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COVENANT, CONDITIONS AND RESTRICTIONS FOR COVINGTON PLACE

THE COVENANTS, CONDITIONS AND RESTRICTIONS ("Covenants") are made as of the 13th day of April, 2006 by Authentic Building Co., L.L.C., an Alabama Limited Liability Company ("Contractor") and Stylemark Homebuilders Inc., an Alabama Corporation ("Contractor").

RECITALS:

A. Contractor is the owner of the Property, as described in Section 1.18 below, and desires to own, develop, improve, lease and sell the Property for a planned community of approved Residential Use as defined in Section 1.19 below, subject to these Covenants in order to protect the value and desirability of the Property and to have a flexible and reasonable method for the administration and maintenance of the Property.

B. Contractor has heretofore caused the Association, as defined in Section 1.03 below, to be formed as an Alabama non profit corporation for the purpose of making Assessments, as defined in Section 1.02 below, and otherwise taking all action which the Association is authorized to undertake hereunder.

NOW, THEREFORE, subject to the conditions and limitations described below, Contractor does hereby proclaim that all of the Property shall be held, developed, improved, transferred, sold, conveyed, leased, occupied and used subject to these Covenants which shall be binding upon and inure to the benefit of all parties acquiring or having any right, title or interest in any portion of the Property and their respective heirs, executors, administrators, personal representatives, successors and assigns.

ARTICLE I
DEFINITIONS

As used throughout these Covenants, the following terms shall have the meanings set forth below, which meanings shall be applicable to both the singular and plural forms and tenses of such terms:

1.01 **Articles of Incorporation.** The term "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association and all amendments thereto.

1.02 **Assessment.** The term "Assessment" shall mean the annual and special assessments and any other charges assessed against and Lot or Owner by the Association pursuant to Sections 8.01, 8.03, 8.04, 8.05 and 8.06 hereof.

1.03 **Association.**The term "Association" shall mean The Covington Place Association, Inc., an Alabama non profit corporation.

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1.04 **Board.** The term "Board" shall mean and refer to the members of the Board of Directors of the Association and their duly elected successors as may be provided in the Articles of Incorporation and Bylaws, as the same may exist from time to time.

1.05 **Bylaws.** The term "Bylaws" shall mean and refer to the bylaws of the Association, as the same may be amended from time to time.

1.06 **Common Areas.** The term "Common Areas" shall mean and refer to all real and personal property now or hereafter owned by the Association for the nonexclusive, common use and enjoyment of the Owners and Occupants. The Common Areas shall include (a) all signage, street lights, lighting, walkways, paths bicycle and jogging path or lanes, if any, improvements, landscaped or other areas of common use, (b) all storm drains and sewers, drainage and/or watershed protection areas located within the Development (other than such areas located solely within the boundary lines of any Lot, (c) all utility lines, pipes, ducts, conduits, equipment, machinery and other apparatus and appurtenances which are located in or serve any portion of the Common Areas on more than one Lot, and (d) all easements and easement areas within the Development (other than such areas located solely within the boundary lines of any Lot), and any other areas or Improvements on or within the Development which are designated as Common Areas by Contractor or the Board from time to time. The designation of any land and/or Improvements as Common Areas shall not mean or imply that the public at large acquires any easement of use or enjoyment thereof or any other rights, licenses or benefits therein.

1.07 **Common Expenses.** The term "Common Expenses" shall mean and refer to all expenditures made or incurred by or on behalf of the Association, including, without limitation, those expenses described in Section 8.04(c) below and all funds assessed for the creation or maintenance of reserves pursuant to the provision of these Covenants.

1.08 **Covenants.** The term "Covenants" shall mean and refer to these The Covington Place Covenants, Conditions and Restrictions as set forth herein, and all amendments thereto.

1.09 **Contractor.** The term "Contractor" shall mean Authentic Building Co., L.L.C., an Alabama Limited Liability Company and Stylemark Homebuilders, Inc., an Alabama Corporation, their successors and assigns which are the companies that purchased all of the lots from the Developer for the purpose of building residential houses.

1.10 **Development.** The term "Development" shall mean and refer to the real property being more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, and all Improvements thereon which may be submitted thereto by Contractor.

1.11 **Governmental Authority.** The term "Governmental Authority" shall mean any and all city, county, state and federal governmental or quasi-governmental agencies, bureaus, departments, divisions, or regulatory authorities having jurisdiction over any portion of the Property.

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1.12 **Improvement.** The term "Improvement" shall mean and refer to all dwellings, any building, structure, planting or device constructed, erected or placed upon any Lot or Common Area which in any way affects the exterior appearance of any Lot or Common Area. Improvements shall include, by way of illustration and not limitation, buildings, sheds, foundations, covered patios, underground utilities, septic tanks, roads, driveways, walkways, paving, curbing, parking areas, trees, shrubbery, landscaping, fences, screening, walls, signs, and any other artificial or man-made changes or alterations to the natural condition of any Lot.

1.13 **Lot.** The term "Lot" shall mean and refer to any portion of the Property which will be owned in fee simple by an Owner. Upon the recordation of any subdivision plat for the Property, each lot indicated thereon shall be deemed a Lot for purposes of these Covenants.

1.14 **Mortgage.** The term "Mortgage" shall mean and refer to any mortgagee, deed of trust or other security device encumbering a Lot or any interest therein and which shall have been duly and properly recorded in the Probate Office of Shelby County, Alabama.

1.15 **Mortgagee.** The term "Mortgagee" shall mean and refer to the holder of any first Mortgage which has given notice to the Association that ir holds such Mortgage.

1.16 **Occupant.** The term "Occupant" shall mean and include and Owner and the family members, guests, tenants, agents, servants, employees, invitees and any other person who occupies or uses any Lot within the Property. All actions or omission of any Occupant is an shall be deemed the action or omission of the Owner of such Lot.

1.17 **Owner.** The term "Owner" shall mean and refer to the record owner, including Contractor, of fee simple title to any Lot, whether a corporation, partnership, proprietorship, association or other entity of any nature, including natural persons, but shall not include (i) any Mortgagee unless and until such Mortgagee has foreclosed on its Mortgage and purchased such Lot or (ii) any lessee, purchaser, contract purchaser or vendor who has an interest in any Lot solely by virtue of a lease, contract, installment contract or other agreement.

1.18 **Property.** The term "Property" shall mean and refer to that certain real property situated in Shelby County, Alabama which is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.

1.19 **Residential Use.** The term "Residential Use" shall mean and refer to the occupancy of any Lot for single-family residential housing purposes.

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ARTICLE II
PROPERTY SUBJECT TO COVENANTS

2.01 **General.** Contractor hereby proclaims that the Property is and shall be subject to the easements, covenants, conditions, restrictions, charges, liens and regulations of these Covenants and the Property, any part thereof, including each Lot and Common Area thereon, shall be held, owned, sold, transferred, conveyed, hypothecated, encumbered, leased, occupied, built upon and otherwise used, improved and maintained subject to the terms of these Covenants, which easements, covenants, conditions, restrictions, charges, liens and regulations shall run with the title to the land and Property and shall be binding upon and inure to the benefit of Contractor, all Owners and all Occupants of the Property, and any Lot and Common Area thereof. These Covenants shall not apply to or affect any real property owned by Contractor other than the Property, unless the same is subjected specifically by written amendment or supplement to these Covenants.

2.02 **Right of Contractor to Modify Restrictions to Lots Owned by Contractor.** With respect to any Lot owned by Contractor, Contractor may, by deed, contract or other instruments filed for the record in the manner specified by law, modify the provisions of these Covenants as the same apply to any such Lot, including but not limited to, the withdrawal of any such Lot from the operation and effect of these Covenants.

2.03 **Mutuality of Benefit and Obligation.** The provisions of these Covenants are made (a) for the mutual and reciprocal benefit of each Lot and Common Area within the Property and are intended to create reciprocal rights and obligations between the respective Owners and all future and subsequent Owners and any Lot within the Property, and (c) to create a privity of contract and estate between the Owners, their respective heirs, successors and assigns.

2.04 **Development of Property.** Subject to the approval of any Governmental Authority with appropriate jurisdiction, Contractor shall have the right, but not the obligation, for so long as Contractor owns any portion of the Property, or until such earlier date as Contractor elects in its sole discretion to relinquish such right, to make improvements and changes to all Common Areas and to all Lots owned by Contractor, including without limitation (i) installation and maintenance of any Improvements in or to the Common Areas, (ii) changes in the location of the boundaries of any Lot owned by Contractor or of the Common Areas, (iii) installation of any water, sewer and any other utility systems and facilities within the Common Areas or to the Lots owned by Contractor.

2.05 **Subdivision Plat.** Contractor reserves the right to record, modify, amend, revise and otherwise add to, at any time and from time to time, a subdivision plat setting forth such information as Contractor may deem necessary with regard to the Property, including without limitation, the locations and dimensions of all Lots, Common Areas, public or private roads, utility easements, drainage easements, access easements, setback line restrictions, retention ponds and drainage basins. Any such subdivision plats or any amendments thereto shall be binding on the portions of the Property indicated thereon as if such subdivision plat were specifically incorporated into these Covenants. Notwithstanding anything provided to the contrary in these Covenants, Contractor may at any time or from time to time divide and redivide, combine and resubdivide any Lots owned by Contractor may change any easement description or relocate any roads affected thereby, subject to approval of any Governmental Authority having jurisdiction thereof.

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ARTICLE III
EASEMENTS

3.01 **Grant of Nonexclusive Easements to Owners.** Subject to the terms and conditions of these Covenants and the rules, regulations, fees and charges from time to time established by the Board, Contractor does hereby grant to each Owner and Occupant the nonexclusive right, privilege and easement of access to and the use and enjoyment of the Common Areas in common with Contractor, its successors and assigns, and all other Owners and Occupants. The easement and rights granted pursuant to this Section 3.01 are and shall be permanent and perpetual, are nonexclusive, are appurtenant to and shall pass and run with title to each Lot.

3.02 **Benefit of Easements**. The easements, rights and privileges granted in Section 3.01 shall pass with each Lot as an appurtenance thereto. And may not be severed, transferred, assigned or otherwise alienated separate or aprat from a Lot.

3.03 **Reservation of General Access Easement.** Contractor does hereby establish and reserve for itself, the ARC, and the Association, their respective agents, employees, representatives, invitees, successors and assigns, a permanent and perpetual nonexclusive easement over, across, through and upon each Lot for the purpose of providing ingress to and egress from each Lot for (a) inspecting each Lot and any Improvements thereon in order to determine compliance with the provisions of these Covenants, and (b) the performance of the respective duties of the Contractor, the ARC, and the Association hereunder, including, without limitation taking any action required or permitted to be taken by Contractor, the ARC or the Association pursuant to any of the terms or provisions of these Covenants; provided, however, that upon completion and occupancy of any Lot, the except in the event of emergencies, the foregoing easement shall be utilized only during normal business hours and then, whenever practicable, only upon advance notice to the Owner or Occupancy of such Lot directly affected thereby.

3.04 **Reservation of Easements With Respect to Common Areas.**

(a) Easement Upon Common Areas. Contractor does hereby establish and reserve, for itself, the ARC, the Association, and their respective agents, employees, representatives, invitees, successors and assigns, a permanent and perpetual nonexclusive easement appurtenant over, across, under, through, and upon all of the Common Areas for the purpose of (i) constructing, installing, repairing and replacing any Improvements to the Property or to the Common Areas, and (ii) doing all other things reasonably necessary and proper in connection therewith; provided, however, that nothing in this sentence shall obligate Contractor to undertake any of the foregoing. In addition to the other rights and easements established and reserved herein and regardless of whether Contractor continues to own any portion of the Property, Contractor hereby establishes and reserves for itself and its successor and assigns, a permanent and perpetual, nonexclusive easement to have access, ingress to and egress from and the right and privilege to use and enjoy the Common Areas and all Improvements thereon from such purposes as Contractor deems appropriate; provided, however, that Contractor should not exercise such rights so as to unreasonably interfere with the rights of the Owners to use the Common Areas.

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(b) Changes in Common Areas. Contractor does hereby establish and reserve unto itself and its successors and assigns the permanent right to change, modify and realign the boundaries of any of the Common Areas, any Lots, or other portions of the Property or of the Development owned by Contractor. Contractor further reserves the right, but shall not have any obligation, to convey by quitclaim deed to the Association at any time and from time to time any portion of the Development, the Property, or any Improvements thereto to be utilized as Common Areas, as Contractor, in its sole discretion, may determine.

3.05 **Reservation of Easement for Utilities.** Contractor does hereby establish and reserve for itself and the Association, and their respective successors and assigns, a permanent and perpetual nonexclusive easement appurtenant over, across, under, through and upon all portions of the Common Areas and all Lots which are reasonable necessary for the purpose of installing, erecting, replacing, relocating, maintaining and operating all utilities necessary or convenient for the use of any portion of the Development including, without limitation, publicly or privately owned and operated electrical, gas, telephone, television or cable system, water and sewer services, storm drains and sewers, drainage systems, retention ponds, basins and facilities, lines, pipes, conduits, equipment, machinery and other apparatus and appurtenances necessary or otherwise reasonably required in order to provide any utility service to any portion of the Development. The easements established and reserved herein shall include the right to cut and remove trees, undergrowth and shrubbery, to grade, excavate or fill and to otherwise take all other action reasonably necessary to provide economical and sage installation, maintenance, repair, operation and replacement of all such utility services and the systems, equipment and machinery used to provide the same. Notwithstanding anything provided in this Section 3.05 to the contrary, (i) the utilization of any of the easements and rights established and reserved pursuant to this Section 3.05 shall not unreasonably interfere with the use or occupancy of the Improvements situated on any Lot, and (ii) Contractor shall use good faith efforts to attempt to cause any utility company or other supplier or provider of any utility service which may utilize any of the easements and rights reserved and established pursuant to this Section 3.05 to the reasonable action to repair any damage to any Lot caused by such utility company or other supplier or provider of such utility service during the exercise of any rights established and reserved herein.

3.06 **Reservation of Easements for Signs, Walls and Fences.**

A. Easement for Walks, Trails and Signs. Contractor does hereby established and reserve for itself, the Association, and their respective successors and assigns, a permanent and perpetual easement appurtenant over, across, through and upon a strip of land ten (10) feet in width on any side of any Lot lying parallel and directly adjacent to and abutting any public or private roadway, for the purpose of constructing, installing, maintaining, repairing, operating, or replacing traffic directional signs, street lights and related improvements; provided, however, that neither Contractor nor the Association, by virtue of this sentence, shall have any obligation to construct any of the foregoing improvements.

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B. Easement for Perimeter Wall. Contractor does hereby establish and reserve for itself, the Association, and their respective successors and assigns, a permanent and perpetual easement appurtenant over, across, through and upon a strip of land teen (10) feet in width on the side of any Lot lying parallel to the perimeter boundary of the Development for the purpose of constructing, installing, maintaining, repairing, operating and replacing a perimeter wall, fence, mound or berm around the perimeter boundary of the Development; provided, however, that neither Contractor nor the Association, by virtue of this sentence, shall have any obligation to construct any such perimeter wall, fence, mound or berm.

3.07 **Reservation of Maintenance Easement.** Subject to the terms and provisions of Section 7.02(b) below, Contractor does hereby establish and reserve for the Association, and each of their respective agents, employees, successors and assigns, a permanent and perpetual right and easement to enter upon any Lot for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps or other unsightly growth and removing trash so as to maintain reasonable standards of health, fire, safety and appearance within the Property; provided, however, that such easement shall not impose any duty or obligation upon Contractor of the Association to perform any of the foregoing actions.

3.08 **Reservation of Environmental Easement.** Contractor does hereby establish and reserve for itself, the ARC, the Association, and their respective agents, employees, successors and assigns, a permanent and perpetual right and easement on, over, across and upon all Lots for time promulgated or instituted by any Governmental Authorities or the Association. Except in the case of an emergency situation or a perceived emergency situation, the exercise by Contractor or the Association of the rights reserved in this Sect ion 3.08 shall not unreasonably interfere with the use or occupancy of any Improvements situated on any Lot.

3.09 **Landscaping by Owners on Easement Areas**. The Contractor, the Association, any Governmental Authority, any utility company, and each of their respective successors and assigns, shall not be liable to any Owner, Occupant or any other party for and on account of damage to any landscaping or plantings placed on any easement area or road right-of-way within the Property by any Owner, Occupant or any other party.

ARTICLE IV
ASSOCIATION

4.01 **Membership.** The Owner of each Lot shall be a member of the Association. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot; provided, however, that (a) Contractor shall be deemed a member of the Association for so long as Contractor owns any portion of the Property, or until such earlier date as Contractor elects, in Developer's sole discretion, to terminate Contractor's membership in the Association, and (b) in the event any Lot is owned by more than one (1) person, then the Owners of such Lot shall be entitled to only one vote in the Association and only one of the Owners shall be entitled to hold a position in the Association at any given time. The transfer or conveyance of fee title to any

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Lot (other than by a Mortgage as security for the payment of an obligation), shall automatically included the transfer of all membership rights of such Owner in the Association with respect to the Lot transferred and conveyed, notwithstanding any failure of the transferor to endorse to his transferee any certificates, assignments or other evidence of such membership. Membership or the rights and benefits in the Association may not be transferred, assigned, conveyed or otherwise alienated in any manner separate and apart from the ownership of a Lot. Each member of the Association shall at all times comply with the provisions of these Covenants, the Articles of Incorporation, the Bylaws and all rules and regulations which may from time to time be adopted by the Board of the Association.

4.02 **Board.** The Board shall have the rights and duties set forth in the Articles of Incorporation and the Bylaws. Contractor hereby retains and shall have the right to appoint or remove, with or without cause, any member of the Board and any officer or officers of the Association until such time as Contractor no longer owns any Lot in the Property, or until such earlier date as Contractor elects, in Contractor's sole discretion, to relinquish such right. Each Owner, by acceptance of a deed to or other conveyance of a Lot, vest in Contractor such authority to appoint and remove members of the Board and officers of the Association as provided by this Section 4.02.

4.03 **Voting Rights.** Subject to the rights reserved to Contractor in the Articles of Incorporation and Bylaws (which, among other things, provided that only Contractor, for so long as Contractor owns any Lot in the Property, or until such earlier date as Contractor may elect, in Contractor's sole discretion, shall be exclusively entitled to take various actions and vote on all matters to be voted on by the members of the Association) and the rights of the Association, as the case may be, to suspend any Owner's voting rights or privileges in the Association pursuant to Section 11.01 below, the Owner of each Lot shall be entitled to one (1) vote in any matters submitted to the members of the Association for approval. No Owner, whether one or more persons, shall have more than one membership and one vote per Lot. Each Owner, by acceptance of a deed or other conveyance to a Lot, consents and agrees to the dilution of his or her voting interest in the Association by virtue of the re-subdivision of any Lot by Contractor pursuant to Section 2.05 above. In no event whether as a result of there being multiple ownership interest in any Lot or otherwise, shall, more than one vote be allowed for any one Lot. Fractional voting shall not be permitted. For purposes of this Section 4.03, Contractor shall be deemed to be the Owner of and entitled to all voting rights attributable to any Lots owned by Contractor.

4.04 **Duties and Powers of Association.** In addition to the rights, duties, responsibilities and obligations of the Association otherwise set forth in these Covenants, the Association shall have the power to preform or cause to be performed any of the duties and powers set forth in the Articles of Incorporation and the Bylaws. The Association may exercise any other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided to the contrary herein, in the Articles of Incorporation or in the Bylaws, the powers and authority granted to the Association may be exercised by the Board, acting through the officers of the Association, without further consent or action on the part of the Owners. Nothing herein shall be construed as a restriction of the rights, duties, responsibilities and obligations of the Association set forth in the Articles of Incorporation and of the Bylaws.

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4.05 **Agreements.** Subject to the conditions, restrictions and other provisions of these Covenants, all agreements, actions and determinations lawfully authorized by the Board with respect to the Property shall be binding upon all Powers, their heirs, executors, personal representatives, administrators, successors and assigns and all others having any interest in the Property. In performing its responsibilities hereunder, the Association, through the Board, shall have the right and authority to delegate to such persons of its choice such duties of the Association hereunder as may be determined by the Board. In furtherance of the foregoing and not in limitation thereof, the Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall deem necessary or desirable for the proper operation of any portion of the Property, whether such personnel are furnished or employed directly by the Association or by independent contract with the Association. During the term of any such management agreement entered into by the Association with a third party, such manager say, if authorized by the Board, exercise all the powers and shall be responsible for the performance of all of the duties of the Association hereunder, excepting any of such powers or duties specifically and exclusively reserved to the Board of the officers of the Association by these Covenants, the Articles of Incorporation or the Bylaws. Such manager may be an individual, corporation or other legal entity and may be bonded in such manner as the Board may require, with the costs of such bond to be a Common Expense. In addition to the foregoing, the Association may pay for and the Board may hire and contract for such legal and accounting services as are necessary or desirable in connection with the operation of the Property, or the enforcement of these Covenants, the Articles of Incorporation, the Bylaws, or any rules and regulations of the Association.

4.06 **Management by Contractor or its Affiliates.** In addition to the rights and authority granted to the Association in Section 4.05, Contractor may, but shall not be obligated to, be employed as the manager of the Association and the Property for so long as Contractor owns any Lot in the Property, or until such earlier date as Contractor elects, in Contractor's sole discretion, to relinquish such right, at such compensation and on such terms as would be usual, customary and obtainable in an arms-length transaction with any third party providing comparable services for any real estate development in the southeastern United States of the size, quality and nature of the Property. Each Owner, by acceptance of a deed to or other conveyance of a Lot shall be deemed to ratify the provisions of this Section 4.06 and specifically be deemed to have approved any management agreement entered into by the Association or Contractor.

4.07 **Rules and Regulations.** The Board may establish and enforce reasonable rules and regulations governing the use of all Lots and Common Areas. Each such rule and regulation shall be binding upon all Owners and Occupants until and unless any such rule or regulation is specifically overruled, canceled or modified by the Board, the Contractor or by the majority vote of the total votes of the Association at any regular or special meeting of the Association; provided, however, that no such rule or regulation may be overruled, canceled or modified unless such action is also approved by Contractor for so long as Contractor owns any Lot in the Property or until such earlier date as Contractor elects in Contractor's sole discretion, to relinquish such right.

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4.08 **Indemnification.** The Association shall and does hereby agree to indemnify, defend and agree to hold each and every other officer, agent, representative and member of the Board harmless from and against any and all expenses, including court costs and reasonable attorney's fees, suffered, paid or incurred in any action, suit or other proceedings (including the settlement of any suit or proceedings if approved by the Contractor and the Board) to which such person may be made a party by reason of being or having been an officer, agent, representative or member of the Board. The officers, agents, representatives and members of the Board shall not be liable for any mistake in judgement, negligence or otherwise except for their own willful misconduct or reckless disregard of duty, as finally determined by a court of competent jurisdiction. The officers, agents, representatives and members of the Board shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association, and the Association shall and does hereby indemnify, defend and agree to forever hold each such officer, agent, representative or member of the Board harmless from any and all liability to others on account of any such contract or commitment. The indemnification, obligations and rights provided for herein shall not be exclusive of any other rights to which any officer, agent, representative or member of the Board may be entitled, including anything provided to the contrary contained in the Articles of Incorporation or the Bylaws. The Association may maintain general liability and officers' and directors' liability insurance in order to fulfill its obligations under this Section 4.08 and the costs of such insurance shall constitute a Common Expense.

ARTICLE V
ARCHITECTURAL REVIEW

5.01 **Scope.** Any changes of any kind, modification or additions to the Improvements on any Lot must be approved by the Architectural Review Committee (the "ARC"). The ARC shall consist of three (3) persons each of whom shall be appointed or elected as provided in Section 5.02 below. The members of the ARC, may but shall not be required to be, members of the Association or Owners of any Lot. The term of office for each member of the ARC shall be three years, except as provided in Section 5.02(d) below. Any member appointed or elected as provided in Section 5.02 below may be removed with or without cause in the manner provided in Section 5.02 below.

5.02 **Appointment and Removal of ARC Members.**

(a) For so long as Contractor owns any Lot in the Property, or until such earlier date as Contractor may elect, in Contractor's sole discretion, Contractor shall have the sole and exclusive right to appoint and remove all of the members of the ARC. The initial members of the ARC designated by Contractor shall be Brett G. Winford and Kyle Roberts.

(b) At such time as Contractor no longer owns any Lot in the Property, or, upon Contractor's written notice to the Association that it no longer desires to exercise the right to appoint and remove members of the ARC as provided in Section 5.02(a) above, then the members of the ARC shall be appointed by the Board of Directors of the Association.

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(c) Any member of the ARC may be removed, with or without cause, by (i) Developer, in its sole discretion, during the period of time that the provisions of Section 5.02(a) above are in effect, or (ii) the Board of Directors of the Association, in the event the provisions of Section 5.02(b) above are in effect. In the event of death or resignation of a member of the ARC, then Contractor, in the event of the provisions of Section 5.02(a) above are applicable, or the Board of Directors of the Association, in the event the provisions of Section 5.02(b) above are applicable, as the case may be, shall appoint a substitute member of the ARC to fill the vacancy of such deceased or resigning member for the remainder of the term of such former member.

(d) The Contractor shall appoint the members of the initial ARC for terms ranging from one (1) to three (3) years each, in Contractor's sole discretion. At the expiration of the term of office of each respective member of the initial ARC, Contractor, in the event the provisions of Section 5.02(a) above are applicable, or the Board of Directors of the Association, in the event the provision of Section 5.02(b) above are applicable, shall appoint a successor of such member for a period of three (3) years.

5.03 **Procedure and Meetings.** The ARC shall elect a chairman and he or she, or in his or her absence, the vice-chairman, shall be the presiding officer at all meeting of the ARC. The ARC shall meet as necessary as well as upon call of the chairman or vice-chairman, and all such meetings shall be held at such places as may be designated by the chairman or vice-chairman. A majority of the total number of members of the ARC shall constitute a quorum of the ARC for the transaction of business and the affirmative vote of a majority of those present in person or by proxy at a meeting of the ARC shall constitute the action of the ARC on any matter which comes before it. The ARC is authorized to retain the services of consulting architects, landscape architects, designers, engineers, inspectors and/or attorneys in order to advise and assist the ARC in performing its functions set forth herein. Each member of the ARC may be paid a stipend or honorarium as may from time to time be determined by the Contractor, in the event the provisions of Section 5.03(a) above are applicable, or the Board of Directors of the Association in the event the provisions of Section 5.03(b) above are applicable, and shall otherwise be entitled to a reimbursement of expenses incurred on behalf of the ARC, subject to the approval of such expenses by the Contracotr, in the event the provisions of Section 5.02 (a) above are applicable, or by the Board of Directors of the Association, in the event the provisions of Section 5.03(b) above are applicable. The ARC shall have the right from time to time to adopt and establish such rules and regulations as may be necessary concerning the procedure, notice of meetings and all other matters concerning the conduct of the business of the ARC.

5.04 **Architectural Standards.** The ARC is hereby authorized to promulgate and amend or modify from time to time written rules and regulations governing policies, guidelines and minimum requirements to be satisfied with respect to the construction, location, landscaping and design of all Improvements on any Lot, the content and manner in which plans and specifications and other documentation and information concerning the construction of any dwelling or other Improvements on a Lot are to be submitted to and approved by the ARC, and any other matters

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affecting the construction, repair or maintenance of any Improvements on any Lot. The rules and regulations adopted by the ARC shall be in addition to the provisions and requirements set forth in these Covenants and shall be binding upon and enforceable against all Owners.

5.05 **Approval of Plans and Specifications.**

(a) **IN ORDER TO PRESERVE THE ARCHITECTURAL AND AESTHETIC APPEARANCE AND THE NATURAL SETTING AND BEAUTY OF THE PROPERTY, TO ESTABLISHED AND PRESERVE A HARMONIOUS DESIGN FOR THE PROPERTY AND TO PROTECT AND PROMOTE THE VALUE OF THE PROPERTY, THE LOTS AND ALL IMPROVEMENTS THEREON, NO IMPROVEMENTS OF ANY NATURE SHALL BE COMMENCED, ERECTED, INSTALLED, PLACE, MOVED ONTO, ALTERED, REPLACED, RELOCATED, PERMITTED TO REMAIN ON OR MAINTAINED ON ANY LOT BY ANY OWNER, OTHER THAN CONTRACTOR, WHICH AFFECT THE EXTERIOR APPEARANCE OF ANY LOT UNLESS PLANS AND SPECIFICATIONS THEREFOR HAVE BEEN SUBMITTED TO AND APPROVED BY THE ARC IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF SECTION 5.05(b) BELOW. WITHOUT LIMITING THE FOREGOING, THE CONSTRUCTION AND INSTALLATION OF ANY FURTHER IMPROVEMENTS ON THE LOT SHALL NOT BE UNDERTAKEN, NOR SHALL ANY EXTERIOR ADDITION TO OR CHANGE OR ALTERATION BE MADE (INCLUDING, WITHOUT LIMITATION, PAINTING OR STAINING OF ANY EXTERIOR SURFACE) TO ANY IMPROVEMENTS, UNLESS THE PLANS AND SPECIFICATION FOR THE SAME HAVE BEEN SUBMITTED TO AND APPROVED BY THE ARC IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF SECTION 5.05(b) BELOW.**

(b) The ARC is hereby authorized and empowered to approve all plans and specifications and the construction of all Improvements on any part of the Property. Prior to the commencement of construction of any Improvements on any Lot, the Owner thereof shall submit to the ARC plans and specifications and related data for all such Improvements, which shall include two copies of each of the following, if applicable:

(i) Plans and specifications at a scale of 1/4" = 1'-0" or larger.

(ii) Color samples and specification of all changes to exterior materials and finishes.

(iii) Site development plan prepared by a licensed surveyor at a scale of 1" = 20.'

(iv) An exterior lighting plan, including specifications for any change to exterior lighting.

(v) A landscaping plan prepared and submitted in accordance with the provision of Section 5.06 below.

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(vi) Such other plans, specifications or other information or documentation as may be required by the rules and regulations of the ARC.

(c) The ARC shall, in its sole discretion, determine whether the plans and specifications and other data submitted by any Owner for approval are acceptable. One copy of all plans, specifications and related date so submitted to the ARC shall be retained in the records of the ARC and the other copy shall be returned to the Owner submitting the same marked "approved", "approved as noted" or "disapproved". The ARC shall establish a fee to be charged to and paid by each Owner who submits plans and specifications to the ARC for approval, which fee shall be sufficient to cove the expense of reviewing plans and related data and to compensate any consulting architects, landscape architects, designers, engineers, inspectors and/or attorneys retained in order to approve such plans and specifications and to monitor and otherwise enforce the terms hereof. Notwithstanding anything provided herein to the contrary, and Owner may, without the necessity or requirement that ARC approval or consent be obtained, make interior improvements and alterations within his dwelling that do not affect exterior appearance of the dwelling in any way.

(d) The ARC shall have the right to disapprove any plans and specifications upon any ground which is consistent with the objectives and purposes of these Covenants, including purely aesthetic considerations, any failure to comply with any of the provisions of these Covenants or the rules and regulations of the ARC, failure to provide requested information, objection to exterior design, appearance or materials, objection on the ground of incompatibility of any such proposed improvement with the scheme of development proposed for the Development or the Property, objection to the location of any proposed Improvements on any such Lot, objection to the landscaping plan for such Lot, objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of any Improvement or any other matter which, in the sole judgement of the ARC, would render the proposed Improvement inharmonious with the general plan of development contemplated for the Property. The ARC shall have the right to approve any submitted plans and specifications with conditions or stipulations by which the Owner of such Lot shall be obligated to comply and must be incorporated into the plans and specifications for such Improvements. Approval of plans and specifications by the ARC for Improvements to one particular Lot shall not be deemed an approval or otherwise obligate the ARC to approve similar plans and specifications or any of the features or elements for the Improvements for any other Lot within the Property.

(e) In the event the ARC fails to approve or "approve as noted", in writing any such proposed plans and specifications within thirty (30) days after such plans and specifications have been submitted, then the plans and specifications so submitted will be deemed to have been disapproved.

(f) Any revisions, modifications or changes in any plans and specifications previously approved by the ARC must be approved by the ARC in the same manner specified above.

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(g) If construction of any Improvements has not substantially commenced (by clearing and grading, pouring of footing and otherwise commencing framing and other related construction work) within one (1) year of approval by the ARC of the plans and specifications for such Improvements, then no construction may be commenced (or continued) on such Lot the Owner of such Lot shall be required to resubmit all plans and specifications for any such Improvements to the ARC for approval in the same manner specified above.

(h) Any approval of plans and specifications by the ARC pursuant to this Section 5.05 shall not be construed in any respect as a representation or warranty of the ARC, the Developer, or the Association that such plans are in conformity with any applicable rules, regulations, and requirements or any Governmental Authorities or that any such plan or the dwelling based thereon is architecturally sound or meets any standards of engineering compliance or is properly designed. It shall be responsibility of each Owner who submits any such plans to the ARC to satisfy himself as to such conformity and proper design.

5.06 **Landscaping Approval.** In order to preserve, to the extent practicable, the natural landscaping and plant life currently situated on the Property, and in order to enhance the aesthetic appearance of the Property, no landscaping, grading, excavation or fill work of any nature shall be changed, implemented or installed by any Owner, other than Contractor, on any Lot unless and until landscaping plans therefore have been submitted to and approved by the ARC. The provisions of Section 5.06 above regarding the method that such plans are to be submitted to the ARC, the time for approval or disapproval of the same and the method of approving modifications or changes thereto shall be applicable to such landscaping plans.

5.07 **Construction Without Approval.** If (a) any improvements are initiated, installed, maintained, altered, replaced or relocated on any Lot without ARC approval of the plans and specifications for the same, or (b) the ARC shall determine that any approved plans and specifications for any Improvements or the approved landscaping plans for any Lot are not being complied with, then, in either event, the Owner of such Lot shall be deemed to have violated these Covenants and the ARC shall have the right to exercise any of the rights and remedies set forth in Section 5.13 below.

5.08 **Inspection**. The ARC or any agent, employee or representative thereof may at any reasonable time and from time to time enter upon and inspect any Lot or any Improvements being constructed thereon in order to determine whether the approved plans and specifications therefore are being complied with. Any such entry shall not be deemed to be a trespass or any other wrongful act by the ARC.

5.09 **Subsurface Conditions.**

A. The Property may be located in an area which includes underground mines or other geological formations or conditions which may result in surface subsidence. Approval of the submitted plans and specifications by the ARC as herein provided shall not be construed in any respect as a representation or warranty of the ARC and/or the Contractor and/or the Association to the Owner submitting such plans and specifications. It shall be the sole responsibility of the Owner to determine the suitability and adequacy of the surface and subsurface conditions of the Lot for the construction of any and all Improvements thereon.

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B. Neither the ARC and its individual members, nor the Association and its members, nor the Contractor and its partners, agents and employees and the officers, directors, agents and employees of its partners (both in its capacity as a Contractor as herein defined and as the owner or prior owner of any minerals subjacent to the Property), shall be liable to any Owner or Occupant, or the successors, assigns, licensees, lessees, employees and agents of any Owner or Occupant, for loss or damage on account of injuries to any Owner, Occupant, or any other person in or upon any parcel of the Property, which are caused by, or arise as a result of soil and/or subsurface conditions, known or unknown (including, without limitation, underground mines or other geological formations or conditions) including limesink areas or any subsidence for any reason whatsoever under or on the Property.

5.10 **Limitation of Liability.** Notwithstanding anything provided herein to the contrary, neither Contractor, the ARC, the Association, nor any agent, employee, representative, member, shareholder, partner, joint venturer, officer or director thereof, shall have any liability of any nature whatsoever for any damage, loss or prejudice suffered, claimed, paid or incurred by any Owner on account of (a) any defects in any plans and specifications submitted, reviewed or approved in accordance with the provisions of this Article V, (b) any defects, structural or otherwise, in any work done according to such plans and specifications or other data submitted by any Owner for approval pursuant to the provisions of this Article V, (d) any construction or performance of any work related to such plans, drawings and specifications, (e) any bodily injuries (including death) to any Owner, Occupant, or the respective family members, guests, employees, servants, agents, invitees or licensees of any such Owner or Occupant, or any damage to any Improvements or the personal property of any Owner, Occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of such Owner or Occupant, which may be caused by, or arise as a result of any defect, structural or otherwise, in any Improvements or the plans and specifications therefore or any past, present or future soil and/or subsurface conditions, known or unknown (including, without limitation, limesink areas, subsidence for any reason whatsoever, underground mines, tunnels or other geological formations or conditions on or under any Lot) and (f) any other loss, claim, damage, liability, or expense, including court costs and attorneys' fees, suffered, paid or incurred by any Owners arising out of or in connections with the use and occupancy of any Lot or any Improvements situated thereon.

5.11 **Sales and Construction Activities.** Notwithstanding any provisions or restrictions contained in these covenants to the contrary, Contractor, its successors and assigns, shall have the right and option to maintain and carry on such facilities and activities as may be reasonably required, convenient, or incidental to the completion, improvement, and sale of Lots as the development of Lots and Common Areas, including, without limitation, the installation and operation of sales and construction trailers and offices, signs and model dwellings, all as may be approved by Contractor from time to time; provided, however, that the location of any construction trailers of any assignees of Contractor's rights under this Section shall be subject to Contractor's approval. The right to maintain and carry on such facilities and activities shall include, without limitation, the right to use dwellings as model residences as offices for the sale of Lots and for any related activities.

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5.12 **Enforcement and Remedies.** In the event any of the provisions of this Article V are breached or are not otherwise being complied with in all respects by any Owner or Occupant or the respective family members, guest, invitees, agents, employees or contractors of any Owner or Occupancy, then the ARC and the Association shall each have the right but not the obligation at their option to (a) enjoin any further construction on any Lot and require the removal or correction of any work in place which does not comply with the plans and specifications approved by the ARC for such Improvements, and/or (b) through their designated agents, employees, representative and independent contractors, enter upon such Lot and take all action necessary to extinguish such violation or breach. All costs and expenses incurred by the ARC or the Association in enforcing any of the provisions of this Article V, including, without limitation, attorneys' fees, court costs, costs and expenses of witnesses, engineers, architects, designers, land planners and any other persons involved in the correction of nonconforming work, the completion of uncompleted work or in any judicial proceeding, together with any other costs or expenses incurred by the ARC or the Association in causing any Owner or such Owner's contractors, agents and invitees to comply with the terms and provision of this Article V, shall be paid by such Owner, shall constitute as individual Assessment to such Owner pursuant to section 8.06 below and, if the same is not paid when due, shall be subject to the lien provided for in Section 8.09 below and be subject to foreclosure as provided for herein. Notwithstanding anything provided herein to the contrary, the right and remedies of the ARC and the Association set forth herein shall not be deemed exclusive of any other rights and remedies which the ARC or the Association may exercise at law or in equity or any of the enforcement rights specified in Section 6.31, 8.09, 11.01, 11.02 and 11.03 below.

5.13 **Compliance Certification.** The ARC or any authorized representative thereof shall, upon request and at such a reasonable charges as may from time to time be adopted by the Board, furnish to an Owner a certificate in writing setting forth whether all necessary ARC approvals have been obtained and whether any Improvement has been constructed in accordance with the provisions of these Covenants. Any such approval shall not be construed in any respect as a representation or warranty of the ARC and/or Contractor and/or the Association that all applicable rules, regulations and requirements of all Governmental Authorities with respect to any such Lot or Improvement have been fulfilled.

ARTICLE VI
USE AND DEVELOPMENTAL RESTRICTIONS

6.01 **Use Restrictions.** Except as otherwise provided to the contrary in Section 5.11 above and in this Section 6.01, each Lot shall be used for Residential Use only and no trade or business of any kind may be carried on in or from any Lot. The use of any portion of a dwelling as an office by an Owner shall not be considered a violation of this covenant, provided such use does not create regular customer, client or employee traffic, and further provided any such use is in compliance with all applicable rules, regulations and ordinances of any Governmental Authority having jurisdiction thereof. The leasing or rental of any Lot shall be allowed only with the prior written approval of the ARC and Contractor; provided, however, that Contractor shall have the

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perpetual right to designate from time to time any dwellings owned by Contractor, its successors and assigns, which may be leased for such period of time as Contractor may determine, including daily or weekly rentals. Notwithstanding anything provided in this Section 6.01 to the contrary, the Property or any portion thereof, including specifically, any Lots constituting any portion of the Property, may be used and developed for (i) any of the uses included in the definition of Common Areas and (ii) any uses permitted under applicable zoning ordinances affecting the Property; provided, however, that in the event any portion of the Property is to be developed or used for any purpose other than Common Areas or single-family residential purposes, then such use must first be approved in writing by the ARC and Contractor.

6.02 **ARC Approval.** No Improvements of any nature whatsoever shall be constructed on any Lot unless such Improvements have been approved by the ARC in the manner set forth in Article V above.

6.03 **Underground Utilities and Sanitary Sewer System.** All utility lines, pipes, conduits and wiring for electrical, such as, telephone, water, sewer, cable television, security and any other utility service for any portion of the Property shall be installed and maintained below ground.

6.04 **Building Setbacks.**

(a) Subject to the provisions of Section 6.05 below, minimum building setback lines for all dwellings shall be established either (i) by the ARC, (ii) on the recorded subdivision plat for the subdivision of which such Lot is included (which may vary for each phase of the Development), or (iii) in the Deed from Contractor to the Owner of such Lot, all in accordance with applicable rules, regulations and ordinances of any Governmental Authority having jurisdiction thereof.

(b) No dwelling or Improvement shall be built within the setback areas established in Section 6.04(a), unless the Owner obtains a variance from the Contractor or the ARC and any Governmental Authority having jurisdiction thereof, if necessary. All eaves, steps, porches, terraces, and patios shall **not** be deemed a part of the dwelling for the purposed of determining building setback areas pursuant to this Section 6.04.

6.05 **Siting of Improvements.** Prior to commencing any construction-related activities on any Lot (including any grading or clearing), the location of any Improvement to be constructed thereon shall be set forth on the site development plan for such Lot which must be approved by the ARC pursuant to the provisions of Section 6.04 above to the contrary, the ARC may require building setback requirements different from those described in Section 6.04, including building setbacks which are greater than those specified in Section 6.04 above.

6.06 **Trees.** No Owner, other than Contractor, shall cut, remove or mutilate any tree, shrub or bush or other vegetation having a trunk diameter of two(2) inches or more, and located on any Lot without first obtaining the approval of the ARC; provided, however, that the foregoing shall not be deemed to prohibit the cutting and removal of any dead or diseased trees certified as such by the ARC nor shall the foregoing be deemed to release any Owner from the provisions of Section 6.08 and 7.01 below.

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6.07 **Height Limitations.** The height of all Improvements shall be compatible with all other Improvements adjacent to such Lot.

6.08 **Landscaping.**

(a) Any change in the existing landscaping plan for each Lot within the Property shall be submitted to the ARC for approval pursuant to the provision of Section 5.06 above. Each Owner shall, to the extent practicable, otherwise take such steps which would, to the extent practicable, preserve the existing trees, plant life, wild flowers and natural environment, including natural drainage channels, which exist on such Lot, if any (i.e. the lots may have been cleared by Contractor during the development process.)

(b) All front and side yards of each Lot shall be sodded with grass unless approved by the ARC as a natural area or unless the same if landscaped with shrubbery and other approved plant life.

(c) No hedge or shrubbery planting which obstructs sight-lines of streets and roadways shall be placed or permitted to remain on any Lot where such hedge or shrubbery interferes with traffic sight-lines for roadways with the Property. The determination of whether any such obstruction exists shall be made by the ARC, whose determination shall be final, conclusive and binding on all Owners.

(d) No rocks or other substances shall be placed on any lot as a front or side yard border or for the purpose of preventing vehicles from parking on or pedestrians from walking on any portion of such Lot or to otherwise impede or limit access to the same. No bird baths fountains, waterfalls, pools, ponds, reflectors, flag poles, statues, lawn sculptures, lawn furnishings, artificial plants, rock gardens, rock walls, bird houses or other fixtures and accessories shall be placed or installed within the front or side yards of any Lot.

(e) No vegetable, herb or similar gardens or plants shall be planted or maintained on the front or side yards of any Lot or in the rear (back) yard of any Lot if the same would be visible from any street.

(f) The ARC may from time to time promulgate rules and regulations adopting an approved list of plant life which may be utilized on any Lot, which rules and regulations may require that either a minimum dollar amount be established and utilized as the landscaping budget for each Lot or that a minimum number of plantings of certain sizes, types and specifications be used on any Lot.

(g) No Owner shall allow the lawn grass on his or her Lot to grow to a height in excess of six (6) inches, measured from the surface of the ground.

(h) Seasonal or holiday decorations (e.g. Christmas trees and lights, pumpkins, Easter decorations) shall be promptly removed from each Lot within fifteen days after such holiday.

6.09 **Roofing.** The roof of the Improvements on the Lot may not be changed in any manner, except by the Association with the approval of the ARC.

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6.10 **Exterior Lighting.** All exterior lighting for Improvements, including, without limitation, free standing lighting and utility (e.g. flood) lights attached to a dwelling, must be of a design and in a location approved by the ARC.

6.11 **Exterior Materials and Finishes.**

(a) No exterior materials and finishes may be changes except with approval of the ARC. All wood surfaces utilized on the exterior of any dwelling, including windows and doors, shall be painted or stained at all times. Prohibited exterior finish materials shall include particle board, plywood, vinyl or any other type of pressed, laminated or fabricated siding, vertical siding, simulated brick or stone and any other materials as the ARC may from time to time determine.

(b) No wooden steps shall be allowed on the front or sides of any dwelling. Concrete steps must be finished in tile, brick or stone.

6.12 **Garages.**

A. Garage doors shall be subject to the approval of the ARC. Garage doors shall
be constructed of such materials as are approved by the ARC. Garage doors shall be kept closed at all times except when in use. No garage shall be converted to any use other than for the parking of vehicles therein without the approval of the ARC.

B. All automobiles or other passenger vehicles owned or used by the Owner or Occupant of any dwelling and their respective family members shall be parked in garages to the extent garage space is available. Garages shall not be used for storage or for any other purposes or uses which would result in the garage being unavailable for the parking of vehicles therein.

6.13 **Fences.** No chain link, vinyl coated or wire fences shall be permitted within the Property except with regard to maintenance areas within the Common Areas and those fences erected by Developer. Above ground electric fences shall not be permitted. The type of materials utilized for (including the color thereof) and the location of all fences must be approved by the ARC.

6.14 **Windows, Window Treatments and Doors.**

(i) Reflective glass shall not be permitted on the exterior of any dwelling. No foil or other reflective materials shall be installed on any windows or used for sun screens, blinds, shades or other purposes.

(ii) The ARC may adopt guidelines for the types of windows and materials from which windows may be allowed on any dwelling. Burglar bars or doors (including wrought iron doors)shall not be permitted. Screen doors shall not be used on the front or side of any dwelling. No aluminum or metal doors shall not used on the front or side of any dwelling. Appropriate window treatments shall be used on all windows. Sheets, bed linens, blankets and paper or plastic bags are not appropriate window treatments.

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6.15 **Mailboxes.** Mailboxes shall be maintained for any Lot as installed by the Contractor. All mailboxes shall be of the type, design, color and location as may be approved by the ARC. Mailboxes shall contain only the name and address of the Owner and Lot. No further inscription, paintings, ornaments or artistry shall be allowed.

6.16 **Satellite Dishes and Antennae.** No satellite dishes shall be allowed on any Lot more than two (2) feet in diameter. The satellite dish must not be visible from any street within the Property, and the location of such satellite dish must be approved by the ARC. No radio antenna, radio receiver or other similar device or aerial shall be attached to or installed on any Lot or dwelling unless the same is (i) contained entirely with the interior of a building or other structure, (ii) not visible from any street within the Property or adjacent lot or dwelling, and (iii) approved by the ARC. No radio or television signals or other form of electromagnetic radiation or transmission shall be permitted to originate from any Lot or dwelling which may interfere with the reception of radio or television signals within the Property or any other real property situated in close proximity to the Property.

6.17 **Driveways.** All driveways for each Lot shall be constructed of concrete. Other materials (e.g., brick or asphalt) may be used but only if approved in writing by the ARC. All driveways shall be paved; chert, gravel and loose stone driveways are prohibited. To the extent any Owner or Occupant or any of their respective builders, contractors, subcontractors, agents, employees, guests or invitees damage or destroy any curbing or gutters within the Property which constitutes part of the Common Areas, then the Owner of such Lot shall promptly cause, at his, her or its sole cost and expense, such damages curbing or gutters to be repaired and replaced in accordance with any and all requirements of the Association, and all Governmental Authorities.

6.18 **Outdoor Furniture, Recreational Facilities and Clothesline.**

(a) No furniture shall be placed, kept, installed, maintained or located in or on the front or side yards or areas of a Lot. Any furniture placed, kept, installed, maintained or located at the rear of or behind a dwelling shall, to the greatest extent practicable, be located so that the same shall not be visible from any street.

(b) Wood piles shall be located only at the rear of a dwelling and shall be screened by appropriate landscaping from view from streets and, to the extent practicable, from adjacent Lots.

(c) Any children's toys, swing sets, jungle gyms, trampolines, and other outdoor and recreational equipment and appurtenances shall be allowed only at the rear or behind a dwelling and shall, to the extent practicable, be located so that the same are not visible from any street.

(d) Free-standing playhouses and treehouses may be permitted in the rear yard of a dwelling, but only upon ARC approval of same.

(e) Basketball backboards shall be located so as not to be visible from any street and shall otherwise be located on such Lot in a location approved by the ARC.

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(f) Outside clotheslines or other outside facilities for drying or airing clothes shall be prohibited on any Lot. No clothing, rugs or other items shall be hung, placed or allowed to remain on any railing, fence or wall.

(g) Barbeque grills or other types of outdoor cooking equipment and apparatus shall be located only at the rear of a dwelling and, to the extent practicable, shall not be visible from any street.

(h) Bird feeders, wood carvings, plaques and other types of homecrafts shall not be permitted in the front yards of any Lot nor shall any of the foregoing items be attached to the front or side of any dwelling. All bird feeders, wood carvings, plaques and other types of homecrafts shall be located only in the rear yard of a dwelling and shall not be visible from any street.

6.19 **Pets and Animals.** No animals, livestock, birds or poultry of any kind shall be kept, raised or bred by any Owner upon any Lot or other portion of the Property; provided, however, that no more than two (2) domesticated animals, except in the case of any new-born litter of any such animal, may be kept on a Lot so long as they are not kept for breeding or commercial purposes. No pet shall be allowed to make an unreasonable amount of noise or become a nuisance. No structure or area for the care, housing or confinement of any pet shall be constructed or maintained except at the rear of the dwelling, shall not be visible from any street, and shall not be constructed of materials and of a size approved by the ARC. Dogs and cats shall not be allowed to roam unattended within the Property; all dogs shall be kept and maintained within the dwelling or fenced or walled areas on a Lot, as approved by the ARC, or otherwise under leash. Pets shall not be permitted to leave excrement on the Lot of any other Owner or within any street or any portion of the Common Areas and the Owner of such shall immediately remove the same. Each Owner shall be liable to the Association for the costs of repairing any damage to the Common Areas caused by the pet of such Owner or Occupant. The Board shall have the right from time to time to promulgate rules and regulations governing keeping the pets within the Property, including the right to assess fines for violations of such rules and regulations.

6.20 **Trash, Rubbish and Nuisances.**

(a) No trash, garbage, rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the Property nor shall any nuisance or odors be permitted to exist or operate upon or arise from any Lot which would render any portion thereof unsanitary, unsightly, offensive or detrimental to persons using, occupying or owning any other Lots. Noxious of offensive activities shall not be carried on in or from any Lot or in any part of the Common Areas and each Owner and Occupant shall refrain from any act or use of a Lot which could cause disorderly, unsightly or unkempt conditions, result in the cancellation of or increase in insurance coverage or premiums for any portion of the Property or be in violation of any law, statute, ordinance, rule, regulation or requirement of any Governmental Authority. Without limiting the generality of the foregoing, no horns, whistles, bells, speakers or other sound devices, other than reasonable security and fire alarm devices used exclusively for such purposes, shall be located, used or placed upon any Lot. Any Owner or Occupant or any of the respective family members, guests,

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invitees, servants, agents, employees or contractors of such Owner or Occupant who dumps, places or allows trash or debris to accumulate on his or her Lot or on any other portion of the Property shall be liable to the Association for all costs incurred by the Association to remove the same.

(b) Trash, garbage and any other refuse or waste shall not be kept on any Lot except in sanitary containers or garbage compactor units. Trash cans and containers shall at all times be kept at the rear of or inside a dwelling and shall be screened from view from streets and adjacent Lots and dwellings by appropriate landscaping or fencing approved by the ARC; provided, however, that trash cans and containers may be moved to the side yard or curb of the street in front of any dwelling on trash collection days for such Lot. Owners shall not use any garbage disposal containers of the Contractor for trash disposal.

(c) No outdoor burning of trash, garbage, leaves, wood, shrubbery or other materials shall be permitted on any Lot or other portion of the Property. This provision does not apply to any Lot larger than two (2) acres.

6.21 **Recreational Vehicles and Machinery Equipment.**

(a) Mobile homes, motor homes, trailers of any kind, campers, vans, motorcycles, bicycles, motorized carts and all-terrain vehicles, lawnmowers, tractors, tools, construction machinery and equipment of any nature, golf carts, boats and any other type of water craft, including boat trailers, and any other similar types of vehicles, machinery or equipment shall not be permitted, stored or allowed to remain on any Lot. The Common Areas shall not be utilized for the parking or storage of any of the foregoing vehicles, recreational vehicles, machinery or equipment.

(b) Each Lot shall provide for adequate off-street parking (i.e., parking areas located solely within the property lines of such Lot). Vehicles shall be parked only in driveways constructed in accordance with the provisions of Section 6.17 above or in garages. Vehicles shall not be parked on any landscaped or natural areas of a Lot.

(c) Any vehicle which is inoperable shall be immediately removed from the Property. No Owner or Occupant shall repair or restore any vehicle, machinery or equipment of any kind upon or within any Lot or on any portion of the Common Areas, except (i) within enclosed garages, or (ii) for emergency repairs and then only to the extent necessary to enable the immediate movement thereof to a proper repair facility located outside of the Property.

(d) Subject to the prior written approval of the Association which may be withheld in the sole discretion of the Association, the Board shall have the right at any time and from time to time to adopt rules and regulations with respect to the keeping, storage, parking, operation, use or maintenance of mobile homes, tractors, equipment, machinery, trailers (with or without wheels), motorhomes, trucks (other than pick-up trucks), commercial vehicles of any type, campers, motorized campers or trailers, boats or other water crafts, boat trailers, motorcycles, motorized bicycles, all-terrain vehicles, motorized go-carts and other forms of transportation.

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6.22 **Signage.** No signs or advertising posters of any kind shall be maintained or permitted within any windows or on the exterior of any Lot or elsewhere on any portion of the Property without the express written permission of the ARC, and except as permitted by applicable rules, regulations and ordinances of any Governmental Authority having jurisdiction thereof. The ARC may promulgate rules, regulations and standards for the use and design of any sign to be posted within the Property, including but not limited to, name and address signs and the signs referred to in Section 6.25(c). Notwithstanding the foregoing, (a) the restrictions set forth in this Section 6.22 shall not be applicable to Contractor or to any signs erected pursuant to Section 6.25(c) below and (b) Contractor and the Association shall have the right, but no the obligation, to erect and maintain reasonable and appropriate signs on any portions of the Common Areas and within those easement areas established in Section 3.06 above.

6.23 **Tanks and Wells.** No exposed above-ground tanks or underground storage tanks for the storage of fuel, water or any other substances shall be located on any Lot or within any of the Common Areas. No private water wells may be drilled or maintained on any Lot.

6.24 **Temporary Structures.** No temporary house, trailer, shack, tent, barn, shed, stable, poultry house or yard, rabbit hut, temporary or portable toilet (except as provided in Section 6.25(d) below), treehouse or other outbuilding or structure of any kind shall be permitted, constructed, installed or allowed to remain on any Lot; provided, however, that the foregoing shall not be deemed to prohibit (a) temporary structures for social functions as may be permitted by the rules and regulations of the Board of the Association, (b) dog houses for not more than two (2) dogs so long as such dog houses are visibly screened from view from all streets and adjacent Lots, and (c) construction trailers and/or sales offices erected or placed ion any part of the Property by Contractor pursuant to Section 5.11 above.

6.25 **Construction of Improvements.**

(a) During the construction of any Improvements, (i) all Lots subject to such construction shall be maintained in a clean condition, free of debris and waste material, (ii) all unused construction materials shall be stored, to the extent practicable, out of view from any street, (iii) all construction trash, debris and rubbish on each Lot shall be properly disposed of outside the Property at least weekly, and (iv) any temporary or portable toilet will be placed out of view from any street. Used construction materials shall not burned on-site. In no event shall any used construction materials be buried on or beneath any Lot or any other portion of the cause all such dirt, mud, concrete, gravel and other substances to be removed from the treads, wheels and concrete unloading chutes of all vehicles used in or related to the construction of Improvements on a Lot prior to such vehicles traveling on any streets within the Property.

(b) During the construction of any Improvements, construction equipment and the vehicles of all contractors, subcontractors, laborers, materialmen and suppliers shall (i) utilize off-street parking only, (ii) enter the Lot on which such Improvements are being constructed from the driveway for such Lot, and (iii) not damage trees or other vegetation on such Lot which, pursuant to the provisions of Section 6.06 above, are to be preserved.

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(c) A maximum of two (2) signs, in size and color to be approved by the ARC, may be posted on a Lot upon a single sign slab approved by the ARC, at a height not to exceed five (5) feet from the ground level advertising the Lot or the dwelling thereon for sale, or during the construction of such dwelling, containing information identifying the builder of such dwelling. No other signage, banners, flags, or advertising posters shall be allowed without obtaining the ARC approval. The location of such signage shall be established by the ARC but in no event shall any signage authorized by this Section 6.25 or which may be approved by the ARC be attached, nailed or otherwise adhered to any tree or other plant like on a Lot.

(d) No construction trucks, equipment or machinery, including any trailers used for the transportation of construction equipment or machinery, shall be parked on any streets or roads within the Property. Upon completion of construction of any Improvements, any construction machinery, tools and equipment, all unused construction materials and all trash, debris and rubbish shall be immediately removed from the Lot and such Lot shall be kept and maintained on a clean and uncluttered condition.

(e) All Improvements shall be constructed in compliance with any rules established by the ARC, all applicable federal, state, county and local laws, ordinances, rules, regulations, and zoning and building code requirements. Each Owner shall be solely responsible for obtaining from the appropriate Governmental Authorities all necessary permits and licenses and otherwise paying all required fees for the construction of any Improvements on such Owner's Lot. Each Owner shall also be responsible for strict compliance with any rules established by the ARC and all applicable watershed protection, soil erosion and other governmental requirements, both during and after completion of construction of any Improvements on such Owner's Lot.

(f) When any Owner submits to the ARC plans and specifications for construction of Improvements in accordance with Section 5.05 above, the name of the building contractor selected by such Owner for construction of such Improvement shall also then be submitted to the ARC; however, if the identity of the building contractor is not known at that time, then the name of the building contractor will be submitted when determined prior to construction. The ARC shall have the right, in its sole discretion, to approve or disapprove of any building contractor so selected by such Owner. Each building contractor approved by the ARC in accordance with this Section 6.25(f) will be required to remit to the ARC a refundable damage/clean up deposit (the "Deposit") in an amount established by the Association or the ARC. Should such building contractor damage or fail to properly clean up te Property or Common Areas as required herein, or any supplemental rules or regulations promulgated by the ARC, the ARC may, in its sole discretion, initiate appropriate action to remediate any such condition at such building contractor's expense. The cost of any such remediation shall be deducted from the Deposit and any amount expended by the ARC in excess of the Deposit in remediating such condition shall be billed to such building contractor. Within thirty (30) days of the completion of such dwelling (as evidenced by the issuance of the Certificate of Occupancy), the ARC shall refund to such building contractor any unexpected portion of the deposit.

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6.26 **Swimming Pools and Tennis Courts.** Swimming pools, outdoor hot tubs, reflecting ponds, saunas, whirlpools, lap pools and tennis courts may not be constructed, installed and maintained on any Lot, subject to the prior written approval of the plans for the same by the ARC unless and to the extent the ARC gives its prior written approval of the plans for the same. Above-ground pools shall not be permitted.

6.27 **Traffic Regulations.** All vehicular traffic on the streets and roads in the Property shall be subject to the applicable provisions of the laws of the State of Alabama and any city or county having jurisdiction thereof concerning operation of motor vehicles on public streets. The Association is hereby authorized to promulgate, administer, and enforce reasonable rules and regulations governing vehicular and pedestrian traffic, including adopting reasonable safety measures and speed limits for any of the roads within any portion of the Property to the extent not inconsistent with the laws of the local government. The Association shall be entitled to enforce such rules and regulations by establishing such enforcement procedures as it deems appropriate, including levying fines for the violation thereof. In the event of any conflict between the provisions of the laws of the State of Alabama and the traffic rules and regulations promulgated by the Association, the more restrictive shall govern.

6.28 **Compliance with Governmental Regulations.** Each Owner and Occupant shall at all times comply with all applicable laws, ordinances, statutes, rules, regulations, requirements and code provisions of the Governmental Authorities.

6.29 **Additional Regulations.** In addition to the restrictions set forth in these Covenants, the (i) ARC shall have the right, in its sole discretion, from time to time and at any time to adopt, modify and amend the rules and regulations in order to impose such other, further or different requirements or restrictions which shall be binding on all Owners and Lots, including the adoption of additional or different requirements or restrictions which shall be binding on all Owners and Lots, including the adoption of additional or more specific requirements and restrictions governing the improvement and use of any Lot, and (ii) the Association shall have the right from time to time and at any time to adopt, modify and amend such rules and regulations as the Association, in its sole discretion, determines to be in the best interests of all Owners, which rules and regulations shall be binding on all Owners and Lots.

6.30 **Variances.** The ARC, in its sole and absolute discretion, shall have the exclusive right to grant variances and exceptions with respect to the provisions of Article V above and this Article VI with respect to any Lot. Any request for a variance or exception submitted to the ARC shall be in writing and, upon approval of the same by the ARC, shall be evidenced by a written document executed by either the chairman or vice chairman of the ARC. The provisions of Section 5.03 above concerning meetings, a quorum of members, and the number of votes necessary to approve action taken by the ARC shall be binding upon the ARC in any matters regarding the granting of variances.

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6.31 **Enforcement and Remedies.** In the event any of the provisions of this Article VI are breached or are not otherwise being complied with in all aspects by any Owner, Occupant or the respective family members, guests, invitees, agents, employees or contractors of any Owner or Occupant, then the Association of the ARC shall each have the right, but not the obligation at their option to (a) enjoin such violation or noncompliance, and/or (b) through their designated agents, employees, representatives and independent contractors, enter upon such Lot and take all action necessary to extinguish or correct such violation or breach. All costs or expenses incurred by the ARC or the Association in enforcing any of the provisions of this Article VI, including, without limitation, attorney's fees, court costs, costs and expenses of witnesses, engineers, architects, designers, land planners and any other persons involved in the correction of any noncompliance or the removal of such violation or in any judicial proceeding, together with any other costs of expenses incurred by the ARC or the Association in connection therewith, shall be paid by such Owner who has violated or breached any of the provisions of this Article VI, shall constitute an individual Assessment to such Owner pursuant to Section 8.06 below and be subject to foreclosure as provided for therein. Notwithstanding anything provided herein to the contrary, the rights and remedies of the ARC and the Association set forth herein shall not be deemed exclusive of any other rights and remedies which the ARC or the Association may exercise at law or in equity or any of the enforcement rights specified in Article V above, and this Article VI, and 7.02 (b), 8.06, 8.09 and 11.01 below.

ARTICLE VIII
MAINTENANCE RESPONSIBILITIES

7.01 **Responsibilities of Owners.**

(a) Unless specifically identified herein as being the responsibility of the Association, the maintenance and repair of all Lots, all other Improvements situated thereon or therein and all lawns, landscaping and grounds on or within a Lot shall be the responsibility of the Owner of such Lot. Each Owner shall be responsible for maintaining his, her or its Lot, as the case may be, in a neat, clean and sanitary condition, both inside and outside of any dwellings or Improvements thereto. Such responsibilities shall include, without limitation, maintaining at all times appropriate paint and stains finishes on all dwellings and other Improvements and reroofing or replacing roofing shingles when the same become worn or would be replaced by a prudent Owner. No exterior changes, alternations or Improvements shall be made to any Lot or dwelling without first obtaining the prior written approval of the same from the ARC.

(b) Each Lot shall be landscaped in accordance with plans and specifications submitted to and approved by the ARC pursuant to Section 5.06 above. All areas of any Lot which are not improved by the construction of a dwelling thereon shall at all times be maintained by the owner in a fully and well kept landscaped condition utilizing ground cover and/or shrubbery and trees. The maintenance obligations set forth in this Section 7.01(b) shall apply to all portions of al Lot up to the edge of the pavement of any roadway abutting such Lot at all times, either prior to or after the construction of any Improvements thereon. Grass, hedges, shrubs, vines, plants and other vegetation which die shall be promptly removed and replaced with living plants of like kind and quantity. Dead vegetation, stumps, weeds, rubbish, debris, garbage and waste material shall be promptly removed from any Lot and properly disposed of outside of the Development.

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(c) No Owner shall (i) modify, change or otherwise alter the appearance f any portion of the exterior of a dwelling or the landscaping, grounds or other Improvements within a Lot unless such modification, change or alteration is first approved, in writing, by the ARC as provided in Section 5.05 and 5.06 above, or (ii) do any work which, in the reasonable opinion of the ARC, would jeopardize the soundness and safety of the Property, reduce the value thereof or impair any easement of hereditament thereto, without in every such case obtaining the prior written approval of the ARC.

7.02 **Responsibilities of Association.**

(a) Except as may be otherwise provided herein to the contrary, the Association shall maintain and keep in good repair and condition (i) all portions of the Common Areas, which responsibility shall include the maintenance, repair, upgrade, improvement and replacement of any private roads, walks, trails, paths, walkways and lanes, street lights, landscaped areas, and other Improvements made by Contractor or the Association within any of the Common Areas or within any of the easements encumbering the Lots, (ii) such utility lines, pipes, plumbing, wires, conduits and related systems, sanitary sewage disposal system installed by Contractor, in Contractor's sole discretion, appurtenances, equipment and machinery which are a part of the Common Areas and which are not maintained by a public authority, public serve district, public or private utility, or other person, (iii) all lawns, trees, shrubs, hedges, grass and other landscaping and all ponds situated within or upon the Common Areas and (iv) all retention lakes, ponds and other water areas and facilities constructed by Contractor or the Association. The Association shall not be liable for injuries or damage to any person or property (1) caused by the elements, acts of God, or any Owner or other person, (2) resulting from any surface or subsurface conditions which may at time affect any portion of the Property caused by rain or other surface water which may leak or flow from any portion of the Common Area onto a Lot or dwelling, or (3) resulting from theft, burglary or other illegal entry into the Property, any Lot or dwelling. No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken by or performed by the Association hereunder, or for inconvenience or discomfort arising from the making of Improvements or repairs which are the responsibility of the Association.

(b) In the event that the Board of the Association determines that (i) any Owner has failed or refused to discharge properly his, her or its obligations with regard to the maintenance, cleaning, repair or replacement of items for which he, she or it is responsible hereunder, or (ii) any maintenance, cleaning, repair or replacement for which the Association is responsible hereunder is caused by the willful or negligent act of an Owner or Occupant, or their respective family members, guests, servants, employees, invitees or contractors, and the costs of such maintenance, cleaning, repair or replacement are not paid in full from insurance proceeds, if any, received by the Association, with respect thereto, then, in either event, the Association, in addition to the exercise of any of its rights and remedies set forth in these Covenants, may give such Owner written notice of the Association's intent to provide such necessary maintenance, cleaning, repair or replacement,

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at the sole cost and expense of such Owner and setting forth in reasonable detail what action is deemed necessary. Except in the event of emergency situations, such Owner shall have fifteen (15) days within which to complete the same in a good and workmanlike manner or, if the same is not capable of completion within such fifteen (15) days period, to commence such maintenance, cleaning, repair or replacement and to proceed diligently with the completion of the same in a good and workmanlike manner. In the event of emergency situations or the failure by any Owner to comply with the provisions hereof after such notice, the Association may provide (but shall not be obligated to provide) any such maintenance, cleaning, repair or replacement at the sole cost and expense of such Owner and said cost shall be a personal obligation of such Owner, shall constitute an individual Assessment to such Owner, and shall be subject to the lien and foreclosure rights granted pursuant to Section 8.09 below.

ARTICLE VIII
COMMON AREA ASSESSMENTS

8.01 **Assessments and creation of Lien.** Each Owner of a Lot, by acceptance of a deed or other instrument conveying any interest therein, regardless of whether such deed or instrument contains a reference of these Covenants, is hereby deemed to covenant and agree to pay to the Association; (a) annual Assessments, as established and to be collected as provided in Section 8.04 below, (b) special Assessments, to be established and collected as provided in Section 8.05 below, and (c) individual Assessments against any particular Lot which are established or assessed pursuant to the terms of these Covenants, including, but not limited to any fines as may be levied or imposed against such Lot in accordance with the provisions of Section 5.12, 6.22, 6.23(a), 6.31, 7.02(b), 8.09 and 11.01 hereof. All Assessments, together with late charges and interest as provided in Section 8.09(a) below, and all court costs and attorneys' fees incurred by the Association to enforce or collect such Assessments, shall be an equitable charge and a continuing lien upon each Lot for which the Owner thereof is responsible for the payment of the same, which lien may be enforced in the manner provided in Section 8.09(c) below. Each Owner shall be personally liable for the payment of all Assessments coming due while he, she or it is the Owner of any Lot and such grantor. All Assessments, together with late charges and interest at the Applicable Rate, as specified in Section 8.09(a) below, court costs and attorneys' fees incurred with respect thereto by the Association, shall also be a personal obligation of the person who was the Owner of the Lot at the time such Assessments and other costs and charges were assessed or incurred. In the event of co-ownership of any Lot, all of the co-Owners shall be jointly and severally liable for the entire amount of such Assessments. Assessments shall be payable in all events without offset, diminution or abatement by reason of fire or other casualty or any taking as a result of, in lieu of or in anticipation of the exercise of the right of eminent domain, condemnation or by private purchase of lieu thereof with respect to any Lot or Common Area of any other portion of the Property or any other cause or reason of any nature.

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8.02 **Purpose of Assessments.** The annual and special Assessment provided for herein shall be used for the payment of Common Expenses and for the general purposes of promoting the recreational, health, education, safety, welfare, common benefit and enjoyment of the Owners and Occupants of the Property, and otherwise for the general upkeep and maintenance of the Property.

8.03 **Uniform Rate of Assessments.** Both annual and special Assessments, as described in Section 8.04 and 8005 below, shall be assessed against each Lot in the Property at a uniform rate, with the Owner of each Lot or dwelling being required to pay his or her pro rata portion of such annual and/or special Assessments, as determined by a fraction, the numerator of which shall be one and the denominator of which shall be the total number of Lots in the Property. Each Lot shall be subject to equal annual and special Assessments.

8.04 **Computation of Annual Assessments.**

(a) The Association shall determine and adopt annually a annual budget covering the estimated Common Expenses for the Property for the upcoming year, such budget to include a capital contribution or reserve account if the Board deems it necessary for the capital needs of the Association. The amount set forth in such budget shall constitute the aggregate amount of annual Assessments for the then applicable year and each Owner shall pay his or her pro rata share of the same as provided in Section 8.03 above. A copy of the budget setting forth the amount of annual Assessments to be levied against the Lots for the following year shall be delivered by the Association to each Owner.

(b) If any budget or the amount of annual Assessments collected by the Association at any time proves to be inadequate or insufficient for any reason to fully pay all costs and expenses of the Association and all Common Expenses, then the Board may assess special Assessments as provided in Section 8.05 below. If the actual amount of annual Assessments collected in any one year exceeds the actual costs incurred for Common Expenses for such year, the excess shall be retained by the Association for subsequent years' Common Expenses.

(c) The Common Expenses to be funded by the annual and special Assessments may include, but shall not be, limited to, the following:

(i) Salaries, fringe benefits and other compensation paid and out-of-pocket expenses reimbursed by the Association for its employees, agents, officers, and any third party contractors;

(ii) Management fees and expenses of administration, including legal and accounting fees, incurred by the Association;

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(iii) The costs of any insurance policies purchased for the benefit of the Association as required or permitted by these Covenants; if any, including, without limitation, public liability coverage and such other insurance coverage as the Board determines to be in the best interest of the Association, including errors and omissions insurance, directors and officers liability insurance and any other liability insurance coverage for the benefit of the Association, the members of the Board, any officers, employees, agents or representatives of the Association of for any of the members of the ARC;

(iv) The expenses of maintaining, operating and repairing any other amenities and facilities serving the Property which the Association or the Board determines from time to time would be in the best interest of the Owners and the Property to do so maintain, operate and/or repair.

(v) The expenses of the ARC attributable to the Property which are not defrayed by applicable plan review charges;

(vi) The costs and expenses for conducting recreational, culture or other related programs for the benefit of the Owners and Occupants of the Property;

(vii) All other fees, costs and expenses incurred by the Association in accordance with the terms and provisions of these Covenants or which the Board determines to be appropriate to be paid by the Association, including, without limitation, taxes and governmental charges not separately assessed against Lots; and

(viii) If the Board deems it economically prudent, the establishment and maintenance of a reasonable reserve fund or funds (1) to cover major repair, replacement or maintenance expenditures, (2) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds, or (3) to cover unforeseen operating contingencies or deficiencies arising from unpaid Assessments as well as from emergency expenditures and other matters, all as may be authorized from time to by the Board;

8.05 **Special Assessments.** In addition to the annual Assessments authorized in Section 8.04 above and the special Assessments authorized in Section 9.01(b) and 9.03(a)(i) below, the Board of the Association may levy in any year special Assessments for Common Expenses or any extraordinary costs incurred by the Association. The Board may make such special Assessments payable in one lump sum or in installments over a period of time which may, in the Board's discretion, extend beyond the then fiscal year in which said special Assessments are levied and assessed. Special Assessments shall be levied against and payable by each Owner in accordance with the provisions of Section 8.03 above.

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8.06 **Individual Assessments.** Any expenses of the Association which, in the opinion of the Board of the Association, is occasioned by the conduct of less than all of the Owners or by an Owner or Occupant, or the respective family members, agents, guest, servants, employees, invitees or contractors of any Owner or Occupant, shall be specially assessed against such Owners and their respective Lots. The individual Assessments provided for in this Section 8.06 shall be levied by the Board and the amount and due date of such Assessment shall be specified by the Board in a notice to such Owner. The provisions of this Section 8.06 shall apply, without limitation, to any individual Assessments levied pursuant to Sections 5.12, 6.22, 6.23(a), 6.31, 7.02(b) and 11.01 hereof.

8.07 **Notice of Meetings and Quorum.**

(a) Written notice of each annual meeting of the Association shall be sent to all Owners not less than ten (10) days nor more than fifty (50) days in advance of such meeting. With respect to annual meetings, the presence in person or by proxy of Owners entitled to cast 50% of all the votes of the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, except as hereinafter provided, but the required quorum at the subsequent meeting shall be the presence in person or by proxy of Owners entitled to cast at least one-third (1/3) of the total votes of the Association. Any notice for any such subsequent meeting shall state that the necessary quorum therefor shall be one-third (1/3) of the total votes of the Association present in person or by voting in person or by proxy at such meeting shall be required to approve any matter in which all of the members of the Association are entitled to vote.

(b) Written notice of any meeting of the Association other than an annual meeting shall be sent to all Owners not less than five (5) days not more than thirty (30) days in advance of such meeting. With respect to any such other meeting of the Association, there shall be no specific requirement establishing a quorum and the vote of a majority of the Owners who are voting in person or by proxy at any such special meeting shall be binding on all the member of the Association.

8.08 **Date of Commencement of Assessments.** The annual Assessments provided for herein shall commence as to each Lot on the day on which such Lot is conveyed to a person other than Contractor and shall be due and payable in such manner and on such schedule as may be established from time to time by the Board of the Association. Annual Assessments and any outstanding special Assessments shall be adjusted for each Lot according to the number of months then remaining in the month in which such Lot it owns in the Property. Furthermore, for so long as Contractor is the owner of any Lot in the Property, or until such earlier date as Contractor may elect, in Developer's sole discretion, Contractor shall have the option to either pay annual Assessments on unsold Lots in the Property or advance any deficits which may exist between the total amount of annual Assessments assessed to all other Owners and the actual costs incurred by the Association for Common Expenses for the Property. At such time as Contractor no longer has any interest in any Lot in the Property, Contractor shall have no further obligation of any nature to pay any Assessments or otherwise fund any deficits relating to the Common Expenses.

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8.09 **Effect of Non-Payment; Remedies of the Association.**

(a) Each Owner of a Lot is and shall be deemed to covenant and agree to pay to the Association all Assessments provided for herein. In the event any Assessments or any portion thereof are not paid when due, the same shall be subject to a late charge in an amount determined and uniformly applied by the Board from time to time and the Owner of such Lot shall be deemed in default herewith. In the event any Assessments or any portion thereof are not paid within thirty (30) days after the due date of the same, then the unpaid portion of the Assessment shall accrue simple interest at the lesser of eighteen percent (18%) per annum or the highest rate which may be charged to said Owner by law (the "Applicable Rate") from and after the thirtieth (30th) day from the due date until the same is paid in full. In the event the Association employs an attorney or otherwise takes any legal action in attempting to collect any amounts due from any Owner, such Owner agrees to pay all attorneys' fees, court costs and all other expenses paid or incurred by the Association. The lien and equitable charge upon each Lot for Assessments as provided above shall also include all late charges, interest at the Applicable Rate and all attorneys' fees, court costs and all other expenses paid or incurred by the Association in attempting to collect any unpaid Assessments.

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

(i) The Association may commence and maintain a suit at law against an Owner to enforce such charges and obligations for Assessments and any such judgement rendered in any such action shall include the late charge and interest at the Applicable Rate, as specified in Section 8.09(a) above, together with Attorneys' fees, court costs and all other expenses paid and incurred by the Association in collecting such unpaid Assessments; and/or

(ii) The Association may enforce the lien pursuant to Section 8.01 above in the manner hereinafter provided.

(c) There is hereby created a continuing lien on each Lot, with power of sale, which secures the payment to the Association of any and all Assessments levied against or upon such Lot, all late charges and interest at the Applicable Rate assessed pursuant to Section 8.09(a) above and all attorneys' fees, court costs and all other expenses paid or incurred by the Association in collecting any Assessments. If any Assessments remain unpaid for more than sixty (60) days, then the Association, through its Board or any officer or authorized representative thereof, may, but shall not be obligated to, make written demand on such defaulting Owner, which demand

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shall state the date and amount of delinquency. Each default shall constitute a separate basis for a demand and claim of lien, but any number of defaults may be included in a single demand. If such delinquency is not paid in full within ten (10) days after the giving of such demand or, even without giving demand, the Association may file a claim which shall be executed by any member of the Board of the Association or any officer of the Association, contain the following information and be recorded in the Probate Office of Shelby County, Alabama;

(i) The name of the delinquent Owner;

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

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

(iv) A statement that the claim of lien is made by the Association pursuant to these Covenants and its claimed against such Lot in an amount equal to that stated therein. The lien provided for herein shall be in favor of the Association, shall be for the benefit of all other Owners (other than those Owners in default) and may be foreclosed in the same manner as a foreclosure of a mortgage on real property under the laws of the State of Alabama, as the same may be modified or amended from time to time. The Association shall have the right and power to bid at any such foreclosure sale and to purchase, acquire, hold, lease, mortgage, convey and sell any such Lot. Each Owner, by acceptance of a deed to any Lot, shall be deemed to (1) grant to and vest in the Association and/or its agents the right and power to exercise the power of sale granted herein and foreclose the lien created herein, (2) grant to and vest in the Association and/or its agents the right and power to bring all actions against such Owner personally for the collection of all amounts due from such Owner, (3) expressly waive any objection to the enforcement and foreclosure of the lien created herein, and (4) expressly waive the defense of the statute of limitations which may be applicable to the commencement of any such suit or action for foreclosure.

8.10 **Subordination of Lien.** Notwithstanding anything provided herein to the contrary, the lien for Assessments and other charges authorized herein with respect to any Lot in the Property is and shall be subordinate to the lien of any Mortgage held by a Mortgagee is recorded in the Probate Office of Shelby County, Alabama prior to the filing of a claim of lien by the Association pursuant to Section 8.09(c) above. When a Mortgagee exercises its foreclosure rights provided in its Mortgage and acquires title to or sells to a third party its interest in any Lot or dwelling, then such Institutional Mortgagee was recorded in the Probate Office of Shelby County, Alabama prior to the filing of claim of lien by the Association pursuant to Section 8.09(c) above. When a Mortgagee exercises its foreclosure rights provided in its Mortgage and acquires title to or sells to a third party its interest in any Lot, then such Mortgagee or its purchaser or transferee at such foreclosure sale shall (a) not be liable for any Assessments or other charges incurred prior to the date of transfer or acquisition of title by foreclosure so long as the Mortgage held by such Mortgagee was recorded in the Probate Office of Shelby County, Alabama prior to the filing of a claim of lien by the Association pursuant to Section 8.09(c) above, but (b) be liable for all Assessments other charges

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levied, assessed or incurred with respect to such Lot from and after the date of such foreclosure sale. The foregoing shall not relieve any Owner whose Lot had been foreclosed from the personal obligation to any all Assessments and any other charges levied, assessed or incurred by the Association and the Association shall have the right to pursue all rights and remedies against a defaulting Owner notwithstanding the foreclosure of a Mortgage by a Mortgagee on such Owner's Lot.

8.11 **Certificate.** The Association or any officer or authorized representative thereof shall, upon request and at such reasonable charges as may from time to time be adopted by the Board, furnish to any Owner a certificate in writing setting forth whether the Assessments for which such Owner is responsible have been paid and, if not paid, the outstanding amount due and other costs and expenses due from such Owner. Such certificate shall be conclusive evidence of payment of any Assessments stated therein.

ARTICLE IX
CASUALTY, CONDEMNATION AND INSURANCE

9.01 **Damage or Destruction to Common Areas.**

(a) In the event of any damage or destruction to any of the Common Areas by fire or other casualty, then, subject to the terms and provisions of this Article IX, the Association shall promptly repair, replace and restore the damaged portions of the Common Areas to the condition to which they existed immediately prior to such fire or other casualty.

(b) Notwithstanding anything provided in Section 9.01(a) above, in the event the amount of insurance proceeds, if any, recovered as a result of such damage or destruction is insufficient to fully repair, replace and restore the damaged portions of the Common Areas, and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, then the Board of the Association, if it deems it economically feasible and prudent, may levy a special Assessment against all Owners, which such special Assessments shall be in an amount sufficient to provide funds to pay a proportionate share of the remaining costs necessary to repair, replace or restore the Common Areas to the condition as existed immediately prior to such casualty. Such Special Assessments shall be levied against each Lot equally as prior to such casualty. Such Special Assessment shall be levied against each Lot equally as provided in Section 8.03 above. Any and all insurance proceeds received by the Association on account of any damage to or destruction of any of the Common Areas and any amounts collected as special Assessments shall be disbursed by the Association in payment for the costs of such repair or restoration in such manner as may be determined by the Board of the Association. In no event shall the Association or the Owner or Mortgagee of any Lot be entitled to any portion of any special Assessments or proceeds of insurance payable as a result of the damage to or destruction of any portion of the Common Areas.

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9.02 **Damage or Destruction to Lots.** In the event of any fire or other casualty which damages or destroys any portion of any Lot, then the Owner of such damaged Lot shall promptly repair and otherwise restore such Lot to the condition to which the same existed immediately prior to such fire or other casualty; provided, however, that any such restoration or repair shall be subject to compliance with all of the terms and provisions set forth in Article V above and all then applicable rules, regulations, statutes and ordinances of the Governmental Authorities. Any such restoration or repair shall be commenced within one hundred twenty (120) days following the occurrence of such fire or other casualty. The Owner of any such damaged Lot shall proceed diligently and complete all such restoration and repair no later than (1) year following the occurrence of such fire or other casualty. In the event the restoration or repair of such Lot is impractical or would otherwise violate any of the terms and provisions of these Covenants, then such Owner shall promptly clear away any remaining Improvements damaged or destroyed by such fire or other casualty and shall leave such Lot and any remaining Improvements thereon in a clean, orderly, safe and sightly manner.

9.03 **Condemnation of Common Areas.**

(a) In the event of the taking of all or any portion of any of the Common Areas as a result of, in lieu of or in anticipation of the exercise of the right of eminent domain, condemnation or by private purchase of lieu thereof, the award from such taking or sale in lieu thereof shall be paid to the Association and shall be paid to the Association and shall be disbursed or held as follows:

(i) To the extent the Common Areas subject to such taking can either be restored or replaced, then to the extent practicable, the Association shall take such action, including the utilization of any other Common Areas within the Property, to restore, rebuild or replace, as the case may be, those portions of the Common Areas subject to such taking. If the award is insufficient to fully defray the cost of such repair or replacement and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board of Association may levy a special Assessment against all Owners, which such special Assessments shall be in an amount sufficient to provide funds to pay a proportionate share of the remaining costs of repair, restoration and reconstruction. Such special Assessments shall be levied against each Owner as provided in Section 8.03 above.

(ii) To the extent the Common Areas subject to such taking cannot be restored or replaced or if the Association shall determine that the portions of the Common Areas so taken should not be replaced or restored, then in any such event, the net award from such taking shall be retained by and used for the benefit of the Association.

(b) If any portion of the award from any taking remains after restoration or replacement of any of the Common Areas, the remainder of such award shall be retained by and used for the benefit of the Association, without any claim thereto by any Owner. Except as specifically provided in Section 9.03(c) below, no Owner or Mortgagee of any Lot shall be entitled to any portion of the award made to the Association as a result of the taking of any portion of the Common Areas.

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(c) If any such taking or sale in lieu thereof includes all or any part of a Lot and also includes any part of the Common Areas, then the award from such taking shall be equitably apportioned in accordance with the decision of a court of competent jurisdiction and such award shall be disbursed separately to the association and to the Owners so affected by such taking; provided, however, that the Owners of any Lot which is subject to any such taking and the Association may mutually agree on the amount of such apportionment, which mutual agreement shall be binding on all Owners.

9.04 **Condemnation of Lots.** In the event that all or any portion of a Lot is taken as a result of, in lieu of or in anticipation of the exercise of the right or eminent domain, condemnation or by private purchase in lieu thereof, then, to the extent practicable, the Owner of such Lot shall promptly repair, reconstruct, rebuild and otherwise restore the remaining portions of the Lot as nearly as practicable to the condition to which the same existed immediately prior to such taking; provided, however, that any such restoration shall be subject to all of the terms and conditions set forth in Article V above and all then applicable rules, regulations, statutes and ordinances of the Governmental Authorities. In the event the restoration of such Lot is impracticable or would otherwise violate any of the terms and provisions of these Covenants, then such Owner shall promptly clear away any remaining Improvements damaged or destroyed by such taking and shall leave such Lot and any remaining Improvements thereon in a clean, orderly, safe and sightly condition.

9.05 **Insurance.**

(a) The Association may, at the discretion of the Board, obtain and maintain property and casualty insurance in such form as the Association deems appropriate for the benefit of the Association insuring all insurable Improvements in and on the Common Areas against all loss or damage by fire or other hazards, including, without limitation, extended coverage, flood, vandalism and malicious mischief, which coverage should be in an amount, with such insurance carriers, at such costs and with such deductibles as the Board of the Association, in its sole discretion, may determine.

(b) The Board of the Association shall have the right and authority to obtain and maintain in effect at all times such public liability insurance coverage covering all of the Common Areas in such amounts, with such insurance carriers, at such costs and with such deductibles as the Board of the Association, in its sole discretion, may deem necessary or desirable.

(c) The Board of the Association shall have the right to obtain workman's compensation insurance, employer's liability insurance, and all other types of insurance required by law, including, without limitation, errors and omissions and directors and officers liability insurance coverage, in such amounts, with such insurance carriers, at such costs and with such deductibles as the Board, in its sole discretion, may determine.

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(d) All insurance coverage authorized in this Section 9.05 above shall be written in the name of the Association and all costs thereof shall be a Common Expense. To the extent the same may be obtained at a nominal cost, all such policies shall contain a waiver of subrogation clause pursuant to which the insurer waives any claims against the Developer, the Association, the members of the Board and all officers, agents and employees of the Association, including the manager for the Development, the Association, the Owners and the family members, servants, agents, tenants and guests of the Owners and shall also name Contractor as an additional insured.

(e) Each Owner shall be solely responsible for obtaining and maintaining public liability, property damage, title and all other types of insurance with respect to their respective Lots and to furnish copies or certificates thereof to the Association. Each Owner, by acceptance of a deed or other instrument conveying any interest in any Lot, does hereby waive and release Developer, the Association, the manager of the Property and their respective agents, employees, representatives, partners, shareholders, members, officers and directors, from any and all liabilities or damage covered by (or which should be covered by) fire and casualty (e.g., homeowner's and/or builder's risk) insurance and general liability insurance which any Owner maintains, even if such loss or damage has been caused by the fault or negligence of any of the foregoing persons or parties.

ARTICLE X
TERMS AND AMENDMENTS

10.01 **Term.** The terms, covenants, conditions and restrictions set forth in these Covenants shall run with and bind all of the Property, shall inure to the benefit of all Owners and Mortgagees and their respective heirs, executers, personal representatives, administrators, successors and assigns, and shall be an remain in effect for a period of ninety-nine (99) years from and after the date hereof, after which time these Covenants shall be automatically renewed and extended for successive and continuous periods ten (10) years each, unless, at any time after twenty (20) years from the date hereof, an agreement executed by the Owners of al least two-thirds (2/3) or more of the Lots within the Property agreeing to terminate or modify these Covenants has been recorded in the Probate Office of Shelby County, Alabama; provided, however, that the rights of way and easements established, granted and reserved in Article III hereof shall continue and remain in full force and effect for the time periods and duration specified therein.

10.02 **Amendment by Developer.** For so long as Contractor owns any Lot within the Property, or until such earlier date as Contractor elects, in Developer's sole discretion, Contractor may amend these Covenants by a written instrument filed and recorded in the Probate Office of Shelby County, Alabama, without obtaining the approval of any Owner or Mortgagee, provided, however, that except as otherwise provided in Section 10.04 below, (a) in the event any amendment proposed by Contractor materially and adversely alters or changes any Owner's rights to the use and enjoyment of his or her Lot or materially or adversely affects the title to any Lot, then such amendment shall be valid only upon the written consent thereto by the affected Owner, or, alternatively, by fifty percent (50%) of all of the Owners (including Contractor who shall have the voting rights attributable to any Lots owner by Contractor), or (b) in the event any such proposed

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amendment by Contractor would materially and adversely affect the title and interest of any Mortgagee, such amendment shall be valid only upon the written consent thereto of all such Mortgagees affected thereby. Any amendments made pursuant to this section 10.02 shall be certified by Contractor and shall be effective upon recording of the same in the Probate Office of Shelby County, Alabama. Each Owner, by acceptance of a deed or other conveyance to a Lot, and each Mortgagee, by acceptance of a Mortgage on any Lot, agrees that, if requested to do so by Developer, such Owner and Mortgagee will consent to the amendment of these Covenants or any other instruments relating to the Property or the Association if such amendment is (i) necessary to bring any provision hereof into compliance or conformity with the provision of any law, ordinance, statute, rule or regulation of any applicable Governmental Authority or the judicial decision of any state or federal court, (ii) necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lot, (iii) required by any Mortgagee to make a Mortgage loan on any Lot, or (iv) necessary to enable any governmental agency or reputable private insurance company to insure Mortgages on any Lot within the Property.

10.03 **Amendments by Association.** Amendments to these Covenants, other than those authorized by Section 10.02 above, shall be proposed and adopted by the Association in the following manner:

A. At any annual or special meeting of the members of the Association, upon proper notice an amendment to these Covenants may be proposed by either the Board of the Association or by any Owners present in person at such meeting. Any such proposed amendment must be approved by the Owners holding at lease two-thirds (2/3) of the total votes in the Association; provided, however, that (i) for so long as Contractor owns a Lot within the Property, or until such earlier date as Contractor elects, in Contractor's sole discretion, Contractor must approve such proposed amendment, and (ii) to the extent the proposed amendment affects any of the matters described in Section 10.04 below, then the provisions of Section 10.04 below, shall be applicable to such proposed amendment.

B. Any and all amendments which have been approved in accordance with the provisions of Section 10.03 (a) above shall be executed by all parties whose consent to the same is required, including the Owners holding at least two-thirds (2/3) of the total votes in the Association; provided, however, that in the alternative, the sworn statement of the President of the Association stating unequivocally that the agreement of the requisite number of Owners was lawfully obtained may be attached to and incorporated into such amendment shall be effective upon recording of the same in the Probate Office of Shelby County, Alabama.

10.04 **Restrictions on Amendment.** Notwithstanding anything provided in the Declaration to the contrary, so long as Contractor owns any Lot in the Property no amendment shall be effective unless Contractor consents in writing to any such amendment. The consent of Contractor to any such proposed amendment may be withheld in the sole discretion of the Contractor with or without any reason.

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ARTICLE XI
ENFORCEMENT

11.01 **Authority and Enforcement.** In addition to the provisions of Article V, Article VI, 7.02(b) and 8.09 above, in the event any Owner or Occupant or their respective agents, contractors or invitees, violates any of the provisions of these Covenants, the Articles of Incorporation, the Bylaws or any rules or regulations adopted by the Board of the Association from time to time, the Board shall have the power to (i) impose reasonable monetary fine which shall constitute an equitable charge and continuing lien upon the Lot and shall be a personal obligation of such Owner or Occupant who is guilty of such violation, (ii) suspend an Owner's right to vote in the Association, or (iii) suspend an Owner's or Occupant's right (and the right of such Owner's or Occupant's family members, guests and tenants) to use any of the facilities located in or upon the Common Areas, and the Board shall have the power to impose all or any combination of any of the foregoing sanctions. Any such suspension of rights may be for the duration of the infraction.

11.02 **Procedure.** In the event any of the terms or provisions of these Covenants, the Articles of Incorporation, the Bylaws, or any rules and regulations of the Association are violated by an Owner or Occupant, or the respective agents, contractors or invitees of any Owner or Occupant, the Board shall not impose a fine, suspend voting rights or infringe upon or suspend any other rights pursuant to Section 11.01 above unless written demand to cease and desist from an alleged violation shall be served upon the Owner responsible for such violations which demand shall specify:

A. The alleged violation;

B. The action required to abate such violation; and

C. A time period of not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one or if the violation is not a continuing one, a statement that any further violation of the same provision of these Covenants, the rules and regulations of the ARC, the Articles of Incorporation, the Bylaws or any of the rules and regulations of the Association may result in the imposition of sanctions. The foregoing procedure shall only be applicable to the enforcement rights specified in Section 11.01 above and shall not apply to the exercise of any of the rights and remedies specified in any other section or provisions of these Covenants.

11.03 **Nonexclusive Remedies.** Notwithstanding anything provided to the contrary in these Covenants, the authority, enforcement and procedural rights set forth in this Article XI are in addition to and shall not be deemed to limit the other rights and remedies set forth in these Covenants or which the Association, acting through the Board, would have the right to exercise at law or in equity.

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ARTICLE XII
MISCELLANEOUS PROVISIONS

12.01 **Control by Developer.** NOTWITHSTANDING ANYTHING PROVIDED TO THE CONTRARY IN THESE COVENANTS, THE ARTICLES OF INCORPORATION, THE BYLAWS OR IN ANY OTHER DOCUMENT OR INSTRUMENT RELATING TO THE PROPERTY, CONTRACTOR HEREBY RETAINS THE RIGHT TO APPOINT AND REMOVE ANY MEMBER OR MEMBERS OF THE BOARD OF THE ASSOCIATION AND ANY OFFICER OR OFFICERS OF THE ASSOCIATION AS PROVIDED BY AND FOR THE PERIOD OF TIME SET FORTH IN SECTION 4.02 ABOVE. Each Owner, by acceptance of a deed or other conveyance of any interest in a Lot, agrees that Contractor shall have the authority to appoint and remove members of the Board and officers of the Association in accordance with the foregoing provisions of this Section 12.01 and the provisions of Section 4.02 above. At such time as Contractor no longer owns any interest in any portion of the Property, or at such earlier date as Contractor elects, in Developer's sole discretion, a special meeting of the Association shall be called within a reasonable time thereafter at which time the Owners shall elect a new Board which shall undertake the responsibilities of the Board and Contractor shall deliver all books, accounts and records of the Association, if any, which Contractor has in its possession.

12.02 **Legal Expenses.** In addition to the rights and remedies set forth in Sections 5.12(b), 8.09 and in Article VI and Article XI above, in the event either the Board or its agents and representatives, undertake any legal or equitable action which they deem necessary to abate, enjoin, remove or extinguish any violation or breach of these Covenants, then all costs and expenses incurred by them, including, without limitation, attorneys' fees and court costs, in enforcing any of the terms, provisions, covenants or conditions in these Covenants shall be paid for by the Owner against whom such action was initiated. The ARC, its agents and representatives, the Board, its agents and representatives are each hereby authorized to take any and all legal action as may be necessary under the circumstances to restrain or enjoin any such violation or breach or to otherwise seek monetary damages as a result of any expenses incurred by either the ARC or the Board of the Association to cure such violation or breach.

12.03 **Severability.** If any provisions of these Covenants or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of these Covenants or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall remain and enforceable to the fullest extent permitted by law.

12.04 **Captions and Headings.** The captions and headings contained in these Covenants are for convenience of reference only and shall not be used in the construction or interpretation of any provisions of these Covenants. The table of contents, cover page and any index to these Covenants are for convenience of reference only and shall not define or limit any of the terms and provisions hereof.

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12.05 **Pronouns and Plurals.** All personal pronouns used in these Covenants, whether used in the masculine, feminine or neuter gender, shall include all other genders. The use of the singular tense shall include the plural and use of the plural shall include the singular.

12.06 **Binding Effect.** The terms and provisions of these Covenants shall be binding upon each Owner, Occupant, and Mortgagee and the respective heirs, executors, administrators, personal representatives, successors and assigns of each Owner, Occupant and Mortgagee, and shall inure to the benefit of Contractor, the ARC, the Association, all of the Owners and their respective Mortgagees and their respective heirs, executors, administrators, personal representatives, successors and assigns.

12.07 **Conflict or Ambiguity.** In the event of any conflict or ambiguity in the terms and provisions of these Covenants, the general rules of construction against one party as a result of that party having drafted these Covenants are hereby waived by each Owner and, to the fullest extent provided by law, no conflicts or ambiguity shall be resolved in favor or to the advantage of one party as opposed to another in interpreting any ambiguity or conflict contained herein.

12.08 **No Reverter.** No restriction or provision hereof is intended to be or shall be construed as a condition subsequent or a possibility of reverter in favor of Contractor nor shall any provision be deemed to vest any reversionary interest in Developer.

12.09 **Interpretation.** In all cases, the provisions set forth and provided for in these Covenants shall be construed together and given that interpretation or construction which, in the opinion of Developer, the Association or the Board, as the case may be, will best effect the intent of the general plan of development for the Property. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication so as to make them fully effective. The provisions of these Covenants shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of these Covenants shall be the date hereof. These Covenants shall be construed under and in accordance with the laws of the State of Alabama.

12.10 **Right of Third Parties.** These Covenants shall be recorded for the benefit of Developer, the Association, the Owners and their respective Mortgagees and by such recording, no other adjoining property owner or third party shall have any right, title or interest whatsoever in the Property or the Development or the operation and continuation of either, in the enforcement of any of the provisions of these Covenants or the right to consent to or approve any amendment or modification to these Covenants.

12.11 **No Trespass.** Whenever the Association, the ARC, the Contractor or their respective agents, employees, representatives, successors and assigns, are permitted by these Covenants to enter upon and correct, repair, clean, maintain or preserve or do any other action within any portion of a Lot, the entering thereon and the taking of such action shall not be deemed a trespass.

12.12 **No Partition.** Each Owner hereby waives any right to seek or obtain judicial partition of any portion of the Property or the Development.

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12.13 **Reservation of Rights.** Notwithstanding anything provided herein to the contrary, no sale, transfer, conveyance, lease, pledge, encumbrance or other hypothecation of any Lot by Contractor to a third party shall constitute or be deemed a transfer of any of the rights reserved herein to Contractor unless reference is made in such instrument of conveyance to the specific rights created in these Covenants which Contractor is transferring to any such third party.

12.14 **Standards for Review.** Whenever in these Covenants Contractor, the ARC, or the Association has the right to approve, consent to, or require any action be taken pursuant to the terms hereof, such approval, consent or required action shall, except as otherwise specifically provided herein to the contrary, be given or withheld in the sole and absolute discretion of Contractor, the ARC or the Association as the case may be.

12.15 **Oral Statements.** Oral Statements or representations by Developer, the Association or any of their respective employees, agents, representatives, successors or assigns, shall not be binding on Contractor, the ARC or the Association.

12.16 **Notices.** Notices required hereunder shall be in writing and shall be delivered by hand, by overnight courier, telecopier, or sent by registered or certified United States Mail, postage prepaid return receipt requested. Any notice so addressed and mailed shall be deemed to be given five (5) days after deposit in the United States Mail, and if delivered by hand, shall be deemed to be given when delivered, and if telecopier or delivered by overnight courier, shall be deemed to be given on the business day immediately following the day on which it was sent or delivered. All notices to Owners shall be delivered or sent to such addresses as have been designated in writing to the Association or, if not such address has been so designated, at the address of such Owner's respective Lot or dwelling within the Property. All notices to the Association or the ARC shall be delivered or sent in care of Contractor to the following address:

Authentic Building Co., L.L.C.
P.O. Box 536
Helena, Alabama 35080

or

Stylemark Homebuilders, Inc.
P.O. Box 382694
Birmingham, Alabama 35238

or to such other address as the Association or the ARC may from time to time specify in a notice to the Owners. All notices to Contractor shall be sent or delivered to Contractor at the above address or to such other addresses as Contractor may notify the Association.

12.17 **Assignment.** Subject to the provisions of Section 12.14 above, Contractor and the ARC shall each have the right to assign any and all of the rights, powers, reservations and duties contained herein to any person or entity who shall thereupon have the same rights, power, reservations and duties as Developer, the Association and the ARC, respectively.

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12.18 **Further Assurances.** Each Owner covenants and agrees to execute, sign and deliver, or cause to be executed, signed and delivered and to otherwise do or make or cause to be done and made, any and all agreements, instruments, papers, deeds, acts or things, supplemental, conformity or otherwise, which may be reasonably requested by Contractor, the ARC or the Association for the purpose of or in connection with the clarifying, amending or other consummating any of the transactions and matters herein.

12.19 **No Waiver.** All rights, remedies and privileges granted to the Contractor, the ARC and the Association pursuant to the terms and provisions of these Covenants shall be deemed to be cumulative and the exercise of any one or more of such rights, remedies or privileges shall not be deemed to constitute an election of remedies nor shall it preclude the party remedies or privileges as may be available to such party at law or in equity. The failure at any time to enforce any covenant or restriction set forth herein shall in no event be deemed a waiver of the right thereafter to enforce such covenant or restriction.

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IN WITNESS WHEREOF, Contractor has caused these Covenants to be duly executed as of the day and year first above written.

Authentic Building Co., L.L.C.
An Alabama Limited Liability Company

By: _____
Brett G. Winford, Member

Stylemark Homebuilders, Inc.
An Alabama Corporation

By: _____
J. Kyle Roberts, Vice President

STATE OF ALABAMA)
COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Brett G. Winford, whose name as Member of Authentic Building Company, LLC an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company on behalf of said corporation.

Given under my hand and official seal this 13th day of April , 2006.

_____
Notary Public

PEGGY I. MANN
NOTARY PUBLIC
ALABAMA STATE AT LARGE

PEGGY I. MANN
COMMISSION EXPIRES FEB. 20, 2007

STATE OF ALABAMA)
COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that J. Kyle Roberts, whose name as Vice President of Stylemark Homebuilders, Inc., an Alabama corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on behalf of said corporation.

PEGGY I. MANN
NOTARY PUBLIC
ALABAMA STATE AT LARGE

Given under my hand and official seal this 13th day of April, 2006.

_____
Notary Public

PEGGY I. MANN
COMMISSION EXPIRES FEB. 20, 2007