

**DECLARATION OF COVENANTS, EASEMENTS,
AND RESTRICTIONS FOR
WYNLAKE SUBDIVISION SECTOR V**

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**DECLARATION OF COVENANTS, EASEMENTS, AND RESTRICTIONS
FOR WYNLAKE SUBDIVISION SECTOR V**

THIS DECLARATION OF COVENANTS, EASEMENTS, AND RESTRICTIONS FOR WYNLAKE SUBDIVISION SECTOR V ("Declaration") is made on this 29th day of June 2021, by VALOR COMMUNITIES, LLC, an Alabama limited liability company ("Declarant").

**BACKGROUND
STATEMENT**

WHEREAS, Declarant is the owner of certain property located in the City of Alabaster, Shelby County, Alabama more particularly described on Exhibit "A" attached hereto (the "Property");

WHEREAS, Declarant desires to subject the Property to this Declaration to create a residential community and to provide a mechanism for the subjecting Additional Property (defined below) to this Declaration; and

WHEREAS, Declarant intends by this Declaration to impose mutually beneficial restrictions under a general plan of improvement for the benefit of all Owners of Lots subject to, or hereinafter subject to, this Declaration and desires to establish a method for the maintenance, preservation, use, and enjoyment of the Property.

NOW THEREFORE, Declarant hereby declares that the Property, including the improvements constructed or to be constructed thereon, is hereby subjected to the provisions of this Declaration and shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, easements, restrictions, assessments, and liens, hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with the title to the Property and shall be binding on all Persons having any right, title, or interest in all or any portion of the Property, their respective heirs, legal representatives, successors and assigns and shall inure to the benefit of each and every Owner and Occupant of all or any portion thereof.

I.

DEFINITIONS

The following words, when used in this Declaration or in any Supplementary Declaration (unless the context shall prohibit), shall have the following meanings:

"Additional Property" shall mean and refer to any real property and any improvements situated thereon lying adjacent to or in close proximity with the Property (but which does not presently comprise any part of the Property) which Declarant may from time to time submit and add to the provisions of this Declaration by filing a Supplementary Declaration in the Probate Office. The Additional Property may also include additional Common Property.

"Association" shall mean Wynlake Property Owners Association, Inc., an Alabama nonprofit corporation.

"Association Expenses" shall mean all expenditures made by or on behalf of the Association, including, but not limited to, expenses related to maintenance, repair and replacement of the Common Property, insurance premiums and deductibles, property taxes, and any other expenses of the Association.

"Board" or **"Board of Directors"** shall mean the Board of Directors of the Association and shall refer to the Declarant Controlled Board during the Declarant Control Period and shall refer to the Member Elected Board following termination of the Declarant Control Period.

"Bylaws" shall mean the Bylaws of the Association attached hereto as Exhibit "B."

"Certificate of Formation" shall mean the Certificate of Formation of the Association filed with the Secretary of State of the State of Alabama with file Number 870-843.

"Common Property" shall mean any and all real and personal property and easements and other interests therein, together with the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners.

"Community" shall mean the Property including all Lots and any Common Property as well as any improvements thereon and appurtenances thereto.

"Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing for the Property. Such standard may be more specifically determined by the Board of Directors of the Association. Such determination, however, must be consistent with the Community-Wide Standard originally established by the Declarant.

"Declarant" shall mean and refer to Valor Communities, LLC, and its successors and assigns, provided any such successor or assign shall acquire for the purpose of development or sale all or any portion of the remaining undeveloped or unsold portions of the Property or the Additional Property, and provided further, in the instrument of conveyance to any such successor or assign, such successor or assign is designated as the "Declarant" hereunder by the grantor of such conveyance, which grantor shall be the "Declarant" hereunder at the time of such conveyance; provided, further, upon such designation of such successor Declarant, all rights of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that as to all of the Property which is now or hereafter subjected to this Declaration, there shall be only one (1) "Declarant" hereunder at any one point in time.

"Declarant Control Period" shall have the meaning set forth in Section 3.2 below.

"Declarant Controlled Board" shall mean the Board of Directors where the members of which are appointed and removed by the Declarant in its sole discretion.

"Lot" shall mean any lot or parcel within the Property, but shall not include any Common Property.

"Majority" means those eligible votes, Owners, or other group as the context may indicate totaling more than fifty (50%) percent of the total eligible number.

"Member Elected Board" shall mean the Board of Directors of the Association where the members of which are elected by the members of the Association.

"Mortgage" means any mortgage, deed of trust, and any and all other similar instruments used for the purpose of encumbering real property as security for the payment or satisfaction of an obligation.

"Mortgagee" shall mean the holder of a Mortgage.

"Occupant" shall mean any Person occupying all or any portion of a Residence or other property located within the Community for any period of time, regardless of whether such Person is a tenant of the Owner of such property.

"Owner" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Lot located within the Community, excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation.

"Person" means any natural person, trustee, as well as a corporation, joint venture, partnership (general or limited), association, or other legal entity.

"Probate Office" means the Office of the Judge of Probate of Shelby County, Alabama or such other office as may be designated for the filing of land records.

"Property" shall mean and refer to that certain real property and interests therein described in Exhibit "A" attached hereto, and (i) such additions thereto as may be made by Declarant (or its Mortgagee or transferee, as provided in the Declaration) by Supplementary Declaration; and (ii) such additions thereto as may be made by the Declarant or the Association by a Supplementary Declaration.

"Residence" shall mean and refer to any dwelling and other improvements constructed on a Lot.

"Supplementary Declaration" means an amendment or supplement to this Declaration which subjects all or a portion of Additional Property to this Declaration or imposes, expressly or by reference, additional restrictions and obligations on the land described therein, or both.

II.**PROPERTY SUBJECT TO THIS DECLARATION**

Property Hereby Subjected To This Declaration. The Property shall be held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, easements, restrictions, obligations, and rights set forth in this Declaration.

Additional Property. Only the Property is hereby made subject to this Declaration, provided, however, by one (1) or more Supplementary Declarations, Declarant has the right, but not the obligation, to subject all or a portion of the Additional Property to this Declaration, and such Additional Property may include additional lots and Common Property. Declarant reserves the right, in its sole and absolute discretion and without the consent of the Association, the Owners, Occupants, or Mortgagees of any Lot or Residence, at any time and from time to time during the pendency of this Declaration, to add and submit any Additional Property to the provisions of this Declaration so long as the Declarant owns such Additional Property and, to the extent any of the Additional Property is specifically submitted to the terms and provisions of this Declaration by Declarant, then any such Additional Property shall constitute part of the Property. Additional Property may be submitted to the provisions of this Declaration by an instrument executed by Declarant in the manner required for the execution of deeds and recorded in the Probate Office, which instrument shall be deemed an amendment to this Declaration (which need not be consented to or approved by any Owner, Occupant or Mortgagee of any Lot) and shall (a) refer to this Declaration stating the Instrument Number in the Probate Office where this Declaration is recorded, (b) contain a statement that such Additional Property is subject to the provisions of this Declaration, (c) contain a legal description of such Additional Property and (d) state such other or different covenants, conditions and restrictions as the Declarant, in its sole discretion, shall specify to regulate and control the use, occupancy and improvement of such Additional Property. In no event shall Declarant be obligated to submit any Additional Property to the provisions of this Declaration or to impose any of the covenants, conditions or restrictions set forth in this Declaration upon any real property owned now or in the future by Declarant and situated adjacent to or in close proximity with the Community. Notwithstanding anything provided in this Declaration to the contrary, (1) the provisions of this Section 2.2 may not be abrogated, modified, rescinded, supplemented or amended, in whole or in part, without the prior written consent of Declarant and (2) the rights reserved by Declarant pursuant to this Section 2.2 shall not be deemed to inure to the benefit of any transferee or purchaser of the Additional Property or any portion thereof, unless Declarant, in its sole discretion, transfers and conveys to such transferee or purchaser the rights reserved herein by express reference to Section 2.2 of this Declaration.

III.**ASSOCIATION MEMBERSHIP AND VOTING RIGHTS**

Membership. Every Person, including Declarant, which is the record owner of a fee or undivided fee interest in any Lot that is subject to this Declaration, shall be a member of the Association. The foregoing is not intended to include Persons who hold an interest merely as

security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more persons, shall have more than one membership per Lot owned. In the event of multiple Owners, votes and rights of use and enjoyment shall be as provided herein. Ownership of a Lot shall be the sole qualification for membership, which shall be appurtenant to and may not be separated from such ownership of such Lot. The rights and privileges of membership, including the right to vote, may be exercised as set forth in the Bylaws.

Declarant Control Period. Until the earlier of: (a) the Declarant no longer owns any portion of the Property or (b) the expiration of thirty (30) years from the recording of the Declaration (the "Declarant Control Period"), Declarant shall have the right to: (i) appoint or remove any member or members of the Declarant Controlled Board or any officer or officers of the Association; (ii) amend this Declaration without the consent of any Owner, Occupant or Mortgagee; and (iii) submit additional property to this Declaration by filing a Supplementary Declaration. At any time, the Declarant may surrender in writing its right to appoint and remove Directors and Officers of the Association, but such surrender shall not extinguish or terminate the Declarant Control Period and Declarant shall retain all other rights granted to the Declarant during the Declarant Control Period unless terminated by the Declarant in writing. If appointed by the Declarant the directors need not be Owners or Occupants in the Community. The names of the initial Directors selected by the Declarant are set forth in the Certificate of Formation of the Association. In addition, during the Declarant Control Period and for two years following the sale of the last Lot from the Declarant to a third party, the Declarant shall have complete control over the Architectural Control Committee including appointment and removal of its members and establishment of any guidelines or rules unless relinquished earlier in writing.

Voting. The Association shall be controlled exclusively by the Declarant during the Declarant Control Period. During the Declarant Control Period, the Association shall have two (2) classes of membership, Class "A" and Class "B", as follows:

(a) **Class "A":** Class "A" members shall be all Owners with the exception of the Class "B" members, if any.

Class "A" members shall be voting members entitled to one (1) vote in the Association for each membership as set forth in Section 3.1 above. There shall be only one (1) vote per Lot. When more than one Person is the Owner of any Lot, the vote for such Lot shall be exercised as those Persons or entities themselves determine and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended in the event more than one Person seeks to exercise it.

(b) **Class "B":** The Class "B" member shall be the Declarant and any successor of Declarant who is designated as Declarant in a recorded instrument executed by Declarant. The Class "B" member shall be a voting member and shall be entitled to cast the number of votes which are contained in the total of all Class "A" members, plus

one (1) vote, until such time when Class "B" votes terminate and convert to class "A" votes.

The Class "B" membership shall terminate and become converted to Class "A" membership upon the happening of the following:

(i) When, at its discretion, the Declarant so determines, with the approval of first Mortgagee of Declarant. At that time, the Class "B" Member shall be deemed to be a Class "A" member. At such time, the Declarant shall call a meeting, as provided in the Bylaws of the Association for special meetings, to advise the membership of the termination of Class "B" status and to elect the members of the Board of Directors.

IV.

ASSESSMENTS

Purpose of Assessment. The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefits, and enjoyment of the Owners and Occupants in the Community, including the maintenance of real and personal property constituting Common Property, all as may be more specifically authorized from time to time by the Board of Directors.

Type of Assessments. Each Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (a) annual assessments; (b) Reserve Contributions (defined below); (c) special assessments; and (d) specific assessments against any particular Lot, including, but not limited to, those assessments established by Article IV, Section 4.11, and Article V, Section 5.2, hereof and reasonable fines as may be imposed in accordance with the terms of the Declaration and Bylaws. Annual assessments shall be levied for Association Expenses. Annual assessments shall be levied against all Lots in the Community in equal amounts except for those Lots owned by the Declarant and those Lots exempt from assessment as set forth in Article IV, Section 4.12.

Creation of Lien and Personal Obligation for Assessments. All assessments, together with late charges, interest at a rate equal to the lesser of fifteen (15%) percent or the maximum lawful rate, costs, and reasonable attorneys' fees actually incurred shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with late charges, interest, costs, and reasonable attorneys' fees actually incurred, shall also be the personal obligations of the Owner of such Lot at the time the assessment fell due. Each such Owner shall be personally liable for his or her portion of each assessment coming due while he or she is the Owner of a Lot, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance of the Lot.

Annual assessments and ~~10/61~~ other assessments, unless otherwise provided by the Board, shall be paid in annual, semi-annual, or quarterly installments as the Board determines.

Budget. During the Declarant Control Period, the Declarant shall prepare a budget of the estimated costs of operating the Association during the coming year, which may include a capital contribution or reserve contribution. Upon expiration of the Declarant Control Period, the Board shall prepare the annual budget.

The Board Shall cause the assessments, based upon the budget, to be levied against each Lot for the following year to be delivered to each Owner at least thirty (30) days prior to the end of the current fiscal year. During the Declarant Control Period, the Board may not impose an annual assessment per Lot which is more than one hundred twenty (120%) percent of the annual assessment for the immediately preceding fiscal year without the consent of Declarant and the vote or written assent of at least a Majority of the total Association vote entitled to vote thereon. In the event that the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein, the budget in effect for the current year shall continue for the succeeding year.

Special Assessments. In addition to the other assessments authorized herein, the Board may levy special assessments in any year. So long as the total amount of special assessments allocable to each Lot does not exceed the amount of the current annual assessment in any one (1) fiscal year, the Board may impose the special assessment. Any special assessment which would cause the amount of special assessments allocable to any Lot to exceed this limitation shall be effective only if approved by a majority of the total votes of Owners entitled to vote thereon and, during the Declarant Control Period, the consent of Declarant. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

Lien for Assessments. All sums assessed against any Lot, together with late charges, interest, costs, and reasonable attorneys' fees actually incurred, as provided herein, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such property, except for (a) liens of ad valorem taxes; and (b) liens for all sums unpaid on a first Mortgage recorded in the Probate Office prior to the date the date that the assessment sum became past due.

All other Persons acquiring liens or encumbrances on any property subject to this Declaration after this Declaration shall have been recorded in the Probate Office shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

Effect of Nonpayment of Assessments: Remedies of the Association.

(a) Any assessments which are not paid in full by the date specified by the Board, ("Due Date"), shall be delinquent. Any delinquent assessment shall incur a late charge in such amount as the Board may from time to time determine. If the assessment is not paid when due, a lien, as herein provided, shall attach and, in addition, the lien shall include the late charge, interest on the principal amount due, and all late charges from the date first due and payable, all costs of collection, reasonable attorneys' fees actually incurred, and any other amounts provided or permitted by law. In the event that the assessment remains unpaid after ninety (90) days, the Association may, as the Board shall determine, institute suit to collect such amounts and/or foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association and its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens secured by real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration, but not limitation, by non-use of Common Property, or abandonment of the Residence. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner. All payments shall be applied first to costs and attorney's fees, then to late charges, then to interest and then to delinquent assessments.

(b) The lien herein granted to the Association may be foreclosed by the Association, or its successors or assign, (the "Foreclosing Party") in the same manner as real estate mortgages in the State of Alabama, and the Foreclosing Party, or its agent, may sell the Lot at a public sale before the door of the courthouse of the county or counties, as may be required, in which the Lot or any part of thereof is situated, after having first given notice of the time, place and terms of sale at least once a week for three (3) successive weeks preceding the date of such sale in some newspaper published in said county or counties, and after having given reasonable advance notice of the foreclosure sale to the Owner, any Mortgagee, and all other lienholders of record of the Lot. At any such sale, the Foreclosing Party may execute and deliver to the purchaser a deed and conveyance of the Lot. In the event of any sale under this Declaration by virtue of the exercise of the powers herein granted, or pursuant to any order in any judicial proceedings or otherwise, the Lot may be sold as an entirety and the Foreclosing Party in its sole discretion may elect to sell the personal property covered by this Declaration at one or more separate sales in any manner permitted by the Uniform Commercial Code of

the State of Alabama, ^{12/6/21} and one or more exercises of the powers herein granted shall not extinguish or exhaust such powers. If the lien granted herein is now or hereafter further secured by any chattel mortgages, pledges, contracts of guaranty, assignments of lease or other security instruments, then Foreclosing Party at its option may exhaust the remedies granted under any of said security instruments or this Declaration either concurrently or independently, and in such order as Foreclosing Party may determine. Said sale may be adjourned by Foreclosing Party, or its agent, and reset at a later date without additional publication; provided that an announcement to that effect be made at the scheduled place of sale at the time and on the date the sale is originally set. In the event of any sale of the Lot as authorized by this Section, all prerequisites of such sale shall be presumed to have been performed, and in any conveyance given hereunder all statements of facts, or other recitals therein made, as to the nonpayment or nonperformance by the Owner or as to the advertisement of sale, or the time, place and manner of sale, or as to any other fact or thing, shall be taken in all courts of law or equity as prima facie evidence that the facts so stated or recited are true. Additionally, any foreclosure sale or sale of all or any portion of the Lot under the power herein granted, Foreclosing Party may credit bid for and purchase the Lot if the highest bidder therefor, but all proceeds of such sale shall be applied: (a) first, to the expenses of such sale and of all proceedings in connection therewith, including fees and expenses of Foreclosing Party's attorneys; (b) then to the repayment of the lien granted herein; and (c) finally the remainder, if any, shall be paid to such parties as are legally entitled to it, after deducting any expenses incurred in ascertaining the identity of such parties, or as may otherwise be provided by law.

Date of Commencement of Assessments. The assessments provided for herein shall commence upon conveyance of each Lot by Declarant to a third party Owner. Annual assessments shall be prorated as of the date of conveyance based on a calendar year beginning January 1 of said year. In addition to the prorated annual assessment, at each closing of the sale of a Lot (including the sale of a Lot from the Declarant to a third party and each subsequent sale of the Lot), the purchaser shall pay to the Association a reserve contribution in an amount equal to the full amount of the annual assessment (the "Reserve Contribution"). Notwithstanding the foregoing, the Declarant and any and all Lots owned by Declarant shall be exempt from the payment of any assessments due hereunder until the Lot has been conveyed to a third party.

Budget Deficits During Declarant Control. The Declarant shall be solely responsible for a period of two (2) years from the day and date first above written to satisfy the deficit if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital expenditures and reserve accounts) and the sum of the annual, special and specific assessments collected by the Association in any fiscal year. During the Declarant Control Period, Declarant may: (i) advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital expenditures and reserve accounts), and the sum of the annual, special and specific assessments collected by the Association in any fiscal year, and such advances shall be evidenced by promissory notes from the Association in favor of

the Declarant; or (ii) cause the Association to borrow such amount from a commercial lending institution at the then prevailing rates for such a loan in the local area of the Community. The Declarant in its sole discretion may guarantee repayment of such loan, if required by the lending institution, and a Mortgage secured by the Common Property or any of the improvements maintained by the Association may be given in connection with such loan.

Loans from Declarant. The Declarant may, but shall in no way be required, loan money to the Association and/or advance funds for any Association Expenses. The Association shall account for such loans/advances on an annual basis. At that time, the Association's officers shall execute a note in favor of Declarant with interest to accrue at ten percent (10%).

Specific Assessments. The Board shall have the power to specifically assess a particular group of Owners pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. The Board may specifically assess Owners for the following expenses, except for expenses incurred for maintenance and repair of items which are the maintenance responsibility of the Association as provided herein:

(c) Expenses of the Association which benefit less than all of the Owners may be specifically assessed equitably among all of the Owners which are benefited according to the benefit received.

(d) Expenses of the Association which benefit all Owners, but which do not provide an equal benefit to all Owners, may be specifically assessed equitably among all Owners according to the benefit received.

Exempt Property. The following property shall be exempt from annual assessments, special assessments, and specific assessments:

(e) all property dedicated to and accepted by any governmental authority or public utility, including, without limitation, public schools, public streets, public parks, roads, rights-of-way, streets and easements; and

(f) all property owned by non-profit organizations dedicated to land preservation, or conservation, including, but not limited to, organizations such as the Freshwater Land Trust or the Alabama Conservancy, provided, however, the availability of the exemption for such non-profit organizations is contingent upon prior approval by the Board.

Association's Assignment of Assessment Rights to Creditor. The Declarant, during the Declarant Control Period, or thereafter, the Board of Directors of Directors, may

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 assign the rights to receive payments for assessments or special assessments from Owners, as well as the right to enforce the collection of assessments and special assessments by exercising the Association's authority under this Declaration to impose a lien against any Lot in favor of the Association for the benefit of the Creditor, or directly for the benefit of the Creditor, as a result of nonpayment of assessments.

Association's Grant of Power of Attorney to Creditor. The Declarant, during the Declarant Control Period or thereafter, the Board of Directors of Directors, may grant a limited purpose power of attorney to a Creditor for the specific purpose of enforcing the right to collection of assessments and special assessments by exercising the Association's authority under this Declaration to impose a lien against any Lot in favor of the Association for the benefit of the Creditor, or directly for the benefit of the Creditor, as result of nonpayment of assessments.

V.

**MAINTENANCE: CONVEYANCE OF COMMON PROPERTY
 BY DECLARANT TO ASSOCIATION**

Association's Maintenance Responsibility.

(a) The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair, and replacement of all landscaping and improvements situated on the Common Property. In addition, if the following property exists in the Community, the Association may, as determined by the Board, maintain part or all of such property, regardless of whether it is Common Property: Community hiking and biking trails; grass and other landscaping along dedicated rights-of-way; sedimentation ponds; and Community entrance features.

(b) The Association shall also have the right, but not the obligation, to maintain and provide services for other property not owned by the Association, whether located within or without the boundaries of the Community, and to enter into leases, easements and covenants and to share costs agreements regarding such property (and any other property) where the Board has determined that this would benefit Owners.

(c) The foregoing maintenance costs shall be assessed as a part of the annual assessment or specific assessments, as determined by the Board in accordance with this Declaration.

(d) The foregoing maintenance shall be performed consistent with the Community-Wide Standard.

Owner's Maintenance Responsibility.

(e) Each Owner shall maintain or cause to be maintained in a safe, clean and attractive condition all property subject to this Declaration which is owned by such Owner in a manner consistent with the Community-Wide Standard and this Declaration.

Such maintenance obligation shall include, without limitation, the following: prompt removal of all litter, trash, refuse, and waste; lawn mowing and edging on a regular basis; tree and shrub pruning; tree removal and replacement within 30 days due to death, disease or nuisance or as directed through notification by Board for one of the aforementioned reasons; watering landscaped areas; keeping improvements, exterior lighting, and maintenance facilities in good repair and working order; keeping lawn and garden areas alive, free of weeds, and attractive; keeping driveways in good repair; complying with all governmental health and police requirements; and repair of exterior damages to improvements.

(f) In the event that the Board determines that (i) any Owner or designee of the Owner, as designee is defined below, has failed or refused to discharge properly his or her obligations with regard to the maintenance, repair or replacement of items for which he or she is responsible hereunder; or (ii) that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner or Occupant then, the Association may perform the repair, replacement or maintenance and shall, except in the event of any emergency situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement, at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner shall have ten (10) days within which to complete such maintenance, repair, or replacement, or, in the event that such maintenance, repair, or replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair, or replacement at Owner's sole cost and expense, and all costs shall be treated as a specific assessment against the Owner and the property owned by the Owner.

Party Walls and Party Fences. Each wall or fence built on the boundary between which two (2) adjoining Residences shall constitute a party wall or fence and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. No party wall or fence shall be constructed in a manner that will interfere with the functioning of established drainage easements as set out any plat(s) of the Property as the same are recorded in the Probate Office.

No fence or fencing type barrier of any kind shall be placed, erected, allowed or maintained upon any portion of the Community, including any Residence, without the prior written consent of the Architectural Control Committee or its designee.

The cost of reasonable repair and maintenance of a party wall or fence shall be shared equally by the Owners who use the wall or fence in equal proportions.

Conveyance of Common Property by Declarant to Association. The Declarant may transfer or convey to the Association any personal property and any improved or unimproved real property, leasehold, easement, or other real property interest which is or may be subjected to the terms of this Declaration. Such conveyance shall be accepted by the Association, and the property shall thereafter be Common Property to be maintained by the Association for the benefit of all or a part of its Members. Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section. The Declarant may place conservation restrictions or easements on Common Property prior to conveying it to the Association, regardless of whether or not the restriction is in place before the recording of a plat referencing "Common Area." The Association shall accept such transfer or conveyance of Common Property from the Declarant subject to, and shall be responsible for, any mortgage loan encumbrances on said Common Property.

Additional Improvements. Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section including, without limitation, dredging or otherwise removing silt from any lake that may be conveyed.

VI.

USE RESTRICTIONS AND RULES

General. This Article VI sets out certain use restrictions which must be complied with by all Owners and Occupants. These use restrictions may only be amended in the manner provided in Article XI, Section 11.4, hereof regarding amendment of this Declaration. In addition, the Board, by a two-thirds (2/3) vote, may, from time to time, without consent of the Members, promulgate, modify, or delete other use restrictions and rules and regulations applicable to the Community. This authority shall include, but shall not be limited to, the right to limit the type and size of vehicles within the Community and to set the maximum and minimum speeds of vehicles on private streets, if any, within the Community and to impose all other necessary traffic and parking regulations and to restrict the maximum noise levels of vehicles in the Community. The Board may also restrict certain portions of the recreational facilities administered by the Association to adults only. Such use restrictions and rules shall be distributed to all Owners and Occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled, or modified in a regular or special meeting by a Majority of the votes of Owners entitled to vote thereon and, during the Declarant Control Period, the consent of Declarant.

Residential Use. All Residences shall be used for single-family residential purposes exclusively. No business or business activity shall be carried on in or upon any Residence at any time except with the written approval of the Board. Leasing of a Residence shall not be considered a business or business activity. However, the Board may permit Residence to be used for business purposes so long as such business, in the sole discretion of the Board, does not otherwise violate the provisions of the Declaration or Bylaws and does not create a disturbance. The Board may issue rules regarding permitted business activities.

Height Restriction. Residences of more than two stories are prohibited.

Signs. No sign of any kind shall be erected by an Owner or Occupant within the Community without the prior written consent of the Architectural Control Committee. Notwithstanding the foregoing, both the Declarant and the Board shall have the right to erect reasonable and appropriate signs, and "For Sale" and "For Rent" signs consistent with the Community-Wide Standard may be erected upon any Residence. The provisions of this Section shall not apply to any Mortgagee who becomes the Owner of any Residence as purchaser at a judicial or foreclosure sale conducted with respect to a first Mortgage or a Mortgagee as transferee pursuant to any proceeding in lieu thereof.

Vehicles and Garages.

(a) The term "vehicles," as used herein, shall include, without limitation, motor homes, recreational vehicles, boats, trailers, motorcycles, mini-bikes, scooters, go-carts, trucks, campers, buses, vans, tractors, mowers and automobiles.

(b) All vehicles shall be parked within garages, driveways, or other Board designated parking areas. Parking in yards and unpaved areas is prohibited.

(c) Any vehicles that are kept in the Community or left upon any portion of the Community, except in a garage or other Board designated area, for periods longer than five (5) days or nights shall be considered a nuisance and the Board, at its discretion, shall have the authority to remove the vehicle from the Community at the vehicle owner's expense.

(d) Any unlicensed vehicles or vehicles in a condition such that it is incapable of being operated upon the public highways, is left upon any portion of the Community, except in a garage or other Board designated area, for periods longer than five (5) shall be considered a nuisance and the Board, at its discretion, shall have the authority to remove the vehicle from the Community at the vehicle owner's expense.

(e) Any towed vehicle, boat, recreational vehicle, motor homes, or mobile home regularly stored in the Community or temporarily kept in the Community, except if kept in a garage or other Board designated area, for periods longer than seventy-two (72) hours each shall be considered a nuisance and the Board, at its discretion, shall have the authority to remove the vehicle from the Community at the vehicle owner's expense.

(f) Trucks with mounted campers, or other commercial vehicles, which are an Owner's or Occupant's primary means of transportation shall not be considered recreational vehicles, provided they are used on a regular basis for transportation and the camper is stored out of public view upon removal. Any vehicle containing graphic decals encompassing more than 10% of the surface area of the vehicle shall be stored out of public view.

(g) No eighteen-wheel trucks or the cabs of such trucks shall be parked, kept or stored within the Community, and if so parked, kept or stored shall be considered a nuisance and the Board, at its discretion, shall have the authority to remove the vehicle from the Community at the vehicle owner's expense.

(h) No motorized vehicles shall be permitted on pathways or unpaved Common Property except for public safety vehicles or vehicles authorized by The Board

(i) Residences shall contain, as a minimum, a two-car garage; carports shall not be permitted. Garage doors shall be kept closed at all times, except when garage is in use. Detached garages are allowed as long as they match the design of the house and have been approved by the Architectural Control Committee.

Leasing. Residences may be leased for residential purposes. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Declaration, Bylaws, use restrictions, and rules and regulations of the Association. The lease shall also obligate the tenant to comply with the foregoing and shall provide that in the event of noncompliance, the Board, in addition to any other remedies available to it, may evict the tenant on behalf of the Owner and specifically assess all costs associated therewith against the Owner and the Owner's property.

Occupants Bound. All provisions of the Declaration, Bylaws, and of any rules and regulations, use restrictions or design guidelines promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants even though Occupants are not specifically mentioned. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not paid timely, the fine may then be additionally levied against the Owner.

Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Residence, with the exception of dogs, cats, or other usual and common household pets in reasonable number, as determined by the Board; provided, however, those pets which are permitted to roam free, or in the sole discretion of the Board, endanger health, make objectionable noise, (including, but not limited to barking dogs) or constitute a nuisance or inconvenience to the Association members or Occupants or the owner of any property located adjacent to the Community may be ordered to be removed by the Board. No pets shall be kept, bred or maintained for any commercial purpose. Dogs which are household pets shall at all times whenever they are outside a Residence be on a leash or otherwise confined in a manner acceptable to the Board. Owners shall be responsible for waste clean-up of their pets. Without prejudice to the Board's right to remove any such household pets, no household pet that has caused damage or injury may be walked in the Community. Animal control authorities shall be permitted to enter the Community to patrol and remove pets. Pets shall be registered, licensed and inoculated as required by law.

Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her property. No property within the Community shall be used, in whole or in part, for the storage of any property or thing that will cause such Residence to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within the Community, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Community. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community.

Unsightly or Unkempt Conditions.

(j) The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Community.

(k) All maintenance of yards, unless specifically identified as being the responsibility of The Association, shall be the responsibility of such Lot Owner. In the event that The Board of Directors of the Association determines that a yard is unsightly or unkempt, the Board shall give the Owner written notice of noncompliance and demand for compliance. If Owner fails to comply the Board may assess a fine and/or bring the yard into compliance at the Owner's expense.

Architectural Standards.

(l) No exterior construction, alteration, addition, or erection of any nature whatsoever shall be commenced or placed upon any part of the Community, except such as is installed by the Declarant, or as is approved in accordance with this Section, or as is otherwise expressly permitted herein. No exterior construction, addition erection, or alteration of any nature whatsoever shall be made unless and until plans and specifications showing at least the nature, kind, shape, height, materials, and location shall have been submitted in writing to and approved by Architectural Control Committee(s) established by the Declarant. A \$75.00 non-refundable plan review fee may be paid to Declarant or the Association, its successors and assigns, which is to be submitted along with the proposed building plans. The following items, without limitation, must be submitted to the Architectural Control Committee for consideration: fences, basketballs goals, posts and hoops, detached buildings, detached garages and any other exterior items on the premises. The Declarant may employ for the Architectural Control Committee architects, engineers, or other Persons necessary to enable the Architectural Control Committee to perform its review. The Architectural Control

Committee may, from time to time, delegate any of its rights or responsibilities hereunder to one (1) or more duly licensed architects or other qualified Persons, which shall have full authority to act on behalf of the Architectural Control Committee for all matters delegated and in the event of such delegation, the applicant shall be required to pay any fees charged by such architects or other qualified Persons.

(m) In the event that the Architectural Control Committee fails to approve or to disapprove submitted plans and specifications within forty-five (45) days after the plans and specifications have been submitted, unless additional information is required of homeowner, therefore forty-five (45) from last correspondence. If no approval or no correspondence received within forty-five (45) days, approval will not be required, and this Section will be deemed to have been fully complied with. As a condition of approval under this Section, an Owner, on behalf of their successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement, and insurance to and on any change, modification, addition, or alteration. In the discretion of the Architectural Control Committee, an Owner may be made to verify such condition of approval by a recordable written instrument acknowledged by such Owner on behalf of their successors-in-interest. The Architectural Control Committee shall be the sole arbiter of such plans and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction in violation of these restrictions. Any member of the Board or its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any Lot to inspect for the purpose of ascertaining whether or not these restrictive covenants have been or are being complied with. Such Person shall not be deemed guilty of trespass by reason of such entry. In addition to any other remedies available to the Association, in the event of noncompliance with this Section, the Board may record in the Probate Office a notice of violation naming the violating Owner.

(n) Plans and specifications are not approved for engineering or structural design or quality of materials, and by approving such plans and specifications neither the Declarant, the Architectural Control Committee, the members thereof, nor the Association assumes liability or responsibility therefore, nor for any defect in any structure constructed from such plans and specifications. Neither Declarant, the Association, the Architectural Control Committee, the Board, nor the officers, directors, members, employees, and agents of any of them shall be liable for any damage to anyone submitting plans and specifications to any of them for approval, or to any Owner of property affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every Person who submits plans or specifications and every Owner agrees that they will not bring any action or suit against Declarant, the Association, the Architectural Control Committee, the Board, or the officers, directors, members, employees, and agents of any of them to recover any such damages and hereby releases, remises, quit-claims, and covenants not to sue for all

claims, demands, and ~~causes~~ ^{21/61} of action arising out of or in connection with any judgment, negligence, or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

Antennas/Satellites. No exterior antennas of any kind shall be placed, allowed, or maintained upon any portion of the Community, including any Residence without the prior written consent of the Architectural Control Committee or its designee. No free standing antennas whatsoever shall be placed on any Residence. The Architectural Control Committee or its designee may approve the installation of radio antennas which do not protrude above the roof line of the Residence at its highest point and are not visible from the street in front of the Residence. Each Owner and Occupant acknowledges that this provision benefits all Owners and Occupants and each Owner and Occupant agrees to comply with this provision despite the fact that the erection of an outdoor antenna or similar device would be the most cost-effective way to transmit or receive the signals sought to be transmitted or received. The Architectural Control Committee or its designee may, at its discretion, approve a "satellite receiving dish." No antenna or satellite dish shall be installed prior to receiving written consent of the Architectural Control Committee.

Tree Removal. No trees shall be removed without the express consent of the Declarant or Board or their respective designee, except for (a) diseased or dead trees; (b) trees needing to be removed for safety reasons; or (c) trees in the immediate location of building approved by the Architectural Control Committee. Any tree(s) removed for death or disease must be replaced within thirty (30) days by a like and kind of tree(s) such as in the community.

Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains except with the permission of the Architectural Control Committee. Declarant hereby reserves a perpetual easement across all Community property for the purpose of altering drainage and water flow. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

Site Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where this would create a traffic or sight problem.

Clotheslines, Garbage Cans, Woodpiles, etc. All clotheslines, garbage cans, woodpiles, swimming pool pumps, filters and related equipment, air conditioning compressors and other similar items shall be located or screened so as to be concealed from view of neighboring streets and property. All rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate. Trash must be set out in appropriate trash containers no

sooner than 6:00 p.m. the evening ^{22/61} prior to pick up. And containers should be removed no later than 6:00 p.m. the evening of pickup. Declarant, however, hereby expressly reserves the right to dump and bury rocks and trees on property within the Community as needed for efficient construction and to allow developers and builders within the Community to bury rocks and trees removed from a building site on such building site. Trash, garbage, debris, or other waste matter of any kind may not be burned within the Community, except when done during the normal construction of a residence or by Declarant.

Exterior storage containers, including but not limited to PODS containers, shall not be left on any portion of the Community, except by special written authorization of the Board, for any period longer than seven (7) days. After such seven (7) day period, such container shall be considered a nuisance and may be removed from the Community by the Board and the Owner shall be responsible for the cost of the removal of the container.

Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Board. Declarant, however, hereby expressly reserves the right to replat any Lot or Lot owned by Declarant during the Declarant Control Period. After the expiration of the Declarant Control Period, the Board must approve all subdivisions and boundary changes. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

Sheds. If the Architectural Control Committee approves any shed or utility room, the shed or utility room shall have siding material that is the same type and color as the Residence, shall not be visible from any street or road, may not exceed the height of the fence. In addition, the Lot Owner shall be required to install a fence, the type and location of which shall be subject to approval of the Architectural Control Committee, on the Lot if one is not already existing on the Lot.

Guns. The use of firearms in the Community is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and firearms of all types.

Fencing. No fence or fencing type barrier of any kind shall be placed, erected, allowed, or maintained upon any portion of the Community, including any Lot, without the prior written consent of the Architectural Control Committee. Fences will be compatible with the home and have architectural interest. No fences shall be constructed in the front yards, extending to the front property lines. No chain link fences are permitted.

Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within the Community, except for temporary lines as required during construction and lines installed by or at the request of Declarant.

Air-Conditioning Units. Except as may be permitted by the Architectural Control Committee or its designee, no window air conditioning units may be installed.

Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any property. Exterior sculpture, fountains, flag poles, and similar items may be installed upon express written approval of the Architectural Control Committee or its designee, which approval may be withheld in its sole discretion.

Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless they are an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Architectural Control Committee or its designee.

Swimming Pools/Jacuzzi Tubs or any such structure. No building, structure or pool (above or in-ground) shall be erected, altered, placed or permitted on any lot except as allowed by written permission by the Architectural Control Committee or its designee.

Driveways. Except as may be permitted by the Architectural Control Committee or its designee, driveways shall be constructed with concrete.

Exteriors. Except as may be permitted by the Architectural Control Committee or its designee, the exterior of all improvements including, without limitation, Residences must be repainted in a color used in the original construction of Residences within the Community. No Residence exterior shall be constructed of untreated wood. All such wood exteriors must be painted or specifically approved by the Architectural Control Committee. No vinyl exterior is permitted with the exception of in the soffits of the structure.

Window Coverings. Aluminum foil on window panes, mirrored or reflective glass is not allowed.

Chimneys. All chimneys that are on the exterior wall must have either brick or stone on the three exterior sides of the chimney. Interior chimneys may have either a siding or stucco product on all four sides of the chimney.

Mailboxes. Only approved mailboxes shall be installed in the Community. Each mailbox must be the designated model of the Architectural Control Committee, or its designee. Each mailbox shall have a black finish.

Landscaping. The purpose of this restriction is to promote landscape development of single family residential lots that will preserve and appreciate the value of the development by promoting a high quality, cohesive level of landscaping. These requirements may be altered or amended at the discretion of the Architectural Control Committee.

Guideline for Landscaping Planning:

- (o) Existing vegetation and trees should be preserved whenever possible to provide screening and lend an established feeling to the Community.

(p) Shrubs^{24/61} should be well distributed, but not necessarily evenly spaced. Shrubs may be used for screening and to minimize the visual impact of driveways and parking areas.

(q) Earth berms may be used to create a sense of enclosure and to screen driveways, especially if planted with shrubbery.

(r) Exterior building material colors should be considered when selecting flowering trees and shrubs so that colors will not compete with or negate each other.

(s) It shall be each owner's responsibility to replace any dead shrubs within thirty (30) days with the same like, kind and size in Wynlake.

(t) Ground cover may include shrubs and low-growing plants such as Liriope, English Ivy, Periwinkle, and similar material. Ground cover may also include non-living organic material such as bark.

(u) All trees shall be preserved, unless removal is part of an approved plan.

(v) Planned natural areas will be allowed provided that the lawn and the natural area form a cohesive whole. It will be at the Declarant's sole discretion in regards to same.

(w) Each Lot Owner must maintain his or her lawn in as good or better condition than its original landscaping plans. It is not the intention of the Architectural Control Committee to monitor every planting but if a lawn at the sole discretion of the Architectural Control Committee has deteriorated then the Lot Owner will be required to bring his or her Lot into compliance with the guidelines.

(x) Each Owner must maintain the Lot and keep it free of weeds and debris. This shall apply even if a lot is purchased and construction is delayed, the Owner must maintain the Lot until the start of construction. In the event the Lot becomes, in the sole discretion of either the Declarant or the Board, a distraction or unattractive due to the growth of weeds, grass, or other vegetation, after five (5) days' notice to the Owner, either the Declarant or the Board may pay to have the Lot mowed or take other necessary action and the Owner shall reimburse the Declarant or the Association the cost thereof. A lien may then be filed against the Lot in the same manner as for delinquent dues to the Association.

(y) Rock or synthetic rock islands are prohibited.

Storage Tanks. Any storage tank requires prior written approve from the Architectural Control Committee.

Basketball Goals No basketball goals, posts or hoops may be erected or constructed on any Lot without the prior written consent of the Architectural Control Committee.

VII.

INSURANCE AND CASUALTY LOSSES

Insurance on Common Property.

(a) The Association's Board of Directors or its duly authorized agent shall obtain insurance for all insurable improvements on the Common Property and the entry features, if any, which the Association is obligated to maintain. This insurance shall provide, at a minimum, fire and extended coverage, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

(b) The Board shall obtain a public liability policy applicable to the Common Property covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least Five Hundred Thousand Dollars (\$500,000.00).

(c) The Board is hereby authorized to contract with or otherwise arrange to obtain the insurance coverage required hereunder through the Declarant and to reimburse Declarant for the cost thereof, and Declarant shall be authorized, but not obligated, to purchase such insurance coverage for the benefit of the Association and the Owners upon Declarant and Association agreeing upon the terms and conditions applicable to reimbursement by the Association for costs incurred by Declarant in obtaining such coverage. Notwithstanding anything contained in this Declaration to the contrary, the Board shall not be required to comply with the provisions of this Article if the Board has contracted for or otherwise arranged to obtain the required insurance coverage through the Declarant.

(d) Premiums for all insurance shall be common expenses of the Association. The policies may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

(e) All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association, as trustee for the respective benefited parties, as further identified in subparagraph (ii) below. Such insurance shall be governed by the provisions hereinafter set forth:

(i) ~~26/61~~ policies shall be written with a company licensed to do business in Alabama and holding a rating of B or better as established by A. M. Best Company, Inc., if available, or, if not available, the most nearly equivalent rating.

(ii) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(iii) In no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.

(iv) All insurance policies shall be reviewed annually by one or more qualified Persons.

(f) The Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Board of Directors, its manager, the Owners, the Declarant, and their respective tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

(iii) that no policy may be canceled, invalidated, or suspended on account of any one or more individual Owners;

(iv) that no policy may be canceled, invalidated, or suspended on account of any defect or the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or Mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(vi) that no policy may be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association.

Property Insured By Association: Damage and Destruction.

(g) Immediately after the damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty.

(h) Any damage or destruction shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least sixty-six (66%) percent of the total Association vote entitled to vote thereon, the Owner(s) of the damaged property, if any, and, so long as the Declarant has an option unilaterally to subject additional real property to this Declaration as provided in Article IX hereof, the Declarant, otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however such extension shall not exceed one hundred twenty (120) days.

(i) Any Mortgagee of Declarant or the Association shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed; provided, however, no Mortgagee of any Lot, unless such Lot is owned by the Declarant, shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

(j) If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Association's Members, levy a special assessment against all Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.

(k) In the event that it should be determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the property shall be restored to its natural state and maintained as an undeveloped portion of the Community in a neat and attractive condition.

Property Insured By Owners: Damage and Destruction.

(l) By virtue of taking title to property within the Community, each Owner covenants and agrees with all other Owners and with the Association that in the event that the Association does not carry insurance on the Owner's property, each individual Owner shall carry liability and casualty insurance.

(m) Each individual Owner further covenants and agrees that in the event of a partial loss of damage and destruction resulting in less than total destruction, the individual Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction. In the event that the structure is totally destroyed and the individual Owner determines not to rebuild or to reconstruct, the individual Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction.

Insurance Deductible. The deductible for any casualty insurance policy carried by the Association shall, in the event of damage or destruction, be allocated among the Persons who caused such damage or if none then shall be an Association Expense.

VIII.

CONDEMNATION

Whenever all or any part of the Common Property shall be taken (or conveyed in lieu of and under threat of condemnation by the Board, acting on its behalf or on the written direction of all Owners subject to the taking, if any) by any authority having the power of condemnation or eminent domain, the Association shall represent the Owners. The award made for such taking shall be payable to the Association as trustee for all Owners. The provisions of Article VII, Section 2, above, applicable to Common Property improvements damage or destruction, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

IX.

MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first Mortgages on Lots in the Community. The provisions of this Article apply to both this Declaration and the Bylaws notwithstanding any other provisions contained therein.

Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage, who provides written request to the Association (such request to state the name and address of such holder, insurer, guarantor and the Residence number, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days;

(c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) any proposed action which would require the consent of a specified percentage of eligible holders.

No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

Amendment by Board. Should compliance with the regulations adopted by the Veterans Administration or the Federal National Mortgage Association necessitate an amendment to this Declaration, the Board, without approval of the Owners, may amend this Declaration to reflect such changes as necessary to comply with such regulations, but nothing herein shall require compliance with the regulations or require the Board to amend the Declaration.

Applicability of Article X. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Alabama law for any of the acts set out in this Article.

Failure of Mortgagee to Respond. Any Mortgagee (or insurer or guarantor of a Mortgage) who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

X.

DISPUTE RESOLUTION

X.1. Agreement to Resolve Disputes Without Litigation.

(a) Declarant, the Association and its officers, directors, and committee members, all Owners, all Persons subject to this Declaration, and any person not

otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Party"), agree that it is in the best interest of all concerned to resolve disputes involving the Community, the Association and/or the Owners without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim (hereinafter defined), and to submit such Claim to the alternative dispute resolution procedures set forth in Section 10.2 in a good faith effort to resolve such Claim.

(b) As used in this Article, the term "Claim" shall refer to any claim, grievance or dispute arising out of or relating to:

(i) the interpretation, application, or enforcement of the Certificate of Formation, Bylaws, this Declaration, or the rules and regulations adopted by the Board from time to time (the "Community Documents");

(ii) the rights, obligations and duties of any Bound Party under the Community Documents or related argument; or

(iii) the development of the Community;

except that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 10.2:

(iv) any suit by the Association to collect Assessments or other amounts due from any Owner;

(v) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of this Declaration;

(vi) any suit between Owners, which does not include Developer or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Community Documents;

(vii) any suit in which any indispensable party is not a Bound Party except the construction contractor or sales contractor or Residence architect.

(viii) any suit as to which any applicable statute of limitations would expire within one hundred eighty (180) days of giving the Notice required by Section 10.2, unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

X.2. Dispute Resolution Procedures.

(a) Notice.³¹⁷⁶¹ If a Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice ("Notice") to each Respondent and to the Board stating plainly and concisely:

(i) the nature of the Claim, including the persons involved and the Respondent's role in the Claim;

(ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);

(iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) Mediation. If the parties have not resolved the Claim through negotiation within thirty (30) days of the date of the Notice described in Section 10.2(a) (or within such other period as the parties may agree upon), the Claimant shall have thirty (30) additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency or individual providing dispute resolution services in the State of Alabama selected by both sides if the Association is a party. If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim. If the parties do not settle the Claim within thirty (30) days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be required to initiate arbitration proceedings on the Claim, as set forth in Section 10.2(e) below. Each party shall bear its own costs of the mediation, including attorneys' fees, and each party shall share equally all fees charged by the mediator.

(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the

non-complying party ~~(32/61)~~ more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

(e) Arbitration; No Trial by Jury. All Claims, Disputes regarding Alleged Defects or other matters in question arising out of, or relating in any way to the Condominium or the breach of and contract between the Bound Parties that are not resolved by negotiation or mediation shall be resolved by binding arbitration by a single arbitrator in Shelby County, Alabama in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect.

EACH PARTY ACKNOWLEDGES THAT HE OR SHE IS KNOWINGLY WAIVING THE RIGHT TO A TRIAL BY JURY RELATING TO ALL CLAIMS.

All disputes concerning the arbitrability of any Claim or the enforceability or scope of this provision shall be subject to the same binding arbitration. The parties shall bear equally the cost of the arbitrator, and each party shall otherwise bear their own costs; provided, the arbitrator shall have the authority to award costs as a part of this award to the prevailing party. The arbitrator shall follow the law applicable to any Claim and shall be empowered to award any damages or other relief which would be available under the law applicable to any such Claim. The determination of the arbitrator shall be final, binding on the parties, and non-appealable and may be entered in any court of competent jurisdiction to enforce it. The parties acknowledge and agree that the transactions contemplated by, and relating to, the Community, which may include the use of materials and components which are obtained from out-of-state and which otherwise include the use of interstate mails, roadways and commerce, involve interstate commerce, as that term is defined in the Federal Arbitration Act, 9 U.S.C. § 2.

Initiation of Litigation by Association. In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association shall not initiate any judicial or administrative proceedings, or arbitration unless first approved by a vote of the members entitled to cast sixty-six and two-thirds percent (66.67%) of the votes in the Association, except that no such approval shall be required for actions or proceedings:

- (f) initiated during the Declarant Control Period;
- (g) initiated to enforce the provisions of this Declaration, including collection of assessments and foreclosure of liens;
- (h) initiated to challenge property taxation or condemnation proceedings;
- (i) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or

(j) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

(k) This Section 10.3 shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

XI.

EASEMENTS

Easements for Encroachment and Overhang. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Residence and such portion or portions of the Common Property adjacent thereto or as between adjacent Residences due to the placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than five (5) feet, as measured from any point on the common boundary between each Residence and the adjacent portion of the Common Property or as between adjacent Residences, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, Occupant, or the Association.

Easements for Use and Enjoyment of Common Property.

(a) Every Member shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to his or her Lot, subject to the following provisions:

(i) the right of the Board to charge reasonable admission and other fees for the use of any portion of the Common Property, including, without limitation, to limit the number of guests who may use the Common Property, to allow Persons who are not Members of the Association, such as Persons living or working in the vicinity of the Community, to use the Common Property on a regular or temporary basis and to charge or not charge a user fee therefore, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner, his or her family, tenants, guests, Occupants, and invitees;

(ii) the right of the Board to suspend the voting rights of an Owner and Occupant and the right of an Owner and Occupant to use the Common Property recreational facilities in the Community, if any, for any period during which any assessment which is hereby provided for remains unpaid; and, for a reasonable period of time for an infraction of the Declaration, Bylaws, use restrictions, rules and regulations or design guidelines;

(iii) ~~the~~ right of the Board to borrow money for the purpose of improving the Common Property, or any portion thereof, or for construction, repairing or improving any facilities located or to be located thereon, and give as security for the payment of any such loan a Mortgage conveying all or any portion of the Common Property; provided, however, the lien and encumbrance of any such Mortgage given shall be subject and subordinate to any rights, interests, options, easements and privileges herein reserved or established for the benefit of Declarant, or any Residence or Owner, or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Owner encumbering any Lot or other property located within the Community. (Any provision in this Declaration or in any such Mortgage given by the Board to the contrary notwithstanding, the exercise of any rights therein by the holder thereof in the event of a default thereunder shall not cancel or terminate any rights, easements or privileges herein reserved or established for the benefit of Declarant, or any Residence or Owner, or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Owner encumbering any Lot or other property located within the Community.); and

(iv) the right of the Board to dedicate or transfer all or any portion of the Common Property subject to such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by at least a Majority of the votes of the members of the Association, in person or by proxy, at a meeting duly called for such purpose (or, if a meeting is not called, upon the affirmative vote of at least a Majority of the votes cast in a referendum on the issue) and during the Declarant Control Period, by the Declarant.

(b) An Owner's right of use and enjoyment in and to the Common Property and facilities located thereon shall extend to the members of his or her family and guests. An Owner shall be deemed to have made a delegation of all such rights (except for the right of ingress and egress to the Owner's property) to the Occupants of any leased Residence. Upon the affirmative vote of the Majority of the Association vote present, in person or by proxy, at a meeting duly called for such purpose (or, if a meeting is not called, upon the affirmative vote of at least a Majority of the votes cast in a referendum on the issue) and, during the Declarant Control Period, the consent of Declarant, the Board may alter the use of any Common Property. For example, and by way of illustration and not limitation, the Board may convert tennis courts into a basketball court or vice versa.

(c) An Owner's right of use and enjoyment in and to the Common Property and facilities located thereon shall not give any Owner the right of ingress or egress across any Lot to obtain access to such Common Property.

Reserved Easements for the Provision of Services to the Community.

There is hereby reserved to the Declarant, its successors and assigns blanket easements upon, across, above and under all real property within the Community for access, ingress, egress, installation, repairing, replacing, maintaining, and removing rights-of-way, drainage facilities, flood way easements, and all utilities serving the Community or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, and any other similar service such as, but not limited to, a master television antenna system, cable television system, video system, or security system which the Declarant might decide to have installed to serve the Community or any portion thereof. It shall be expressly permissible for the Declarant and its successors and assigns to install, repair, replace, maintain, and remove or to authorize the installation, repair, replacement, maintenance, or removal of such wires, conduits, cables and other equipment related to the providing of any such utility or service. Declarant and its successors and assigns shall full rights of ingress and egress at all times over all portions of the Community for the installation, operation, maintenance, repair, or removal of any of the foregoing utilities or services and shall have the right to remove any unauthorized obstruction placed in or on any of the foregoing easements that would, in the sole discretion of Declarant or its successors and assigns, interfere with the use of the above installation of the foregoing utilities or services. In no event shall the foregoing prohibit paving or landscaping within such easements. Declarant shall have the right to assign and convey, in whole or in part, the easements reserved by it hereunder to one or more public utility companies, quasi-public service companies, or relevant governmental authorities. All utilities except drainage installed within the above described easements shall be installed underground. This reserved easement may be assigned by Declarant by written instrument to the Association, and the Association shall accept such assignment upon such terms and conditions as are acceptable to Declarant. Rights exercised pursuant to such reserved easements shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

XII.**GENERAL PROVISIONS**

Enforcement. Each Owner and every Occupant shall comply strictly with the Bylaws, the rules and regulations, the use restrictions and with the design guidelines, all as may be amended or modified from time to time, and with the covenants and restrictions set forth in this Declaration, as may be amended from time to time, and in the deed to his or her property within the Community, if any. The Board may impose fines or other sanctions, which shall be collected as provided herein for the collection of assessments. Failure to comply with this Declaration, the Bylaws, the rules and regulations, use restrictions, or design guidelines shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Board, on behalf of the Association, or, in a proper case, by an aggrieved Owner or Occupant. Failure by the Board, Declarant, or any Owner or Occupant to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Board shall have the right to record in the appropriate land records a notice of violation of the Declaration,

Bylaws, and to assess the cost of recording and removing such notice against the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing.

Self-Help. In addition to any other remedies provided for herein, the Board or its duly authorized agent shall have the power to enter upon a Lot or any portion of the Community to abate or remove, using such force as may be reasonably necessary, any erection, thing or condition which violates this Declaration, the Bylaws, the rules and regulations, the use restrictions, or the design guidelines. Except in the case of emergency situations and towing, the Board shall give the violating Owner ten (10) days' written notice of its intent to exercise self-help. All costs incurred shall be assessed against the violating Owner and shall be collected as provided for herein for the collection of assessments.

Durations. The provisions of this Declaration shall run with and bind the land and shall be and remain in effect perpetually to the extent permitted by law; provided, however, should any provision of Alabama law now or hereafter in effect limit the period during which covenants restricting land to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land so long as permitted by such law; and such provisions shall be automatically extended for successive periods of ten (10) years or such shorter period as may be allowed by law, unless such extension is disapproved at a meeting duly called for such purpose by at least a Majority of the total Association vote (or, if a meeting is not called, upon the affirmative vote of at least a Majority of the Association votes as recorded by a referendum on the issue) and, during the Declarant Control Period, the written consent of Declarant. Such meeting or referendum must be held and a written instrument reflecting disapproval must be recorded within the year immediately preceding the beginning of a renewal period. Every purchaser or grantee of any interest in any real property subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that such provisions of this Declaration may be extended and renewed as provided in this Section.

Amendment.

(a) This Declaration may be amended unilaterally at any time and from time to time by Declarant (i) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (iii) if such amendment is required by an institutional or governmental lender or purchaser of Mortgage loans, including, for example, without limitation the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, or a State or National Bank, to enable such lender or purchaser to make or purchase Mortgage loans on the Lots and Residences subject to this Declaration, or (iv) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure Mortgage loans on the Lots and Residences subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's property unless any such Owner shall consent

thereto in writing. ~~But~~^{Further}, during the Declarant Control Period, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not adversely affect the boundary of the Lot of any Owner without the consent of the affected Owner.

(b) In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least a Majority vote of the total votes of the Owners entitled to vote thereon and, during the Declarant Control Period, the consent of the Declarant, which consent may be withheld by the Declarant in its sole discretion. A meeting may be called (but shall not be required to be called) to consider and vote upon any amendment. Amendments to this Declaration shall become effective upon recordation in the Probate Office, unless a later effective date is specified therein.

(c) Any procedural challenge to an amendment must be made within six (6) months of its recordation in the Probate Office. In no event shall a change of conditions or circumstances operate to amend any provisions of the Declaration or Bylaws.

Partition. The Common Property shall remain undivided, and no Owner nor any other Person shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the property located within the Community, the written consent of all holders of all Mortgages encumbering any portion of the property located within the Community, and, during the Declarant Control Period, the consent of the Declarant.

Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any Person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Indemnification. The Association shall indemnify every officer and Director against any and all expenses, including attorney's fees, imposed upon or reasonably incurred by any officer or Director in connection with any action, suit, or other proceeding (including

settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or Director. The officers and Directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and Directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or Directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and Director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or Director, or former officer or Director, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

Construction and Sale Period. Notwithstanding any provisions contained in this Declaration, the Bylaws, Certificate of Formation, use restrictions, rules and regulations, design guidelines, and any amendments thereto, during the Declarant Control Period, it shall be expressly permissible for Declarant and any builder or developer approved by Declarant to maintain and carry on, upon such portion of the Community as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient, or incidental to Declarant's and such builder's or developer's development, construction, and sales activities related to the Property and any additional property that may be submitted to this Declaration, including, but without limitation: the right of access, ingress and egress for vehicular and pedestrian traffic over, under, on or in the Community; the right to tie into any portion of the Community with driveways, parking areas and walkways; the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; the right to carry on sales and promotional activities in the Community, including directional and sales signs in the common areas; and the right to construct and operate business offices, signs, banners, flags, construction trailers, sales offices, model residences with fences, gates and walkways, and hold open houses and Parades of Homes for the public. Declarant and any such builder or developer may use Residences or offices owned or leased by Declarant or such builder or developer as model Residences and sales offices. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

Books and Records. This Declaration, the Bylaws, the Certificate of Formation, copies of rules and regulations, use restrictions, design guidelines, membership register, books of account, and minutes of meetings of the Members, or the Board and of committees shall be made available for inspection and copying by any Member of the Association or by the duly appointed

representative and by holders, insurers, or guarantors of any first Mortgage at any reasonable time and for a purpose reasonably related to his or her interest as a Member or holder, insurer, or guarantor of a first Mortgage at the office of the Association or at such other reasonable place as the Board shall prescribe.

The Board shall establish reasonable rules with respect to:

- (d) notice to be given to the custodian of the records;
- (e) hours and days of the week when such an inspection may be made; and
- (f) payment of the cost of reproducing copies of documents.

Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extra copies of documents at the reasonable expense of the Association.

Audit. An audit or compilation of the accounts of the Association may be made annually in such manner as the Board may decide. Upon written request of any institutional holder of a first Mortgage, such holder, upon payment of the costs associated therewith, shall be entitled to receive a copy of a financial statement within ninety (90) days of the date of the request.

Estoppel Certificate. Upon the request of any Member, the Board or its designee shall furnish a written certificate signed by an officer or agent of the Association regarding unpaid assessments levied against that Member's property and any violations of the Declaration, Bylaws, use restrictions, rules and regulations, or design guidelines by any Owner or Occupant of such property. Such certificate shall bind the Association with respect to the foregoing matters. The Association may require the advance payment of a processing fee not to exceed Twenty-five (\$25.00) Dollars for the issuance of each such certificate.

Agreements. Subject to the prior approval of Declarant during the Declarant Control Period, all agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and other having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.

Implied Rights. The Association may exercise any right or privilege given to it expressly by the Declaration, the Bylaws, the Certificate of Formation, any use restriction or rule, the design guidelines and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

Deviations. The Board or its designee or the Declarant during the Declarant Control Period, may, in the exercise of its discretion, permit deviations from the restrictions contained in this Declaration, the Bylaws, the rules and regulations, the use restrictions, and the design guidelines.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the undersigned, has executed this Declaration this the 1st day of ~~June~~, 2021.
July

VALOR COMMUNITIES, LLC, an
Alabama limited liability company


By: Scott DeBoard
Its: Authorized Agent

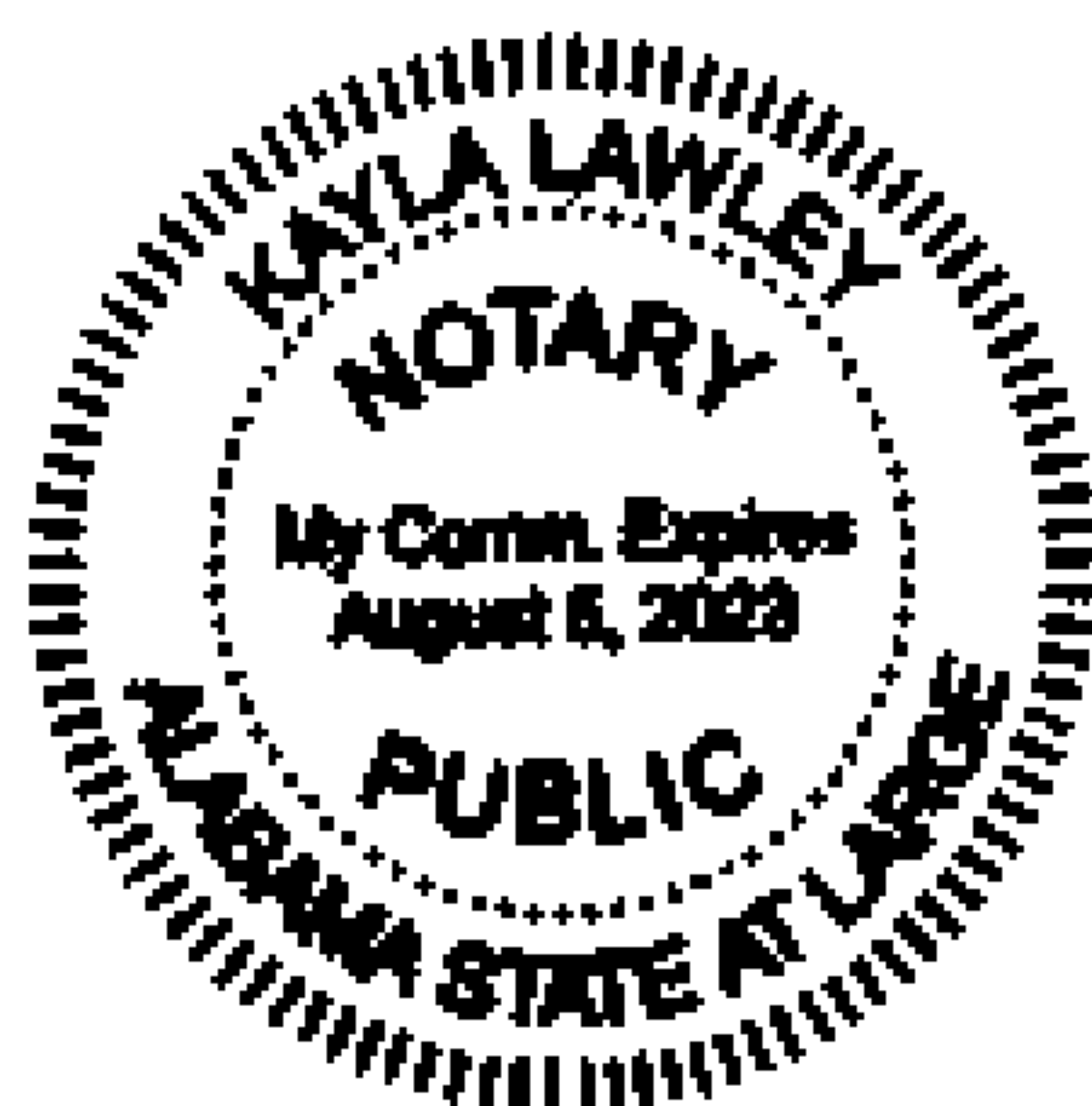
STATE OF Alabama)

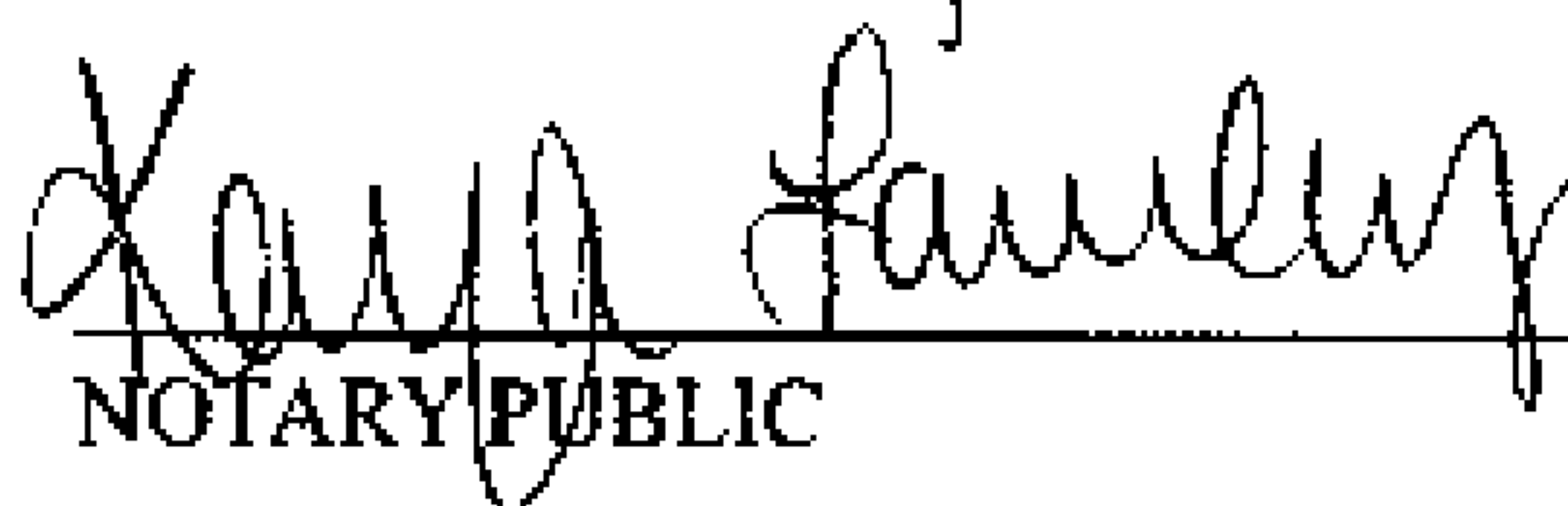
COUNTY OF Shelby)

I, Kayla Lawley, a Notary Public in and for said County in said State, hereby certify that Scott DeBoard, whose name as Authorized Agent of Valor Communities, LLC, an Alabama limited liability company is signed to the foregoing Declaration, and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he executed the same voluntarily on behalf of such company on the day the same bears date.

Given under my hand and seal, this 1st day of July, 2021.

[SEAL]




NOTARY PUBLIC

My Commission Expires: 8/5/23

AMERIS BANK

By: [Signature]
Name: Gerald A. Kemp
Its: Senior Vice President

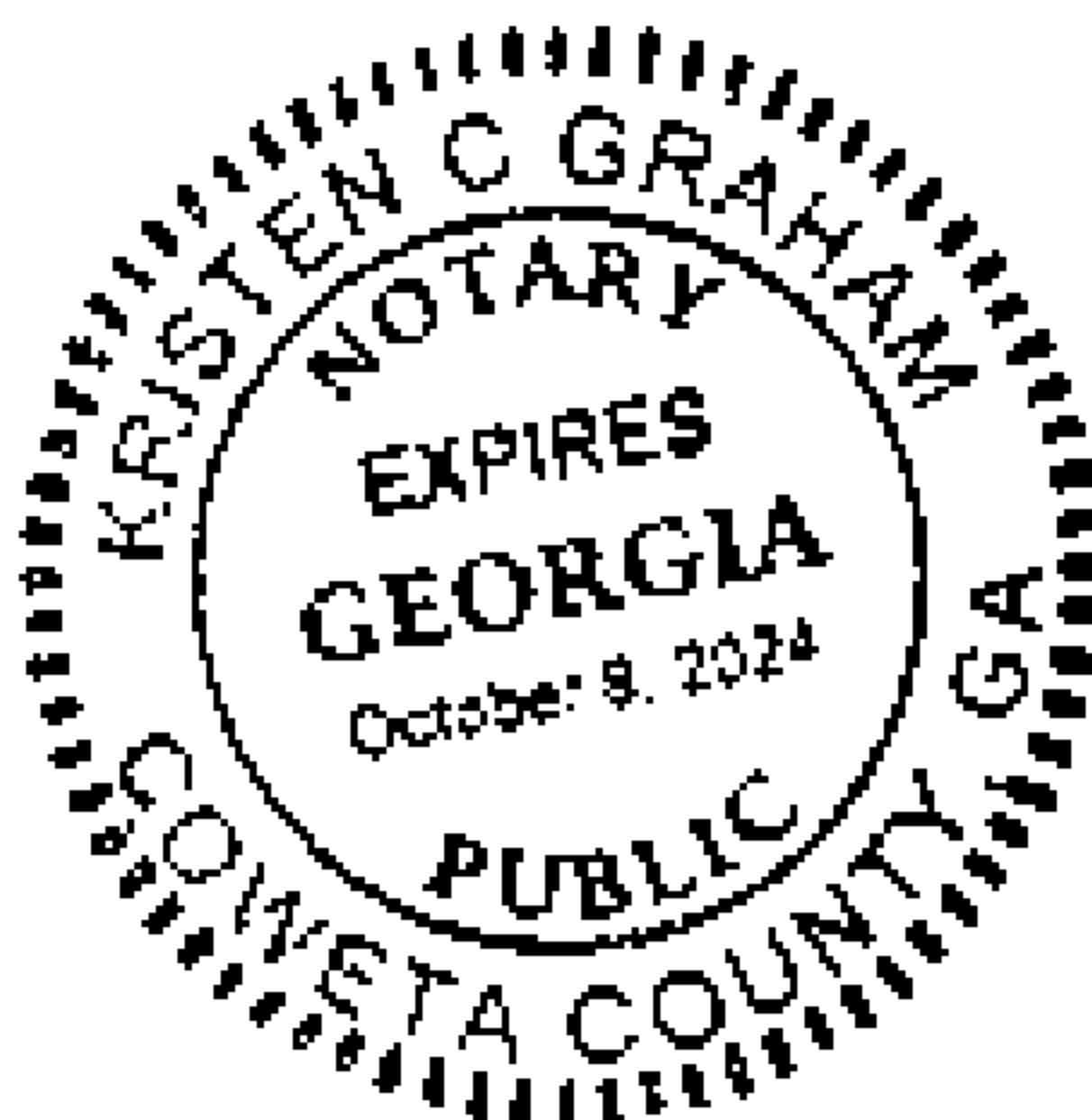
STATE OF GA)

COUNTY OF Coweta)

I, Kristen Graham, a Notary Public in and for said County in said State, hereby certify that Gerald A. Kemp, whose name as SVP Construction of AMERIS BANK, a _____, is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal, this 1st day of July, 2021.

[SEAL]



[Signature]
NOTARY PUBLIC

My Commission Expires: October 8, 2024

By: [Signature]
Name: Andy Robertson
Its: Director of Construction Lending

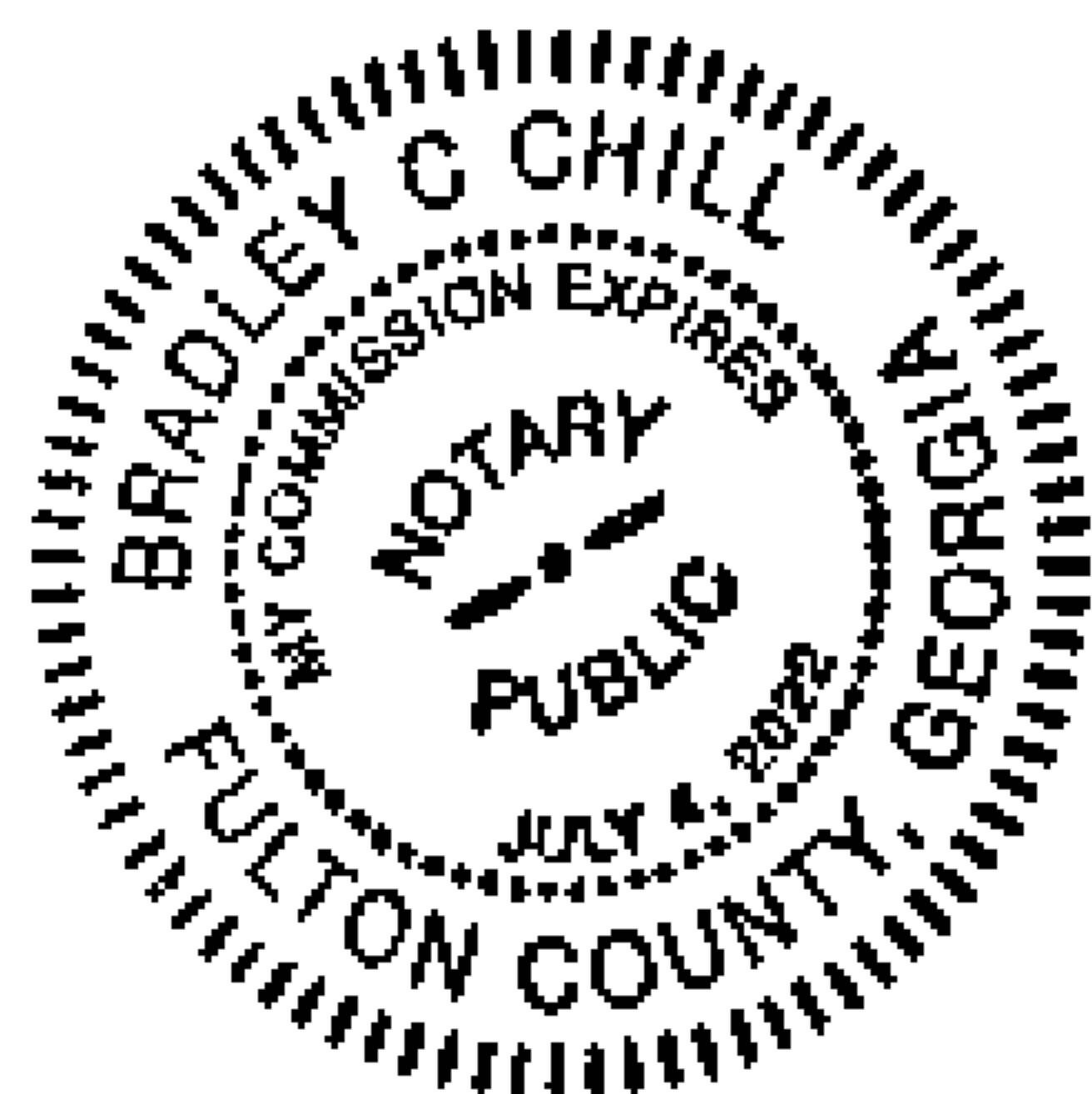
Georgia
STATE OF ALABAMA-)
COUNTY OF Fulton)

I, Bradley C. Chill, a Notary Public in and for said County in said State, hereby certify that Andy Robertson, whose name as Director of Construction Lending of RENASANT BANK, a Georgia Banking Co., is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal, this 1st day of July, 2021.

Bradley C. Chill
NOTARY PUBLIC

[SEAL]



My Commission Expires: 7-4-22

TRUSTMARK NATIONAL BANK

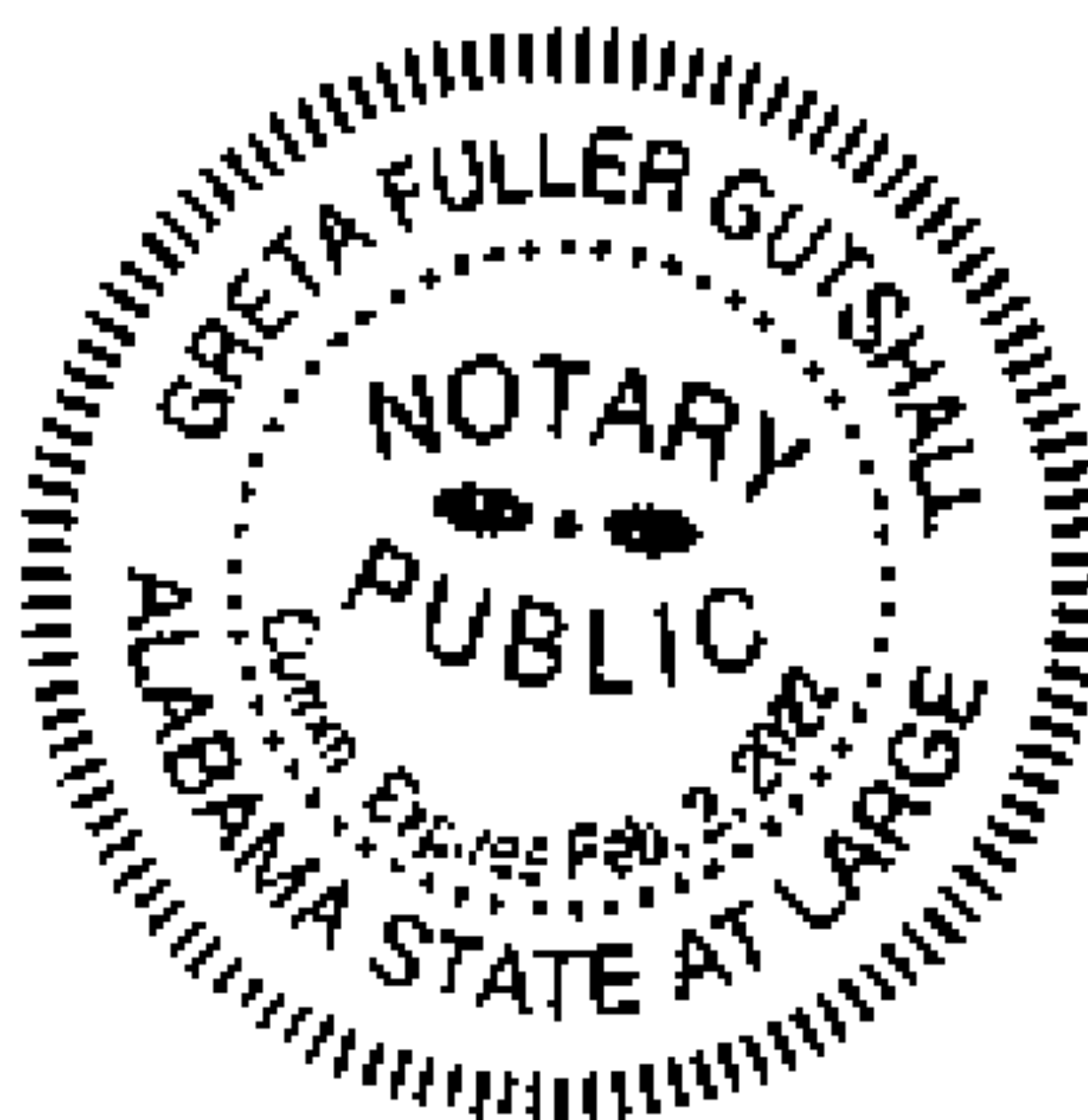
By: [Signature]
Name: BEN HENDRIX
Its: SVP

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, Greta Fuller Gutschall, a Notary Public in and for said County in said State, hereby certify that Ben Hendrix, whose name as Sr. Vice President of TRUSTMARK NATIONAL BANK, a National Banking Corporation, is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal, this 1st day of July, 2021.

[SEAL]



Greta Fuller Gutschall
NOTARY PUBLIC

My Commission Expires: 2-2-2022

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45/61 **EXHIBIT "A"**

LEGAL DESCRIPTION OF PROPERTY

Lots 194, 195, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 252, 253, 254, 255, 256, 257, 258, 259, 261, 262, and 263 as shown on the Wynlake Sector 5 Amended Plat recorded on January 6, 2009 in Map Book 40, Page 125 in the Office of the Judge of Probate of Shelby County, Alabama.

20210701000320990 07/01/2021 03:41:24 PM RESTCOVN
46/61 **EXHIBIT "B"**

BYLAWS OF THE ASSOCIATION

BYLAWS
OF
WYNLAKE PROPERTY OWNERS ASSOCIATION, INC.

OF
WYNLAKE PROPERTY OWNERS ASSOCIATION, INC.

ARTICLE I

THE ASSOCIATION

SECTION I.01 NAME. The name of this Association shall be Wynlake Property Owners Association, Inc. (the "Association"), which was formed under the Alabama Nonprofit Corporation Law as set forth in Chapters 1 and 3 of the Alabama Business and Nonprofit Entity Code, Code of Alabama 1975 §§ 10A-1-1.01 et seq., by filing the Certificate of Formation of Wynlake Property Owners Association, Inc. dated as of June 29, 2021 and recorded in the Office of the Secretary of State of the State of Alabama.

SECTION I.02 DECLARATION. The provisions of these Bylaws are expressly subject to the terms and provisions of the Declaration of Covenants, Easements, and Restrictions for Wynlake Subdivision Sector V filed on June 29, 2021, which has been recorded in the Office of the Judge of Probate of Shelby County, Alabama (which, together with all subsequent amendments thereto, is hereinafter referred to as the "Declaration"). *Capitalized terms not otherwise expressly defined herein shall have the same meanings given to them in the Declaration.*

SECTION I.03 PRINCIPAL OFFICE. The principal office of the Association in the State of Alabama shall be located at 1555 The Boardwalk, Huntsville, AL 35814. The Association may have such other offices, either within or without the State of Alabama, as the Board of Directors may designate from time to time.

SECTION I.04 REGISTERED OFFICE. The initial registered office of the Association shall be the same as the principal office of the Association.

ARTICLE II

MEMBERS

SECTION II.01 MEMBERSHIP. Each person who is the Owner of any Lot within the Property shall be a Member of the Association. Declarant shall be deemed a Member, as herein defined, of the Association and shall have all voting rights attributable to any Lots owned by Declarant. If a Lot is owned by more than one person and if only one of those persons is present at a meeting of the Association, that person shall be entitled to cast the vote appertaining to such Lot; provided, however, that if more than one of those persons is present, the vote appertaining thereto shall be cast only in accordance with their unanimous

agreement, and, if no unanimous agreement is reached, the vote appurtenant to such Lot shall be suspended. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Lot. Notwithstanding anything provided herein or in the Certificate of Formation to the contrary, prior to the expiration of the Declarant Control Period, Declarant shall have the sole and exclusive right to (a) appoint and remove all of the members of the Board of Directors of the Association and (b) exercise all voting in the Association. The voting rights of any Member who is in default in the payment of any Assessments may be limited and suspended in accordance with the provisions of the Declaration, these Bylaws or any rules and regulations adopted from time to time by the Association.

SECTION II.02 ANNUAL MEETING. The first annual meeting of the Members of the Association shall be held immediately following the date the Declarant Control Period expires and, unless otherwise approved by the Board of Directors, all subsequent annual meetings of the Members shall be held on each anniversary date thereafter. If the day fixed for the annual meeting shall be a legal holiday, such meeting shall be held on the next succeeding business day. Subject to the provisions of Section 2.09 below, at each annual meeting, the Members of the Association shall, subject to the terms of Sections 2.01 and 3.03 of these Bylaws, elect the Board of Directors of the Association and otherwise transact such other business as may come before such meeting. Subject to the provisions of Section 2.09 below, if the election of Directors shall not be held on the day designated herein for any annual meeting of the Members of the Association, or any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the Members of the Association as soon thereafter as may be convenient.

SECTION II.03 SPECIAL MEETINGS. Subject to the provisions of Section 2.09 below, special meetings of Members, for any purpose or purposes, unless otherwise prescribed by statute, may be called either by the President or the Board of Directors of the Association and, after the expiration of the Declarant Control Period, shall be called by the President or Secretary of the Association upon the petition of at least ten percent (10%) or more of the total votes in the Association.

SECTION II.04 PLACE OF MEETING. Subject to the provisions of Section 2.09 below, the Board of Directors may designate any place, either within or without the State of Alabama, as the place of meeting for any annual or special meeting. In the absence of any designation, all meetings shall be held at the principal office of the Association in the State of Alabama.

SECTION II.05 NOTICE OF MEETING. Subject to the provisions of Section 2.09 below, written or printed notice (or wireless transmission via facsimile or electronic mail) stating the place, day and hour of the meeting and, in case of a special meeting, or of a meeting which is required by statute to be held for any special purpose, or of any annual meeting at which special action is to be taken, the purpose or purposes for which the meeting is called, or the special action which is proposed to be taken, shall be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personally or by mail, electronic mail or facsimile, by or at the direction of the Board of Directors, the

President, the Secretary, or the officer or persons calling the meeting, to each Member of the Association.

SECTION II.06 QUORUM. Subject to the provisions of Sections 2.09 and 2.10 below, with respect to the annual or any special meeting of the Members of the Association, a quorum shall be deemed to exist if Members of the Association entitled to cast at least fifty percent (50%) of all votes of the Association are present, in person or by proxy, at such meeting. If the required quorum is not present, another meeting may be called subject to the same notice requirements but the required quorum at the subsequent meeting shall be the presence, in person or by proxy, of Members entitled to cast at least twenty percent (20%) of the total votes of the Association. The Members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of Members therefrom leaving less than a quorum.

SECTION II.07 PROXIES. At all meetings of the Members of the Association and in all ballot votes of the Members of the Association held pursuant to Section 2.09 below, a Member may vote either in person or by proxy executed in writing by the Member or by his duly authorized attorney-in-fact. Such proxy shall be filed with the Secretary of the Association before or at the time of the meeting or at the time of any ballot vote held pursuant to Section 2.09 below. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

SECTION II.08 VOTING BY MEMBERS.

(a) Subject to the provisions of Section 2.01 above, the remaining terms and provisions of this Section 2.08 and Sections 2.10 and 3.03 below, each Member of the Association shall be entitled to one (1) vote for each Lot he owns. When one or more persons owns a Lot, all such persons may be Members, but in no event shall more than one vote be cast with respect to any Lot. If an Owner is a corporation or other entity, the person entitled to cast the vote for the Lot shall be designated by a certificate duly executed by such corporation or other entity and filed with the Secretary of the Association. Such certificate shall be valid until revoked or until superseded by a subsequent certificate or a change in the ownership of the Lot. A certificate designating the person entitled to cast the vote of a Lot may be revoked at any time by any Owner of a Lot. There shall be no fractional voting. The votes of an Owner of more than one Lot cannot be divided for any issue and must be voted as a whole. Except where otherwise required under the provisions of the Declaration, the Certificate of Formation or these Bylaws, the affirmative vote of Owners present in person or by proxy who own a majority of the total Lots within the Property at any meeting of Members duly called, and at which a quorum is present, shall be binding upon the Members. Voting may take place by proxy executed and delivered in the manner set forth herein.

(b) For purposes of the Declaration, these Bylaws and the Certificate of Formation, the vote of a "majority" of the Members of the Association (or of the Owners) shall mean the vote of at least fifty-one percent (51%) in interest of the total number of votes entitled to vote in the Association which are voted either in person or by proxy at either (i) a duly constituted annual or special meeting of the Members (i.e., an annual or special meeting at which a quorum is present) or (ii) a ballot vote held in accordance with the terms and provisions of Section 2.09

hereof; provided, however, that any Member whose voting rights in the Association are suspended shall not be (1) entitled to vote on any matters submitted to the Members for approval, (2) included in any determination as to whether a quorum exists, (3) included in the determination of whether the minimum number of votes are cast in a ballot vote, and (4) included in the calculation of the total number of votes in the Association at the time of any such vote. Unless a greater proportion is specified in the Declaration, these Bylaws or the Certificate of Formation and, subject to the terms and provisions of this Section 2.08 and Sections 2.10 and 3.03 of these Bylaws, any matter which requires the vote of approval, disapproval or consent of the Members in good standing of the Association or of the Owners shall be deemed to have been given if a "majority" in interest of the Members in good standing of the Association represented at a duly constituted meeting or at a ballot vote held in accordance with the terms and provisions of Section 2.09 below, either in person or by proxy, affirmatively vote for, approve, disapprove or consent to the same. When more than one person is the Owner of a Lot, the provisions of Section 2.01 of these Bylaws shall be applicable to the exercise of such voting rights.

(c) Notwithstanding anything provided herein to the contrary, prior to the termination of the Declarant Control Period, Declarant shall have the sole and exclusive right to exercise all voting rights in the Association other than with respect to any Special Assessments to be made pursuant to Article IV, Section 5 of the Declaration which require the consent and approval of a specified number of the Members and the Declarant (when applicable), in which event such Special Assessment shall be submitted to the Members for approval in accordance with the voting requirements of Article IV, Section 5 of the Declaration and the provisions of this Section 2.08. Except for the exclusive voting rights reserved above by Declarant, there shall be no cumulative voting by the Members.

SECTION II.09 BALLOT VOTING IN LIEU OF MEETINGS.

(a) Notwithstanding anything provided to the contrary in the Declaration, the Certificate of Formation or these Bylaws, any matter which is required or permitted to be approved by the Members of the Association, including, without limitation, amendments to the Declaration, the Certificate of Formation and the Bylaws which require any consent or approval of the Members, the election and removal of members of the Board of Directors and the approval of Special Assessments, may, subject to the rights retained and reserved by Declarant during the time prior to the expiration of the Declarant Control Period pursuant to the terms of Sections 2.08 and 3.03 hereof, be submitted to the Members of the Association by a ballot vote, without any requirement that either an annual or special meeting of the Members of the Association be held, subject to the satisfaction of the following terms and conditions:

(i) Any matters to be submitted to the Members for approval pursuant to a ballot vote shall (1) be set forth on a ballot, the form of which must be approved by the Board of Directors, (2) subject to the provisions of Section 2.10 below, be mailed to all Members of the Association (utilizing the notice provisions set forth in Section 5.10 hereof) not less than ten (10) days nor more than fifty (50) days before the date such ballots shall be counted by the Board of Directors and (3) specify that all such ballots must be returned to and received by the Association no later than 12:00 p.m. on the date specified on such ballot as the date on which the ballots will be counted by the Board of Directors; and

(ii) Any matter submitted to the Members for approval by ballot vote shall be deemed approved only if (1) at least fifty percent (50%) of the total number of votes in the Association entitled to vote on such matter (i.e., Members "in good standing", as defined in Section 2.10 below) cast ballots with respect to such proposal (regardless of whether such ballots are cast for or against such matter) and (2) a majority of all votes cast in such ballot vote by Members entitled to vote on such matter (i.e., Members "in good standing", as defined in Section 2.10 below) approve such matter (or such higher percentage of votes as may be required by the Declaration).

(b) The ballot voting procedures set forth above may be utilized in lieu of the holding of any annual or special meeting of the Members of the Association.

SECTION II.10 SUSPENSION OF VOTING RIGHTS. Any Member who has not timely paid any Assessments due to the Association pursuant to any of the provisions of the Declaration may not, at the discretion of the Board of Directors, be entitled to vote on any matters submitted to the Members for a vote. A Member shall be deemed "in good standing" so long as all Assessments payable by such Member have been paid in full and the Member is in compliance with the covenants and restrictions set forth in the Declaration.

ARTICLE III

BOARD OF DIRECTORS

SECTION III.01 GENERAL POWERS. The business and affairs of the Association shall be managed by or under the direction of its Board of Directors (individually a "Director" and collectively, the "Directors"). All actions required or permitted to be taken by the Association under the Declaration shall be taken by the sole action of the Board of Directors without any requirement that any Owners or Mortgagees consent to or such actions.

SECTION III.02 NUMBER, TENURE AND QUALIFICATIONS.

(a) Prior to the expiration of the Declarant Control Period, the number of Directors of the Association shall be three (3). From and after the expiration of the Declarant Control Period, the number of Directors of the Association shall be no less than three (3) and no more than seven (7) as such number may be determined by the majority vote of the Members present at a duly called meeting at which a quorum is established. Each Director shall hold office until his or her successor shall have been elected and qualified. Directors need not be residents of the State of Alabama or Members of the Association.

(b) Prior to the expiration of the Declarant Control Period, each Director appointed by Declarant shall serve at the will and for such term as Declarant elects; provided, however, that Declarant may, in its sole discretion, remove any Director appointed by Declarant at any time, with or without cause, upon written notice to such Director. Each Director shall hold office until his or her successor shall have been elected and qualified.

(c) At the first meeting (or ballot vote) of the Members of the Association following the expiration of the Declarant Control Period, the Members shall elect five (5) members of the Board of Directors to serve a one (1) year term.

SECTION III.03 ELECTION, REMOVAL AND REPLACEMENT OF DIRECTORS.

(a) Prior to the expiration of the Declarant Control Period, Declarant shall have the sole and exclusive right to appoint and remove, with or without cause, all of the members of the Board of Directors of the Association. Each member of the Board of Directors appointed by Declarant shall serve at the will and for such term as Declarant elects; provided, however, that Declarant may, in its sole discretion, remove any member of the Board of Directors at any time, with or without cause, upon written notice to such member of the Board of Directors. In the event of the death or resignation of a member of the Board of Directors at any time prior to the expiration of the Declarant Control Period, then Declarant shall appoint a substitute member of the Board of Directors to fill the vacancy of such deceased or resigned member of the Board of Directors.

(b) Immediately after the expiration of the Declarant Control Period, the then existing members of the Board of Directors shall appoint a nominating committee consisting only of Members (or Persons who constitute officers, directors, shareholders, partners, members or managers of a Member or who are employees of a Member) of the Association. At least ten (10) days prior to the first annual meeting of the Members (or any ballot vote held in lieu of any annual meeting), the nominating committee shall provide written notice to all Members identifying those individuals who have been nominated by such nominating committee as candidates for the five (5) positions on the Board of Directors which will be filled on the date the Declarant Control Period expires. Each subsequent year after the Declarant Control Period expires, the Board of Directors shall appoint a nominating committee consisting of Members (or Persons who constitute officers, directors, shareholders, partners, members or managers of a Member or who are employees of a Member) of the Association which shall, at least ten (10) days prior to the annual meeting of the Members (or any ballot vote held in lieu of any annual meeting), provide written notice to all Members identifying those individuals who have been nominated by such nominating committee as candidates to fill the upcoming vacancies on the Board of Directors at the next annual meeting of the Members (or any ballot vote held in lieu of any annual meeting). The number of candidates proposed to fill upcoming vacancies on the Board of Directors shall be determined by the nominating committee.

(c) At each annual meeting of the Members (or any ballot vote held in lieu of any annual meeting) on or after the date the Declarant Control Period expires, the Members will have the right to nominate from the floor (or write-in on any ballot) the name(s) of any individuals not nominated by the nominating committee as a candidate for any position on the Board of Directors which will be vacated and filled by the vote of the Members at such annual meeting (or any ballot vote held in lieu of any such annual meeting).

(d) From and after the expiration of the Declarant Control Period, the Members of the Association shall elect at each annual meeting of the Members (or in any ballot vote held in lieu of any annual meeting) from and among the individuals nominated pursuant to Sections 3.03(b)

or 3.03(c) above the members of the Board of Directors to fill the expired terms of any Director(s).

(e) Following the expiration of the Declarant Control Period, any member of the Board of Directors of the Association elected by the Members may be removed, with or without cause, at any time or from time to time by the majority vote of the Members in good standing at an annual or a special meeting of the Members held pursuant to the provisions of Article II hereof. In the event of the death or resignation of a member of the Board of Directors or the removal of any Director pursuant to Section 3.03(f) below at any time after the expiration of the Declarant Control Period, then the remaining members of the Board of Directors shall appoint a substitute Director to fill the vacancy of such deceased or resigned member of the Board of Directors who shall serve for the remainder of the current year until a new Director is elected at the following annual or special meeting or by ballot vote.

(f) Following the expiration of the Declarant Control Period, any Director who fails to attend by phone or in person three (3) or more consecutive meetings of the Board of Directors may be removed from the Board of Directors by the vote of a majority of the Directors, as defined in Section 3.08 below.

SECTION III.04 ANNUAL AND REGULAR MEETINGS. An annual meeting of the Board of Directors shall be held, without further notice, immediately after, and at the same place as, the annual meeting of the Members of the Association; provided, however, that any such annual meeting may be held at any other time or place as determined by a majority of the members of the Board of Directors. The Board of Directors may provide, by resolution, the time and place, either within or outside the State of Alabama, for the holding of regular meetings without further notice other than as set forth in such resolution.

SECTION III.05 SPECIAL MEETINGS. Special meetings of the Board of Directors may be called by or at the request of the President, any Vice President or any two (2) Directors. The person or persons authorized to call special meetings of the Board of Directors may fix any place, either within or without the State of Alabama, as the place for holding any special meeting of the Board of Directors called by them.

SECTION III.06 NOTICE. Special meetings of the Board of Directors shall be preceded by at least ten (10) days' notice to each Director of the date, time and place of the meeting. Any Director may waive notice of any meeting; provided, however, that such waiver must be in writing. The attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. The purpose of any regular or special meeting of the Board of Directors need not be specified in the notice or waiver of notice of such meeting.

SECTION III.07 QUORUM. Subject to the provisions of Section 3.14 below, a majority of the number of Directors fixed by Section 3.02(a) of these Bylaws shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but if less than such majority is present at a meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice. If a quorum is present when the

meeting is convened, the Directors present may continue to do business until adjournment, taking action by a vote of a majority of the quorum as fixed above present at the beginning of such meeting, notwithstanding the withdrawal of Directors leaving less than a quorum as fixed above, or the refusal of any Director present to vote.

SECTION III.08 MANNER OF ACTING. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by statute, the Certificate of Formation or these Bylaws. As used herein, the term "majority of the Directors" or "a majority of the number of Directors" or similar terms relating to any action to be taken by the Directors shall mean at least fifty-one percent (51%) of all of those Directors present at a duly convened meeting of the Board of Directors have approved or consented to such proposed action or matter.

SECTION III.09 ACTION WITHOUT A MEETING. Any action required or permitted to be taken by the Board of Directors may be taken without a meeting of the Board of Directors if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors.

SECTION III.10 COMPENSATION. If approved by a majority of the votes in the Association, each Director may be paid his or her expenses, if any, of attendance at each meeting of the Board of Directors. No such payment shall preclude any Director from serving the Association in any other capacity and receiving compensation therefor.

SECTION III.11 COMMITTEES. The Board of Directors, by resolution adopted by a majority of the Directors, may designate any individual who need not be a Member to serve on one or more committees. No such committee shall have the authority of the Board of Directors except for the ACC. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors. The designation of any such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors or any Director of any responsibility imposed upon it or such Director by law.

SECTION III.12 RESIGNATIONS. Any Director of the Association may resign at any time either by oral tender of resignation at any meeting of the Board of Directors or by giving written notice thereof to the Secretary of the Association. Any such resignation shall take effect upon receipt of such notice or at any later time specified therein. Unless otherwise specified in the notice, the acceptance of such resignation shall not be necessary to make it effective.

SECTION III.13 PARTICIPATION IN MEETINGS BY CONFERENCE TELEPHONE. Members of the Board of Directors or any committee designated thereby may participate in a meeting of such Board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at such meeting.

SECTION III.14 ~~5464~~ ACC MEMBERS. If, pursuant to the terms of the Declaration, Declarant has relinquished its right to appoint and remove the members of the Architectural Control Committee ("ACC"), then the Board of Directors of the Association shall thereafter appoint and remove, with or without cause, all members of the ACC. The persons designated by the Board of Directors to serve on the ACC shall, notwithstanding anything provided in these Bylaws to the contrary, (a) be deemed agents and representatives of the Association, (b) need not be Members of the Association and (c) have no personal liability with respect to either any actions taken by the ACC pursuant to the terms and provisions of the Declaration or with respect to any contract or other commitment made by them, in good faith, on behalf of the Association with respect to the ACC. The Association shall and does hereby indemnify, defend and agree to forever hold each person designated by the Board of Directors to serve on the ACC harmless from and against any and all liability on account of any (i) contract or commitment entered into by such persons, in good faith, on behalf of the ACC under the Declaration, and (ii) other actions undertaken by such persons in furtherance of their respective duties and responsibilities under the Declaration.

ARTICLE IV

OFFICERS

SECTION IV.01 PRINCIPAL OFFICERS. The principal officers of the Association shall be elected by the Board of Directors and shall include a President, one or more Vice Presidents, a Secretary and a Treasurer and other officers as may be designated from time to time. Any number of offices may be held by the same person, except the offices of President and Secretary. None of the principal officers need be Directors of the Association.

SECTION IV.02 ELECTION OF PRINCIPAL OFFICERS: TERM OF OFFICE. The principal officers of the Association shall be elected annually by the Board of Directors. Each principal officer shall hold office until his or her successor shall have been duly elected and qualified or until such officer's death or until such officer shall resign or shall have been removed in the manner herein provided. If the Board of Directors shall fail to fill any principal office at an annual meeting of the Board of Directors, or if any vacancy in any principal office shall occur, or if any principal office shall be newly created, such principal office may be filled at any regular or special meeting of the Board of Directors.

SECTION IV.03 SUBORDINATE OFFICERS; AGENTS AND EMPLOYEES. In addition to the principal officers, the Association may have such other subordinate officers, agents and employees as the Board of Directors may deem advisable each of whom shall hold office for such period and have such authority and perform such duties as the Board of Directors may from time to time determine.

SECTION IV.04 DELEGATION OF DUTIES OF OFFICERS. The Board of Directors may delegate the duties and powers of any officer of the Association to any other

officer or to any Director ~~for a~~ specified period of time for any reason that the Board of Directors may deem sufficient.

SECTION IV.05 REMOVAL OF OFFICERS OR AGENTS. Any officer or agent of the Association may be removed by the Board of Directors at any time, either with or without cause, and the Board of Directors may appoint a successor to such removed officer and agent. Election or appointment of any officer or agent shall not of itself create contract rights.

SECTION IV.06 RESIGNATIONS. Any officer may resign at any time by giving written notice of resignation to the Board of Directors, to the Chairman of the Board, to the President or to the Secretary. Any such resignation shall take effect upon receipt of such notice or at any later time specified therein. Unless otherwise specified in the notice, the acceptance of a resignation shall not be necessary to make the resignation effective.

SECTION IV.07 VACANCIES. A vacancy in any office, the holder of which is elected or appointed by the Board of Directors, because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term of such office. A vacancy in any other office for any reason shall be filled by the Board of Directors, or any committee, or officer to whom authority for the appointment, removal or filling of vacancies may have been delegated by these Bylaws or by resolution of the Board of Directors.

SECTION IV.08 PRESIDENT. The President shall preside at all meetings of the Members of the Association at which he or she is present. The President shall be the chief executive officer of the Association and, subject to the control of the Board of Directors, shall have general supervision over the business and affairs of the Association. The President shall have all powers and duties usually incident to the office of the President except as specifically limited by resolution of the Board of Directors. The President shall have such other powers and perform such other duties as may be assigned to him or her from time to time by the Board of Directors.

SECTION IV.09 VICE PRESIDENTS. In the absence or disability of the President or if the office of President be vacant, the Vice Presidents, in the order determined by the Board of Directors, or if no such determination has been made, in the order of their seniority as a Vice President of the Association, shall perform the duties and exercise the powers of the President, subject to the right of the Board of Directors at any time to extend or confine such powers and duties or to assign them to others. Any Vice President may have such additional designation in his or her title as the Board of Directors may determine. Each Vice President shall generally assist the President in such manner as the President shall direct. Each Vice President shall have such other powers and perform such other duties as may be assigned to him or her from time to time by the Board of Directors or the President.

SECTION IV.10 SECRETARY. The Secretary shall act as Secretary of all meetings of the Members of the Association and of the Board of Directors at which he or she is present, shall record the proceedings of all such meetings in a minute book to be kept for that purpose, shall have supervision over the giving and service of notices of the Association,

and shall have supervision^{88/81} over the care and custody of the records and seal of the Association (if the Association has a seal). The Secretary shall be empowered to affix the corporate seal to documents, the execution of which on behalf of the Association under its seal is duly authorized, and when so affixed may attest the same. The Secretary shall have all powers and duties usually incident to the office of Secretary, except as specifically limited by a resolution of the Board of Directors, including, without limitation, the right and authority to designate other persons who shall have the right to exercise any of the rights, duties and authority of the Secretary set forth in this Section 4.10. The Secretary shall have such other powers and perform such other duties as may be assigned to him or her from time to time by the Board of Directors or the President.

SECTION IV.11 TREASURER. The Treasurer shall have general supervision over the care and custody of the funds and over the receipts and disbursements of the Association and shall cause the funds of the Association to be deposited in the name of the Association in such banks or other depositories as the Board of Directors may designate. The Treasurer shall have all powers and duties usually incident to the office of Treasurer except as specifically limited by a resolution of the Board of Directors. The Treasurer shall have such other powers and perform such other duties as may be assigned to him or her from time to time by the Board of Directors or the President.

SECTION IV.12 SALARIES. The officers of the Association shall not be entitled to any salaries or other compensation except for expenses incurred on behalf of the Association which shall be reimbursed; provided, however, that members of the ACC may be compensated for their services rendered to the Association.

ARTICLE V

FISCAL MATTERS AND BOOKS AND RECORDS

SECTION V.01 FIDELITY BONDS. The Board of Directors shall obtain an adequate fidelity bond to cover any Board member, officer, or employee of the Association handling or responsible for Association funds. The premium for any such bond shall be paid by the Association and shall constitute an Association Expense.

SECTION V.02 BOOKS AND RECORDS KEPT BY THE ASSOCIATION. The Association shall keep accurate financial records, including itemized records of all receipts and disbursements, shall keep minutes of the proceeds of all meetings of the Members and of the Board of Directors and committees having any of the authority of the Board of Directors, and shall keep such other books and records as may be required by law or necessary to reflect accurately the affairs and activities of the Association. The Association shall keep at the office of the Association a record giving the names and addresses of the Directors and all Members of the Association, which shall be furnished by each Member pursuant to Section 5.10 of these Bylaws.

SECTION V.03 INSPECTIONS. The books, records and papers of the Association shall, during reasonable business hours, be subject to inspection by any Member or his or her agent or attorney for any proper purpose upon not less than seventy-two (72) hours prior written notice to the Association, which notice shall specify which books, records or papers of the Association such Member desires to inspect or review. To the extent the Association incurs any costs and expenses, including administration costs, in satisfying any request by a Member to inspect the books, records or papers of the Association, then the Member making such request shall pay all such costs and expenses incurred by the Association. True and correct copies of the Certificate of Formation, these Bylaws, the Declaration and all rules and regulations of the Association with all amendments thereto, shall be maintained at the principal registered offices of the Association and copies thereof shall be furnished to any Member on request upon payment by such Member of a reasonable charge therefor.

SECTION V.04 CONTRACTS. The Board of Directors may authorize any officer or officers, or agent or agents of the Association, in addition to the officers so authorized by the Declaration and these Bylaws, to enter into any contract or execute and deliver any instrument in the name of, or on behalf of the Association, and such authority may be general or confined to specific instances.

SECTION V.05 CHECKS, DRAFTS, ETC. All checks, drafts or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers or agents of the Association in such manner as shall from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors, such instruments shall be signed by the Treasurer of the Association.

SECTION V.06 DEPOSITS. All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board of Directors may select.

SECTION V.07 FISCAL YEAR. The fiscal year of the Association shall be the calendar year.

SECTION V.08 ANNUAL BUDGETS AND ASSESSMENTS: ANNUAL STATEMENTS.

(a) The Board of Directors shall determine and approve annually an annual budget covering the estimated Association Expenses for the Property for the upcoming year, such budget to include a capital contribution or reserve account, if necessary, for the capital needs of the Association. The amount set forth in such budget shall constitute the aggregate amount of all annual assessments for all of the Property for the then applicable year and each Member shall pay his or her prorata share of the same in accordance with the terms and provisions of the Declaration. Furthermore, each Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (a) annual assessments; (b) Reserve Contributions (defined below); (c) special assessments; and (d)

specific assessments against any particular Lot, as may be imposed in accordance with the terms of the Declaration. Annual assessments shall be levied for Association Expenses.

(b) Not later than four (4) months after the close of each fiscal year, the Board of Directors shall prepare or cause to be prepared a balance sheet showing in reasonable detail the financial condition of the Association as of the close of its fiscal year and an income and expense statement showing the results of its operations during its fiscal year. Such statements may, in the discretion of the Board, be audited statements. Upon receipt of written request, the Treasurer shall promptly mail to any Member copies of the most recent such balance sheet and income and expense statement upon payment by such Member of a reasonable charge therefor.

SECTION V.09 NOTICES. Each Member shall provide to the Secretary of the Association in writing, the address, if other than the Lot of such Member, to which any notice to such Member (i.e., Owner) under the Declaration or these Bylaws is to be given and, if no address other than such Lot shall have been designated in writing, then all such notices and demands shall be mailed or delivered to the Lot of such Member (i.e., Owner). Any Member may, for the purposes of notices hereunder, specify in writing to the Association that all notices be submitted to such Member by facsimile transmission or through the Internet utilizing a specific electronic mailbox for that particular Member. All notices required or permitted to be given by the Association to any Member under the Declaration, these Bylaws or under any other documents or agreements shall be deemed to have been sufficiently provided to a Member when deposited in the U.S. Mail or sent via electronic mail.

SECTION V.10 RULES AND REGULATIONS. The Board of Directors shall have the right, from time to time and at any time, to adopt, amend, modify and repeal rules and regulations regarding the Property, including, without limitation, rules and regulations governing the use of any of the Common Property, which rules and regulations shall be binding upon all Members and Occupants.

ARTICLE VI

INSURANCE

SECTION VI.01 TYPES OF COVERAGE. The Association shall maintain in effect at all times as an Association Expense the types of insurance coverage required by the Declaration and any other insurance required by law or which the Board of Directors may from time to time deem appropriate. The Board of Directors shall review the amount and terms of such insurance annually.

SECTION VI.02 INDEMNIFICATION INSURANCE. The Association shall have the power and authority to purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Association (including any Person appointed by the Board to serve on the ACC) or is or was serving at the request of the Association as a director, officer, partner, employee or agent of another corporation.

partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under applicable law.

ARTICLE VII

GENERAL PROVISIONS

SECTION VII.01 WAIVER OF NOTICE. Whenever any notice is required to be given under any provision of law, the Declaration, the Certificate of Formation or these Bylaws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Members, the Board of Directors or members of any committees established by the Board of Directors need be specified in any written waiver of notice unless otherwise required by these Bylaws. Attendance of a Director at a meeting of the Board of Directors shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

SECTION VII.02 CONFLICT OF TERMS. In the event of any conflict or ambiguity between the terms, provisions, definitions, covenants and conditions set forth herein in these Bylaws and in the Declaration, then the provisions of the Declaration shall at all times control.

SECTION VII.03 AMENDMENTS. These Bylaws (or any section thereof) may be altered, amended or repealed and new Bylaws (or any section thereof) may be adopted by a majority of the votes allocated to the Members.

SECTION VII.04 SEAL. The Board of Directors may, but shall not be obligated to, provide a corporate seal which shall be circular in form and have inscribed thereon the name of the Association, the state of incorporation and such other words as the Board of Directors may prescribe; provided, however, that the use of the seal of the Association on any contract or agreement shall not be required to evidence the validity, authenticity or approval of such contract or agreement.



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