


THE STATE OF ALABAMA}  
COUNTY OF Shelby}

  
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Shelby Cnty Judge of Probate, AL  
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DECLARATION OF RIGHTS, EASEMENTS, COVENANTS, CONDITIONS,  
AFFIRMATIVE OBLIGATIONS AND RESTRICTIONS APPLICABLE TO  
**Wyndsor Trace**

**Wyndsor Trace, L.L.C.**, an Alabama Limited Liability Company, herein after referred to as “Developer” is the owner of all of the real property situated in that certain subdivision known as **Wyndsor Trace**, a subdivision, herein after referred to as the “Subdivision”, and said Subdivision consists of a total of 31 Lots together with common areas according to the plat and survey thereof prepared and drawn by Wyndsor Trace, L.L.C., and recorded 8-17, 2006, in Plat Book 37, Page 63, in the Office of The Judge of Probate of Shelby County, Alabama, said plat being incorporated by reference herein and made a part thereof as if set forth in full, hereinafter referred to as the “Plat”.

The Developer, hereby covenants and agrees with each and every future owner of any lot or other part of the Subdivision that each and every future owner, successors grantees, or assignee, by virtue of becoming an owner, shall, (I) accept and agree with Developer and with each and every owner or future owner of any such property, that the following covenants, restrictions, conditions, affirmative obligations, easements and limitations shall apply to all property in the Subdivision; (II) The following said covenants shall constitute covenants running with the land; and (III) The following said covenants shall be binding upon the Developer and on all future owners of each and every lot, part and parcel of the Subdivision, and upon their respective heirs, executors, administrators, personal representatives, successors, and assigns.

Wherefore, the Developer does hereby make, publish and declare as follows, to-wit:

**Article I**  
**PROPERTY OWNER’S ASSOCIATION**

- 1.1 **Creation of Association.** The developer shall establish for the benefit of lot owners in the subdivision an Association to manage the Subdivision. The name of the association shall be Wyndsor Trace Association, hereinafter referred to as the “Association”.
- 1.2 **Board of Directors.** The Association shall be governed by and through a Board of Directors, hereinafter referred to as the “Board”. The said Board shall be elected by the members, and consist of at least three (3) members, but not more than five (5), and the Board shall be responsible for the enforcement of all applicable covenants, conditions, obligations and restrictions set forth herein.



- 1.3 **Membership Restricted.** The Association membership shall be comprised of, and limited exclusively, to lot owners, and each and every lot owner shall be a member by virtue of being a lot owner. Any person or entity accepting deed from the Developer or any lot owner shall automatically become a member of the said Association, and such lot owner agrees to abide by this Declaration, and any and all rules, regulations, and conditions which have been or will be established by the Association.
- 1.4 **Developer Control.** Until such time as the developer has sold one hundred percent (100%) of the lots located in the Subdivision to owners other than the Developer, control of the Board and the Association shall be vested in the Developer unless the Developer elects to voluntarily relinquish it. After the sale of one hundred percent (100%) of the lots in the Subdivision to persons other than the Developer, the Developer shall transfer to the Association all rights and powers. Notwithstanding any provision herein to the contrary, the Developer shall have the right at any time prior to the sale or other transfer of one hundred percent (100%) of the lots, to transfer any and all said rights or powers to the Association, which the Developer will so elect.

## **Article II**

### **USE AND BUILDING RESTRICTIONS**

- 2.1 All Lots located in the Subdivision shall be used for residential purposes only, and no building or structure other than a single-family dwelling house shall be erected on any lot or other part of the Subdivision except as otherwise permitted herein.
- 2.2 Accordingly, the Developer shall establish an Architectural Control Committee, hereinafter referred to as the "ACC", or "committee", as set forth in Article Three herein below, and said committee shall have the express authority to enforce any covenant, condition, obligation or restriction contained herein. The intent of the Developer and this paragraph is to maintain a harmonious design and character in the Subdivision.
- 2.3 All building sites shall be approved by the ACC prior to commencing construction, and no house, building or other improvement of any kind, character or nature shall be constructed or located on any lot other than as approved by the ACC.
- 2.4 The size, shape, square footage, and color of any house or other improvement erected or placed on any lot in the Subdivision shall be subject to the control and approval of the ACC.
- 2.5 The dwellings in the subdivision will be consistent with a "country living" style, as defined by examples provided by the developer.
- 2.6 Minimum living space requirements for the main structure of any Dwelling, exclusive of open porches and garages, shall be 1400 square feet for a one story Dwelling; 1700 square feet for a one and a half story Dwelling; and 1940 square feet for a two story Dwelling.
- 2.7 All dwellings must have a minimum of 24 inches of brick or stone from ground level on all 4 sides, unless otherwise approved by the ACC.



- 2.7a Dwellings built entirely on a "slab" foundation will generally be exempt from 2.7 above, pending final approval by the ACC.
- 2.8 **Building Style and Materials.** Wood siding, Hardieplank siding, vinyl siding, brick or stone may be utilized on the exterior. No vertical board and batten siding may be used. Stone should be of the stacked stone variety, not round river rock.
- 2.9 No concrete block, cinder block, or concrete shall be used as an exposed building surface without the express written approval of the Committee. Any other materials must be submitted to the Committee for approval. Retaining walls shall be constructed of or have a veneer of brick or stone. No creosote cross-tie walls are permitted. Pressure treated timbers may be considered with the Committee's approval.
- 2.10 Exterior materials shall be generally uniform on all sides of a residence.
- 2.11 Reflective glass shall not be permitted on the exterior of any Dwelling, and no foil or other reflective material shall be installed on any windows or used for sunscreens, blinds, or other purposes.
- 2.12 There shall be no silver chrome/mill finish aluminum or other silver finish metal doors (including sliding glass doors) and windows of any kind. All screening must be of a dark colored material. No burglar bars shall be permitted. Appropriate window treatments shall be used on all windows. Sheets, blankets, or paper are not acceptable window treatments.
- 2.13 All vents, fans, or other items protruding from the roofs shall be painted to match the color of the roof covering and shall be located on the rear or side of the roof. Roof valleys, flashing, downspouts or gutters shall be painted to blend with the roof color or with the color of the exterior finish of the Dwelling.
- 2.14 No mobile home, house trailer, tent, shack, barn, out building or other similar structure shall be erected, placed, parked, stored on or moved onto any lot within the Subdivision as a permanent or temporary structure.
- 2.15 No camper or other recreational vehicle shall be parked on any lot in the Subdivision for more than Seven (7) consecutive days. The intent of the Developer and this paragraph is to prevent the permanent parking of such items.
- 2.16 **Outdoor Furniture, Recreational Facilities and Clotheslines.** No interior furniture or furnishings (i.e., sofas, appliances, etc.) shall be allowed on the front/side porches of any Dwelling; however, except as set forth below, porch swings, rocking chairs, gliders and other types of outdoor furniture, including wicker furniture shall be allowed.
- 2.17 Wood piles, freestanding playhouses, tree houses, children's toys, swing sets, jungle gyms, trampolines and other outdoor and recreational or play equipment must be located behind the Dwelling.
- 2.18 Outside clotheslines or other outside facilities for drying or airing clothes must be located behind the Dwelling. No clothing, rugs, or other items shall be hung, placed or allowed to remain on any railing, fence or wall.
- 2.19 Barbecue grills or other types of outdoor cooking equipment and apparatus shall be located only at the rear of a Dwelling.
- 2.20 **Walls, Fences, and Gateposts.** Walls, Fences, and Gateposts shall be subject to review and approval of the Committee. The Committee may refuse to approve any plan for any wall, fence or gateposts that is not in harmony with the existing



or proposed structure, landscaping or general characteristics of the Lot and surrounding Lots. There shall be no welded wire, hog wire, field fence or similar type of fencing material permitted. No fence shall be approved with exposed stringer or structural components that are visible from any adjoining Lot. No fencing shall exceed 6 feet in height. No fencing shall be installed nearer than 25 feet behind the front building line. No fencing shall be located nearer than 2 inches to an interior property line. No fencing shall be constructed over or upon any portion of any easement granted by Developer. Retaining walls shall be constructed of or have a veneer of brick or stone. No creosote crosstie walls are permitted. Pressure treated timbers or segmental colored concrete may be considered with the Committee's approval.

- 2.21 No facilities, including, but not limited to poles or wires for the transmission of electricity, television, telephone messages and the like, shall be placed or maintained on any lot in the Subdivision. No external or outside antennas, including satellite dishes greater than 18 inches in diameter, shall be permitted. Satellite dishes 18 inches or less in diameter are permitted. All cable, city water, electric, telephone, gas and other utilities shall and must be placed underground.
- 2.22 All utility service lines including, but not limited to, electric, telephone, gas, water, sewer and cable television shall be connected at points designated by the Developer, until such time the Developer is no longer on the ACC. Thereafter, such designations will be determined by the Association. All utilities from the right-of-way to any residence, structure or other improvement shall be placed underground.
- 2.23 The Subdivision is serviced by a public water system, therefore, lot owners may not have a private water well drilled or located on their lot.
- 2.23a The developer has contracted for natural gas to be made available to the entire development, and all water heaters in all constructed residences must initially be of a type to utilize natural gas. All other appliances may be either electric or natural gas, at the discretion of the builder/owner. The above requirement will be waived only upon payment to the developer of a pro-rata cost of making gas available, estimated to be no less than 3% and no greater than 5% of lot price.
- 2.24 **Mailboxes.** Only one mailbox shall be allowed for any Dwelling. Any mailboxes leaning, damaged, or in need of any repair shall be repaired promptly. All mailboxes shall be the same as selected by the ACC. All mailboxes shall be located in accordance with U.S. Postal Service specifications.
- 2.25 All exterior lighting of houses shall conform to the general character of the Subdivision, and must be approved by the ACC. All yard lighting shall be directed downward and away from neighbor's yards, and shall be positioned in such a manner as to not disturb an adjoining owner. Any lighting determined by the ACC to not conform to the general character of the Subdivision or deemed a nuisance shall be removed within five (5) days upon receipt of such notice from the ACC.
- 2.26 **Landscaping.** Landscaping is very important to the overall aesthetics of the Community. All front lawns must be sod, from the Dwelling to the curb. Sod is encouraged on the side and rear lawns as well; however, seed with a hay covering is acceptable for new construction except on front lawn.



- 2.27 There must be a minimum of one shrub every 3 feet along the front of a Dwelling. All new shrubbery should have at least a 12-inch spread.
- 2.28 All planting beds and natural areas must have natural pine straw, pine bark mulch, or natural wood chips. No red lava rock, red mulch, pea gravel, or river rock will be acceptable.
- 2.29 No vegetable, herb or similar gardens shall be planted in the front yard of any Lot.
- 2.30 **Tree Removal or Damage.** No trees shall be removed or otherwise damaged without the prior written approval of the Committee. The Owner of the Lot shall at all times protect against any direct or indirect damage to all trees located on the Lot and not specifically shown to be affected in the construction documents approved by the Committee.
- 2.31 **Garages.** Each structure shall have a private, enclosed garage for at least one and no more than four cars. All garages shall be fully insulated with the same system quality and R factor as the rest of the main structure. Garage doors must be insulated, utilizing insulated glass windows. Garage doors shall be flat in style, have false hinges and handles in the style of a Carriage House door, have angle/clip corners, and will be of a color to match the vinyl or trim used on the residence. Carports shall not be allowed on any Lot; however, a detached building may be permitted behind the Dwelling, with the construction materials, style, exterior finish and color approved by the ACC.
- 2.32 **Porches.** All Dwellings are required to have a front porch, in keeping with the architectural styles of the Subdivision. No front porch shall be less than 6 feet deep, and no less than 1/3 the width of the home without ACC approval.
- 2.32a **Driveways.** All driveways, parking areas and sidewalks shall be constructed of concrete, concrete pavers or brick. All driveways shall have a minimum width of 10 feet and shall be constructed so as to not interfere with the drainage system of the Community.
- 2.32b **Sidewalks.** All dwellings shall have a sidewalk across the entire front of the lot, from property line to property line. Sidewalks will be constructed of minimum 4" concrete, shall be 3 feet wide, and have a slope of 1/4" per foot. Builders are required to hold the same grade as the sidewalk across the driveway, and be contiguous to adjoining sidewalks of adjoining lots. Sidewalks will be set away from the curb 24" consistently across the lot. Electrical pedestals or other impediments to compliance must be reviewed and accepted by the ACC.
- 2.33 **Heating and Air Conditioning Systems.** Any and all heating and air conditioning equipment required to be outside of a structure shall be shielded and hidden so that such equipment is not readily visible from the roadway. No such equipment shall be located at the front of any Dwelling. Window or "through-wall" air conditioning units shall not be permitted.
- 2.34 **Tanks.** No aboveground tanks for the storage of any fuel, water or other substances shall be located on any Lot or within any Common Areas.
- 2.35 **Swimming Pools.** In-ground pools, outdoor hot tubs, reflecting ponds, etc. may be constructed, installed and maintained within the applicable setbacks on any Lot as long as they are located in the rear yards, screened appropriately, and a Committee approval has first been obtained.



- 2.36 **Accessory Structures.** Accessory structures, including but not limited to accessory buildings, pool houses, utility sheds and gazebos will not be permitted without written approval of the Committee. Sculptures, lawn furnishings, or doghouses shall be permitted but shall be limited to the back yards only. No trailer, shack, or mobile home, whether temporary or permanent, shall be erected on any Lot at any time.
- 2.37 The lot owners, by and through the Association, shall have the sole responsibility for all upkeep and maintenance of all common areas in the Subdivision, and all fences, signage, landscaping and other improvements situated therein, together with all cost/expenses associated therewith, including but not limited to taxes, assessments, maintenance and other such expenses. The Developer shall have no responsibility for such maintenance or expenses associated therewith.
- 2.38 **Vehicles Prohibited.** No motorized recreational vehicle, all terrain vehicles, go-carts, dirt bikes, etc. shall be operated on any Easements or Common Areas.
- 2.39 **Signage.** All signs, billboards or advertising structures of any kind are prohibited, except real estate signs or builders signs during construction (maximum 5 square feet) posted on the premises or entrance area from the public road.
- 2.40 Notwithstanding anything contained herein to the contrary, the Developer and Developer's duly authorized agents or assigns, shall have the exclusive right to erect, display and maintain any signs or structures of any size, type, color, or character, on any lot owned by the Developer or on any part of the Common Areas to promote and aid the Developer in the marketing of the Subdivision and the sale of lots therein as long as the Developer owns a lot in the Subdivision.
- 2.41 No lot may be subdivided or reduced in size by voluntary alienation, partition or other judicial proceedings. Notwithstanding anything contained herein to the contrary, the provision of this paragraph shall not prohibit the combining of two (2) or more contiguous lots to make one larger lot. Three (3) lots may be divided into two (2) lots with the approval of the ACC or other governmental authority having jurisdiction thereof, provided, however, none of the area of the new lots is less than the size of any original lot.
- 2.42 No outside burning of trash, refuse or other materials shall be permitted on any lot or other property in the Subdivision without the prior written approval of the ACC.
- 2.43 No refuse or trash shall be kept, store or allowed to accumulate on any lot except between scheduled pickups and in accordance with the provisions hereof. Any trash or other refuse to be disposed of by being picked up and carried away on a regular and recurring basis shall be placed in sanitary containers approved by the ACC, and said sanitary containers shall be placed in the open only on the day a pickup is to be made and at such place on the lot as to provide sufficient access to the person or entity making such pickup. At all other times such sanitary containers shall be stored in such a manner so they cannot be seen from adjacent lots.
- 2.44 No lumber, metals or bulk materials shall be kept, stored or allowed to accumulate on any lot within the Subdivision, except building materials used during the course of construction of any approved structure or improvement on



the lot; however, the ACC may also require a dumpster or other similar commercial container during construction.

- 2.45 **Pets Animals.** No animals, livestock, reptiles, birds, or poultry of any kind shall be kept for the purposes of commercial breeding.
- 2.46 Any structure or area of care, housing or confinement of any pet (including dog houses, dog runs, etc.) shall be located at the rear of the Lot.
- 2.47 Dogs shall not be allowed to roam unattended within the Community; all pets must be kept and maintained within either the Dwelling or within fenced or walled areas of the Lot, as approved by the Committee or otherwise under leash. Pets shall not be permitted to leave excrement on the Lot of any other Owner, on or within the right-of-way of any road or on or within any portion of the Common Areas and the Owner of such pet shall immediately remove and properly dispose of the same.
- 2.48 No pet shall be allowed to make an unreasonable amount of noise or become a nuisance, as determined by the Owner of any adjacent Lot. The Committee may from time to time adopt additional regulations concerning the type and size of pets, including the right to prohibit certain breeds of dogs that may create any actual or perceived danger or fear for other Owners and their families.
- 2.49 No water pipe, gas pipe, sewer pipe or drainage pipe shall be installed or maintained above the surface of the ground of any lot in the subdivision except for temporary water hoses used for irrigation purposes.
- 2.50 No lot in the subdivision shall be used for the purpose of boring, mining, quarrying, exploring for, or removing, any mineral of any kind, character or nature, including, but not limited to oil, gas or gravel.
- 2.51 No obnoxious, offensive or illegal activity shall be conducted on any lot or common area in the Subdivision, which may become a nuisance to the other lot owners.
- 2.52 Each lot owner shall have the responsibility to prevent any unclean, unsightly or unkept conditions or structures on such owner's lot which causes a health or safety problem, or which may tend to decrease the beauty of the lot or a specific area or of the Subdivision as a whole.
- 2.53 **Boats, Trailers, Recreational Vehicles and Commercial Vehicles.** No boat, trailer, motorcycle, motor home, camper, commercial van, plane or recreational vehicle may be parked or stored on any street or on any Lot except entirely within an enclosed garage. Exceptions may be granted where the vehicle is not visible from adjacent property.

### **Article III**

### **GENERAL RESTRICTIONS**

- 3.1 Lots may be used only for single-family residences and no commercial business or other similar activity shall be permitted on any lot in the Subdivision.
- 3.1a Notwithstanding anything contained herein to the contrary, the Developer and Developer's duly authorized agents or assigns, shall have the exclusive right to establish and maintain office facilities within the development as long as the Developer owns a lot in the Subdivision.



- 3.2 All lots and common area in the Subdivision shall be subject to the recorded restrictions applicable to the lots and the Subdivision property.
- 3.3 Nothing contained herein shall be construed to prohibit or otherwise restrict a lot owner from mortgaging such owner's residence or prohibit such owner from maintaining personal professional libraries, or from keeping personal business or professional records or accounts.
- 3.4 No outside toilets are allowed, and all plumbing facilities are required to be connected to an approved septic system. A temporary toilet facility may be permitted by the Developer of the ACC for purposes of construction of improvements on the lot.
- 3.5 No open burning of any kind shall be allowed except as may be permitted by the Developer, The ACC or appropriate authorities during the construction of improvements in the Subdivision; however, any such burning permitted shall be in compliance with all provisions of these covenants and in accordance with all environmental and health regulations.
- 3.6 No discharge of firearms shall be permitted within the Subdivision, and no other noxious or other offensive activity shall be permitted on any lot or on any common area in the Subdivision which may cause or become a nuisance to any lot owner.
- 3.7 The ACC and the Board shall each have authority to determine what constitutes noxious and offensive activities and such determination shall be complete and final.
- 3.8 No wrecked, junked, stripped down, abandoned, discarded or inoperable motor vehicle, boat, or material of any kind, or any sizeable part thereof, shall be permitted to be parked or stored upon any lot or along any service driveway, street, or common area in the Subdivision.
- 3.9 Specifically and expressly reserved herein to the Developer, The Association, The ACC and their duly authorized agents, representatives, and employees, are all easements necessary to discharge and perform the duties and obligations of the Developer, the Association and the ACC as are set forth herein including, but not limited to, easements on and across any lot or common area in the Subdivision for the purpose of inspection.
- 3.10 Drainage and utility easements are reserved throughout the entire Subdivision and all lots therein as may be required to adequately serve the Subdivision and the lots located therein for drainage and utility services, including, but not limited to, easements for water, sewer, gas, electricity, telephone and cable television, and each and every such easement provided for herein shall be established upon the recordation of these covenants and shall thereafter be deemed to be covenants running with the land for the use and benefit of the lot and the Subdivision and shall be superior to all encumbrances applied against or in favor of any portion of the Subdivision property subjected hereto.



**Article IV**  
**ARCHITECTURAL CONTROL**

- 4.1 The Developer shall establish the ACC, and the committee shall consist of not less than three (3) and not more than five (5) members. The initial ACC shall consist of the Developer and up to four (4) other members appointed by the Developer.
- 4.2 The Developer shall have the right to remain a member of the ACC for as long as the Developer owns any lot in the subdivision; however, the Developer shall relinquish control of the ACC after the Developer has sold and conveyed all one hundred percent (100%) of the lots located in the Subdivision. Thereafter, the ACC shall be controlled by the Association thru its' Board.
- 4.3 The purpose of the ACC shall be to manage, maintain and enforce the continued harmonious design of all houses, structures and other improvements located in the Subdivision. The scope of review by the ACC shall be limited exclusively to appearance only. The ACC does not and shall not assume or accept any responsibility or authority to review for structural soundness, compliance with building or zoning codes of standards or any other factors.
- 4.4 The ACC shall have the expressed authority to enforce any covenant, condition, obligation or restriction contained herein by any all applicable legal means, including, but not limited to, levying of fines and the filing of liens therefore and the foreclosure thereof as in the case of past due mortgages.
- 4.5 Any lot owner against whom any enforcement is sought shall be liable to the ACC and the Association for all cost incurred by the ACC and/or the Association for such enforcement, including reasonable attorneys fees.
- 4.6 No construction of any kind shall be commenced and no permit, authorization or approval required hereunder shall be issued for such construction on any lot in the subdivision without first obtaining the approval and affirmative vote of a majority of the members of the ACC.
- 4.7 Notwithstanding anything contained herein to the contrary, ACC control shall extend to and include the construction, painting, remodel and repair of any new or existing house, building, storage or out building, fence, or other structure, or any other construction or work which materially alters or otherwise changes the exterior appearance thereof; however, such control shall in no way render the ACC or the Association liable for any structural soundness, compliance with building or zoning codes of standards or any other such factors.
- 4.8 The ACC shall designate the manner in which all plans and specifications are to be submitted for approval.
- 4.9 All plans and specifications shall include, but not necessarily be limited to, not less than a site plan of the lot showing the location, height, exterior design, and color of all buildings and other improvements proposed to be constructed, remodeled, or altered on the lot.
- 4.10 All such plans shall be submitted to the ACC at least fifteen (15) days prior to the date of the proposed commencement of construction or alteration of any improvements on the lot. All lot owners, by acceptance of their deed, acknowledge and agree the ACC shall have the authority to pursue any legal



action necessary to enforce compliance herewith and prevent any violation hereof, including, but not limited to, an injunction or other appropriate remedy.

- 4.11 Within thirty (30) days from the date the ACC has received the plans and specifications and other related documentation required or requested, the ACC shall notify the lot owner in writing whether or not the owner's plans have been approved as submitted, or rejected. If the plans and specifications are rejected, the ACC shall inform the lot owner as to why the plans were rejected and make recommendations and suggestions to aid the lot owner with meeting the ACC requirements.
- 4.12 Any new or existing structure or improvement erected, altered, placed commenced or maintained upon any lot which is not in accordance with plans and specifications approved by the ACC pursuant hereto shall be deemed to have been undertaken in violation of this covenant and without the approval of the ACC as required herein, and upon written notice of such violation by the ACC, such construction shall be ceased and such violation removed.
- 4.13 If the owner of the lot upon which such violation exists shall not have taken reasonable steps toward removal or termination of such violation within fifteen (15) days of receipt of the notice of such violation from the ACC, the Developer, the ACC, the Association, or any authorized agent shall have the right to enter upon such lot and to take such legal steps necessary, including, but not limited to the levying of a fine and the filing of a lien upon such lot in question to enforce compliance with these covenants and all amendments hereto and to make any judgment rendered pursuant thereto a binding, personal obligation of such lot owner.
- 4.14 Any lien permitted herein shall be valid against a bona fide purchaser or mortgagee of the lot in question unless and until such lien shall have been filed in the appropriate records of the lot Office of the Judge of Probate of Shelby County, Alabama prior to recordation of the deed or mortgage conveying the lot in question to such purchaser or mortgagee.
- 4.15 The Developer or the ACC or any Agent thereof may at a reasonable time enter upon any lot in the Subdivision and inspect same and any improvements thereon for the purposes of determining whether all improvements and any construction, painting, maintenance, repair, or other work are in compliance with the provisions of these covenants and the requirements of the ACC, and such entry upon said lot shall not in no way be deemed a trespass or other wrongful act of the Developer or the ACC by reason of such entry or inspection.
- 4.16 The owner of any lot, by acceptance of the owner's deed, certifies, covenants and agrees the Developer, the ACC, and any architect, agent, partner, or employee thereof shall not be responsible and shall have no liability in any way for any failure of any structure or improvement situated or under construction on any lot in the subdivision of the failure of such structure or other improvement to comply with the requirements of these covenants, or any defect in any plans and specifications submitted, revised or approved in accordance with these covenants, or for any structural or other defects in any construction or other work done or performed in accordance with such plans and specifications approved by the ACC. All persons submitting any such plans and specifications and all persons



relying thereon hereby covenant and agree not to make any claim of file any legal proceeding against the Developer, the Association, the Board, the ACC, or any member or agent thereof, for any cause arising out of any matter referred to in this section, and to release said entities and persons from any and every such cause.

**Article V**  
**RENT RESTRICTION**

No lot owner shall rent or permit to be rented such owner's lot or any improvement thereon for a period less than 6 months consisting of not less than 180 consecutive days.

**Article VI**  
**NO TIME SHARE**

No time share or other similar form of interval ownership of any lot in the Subdivision shall be permitted, and no lot shall be sold or occupied as a Vacation Time- Sharing Plan, as defined in Code of Alabama, 1975, as amended.

**Article VII**  
**ASSOCIATION RIGHTS**

- 7.01 All rights and easements shall be appurtenant to and shall pass with the title to every lot in the Subdivision subject to the following limitations, to-wit:
- 7.02 The right of the Association to pass and adopt reasonable rules and regulations regulating the use and enjoyment of the lots and common areas.
- 7.03 The right of the Association to suspend the voting rights of any lot owner for a period during which any assessment against such member's lot remains delinquent.

**Article VIII**  
**MAINTENANCE ASSESSMENTS**

- 8.01 The Association, by and through its Board, shall have the authority to levy and charge such assessments deemed necessary for the proper care, maintenance and management of the Subdivision, and all assessments shall be established, made and collected as provided herein.
- 8.02 The Developer shall maintain all common areas of the Subdivision until one hundred percent (100%) of the lots in the Subdivision have been conveyed to purchasers other than the Developer. Thereafter, the Association shall adopt a budget and set the fees for such maintenance.
- 8.03 Each and every person or entity holding title to any lot in the Subdivision whether such lot is now or hereafter created as part of the Subdivision, hereby expressly covenants and agrees, and by acceptance of deed therefore, shall be deemed to covenant and agree, to pay to the Association general assessments whether or not the basis of such assessment is expressed in such owner's deed.



- 8.04 All general and special assessments levied and assessed hereunder shall be on the date shown on such assessment, or if no date is shown, then immediately upon receipt. Any such assessment not paid when due shall, at the option of the Board, be charged interest thereon at the rate of eighteen percent (18%) per annum from the date said assessment became due, together with any and all costs of collection thereof incurred by the Association, including reasonable attorney's fees.
- 8.05 All assessments hereunder, together with all interest thereon and all attorney's fees and other cost and expenses related to such assessments, shall be the personal obligation of the lot owner and shall constitute and be deemed a continuing lien and encumbrance on the lot against which the assessment is made. No purchase or assumption by a subsequent owner shall relieve the prior or the current owner for such personal liability for any delinquent assessments.
- 8.06 General assessments may be increased in any year to cover actual or estimated cost of adding and/or maintaining any new structure added to any common area if the current assessment is not sufficient to cover the actual or anticipated costs of maintenance of the Subdivision and its common areas.
- 8.07 Special assessments may also be levied by the Association to cover the costs of maintenance of the Subdivision or for any violation of these covenants or as the Association otherwise deems necessary and proper as circumstances may warrant, and any such special assessment will be assessed against the lot and the lot owner in the manner set forth herein.
- 8.08 All liens for assessments and other liens authorized hereunder shall not be subordinated or deemed to be subordinated to any mortgage or other lien on any lot in the Subdivision and shall be prior to all other liens and encumbrances on a lot and any improvements thereon except, (1) liens and encumbrances recorded before this Declaration, (2) liens for real estate taxes and other governmental assessments or charges against the lot, and (3) a first security interest on the lot recorded before the date on which the assessment sought to be enforced became delinquent which was given and made in good faith, for value, and without notice.
- 8.09 Notwithstanding anything contained herein to the contrary, no mortgage shall have priority over or preclude an assessment which would have become due in the absence on acceleration during the six months immediately preceding the institution of an action to enforce the lien. This provision shall not affect the priority of mechanic's or materialmen's liens or the priority of liens for other assessments made by the Association.
- 8.10 All liens for assessments and other liens allowed hereunder may be foreclosed in like manner as a mortgage on real estate; however, the Association must give reasonable advance notice of its proposed action to the lot owner and all lien holders of record.
- 8.11 The sale or other transfer of a lot shall in no way change or otherwise affect the Association's lien against such lot, and shall not defeat or otherwise affect the personal obligation of the owner of such lot notwithstanding whether such sale or other transfer occurred prior to, on or after the recordation of the Association's lien. Each lot purchaser and owner is charged with the responsibility to ascertain and pay any and all assessments due and owing against such lot.



- 8.12 A violation of any covenant contained herein shall not render invalid the lien of any mortgage on any lot in the subdivision made and given in good faith, for value, and without notice; however, any mortgagee in actual possession or any purchaser at any foreclosure sale shall be bound by and be subject to these covenants as fully as any and all other lot owners in the Subdivision.

**Article IX**  
**VARIANCES**

- 9.01 Variances pertaining to the location and set back of a house or other building to be constructed on the lot may be granted by the ACC under certain and special circumstances. The ACC will require foundation survey approval before framing can begin. A final survey is required upon completion.
- 9.02 The standard of review for any such variance shall be in a case of an unusual shaped lot or where an unusual or different kind of building or improvement is contemplated and in those cases where certain restrictions would cause an undue hardship to the lot owner.
- 9.03 Notwithstanding anything contained herein to the contrary, no variance shall be granted which will be materially detrimental to the interest of other lot owners in the subdivision.

**Article X**  
**AMENDMENT**

- 10.01 These covenants may be amended, upon and pursuant to the consent of the lot owners representing not less than fifty-one percent (51%) of the total votes eligible to be cast and in the manner prescribed in the Association's By-Laws.
- 10.02 Notwithstanding anything contained herein to the contrary, the Developer shall have and does hereby specifically retain and reserve the absolute right to unilaterally amend these Covenants without notice at any time prior to the time the Developer relinquishes all rights, title and control of the Association as required herein.
- 10.03 No amendment hereunder shall be valid unless such amendment has first been properly approved by said percentage of the lot owners, or has been properly made and executed by the Developer prior to the time the Developer has relinquished control of the Association as required herein, and such amendment complies with all the requirements set forth herein. Any other attempt to amend the provisions of these covenants shall be null and void and of no effect.
- 10.04 Any proper amendment hereof, whether by the developer, the Association, or otherwise, shall be valid and effective immediately upon the proper recordation of same in the Office of the Judge of Probate of Shelby County, Alabama.

**Article XI**  
**REMEDIES**

- 11.01 The Association, the ACC, and the Developer (as long as the Developer is a lot owner), shall have the right to enforce any covenant, condition, obligation, restriction, lien, or charge now or hereafter imposed hereunder, available at law or in equity or otherwise.



- 11.02 All cost and expenses incurred by the Association, the ACC, and/or the developer for the collection of any sums due hereunder or the enforcement of any such covenant, condition, obligation, restriction, lien or other provision hereof shall be chargeable to the owner of the lot violating these covenants and shall constitute a lien on such owner's lot.
- 11.03 In the event of a violation or breach of any covenant, condition, obligation, restriction, or provision contained herein or the Articles or By-Laws, or any amendments hereto, by any lot owner or any family member, guest, agent employee, or leases of such owner, in addition to any other right or remedy available at law or in equity or otherwise, the Association, the ACC, and the Developer (as long as the Developer is a lot owner), their successors and assigns, and any other party to whom these covenants shall insure, shall have the right to pursue any one or more of the following remedies, to-wit:
- 11.04 File a suit or other legal action or other proceeding at law or in the equity for an injunction or to recover damages or other amounts due or to compel compliance with the terms and conditions hereof, and to file and seek the recovery of all cost and expenses of such action, including, but not limited to, a reasonable attorneys fee.
- 11.05 Prevent the violation or breach hereof by self help or abatement of the violation, and the expenses and charges incurred therefore shall be taxable against the violating lot owner and the owner's lot and constitute a lien against the owner's lot by the Association until such owner has reimbursed all such expenses, interest, attorney's fees and cost.
- 11.06 To impose a fine, together with interest, costs, and attorney's fees. Against such violating lot owner in an amount or amounts levied by the Board, the ACC, or as may be determined and established by a majority of lot owners, and any such fine, costs, attorney's fees and other expenses shall constitute and be a lien upon the lot owned by the violating owner and evidenced by filing a claim of lien in the Office of the Judge of Probate of Shelby County, Alabama.
- 11.07 Any fine or lien levied or assessed pursuant to the provisions of this Declaration shall be collectable in the same manner as an assessment, and if such lien is not timely paid, said lien may be foreclosed and the lot sold as in the case of past due mortgages.
- 11.08 In no event shall the award of damages in an action to enforce compliance herewith be deemed the only remedy or adequate compensation for any breach or violation hereof and shall be in addition to any other specific relief such as an injunction or any other available relief.
- 11.09 Each and every remedy set forth herein shall be cumulative and in addition to all other remedies, whether available at law or in equity or otherwise.



**Article XII**  
**ACCEPTANCE OF DECLARATION**

- 12.01 Every lot owner, whether a person or entity, by acceptance of their deed or otherwise acquiring any lot owner's interest in any portion of the Subdivision, thereby binds such owner and such owner's heirs, executors, personal representatives, successors, transferees, and assigns, to all of the covenants, conditions, obligations, restrictions, provisions, rules, and regulations now or hereafter imposed by these covenants and any amendment hereto.
- 12.02 Every lot owner, whether a person or entity, by acceptance and recordation of their deed, does thereby acknowledge, consent, covenant and agree these covenants set forth a general policy for the overall improvement and development of the subdivision, and these covenants are mutually beneficially to and enforceable by the Association, the ACC, the Developer, and any current or subsequent owner.
- 12.03 In the event of actual or apparent conflict between the provisions of this Declaration or Articles or By-Laws of the Association, the provisions of this Declaration shall be controlling, unless prohibited by statute.

**Article XIII**  
**COVENANTS RUNNING WITH THE LAND**

These covenants and all amendments hereto shall be covenants running with the land and shall be binding upon each lot owner and all subsequent owners, purchasers, grantees, transferees, mortgages, and assigns thereof.

**Article XIV**  
**RIGHTS OF DEVELOPER**

- 14.01 **Indemnification.** Each and every Owner, in accepting a deed or contract for any Lot or Lots in the Property, whether from Developer or a subsequent owner of such Lot, agrees to indemnify and reimburse Developer and /or the Association, as their respective interest may appear, for any damage caused by such Owner or the builder, contractor, agent or employees of such Owner, to roads, streets, gutters, Common Areas, or other portions of the Property, including all surfacing thereon, or to water, drainage or storm sewer line or sanitary sewer lines owned by Developer and/or the Association, or for which Developer and/or Association has responsibility, at the time of such drainage.
- 14.02 **Limitation of Liability.** Each and every Owner, in accepting a deed or contract for any Lot or Lots in the Property, whether from Developer or a subsequent Owner of such Lot, agrees and covenants to release, indemnify, protect and hold harmless the Developer, and its agents, directors and employees (all of whom are included in the term "Developer" for the purposes of this Section) from and against any and all claims and demands by such Owner, any member of his or her family, their employees, agents, guests, invitees, licensees, builders, contractors, and employees or subcontractors of such contractors, or any other persons



whomsoever, for damages to property and personal injury or death (including but not limited to, the Developer's contributory negligence) which may arise out of or be caused directly or indirectly by such Owner's Lot or Lots, and/or the use of or construction on said Lot or Lots by said Owner, any member of his or her family, their guests, agents, invitees, licensees, builders, contractors, or by any other person whomsoever. The indemnification by such Owner as set forth above shall also cover any and all expenses of Developer, including attorney's fees resulting from any claims or demands.

**Article XV**  
**Miscellaneous Provisions**

- 15.01 **Legal Expenses.** In addition to the rights and remedies set forth herein above, in the event the Developer, the Officers, or the Association, through their respective agents and representatives, undertake any legal or equitable action which any of them deem necessary to remedy any violation of this Declaration, then all costs and expenses incurred by any of them, including, without limitation, attorneys' fees and court costs, shall be paid by the Owner against whom such action was initiated.
- 15.02 **Severability.** If any provision of this Declaration or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Declaration or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each provision shall be valid and enforceable to the fullest extent permitted by law.
- 15.03 **Captions and Headings.** The captions and headings contained in this Declaration are for convenience of reference only and shall not be used in the construction or interpretation of any provisions of this Declaration. The table of contents, cover page and any index to this Declaration are for convenience of reference only and shall not define or limit any of the terms and provisions hereof.
- 15.04 **Pronouns and Plurals.** All personal pronouns used in this Declaration, 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 the use of the plural shall include the singular.
- 15.05 **Binding Effect.** The terms and provisions of this Declaration 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 the Association and its Members, all of the Owners and their respective Mortgagees and their respective heirs, executors, administrators, personal representatives, successors and assigns.
- 15.06 **Conflict or Ambiguity.** In the event of any conflict or ambiguity in the terms and provisions of this Declaration, the general rules of construction against one party as a result of that party having drafted this Declaration are hereby waived by each Owner and, to the fullest extent allowed 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.



- 15.07 **No Reverter.** No restriction or provisions hereof is intended to be or shall be construed as a condition subsequent or a possibility of reverter in favor of Developer nor shall any provisions be deemed to vest any reversionary interest in Developer.
- 15.08 **Interpretation.** In all cases, the provisions set forth and provided for in this Declaration shall be construed together and give that interpretation or construction which, in the opinion of the Officers, 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 this Declaration 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 this Declaration shall be the date hereof. This Declaration shall be construed under and in accordance with the laws of the State of Alabama.
- 15.09 **Rights of Third Parties.** This Declaration shall be recorded for the benefit of the Association and its Members, 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 Development, of it's operation and continuation, in the enforcement of any of the provisions of this Declaration or the right to consent to or approve any amendment or modification to this Declaration.
- 15.10 **No Trespass.** Whenever the Association, the Officers, and their respective agents, employees, representatives, successors and assigns, are permitted by this Declaration to enter upon or correct, repair, clean, maintain or preserve or do any other action within any portion of a Lot or Dwelling, the entering thereon and the taking of such action shall not be deemed a trespass.
- 15.11 **No Partition.** Each Owner hereby waives any right to seek or obtain judicial partition of any portion of the Common Areas.
- 15.12 **Standards for Review.** Whenever in this Declaration the Association or the Officers 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 the Association or the Officers, as the case may be.
- 15.13 **Oral Statements.** Oral statements or representations by the Association, the Officers or any of their respective employees, agents, representatives, successors or assigns, shall not be binding on the Association or the Officers.
- 15.14 **Notices.** Notices required hereunder shall be in writing and shall be delivered by hand or sent by United States Mail, postage prepaid. All notices to Owners shall be delivered or sent to such addresses as have been designated in writing to the Association or, if no such address has been so designated, at the address of such Owner's respective Lot or Dwelling within the Development. All notices to the Association or to the Officers shall be delivered or sent in care of Developer to the following address:

Wyndsor Trace, L.L.C.  
3117 Hwy 83  
Vincent, AL 35178



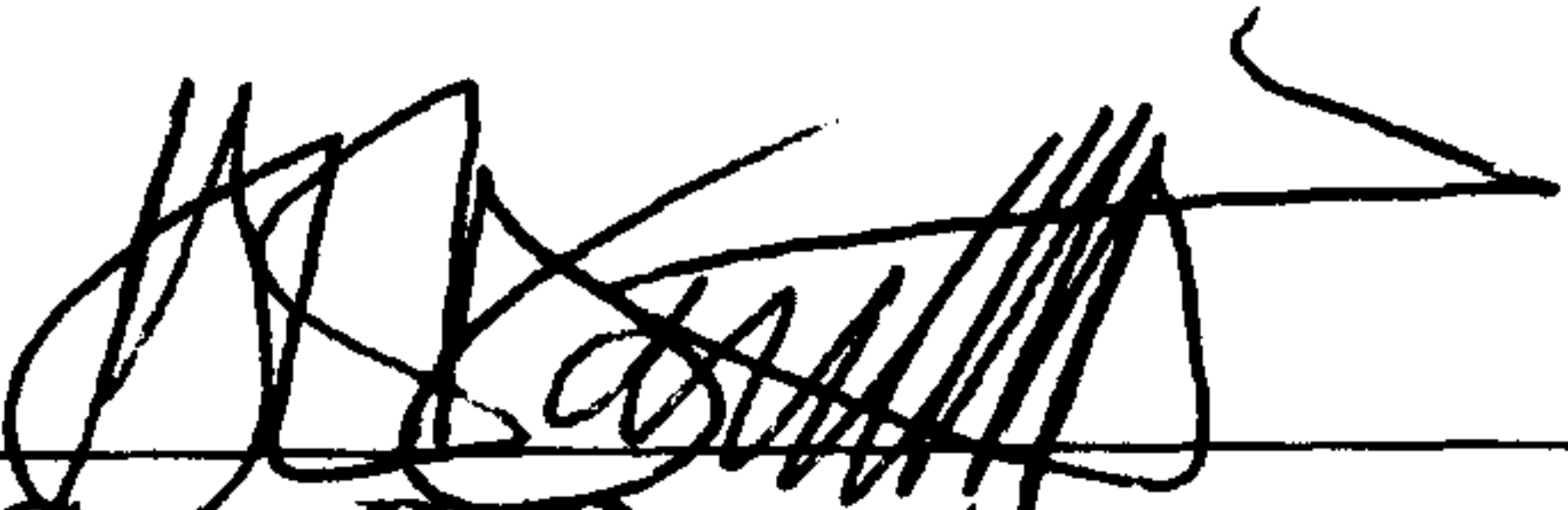
- 15.15 **Further Assurances.** Each Owner covenants and agrees to execute, sign and deliver, or cause to be executed, signed and delivered and to otherwise do or make, or cause to be done and made, any and all agreements, instruments, papers, deeds, acts or things, supplemental, conformity or otherwise, which may be reasonably requested by Developer, the Association or the Officers for the purpose of or in connection with clarifying, amending or otherwise consummating any of the transactions and matters herein.
- 15.16 **No Waiver.** All rights, remedies and privileges granted to the Association and the Officers pursuant to the terms and provisions of this Declaration shall not be deemed to be cumulative and the exercise of any one or more such rights, remedies or privileges shall not be deemed to constitute an election of remedies nor shall it preclude the party exercising the same, or any other party, from pursuing such other and/or additional rights, 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.
- 15.17 **Perpetuities.** If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-five (25) years from the date set out above.



IN WITNESS WHEREOF, the undersigned as Developer of the Subdivision has caused this instrument to be executed under seal, by and through its duly authorized officer, whose name is set out below, on this 16<sup>th</sup> day of August, 2006.

ATTEST:

**Wyndsor Trace L.L.C.**  
**An Alabama Limited Liability Company**

  
by **Gary D. Barnett**  
As its Manager

**STATE OF ALABAMA}**  
**COUNTY OF Shelby}**

I, the undersigned, a Notary Public in and for the said county and said state, do hereby certify that, Christopher P. Delucia, whose name as Manager of Wyndsor Trace L.L.C., an Alabama Limited Liability Company, is signed as Grantor to the foregoing Declaration and who is known to me, acknowledged before me on this day, that, after being informed of these covenants of said conveyance, he, as, Manager and with full authority, executed said instrument voluntarily for and as the act of said company on the day the same bears date.

Given under my hand and official seal on this 16<sup>th</sup> day of August, 2006.

My Commission expires:

**My Commission Expires**  
April 27, 2009

  
**NOTARY PUBLIC**

