



ALABAMA POWER COMPANY

AGREEMENT FOR UPGRADING UNDERGROUND WIRING FACILITIES  
FOR  
MOBILE HOME PARKS

STATE OF ALABAMA

Shelby COUNTY

A. Dale Glass

Owner

Sunset Trailer Park

Mobile Home Park Name

Rt 1, Box 197-2 Calera, AL 35041

Address

Same as above

Address

Mobile Home Park Name Per Original Agreement if different from above

The Agreement made this 12 day of JUNE, 1985, by and between Alabama Power Company (the "Company") and A. Dale Glass (the "Owner") with respect to provision of electric service to SUNSET TRAILER PARK (the "mobile home park") located on a parcel of land in Shelby County, Alabama, as more particularly described in that certain deed dated March 13, 1981, from Alton Glass and wife Christina Glass to Dale Glass, as recorded in Deed Book 331, page 966, in the Office of the Judge of Probate of said county.

WITNESSETH:

WHEREAS, the Company and Owner have heretofore entered into an Electric Service Entrance Agreement dated Oct 10, 1972 pursuant to which the Company installed underground service facilities and pedestal-mounted combination meter socket and mobile home power panels for each mobile home space in the mobile home park, with the Company retaining title to all of such facilities; and

WHEREAS, due to changes in the Company's program for underground electric service to mobile home parks and technological advances in equipment, the Company and the Owner now desire to upgrade the facilities installed under said Agreement.

NOW, THEREFORE, in consideration of the premises and the installation by the Company of the new facilities, the Company and the Owner agree that:

1. The Company will, from time to time as it deems necessary or appropriate and at its expense, replace the existing pedestal mounted combination meter sockets and mobile home power panels with a new mobile home power panel mounted on a pedestal at or near the location of the existing pedestal mounted combination meter socket and mobile home power panel and will install, at a separate location, a pedestal mounted meter socket and meter to which the newly installed mobile home power panel will be connected. Upon the installation and connection of the new mobile home power panel, title to such mobile home power panel, the pedestal on which it is mounted, and all conduit and wiring installed between such panel and the Company's newly installed meter socket shall vest in the Owner, and the Company shall have no obligation to operate or maintain such facilities after the date of the installation and connection.

2. With respect to each lot in the mobile home park for which a new mobile home power panel is installed hereunder, neither the Company or the Owner shall have any further rights or obligations under the Electric Service Entrance Agreement dated Oct 10, 1972 between the Company and the Owner.

3. This agreement shall constitute a covenant running with the land and shall be binding upon the Owner's heirs, successors and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the date first above written.

STATE OF ALABAMA, SHELBY CO.  
I CERTIFY THIS  
INSTRUMENT WAS FILED

1985 JUN 12 PM 1:49

ALABAMA POWER COMPANY

By

District Manager

Owner, Mobile Home Park

Copy Distribution: WHITE/G.O.-Mktg.

CANARY/Div. Mgr.-Mktg.

PINK/Dist. Engg.

GOLD/Owner

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DECLARATION OF CONDOMINIUM  
FOR  
VALLEY STATION CONDOMINIUM,  
a Condominium

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a Condominium

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DECLARATION OF CONDOMINIUM  
FOR  
VALLEY STATION CONDOMINIUM,  
A CONDOMINIUM

THIS DECLARATION made this 5th day of June 1985, by B. J. Harris and Denney E. Barrow, individuals, (the "Developer"), pursuant to the provisions of the Condominium Ownership Act of Alabama, Code of Alabama 1975, §§ 35-8-1 et seq. (the "Act"), for the purpose of forming a condominium and establishing certain easements, covenants and restrictions to run with the land:

W I T N E S S E T H:

WHEREAS, Developer is the owner of certain real property located in Shelby County, Alabama on which Developer has constructed a commercial building containing seven (7) units, parking areas, and certain other improvements in accordance with the Map of Valley Station Condominium, prepared by L. D. Weygand on January 21, 1985, and recorded in Map Book 9, page 79-80 in the Office of the Judge of Probate of Shelby County, Alabama;

WHEREAS, it is the desire and intention of the Developer, by recording this Declaration, to establish a condominium (as defined in the Act) to be known as Valley Station Condominium, a Condominium, under the provisions of the Act and to impose upon the real property covered hereby mutually beneficial restrictions under a general plan for the benefit of all of the condominium units contained therein and the owners thereof.

NOW, THEREFORE, Developer, upon recording hereof, does submit that certain real property situated in Shelby County, Alabama, more particularly described on Exhibit A attached to this Declaration, together with the improvements thereon, and owned by the Developer in fee simple absolute to the provisions of the Condominium Ownership Act of Alabama to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, improved and in any other manner utilized subject to the provisions of said Act and subject to the covenants, conditions, restrictions, uses, limitations and affirmative obligations set forth in this Declaration, all of which are declared and agreed to be in furtherance of a plan for the improvement of said property and the division thereof into condominium ownership and all of which shall run with the land and shall be binding on all parties (including Owners as hereinafter defined) having or acquiring any right, title or interest in said property or any part thereof, and shall be for the benefit of each Owner of any portion of said property or any interest therein, and shall inure to the benefit of and be binding upon each successor in interest to the Owners thereof.

ARTICLE I

DEFINITIONS

1.01. Definitions. Certain terms as used in this Declaration shall be defined as follows, unless the context clearly indicates a different meaning therefor:

(a) "Act" shall mean the Condominium Ownership Act of Alabama, Code of Alabama 1975 §§ 35-8-1 et seq., and as the same may be amended from time to time.

(b) "Association" shall mean Valley Station Condominium Owners Association, Inc., a nonprofit corporation organized pursuant to the Alabama Nonprofit Corporation Act, Code of Alabama 1975 §§ 10-3A-1 et seq. of which all Owners shall be members and which corporation shall administer the operation and management of the Condominium Property.



(c) "Board of Directors" or "Board" shall mean the Board of Directors of the Association, elected pursuant to the By-Laws of the Association.

(d) "By-Laws" shall mean the set of By-Laws, identified as Exhibit B, recorded simultaneously with this Declaration, providing for the self-government of the Condominium Property by the Association in accordance with § 35-8-10 of the Act, and such amendments thereto as may be recorded from time to time pursuant to the provisions of the Act.

(e) "Common Elements" shall mean and include the following:

(i) The Land;

(ii) The foundations, bearing walls, perimeter walls, structural slabs, and columns;

(iii) The roofs, attics, halls, sidewalks, mechanical equipment and storage areas and entrances and exits or communication ways;

(iv) The compartments or installations of central services such as central air conditioning and heating, power, light, electricity, telephone, gas, cold and hot water, plumbing, reservoirs, water tanks and pumps, sewer lines, septic field, flues, incinerators, and the like, and all similar devices and installations existing for common use;

(v) The premises and facilities, if any, used for the maintenance or repair of the Property;

(vi) Greens, gardens, service streets and parking areas;

(vii) All easements, rights or appurtenances affecting or relating to the use of the Condominium Property unless specifically included in any Unit; and

(viii) All other elements desirable or rationally of common use or necessary to the existence, upkeep and safety of the Condominium Property.

(f) "Common Expenses", as used in the Condominium Documents, shall mean the expenses arising out of the ownership of the Common Elements for which the Owners are liable to the Association and shall include, but not be limited to, expenses of administration of the Condominium Property; expenses of insurance; expenses of maintenance, operation, repair, replacement, rehabilitation, restoration, renovation and betterment of the Common Elements and any portion of a Unit maintained by the Association; any valid charge against the Condominium Property as a whole; taxes imposed on the Common Elements by governmental bodies having jurisdiction over the Condominium Property; and expenses declared to be Common Expenses by the provisions of the Condominium Documents, as the same may be amended, from time to time, in accordance with the provisions thereof. The Common Expenses shall not include charges imposed upon the Owners of Common Elements under the Condominium Documents for usage of various components of the Common Elements.

(g) "Common Surplus" shall mean the excess of all the receipts of the Association including, but not limited to, assessments, rents, profits and revenues over the amount of the Common Expenses.



(h) "Condominium Documents" shall mean the Declaration and all Exhibits thereto, the By-Laws, and the Articles of Incorporation of the Association, as the same shall be amended from time to time.

(i) "Declaration of Condominium" or "Declaration" shall mean this instrument as it may, from time to time, be amended.

(j) "Developer" shall mean B. J. Harris and Denney E. Barrow, their respective successors and any assignee, other than an Owner, who shall receive by assignment from said persons of all, or a portion of their rights hereunder as such Developer, by an instrument expressly assigning such rights as Developer to such assignee.

(k) "Land" shall mean the parcel or tract of real estate described in Exhibit A to this Declaration, submitted to the provisions of the Act, and such other parcels or tracts of real estate as may from time to time be submitted to the provisions of the Act by amendment of this Declaration.

(l) "Limited Common Elements" shall mean and include the pumps, tanks, lights and other fixtures and equipment used for the purpose of selling petroleum products which are situated on the Condominium Property and the sign located in the parking area, excluding in all cases the Land.

(m) "Limited Common Expenses" as used in the Condominium Documents, shall mean the expenses arising out of the ownership of the Limited Common Elements for which the owners of the Limited Common Elements are liable to the Association, and shall include, but not be limited to, the expenses of maintenance, operation, repair, replacement, rehabilitation, restoration, renovation, and betterment of the Limited Common Elements; taxes imposed against the Limited Common Elements by governmental bodies having jurisdiction over the Condominium Property; and expenses declared to be Limited Common Expenses by the provisions of the Condominium Documents, as the same may be amended, from time to time, in accordance with the provisions thereof. The Limited Common Expenses shall not include charges imposed upon the owners of the Limited Common Elements under the Condominium Documents for the usage of various components of the Limited Common Elements.

(n) "Mortgage" shall mean a first lien mortgage on one or more Units.

(o) "Mortgagee" shall mean a holder of a Mortgage who has given notice to the Association that it is the holder of a Mortgage affecting all or any part of the Condominium Property as hereinafter provided.

(p) "Owner" shall mean and refer to every person or entity who is a record owner of a Unit.

(q) "Plan" shall mean the Plan showing each Unit of the Condominium Property attached hereto as Exhibit C and made a part hereof for all purposes, as such Plan may from time to time be amended.

(r) "Private Elements" shall mean a part or parts of the Condominium Property as set forth in the Plan intended for the exclusive ownership or possession by an Owner. Each Private Element shall consist of the volumes or cubicles of space which lie between the lower, upper and lateral or perimetrical boundaries described as follows:



(i) Upper and Lower Boundaries: The upper and lower boundaries extended to their planer intersections with the perimetrical boundaries as follows:

(1) The upper boundary shall be the lower unfinished surface of the ceiling.

(2) The lower boundary shall be the plane of the upper surface of the structural slab, or other sub-flooring material which serves as the Unit's floor, excluding any floor covering such as carpeting, vinyl, or ceramic tile.

(ii) Perimetrical Boundaries: The perimetrical boundaries shall be the vertical planes of the exterior surfaces of the exterior windows, glass doors and entry doors, and the unfinished interior surfaces of the boundary walls, excluding paint, wallpaper and light coverings, extended to their planer intersections with each other and with the upper and lower boundaries.

Each Private Element shall include all non-structural interior partition walls located within the boundaries of the Private Element excepting such part as may comprise part of the Common Elements and Limited Common Elements; the decorated surfaces of all boundary walls, ceilings and floors, including wallpaper, paint, interior brick surface, lathe, wallboard, plaster, carpeting, flooring and other finishing materials; all immediately visible fixtures, appliances, cabinets, and water and sewage pipes located within the boundaries of the Private Element and serving only the Private Element; and the mechanical systems and installations providing electrical power, gas, water, heating and air conditioning service to the Private Element, including the individual compressor even though such equipment may be located outside the boundaries of the Private Element, provided that no pipes, wires, conduits, ducts, flues, shafts and other facilities situated within such Private Element and forming a part of any system serving one or more other Private Elements or the Common Elements shall be deemed to be a part of such Private Element; and provided further that no wall or column providing structural support and located within the boundaries of the Private Element shall be deemed part of the Private Element.

(s) "Property" or "Condominium Property" shall mean the Land and all improvements and structures erected, constructed or contained therein or thereon, including all buildings, and all easements, rights and appurtenances belonging thereto, and all furniture, furnishings, fixtures and equipment intended for the mutual use, benefit or enjoyment of the Owners, submitted to the provisions of the Act under this Declaration, as amended from time to time.

(t) "Rules and Regulations" shall mean those Rules and Regulations adopted from time to time by the Board of Directors of the Association that are deemed necessary for the enjoyment of the Condominium Property, provided they are not in conflict with the Act or the Condominium Documents.

(u) "Unit" or "Condominium Unit" shall mean the Private Elements as shown on the Plan together with the undivided interest in the Common Elements and Limited Common Elements, if any, assigned to each Unit as herein provided.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION

2.01. Description of Improvements and Identification of Units. The Condominium Property consists of one building, con-



maintaining a total of seven (7) Units, Common Elements and Limited Common Elements. A plot plan of the Land and a graphic description of the improvements in which the Units are located identifying each Unit by a number so that no Unit bears the same designation as any other Unit, all in sufficient detail to identify the Common Elements and Limited Common Elements and Private Elements of each Unit and their relative locations and approximate dimensions are set forth in the Plan attached hereto as Exhibit C.

2.02. Amendment of Condominium Plan. Developer reserves the right to combine, alter, subdivide or otherwise realign Units so long as the Developer owns the Units so altered. Changes in the boundaries between Units, as hereinbefore provided, shall be reflected by an amendment to the Plan, and if necessary, an amendment to this Declaration. An amendment of the Plan or the Declaration reflecting an alteration of the boundaries of the Units owned by Developer need be signed and acknowledged only by the Developer and need not be approved by the Owners and Mortgagees, whether or not such approval may elsewhere be required herein; provided, however, that any change which shall result in a change in the undivided interest in the Common Elements and/or Limited Common Elements or a change in the share in the Common Expenses and/or Limited Common Expenses of the Owners of Units other than the Developer or the alteration of any boundaries of the Common Elements (other than the common walls separating the Units owned by the Developer) may not be made without an amendment of this Declaration approved by the Owners and Mortgagees in the manner elsewhere required herein, and provided further that any changes made under this Section 2.02 shall be subject to the provisions of Article VII below.

2.03. Easements. The Private Elements, Common Elements and Limited Common Elements shall be, and the same are hereby declared to be subject to the restrictions, easements, conditions and covenants prescribed and established in the Condominium Documents, governing the use of said Private Elements, Common Elements, and Limited Common Elements in setting forth the obligations and responsibilities incident to ownership of each Unit and its appurtenant undivided interest in the Common Elements and Limited Common Elements, if any. Said Private Elements, Common Elements and Limited Common Elements are further declared to be subject to the restrictions, easements, conditions and limitations now of record affecting the Condominium Property.

(a) Parking Easement. Each Owner shall in addition to owning a fee simple interest in his Unit have a nonexclusive easement for the use of the parking area designated on the Plan. The Association may grant to an Owner an exclusive easement or license for the use of one or more parking spaces, and the aforesaid nonexclusive parking easements shall be subject and subordinate to the exclusive parking rights granted by the Association. Any such exclusive or non-exclusive easement shall be for the benefit of the Owners and their licensees, invitees and lessees and shall not entitle the Owner to (i) construct any garage, carport or other structure upon the parking area, or (ii) alter or remove any existing structure upon the parking area.

(b) Easement for Use of Limited Common Elements. Each Owner of the Limited Common Elements shall have an easement for the placement, maintenance and repair of the Limited Common Elements and for vehicular and pedestrian ingress and egress to and from the Limited Common Elements on that portion of the Land surrounding the Limited Common Elements which is described in the Plan as being subject to said easement for so long as the Limited Common Elements exist. The aforesaid easement shall be for the benefit of each Owner of the Limited Common Elements and its lessees, licensees and invitees.



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BOX

(c) Utility Easements. Utility easements are reserved throughout the whole of the Property, including Units, as may be required for utility services in order to adequately serve the Condominium Units; provided, however, such easements through a Unit shall be only as the building shall be constructed, unless changes thereto are approved in writing by the Owners of the affected Units.

(d) Air Conditioning and Other Equipment. There are appurtenant to the Units air conditioning compressors and other equipment which are located in the Common Elements appurtenant to such Units. An easement is hereby reserved in favor of each such Unit for the purpose of placement, maintenance, repair and replacement of the said air conditioning compressors and other equipment by Developer and the Owners of the appurtenant Unit; provided that no air conditioning compressor or other equipment shall be placed in any part of the Common Elements other than the present location unless the written approval of the Association shall have first been obtained.

(e) Easements for Ingress and Egress. The Common Elements shall be, and the same are hereby declared to be subject to perpetual non-exclusive easements of way over all roads, walkways, and sidewalks in favor of all Owners for all proper and normal purposes and for the furnishing of services and facilities for which the same are reasonably intended for the enjoyment of said Owners, subject to any exclusive easements granted under the authority of this Declaration and restrictions in the Condominium Documents.

(f) Easements for Encroachments. To the extent that any Private Element, Common Element or Limited Common Element encroaches on any other Private Element, Common Element, or Limited Common Element whether by reason of any deviation from the Plans in the original construction, repair, renovation, restoration or replacement of any improvement, or by reason of the settling or shifting of any land or improvement, a valid easement shall exist for the encroachment and/or the maintenance of the same, so long as the encroaching Private Element, Common Element, or Limited Common Element stand. A valid easement shall not relieve an Owner of liability for his or his agent's negligence or intentional acts in cases of willful and intentional misconduct by him or his agents or employees. In the event any Unit, any adjoining Unit, or any adjoining Common Elements or Limited Common Elements shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then constructed, reconstructed or repaired, encroachment of parts of the Common Elements or Limited Common Elements upon any Unit or of any Unit upon any other Private Elements, Common Elements, or Limited Common Elements resulting from such construction, reconstruction or repair shall be permitted, and valid easements for such encroachment and the maintenance thereof shall exist so long as the encroaching improvements shall stand.

(g) Easement of Support. Each Private Element and the Common Elements and Limited Common Elements shall have an easement of support from every other Private Element and the Common Elements and Limited Common Elements which provide such support.

(h) Easements Appurtenant to Units. The easements and other rights created herein for the Unit Owners shall be appurtenant to the Unit of that Owner and all conveyances of title to the Unit shall include a conveyance of the easements and rights as are herein provided even though no specific reference to such



easements and rights appear in such instrument. The Owners do hereby designate the Developer and/or the Association as their lawful attorney-in-fact to execute any and all instruments on their behalf for the purpose of creating all such easements as are contemplated by the provisions hereof.

2.04. Ownership of Common Elements. Each Owner shall own an undivided interest in the Common Elements with all other Owners, and, except as otherwise limited in this Declaration, shall have the right to use the Common Elements for all purposes incident to the use and occupancy of his Unit as herein provided without hindering or encroaching upon the lawful rights of the other Owners, which rights shall be appurtenant to and run along with the Unit. The extent or amount of such ownership shall be expressed by a percentage relating to each Unit and shall remain constant, unless changed by the Developer as permitted in Section 2.02 hereof or by the unanimous approval of all Owners and Mortgagees. The percentage ownership in the Common Elements relating to each Unit is as set forth on Exhibit D attached hereto.

2.05. Ownership of Limited Common Elements. The ownership of the Limited Common Elements shall be as set forth on Exhibit D attached hereto. The extent or amount of such ownership shall be expressed by a percentage relating to the Units to which the Limited Common Elements are attached, and the Owners of such Unit(s) shall own an undivided percentage interest in the Limited Common Elements which shall remain constant unless changed by the Developer as permitted in Section 2.02 hereof or by the unanimous approval of the Owners of the Limited Common Elements and their respective Mortgagees. Each Owner of a Unit to which the Limited Common Elements are attached shall have the right to use the Limited Common Elements for all purposes incident to the use and occupancy of his Unit as herein provided without hindering or encroaching upon the lawful rights of the other Owners, which rights shall be appurtenant to and run along with the Unit(s) to which the Limited Common Elements are attached.

### ARTICLE III

#### ORGANIZATION AND MANAGEMENT

3.01. Management of the Condominium Property. Operation and administration of the Condominium Property shall be performed by Valley Station Condominium Owners Association, Inc., an Alabama nonprofit corporation. The powers and duties of the Association shall include those set forth in the Act, this Declaration, the Articles of Incorporation, and the By-Laws. In addition, the Association shall have the power and authority specifically:

(a) To purchase one or more Units of the Condominium Property and otherwise acquire, hold, lease, mortgage and convey the same;

(b) To borrow funds to pay for the costs of operation of the Condominium Property and for such other expenditures as may be authorized by the provisions of this Declaration;

(c) To grant easements or licenses for the use of the Common Elements in a manner not inconsistent with the rights of Owners;

(d) To enter into agreements by which its powers and responsibilities or some of them may be exercised or performed by some other person or persons.



3.02. Members. The members of the Association shall initially consist of the Developers as Owners of the Units. Thereafter, change of membership in the Association shall be established by recording in the public records of Shelby County, Alabama, the deed or other instrument establishing record title to a Unit of the Condominium Property, and the delivery to the Association of a certified copy of such instrument, the Owner designated by such instrument thereby becoming a record Owner and a member of the Association. Membership of the prior Owner shall thereby be terminated. All present and future Owners, tenants and occupants of the Unit shall be subject to and shall comply with the provisions of the Declaration, the By-Laws and the Rules and Regulations, as the same may be amended from time to time. The vote for a Unit shall be cast by the record Owner thereof or the duly authorized proxy of the record Owner in the manner provided in the By-Laws. Each Unit Owner is entitled to one vote for each Unit owned by him.

3.03. By-Laws. The By-Laws of the Association shall be in the form attached as Exhibit B to this Declaration.

#### ARTICLE IV

#### ASSESSMENTS

4.01. Liability, Lien and Enforcement. The Association is given the authority to administer the operation and the management of the Condominium Property, it being recognized that the delegation of such duties to one entity is in the best interest of the Owners of all Units. To provide the funds necessary for such proper operation, the Association is hereby granted the right to make, levy, and collect assessments against the Owners of all Units to pay Common Expenses, Limited Common Expenses and such other expenses which the Association is authorized to incur under the terms and conditions of this Declaration. In furtherance of said grant of authority to the Association to make, levy and collect assessments to pay the costs and expenses for the operation and management of the Condominium Property, the following provisions shall be effective and binding upon the Owners of all Units.

4.02. Assessments.

(a) Assessments for the payment of Common Expenses shall be levied against the Owners of all Units, and unless the Declaration otherwise provides, each Owner of a Unit shall bear the same percentage share of such assessments as the percentage share for the undivided interest in the Common Elements appurtenant to his Unit. The assessments for Common Expenses shall be payable in monthly installments or in such other installments and at such times as may be determined by the Board of Directors of the Association.

(b) Assessments for the payment of Limited Common Expenses shall be levied against the Owners of those Units to which the Limited Common Elements are appurtenant, and unless the Declaration otherwise provides, each Owner of a Unit to which the Limited Common Elements are appurtenant, shall bear the same percentage share of such assessments as the percentage share for the undivided interest in the Limited Common Elements appurtenant to his Unit. The assessments for Limited Common Expenses shall be payable in monthly installments or in such other installments and at such times as may be determined by the Board of Directors of the Association.

(c) The Association may, if permitted by the Declaration, assess the Owners of Units for the repair and maintenance



of various components of the Common Elements and reserves therefor based on the usage of the component of the Common Elements. Such assessments shall not be included in the assessment for Common Expenses, but shall be payable in such manner and at such times as may be determined by the Board of Directors of the Association.

4.03. Annual Budget. Within thirty (30) days prior to the beginning of each calendar year, the Board of Directors of the Association shall establish an annual budget for such calendar year, and such budget shall project the amount of funds which may be required in the forthcoming year for the proper operation, management and maintenance of the Condominium Property, including reasonable allowances for contingencies and reserves therefor, in accordance with the Act and this Declaration. Said budget shall take into account any projected anticipated income which is to be applied in reduction of the amounts required to be collected as an assessment each year. Upon adoption of such annual budget by the Board of Directors of the Association, copies of said budget shall be delivered to each Unit Owner and the assessment for said year shall be established based upon such budget, although failure to deliver a copy of said budget to each Unit Owner shall not affect the liability of the Unit Owner for such assessment. Should the Board of Directors at any time determine in the sole discretion of said Board of Directors that the assessments levied are or may prove to be insufficient for any reason including emergencies and non-payment of any Owner's assessment, the Board of Directors shall have authority to levy such additional assessments as it shall deem necessary in accordance with the applicable provisions of the Condominium Documents.

4.04. Omission of Assessment. The omission by the Association, before the expiration of any year, to fix the assessments for that or the next year shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay assessments or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed. Amendments to this Article IV shall be effective only upon the unanimous written consent of the Owners and their Mortgagees.

4.05. Detailed Records. The Association shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Common Elements and Limited Common Elements, specifying and itemizing the maintenance and repair expenses of the Common Elements and Limited Common Elements and any other expenses incurred. Records and vouchers authorizing the payments involved shall be available for examination by any Owner at convenient hours of weekdays.

4.06. Payment of Common Expenses by Unit Owners. All Owners shall be obligated to pay the assessments, if any, levied against their Units by the Board of Directors pursuant to the terms of this Article IV. No Unit Owner may exempt himself from liability for his contribution toward Common Expenses and Limited Common Expenses, if any, by waiver of the use or enjoyment of any of the Common Elements or Limited Common Elements or by abandonment of his Unit. No Unit Owner shall be liable for the payment of any part of the Common Expenses and Limited Common Expenses, if any, assessed against his Unit subsequent to a sale or other conveyance by him of such Unit. The purchaser of a Unit shall be jointly and severally liable with the selling Unit Owner for all unpaid assessments against the latter up to the time of conveyance without prejudice to the purchaser's right to recover from the selling Unit Owner the amounts paid by the purchaser therefor. Whenever any Unit may be sold or mortgaged by the Owner thereof, which sale shall be concluded only upon compliance with



the other provisions of this Declaration, the Association upon written request of the Owner or purchaser of such Unit, shall furnish to the purchaser or proposed Mortgagee (within the time period prescribed by the Act) a statement verifying the status of the payment of any assessment which shall be due and payable to the Association by the Owner of such Unit. Any purchaser or proposed Mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction and the Association shall be bound by such statement. In the event that a Unit is to be sold or mortgaged when any assessment is outstanding against the Owner of such Unit and such assessment due the Association is in default, whether or not a claim of lien has been recorded by the Association, the proceeds of purchase or mortgage proceeds shall first be applied by purchaser or Mortgagee to the payment of any delinquent assessment or installment due the Association before application of the payment to the Owner.

4.07. Default in Payment of Assessments.

(a) The payment of any assessment or installment thereof due the Association shall be in default if such assessment or any installment thereof is not paid to the Association on or before the due date for such payment. When in default, the delinquent assessment or delinquent installment due the Association shall bear interest at the maximum legal rate on judgments until such delinquent assessment or installment and all interest due thereon has been paid in full. The Association shall be entitled to a lien against Units for delinquent assessments. Said lien shall secure and does secure the monies due for all assessments now or hereafter levied against the Owner of each Unit, and such lien shall also secure interest, if any, which may be due on the amount of any delinquent assessments owing the Association. Said lien shall also secure all costs and expenses, including reasonable attorneys fees incurred by the Association in enforcing the lien upon said Unit and its appurtenant undivided interest in the Common Elements and Limited Common Elements, if any. The lien granted to the Association may be foreclosed in the same manner as real estate mortgages in the State of Alabama. The lien granted to the Association shall further secure such advances for taxes and payment on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to protect and preserve its lien, and the Association shall further be entitled to interest at the maximum legal rate on judgments on any such advances made for such purpose. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any Unit or who may be given or acquire a mortgage, lien or other encumbrance thereon are hereby placed on notice of the lien rights granted to the Association and shall acquire such interest in any Unit expressly subject to the lien.

(b) The lien herein granted to the Association shall be effective from and after the time of recording in the Probate Office of Shelby County, Alabama, a claim of lien stating a description of the Unit encumbered thereby, the name of the record Owner, the amount due, the date when due, and the lien shall continue in effect until all sums secured by said lien, as herein provided, shall have been fully paid. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, reasonable attorneys fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record at the Unit Owner's cost. The claim of lien filed by the Association shall be subordinate to the lien of any Mortgage or any other lien recorded prior to the time of recording of the Association's claim of lien. The Asso-



ciation's claim of lien for collection of such portion of any tax or special assessment shall specifically designate that the same secures an assessment levied pursuant to the provisions of Article IV of this Declaration.

(c) Whenever the Mortgagee of a Mortgage of record, or other purchaser of a Condominium Unit, obtains title to the Condominium Unit as a result of the foreclosure, such acquirer of title and his successors or assigns shall not be liable for the share of assessments by the Association pertaining to the Condominium Unit or chargeable to the former Owner of the Unit which became due prior to the acquisition of title as a result of the foreclosure. Such unpaid share of the assessments shall be deemed Common Expenses and/or Limited Common Expenses, as the case may be, collectable from all the Owners, in the proportionate share of their ownership of the Common Elements and the Limited Common Elements, respectively, including such acquirer and his successors and assigns.

4.08. Election of Remedies. Institution of a suit at law to collect payment of any delinquent assessments shall not be deemed to be an election by the Association which shall prevent its thereafter seeking enforcement of the collection by foreclosure of any sums remaining owing to it. Nor shall proceeding by foreclosure to effect such collection be deemed to be an election precluding the institution of a suit at law to collect any sum then remaining owing to the Association. The Association shall be entitled to bid at any sale held in connection with the foreclosure of the assessment lien and may apply as a cash credit against its bid all sums secured by the lien enforced.

## ARTICLE V

### MAINTENANCE AND OPERATION OF THE CONDOMINIUM PROPERTY

5.01. The Association's Obligation to Repair. The Association acting through the Board of Directors shall be responsible for the maintenance, repair and replacement of the following, the cost of which shall be charged to the Owners as an assessment against their Units as provided in Article IV hereof:

(i) The Common Elements which by its definition excludes the surfaces of all interior walls, floors, ceilings, entrance doors, and windows of a Unit;

(ii) The Limited Common Elements; and

(iii) Incidental damage caused to a Unit by such work done by the Association.

This section 5.01 shall not relieve a Unit Owner of liability for damage to the Common Elements and/or Limited Common Elements caused by the Unit Owner, his guests or invitees or as a consequence of the negligence or willful misconduct of such Unit Owner, his guests or invitees. The cost of repair for any damage so caused by the Unit Owner, his guests or invitees shall be an assessment against the Unit Owner responsible therefor.

### 5.02. Each Owner's Obligation to Repair.

(a) Except for those portions of the Condominium Property which the Association is required to maintain and repair, each Owner shall, at such Owner's expense, maintain his Unit, and the interior thereof, in good tenantable condition and repair, and shall repair, maintain and replace, if necessary, the following:



(i) The fixtures and equipment in his Unit, including all appliances within the Unit; drains, plumbing fixtures and connections, sinks, and plumbing within the Unit; electrical panels, wiring, outlets and electric fixtures within the Unit; interior doors, windows, screening and glass; all exterior doors, except the painting of the exterior faces of the exterior doors which shall be the responsibility of the Association; and all wall coverings and flooring within a Unit.

(ii) The plumbing, heating, air conditioning and electrical and other mechanical systems serving only that Unit, whether located within or without the boundary of that Unit, including the heater and air conditioning compressors, hot water heaters, fuse boxes, wiring and all other plumbing, electrical, gas or mechanical systems. In the event any such system or a portion thereof is within another Unit or requires access to another Unit, the repair, maintenance or replacement thereof shall be performed by the Association, and the cost thereof shall constitute an assessment against the Unit Owner responsible therefor.

(b) Each Unit Owner agrees as follows:

(i) To perform all maintenance, repairs and replacements which are his obligations under subparagraph (a) of this Section 5.02;

(ii) To pay for all of his utilities as herein provided and all taxes levied against his Unit;

(iii) Not to make, or cause to be made, any repairs to any plumbing, heating, ventilation or air conditioning systems located outside his Unit but required to be maintained by him under subparagraph 5.02(a)(ii) except by licensed plumbers or electricians authorized to do such work by the Association or its delegate;

(iv) Not to make any addition or alteration to his Unit or to the Common Elements or Limited Common Elements or to do any act that would impair the structural soundness or safety of any part of the Condominium Property or that would impair any easement or right of a Unit Owner without the consent of the Association and all Unit Owners affected thereby;

(v) Subject to the provisions of subparagraph (iv), not to make alterations, additions, improvements, decoration, repair, replacement or change to the Common Elements or Limited Common Elements, or to any outside or exterior portion of the Unit, including, without limitation, any signage, lighting system, and painting on the exterior portion of a Unit, without the prior written consent of the Association, provided that if such consent is granted, the Unit Owner shall use only a contractor approved by the Association, who shall comply with all Rules and Regulations with respect to the work which may be adopted by the Association and the Unit Owner shall be liable for all damages to another Unit and to the Common Elements and/or Limited Common Elements caused by any contractor employed by such Unit Owner or by the subcontractors or employees of such contractor, whether said damages are caused by negligence, accident, or otherwise; and

(vi) To promptly report to the Association any defects or needed repairs for which the Association is responsible.



(c) The Association shall be obligated to answer any request by a Unit Owner for any required approval of a proposed addition, alteration or improvement (by painting or otherwise) by such Unit Owner within forty-five (45) days after such request, but its failure to do so within the stipulated time shall not constitute a consent of the Association to the proposed addition, alteration or improvement. Any application to any governmental authority for a permit to make an addition, alteration or improvement in or to any Unit shall be executed by the Association, without, however, it incurring any liability on the part of the Board of Directors or any of them or the Association to any contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any person having any claim of injury to a person or damage to property arising therefrom. The provisions of this section shall not apply to Units owned by the Developer until a deed for such Unit has been delivered to the purchaser thereof.

**5.03. Alterations, Additions and Improvements by the Association.** Except in the case of loss or damage to the Common Elements and/or Limited Common Elements as contemplated by Article VIII of the Declaration, the Association shall not make any material structural alterations, capital additions or capital improvements to the Common Elements or the Limited Common Elements (other than for the purpose of replacing, restoring or rehabilitating portions of the Common Elements or the Limited Common Elements which is in accordance with the Declaration and which do not require expenditures of more than \$5,000 exclusive of any funds applied from the reserves maintained by the Association) unless the same is authorized by the Board of Directors of the Association and (i) in the case of Common Elements, ratified by the affirmative vote of the voting members casting not less than 75% of the total votes of the members of the Association present at any regular or special meeting of the Unit Owners called for that purpose at which a quorum is present and approved by a majority of the Mortgagees (based on one vote for each Mortgage) or (ii) in the case of Limited Common Elements, ratified by the affirmative vote of not less than 75% of the total votes of the members of the Association who own Units to which the Limited Common Elements are appurtenant and approved by a majority of the Mortgagees having Mortgages on such Units (based on one vote for each Mortgage). The cost of the foregoing shall be assessed against the Owners of Units in accordance with Article IV hereof except as otherwise provided in this Section 5.03. Where any alterations or additions as aforesaid are exclusively or substantially exclusively for the benefit of the Unit Owners requesting the same, then the cost of such alterations or additions shall be assessed against and collected solely from the Unit Owners exclusively, or substantially exclusively, benefitting therefrom, and the assessment shall be levied in such proportions as may be determined to be fair and equitable by the Board of Directors of the Association. Where such alterations or additions exclusively, or substantially exclusively, benefit Unit Owners requesting the same, said alterations and additions shall be made only when authorized by the Board of Directors and ratified by not less than 75% of the total votes of the Unit Owners exclusively, or substantially exclusively, benefitting therefrom and a majority of the Mortgagees having Mortgages on said Units (based on one vote for each Mortgage). Alterations, improvements or repairs of an emergency nature may be made upon authorization by a vote of the majority of the Directors available for consultation if the same is necessitated and in the best interest of the Unit Owners.

**5.04. Utilities.**

(a) The Association shall cause water to be supplied to the Limited Common Elements and the Common Elements and to be provided directly to Units through a separate meter. Each Unit



Owner shall pay all charges for water consumed or used in his Unit. The water provided to the Limited Common Elements shall either be included in the meter of the Owners of the Limited Common Elements and billed directly to them or shall be separately metered and paid by the Association as a Limited Common Expense. The Association shall pay, as a Common Expense, all charges for water consumed on the Common Elements. The Association shall be responsible for the maintenance and repair of the septic field and lines serving the Condominium Property and may, in its discretion, charge the Owners for such maintenance and repair based upon usage of water by the Owners in such manner and at such times as the Board of Directors of the Association deems fair and reasonable.

(b) The Association shall cause gas and electricity to be provided to the Common Elements and Limited Common Elements and to be provided directly to each Unit through a separate meter. Each Unit Owner shall be required to pay the bills for the electricity and/or gas consumed or used in his Unit. The gas and electricity serving the Limited Common Elements shall either be metered with the gas and/or electricity used by the Units to which the Limited Common Elements are appurtenant and billed directly to the Owner of such Units or separately metered and paid by the Association as a Limited Common Expense. The gas and/or electricity serving the Common Elements shall be separately metered and paid by the Association as a Common Expense.

(c) Pending conversion of the Condominium Property to suit the needs of the various Unit Owners, and installation of water, gas and electric meters for individual Units, the Association is authorized to pay water, gas and electric bills received on account of service to the Units as a Common Expense.

#### ARTICLE VI

##### RESTRICTIONS ON USE OF UNITS AND COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

6.01. Rules and Regulations of the Association. The Association is authorized to promulgate, amend and enforce Rules and Regulations concerning the operation and use of the Condominium Property; provided that such Rules and Regulations are not contrary to or inconsistent with the Act and the Condominium Documents. A copy of the Rules and Regulations shall be furnished by the Board of Directors to each Unit Owner prior to the time they become effective. All present and future Unit Owners, tenants, and occupants of the Units and any person who uses any part of the Condominium Property in any manner, are subject to, and shall comply with the provisions of the Condominium Documents and the Rules and Regulations. The acquisition, rental or occupancy of a Unit or the use of any part of the Condominium Property by any one person shall constitute his agreement to be subject to and bound by the provisions of the Condominium Documents and the Rules and Regulations, and such provisions shall be deemed to be enforceable as equitable servitudes and covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated in full in each and every deed of conveyance or lease thereof.

6.02. Restrictions on Use. The use of the Condominium Property is subject to the following restrictions:

(a) Each Unit is hereby restricted to commercial use as a retail sales and/or service facility.



(b) There shall be no obstruction of the Common Elements or Limited Common Elements, nor shall anything be kept or stored in the Common Elements or Limited Common Elements, nor shall anything be altered or constructed on or planted in or moved from the Common Elements or Limited Common Elements, without the written consent of the Association.

(c) No immoral, improper, offensive or unlawful use shall be made of any Unit or of Common Elements or Limited Common Elements, or any part thereof, and all laws, ordinances and regulations of all governmental authorities having jurisdiction over the Condominium Property shall be observed.

(d) No Owner shall permit anything to be done or kept in his Unit or in the Common Elements or Limited Common Elements which will result in any increase of fire insurance premiums or the cancellation of insurance on any part of the Condominium Property, or which would be in violation of any law. No waste shall be committed to the Common Elements or Limited Common Elements.

(e) No sign of any kind shall be displayed to the public view on or from any part of the Condominium Property, without the prior consent of the Board of Directors of the Association, except signs temporarily used by the Developer in the original sale or leasing of the Units. All signs shall be maintained in good repair so as to be clear and legible.

(f) No noxious or offensive activities shall be carried on, nor shall any outside lighting or sound speakers or other sound producing devices be used, nor shall anything be done, in any part of the Condominium Property which in the judgment of the Association, may be or become an unreasonable annoyance or nuisance to the other Owners.

(g) No Owner shall cause or permit anything to be placed on the outside walls of his Unit, and no sign, awning, canopy, window air conditioning unit, or other fixture shall be affixed to or placed upon the exterior walls or roof of any building or any part thereof, without the prior written consent of the Association.

(h) The Common Elements and Limited Common Elements shall be kept clear of rubbish, debris and other unsightly materials.

**6.03. Right of Access.** Each Unit Owner grants a right of access to his Unit to the Association, and any other person authorized by the Association for the purpose of making inspections and for the purpose of correcting any condition originating in his Unit and threatening other Units, Common Elements, or Limited Common Elements or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other Common Elements or Limited Common Elements within his Unit, if any, or to correct any condition which violates the provisions of any Mortgage covering another Unit, or to enforce any provision of the Condominium Documents, provided that requests for entry are made in advance and that such entry is at a time reasonably convenient to the Unit Owner. In case of an emergency, such right of entry shall be immediate whether the Unit Owner is present at the time or not. Each Unit Owner further grants a right of access to his Unit to the Developer or his agent, or other authorized representative who is not Developer's agent, for the purpose of making all repairs required by any warranty delivered to the Unit Owner at the closing of his Unit. To the extent that damages inflicted on the Common Elements, Limited Common Elements, or any Unit through which access is taken, the Unit Owner or the Association, if it caused the same, shall be liable for the prompt repair thereof.



6.04. Limitation of Liability. The Association shall not be liable for any failure of water supply, fire protection or other service to be obtained by the Association or paid for out of the Common Expenses and/or Limited Common Expenses; for problems resulting from the operation or lack of operation of the septic field and lines servicing the Condominium Property; or for injury or damage to a person or property caused by the natural elements or resulting from electricity, water, snow or ice which may leak or flow from any portion of the Common Elements, Limited Common Elements or from any wire, pipe, drain, conduit, appliance or equipment. The Association shall not be liable to the Owner of any Unit for loss or damage, by theft or otherwise, of articles which may be stored upon any of the Common Elements or Limited Common Elements. No diminution or abatement of the assessments, as herein elsewhere provided, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Elements, Limited Common Elements, or to any Unit, or from any action taken by the Association to comply with any law or ordinance or with the order or directive of any municipal or other governmental or judicial authority or for the dispossession of the Unit Owner by reason of fire or other casualty, except to the extent covered by insurance.

6.05. Abatement of Violations. The violation of any Rule or Regulation adopted by the Board of Directors of the Association, or breach of the provisions of the Condominium Documents, shall give the Developer, the Association or any Unit Owner the right, in addition to any other right or remedy elsewhere available to it, to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach. All expenses of such actions or proceedings against a defaulting Unit Owner, including court costs, attorneys fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the highest lawful rate on judgments until paid, shall be charged to and assessed against such defaulting Owner, and the Association shall have a lien for all of the same upon the Unit of such defaulting Owner, upon all of his additions and improvements thereto and a security interest under the Alabama Uniform Commercial Code upon all of his personal property in his Unit or located elsewhere on the Condominium Property. Nothing herein contained shall prevent an Owner from maintaining such an action or proceeding against the Association and the expense of any action to remedy a default of the Association shall be a Common Expense.

6.06. Failure of the Association to Insist on Strict Performance; No Waiver. Failure of the Association to insist in any one or more instances upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment from the future performance of such term, covenant, condition or restriction but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Association of any assessment from an Owner with knowledge of the breach of any covenant hereof shall not be deemed to be a waiver of such breach and no waiver by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board of Directors of the Association.

6.07. Use by Developer. Subject to the rights of the Mortgagees hereunder, neither the Owners nor the Board of Directors of the Association nor their use of the Condominium Property or application of this Declaration shall interfere with the completion of the contemplated improvements and sales of the Units until Developer has completed all of Developer's contemplated



improvements and closed the sales of all of the Units. Subject to the rights of the Mortgagees hereunder, the Developer may make such use of the unsold Units and of the Common Elements and Limited Common Elements as may facilitate such completion and sale, including, but not limited to, maintenance of a sales office, the showing of the Condominium Property and the Units therein, the display of signs thereon and therein and the transient use of Units.

## ARTICLE VII

### RIGHTS OF MORTGAGEES

7.01. Notification of Mortgagees Required. Any Mortgagee shall have the right to be given written notification by the Association of (a) any sixty (60) day default by the Owner of the Unit covered by the Mortgage in the payment of assessments or in any other provision of the Condominium Documents of the Unit covered by the Mortgage; (b) any loss to or taking of the Common Elements and/or Limited Common Elements if such loss or taking exceeds \$10,000; (c) damage to a Unit covered by its Mortgage if the amount of such damage exceeds \$5,000; (d) any condemnation of all or a portion of the Condominium Property; (e) a lapse or cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and (f) any proposed action that requires the consent of a specified percentage of Mortgagees.

7.02. Right of Inspection. Mortgagees shall have the right to examine the books and records of the Association or the Condominium Property and to receive annual reports and other financial data.

7.03. Priority of Mortgagees.

(a) Any lien which is or may be created hereunder upon any Unit, including, but not limited to, the lien created for assessments under Section 4.07 hereof, and the right to foreclose the same, is and shall be subject and subordinate to, and shall not affect the rights of the holder of the indebtedness secured by, any Mortgage upon such interest made in good faith and for value and recorded prior to the creation of the lien hereunder, provided that after the foreclosure of any such mortgage there may be a lien created pursuant to Section 4.07 hereof on the interest of the purchaser as an Owner after the date of such foreclosure sale to secure all assessments hereunder. After the date of such foreclosure sale, said lien, if any shall be claimed, shall have the same effect and be enforced in the same manner provided herein.

(b) No provision of this Declaration, the Articles, the By-Laws or the Rules and Regulations shall be construed to grant to any Unit Owner, or to any other party any priority over any rights of the Mortgagees of the Units pursuant to their Mortgages in the case of distribution to Unit Owners of the insurance proceeds or condemnation awards for losses or a taking of Units, the Common Elements, the Limited Common Elements or any portion thereof.

(c) As provided in the Act, all assessments, property taxes and other charges imposed by any taxing authority which may become liens prior to a Mortgage, shall be separately assessed against and collected on each Unit as a single parcel, and not on the Condominium Property as a whole.

(d) No breach of the covenants, conditions or restrictions herein contained shall defeat or render invalid the lien of



any Mortgage made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or otherwise.

7.04. Request for Protection by Mortgagees. Whenever the holder of any Mortgage desires the benefit of the provisions of this Article VII to be applicable to it, it shall serve written notice of such fact upon the Association, by registered or certified mail, addressed to the Association, and actually mailed to its address stated herein, identifying the Unit upon which it holds a Mortgage or identifying any Units owned by it, together with sufficient pertinent facts to identify any Mortgage which may be held by it. Said notice shall designate the place to which the notices are to be given by the Association to such Mortgagee.

## ARTICLE VIII

### CASUALTY LOSS AND INSURANCE

8.01. Responsibility of Owners; Separate Insurance Coverage.

(a) The Owner of each Unit may, at his expense, obtain insurance coverage for loss of or damage to any equipment, fixtures, furniture, furnishings, personal effects, and other property belonging to such Owner, his guests or invitees, and may, at his expense, obtain insurance coverage against personal liability for injury to the person or property of another while within such Owner's Unit or upon the Common Elements and/or Limited Common Elements. Risk of loss of or damage to any equipment, fixtures, furniture, furnishings and personal property belonging to or carried on the person of the Owner, his guests or invitees, or which may be stored in any Unit, or in or upon Common Elements and or Limited Common Elements, shall be borne by the Owner of each Unit. All equipment, fixtures, furniture, furnishings and personal property constituting a portion of the Common Elements or Limited Common Elements and held for the joint use and benefit of the Owners of Units shall be covered by such insurance as shall be maintained in force and effect by the Association as hereinafter provided. Each Owner shall be required to notify the Association of all improvements made by the Owner to his Unit, the value of which is in excess of \$1,000. All insurance obtained by the Owner of each Unit shall, whenever such provisions shall be available, provide that the insurer waives its right of subrogation as to any claims against other Owners, the Association or Developer, and their respective servants, agents, employees and guests.

(b) Any Owner who obtains an individual insurance policy covering any portion of the Condominium Property other than personal property belonging to such Owner shall be required to file a copy of such individual policy or policies with the Association within thirty (30) days after the purchase of such insurance. In the event casualty insurance maintained by an Owner causes a decrease in the amount of the insurance coverage maintained by the Association for the benefit of all Owners on a casualty loss to the Condominium Property by reason of proration or otherwise, the Owner so maintaining such insurance shall be deemed to have assigned to the Association the proceeds collected on such policy for loss or damage to the Condominium Property and such proceeds shall be paid directly to the Association by the insurer. Such Owner hereby appoints the Association as his attorney-in-fact to claim and receive any such insurance proceeds from the insurer on behalf of the Owner. Any such insurance pro-



ceeds shall be applied and distributed by the Association in accordance with this Article VIII.

8.02. Insurance to be Maintained by the Association.

(a) Hazard Insurance. The Association shall obtain and maintain at all times a policy or policies of multi-peril type hazard insurance, including insurance for such other risks of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other condominium projects similar in construction, design and use, insuring the Condominium Property against loss or damage by the perils of fire, lightning and those perils contained in extended coverage, vandalism and malicious mischief endorsements, and if the Condominium Property is located in an area identified by the Secretary of Housing and Urban Development as having special flood hazards, the Board shall, to the extent obtainable, insure the insurable property included in the Condominium Property against the perils of flood under the National Flood Insurance Act of 1968 and acts amendatory thereto. The amount of insurance coverage shall be determined on a replacement cost basis in an amount not less than 100% of the then current replacement cost of the improvements, including fixtures, equipment and other personal property inside the Units in the Condominium Property (but excluding land, foundations, excavations and other items usually excluded from such insurance coverage). Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Association or the Insurance Trustee (hereinafter defined), as trustee for the use and benefit of the individual Owners (without naming them) in the proportionate shares equal to their respective percentage ownership of the Common Elements and/or Limited Common Elements. All such policies of insurance shall comply with the provisions of Section 8.03 hereof and shall (i) contain standard Mortgagee clause endorsements in favor of the Mortgagee or Mortgagees of each Unit, if any, as their respective interest may appear; and (ii) provide that the insurance shall not be invalidated by any act or neglect of any Owner.

(b). Public Liability and Property Damage Insurance. The Association shall obtain and maintain at all times a comprehensive policy or policies of public liability and property damage insurance in such amount (but not less than \$1,000,000) and in such form as shall be required by the Association to protect said Association and the Owners of all Units which provide coverage for bodily injury and property damage resulting from the operation, maintenance or use of the Common Elements and Limited Common Elements and for legal liability resulting from employment contracts to which the Association is a party.

(c) Workmen's Compensation Insurance. The Association shall obtain and maintain at all times a policy or policies of workmen's compensation insurance to meet the requirements of the laws of the State of Alabama.

(d) Fidelity Bonds. The Association shall obtain and maintain fidelity bonds for any person who either handles or is responsible for funds held or administered by the Association naming the Association as the obligee. The amount of the fidelity bond should cover the maximum funds that will be in the custody of the Association.

(e) Other Insurance. The Association shall obtain and maintain such other insurance coverage as the Board of Directors of the Association, in its sole discretion, may determine from time to time to be in the best interest of the Association and the Owners of all Units.



8.03. Governing Provisions. All insurance obtained and maintained by the Association as provided in Section 8.02 above shall be governed by the following provisions:

(a) All policies shall be written with a company licensed to do business in the State of Alabama.

(b) Exclusive authority to adjust all claims under the policies hereafter in force on the Condominium Property shall be vested in the Association or its authorized representatives.

(c) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with the insurance purchased by the individual Owners or their Mortgagees.

(d) The Association shall be required to make every effort to secure insurance policies that will provide for the following:

(i) A waiver of subrogation by the insurer as to any claims against the Association, the Board of Directors, the Developer or the Owners.

(ii) An agreement by the insurer that the insurance coverage cannot be terminated or materially changed without ten (10) days prior written notice to the Association and the Mortgagee of each Unit;

(iii) The insurance coverage will be primary, even if a Unit Owner has other insurance that covers the same loss.

8.04. Premiums.

(a) Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense or Limited Common Expense, as determined by the Association.

(b) In the event any use shall lead to an increase in fire or other insurance obtained by the Association pursuant to this Article VIII, or insurance procured by the individual Unit Owners, the party causing such increase shall be liable for payment of the same to the Association or the individual Unit Owner(s), as the case may be. The party so charged with increasing premium costs shall have the right to contest the validity of such increase. An assessment made by the Association to pay such increase in premiums may be enforced by the Association in the manner provided under Article IV of the Declaration.

8.05. Insurance Trustee. The Association may engage the services of a bank or trust company authorized to do trust business in the State of Alabama and having a capital and surplus of not less than \$10,000,000 to act on its behalf as an insurance trustee ("Insurance Trustee") and to receive and disburse the insurance proceeds in accordance with the provisions of this Declaration. In the event the lowest of two bids from reputable contractors for making all repairs required by any such loss shall exceed \$20,000, the Association upon written demand of the Mortgagee of any Unit shall engage the services of a bank or trust company to act as Insurance Trustee as aforesaid. The Association as a Common Expense, shall pay a reasonable fee to said Insurance Trustee for its services rendered hereunder, and shall pay such costs and expenses as said Insurance Trustee may incur in the performance of any duties and obligations imposed upon it hereunder. Said Insurance Trustee shall be liable only for its willful misconduct, bad faith or gross negligence, and then for only such money which comes into the possession of said



Insurance Trustee. Whenever the Insurance Trustee may be required to make distribution of insurance proceeds to Owners of Units and their Mortgagees, as their respective interests may appear, or to any other party for repair, replacement or reconstruction of property, the Insurance Trustee may rely upon a certificate of the President and Secretary of the Association, executed under oath, which certificate will be provided to said Insurance Trustee upon request made to the Association. Such certificate is to certify unto said Insurance Trustee the name of the Owner of each Unit, the name of the Mortgagee who may hold a mortgage encumbering each Unit, and the respective percentages of any distribution which may be required to be made to the Owner of any Unit, and his respective Mortgagee, as their respective interests may appear, or to certify the name of the party to whom payments are to be made for repair, replacement or reconstruction of all or a portion of the Condominium Property. The rights of the Mortgagee of any Unit under any standard mortgage clause endorsement to such policy shall, notwithstanding anything to the contrary therein or in any mortgage contained, at all times be subject to the provisions hereof with respect to the application of insurance proceeds to reconstruction of the damaged Condominium Property; provided, however, that if the Association or the Insurance Trustee fails to perform all the conditions precedent required by the policy or policies of insurance, and fails to collect the amount of the loss within the time required by law, and the Mortgagee or Mortgagees are required to avail themselves of their rights under the standard mortgage clause to collect the proceeds of the policy or policies of insurance, any amount so collected through the efforts of said Mortgagee or Mortgagees shall be applied as directed by said Mortgagee or Mortgagees. No provision hereof shall entitle an Owner or any other party to any priority over a Mortgagee with respect to the distribution of any insurance proceeds with respect to such Unit.

8.06. Loss to Common Elements Only. In the event of the loss of or damage to only Common Elements, real or personal, by reason of fire or other casualties, which loss or damage is covered by fire and casualty insurance, the proceeds paid to the Association or the Insurance Trustee, as the case may be, to cover such loss or damage shall be applied to the repair, replacement or reconstruction of such loss or damage. If the insurance proceeds are in excess of the cost of the repair, replacement or reconstruction of such Common Elements, then such excess insurance proceeds shall be paid by the Insurance Trustee to the Owners of all Units, the distribution to be separately made to the Owner of each Unit and his respective Mortgagee, as their interests may appear, in such proportion that the share of such excess insurance proceeds paid to the Owner of each Unit and his Mortgagee shall bear the same ratio to the total excess insurance proceeds as the undivided interest in the Common Elements appurtenant to each Unit bears to the total undivided interest in the Common Elements appurtenant to all Units. If there is no insurance coverage for such loss or damage, or if it appears that the insurance proceeds covering the fire and casualty loss or damage payable to the Association or the Insurance Trustee are not sufficient to pay for the repair, replacement or reconstruction of the loss or damage, or that the insurance proceeds when collected will not be so sufficient, then the Association shall pay, or shall deposit with the Insurance Trustee, as the case may be, a sum, which together with the insurance proceeds received or to be received, if any, will enable said Insurance Trustee to completely pay for the repair, replacement or reconstruction of any loss or damage, as the case may be. The monies to be so paid, or deposited by the Association with the Insurance Trustee, may be paid by the Association out of its reserve for replacement fund and if the amount in such reserve for replacement fund is not sufficient, or if the Board of Directors determines not to use such fund for said purpose, then the Association shall levy and



collect an assessment against the Owners of all Units in an amount which shall provide the funds required to pay for said repair, replacement or reconstruction.

8.07. Loss to Common Elements, Limited Common Elements and/or Private Elements. In the event of loss of or damage to Common Elements, Limited Common Elements, and/or Private Element of any Unit by reason of fire or other casualty, which loss or damage is covered by fire and casualty insurance, the proceeds paid to the Association or Insurance Trustee, as the case may be, to cover such loss or damage, shall be first applied to the repair, replacement or reconstruction of the Common Elements, then to the repair, replacement or reconstruction of the Limited Common Elements, and any remaining insurance proceeds shall be applied to the repair, replacement or reconstruction of the Private Elements of any Unit which may have sustained any loss or damage so covered. If the insurance proceeds are in excess of the cost of the repair, replacement or reconstruction of the Common Elements, Limited Common Elements, and/or the Private Elements of Units sustaining any loss or damage, then such excess insurance proceeds shall be paid and distributed by the Insurance Trustee to the Owners of all Units, and to their Mortgagees, as their respective interests may appear. Such distributions are to be made in the manner and in the proportions as are provided for the distribution of insurance proceeds under Section 8.06 above. If there is no insurance coverage for such loss or damage, or if it appears that the insurance proceeds covering the fire and casualty loss or damage payable to the Association or the Insurance Trustee, as the case may be, are not sufficient to pay for the repair, replacement or reconstruction of the loss or damage, or that the insurance proceeds when collected will not be sufficient, then the Board of Directors of the Association shall, based on reliable and detailed estimates obtained by it from competent and qualified parties, determine and allocate the cost of repair, replacement or reconstruction between the Common Elements, Limited Common Elements and the Private Elements of Units sustaining any loss or damage. If the proceeds of said fire and casualty insurance, if any, are sufficient to pay for the repair, replacement or reconstruction of any loss of or damage to the Common Elements, but are not sufficient to repair, replace or reconstruct any loss of or damage to the Limited Common Elements, if any, and the Private Elements sustaining damage, then the Association shall levy and collect an assessment from the respective Owners of the Limited Common Elements, if any, and the Private Elements sustaining any loss or damage, and the assessment so collected from said Owners shall be deposited with the Insurance Trustee, if any, so that the sum on deposit with said Insurance Trustee shall be sufficient to completely pay for the repair, replacement or reconstruction of all Common Elements, Limited Common Elements, if any, and Private Elements so damaged. In said later event, the assessment to be levied and collected from the Owners of the Limited Common Elements shall be in proportion to their undivided interest in the Limited Common Elements and the assessment to be levied and collected from the Owner of each Private Element sustaining loss or damage shall be apportioned between such Owners in such manner that the assessment levied against each Owner of a Private Element and his Unit shall bear the same proportion to the total assessment levied against all of said Owners of Private Elements sustaining loss or damage as the cost of repair, replacement or reconstruction of each Owner's Private Element bears to the cost applicable to all of said Private Elements sustaining loss or damage. If the fire and casualty insurance proceeds, if any, payable to the Association or the Insurance Trustee in the event of the loss of or damage to Common Elements, the Limited Common Elements and the Private Elements of Units are not an amount which will pay for the complete repair, replacement or reconstruction of the Common Elements, it being recognized that such insurance proceeds are to be



first applied to the payment for repair, replacement or reconstruction of said Common Elements before being applied to the repair, replacement or reconstruction of the Limited Common Elements and any Private Element of a Unit, then the cost to repair, replace, or reconstruct said Common Elements in excess of available fire and casualty insurance proceeds shall be levied and collected as an assessment from the Owners of all Units in the same manner as would be levied and collected had the loss or damage sustained been solely to the Common Elements and the fire and casualty insurance proceeds been not sufficient to cover the cost of repair, replacement or reconstruction. The cost of repair, replacement or reconstruction of the Limited Common Elements and the Private Elements sustaining loss or damage shall then be levied and collected by assessment of the Owners of the Limited Common Elements and the Private Elements sustaining the loss or damage in the same manner as is above provided for the apportionment of such assessment between Owners of Limited Common Elements and Private Elements sustaining loss or damage.

8.08. Estimates of Repair; Plans and Specifications; Payment of Assessments. In the event of loss or damage to Condominium Property, the Association shall, within sixty (60) days after any such occurrence, obtain reliable and detailed estimates of the cost of restoring damaged property to a condition as good as that which prevailed before such loss or damage. The estimate of repair shall be based upon the "as built" plans of the original building, which are attached hereto as Exhibit C or such other plans and specifications as may be approved by the Board of Directors of the Association, by the Owners of the damaged Units, and by not less than seventy-five percent (75%) of the Owners of all Units including the Owners of damaged Units. Such estimates are to contain and include the cost of any professional fees and premiums for such bonds as the Board of Directors of the Association may deem to be in the best interest of the membership of said Association. Whenever it shall appear that the insurance proceeds payable for such loss or damage will not be sufficient to defray the cost of repair, replacement or reconstruction thereof, the additional money required to completely pay for such repair, replacement or reconstruction of said loss or damage whether to be paid by all of the Owners of Units or only by the Owners of Units sustaining loss or damage, or both, as herein provided, shall be paid to the Association and deposited with the Insurance Trustee, if any, not later than thirty (30) days from the date on which the Association or the Insurance Trustee, as the case may be, shall receive the monies payable from the policies of fire and casualty insurance.

## ARTICLE IX

### CONDEMNATION

9.01. Condemnation Considered a Casualty Loss. The taking of a portion of a Unit or the Limited Common Elements and/or Common Elements by eminent domain shall be deemed to be a casualty loss, and except as otherwise provided in Section 9.02 below, the awards for such taking shall be deemed to be proceeds from insurance on account of the casualty and shall be applied and distributed by the Association in accordance with the provisions of Article VIII. Even though the awards may be payable to the Owners, the Owners shall deposit the awards with the Association or Insurance Trustee, as the case may be; and in the event of failure to do so, in the discretion of the Board of Directors of the Association, a special assessment shall be made against a defaulting Owner in the amount of his award, or the amount of such award shall be set off against the sums hereinafter made payable to such Owner. If any Unit or portion thereof is made the subject matter of any condemnation or eminent domain proceeding or



is otherwise sought to be acquired by a condemning authority, the Mortgagee of such Unit shall be entitled to timely written notice of any such proceeding or proposed acquisition as provided in Section 7.01, and no provision hereof shall entitle the Owner of such Unit or other party to priority over such Mortgagee with respect to the distribution of any award or settlement to the Owner of the Unit.

**9.02. Partial Condemnation.** In the event that the Condominium Property is not to be terminated and one or more Units are taken in part, the taking shall have the following effects:

(a) If the taking reduces the size of a Unit and the remaining portion of that Unit can be made tenantable, the award for the taking for a portion of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium Property:

(i) The Unit shall be made tenantable and if the cost of such work exceeds the amount of the award, the additional funds shall be assessed against the Owner of the Unit.

(ii) The balance of the award, if any, shall be distributed to the Owner of the Unit and the Mortgagee of the Unit, as their respective interests may appear.

(iii) If there is a balance of the award distributed to the Owner and the Mortgagee, the share of the Common Elements and Limited Common Elements, if any, appurtenant to the Unit shall be equitably reduced. This shall be done by reducing such share by the proportion which the balance of the award so distributed bears to the market value of the Unit immediately prior to the taking, and then recomputing the shares of all Owners in the Common Elements and the Owners of all Limited Common Elements as percentages of the total of their shares as reduced by the taking.

(b) If the taking destroys or so reduces the size of a Unit so that it may not be made tenantable, the award for the taking of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium Property:

(i) The market value of such Unit immediately prior to the taking, shall be paid to the Owner of the Unit and to each Mortgagee of the Unit, as their respective interest may appear.

(ii) The remaining portion of such Unit, if any, shall become a part of the Common Elements and shall be placed in condition for use by all of the Owners, in the manner approved by the Board of Directors of the Association; provided, however, that if the cost of such work shall exceed the balance of the fund from the award for the taking, such work shall be approved in the manner required for further improvement of the Common Elements under Section 5.03 above.

(iii) The shares in the Common Elements appurtenant to the Units which continue as a part of the Condominium Property, shall be equitably adjusted to distribute the ownership to the Common Elements among the reduced number of Owners. This shall be done by recomputing the shares of such continuing Owners in the Common Elements as percentages of the total of the shares of such Owners as they exist prior to the adjustment.



(iv) If the amount of the award for taking is not sufficient to pay the market value of the condemned Unit to the Owner and to restore the remaining portion of the Unit in condition for use as a part of the Common Elements, the additional funds required for such purposes shall be raised by assessments against all of the Owners who will continue as Owners of the Units after the changes in the Condominium Property affected by the taking. Such assessment shall be made in proportion to the share of such Owners in the Common Elements after the changes affected by the taking.

(c) If the market value of a Unit prior to the taking cannot be determined by agreement between the Owner and the Mortgagee and the Association within thirty (30) days after notice by any such party that agreement cannot be reached, such value shall be determined by three independent qualified appraisers with one appraiser to be selected by the Association, one appraiser to be selected by the Owner and Mortgagee, and the third appraiser to be selected by the two appraisers so appointed, and the fair market value of the Unit shall be deemed to be the average of the three appraisals of the fair market value of the Unit made by said appraisers. The cost of such appraisal shall be assessed against all Owners in the shares of the Owners in the Common Elements as they existed prior to the changes affected by the taking.

(d) Changes in the Units, in the Common Elements and/or Limited Common Elements, in the ownership of the Common Elements and/or Limited Common Elements and in the shares of liability for Common Expenses and/or Limited Common Expenses which are affected by eminent domain, shall be evidenced by an amendment of this Declaration which need be approved only by a majority of the Board of Directors of the Association.

#### ARTICLE X

#### TERMINATION

##### 10.01. Destruction of the Condominium Property.

(a) Notwithstanding anything to the contrary contained in this Declaration, if the Board of Directors shall determine that either of the following conditions exist:

(i) Two-thirds (2/3) or more of the structures in the Condominium Property shall have been destroyed or substantially damaged by fire or other casualty (including condemnation); or

(ii) The Condominium Property has been in existence in excess of forty (40) years and substantially all of the structures included therein have substantially deteriorated and have been rendered substantially obsolete;

then the Board of Directors may call a meeting of the members of the Association to consider and vote upon whether to restore, repair and/or rebuild the Condominium Property, and if not, whether to terminate the Declaration and remove the Condominium Property from the provisions of the Act. If the termination of the Declaration and the removal of the Condominium Property from the provisions of the Act is approved by the affirmative vote of at least 67% of the Owners of all Units and by at least 67% of all Mortgagees (based upon one vote for each Mortgage owned) after notice given as provided in Section 7.01 hereof, the Declaration and plan of condominium ownership established herein shall be subject to termination as provided in the Act and the Association shall be authorized to file on behalf of, and in the name of, the Unit Owners, and shall file, a petition for such termination and



removal with the Circuit Court of Shelby County, Alabama. If less than sixty-seven percent (67%) of the Owners of all Units vote in favor of terminating the Condominium Property, the Condominium Property shall be restored, repaired and/or rebuilt in accordance with the provisions of Sections 8.06, 8.07, and 8.08 above.

(b) In the event that the Circuit Court of Shelby County shall grant the petition for termination of this Declaration and the plan of condominium ownership as provided in subparagraph (a) above, all of the Owners of Units shall be and become tenants in common as to ownership of the Land, and any then remaining improvements thereon. The undivided interest in the Land and remaining improvements, except for Limited Common Elements, held by the Owner of each Unit shall be the same as the undivided interest in the Common Elements which were formerly appurtenant to such Unit, and the lien of any Mortgage or other encumbrance upon each Unit shall attach to the percentage of undivided interest of the Owner of a Unit in the Land and then remaining improvements as above provided. The Owners of the Limited Common Elements shall have an undivided interest in said Limited Common Elements which is the same as the undivided interest in the Limited Common Elements formerly appurtenant to the Units owned by such Owners, and the lien of any Mortgage or other encumbrance upon such Units shall attach to the undivided interest in the Limited Common Elements. Upon termination of this Declaration and the plan of condominium ownership established herein, the Owners of all Units still inhabitable shall within sixty (60) days from the date of grant of the petition, deliver possession of their respective Units to the Association. Upon such delivery of possession, the Owners of inhabitable Units and their respective Mortgagees, as their interests may appear, shall become entitled to participate proportionately together with all Owners of uninhabitable Units in the distribution of proceeds in the possession of the Association or the Insurance Trustee. Upon such termination of this Declaration and the plan of condominium ownership established herein, the Association or the Insurance Trustee, as the case may be, shall distribute any insurance indemnity which may be due under any policy of casualty insurance to the Owners of the Units and their Mortgagees as their respective interests may appear, such distribution to be made to the Owner of each Unit in accordance with his then undivided interest in the Land and remaining improvements as herein provided. The assets of the Association upon termination of the plan of condominium ownership created by this Declaration shall then be distributed to the Owner of each Unit and his Mortgagee, as their respective interests may appear, in the same manner as is above provided for the distribution of any final insurance indemnity.

10.02. Termination by Unanimous Consent. Except in the event of this Declaration and plan of condominium ownership established herein being terminated as provided above, this Declaration and said plan of condominium ownership may only be otherwise terminated by the unanimous consent of all Owners of all Units and all parties holding Mortgages, liens or other encumbrances, against any of said Units, in which event the termination of the Condominium Property shall be by such plans as may be then unanimously adopted by said Owners and parties holding any Mortgages, liens, or other encumbrances. Such election to terminate this Declaration and the plan of condominium ownership established herein shall be executed in writing by all of the aforesaid parties in recordable form, and such instrument shall be recorded in the Probate Office of Shelby County, Alabama.



ARTICLE XI

AMENDMENT

11.01. Amendments by Developer. Without limiting the rights of the Developer to alter the plans described in Section 2.02 above, and notwithstanding any other provision herein contained, the following provisions shall be deemed to be in full force and effect, none of which shall be construed as to relieve the Developer from any obligations as a Unit Owner to pay assessments as to Units owned by it in accordance with the Condominium Documents.

(a) The Developer reserves the right to amend the By-Laws of the Association so long as Developer has the right to elect the Board of Directors of the Association as provided in Section 12.01 below.

(b) The Developer reserves the right to amend this Declaration so long as there is no Unit Owner other than the Developer.

11.02. Amendments by Unit Owners. At such time as there is a Unit Owner other than the Developer, then in addition to the amendments permitted under Section 11.01 above, the Declaration may be amended in the following manner:

(a) A proposal to amend this Declaration may be considered at any meeting of the members of the Association called for that purpose in accordance with the provisions of the By-Laws; provided that the Association provides prior written notice of such meeting to the Mortgagees as provided in Section 7.01 above. The proposal to amend the Declaration must be approved by the affirmative vote of the members owning not less than sixty-seven percent (67%) of the Units and by the affirmative vote of the Mortgagees holding fifty-one percent (51%) of the Mortgages on Units unless otherwise required under Section 7.02 above.

(b) Notwithstanding the foregoing, no amendment to the Declaration shall

(i) change a Unit, including the ownership in Common Elements, responsibility for Common Expenses and voting rights, without the prior written approval of the Unit Owner or Unit Owners so affected and prior written approval of the holders of record of any Mortgage or other liens on the Unit or Units so affected; or

(ii) change, impair or prejudice the rights of Developer or change the provisions of this Declaration with respect to the Developer's rights hereunder without Developer's prior written approval.

(c) A copy of each amendment so adopted shall be certified by the President or a Vice President and Secretary or Assistant Secretary of the Association as having been duly adopted, and shall be effective when recorded in the Probate Court of Shelby County, Alabama.

ARTICLE XII

CONTROL OF THE ASSOCIATION

12.01. Election of Board of Directors. Developer, its successors or assigns, shall elect the members of the Board of Directors of the Association, and in the event of vacancies, the Developer shall fill the vacancies, until three years after the date of filing this Declaration with the Office of the Judge of Probate of Shelby County, Alabama, or such time as all of the



Units have been conveyed to purchasers of Units whichever first occurs; provided that the Developer may, at its option, terminate its control of the Association at an earlier date.

12.02. Notice of Meeting. Within sixty (60) days after the date of termination of control of the Association by the Developer, the Association shall call and give not less than ten (10) days nor more than thirty (30) days notice of a meeting of the Unit Owners for the purpose of electing the members of the Board of Directors of the Association. Such meeting may be called and the notice given in accordance with the By-Laws.

12.03. Status of Unsold Units.

(a) Developer shall be deemed to be the Owner of each Unit which has not been conveyed to a person other than the Developer. Unless otherwise provided in the Condominium Documents, the Developer shall be entitled to all rights and privileges available to, and shall be subject to any and all obligations and duties imposed upon, the Owner of any such Unit under the Condominium Documents.

(b) Any person having a first mortgage lien against any Unit which has not been conveyed to a person other than Developer, whether under a blanket mortgage affecting the Condominium Property generally or under a mortgage on one or more specific Units, shall be deemed to be a Mortgagee with respect to any such Unit, and shall be entitled to all rights and privileges available to a Mortgagee of any such Unit under the Condominium Documents.

(c) Notwithstanding the provisions of Section 4.02 above, no assessments shall be imposed by the Association against the Developer as the Owner of unsold Units until such time as the Unit Owners other than the Developer are entitled to elect the Board of Directors of the Association as provided in Section 12.01 above. During such period, Developer shall be responsible for the Common Expenses and Limited Common Expenses of the Condominium Property, except that the Developer shall be entitled to use and apply to the payment of such Common Expenses and Limited Common Expenses any and all assessments made against the Unit Owners other than Developer and collected by the Association for Common Expenses and Limited Common Expenses. The Developer shall be solely responsible for the maintenance, repair and operation of the Private Elements of the unsold Units.

(d) The Developer shall have the exclusive right to sell the Units of the Condominium. Until the Developer has sold all the Units of the Condominium, neither the Unit Owners nor the Association, nor their use of the Condominium Property, shall interfere with the Developer in the sale of Units. The Developer may make such use of its unsold Units and the Common Elements as may facilitate such sales, including, but not limited to, the maintenance of a sales office, the maintenance of models for the showing of the Units and the display of signs. The Developer expressly reserves the right to lease any Unit which it may own in the Condominium Property on such terms as it may deem proper and desirable and may transfer Units subject to such lease.

ARTICLE XIII

MISCELLANEOUS

13.01. Rights and Powers of Successors and Assignees. The rights and powers reserved to or exercisable by the Developer under the Condominium Documents or the Act may be exercised by any successor or assignee of the Developer (i) who acquires title



from the Developer by foreclosure or other judicial sale or deed in lieu of foreclosure or (ii) to whom the Developer specifically assigns such rights and powers.


13.02. Headings. The captions herein are used solely as a matter of convenience and shall not define, limit or expand any term or provision of this Declaration.


13.03. Gender/Number. Whenever the context so permits, the use of the plural shall include the singular, the singular shall include the plural, and any gender shall be deemed to include all genders.

13.04. Exhibits. Exhibits A, B, C, and D attached to this Declaration are an integral part of this Declaration.

13.05. Invalidity and Severability. It is the intention of the Developer that the provisions of this Declaration are severable so that if any provision is invalid or void under any applicable federal, state or local law or ordinance, decree, order, judgment or otherwise, the remainder shall be unaffected thereby.

IN WITNESS WHEREOF, the Developer has hereunto set its signature and seal on the day and year first above written.

  
B. J. Harris

  
Denney E. Barrow

BOOK 030 PAGE 226

STATE OF ALABAMA )  
Shelby COUNTY )

I, Carol L. Wolfe, a Notary Public in and for said County in said State, hereby certify that B. J. Harris, whose name is signed to the foregoing Declaration of Condominium, and who is known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing Declaration of Condominium, he executed the same voluntarily on the day the same bears date.

5th Given under my hand and official seal of office this day of June, 1984.

  
Notary Public

My Commission Expires: 8-31-87

STATE OF ALABAMA )  
Shelby COUNTY )

I, Carol L. Wolfe, a Notary Public in and for said County in said State, hereby certify that Denney E. Barrow, whose name is signed to the foregoing Declaration of Condominium, and who is known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing Declaration of Condominium, he executed the same voluntarily on the day the same bears date.



Given under my hand and official seal of office this  
5th day of June, 1984.

Carol A. Wolfe  
Notary Public

My Commission Expires: 8-31-87

BOOK 030 PAGE 227



The undersigned, as Mortgagee under the mortgage encumbering the real property indentified in the foregoing Declaration of Condominium for Valley Station Condominium, a Condominium, joins in the execution of the foregoing Declaration, for the sole purpose of establishing the validity of the Declaration of Condominium for Valley Station Condominium, a Condominium, as required by § 35-8-7 of the Code of Alabama 1975. The undersigned is not the Developer, and does not assume any obligations whatsoever under the terms, covenants and conditions of the foregoing Declaration of Condominium, and the execution hereof does not in any way subordinate or make the said mortgage inferior or subject to the said Declaration of Condominium.

GUARANTY FEDERAL SAVINGS & LOAN  
ASSOCIATION

By: [Signature]  
Its President

STATE OF ALABAMA)  
JEFFERSON COUNTY)

I, Carol T. Wolfe, a Notary Public in and for said County in said State, hereby certify that Eugene A. Boyd, whose name as President of Guaranty Savings & Loan Association, a corporation, is signed to the foregoing Declaration of Condominium, and who is known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing Declaration of Condominium, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and official seal of office this 11th day of June, 1985.

Carol T. Wolfe  
Notary Public

[SEAL]

My Commission Expires: 8-31-87

BOOK 030 PAGE 228



EXHIBIT "A"

Lot 1-C of the First Sector of Valley Station as recorded in Map Book 7, page 47 in the Office of the Judge of Probate of Shelby County, Alabama.

BOOK 030 PAGE 229



EXHIBIT B

BY-LAWS  
OF  
VALLEY STATION OWNERS ASSOCIATION, INC.

ARTICLE I

THE ASSOCIATION

Section 1. Identity. These are the By-Laws of Valley Station Owners Association, Inc., a nonprofit corporation (the "Association"), which was formed under the Alabama Nonprofit Corporation Act [Code of Alabama 1975 §§10-3A-1 et seq.] by filing the Articles of Incorporation of the Association (the "Articles") with the Office of the Judge of Probate of Shelby County, Alabama, on June 12th, 1985. The Association has been organized for the purpose of providing for the operation, management, maintenance, control and administration of Valley Station Condominium, a Condominium (the "Condominium"), pursuant to the provisions of the Condominium Ownership Act of Alabama [Code of Alabama 1975 §§35-8-1 et seq.] and the Declaration of Condominium of the Condominium (the "Declaration") as filed with the Office of the Judge of Probate of Shelby County, Alabama, in accordance with the provisions of said Act.

Section 2. Principal Office. The principal office of the Association in the State of Alabama shall be located in the City of Helena, County of Shelby. The Association may have such other offices, either within or without the State of Alabama, as the Board of Directors may designate or as the business of the Association may require from time to time.

Section 3. Registered Office. The registered office of the Association, required by the Alabama Nonprofit Corporation Act to be maintained in the State of Alabama, may be, but need not be, identical with the principal office in the State of Alabama, and the address of the registered office may be changed from time to time by the Board of Directors.

ARTICLE II

MEMBERSHIP

Section 1. Annual Meeting. The annual meeting of the Membership shall be held on the third Tuesday in the month of April in each year, beginning with the year 1987 at the hour of 10:00 A.M., or at such other time on such other day within such month as shall be fixed by the Board of Directors, for the purpose of electing directors and for the transaction of such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the State of Alabama, such meeting shall be held on the next succeeding business day. If the election of directors shall not be held on the day designated herein for any annual meeting of the Membership, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the Membership as soon thereafter as conveniently may be.

Section 2. Special Meeting. Special meetings of the Membership, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President or by the Board of Directors and shall be called by the President or the Secretary at the request of holders of not less than one-tenth of all the outstanding votes of the Membership.

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Section 3. Place of Meeting. The Board of Directors may designate any place, within or without the State of Alabama, as the place of meeting for any annual meeting or for any special meeting of the Membership. If no designation is made, or if a special meeting is otherwise called, the place of the meeting shall be the principal office of the Association in the State of Alabama.

Section 4. Notice of Meeting. Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting, or of a meeting which is required by statute to be held for any special purpose, or of an annual meeting at which special action is to be taken, the purpose or purposes for which the meeting is called, or the special action which is proposed to be taken, shall, unless otherwise prescribed by statute, be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the President, the Secretary, or the persons calling the meeting, to each member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at his address as it appears on the records of the Association, with postage thereon prepaid.

Section 5. Fixing of Record Date. The Board of Directors may fix in advance a date as the record date for the purpose of determining the members entitled to notice of or to vote at any meeting of members or any adjournment thereof, or for any other proper purpose, such date in any case to be not more than fifty (50) days and, in case of a meeting of the Membership, not less than ten (10) days prior to the date on which the particular action, requiring such determination of members, is to be taken. If no record date is fixed for the determination of members entitled to notice of or to vote at a meeting of the Membership, the date on which notice of the meeting is mailed shall be the record date for such determination of members. When a determination of members entitled to vote at any meeting of the Membership has been made as provided in this section, such determination shall apply to any adjournment thereof.

Section 6. Voting Lists. The officer or agent having charge of the records of members of the Association shall make, at least ten (10) days before each meeting of the Membership, a complete list of the members entitled to vote at such meeting, or any adjournment thereof, arranged in alphabetical order, with the address of each member, which list, for a period of ten (10) days prior to such meeting, shall be kept on file at the principal office of the Association and shall be subject to inspection by any member making written request therefor at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any member during the whole time of the meeting.

Section 7. Quorum. The presence at any meeting of the Membership of the members entitled to cast a majority of the votes in the Association, represented in person or by proxy, shall constitute a quorum. If a quorum is not present at any meeting, a majority of the members so represented may adjourn the meeting from time to time without further notice. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally notified. The members present or represented at a meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.



Section 8. Majority Vote. The vote of members entitled to cast a majority of the votes represented at a meeting of the Membership at which a quorum is present shall be the act of the Members of the Association, unless the vote of a greater number is required by law, the Declaration, the Articles, or these By-Laws.

Section 9. Proxies. At all meetings of the Membership, a member may vote in person or by proxy executed in writing by the member or by his duly authorized attorney in fact. Such proxy shall be filed with the Secretary of the Association before or at the time of the meeting. No proxy shall be valid after ninety days from the date of its execution, unless otherwise provided in the proxy.

Section 10. Voting Rights. At any meeting of the Membership, the members who are owners of whole Units (as defined in the Declaration) shall be entitled to cast one vote for each Unit. If a Unit is owned by one person, his right to vote shall be established by record title to his Unit. If a Unit is owned by more than one person, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by all of the record owners of the Unit and filed with the Secretary of the Association. If a Unit is owned by a corporation, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by the President or Vice President and attested to by the Secretary or Assistant Secretary of the corporation and filed with the Secretary of the Association. Such certificate shall be valid until revoked or until superceded by a subsequent certificate or a change in the ownership of the Unit concerned. A certificate designating the person entitled to cast the vote of a Unit may be revoked at any time by any owner of a Unit. If such a certificate is not on file, the vote of such owner shall not be considered in determining the requirement for a quorum nor for any other purpose.

Section 11. Informal Action by Members. Any action required to be taken at a meeting of the Membership, or any other action which may be taken at a meeting of the Membership, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof.

### ARTICLE III

#### BOARD OF DIRECTORS

Section 1. General Powers. The business and affairs of the Association shall be managed by or under the direction of its Board of Directors.

Section 2. Number, Tenure and Qualifications. The number of directors of the Association shall consist of not less than three (3) nor more than five (5) directors with the exact number to be fixed from time to time by the members holding a majority of the votes of the Association. The initial Board of Directors shall consist of three (3) directors.

Section 3. Election of Directors.

(a) Election of directors shall be held at the annual meeting of the Membership. The election shall be by secret ballot (unless dispensed with by unanimous consent) and by a plurality of the votes cast. The owner of each whole Unit shall be entitled to cast a vote for each of as many nominees as there are vacancies to be filled at the time of the election. There shall be no cumulative voting.



(b) Notwithstanding the provisions of subparagraph (a) above, the Developers (as defined in the Declaration), its successors and assigns, shall elect the members of the Board of Directors of the Association, and in the event of vacancies, the Developers shall fill vacancies, until three (3) years after the date of filing the Declaration with the Judge of Probate of Shelby County, Alabama, or at such time as all of the Units have been conveyed to purchasers thereof, whichever first occurs; provided that the Developer may, at its option, terminate its control of the Association at an earlier date. Within sixty (60) days after the date of termination of control of the Association by the Developers, the Board of Directors shall call and give not less than ten (10) nor more than fifty (50) days notice of a special meeting of the Membership for the purpose of electing the members of the Board of Directors.

Section 4. Regular Meetings. A regular meeting of the Board of Directors shall be held without other notice than this By-Law immediately after, and at the same place as, the annual meeting of the Membership, provided, however, any such regular meeting may be held at any other time or place which shall be specified in a notice given as hereinafter provided for special meetings, or in a consent and waiver of notice thereof, signed by all directors. The Board of Directors may provide, by resolution, the time and place, within or without the State of Alabama, for the holding of additional regular meetings without other notice than such resolution.

Section 5. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two directors.

Section 6. Notice. Notice of any special meeting shall be given at least three (3) days previously thereto by written notice delivered personally or mailed to each director at his business address, or by telegram. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any director may waive notice of any meeting. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

Section 7. Quorum. A majority of the number of directors fixed by Section 2 of this Article III shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but if less than such majority is present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

If a quorum is present when the meeting is convened, the directors present may continue to do business, taking action by a vote of the majority of the quorum, until adjournment, notwithstanding the withdrawal of enough directors to leave less than a quorum present, or the refusal of an director present to vote.

Section 8. Manner of Acting. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.



Section 9. Action Without a Meeting. Any action that may be taken by the Board of Directors at a meeting may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors.

Section 10. Vacancies. Any vacancy occurring in the Board of Directors and any directorship to be filled by reason of an increase in the number of directors may be filled by a majority of the remaining directors. A director elected or appointed, as the case may be, shall be elected or appointed for the unexpired term of his predecessor in office.

Section 11. Compensation. By resolution of the Board of Directors, the directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors, and may be paid a fixed sum for attendance at each meeting of the Board of Directors or a stated salary as a director or both. No such payment shall preclude any director from serving the Association in any other capacity and receiving compensation therefor.

Section 12. Committees. The Board of Directors may, by resolution or resolutions, passed by a majority of the whole Board, designate one or more committees, each of which shall consist of two or more directors and which to the extent provided in said resolution or resolutions or in the By-Laws of the Association shall have and may exercise all of the powers of the Board of Directors in the management of the activities and affairs of the Association and may have power to authorize the seal of the Association to be affixed to all papers which may require it; except that no such committee shall have the authority of the Board of Directors in reference to amending, altering or repealing the By-Laws; electing, appointing or removing any member of any such committee or any director or officer of the Association; amending the Articles, restating the Articles, adopting a plan of merger or adopting a plan of consolidation with another corporation; authorizing the sale, lease, exchange, or mortgage of all or substantially all of the property and assets of the Association; authorizing the voluntary dissolution of the Association or revoking proceedings therefor; adopting a plan for the distribution of assets of the Association; or amending, altering or repealing any action or resolution of the Board of Directors which by its terms provides that it shall not be amended, altered, or repealed by such committee. The designation of such committee or committees or the delegation thereto of authority shall not operate to relieve the Board of Directors or any individual director of any responsibility imposed upon it or him by law.

Section 13. Resignations. Any director of the Association may resign at any time either by oral tender of resignation at any meeting of the Board or by giving written notice thereof to the Secretary of the Association. Such resignation shall take effect at the time specified therefor; and the acceptance of such resignation shall not be necessary to make it effective.

Section 14. Place of Meeting. The Board of Directors may designate any place within or without the State of Alabama as the place of meeting for any regular or special meeting of the Board of Directors.

Section 15. Presumption of Assent. A director of the Association who is present at a meeting of the Board of Directors at which action on any corporate matter is taken



shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

## ARTICLE IV

### OFFICERS

Section 1. Number. The officers of the Association shall be a President, one or more Vice President(s) (the number thereof to be determined by the Board of Directors), a Secretary, and a Treasurer, each of whom shall be elected by the Board of Directors. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors. Any two or more offices may be held by the same person, except the President and Secretary. The failure of the Board of Directors to elect any officer other than a President and a Secretary shall not constitute a violation of these By-Laws.

Section 2. Election and Term of Office. The officers of the Association to be elected by the Board of Directors shall be elected annually by the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of the Membership. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall have resigned or shall have been removed in the manner hereinafter provided.

Section 3. Removal. Any officer or agent elected or appointed by the Board of Directors may be removed at any time, by the affirmative vote of the Board of Directors, whenever in their judgment the best interests of the Association will be served thereby. Any such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer shall not of itself create any contract rights in favor of such officer.

Section 4. Vacancies. A vacancy in any office elected or appointed by the Board of Directors because of death, resignation, removal, disqualification or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 5. President. The President shall be the chief executive officer of the Association and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Association. He shall preside at all meetings of the Membership. He may sign, with the Secretary or an Assistant Secretary, any deeds, mortgages, bonds, contracts or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these By-Laws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.



Section 6. Vice President. In the absence of the President or in the event of his death, inability or refusal to act, the Vice President (or in the event there be more than one Vice President, the Vice Presidents in the order designated at the time of their election, or in the absence of any designation, then in the order of their election) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Any Vice President shall perform such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 7. Secretary. The Secretary shall: (a) keep the minutes of the proceedings of the Members and of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; (c) be custodian of the corporate records and of the seal of the Association and see that the seal of the Association is affixed to all documents the execution of which on behalf of the Association under its seal is duly authorized; (d) keep a register of the post office address of each member which shall be furnished to the Secretary by such member; (e) have general charge of the transfer books of the members of the Association; and (f) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 8. Treasurer. The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Association; (b) receive and give receipts for monies due and payable to the Association from any source whatsoever, and deposit all such monies in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Article V of these By-Laws; and (c) in general perform all of the duties as from time to time may be assigned to him by the President or by the Board of Directors. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall determine.

Section 9. Assistant Secretaries and Assistant Treasurers. The Assistant Secretaries and Assistant Treasurers, in general, shall perform such duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the President or the Board of Directors. The Assistant Treasurers shall respectively, if required by the Board of Directors, give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine.

Section 10. Salaries. The salaries of the officers shall be fixed from time to time by the Board of Directors and no officer shall be prevented from receiving such salary by reason of the fact that he is also a director of the Association.

## ARTICLE V

### CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.



Section 2. Loans. No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances. No loans shall be made by the Association to any person who is an officer or director of the Association.

Section 3. Checks, Drafts, Etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 4. Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board of Directors may select.

Section 5. Proxies. Unless otherwise provided by resolution of the Board of Directors, the President may from time to time appoint an attorney or agent of the Association, in the name and on behalf of the Association, to cast the votes which the Association may be entitled to cast as the holder of stock or other securities in any other corporation any of whose stock or other securities may be held by the Association, at meetings of the holders of the stock or other securities of such other corporation, or to consent in writing, in the name and on behalf of the Association, as such holder, to any action by such other corporation, and may instruct the person or persons so appointed as to the manner of casting such votes or giving such consent, and may execute or cause to be executed, in the name and on behalf of the Association and under its corporate seal or otherwise, all such written proxies or other instruments as he may deem necessary or proper in the premises.

## ARTICLE VI

### BOOKS AND RECORDS

Section 1. Accounting. The Association shall keep correct and complete books and records of account and shall keep minutes of the proceedings of the members, Board of Directors and committees thereof and shall keep at its registered or principal office in Alabama a record of the names and addresses of members entitled to vote, directors and officers. The accounting records shall be maintained in accordance with generally accepted accounting principles. All books and records of the Association shall be open to inspection by the members or their authorized representatives for any proper purpose at any reasonable time. Such records shall include:

(a) Association Accounts. The receipts and expenditures of the Association.

(b) Member Accounts. An account for each member shall be maintained setting forth the name(s) and address of the member, the interest percentage in the Common Elements and Limited Common Elements, the amount of each assessment, the dates and amounts in which the assessments become due, the amounts paid upon the account and the balance due.

Section 2. Budget. The Board of Directors shall adopt a budget for each calendar year that shall include the estimated funds required to defray the Common Expenses and to provide and maintain funds for the foregoing accounts and



reserves according to good accounting practices. Copies of the budget and proposed assessments shall be transmitted to each member on or before December 1 preceding the year for which the budget is made. If the budget is amended substantially, a copy of the amended budget shall be furnished to each member.

Section 3. Assessments. Assessments against the members for their shares of the items of the budget shall be made for the calendar year annually in advance on or before December 31, preceding the year for which the assessments are made. Such assessments shall be due in quarterly or monthly installments, as may be determined by the Board of Directors of the Association. In the event the annual assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board of Directors.

Section 4. Assessments for Emergencies. Assessments for Common Expenses for emergencies that cannot be paid from the annual assessments for Common Expenses shall be made only after notice of the need for such is given to the members concerned, and it shall be due thirty (30) days after such notice in such manner as the Board of Directors of the Association may require in the notice of assessment.

Section 5. Bonds. Fidelity bonds may be required by the Board of Directors from all persons handling or responsible for Association funds. The amount of such bonds shall be determined by the Board of Directors, but shall not be less than three times the amount of the total annual assessments against members for Common Expenses. The premiums of such bonds shall be paid by the Association.

## ARTICLE VII

### SEAL

The Board of Directors shall provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Association and the state of incorporation and such other words as the Board of Directors may prescribe.

## ARTICLE VIII

### WAIVER OF NOTICE

Whenever any notice is required to be given to any member or director of the Association under the provisions of these By-Laws, the Articles of Incorporation, the Declaration, the provisions of the Alabama Nonprofit Corporation Act, and any act amendatory thereof, supplementary thereto or substituted therefor, the provisions of the Condominium Ownership Act of Alabama, and any act amendatory thereof, supplemental thereto or substituted therefor, or the Alabama Constitution, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

## ARTICLE IX

### FISCAL YEAR

The fiscal year of the Association shall be fixed by resolution of the Board of Directors.



ARTICLE X  
INDEMNIFICATION

Section 1. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 2. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association, as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

To the extent that a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsections (a) and (b), or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

Any indemnification under subsections (a) and (b) (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the



applicable standard of conduct set forth in subsections (a) and (b). Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (3) by the stockholders.

Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this section.

The indemnification provided by this section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any by-law, agreement, vote of stockholders or disinterested director or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

## ARTICLE XI

### AMENDMENT

Section 1. Amendment to By-Laws. These By-Laws may be amended, altered or repealed in the following manner:

(a) By the Developers until three (3) years after the date of filing the Declaration with the Judge of Probate of Shelby County, Alabama or such time as all the Units have been conveyed to purchasers other than the Developers, whichever first occurs, as provided in Article III, Section 3 of these By-Laws; or

(b) By the members at any regular or special meeting upon the affirmative vote of the holders of not less than two-thirds of the outstanding votes.

Section 2. Recordation. No modification or amendment to the By-Laws shall be valid and effective until the President and Secretary of the Association shall certify as to the adoption of such amendment and shall file their certificate setting forth the text of the amendment with the Office of the Judge of Probate of Shelby County, Alabama.



VALLEY STATION DRIVE

CANADA VALLEY ROAD

LOT 10

STATION ROAD

N

[illegible]

WALLER STATION  
CANDOMINIUM  
Prepared By  
Waymond Burroughs, Insurance & Waymond Associates, Inc.  
1100 So. 17th Street, Birmingham, AL 35204  
Phone 818-7410







EXHIBIT "D"

<u>Unit No.</u>	<u>Size of Unit (square feet)</u>	<u>Ownership of Common Elements (percentage)</u>	<u>Ownership of Limited Common Elements (percentage)</u>
1	2,225	25.59	100
2	918	10.56	0
3	1,093	12.57	0
4	903	10.39	0
5	1,094	12.58	0
6	907	10.43	0
7	1,555	17.88	0

STATE OF ALA. SHELBY CO.  
I CERTIFY THIS  
INSTRUMENT WAS FILED

1985 JUN 12 PM 2:43

*Thomas W. [Signature]*  
JUDGE OF THE COURT

030 JUN 24 1985  
BOOK