degrees 39 minutes 00 seconds West for 530.0 feet to the North right-of-way of the Intracoastal Canal; run thence North 87 degrees 50 minutes 00 seconds West along the North right-of-way of the Intracoastal Canal for a distance of 30.01 feet to the centerline of Boat Canal, which is also the Point of Beginning; run thence North 87 degrees 50 minutes 00 seconds West along the North right-of-way of said Intracoastal Canal for 152.05 feet; run thence North 78 degrees 30 minutes 00 seconds West along the North right-of-way of said Intracoastal Canal for 28.47 feet; run thence North 00 degrees 39 minutes 00 seconds East for 1141.82 feet to the South right-of-way of County Road No. 6; run thence in a Southeasterly direction along a curve to the left having a radius of 1641.70 feet for an arc distance of 435.19 feet, a chord of South 82 degrees 12 minutes 06 seconds East for 433.91 feet; run thence South 89 degrees 00 minutes 13 seconds East for 45.97 feet; run thence in a Northeasterly direction along a curve to the left having a radius of 1930.59 feet for an arc distance of 478.57 feet, a chord of North 83 degrees 53 minutes 42 seconds East for 477.35 feet; run thence North 76 degrees 47 minutes 36 seconds East for 79 feet, more or less, to the West shore of Bay John; run thence in a Southerly direction along the meanders of Bay John to a point where Bay John intersects the North right-of-way of said Intracoastal Canal; run thence North 87 degrees 50 minutes 00 seconds West along the North right-of-way of said Intracoastal Canal for 358 feet, more or less, to the Point of Beginning.

EXHIBIT BB
ADDITIONAL PROPERTY

All property owned or which may be acquired by the Declarant or its members or affiliates in the close proximity of the Property and situated in Baldwin County, Alabama.

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EXHIBIT CC
DRAWING OF SUBDIVISION
LOCATING PRIVATE AND COMMON AREA BOARDWALKS
AND LIMITED COMMON AREA EASEMENTS

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EXHIBIT DD
CORPS OF ENGINEERS
BOARDWALK COMPLIANCE

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EXHIBIT CC
DRAWING OF SUBDIVISION
LOCATING PRIVATE AND COMMON AREA BOARDWALKS AND LIMITED COMMON AREA EASEMENTS

EXHIBIT DD
CORPS OF ENGINEERS
BOARDWALK COMPLIANCE

DEPARTMENT OF THE ARMY
MOBILE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, ALABAMA 36628-0001

VOLKERT-MOBILE

SEP 1 3 2002

REPLY TO ATTENTION OF

September 5, 2002

Regulatory Branch
Operations Division

SUBJECT: No Permit Required for Pile Supported Structure Over Wetlands - Jurisdictional Number ALJ02-02574-K

Volkert Environmental Group, Inc.
Attention: Mr. Brett Gaar
Post Office Box 7414
Mobile, Alabama 36670-0434

Dear Mr. Gaar:

Reference is made to your letter requesting a jurisdictional determination in Sunset Shores in Bon Secour Bay (see enclosed map). Specifically, the property is located in Section 11, Township 9 South, Range 3 East, Baldwin County, Alabama.

An inspection conducted September 5, 2002, revealed that a Department of the Army permit pursuant to Section 404 of the Clean Water Act will not be required for a pile-supported walkway over non-tidal wetlands. As discussed, your structure will not extend below the mean high tide line of Bon Secour Bay. Please ensure that best management practices are used during construction to minimize impacts to the wetlands. We suggest that all work be conducted from mats. Furthermore, if your plans change please contact this office for a new determination.

Please be advised that this jurisdictional determination reflects current policy and regulation and is valid for a period of 5 years from the date of this letter. If, after the 5-year period, this jurisdictional determination has not been specifically revalidated by the U.S. Army Corps of Engineers, it shall automatically expire. Should you disagree with certain terms and/or conditions of this determination, the enclosed Notification of Applicant Options outlines the steps to take to file your objection.

The statements contained herein do not convey any property rights or any exclusive privileges, and do not authorize any injury to property or obviate the requirements to obtain other local, state, or Federal assent required by law for the activities discussed above.

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If the scope of work or project location changes, you are urged to contact this office for a verification of this determination. Thank you for your cooperation with our permit program. If you have any questions concerning this matter, please contact Ms. Cindy J. House-Pearson of the Enforcement Section at (251) 690-3188.

Sincerely,

Ronald K. [illegible]
Chief, Regulatory Branch
Operations Division

Enclosure

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