
MARINA MARIN ESTATES

**SECOND AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS**

This instrument prepared by and
upon recording should be returned to:

Russell C. Balch &
Zeb H. Vaughn
Akridge & Balch, P.C.
P.O. Drawer 3738
Auburn, AL 36831-3738
334-887-0884

MARINA MARIN ESTATES

DECLARATION OF COYENANTS, CONDITIONS AND RESTRICTIONS

COVER PAGE.....1
INDEX OF CONTENTS.....2

ARTICLE I

DEFINITIONS

1.01 ACCESS ROADWAY.....7
1.02 ACCESSORY BUILDING 7
1.03 ADDITIONAL PROPERTY.....7
1.04 ARC.....7
1.05 ARTICLES OF INCORPORATION7
1.06 ASSESSMENT 7
1.07 ASSOCIATION7
1.08 BOARD 7
1.09 BYLAWS 7
1.10 COMMON AREAS 8
1.11 COMMON EXPENSES. 8
1.12 COTTAGE LOT.12.....8
1.13 COTTAGE LOT PLAT.....8
1.14 DECLARATION..... 8
1.15 DEVELOPER 8
1.16 DWELLING 9
1.17 GOVERNMENTAL AUTHORITY9
1.18 HIGH WATER MARK 9
1.19 IMPROVEMENT 9
1.20 LAKE MARTIN 9
1. 21 LIVING SPACE 9
1. 22 LOT 9
1.23 MORTGAGE10
1.24 MORTGAGEE.....10
1.25 OCCUPANT.....10
1.26 OWNER.....10
1.27 PROBATE OFFICE10
1.28 PROPERTY10
1.29 RECREATIONAL FACILITIES10

ARTICLE II

PROPERTY SUBJECT TO DECLARATION

2.01 GENERAL DECLARATION10
2.02 ADDITIONAL PROPERTY11
2.03 RIGHT OF DEVELOPER TO MODIFY RESTRICTIONS WITH RESPECT TO LOTS OWNED
BY DEVELOPER.....11
2.04 MUTUALITY OF BENEFIT AND OBLIGATION11
2.05 DEVELOPMENT OF PROPERTY.....12
2.06 SUBDIVISION12

ARTICLE III

EASEMENTS

3.01 GRANT OF NON-EXCLUSIVE EASEMENTS TO COMMON AREAS12
3.02 RESERVATION OF GENERAL ACCESS EASEMENT.....13

3.03 RESERVATION OF EASEMENTS WITH RESPECT TO COMMON AREAS	13
3.04 RESERVATION OF EASEMENT FOR UTILITIES	14
3.05 RESERVATION OF MAINTENANCE EASEMENT	14
3.06 RESERVATION OF ENVIRONMENTAL EASEMENT	14
3.07 ACCESS ROADWAY EASEMENT	15

ARTICLE IV

ASSOCIATION

4.01 MEMBERSHIP	15
4.02 BOARD	16
4.03 VOTING RIGHTS	16
4.04 INDEMNIFICATION	16

ARTICLE V

ARCHITECTURAL REVIEW

5.01 COMMITTEE COMPOSITION	17
5.02 APPOINTMENT AND REMOVAL OF ARC MEMBERS	17
5.03 PROCEDURE AND MEETINGS	17
5.04 DESIGN CRITERIA	18
5.05 APPROVAL OF PLANS AND SPECIFICATIONS	21
5.06 LANDSCAPING APPROVAL	23
5.07 CONSTRUCTION WITHOUT APPROVAL	23
5.08 INSPECTION	23
5.09 SUBSURFACE CONDITIONS	24
5.10 LIMITATION OF LIABILITY	24
5.11 COMMENCEMENT AND COMPLETION OF CONSTRUCTION	24
5.12 ENFORCEMENT AND REMEDIES	25
5.13 COMPLIANCE CERTIFICATION	25
5.14 INDEMNIFICATION	25

ARTICLE VI

USE AND PROPERTY RESTRICTIONS

6.01 USE RESTRICTIONS	26
6.02 PLAN APPROVAL	27
6.03 UNDERGROUND UTILITIES	27
6.04 BUILDING SETBACKS	27
6.05 SITING PLANS	27
6.06 HEIGHT LIMITATIONS	27
6.07 MINIMUM LIVING SPACE	28
6.08 LANDSCAPING AND TREES	28
6.09 ROOFING	29
6.10 EXTERIOR LIGHTING	29
6.11 EXTERIOR MATERIALS AND FINISHES	29
6.12 OFF-STREET PARKING AND GARAGES	29
6.13 WINDOWS, WINDOW TREATMENTS AND DOORS	30
6.14 MAILBOXES	30
6.15 UTILITY METERS AND HVAC EQUIPMENT	30
6.16 SATELLITE DISHES AND ANTENNA	30
6.17 SOIL EROSION AND DRAINAGE	31
6.18 OUTDOOR FURNITURE	31
6.19 PETS AND ANIMALS	32
6.20 TRASH, RUBBISH AND NUISANCES	32
6.21 RECREATIONAL VEHICLES AND MACHINERY AND EQUIPMENT	33
6.22 SIGNAGE	34

6.23 ABOVE OR BELOW GROUND TANKS AND WELLS	34
6.24 TEMPORARY STRUCTURES	34
6.25 CONSTRUCTION OF IMPROVEMENTS	34
6.26 FIREARMS AND FIREWORKS	35
6.27 SUBDIVISION AND INTERVAL OWNERSHIP	35
6.28 COMPLIANCE WITH GOVERNMENTAL REGULATIONS	36
6.29 ADDITIONAL REGULATIONS	36
6.30 VARIANCES	36
6.31 ENFORCEMENT AND REMEDIES	36

ARTICLE VII

MAINTENANCE RESPONSIBILITIES

7.01 RESPONSIBILITIES OF OWNERS	37
7.02 RESPONSIBILITIES OF ASSOCIATION	37

ARTICLE VIII

COMMON AREA ASSESSMENTS

8.01 ASSESSMENTS AND CREATION OF LIEN	38
8.02 UNIFORM RATE OF ASSESSMENTS	39
8.03 COMPUTATION OF ANNUAL ASSESSMENTS	40
8.04 SPECIAL ASSESSMENTS	42
8.05 INDIVIDUAL ASSESSMENTS	43
8.06 EFFECT OF NON-PAYMENT; REMEDIES OF THE ASSOCIATION	43
8.07 SUBORDINATION OF LIEN	45
8.08 CERTIFICATES	45

ARTICLE IX

CASUALTY, CONDEMNATION AND INSURANCE

9.01 DAMAGE OR DESTRUCTION TO COMMON AREAS	45
9.02 DAMAGE OR DESTRUCTION TO LOTS OR DWELLINGS	46
9.03 CONDEMNATION OF COMMON AREAS	46
9.04 CONDEMNATION OF LOTS OR IMPROVEMENTS	47
9.05 INSURANCE	48

ARTICLE X

TERM AND AMENDMENTS

10.01 TERM	48
10.02 AMENDMENTS	48

ARTICLE XI

ENFORCEMENT

11.01 AUTHORITY AND ENFORCEMENT	49
11.02 PROCEDURE	49

11.03 NON-EXCLUSIVE REMEDIES.....	50
-----------------------------------	----

ARTICLE XII

MISCELLANEOUS PROVISIONS

12.01 LEGAL EXPENSES	50
12.02 SEVERABILITY	50
12.03 CAPTIONS AND HEADINGS	50
12.04 PRONOUNS AND PLURALS	50
12.05 BINDING EFFECT	51
12.06 CONFLICT OR AMBIGUITY	51
12.07 NO REVERTER	51
12.08 INTERPRETATION	51
12.09 RIGHTS OF THIRD PARTIES	51
12.10 NO TRESPASS	51
12.11 NO PARTITION.....	52
12.12 STANDARDS FOR REVIEW	52
12.13 ORAL STATEMENTS	52
12.14 NOTICES.....	52
12.15 ASSIGNMENT.....	52
12.16 FURTHER ASSURANCES	53
12.17 NO WAIVER	53
12.18 PERPETUITIES	53
SIGNATURE PAGE.....	54

**MARINA MARIN ESTATES
SECOND AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS**

THIS MARINA MARIN ESTATES SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (“Declaration”) is made as of the ____ day of _____ by MARINA MARIN ESTATES OWNERS’ ASSOCIATION, INC., an Alabama non-profit corporation (“Association”).

RECITALS:

WHEREAS, Developer Marin Properties, LLC caused the original Marina Marin Estates Declaration of Covenants, Conditions and Restrictions to be recorded on Card No. 147064 in the Office of the Judge of Probate of Tallapoosa County, Alabama; and

WHEREAS, control of Marina Marin Estate Owners’ Association, Inc. has been relinquished by the Developer as required by the terms of said original Declaration; and

WHEREAS, Marina Marin Estate Owners’ Association, Inc. wishes to amend and restate the original Declaration in order to reflect the termination of the Developer’s interest in the Property, and desires to subject the Property to certain easements, covenants, conditions, restrictions, requirements and obligations in order to protect the value and desirability of the Property and to have a flexible and reasonable method for the development, administration and maintenance of the Property.

NOW, THEREFORE, Marina Marin Estate Owners’ Association, Inc. does hereby declare that all of that certain real property situated in Tallapoosa County, Alabama which is more particularly described in Exhibit A attached hereto and incorporated herein by reference shall be held, developed, improved, transferred, sold, conveyed, leased, occupied and used subject to the following easements, covenants, conditions, restrictions, charges, liens and regulations, which shall be binding upon and inure to the benefit of all parties acquiring or having any right, title or interest in any portion of the Property defined in Exhibit A attached hereto and any of the Additional Property, as defined in Section 1.03 below, and their respective heirs, executors, administrators, personal representatives, successors and assigns.

ARTICLE I

DEFINITIONS

As used throughout this Declaration, the following terms shall have the meanings set forth below, which meanings shall be applicable to both the singular and plural forms and tenses of such terms. Capitalized terms not otherwise expressly defined herein shall have the same meanings given to them in the Declaration:

1.01 ACCESS ROADWAY. The term "Access Roadway" shall mean and refer to the two (2) asphalt drives or roadways constructed as private roadways which are identified and shown as Common Areas on the Cottage Lots Plat as (a) "30' Private Access and Utility Easement (Marin Landing)" and (b) "30' Private Access and Utility Easement (Cottage Court)", together with any extensions thereof which may be made in order to provide access to any other real property situated adjacent to or in close proximity with the Property. The Access Roadway constitutes part of the Common Areas.

1.02 ACCESSORY BUILDING. The term "Accessory Building" shall mean and refer to any subordinate building constructed on a Lot including, but not limited to, gazebos, detached garages and storage buildings for the purpose of storing boats, motors, tools and equipment, the use of which is incidental to that of a Dwelling.

1.03 ADDITIONAL PROPERTY. The term "Additional Property" shall mean and refer to any real property and any Improvements situated thereon lying adjacent to or contiguous with the Property (but which does not presently comprise any part of the Property) which Association may from time to time submit and add to the provisions of this Declaration pursuant to the provisions of Section 2.02 below. The Additional Property may also include additional Common Areas.

1.04 ARC. The term or letters "ARC" shall mean the architectural review committee appointed by the Board and considered non-voting members of the Board, with the rights and obligations conferred upon such architectural review committee pursuant to this Declaration and any additional rights as may be authorized by the Board and with the protections provided by coverage under the General Liability Insurance Policy on officers and directors of the Board.

1.05 ARTICLES OF INCORPORATION. The term "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association, as the same may be amended from time to time.

1.06 ASSESSMENT. The term "Assessment" shall mean, collectively, the Annual Assessments (as defined in Section 8.03 below), Special Assessments (as defined in Section 8.04 below), and Individual Assessments (as defined in Section 8.05 below).

1.07 ASSOCIATION. The term "Association" shall mean Marina Marin Estates Owners' Association, Inc., an Alabama nonprofit corporation, and its successors and assigns.

1.08 BOARD. The term "Board" shall mean and refer to the Board of Directors of the Association and their duly elected successors as may be provided in the Articles of Incorporation and Bylaws.

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

1.10 COMMON AREAS. The term "Common Areas" shall mean and refer to all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners. In addition, the Common Areas shall also include (regardless of whether legal title to the same has been conveyed to the Association) (a) all signage, street lights, lighting, walkways, sidewalks, paths, bicycle and jogging paths and lanes, gates, walls, fences, guardhouses, Improvements, landscaping and landscaped or other areas immediately adjacent to any public roadways, including all medians within any public roadways, whether the same are located within the boundaries of the Property or on any public roadways which may be adjacent to or in close proximity with the Property which provide ingress to and egress from any portion of the Property (other than any such areas located solely within the boundary lines of any Lot or owned or maintained by any Governmental Authority), (b) all utility lines, pipes, ducts, conduits, equipment, machinery and other apparatus and appurtenances which serve any portion of the Common Areas (which are not owned or maintained by any public or private utility providers) and (c) the Recreational Facilities, if any, and all other areas or Improvements on or within the Property which were previously designated by Developer as Common Areas or which are designated by the Association in the future from time to time. The designation of any land and/or Improvements as Common Areas shall not mean or imply that the public at large acquires any easement of use or enjoyment or any other rights, licenses or benefits therein or to the use thereof. The term "Common Areas" shall also mean and include the Access Roadway.

1.11 COMMON EXPENSES. The term "Common Expenses" shall mean and refer to all expenditures made or incurred by or on behalf of the Association, including, without limitation, those expenses described in Section 8.03(c) below, together with all funds assessed for the creation or maintenance of reserves pursuant to the provisions of this Declaration.

1.12 COTTAGE LOT. The term "Cottage Lot" shall mean and refer to those certain lots which are described and shown as Lots 1 through 19, inclusive, and 21 through 28, inclusive, on the Cottage Lots Plat. To the extent Association elects at any time in the future to add as Additional Property any additional property to the Declaration which would constitute Cottage Lots, then Association shall have the right, without being required to obtain the consent or approval of any Owner or Mortgagee, to amend the definition of Cottage Lots contained herein to add such additional Lots. Each Cottage Lot shall constitute and be deemed a Lot.

1.13 COTTAGE LOTS PLAT. The term "Cottage Lots Plat" shall mean and refer to the subdivision plat known as Marina Marin Estates Plat 2 recorded in plat Book 10, Page 30 in the Office of the Judge of Probate of Tallapoosa County, Alabama

1.14 DECLARATION. The term "Declaration" shall mean and refer to this First Amended and Restated Marina Marin Estates Declaration of Covenants, Conditions and Restrictions, together with all amendments thereto.

1.15 DEVELOPER. The term "Developer" shall mean Marin Properties, L.L.C., an Alabama limited liability company, and its successors and assigns.

1.16 DWELLING. The term "Dwelling", with an initial capital letter, shall mean and refer to the one (1) single-family detached residential housing unit which is or may be

constructed on a Lot. With respect to the Estate Section, a single guest house or residential extension that is physically connected to the detached single family housing unit by a covered walkway as approved by the ARC is considered part of the Dwelling. Additional guest houses and/or residential extensions with sleeping quarters are discouraged and to be approved only after close scrutiny by the ARC with the consideration of any undue negative impact on adjacent lot Owners.

1.17 GOVERNMENTAL AUTHORITY The term "Governmental Authority" shall mean and refer to any and all city, county, state and federal governmental or quasi-governmental agencies, bureaus, departments, divisions or regulatory authorities having jurisdiction over any portion of the Property or any Improvements thereto.

1.18 HIGH WATER MARK. The term "High Water Mark" means the normal high elevation of water in Lake Martin (i .e.,490 feet mean sea level).

1.19 IMPROVEMENT. The term "Improvement", with an initial capital letter, shall mean and refer to all Dwellings, Accessory Buildings, any building, structure or device constructed, erected or placed upon any Lot which in any way affects any Lot or the exterior appearance of any Dwelling or any other Improvement thereto. Improvements shall include, by way of illustration and not limitation, buildings, sheds, foundations, covered patios, underground utilities, roads, driveways, walkways, paving, curbing, parking areas, piers, docks, boat ramps, seawalls, septic tanks and field lines, swimming pools, tennis courts, tree houses, playhouses, swing sets, trees, shrubbery, landscaping, fences, screening, walls, signs and any other artificial or man-made changes or alterations to the natural condition of any Lot. "Improvements" shall also mean any grading, any excavation or fill, the volume of which exceeds eight (8) cubic yards.

1.20 LAKE MARTIN. The term "Lake Martin" shall mean and refer to that certain lake owned by Alabama Power Company forming a part of the Martin Dam Project.

1.21 LIVING SPACE The term "Living Space" shall mean and refer to the enclosed and covered areas within a Dwelling which are heated and cooled by heating, ventilating and air conditioning equipment, exclusive of garages, carports, porches, terraces, balconies, decks, patios, courtyards, greenhouses, atriums, bulk storage areas, attics, basements, expanded lean-to or dormer attic space and screened porches.

1.22 LOT The term "Lot" shall mean and refer to any portion of the Property upon which it is intended that a Dwelling be constructed thereon. Upon the recordation by the Association of any subdivision plat for any portion of the Property, each lot indicated thereon (other than any lots designated thereon as Common Areas or which subsequently become Common Areas) shall be deemed a Lot for purposes of this Declaration. All references in this Declaration to a "Lot" shall also mean and include any Dwelling and other Improvements constructed on such Lot. In the event any Lot is re-subdivided by the Association pursuant to the provisions of Section 2.06 hereof, the re-subdivided Lots shall constitute the number of Lots which remain after such division or combination of Lots. Common Areas shall not constitute Lots,

1.23 MORTGAGE, The term "Mortgage", with an initial capital letter, shall mean and refer to any mortgage, deed of trust or other security device encumbering a Lot or any interest therein and which shall have been duly and properly recorded in the Probate Office.

1.24 MORTGAGEE. The term "Mortgagee", with an initial capital letter, shall mean and refer to the holder of any Mortgage.

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

1.26 OWNER. The term "Owner", with an initial capital letter, shall mean and refer to the record owner of fee simple title to any Lot, whether a corporation, partnership, limited liability company, proprietorship, association or other entity of any nature, including natural persons, but shall not include (i) any Mortgagee unless and until such Mortgagee has foreclosed on its Mortgage and purchased such Lot at the foreclosure sale held with respect to the foreclosure of such Mortgage or (ii) any lessee, purchaser, contract purchaser or vendor who has an interest in any Lot solely by virtue of a lease, contract, installment contract or other agreement.

1.27 PROBATE OFFICE. The term "Probate Office" shall mean and refer to the Office of the Judge of Probate of Tallapoosa County, Alabama and any successor thereto which serves as the official public registry for the public recording of real estate documents in Tallapoosa County, Alabama.

1.28 PROPERTY. The term "Property", with an initial capital letter, shall mean and refer to that certain real property situated in Tallapoosa County, Alabama which is more particularly described in Exhibit A attached hereto and incorporated herein by reference. The Property shall also include any Additional Property made subject to this Declaration pursuant to Section 2.02 hereof.

1.29 RECREATIONAL FACILITIES. The term "Recreational Facilities" shall mean and refer to any boat ramps or boat launch facilities and any other facilities constructed by either Developer or the Association in, on or adjacent to Lake Martin for the common use and enjoyment of all Owners and constitute Common Areas; provided, however, that the Association shall not be obligated to construct any Recreational Facilities.

ARTICLE II

PROPERTY SUBJECT TO THE DECLARATION

2.01 GENERAL DECLARATION. The Association hereby declares that the Property is and shall be subject to the easements, covenants, conditions, restrictions, charges, liens and regulations of this Declaration and the Property, any part thereof and each Lot and any Improvements thereto and all Common Areas thereof shall be held, owned, sold, transferred, conveyed, hypothecated, encumbered, leased, occupied, built upon and otherwise used, improved and maintained subject to the terms of this Declaration, which easements, covenants, conditions,

restrictions, charges, liens and regulations shall run with the title to the Property and shall be binding upon and inure to the benefit of the Association and all Owners of the Property and all Lots and any Improvements thereto. Furthermore, this Declaration shall apply only to the Property (and any Additional Property added to the terms and provisions hereof) by the Association pursuant to Section 2.02 hereof.

2.02 ADDITIONAL PROPERTY. The Association reserves the right, in its sole and absolute discretion, 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 and, to the extent any of the Additional Property is specifically submitted to the terms and provisions of this Declaration by the Association, 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 the Association 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). From and after the date on which an amendment to this Declaration is recorded in the Probate Office submitting any Additional Property to the terms and provisions of this Declaration, the number of votes in the Association shall be increased by the number of Lots within the Additional Property which are added and submitted to this Declaration so that there shall continue to be one vote in the Association per Lot within the Property. In no event shall the Association 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 by the Association situated adjacent to or in close proximity with the Property.

Notwithstanding anything provided in this Declaration to the contrary, if the Association elects to add Additional Property to this Declaration, then this Declaration and *Exhibit A* hereto may be amended in accordance with the provisions of this Section 2.02 without any requirement that the consent or approval of any Owner or Mortgagee be obtained.

2.03 RIGHT OF THE ASSOCIATION TO MODIFY RESTRICTIONS WITH RESPECT TO LOTS OWNED BY THE ASSOCIATION. With respect to any Lot owned by the Association, the Association may, by deed, contract or other instrument filed for record in the manner specified in Section 2.02 above, modify the provisions of this Declaration as the same apply to any such Lot; provided, however, that this Declaration may not be modified or amended to (a) increase the voting rights in the Association attributable to such Lot or (b) except as otherwise provided herein to the contrary, exempt any Lot from the payment of Assessments.

2.04 MUTUALITY OF BENEFIT AND OBLIGATION. The provisions of this Declaration are made (a) for the mutual and reciprocal benefit of each Lot and are intended to create mutual, equitable servitudes upon and in favor of each Lot, (b) to create reciprocal rights and obligations between the respective Owners and all future and subsequent Owners of any Lot within the Property and (c) to create a privity of contract and estate between the Owners, their respective heirs, successors and assigns.

2.05 DEVELOPMENT OF PROPERTY. The Association shall have the right, but not the obligation, , to make improvements and changes to all Common Areas and to all Lots owned by

the Association, including, without limitation, (a) installation and maintenance of any Improvements in or to the Common Areas, (b) changing the location of the boundaries of any Lots owned by the Association or the boundaries of any of the Common Areas, (c) changing the boundaries of any portion of the Property owned by the Association, including any Additional Property owned by the Association and (d) installation and maintenance of any water, sanitary sewer, storm sewer and any other utility systems and facilities within any of the Common Areas. Furthermore, the Association shall have the right, but not the obligation, to (i) make improvements and changes to all Lots and to any other portions of the Property owned by the Association and (ii) change the location of the property lines or boundaries of any Lots or any other portion of the Property owned by the Association. The exercise by the Association of any of the rights set forth in this Section 2.05 may be exercised solely by the Association without any requirement that the consent or approval of any individual Owners be obtained. Each Owner, by acceptance of a deed to any Lot, acknowledges and agrees that the Association or affiliates thereof may either own or may in the future own real property situated adjacent to or in close proximity with the Property, which real property will not be subject to any of the terms and provisions of this Declaration unless the Association, in its sole and absolute discretion, elects to add such real property to the terms and provisions of this Declaration pursuant to the provisions of Section 2.02 above.

2.06 SUBDIVISION. The Association reserves the right to record, modify, amend, revise and otherwise add to, at any time and from time to time, one or more subdivision plats setting forth such information as the Association may deem necessary with regard to the Property, including, without limitation, the locations and dimensions of all Lots, Common Areas, public or private roads, utility systems, drainage systems, utility easements, drainage easements, access easements, set-back line restrictions, lakes, retention ponds and drainage basins. Any such subdivision plats and any amendments thereto shall be binding on the portions of the Property indicated thereon as if such subdivision plat were specifically incorporated into this Declaration. Notwithstanding anything provided to the contrary in this Declaration, the rights reserved by the Association pursuant to this Section 2.06 may be exercised by the Association without any requirement that the consent or approval of any Owners or Mortgagees be obtained (other than the Owner or Mortgagee of any Lot which is being subdivided or re-subdivided) and shall include, without limitation, the right to (a) divide and re-subdivide, combine, subdivide and re-subdivide any Lots, Common Areas and other portions of the Property owned by the Association and (b) amend from time to time and at any time Exhibit A to this Declaration to reflect any such subdivision or re-subdivision of any portion of the Property.

ARTICLE III

EASEMENTS

3.01 GRANT OF NON-EXCLUSIVE EASEMENTS TO COMMON AREAS.

(a) Subject to the rights of the Association and the Board to limit and prohibit access to and the use of the Recreational Facilities, as provided in Sections 3.01 (b) and 11.01 below, the Association does hereby grant to each Owner and Occupant the non-exclusive right,

privilege and easement of access to and the use and enjoyment of all of the Common Areas in common with the Association, its successors and assigns, and all other Owners, Occupants and other parties having any rights or interest therein. Subject to the rights of the Association to limit and prohibit access to and the use of the Recreational Facilities, as provided in Sections 3.01 (b) and 11.01 below, the easement and rights granted pursuant to this Section 3.01(a) are and shall be permanent and perpetual, are non-exclusive, are appurtenant to and shall pass and run with title to each Lot.

(b) Notwithstanding anything provided herein to the contrary, access to and the use and enjoyment of the Recreational Facilities (i) shall be subject to any and all rules and regulations established from time to time by the Board pursuant to Section 11.01 below, (ii) shall be limited to the Owners and their respective Occupants and any other persons authorized by the Board from time to time to use the same and (iii) may be suspended or permanently revoked by the Board for any Owner or the respective Occupants of any Owner who (1) violates any of the rules and regulations applicable to the use and enjoyment of the Recreational Facilities or (2) fails to timely pay all Assessments due and payable by such Owner to the Association.

3.02 RESERVATION OF GENERAL ACCESS EASEMENT. The Association does hereby establish and reserve for itself, the ARC, and their respective agents, employees, representatives, invitees, successors and assigns, a permanent and perpetual non-exclusive easement appurtenant over, across, through and upon each Lot for the purpose of providing ingress to and egress from each Lot for (i) inspecting each Lot and any Improvements thereon in order to determine compliance with the provisions of this Declaration and (ii) the performance of the respective duties of the Association and the ARC hereunder, including, without limitation, taking any action required or permitted to be taken by the Association or the ARC pursuant to any of the terms or provisions of this Declaration; provided, however, that upon completion and occupancy of any Dwelling, then except in the event of emergencies, the foregoing easement shall be utilized only during normal business hours and then, whenever practicable, only upon advance notice to the Owner or Occupant of such Dwelling directly affected thereby.

3.03 RESERVATION OF EASEMENTS WITH RESPECT TO COMMON AREAS

(a) Subject to the rights of the Association and the Board to limit, restrict or prohibit access and use of the Recreational Facilities as provided in Sections 3.01 (b) and 11.01 hereof, the Association does hereby establish and reserve, for itself, the ARC, and their respective agents, employees, representatives, invitees, successors and assigns, a permanent and perpetual non-exclusive easement appurtenant, over, across, under, through and upon all of the Common Areas for the purpose of (i) constructing any Improvements in and to any of the Common Areas or any other portions of the Property, (ii) installing, maintaining, repairing and replacing any other Improvements to the Property or to the Common Areas, including, without limitation, sidewalks, walkways, signage and traffic directional signs and (iii) doing all other things reasonably necessary and proper in connection therewith; provided, however, that in no event shall the Association or the ARC have any obligation to undertake any of the foregoing.

(b) The Association does hereby establish and reserve for itself and its successors and assigns the permanent right to change, modify and realign the boundaries of any of the Common Areas.

3.04 RESERVATION OF EASEMENT FOR UTILITIES. The Association does hereby establish and reserve for itself its successors and assigns a permanent and perpetual nonexclusive easement appurtenant over, across, under, through and upon all portions of the Property, including all Common Areas and all Lots which are reasonably necessary for the purpose of installing, erecting, replacing, relocating, maintaining and operating master television and/or cable systems, security and similar systems and all utilities necessary or convenient for the use of any portion of the Property, including, without limitation, publicly or privately owned and operated electrical, gas, telephone, water and sanitary sewer services, storm drains and sewers, drainage systems, lines, pipes, conduits, equipment, machinery and other apparatus and appurtenances necessary or otherwise reasonably required in order to provide any utility service to any portion of the Property or any other real property adjacent thereto or in close proximity therewith. The easements established and reserved herein shall include the right to cut and remove trees, undergrowth and shrubbery, to grade, excavate or fill and to otherwise take all other action reasonably necessary to provide economical and safe installation, maintenance, repair, operation and replacement of all such utility services and the systems, equipment and machinery used to provide the same. Notwithstanding anything provided in this Section 3.04 to the contrary, the utilization of any of the easements and rights established and reserved pursuant to this Section 3.04 shall not unreasonably interfere with the use or occupancy of any Dwelling situated on any Lot.

3.05 RESERVATION OF MAINTENANCE EASEMENT. The Association does hereby establish and reserve for itself, the ARC, and their respective agents, employees, successors and assigns, a permanent and perpetual right and easement to enter upon any Lot for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps or other unsightly growth and removing trash so as to maintain reasonable standards of health, fire safety and appearance within the Property; provided, however, that such easement shall not impose any duty or obligation upon the Association or the ARC to perform any of the foregoing actions.

3.06 RESERVATION OF ENVIRONMENTAL EASEMENT. The Association does hereby establish and reserve for itself, the ARC, and their respective agents, employees, successors and assigns, a permanent and perpetual right and easement on, over, across, through and upon all Lots and all unimproved portions of any Dwellings for the purpose of taking any action necessary to effect compliance with any of the terms and provisions of this Declaration or any watershed, soil erosion or environmental rules, regulations and procedures from time to time affecting or otherwise promulgated or instituted by any Governmental Authorities or the Board. The easement and right established and reserved herein shall include, without limitation, the right to implement erosion control procedures and practices, the right to drain standing water and the right to take any other action which may be required in order to satisfy the requirements of this Declaration or of any Governmental Authorities, including, without limitation, any applicable watershed, soil erosion, storm water discharge or environmental rules, regulations or procedures affecting the Property. Except in the case of an emergency situation or a perceived emergency situation, the exercise by the Association or the ARC of the rights reserved in this

Section 3.06 shall not unreasonably interfere with the use or occupancy of any Dwelling situated on any Lot.

3.07 ACCESS ROADWAY EASEMENT.

(a) The Association does hereby establish and reserve for itself, the ARC, and their respective agents, employees, successors and assigns, a permanent and perpetual non-exclusive right and easement on, over, across, through, under and upon all portions of the Access Roadway for the purposes of (i) constructing, installing, operating, maintaining, repairing and replacing from time to time thereon asphalt paving for a drive or roadway, (ii) installing, erecting, replacing, relocating, maintaining and operating master television and/or cable systems, security and similar systems and any utilities necessary or convenient for the use of any portion of the Property, including, without limitation, publicly or privately owned and operated electrical, gas, telephone, water and sanitary sewer services, storm drains and sewers, drainage systems, lines, pipes, conduit, equipment, machinery and other apparatus and appurtenances necessary or otherwise reasonably required in order to provide any utility service to any portion of the Property or any other real property adjacent thereto or in close proximity therewith and (iii) extending the Access Roadway in order to provide vehicular and pedestrian access to any other real property situated adjacent to or in close proximity with the Property; provided, however, that (1) except for the existing improvements on the Access Roadway shown on the Cottage Lots Plat, neither the ARC nor the Association shall be obligated to construct or install any additional improvements of any nature on or within the Access Roadway and (2) the Association and the ARC shall have no obligation to extend the Access Roadway to provide vehicular and pedestrian access to any other real property. The easements established and reserved herein shall include the right to cut and remove trees, undergrowth and shrubbery, to grade, excavate or fill and to otherwise take all other action reasonably necessary to construct, install, maintain, operate, repair and replace the Access Roadway and all paving, roads and utility lines situated thereon.

(b) Each Owner and Occupant shall have and is hereby granted the nonexclusive right, privilege and easement of access to and the use and enjoyment of the Access Roadway for vehicular and pedestrian access purposes. The foregoing grant of easement is subject to all of the terms and provisions of this Declaration including, without limitation, the terms and provisions of Section 3.01(b) above.

ARTICLE IV

ASSOCIATION

4.01 MEMBERSHIP. The Owner of each Lot shall be a member of the Association. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot; provided, however, that (a) in the event any Lot is owned by more than one (1) person, then the Owner of such Lot shall, by written notice to the Board, designate only one (1) representative to serve as a member of the Association who shall exercise all voting rights

attributable to the Lot owned by such Owner and (b) no Mortgagee shall become a member of the Association until such time, if at all, that the Mortgagee becomes an Owner by virtue of foreclosure of its Mortgage and title to such encumbered Lot is vested in Mortgagee pursuant to a duly recorded deed. The transfer or conveyance of fee title to any Lot (other than by a Mortgage as security for the payment of an obligation), shall automatically include the transfer of all membership rights of such Owner in the Association with respect to the Lot transferred and conveyed, notwithstanding any failure of the transferor to endorse to his transferee any certificates, assignments or other evidence of such membership. Membership in, or the rights and benefits of, the Association may not be transferred, assigned, conveyed or otherwise alienated in any manner separately and apart from the ownership of a Lot.

4.02 BOARD. The Board shall have the rights and duties set forth in the Articles of Incorporation and the Bylaws. The Owners shall have the exclusive right to appoint and remove all members of the Board in accordance with the terms and provisions of the Bylaws. As used throughout this Declaration, all actions required or permitted to be taken by the Association shall, unless otherwise expressly provided herein to the contrary, be by the majority vote of the members of the Board.

4.03 VOTING RIGHTS.

(a) Subject to the rights of the Association to suspend any Owner's voting rights or privileges in the Association pursuant to Section 11.01 below, the Owner of each Lot shall be entitled to one (1) vote in any matter submitted to the members of the Association for approval. No Owner, whether one or more persons, shall have more than one membership and one vote per Lot owned. Such voting rights shall continue to apply to each Lot upon the addition of any of the Additional Property to this Declaration. To the extent any matter is presented to the members of the Association for a vote or approval, then the voting requirements specified in the Bylaws shall at all times govern. For purposes of this Section 4.03, the Association shall be deemed the Owner of and entitled to all voting rights attributable to any Lots owned by the Association. The Board of Directors shall have one vote per Lot owned by the Association.

(b) Each Owner, by acceptance of a deed to a Lot, consents and agrees to the dilution of his or her voting interest in the Association by virtue of the re-subdivision of any Lot by the Association pursuant to Section 2.06 above or the submission of any Additional Property to the terms of this Declaration. In no event, whether as a result of there being multiple ownership interests in any Lot or otherwise, shall more than one vote be allowed for any one Lot. Fractional voting shall not be permitted.

4.04 INDEMNIFICATION. The Association shall and does hereby indemnify, defend and agree to hold each and every member of the Board and each and every officer, agent and representative of the Association harmless from and against any and all expenses, including court costs and reasonable attorneys' fees, suffered, paid or incurred by any of them in connection with any action, suit or other proceeding (including the settlement of any suit or proceeding to which such person may be made a party by reason of being or having been a member of the Board or an officer, agent or representative of the Association). The members of the Board and the officers,

agents and representatives of the Association shall not be liable for any mistake in judgment, negligence or otherwise except for their own willful misconduct or reckless disregard of duty, as finally determined by a court of competent jurisdiction. The members of the Board and the officers, agents and representatives of the Association shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association and the Association shall and does hereby indemnify, defend and agree to forever hold each such member of the Board and each such officer, agent and representative of the Association harmless from and against any and all liability to others on account of any such contract or commitment. The indemnification obligations and rights provided for herein shall not be exclusive of any other rights to which any member of the Board or any officer, agent or representative of the Association may be entitled, including anything provided to the contrary in the Articles of Incorporation or the Bylaws. The Association shall maintain adequate general liability and, to the extent financially feasible, officers' and directors' liability insurance in order to fulfill its obligations under this Section 4.04 and the costs of such insurance shall constitute a Common Expense.

ARTICLE V

ARCHITECTURAL REVIEW

5.01 COMMITTEE COMPOSITION. The Board of Directors of the Association shall appoint up to three (3) persons, each of whom shall be appointed or elected as provided in Section 5.02 below, to serve on the ARC at the pleasure of the Board. The persons designated by the Board to serve on the ARC shall be agents and representatives of the Association, will be considered non-voting members of the Board, and may be, but shall not be required to be, members of the Association or Owners of any Lot. The regular term of office for each member of the ARC shall be one (1) year, coinciding with the fiscal year of the Association. Once appointed, each member of the ARC shall serve succeeding and successive terms of one (1) year (up to a maximum of five (5) years, unless that member resigns or is removed by the Board as provided below. Any member of the ARC may be removed with or without cause in the manner provided in Section 5.02 below. Each member of the ARC shall be deemed an agent of the Association. The Board will appoint one member to serve as a liaison to the ARC for consultation and guidance in deliberations; however, such Board member liaison will not be a voting member of the ARC.

5.02 APPOINTMENT AND REMOVAL OF ARC MEMBERS. The Board shall have the sole and exclusive right to appoint and remove all persons who serve on the ARC. Any person appointed as a member of the ARC may be removed, with or without cause, at any time by the Board. In the event of the death or resignation of a member of the ARC, then the Board shall appoint a substitute member of the ARC to fill the vacancy of such deceased or resigned member.

5.03 PROCEDURE AND MEETINGS. The ARC shall meet on an as needed basis as well as upon call of any member of the ARC or the Board. The ARC is authorized to retain the services of consulting architects', landscape architects, designers, engineers, inspectors and/or attorneys in order to advise and assist the ARC in performing its functions set forth herein. Any

such costs and expenses incurred by the ARC which are not paid by Owners as part of the plan review fee established from time to time by the ARC shall constitute Common Expenses and shall be paid by the Association. The ARC shall have the right from time to time to adopt and establish such rules and regulations as may be determined to be necessary concerning the procedure, notice of meetings and all other matters concerning the conduct of the business of the ARC, including, without limitation, the right to designate one (1) person to act on behalf of the entire ARC in all matters in which the ARC is granted the right to act under the terms of this Declaration. A preliminary draft of all ARC decisions shall be forwarded and reviewed by the Board prior to communication to an Owner of their findings. Any board comments will be promptly reviewed with the ARC and resolved prior to communication to the Owner by the President or President's designated representative.

5.04 DESIGN CRITERIA. The following criteria should be utilized by each Owner in determining the location and design of each Dwelling and any Accessory Building to be built on such Owner's Lot:

(a) ROOFLINES. Rooflines for all Dwellings shall be attractively designed to complement the character of the Lot and the overall development within the Property. The use of architectural style or cedar shingles are encouraged and common asphalt or flat shingles will not be allowed.

(b) BUILDING MATERIALS. Building materials shall be of natural tones and colors to blend with the overall setting of the Property. White, bright or shiny surfaces will be subject to careful review and scrutiny by the ARC. No exterior red brick will be approved by the ARC. No shed-type porches will be allowed without approval of the ARC Committee.

(c) SITING OF DWELLING. Subject to the terms and provisions of Sections 6.04 and 6.05 below, each Dwelling shall be designed and sited on each Lot so as to take maximum advantage of the topography, views, trees and other natural features which tend to enhance the overall appearance of each Lot and within the requirements of the applicable sections of Article VI including required setbacks. Special consideration should be given to design of the lakeside elevation of any Dwelling.

(d) FENCING. Except as otherwise provided to the contrary in this Section 5.04(d), fencing shall be used only for screening unsightly areas such as storage receptacles, garbage cans, air conditioners and similar outside structures and then, only to the extent the same have been approved, both as to location and type of materials, by the ARC. Screening fences, to the extent approved by the ARC, shall not exceed six (6) feet in height and shall be built of materials harmonious with those used in construction of the Dwelling on a Lot but shall not be constructed as a solid fence. To the extent approved by the ARC, fencing or entrance gates may be constructed on any Lot. Pet control fencing is strongly encouraged; provided, however, that pet control fencing shall (i) be limited to a run or pen which shall be no higher than six (6) feet in height, (ii) be located sufficiently far from the High Water Mark to prevent runoff of animal waste into Lake Martin, (iii) not exceed 400 square feet in total area fenced, (iv) be located at least 30 feet from any side Lot line and (v) otherwise be approved, both as to location and materials used, by the ARC. In no event shall metallic finished fences be allowed. The foregoing provisions shall not be applicable to any of the Common Areas.

(e) ACCESSORY BUILDINGS. The use of multiple Accessory Buildings, in general, is discouraged and will be subject to strict review and scrutiny by the ARC. Detached garages are acceptable if the design of the same enhances the overall design of the Dwelling. Greenhouses, storage spaces and other structures, if contemplated, should be incorporated into the design of the Dwelling where feasible. Plans and specifications as well as the site plan of any Accessory Building shall be submitted to and reviewed by the ARC. All Accessory Buildings will be required to meet all setback lines established in this Declaration as well as all applicable building codes. No Accessory Building shall exceed two stories in height or have its roof height exceed the elevation of the highest point of the Dwelling without specific approval of the ARC taking into consideration any hardships due to the site topography. No Accessory Building shall be constructed on a Lot prior to construction of a Dwelling on such Lot except for a garage which incorporates a living space with approval of the ARC Committee. Main Dwelling must be completed within 24 months of approval of ARC Committee and/or within 24 months of the completion of a garage incorporating living space if such is constructed first.

(f) SEPTIC TANKS. Each Dwelling and, to the extent applicable, each Accessory Building, shall be served by a private septic tank with field lines to be constructed on each Lot, the locations of which must be approved by the ARC prior to commencement of construction or installation of the same. All septic tanks, field lines and accompanying facilities are to be installed and maintained in accordance with the rules and regulations of the State of Alabama Public Health Department and the Tallapoosa County, Alabama Public Health Department. Upon ARC approval of all plans for the construction of a Dwelling on a Lot, but prior to the initiation of construction of such Dwelling on any such Lot, each Owner or his or her representative must obtain approval from the Tallapoosa County, Alabama Health Department or its authorized representative of the plans and location of the septic tank and field lines to be constructed and installed on such Owner's Lot. Each Owner, at such Owner's expense, shall be obligated to dig a sample drain field line opening in the proposed location of the field lines to determine the adequacy of the subsoil for construction of a private septic tank with field lines. The Alabama Department of Public Health requires a minimum 50-foot setback from the High Water Mark to any drain field line, which requirement shall, at all times, be complied with by each Owner.

(g) WATER SERVICE. As of the date of this Declaration, public water services are available for all of the Lots. Each Owner shall be solely responsible for paying any and all reservation, tap, impact, service, demand, use and any other fees, charges, costs or expenses charged by any provider or any utility services of any nature, including, without limitation; public water service, for such Owner's Lot.

(h) DRIVEWAYS. All driveways shall have a maximum width of 12 feet per opening at the intersection of any paved road within the Property.

(i) BOAT DOCKS AND PIERS. Owners of all Lots abutting Lake Martin may erect boat docks and piers on that portion of such Owner's lot abutting Lake Martin which lies between the outside boundary line of such Lot and the High Water Mark, subject to compliance with all of the following terms and conditions:

(i) No boat dock may be constructed on any Lot which would interfere with access to an adjacent Lot or the view of Lake Martin from any adjacent Lot;

(ii) Stationary piers may not exceed the greater of (a) 50 feet in length or (b) the length required to provide eight (8) feet in depth from the 490 foot contour as measured at the end of the pier whichever is determined by ground slope. The tallest projection of any boat dock shall not exceed twelve (12) feet above the High Water Mark. No stationary piers, boat slips or floating docks shall be constructed until approved by the ARC and until a valid permit has been obtained from Alabama Power Company. The location and size of floating docks, uncovered boat slips and any other marine construction or Improvements of any nature on or adjacent to Lake Martin will be approved based on each individual site plan submitted to the ARC;

(iii) Manufactured flotation fixtures are required for flotation purposes. All boat docks will be constructed of materials approved by the ARC;

(iv) Plans and specifications, including site plan and finish material for boat docks, must be approved by the ARC;

(v) All boat docks will observe a minimum side yard setback distance of not less than fifteen (15) feet from the adjoining Lot and shall not cross, for a reasonable distance, the projected Lot line of any adjacent Lot as the same would be projected into Lake Martin;

(vi) No boat dock or pier shall provide a covered space for boat storage;

(vii) In addition to satisfying the above requirements and obtaining the approval of the ARC to all proposed plans and specifications for any boat docks and piers, each Owner or his or her representative shall also be responsible, at such Owner's sole cost and expense, for obtaining any consents and approvals of Alabama Power Company and otherwise complying with all rules and regulations of Alabama Power Company concerning the construction and maintenance of boat docks and piers on, adjacent to or within any portion of Lake Martin.

(j) SEAWALLS. The owners of any Lots abutting Lake Martin may erect seawalls on that portion of such Owner's Lot abutting Lake Martin which lies between the outer boundary line of such Lot and the High Water Mark, which seawalls must be contiguous to the property line of such Owner's Lot and otherwise comply with all of the following terms and conditions:

(i) Sketch plans and specifications including siting, type of materials, color and finish must be approved by the ARC prior to construction of any seawalls;

(ii) Poured-in-place concrete walls with set-in designs in the casting are required except for beach areas which must be approved by the ARC Committee;

(iii) All seawalls must be sited, reviewed and approved by the ARC prior to commencement of construction of the same; and

(iv) In addition to satisfying the foregoing requirements, each Owner or his or her representatives shall also be responsible, at such Owner's sole cost and expense, for obtaining any consents or approvals of Alabama Power Company and otherwise complying with all rules and regulations of Alabama Power Company or any other public or private entity having supervisory jurisdiction over the construction and maintenance of seawalls on, adjacent to or within any portion of Lake Martin.

(k) BOAT RAMPS. The Association provides a common boat ramp. No private boat ramps are permitted.

5.05 APPROVAL OF PLANS AND SPECIFICATIONS.

(a) In order to preserve the architectural and aesthetic appearance and the natural setting and beauty of the Property, to establish and preserve a harmonious design for the Property and to protect and promote the value of the Property, the Lots, the Dwellings and all Improvements thereon, no Improvements of any nature shall be commenced, erected, installed, placed, moved onto, altered, replaced, relocated, permitted to remain on or maintained on any Lot which affect the exterior appearance of any Lot or the Dwelling or other Improvements thereon unless plans and specifications therefore have been submitted to and approved by the ARC in accordance with the terms and provisions of Section 5.05(b) below.

(b) The ARC is hereby authorized and empowered to approve all plans and specifications and the construction of all Dwellings and other Improvements on any Lot. Prior to the commencement of any Dwelling or other Improvements on any Lot, the Owner thereof shall submit to the ARC plans and specifications and related data for all such Improvements, in such form and in such adequate detail including property line setbacks, building heights, building materials, color schemes, finish proportions (heights, depths, widths), style of architecture, density of all Improvements contemplated on the Lot (including areas for future development) plan and elevation views, detailed landscape plans and specifications including identification of all plant material, etc. A minimum of four complete copies of such plans and specifications are required to be submitted with the request with such other information or materials which the ARC may from time to time require. It is the intent of the covenants and restrictions to serve as general guidelines to the development of the subdivision and the ARC is encouraged to take them seriously; however, on the other hand, they are guidelines and it is not the intent of these requirements to discourage attractive and additional development of the subdivision in good taste and in keeping with an upscale lake resort environment. It is recognized that there is a high level of investment in each of the properties and the main purpose of these restrictions is to protect that investment for each and every Owner. In particular, the ARC is encouraged to seriously take into consideration the impact of each project on the development as a whole and in particular the impact of each project on the adjacent Owners. Denial of approval to an Owner to additional development of that Owners property should be based on sound and reasoned judgment and not be unreasonably withheld. On the other hand, it is the specific obligation of each Owner to consider the impact of any proposed Improvement on all neighbors, to have each Improvement professionally designed and constructed, and to follow to the maximum extent possible the restrictions and guidelines set forth in this document.

(c) The ARC shall, in its sole and absolute discretion, determine whether the plans and specifications and other data submitted by any Owner for approval are acceptable. The ARC shall have the right to disapprove any plans and specifications upon any ground which is consistent with the objectives and purposes of this Declaration, including purely

aesthetic considerations, any failure to comply with any of the provisions of this Declaration, failure to provide requested information, objection to exterior design, appearance or materials, objection on the ground of incompatibility of any such proposed improvement with the scheme of development proposed for the Property, objection to the location of any proposed Improvements on any such Lot, objection to the landscaping plan for such Lot, objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of any Improvements or any other matter which, in the sole and absolute judgment of the ARC, would render the proposed Improvements inharmonious with the general plan of development contemplated for the Property. The ARC shall have the right to approve any submitted plans and specifications with conditions or stipulations by which the Owner of such Lot shall be obligated to comply and must be incorporated into the plans and specifications for such Improvements or Dwelling. Approval of plans and specifications by the ARC for Improvements to one particular Lot shall not be deemed an approval or otherwise obligate the ARC to approve similar plans and specifications or any of the features or elements for the Improvements for any other Lot. One copy of all plans, specifications and related data so submitted to the ARC shall be retained in the records of the ARC. Notwithstanding anything provided herein to the contrary, an Owner may make interior improvements and alterations within such Owner's Dwelling that do not affect the exterior appearance of such Dwelling without the necessity or requirement that the approval or consent of the ARC be obtained.

(d) The ARC may establish an additional fee sufficient to cover the expense of reviewing plans and related data (including any mileage reimbursement costs for ARC meetings or site visits, postage, copies, etc.) and to compensate any consulting architects, landscape architects, designers, engineers, inspectors and/or attorneys retained in order to approve such plans and specifications and to monitor and otherwise enforce the terms hereof. Such fee or fees shall be paid by the Owner who is seeking approval of plans and specifications. The ARC shall also have the right, in its sole and absolute discretion, to require the Owner of any Lot to deposit a construction escrow/security deposit with the ARC at the time the ARC approves the plans and specifications for any Improvements to such Owner's Lot. Such construction escrow/security deposit shall be held by the Association in a non-interest bearing account, shall serve as security for the full and faithful completion by such Owner of all Improvements to be made by such Owner on such Owner's Lot and the compliance with all of the terms, conditions and provisions of this Declaration. Any such escrow/security deposit shall be returned to the Owner who has deposited the same upon completion of all Improvements on such Lot and the determination by the ARC, in its sole and absolute discretion, that all of the other terms and provisions of this Declaration have been satisfied and complied with in all respects by such Owner, his or her agents, employees and independent contractors. If the ARC, in its sole discretion, determines that such Improvements are not timely completed in accordance with the terms and provisions of this Declaration, or if, in the construction of such Improvements, such Owner or his or her agents, employees or independent contractors, fail to abide by all of the terms and provisions of this Declaration, then the ARC shall have the right, in its sole and absolute discretion, to use all or any portion of such escrow/security deposit to complete, correct or remedy any such breach by such Owner or his or her agents, employees or independent contractors; provided, however,

that application of such escrow/security deposit to the costs to complete, correct or remedy any such breach or violation shall not be deemed a release or waiver of any rights of the ARC or the Association to exercise any of their respective rights or remedies set forth in this Declaration.

(e) In the event the ARC fails to approve or respond in writing to any proposed plans and specifications within thirty (30) days after written plans and specifications or any revisions thereof have been submitted, then the plans and specifications or revisions thereof so submitted to the ARC will be deemed to have been approved.

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

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

5.06 LANDSCAPING APPROVAL In order to preserve, to the extent practicable, the natural landscaping and plant life currently situated on the Property and in order to enhance the aesthetic appearance of the Property, no landscaping, grading, excavation or fill work of any nature shall be implemented or installed by any Owner, other than the Association, on any Lot unless and until landscaping plans therefore have been submitted to and approved by the ARC.

5.07 CONSTRUCTION WITHOUT APPROVAL. If (a) any Improvements are initiated, installed, maintained, altered, replaced or relocated on any Lot without ARC approval of the plans and specifications for the same or (b) the ARC shall determine that any approved plans and specifications for any Improvements or the approved landscaping plans for any Lot are not being complied with, then, in either event, the Owner of such Lot shall be deemed to have violated this Declaration and the ARC shall have the right to exercise any of the rights and remedies set forth in Section 5.12 below.

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

5.09 SUBSURFACE CONDITIONS. The approval of plans and specifications by the ARC for any Dwelling or other Improvements on a Lot shall not be construed in any respect as a representation or warranty by the ARC, the Association or Developer to the

Owner submitting such plans or to any of the successors or assigns of such Owner that the surface or subsurface conditions of such Lot are suitable for the construction of the Improvements contemplated by such plans and specifications. It shall be the sole responsibility of each Owner to determine the suitability and adequacy of the surface and subsurface conditions of any Lot for the construction of any contemplated Improvements thereon.

5.10 LIMITATION OF LIABILITY. Notwithstanding anything provided herein to the contrary, (a) neither the Association, the ARC, nor any agent, employee, representative, member, shareholder, partner, officer or director thereof shall have any liability of any nature whatsoever for, and (b) each Owner, by acceptance of a deed to any Lot, does hereby irrevocably and unconditionally waive and release the Association, the ARC, and each agent, employee, representative, member, shareholder, partner, officer and director thereof from, any and all damage, loss, action, cause of action, liability, expense or prejudice suffered, claimed, paid or incurred by any Owner on account of (i) any defects in any plans and specifications submitted, reviewed or approved in accordance with the provisions of this Article V, (ii) any defects, structural or otherwise, in any work done according to such plans and specifications, (iii) the failure of the ARC to approve or the disapproval of any plans, drawings, specifications or other data submitted by any Owner for approval pursuant to the provisions of this Article V, (iv) the construction or performance of any work related to such plans, drawings and specifications, (v) bodily injuries (including death) to any Owner, Occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of any such Owner or Occupant, or any damage to any Dwellings, Improvements or the personal property of any Owner, Occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of such Owner or Occupant, which may be caused by, or arise as a result of, any defect, structural or otherwise, in any Dwellings or Improvements or the plans and specifications therefore, or any past, present or future soil and/or subsurface conditions, known or unknown (including, without limitation, sinkholes, underground mines, tunnels and water channels and limestone formations on or under any Lot or Dwelling) and (vi) any other loss, claim, damage, liability or expense, including court costs and attorneys' fees, suffered, paid or incurred by any Owner arising out of or in connection with the use and occupancy of any Lot, Dwelling or any Improvements situated thereon.

5.11 COMMENCEMENT AND COMPLETION OF CONSTRUCTION. Upon commencement of construction of any Dwelling or Improvement, construction work thereon shall be prosecuted diligently and continuously and shall be completed within 16 months from the commencement date of said construction, such completion to be evidenced by a final certificate of occupancy issued by the appropriate Governmental Authorities, if said construction is of a Dwelling.

5.12 ENFORCEMENT AND REMEDIES. In the event any of the provisions of this Article V are breached or are not otherwise being complied with in all respects by any Owner or Occupant or the respective family members, guests, invitees, agents, employees or contractors of any Owner or Occupant, then the ARC and the Association

shall each have the right, at their option, to (a) enjoin any further construction on any Lot and require the removal or correction of any work in place which does not comply with the plans and specifications approved by the ARC for such Improvements and/or (b) through their designated agents, employees, representatives and independent contractors, enter upon such Lot and take all action necessary to extinguish such violation or breach. All costs and expenses incurred by the ARC or the Association in enforcing any of the provisions of this Article V including, without limitation, attorneys' fees, court costs, costs and expenses of witnesses, engineers, architects, designers, land planners and any other persons involved in the correction of nonconforming work, the completion of uncompleted work or in any judicial proceeding, together with any other costs or expenses incurred by the ARC or the Association in causing any Owner or such Owner's contractors, agents or invitees to comply with the terms and provisions of this Article V, shall be paid by such Owner, shall constitute an Individual Assessment to such Owner pursuant to Section 8.05 below and, if the same is not paid when due, shall be subject to the lien provided for in Section 8.06 below and be subject to foreclosure as provided for therein. Notwithstanding anything provided herein to the contrary, the rights and remedies of the ARC and the Association set forth herein shall not be deemed exclusive of any other rights and remedies which the ARC or the Association may exercise at law or in equity (including foreclosure) or any of the other enforcement rights specified in this Declaration.

5.13 COMPLIANCE CERTIFICATION. The ARC (or any authorized representative thereof) shall, upon request and at such reasonable charges as may from time to time be adopted by the Board, furnish to an Owner a certificate in writing setting forth whether all necessary ARC approvals have been obtained and whether any Dwelling or Improvement has been constructed in accordance with the provisions of this Declaration.

5.14 INDEMNIFICATION. Each member of the ARC is an agent of the Association. The Association shall and does hereby indemnify, defend and agree to hold each member of the ARC harmless from and against any and all costs and expenses, including court costs and reasonably attorneys' fees, suffered, paid or incurred by any of them in connection with any action, suit or other proceeding (including the settlement of any suit or proceeding) to which such person may be made a party by reason of being or having been a member of the ARC. The members of the ARC shall not be liable for any mistake in judgment, negligence or otherwise except for their own willful misconduct or reckless disregard of duty, as finally determined by a court of competent jurisdiction. The members of the ARC shall be deemed agents of the Association and shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the ARC and the Association shall and does hereby indemnify, agree to defend and hold each member of the ARC harmless from any and all liability to others on account of any such contract or commitment entered into by any member of the ARC in furtherance of their respective duties and responsibilities under this Declaration. The Association shall maintain adequate general liability and, to the extent financially feasible, directors' and officers' liability insurance (which shall also name the members of the ARC as agents of the Association as additional insures there under), in order to fulfill

its obligations under this Section 5.14 and the costs of such insurance shall constitute a Common Expense.

ARTICLE VI

USE AND PROPERTY RESTRICTIONS

6.01 USE RESTRICTIONS. Except as otherwise provided to the contrary in this Section 6.01, each Lot and Dwelling shall be used for detached single-family residential purposes only and no more than one (1) Dwelling and one (1) Accessory Building may be constructed or located on any Lot without written approval of the ARC Committee; provided further, however, that (i) no Accessory Buildings may be built, constructed, erected, placed, located, operated or maintained on any portion of any Cottage Lot without close scrutiny and specific written ARC approval, and (ii) no vehicles, boats, trailers, equipment, machinery, swing sets, recreational equipment or any other personal property or Improvements of any nature shall be constructed, installed, erected, parked, placed, maintained or allowed to remain on that portion of any of the Cottage Lots lying between the Access Roadway and Marin Parkway without specific written ARC approval. In addition, those portions of any Cottage Lots lying between the Access Roadway and Marin Parkway shall, unless expressly approved in writing by the ARC, be maintained in their current, natural state except as required to maintain septic system field lines and shall serve as a natural buffer between the Access Roadway and Marin Parkway with no ingress or egress allowed from Marin Parkway..

No trade or business may be carried on in or from any Lot; provided, however, that the use of any portion of a Dwelling as an office by an Owner shall not be considered a violation of this covenant if such use does not create regular customer, client or employee traffic. The leasing or rental of a Dwelling for residential purposes only shall be authorized and not be considered a violation of this covenant if, and only to the extent that, such lease is (a) a written lease, a copy of which must be forwarded to the Association, (b) for a term of at least four (4) months, without any early termination rights (other than as a result of any event of default thereunder), (c) the tenant expressly agrees in such lease to be bound by and comply with all of the terms and provisions of this Declaration and (d) otherwise in compliance with the rules and regulations promulgated from time to time by the Association. Notwithstanding anything provided in this Section 6.01 to the contrary, the Property or any portion thereof, including, specifically, any Lots constituting any portion of the Property, may be used and developed for (i) any of the uses included in the definition of Common Areas and (ii) any other uses so long as such other uses have been approved in writing by the ARC.

6.02 PLAN APPROVAL No Dwellings or other Improvements of any nature whatsoever shall be constructed on any Lot unless such Dwelling or Improvements have been approved by the ARC in the manner set forth in Article V above.

6.03 UNDERGROUND UTILITIES. All utility lines, pipes, conduits and wiring for electrical, gas, telephone, water, sewer, cable television, security and any other utility service for any portion of the Property shall be installed and maintained below ground.

6.04 BUILDING SETBACKS. (a) Subject to the provisions of Section 6.05 below, minimum building setback lines for all Dwellings shall be as follows: (i) side setbacks: 15 feet; (ii) front setbacks: 15 feet; and (iii) rear setbacks: 25 feet. All setback lines shall be measured from the property lines of each Lot. The minimum setbacks established above apply to the Dwelling and any Accessory Building constructed or placed on a Lot; the above front setbacks shall apply to all portions of a Lot which are adjacent to any street; and the above rear setbacks shall apply to all portions of a Lot which are adjacent to Lake Martin.

The above and foregoing provisions of this Section 6.04(a) shall not be applicable to the Cottage Lots. With respect to all Cottage Lots, the minimum building setback lines for all Dwellings to be constructed on any Cottage Lot shall be established by the ARC on a lot-by-lot basis, which decision shall be made in the sole and absolute discretion of the ARC and shall be final and binding on all Owners of the Cottage Lots. In no event shall any Accessory Building be constructed on any of the Cottage Lots without specific review, close scrutiny and written approval of the ARC. Furthermore, with respect to those portions of the Cottage Lots upon which the Access Roadway is located, no Dwellings or other Improvements of any nature shall be made by any Owner on any portion of any of the Cottage Lots lying between the Access Roadway and Marin Parkway

(b) No Dwelling shall be built within the setback areas established in accordance with any of the procedures specified in Section 6.04 (a) above or Section 6.05 below. All eaves, steps, stoops, porches, terraces, decks and patios shall be deemed a part of the Dwelling for the purposes of determining building setback areas pursuant to this Section 6.04.

6.05 SITING PLANS. Prior to commencing any construction-related activities on any Lot (including any grading or clearing), the location of any Dwelling, Accessory Building or other Improvements to be constructed thereon shall be set forth on the site development plan for such Lot which must be approved by the ARC pursuant to the provisions of Section 5.05 (b) above. Notwithstanding anything provided in Section 6.04 above to the contrary, the ARC may require building setback requirements different from those described in or established pursuant to Section 6.04, including building setbacks which are greater than those specified in or established pursuant to Section 6.04 above.

6.06 HEIGHT LIMITATIONS. The height of all Dwellings and Accessory Buildings shall be compatible with all other Dwellings and Accessory Buildings situated adjacent to such Lot. No Dwelling shall exceed two and one-half (2-1/2) stories in height, as measured from the finished grade of the Lot on the front of the Dwelling facing a street or roadway. The height of all Accessory Buildings must be approved by the ARC and its highest point may not exceed the highest elevation of the roof on the Dwelling without extenuating circumstances approved by the ARC.

The above and foregoing provisions of this Section 6.06 shall not be applicable to the Cottage Lots. With respect to Cottage Lots only, the maximum height of any Dwelling shall be two (2) stories in height, as measured from the finished grade of the Cottage Lot on the front of the Dwelling facing the Access Roadway

6.07 MINIMAL LIVING SPACE. Each Dwelling shall have a minimum footprint area, as herein defined, of not less than 3,000 square feet and a minimum Living Space of not less than 2,500 square feet. As used herein, the term "footprint area" shall mean the total area of each Lot which has built over it the main Dwelling of such Lot (including garages and porches).

The above and foregoing provisions of this Section 6.07 shall not be applicable to the Cottage Lots or any Dwellings constructed on any of the Cottage Lots. With respect to the Cottage Lots only, the ARC shall establish both minimum and maximum Living Space requirements and minimum and maximum footprint areas, which determination by the ARC shall be made in its sole and absolute discretion and shall be final and binding on all Owners of the Cottage Lots.

6.08 LANDSCAPING AND TREES.

(a) Unless located within ten (10) feet of a Dwelling, an Accessory Building or any driveway or sidewalk, no Owner (other than the Association) shall cut, remove or mutilate any tree, shrub, bush or other vegetation having a trunk diameter of eight (8) inches or more at a point of three (3) feet above ground level, without first obtaining the approval of the ARC; provided, however, that the foregoing shall not be deemed to prohibit the cutting and removal of any dead or diseased trees or prohibit the Association from cutting or removing trees to the extent reasonably required to construct roads or Common Areas within the Property or install underground utilities within the Property.

(b) Each Owner shall, to the extent practicable, attempt to incorporate into the landscaping plan for his or her Dwelling the natural plant life existing on such Lot and shall otherwise take such steps which would, to the extent practicable, preserve the existing trees, plant life, wild flowers and natural environment, including natural drainage channels, which exist on such Lot.

(c). All landscape plans in excess of \$5,000.00 shall be submitted to and approved by the ARC.

(d) All landscaping for a Lot shall be completed in accordance with the landscape plan approved by the ARC no later than the date of occupancy of the Dwelling situated thereon.

(e) No hedge or shrubbery planting which obstructs sight-lines of streets and roadways shall be placed or permitted to remain on any Lot where such hedge or shrubbery interferes with traffic sightlines for any roadways within or adjacent to the Property. The determination of whether any such obstruction exists shall be

made by the ARC, whose determination shall be final, conclusive and binding on all Owners.

(f) No Owner shall allow the grass on his or her Lot to grow to a height in excess of six (6) inches, measured from the surface of the ground. After notification by the Board to the Lot Owner of a violation, the Board will assess the owner for the cost of removal of grass.

(g) Seasonal or holiday decorations (e.g., Christmas trees and lights, pumpkins, Easter decorations) shall be promptly removed from each Lot as soon as such holiday passes.

6.09 ROOFING. The ARC shall have the right to establish specific requirements for the pitch of any roof and the type of roofing materials which may be utilized for any Dwelling. No solar or other energy collection panel, equipment or device shall be installed or maintained on any Lot or Dwelling. All plumbing and heating vents, stacks and other projections of any nature on the roof shall (i) be painted the same color as the roofing material used for such Dwelling and (ii) to the extent practicable, not be visible from any roadways within or adjacent to the Property. No projections of any type shall be placed or permitted to remain above the roof of any Dwelling except for approved chimneys vent stacks and satellite dishes

6.10 EXTERIOR LIGHTING. All exterior lighting for any Dwelling, including, without limitation, free standing lighting, accent lighting and utility (e.g., flood) lighting, must be approved by the ARC.

6.11 EXTERIOR MATERIALS AND FINISHES. No concrete, concrete block or cinder block shall be used as an exposed building surface; any concrete, concrete block or cinder block utilized in the construction of a Dwelling or for retaining walls and foundations shall be finished in the same materials utilized for the remainder of the Dwelling (e.g., brick, stone, stucco, etc.). Metal flashing, valleys, vents and gutters installed on a Dwelling shall be painted to blend with the color of the exterior materials to which it is adhered or installed.

6.12 OFF-STREET PARKING AND GARAGES.

(a) Each Dwelling shall provide for off-street parking for at least four (4) automobiles in either enclosed garages (which must be equipped with garage doors), Open Carports or within designated parking spaces provided adjacent to driveways, however, that with respect to the Cottage Lots only, off-street parking shall be provided for at least two (2) automobiles within designated parking areas or driveways to be situated on said Cottage Lots, the location of which must be approved by the ARC. All driveways and walkways shall architecturally complement the dwelling and natural environment of the lot and be approved by the ARC Committee.

(b) Garage doors shall be kept closed at all times except when in use. No garage shall be converted to any use other than for the parking of vehicles therein without the approval of the ARC. Garage doors may not open directly onto a street or roadway.

(c) In no event shall any automobiles or other vehicles, machinery or equipment be parked or left unattended on or within (i) any areas of a Lot which are not driveways, designated parking areas or enclosed garages, (ii) any Common Areas or (iii) any of the public roadways within the Property. Each Lot shall provide for adequate off-street parking (i.e., parking areas located solely within the property lines of such Lot). Vehicles shall be parked only in driveways, designated parking areas or in garages. Vehicles shall not be parked within any of the Common Areas.

(d) No portion of any Lot may be utilized to provide access, ingress to or egress from any property outside the boundaries of the Property without the express prior written consent of the ARC, which consent may be withheld by the ARC in its sole and absolute discretion.

6.13 WINDOWS, WINDOW TREATMENTS AND DOORS.

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

(b) Burglar bars or doors (including wrought iron doors) shall not be permitted. Screen doors shall not be used on the front or side of any Dwelling. Appropriate window treatments shall be used on all windows: Sheets, bed linens, blankets and paper or plastic bags are not appropriate window treatments.

6.14 MAILBOXES. Only one (1) mailbox shall be allowed on any Lot. All mailboxes shall be of the type, design, color and location as may be established or approved by the ARC. Mailboxes shall contain only the house number of the Lot as approved by the ARC, but no further inscription, paintings, ornaments or artistry shall be allowed.

6.15 UTILITY METERS AND HVAC EQUIPMENT. All electrical, gas, telephone and cable television meters shall be located on each Lot or screened from view by appropriate landscaping so as not to be visible from any roadways within the Property or from Lake Martin. No window mounted heating or air conditioning units or window fans shall be permitted.

6.16 SATELLITE DISHES AND ANTENNA. No more than two (2) satellite dishes no more than two (2) feet in diameter may be installed on a Lot or Dwelling. No radio antenna, radio receiver or other similar device or aerial shall be attached to or installed on any Lot or Dwelling unless the same is (i) contained entirely within the interior of a building or other structure, (ii) not visible from any roadway within or adjacent to the Property or any adjacent Lot and (iii) approved by the ARC. No radio or television signals or any other form of electromagnetic radiation or transmission shall be permitted to originate from any Lot or Dwelling which may interfere with the reception of radio or television signals within the Property or any other real property situated in close proximity to the Property.

6.17 SOIL EROSION AND DRAINAGE. Each Owner shall provide and maintain on his or her Lot adequate soil erosion measures and drainage facilities to accommodate any storm water runoff resulting from any Improvements being or having been constructed on such Owner's Lot. Each Owner shall also insure that his or her Lot and any Improvements thereto are at all times in strict compliance with (a) all soil erosion protection requirements of all applicable Governmental Authorities, (b) all storm water drainage and runoff requirements and regulations of all applicable Governmental Authorities and (c) all other statutes, ordinances, codes, laws, permits, legislation, rules, regulations, requirements, and rulings of any Governmental Authority.

Each Owner, by acceptance of a deed to his or her Lot, shall and does hereby indemnify, defend and agree to hold the Association, the ARC, and their respective agents, employees, officers, directors, shareholders, members and representatives, harmless from and against any and all fines, penalties, costs and expenses, including court costs and reasonable attorneys' fees, and any and all other amounts suffered, paid or incurred by Developer, the ARC, the Association and their respective agents, employees, officers, directors, shareholders, members and representatives in connection with any action, suit or proceeding (including the settlement of any suit or proceeding) to which any such person may be made a party by reason of the breach by such Owner of any of the terms and provisions of this Section 6.17.

6.18 OUTDOOR FURNITURE, RECREATIONAL FACILITIES.

Unless specifically approved by the ARC:

- (a) Any yard (exterior) furniture placed, kept, installed, or located in or on any Lot shall to the greatest extent practicable, be located so that the same will not be visible from any roadways within or adjacent to the Property and be maintained and not detract from the natural beauty of the Dwelling or Lot. No interior furniture or furnishings (i.e., sofas, appliances, etc.) shall be allowed outside any Dwelling.
- (b) Wood piles, free-standing playhouses, children toys, swing sets, jungle gyms, trampolines, and other recreational equipment and appurtenances shall be screened by landscaping or be located so that the same are not visible from any roadways within or adjacent to the Property.
- (c) Basketball backboards shall be located so as not to be visible from any roadways within or adjacent to the Property. Basketball goal backboards should be of clear Plexiglas or acrylic.
- (d) No clothing, rugs, or other items shall be hung, placed or allowed to remain on any railing, fence or wall.
- (e) Barbecue grills or other types of outdoor cooking equipment and apparatus shall be located such that they are not visible from any roadways within or adjacent to the Property.
- (f) Bird feeders, wood carvings, plaques and other types of homecrafts shall not be visible from any roadways within or adjacent to the Property.

6.19 PETS AND ANIMALS. No animals, livestock, birds or poultry of any kind shall be kept, raised or bred by any Owner upon any Lot, Dwelling or other portion of the Property;

provided, however, that not more than two (2) dogs or cats (or a combination of one dog and one cat) may be kept and maintained on a Lot or Dwelling as long as they are not kept for breeding or commercial purposes. No pet shall be allowed to make an unreasonable amount of noise or become a nuisance. No structure or area for the care, housing or confinement of any pet (including, without limitation, dog houses, dog runs and other confined areas and spaces) shall be located at the rear of a Dwelling, shall not be visible from any roadways within or adjacent to the Property and shall be constructed of materials and of a size approved by the ARC. Dogs and cats shall not be allowed to roam unattended within the Property; all dogs shall be kept and maintained within fenced or walled areas on a Lot, as approved by the ARC, or otherwise under leash. Pets shall not be permitted to leave excrement on the Lot of any other Owner or within any street right-of-way or any portion of the Common Areas and the Owner of such pet shall immediately remove the same. Each Owner shall be liable to the Association for the costs of repairing any damage to the Common Areas caused by the pet of such Owner or Occupant.

6.20 TRASH, RUBBISH AND NUISANCES.

(a) No trash, garbage, rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon portion of the Property nor shall any nuisance or odors be permitted to exist or operate upon or arise from any Lot or Dwelling which would render any portion thereof unsanitary, unsightly, offensive or detrimental to persons using, occupying or owning any other Lots or Dwellings within the Property or any other real property in close proximity to the Property. Noxious or offensive activities shall not be carried on in or from any Lot or Dwelling or in any part of the Common Areas, and each Owner and Occupant shall refrain from any act or use of a Lot or Dwelling which could cause disorderly, unsightly or unkept conditions, result in the cancellation of or increase in insurance coverage or premiums for any portion of the Property or be in violation of any law, statute, ordinance, rule, regulation or requirement of any Governmental Authority. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices, other than security and fire alarm devices used exclusively for such purposes, shall be located, used or placed upon any Lot or Dwelling or other portion of the Property. Any Owner or Occupant who dumps, places or allows trash or debris to accumulate on his Lot or Dwelling or on any other portion of the Property shall be liable to the Association for all costs incurred by the Association to remove the same.

(b) Trash, garbage and any other refuse or waste shall not be kept on any Lot or Dwelling except in sanitary containers or garbage compactor units. Trash cans and containers shall at all times be kept at the rear of or inside a Dwelling and shall be screened from view from all roadways within or adjacent to the Property and all adjacent Lots and Dwellings by appropriate landscaping or fencing approved by the ARC. Each Owner is responsible for the proper disposal of his own trash, garbage, rubbish and debris. To the extent the Association, acting through its Board of Directors with the affirmative vote of a majority of the Association, determines that central garbage collection facilities should be provided for the common use of all Owners, then each Owner shall be responsible for transporting all trash, garbage and other debris from his or her Lot or Dwelling to any such central collection facility provided by the Association, which central collection facility shall be deemed a Common Area.

(c) All burning must meet all applicable governmental rules and regulations.

6.21 RECREATIONAL VEHICLES AND MACHINERY AND EQUIPMENT.

(a) Mobile homes, motor homes, trailers of any kind, trucks (other than pick-up trucks) campers, vans (other than mini-vans used for passenger transportation), motorcycles, bicycles, motorized carts and all-terrain vehicles, lawnmowers, tractors, tools, construction machinery and equipment of any type or nature, golf carts, boats and any other type of watercraft, including boat trailers, and any other similar types of vehicles, machinery or equipment shall not be permitted, stored or allowed to remain on any Lot unless the same is placed, stored and maintained so as to maintain the integrity of the neighborhood or enclosed structure. Any such enclosed structure must be approved by the ARC. Neither the Common Areas nor the roadways within the Property shall be utilized for the parking or storage of any of the foregoing vehicles, recreational vehicles, machinery or equipment.

(b) Vehicles used primarily for commercial purposes and vehicles with commercial writings on their exteriors are prohibited from being parked on or within any portion of the Property, including any of the Lots, except as follows: (i) not more than one (1) pick-up truck or one (1) mini-van containing commercial writings on their exteriors may be parked on or within paved parking surfaces of each Lot; and (ii) any other trucks, vans, commercial vehicles and vehicles with commercial writings on their exteriors shall be allowed temporarily within the Property either (1) during the construction of any Improvements on a Lot or (2) during normal business hours for the purpose of providing services to any Lot or Dwelling thereon so long as the same are not parked on or within any of the streets within the Property. No construction trucks, vehicles, machinery or equipment shall be washed on any of the streets within the Property.

(c) The established speed limit within the Property is 25 miles per hour for all vehicles unless posted otherwise and shall be obeyed at all times by all parties entering any portion of the Property.

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

6.22 SIGNAGE. All signs must of commercial quality and be limited to "For Sale" signs.

6.23 ABOVE OR BELOW GROUND TANKS AND WELLS. No exposed above-ground tanks for the storage of fuel, water or any other substances shall be located on any Lot or within any of the Common Areas with the exception of propane fuel tanks which must be buried or screened from view from any roadway or neighboring Lot by Landscaping.. The location of any private water wells to be drilled or maintained on any Lot and any other Improvements

related thereto must be approved by the ARC. No septic tanks or similar sewage facilities may be installed or maintained on any Lot within 50 feet of the High Water Mark.

6.24 TEMPORARY STRUCTURES. No temporary house, trailer, shack, tent, barn, shed, stable, poultry house or yard, rabbit hut, or other outbuilding or structure of any kind, shall be permitted, constructed, installed or allowed to remain on any Lot; provided, however, that the foregoing shall not be deemed to prohibit (a) any Accessory Building approved in writing by the ARC, (b) dog houses for not more than two (2) dogs so long as such dog houses are visibly screened from view from all roadways within or adjacent to the Property and all adjacent Lots, (c) temporary structures for social functions as may be permitted by the rules and regulations of the Board and (d) construction trailers of a builder.

6.25 CONSTRUCTION OF IMPROVEMENTS.

(a) During the construction of any Improvements on a Lot, (i) all portions of such Lot and the Improvements thereto shall be maintained in a clean condition, free of debris and waste material, (ii) all unused construction materials shall be stored, to the extent practicable, out of view from any roadways within or adjacent to the Property and (iii) all construction trash, debris and rubbish on each Lot shall be properly disposed of outside the Property at least weekly. Used construction materials may be burned on-site so long as such burning does not create a nuisance to other Owners or violate the laws, ordinances, codes, statutes, rules or regulations of any applicable Governmental Authority; in no event, however, shall any used construction materials be buried on or beneath any Lot, Dwelling or any other portion of the Property. No Owner shall allow dirt, mud, gravel or other substances to collect or remain on any roadways within or adjacent to the Property. Each Owner and each Owner's contractor, subcontractors, laborers and suppliers shall cause all such dirt, mud, gravel and other substances to be removed from the treads and wheels of all vehicles used in or related to the construction of Improvements on a Lot prior to such vehicles traveling on any roadways within or adjacent to the Property.

(b) During the construction of any Improvements, construction equipment and the vehicles of all contractors, subcontractors, laborers, material men and suppliers shall (i) not park within any of the Common Areas, (ii) utilize off-street parking only, (iii) enter the Lot on which such Improvements are being constructed only from the driveway for such Lot and (iv) not damage trees or other vegetation on such Lot which, pursuant to the provisions of Section 6.08 above, are to be preserved. No construction trucks, equipment or machinery, including any trailers used for the transportation of construction equipment or machinery, shall be parked overnight on any roadways within the Property. Upon completion of construction of any Improvements or any Dwelling, all construction machinery, tools and equipment, all unused construction materials and all trash, debris and rubbish shall be immediately removed from the Lot and such Lot and Dwelling shall be kept and maintained in a clean and uncluttered condition.

(c) All Dwellings and any other Improvements shall be constructed in compliance with the terms and provisions of this Declaration and all applicable federal, state, county and local laws, ordinances, rules, regulations and zoning and building code requirements. Each Owner shall be solely responsible for obtaining from the appropriate Governmental Authorities all necessary permits and licenses and otherwise paying all required fees for the construction of

any Improvements on such Owner's Lot. Each Owner shall also be responsible for strict compliance with all applicable watershed protection, soil erosion and other governmental requirements, both during and after completion of construction of any Improvements on such Owner's Lot.

(d) Portable toilets must be installed by the Owner (or Owner's builder) of any Lot upon which Improvements are being constructed. Such portable toilets shall be cleaned on a regular basis and otherwise maintained in a clean and healthy condition. Each Owner (or the builder of such Owner) shall require all employees and subcontractors performing any services on such Owner's Lot to utilize the portable toilets situated on such Lot.

(e) The Owner of each Lot shall be solely responsible for promptly repairing any damages caused to any utility lines, pipes, wiring or conduit or to any roadways, curbing, gutters, storm drains or any other Improvements of any nature within the Property caused by the acts or omissions of Owner or such Owner's contractors, subcontractors, suppliers or laborers.

(f) Loud radios or excessive noise shall not be allowed on any Lot. Normal radio levels are acceptable. No builder or service personnel will be permitted to bring pets onto any portion of the Property.

(g) No signage, building permits or other forms of advertisement of any nature shall be attached to any trees or to any other portions of any Lot. To the extent building permits or any other official licenses required by any of the Governmental Authorities are required to be displayed or posted on any Lot, the same shall be displayed in a manner acceptable to the ARC, in its sole discretion.

6.26 FIREARMS AND FIREWORKS. The use of firearms is not allowed on the Property with the specific exception of the eradication of pests and only then following the strictest safety precautions. Fireworks are allowed on holidays. No fireworks or firearms of any kind shall be fired that would pose any danger of transport to any other Owners Lot .

6.27 SUBDIVISION AND INTERVAL OWNERSHIP. No Lot may be subdivided or re-subdivided without the prior written approval of the ARC. No Lot or Dwelling shall be sold or owned under any time-sharing, time -interval or similar right-to-use programs.

6.28 COMPLIANCE WTH GOVERNMENTAL REGULATIONS. Each Owner and Occupant shall at all times comply with all applicable laws, ordinances, statutes, rules, regulations, requirements and code provisions of the Governmental Authorities. Each Owner shall be solely responsible for insuring that all contractors and subcontractors of Owner at all times comply with the National Electric Code, the Southern Standard Building Code and the Alabama State Public Health Department in connection with any construction activities conducted on any Lot.

6.29 ADDITIONAL REGULATIONS. In addition to the restrictions set forth in this Declaration, the (a) ARC shall have the right, in its sole discretion, from time to time and at any time to adopt, modify and amend such other, further or different requirements or restrictions which shall be binding on all Owners and Lots, including the adoption of additional or more specific requirements and restrictions governing the improvement and use of any Lot and (b) Board shall have the right from time to time and at any time to adopt, modify and amend such rules and regulations as the Board, in its sole discretion, determines to be in the best interests of all Owners, which rules and regulations shall be binding on all Owners and Lots.

6.30 VARIANCES. The ARC, in its sole and absolute discretion, shall have the exclusive right to grant variances with respect to any of the provisions of Article V above and this Article VI with respect to any Lot. Any variance request submitted to the ARC shall be in writing and, upon approval of the same by the ARC, shall be evidenced by a written variance executed by either the chairman or vice chairman of the ARC.

6.31 ENFORCEMENT AND REMEDIES. In the event any of the provisions of this Article VI are breached or are not otherwise being complied with in all aspects by any Owner or Occupant or the respective family members, guests, invitees, agents, employees or contractors of any Owner or Occupant, then the Association or the ARC shall each have the right, at their option, to (a) enjoin such violation or noncompliance and/or (b) through their designated agents, employees, representatives and independent contractors, enter upon such Lot and take all action necessary to extinguish or correct such violation or breach. All costs and expenses incurred by the ARC or the Association in enforcing any of the provisions of this Article VI, including, without limitation, attorneys' fees, court costs, costs and expenses of witnesses, engineers, architects, designers, land planners and any other persons involved in the correction of any noncompliance or the removal of such violation or in any judicial proceeding, together with any other costs or expenses incurred by the ARC or the Association in connection therewith, shall be paid by such Owner who has violated or breached any of the provisions of this Article VI, shall constitute an Individual Assessment to such Owner pursuant to Section 8.05 below and, if the same is not paid when due, shall be subject to the lien provided for in Section 8.06 below and be subject to foreclosure as provided for therein. Notwithstanding anything provided herein to the contrary, the rights and remedies of the ARC and the Association set forth herein shall not be deemed exclusive of any other rights and remedies which the ARC or the Association may exercise at law or in equity or any of the other enforcement rights specified in this Declaration.

ARTICLE VII

MAINTENANCE RESPONSIBILITIES

7.01 RESPONSIBILITIES OF OWNERS

(a) The maintenance and repair of all Lots, Dwellings, Accessory Buildings, and all other Improvements situated thereon or therein and all lawns, landscaping and grounds on or within a Lot shall be the responsibility of the Owner of such Lot. Each Owner shall be responsible for maintaining his or her Lot in a neat, clean and sanitary condition, both inside and outside of any Dwelling or other Improvements thereto. Such responsibilities shall include,

without limitation, maintaining at all times appropriate paint and stain finishes on the Dwelling, any Accessory Buildings and other Improvements and reroofing or replacing roofing shingles when the same become worn or would be replaced by a prudent Owner or as may be required by the ARC. In addition, each Owner shall, at such Owner's sole cost and expense, at all times maintain any and all boat docks, piers, seawalls and boat ramps constructed on or adjacent to such Owner's Lot in good repair and in a safe and clean condition. No exterior changes, alterations or Improvements shall be made to any Dwelling without first obtaining the prior written approval of the same from the ARC.

(b) Each Lot shall be landscaped in accordance with plans and specifications submitted to and approved by the ARC pursuant to Section 5.06 above. All areas of any Lot which are not improved by the construction of a Dwelling or Accessory Building thereon or other Improvements approved by the ARC shall at all times be maintained by the Owner thereof in a fully and well-kept landscaped condition utilizing ground cover and/or shrubbery and trees. The maintenance obligations set forth in this Section 7.01 (b) shall apply to all portions of a Lot up to the edge of the pavement of the roadway abutting such Lot and shall be applicable at all times either prior, during or after the construction of any Improvements thereon. Grass, hedges, shrubs, vines and any other vegetation of any type on any Lot shall be cut and trimmed at regular intervals at all times in order to maintain the same in a neat, safe and attractive condition. Trees, shrubs, vines, plants and other vegetation which die shall be promptly removed and replaced with living plants of like kind and quantity. Dead vegetation, stumps, weeds, trash, refuse, rubbish, debris, garbage and waste material shall be promptly removed from any Lot and properly disposed of outside of the Property. In no event shall any dead trees, shrubs, vines, plants or other vegetation, leaves, grass clippings, limbs, dirt or any rubbish, debris, trash, refuse, garbage or waste be allowed to accumulate on any Lot nor shall any Owner or Occupant place, deposit or discard any of the foregoing items on or within any of the Common Areas.

(c) No Owner shall change or otherwise alter the appearance of any portion of the exterior of a Dwelling or the landscaping, grounds or other Improvements within a Lot unless such change or alteration is first approved, in writing, by the ARC.

7.02 RESPONSIBILITIES OF ASSOCIATION.

(a) The Association shall maintain and keep in good repair and condition all portions of the Common Areas. The Association shall not be liable for injuries or damages to any person or property (i) caused by the elements, acts of God or any Owner or other person, (ii) resulting from any surface or subsurface conditions or which may be caused by rain or other surface water which may leak or flow from any portion of the Common Area onto a Lot or Dwelling or (iii) resulting from thief, burglary or other illegal entry onto the Property or any Lot or dwelling thereon. No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken by or performed by the Association hereunder or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association or from any action taken by the Association to comply with any requirements of the Governmental Authorities.

(b) In the event that the Board of the Association determines that (i) any Owner has failed or refused to discharge properly his, her or its obligations with regard to the maintenance, cleaning, repair or replacement of items for which such Owner is responsible hereunder or (ii) any maintenance, cleaning, repair or replacement for which the Association is

responsible hereunder is caused by the willful or negligent act of an Owner or Occupant, or their respective family members, guests, servants, employees, invitees or contractors, and the costs of such maintenance, cleaning, repair or replacement are not paid in full from insurance proceeds, if any, received by the Association with respect thereto, then, in either event, the Association, in addition to the exercise of any of the rights and remedies set forth in this Declaration, may give such Owner written notice of the Association's intent to provide such necessary maintenance, cleaning, repair or replacement, at the sole cost and expense of such Owner, and setting forth in reasonable detail what action is deemed necessary. Except in the event of emergency situations, such Owner shall have seven (7) days within which to complete the same in a good and workmanlike manner" or, if the same is not capable of completion within such seven (7) day period, to commence such maintenance, cleaning, repair or replacement and to proceed diligently with the completion of the same in a good and workmanlike manner. In the event of emergency situations or the failure by any Owner to comply with the provisions hereof after such notice, the Association may provide (but shall not be obligated to provide) any such maintenance, cleaning, repair or replacement at the sole cost and expense of such Owner and said cost shall be a personal obligation of such Owner, shall constitute an Individual Assessment to such Owner and shall be subject to the lien and foreclosure rights granted pursuant to Section 8.06 below.

(c) THE GATEHOUSE AT THE MAIN ENTRANCE OF THE PROPERTY IS NOT INTENDED TO OBLIGATE THE ASSOCIATION TO PROVIDE ANY FORM OF SECURITY WITHIN THE PROPERTY and each Owner, for himself or herself, any Occupant of the Lot or Dwelling situated thereon and for the respective family members, guests, invitees, heirs, executors, personal representatives, administrators, successors and assigns of such Owner and any such Occupant, does hereby irrevocably and unconditionally waive, release and forever discharge Developer and the Association and their respective officers, directors, members, partners, agents, representatives, successors and assigns, of and from any and all actions, causes of action, claims, demands, agreements, covenants, suits, obligations, controversies, accounts, damages, costs, expenses, losses and liabilities of every kind or nature, known or unknown, arising out of or on account of any loss, damage or injury to person or property, including death, as a result of any entry, whether lawful or unlawful, onto the Property or any of the Lots, Dwellings or other Improvements situated on the Property, or by any acts or omissions of, any third party.

ARTICLE VIII

COMMON AREA ASSESSMENT

8.01 ASSESSMENTS AND CREATON OF LIEN. Each Owner of a Lot, by acceptance of a deed or other instrument conveying any interest therein, regardless of whether such deed or instrument contains a reference to this Declaration, is hereby deemed to covenant and agree to pay to the Association (a) Annual Assessments, as established and to be collected as provided in Section 8.03 below, (b) Special Assessments, to be established and collected as provided in Section 8.04 below, and (c) Individual Assessments which are established or assessed pursuant to Section 8.05 below. All Assessments, together with late charges and interest at the Applicable Rate, as provided in Section 8.06(a) below, and all court costs and attorneys' fees incurred by the Association to enforce or collect such Assessments shall be an equitable charge and a continuing lien upon each Lot and all Improvements thereto, if any, for which the Owner thereof is

responsible for the payment of the same, which lien may be enforced in the manner provided in Section 8.06(c) below. Each Owner shall be personally liable for the payment of all Assessments coming due while he or she is the Owner of a Lot or Dwelling and his or her grantee shall take title to such Lot subject to the equitable charge and continuing lien therefore, but without prejudice to the rights of such grantee to recover from his or her grantor any amounts paid by such grantee to the Association which were the legal obligations of the grantor. All Assessments, together with late charges and interest at the Applicable Rate, as specified in Section 8.06(a) below, court costs and attorneys' fees and other applicable cost incurred with respect thereto by the Association shall also be a personal obligation of the person who was the Owner of the Lot at the time such Assessments and other costs and charges were assessed or incurred. In the event of co-ownership of any Lot, all of the co-owners shall be jointly and severally liable for the entire amount of such Assessments. All Assessments shall commence as to each Lot as provided in Section 8.06 below and be paid in such manner and on such dates as may be fixed by the Board. All Assessments shall be payable in all events without offset, diminution or abatement by reason of fire or other casualty or any taking as a result of, in lieu of or in anticipation of the exercise of the right of eminent domain, condemnation or by private purchase in lieu thereof with respect to any Lot or any Improvements thereon, Common Areas or any other portion of the Property or any other cause or reason of any nature.

8.02 UNIFORM RATE OF ASSESSMENTS.

(a) The following allocated values (the "Allocated Value" or "Allocated Values") are assigned to and allocated among the Lots and Cottage Lots:

<u>Type of Lot</u>	<u>Allocated Value</u>
All Lots other than Cottage Lots	1.0 per Lot
Cottage Lots	only 0.50 per Cottage Lot

All Lots, including Cottage Lots, shall pay both Annual Assessments and Special Assessments, as described in Sections 8.03 and 8.04 below, in accordance with the Allocated Value specified above. Each Owner, including the Owner of each Cottage Lot, shall be obligated to pay his or her pro rata share of the then applicable Annual Assessments or Special Assessments, as the case may be, which pro rata share shall be determined by multiplying the Allocated Value applicable to such Owner's Lot as set forth above by the total amount of the then applicable Annual Assessments or Special Assessments. For example, the Owner of each Cottage Lot shall pay fifty percent (50%) of the amount of the Annual Assessments and Special Assessments payable by all other Owners of Lots (other than Cottage Lots).

(b) Notwithstanding anything provided in Section 8.02(a) above to the contrary, in the event any Additional Property is added to the Property, then the Lots within the Additional Property shall be subject to the same Allocated Values set forth in Section 8.02(a) above (based on whether such Lots constitute Cottage Lots) and the Owners of any such Additional Property added to the terms and provisions of this Declaration shall be obligated to pay Annual Assessments and Special Assessments based on such Allocated Values, subject to proration for

the actual number of days remaining in the year in which such Additional Property was added to the Property.

(c) Each Owner of a Lot, by acceptance of a deed to such Lot, acknowledges and agrees that the Annual Assessments and Special Assessments payable by such Owner are subject to change, modification, increase or decrease, respectively, in the event that (i) any Additional Property is added to the Property or any Lots are combined, subdivided or re-subdivided by the Association pursuant to Section 7.06 above or (ii) any portion of the Property becomes Common Areas.

8.03 COMPUTATION OF ANNUAL ASSESSMENTS.

(a) The Board of the Association shall determine and approve annually an annual budget covering the estimated Common Expenses for the Property for the upcoming year, such budget to include (i) a capital contribution or reserve account, if necessary, for the capital needs of the Association and (ii) subject to the provisions of Sections 8.03(d) below, the amount of Annual Assessments which shall be payable by each Lot. The amount set forth in such budget, as adjusted pursuant to Section 8.03(d) below, shall constitute the aggregate amount of Annual Assessments for all of the Property for the then applicable year and each Owner shall pay his or her pro rata share of the same as provided in Section 8.02 above. As used herein, the term "Annual Assessments" with respect to each Lot shall mean the prorate portion of the Common Expenses payable each calendar year by each Owner in accordance with the provisions of this Section 8.03, (and subject to the limitations set forth in Sections 8.03(d) below). A copy of the budget setting forth the amount of Annual Assessments to be levied against the Lots and Dwellings for the following year shall be delivered to each Owner upon written request of any such Owner.

(b) If any budget or the amount of Annual Assessments collected by the Association at any time proves to be inadequate or insufficient for any reason to fully pay all costs and expenses of the Association and all Common Expenses, then the Board may call a meeting of the Association for the purpose of approving Special Assessments as provided in Section 8.04 below. If the actual amount of Annual Assessments collected in anyone year exceeds the actual costs incurred for Common Expenses for such year, the excess shall be retained by the Association as a reserve for subsequent years' Common Expenses.

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

- (i) Salaries, fringe benefits and other compensation paid and out-of-pocket expenses reimbursed by the Association for its employees, agents, officers, members of the Board and any third party contractors;
- (ii) Management fees and expenses of administration, including legal and accounting fees, incurred by or on behalf of the Association;
- (iii) Utility charges for any utilities serving any of the Common Areas and charges for other common services for the Property,

including, without limitation, trash collection services (to the extent not charged directly to each Owner by the applicable trash collection company);

- (iv) The costs of any insurance policies purchased for the benefit of the Association as required or permitted by this Declaration, including, without limitation, fire, flood and other hazardous coverage, public liability coverage and such other insurance coverage as the Board determines to be in the best interest of the Association, including errors and omissions insurance, directors' and officers' liability insurance and any other liability insurance coverage for the benefit of the Association, the members of the Board, any officers, employees, agents or representatives of the Association (including members of the ARC);
- (v) The expenses of maintaining, operating, repairing and replacing all portions of the Common Areas and any other amenities and facilities serving the Property which the Board, in its sole discretion, determines from time to time would be in the best interest of the Association to so maintain, operate, repair or replace;
- (vi) Ad valorem real and personal property taxes assessed and levied upon any of the Common Areas;
- (vii) The expenses of the ARC which are not paid in full by plan review charges;
- (viii) The costs and expenses for conducting recreational, cultural or other related programs for the benefit of the Owners and Occupants;
- (ix) All other fees, costs and expenses incurred by the Association in accordance with the terms and provisions of this Declaration or which the Board, in its sole discretion, determines to be appropriate to be paid by the Association, including, without limitation, taxes and governmental charges not separately assessed against Lots; and
- (x) The establishment and maintenance of a reasonable reserve fund or funds (1) for inspections, maintenance, repair and replacement of any portions of the Common Areas for which the Association is responsible to inspect, maintain, repair or replace on a periodic basis, (2) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds and (3) to cover unforeseen operating

contingencies or deficiencies arising from unpaid Assessments as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board.

(d) Notwithstanding anything provided to the contrary in this Declaration, the amount of the Annual Assessment payable with respect to each Lot shall be subject to the following limitations:

(i) Starting with the calendar year 2013, the Annual Assessment will be set by the board with a **maximum** amount per Lot of Six Hundred Dollars (\$600.00) for Estates Lots and Three Hundred Dollars (\$300.00) for Cottage Lots, which amount will be due January 1, 2013 and be delinquent March 1, 2013 payable in annual installments (or on such other basis as may be determined from time to time by the Board of Directors); and

(ii) From this date forward the Annual Assessment for each Lot shall be set by the Board each year and shall be due on the first day of January and delinquent on the first day of March but in no event exceed by more than ten percent (10%) the maximum amount of the Annual Assessment which could have been charged during the immediately preceding calendar year considering cumulative increases of 10% per year; provided, however, that if, at any time, the Board of Directors determines that the Common Expenses of the Association for any year will exceed the total amount of all Annual Assessments payable by all Owners for such year, then the limitations set forth above in this Section 8.01(d) (ii) may be exceeded upon the affirmative vote of at least seventy-five percent (75%) of all eligible votes in the Association at either an annual or special meeting of the Owners or in a ballot vote of the Owners held in accordance with the terms and provisions of the Bylaws.

(e) Notwithstanding anything provided to the contrary in this Declaration, the Board's spending limit is Seven Thousand Five Hundred Dollars (\$7,500.00) for any single expenditure. Any single expense or capital improvement over this amount requires a majority vote of the members of the Association.

8.04 SPECIAL ASSESSMENTS. In addition to the Annual Assessments authorized in Section 8.03 above and the Special Assessments authorized in Sections 9.01 (b) and 9.01(a) (i) below, the Board may levy in any year Special Assessments for Common Expenses or any extraordinary costs incurred by the Association; provided, however, that any such Special Assessments (other than Special Assessments levied pursuant to Sections 9.01 (b) and 9.01 (a) (i) below) must be approved by 75% of all eligible votes in the Association at a duly convened meeting of the Association or in a ballot vote by the members of the Association held in accordance with the terms and provisions of the Bylaws,. As used herein, the term "Special Assessments" shall mean those assessments made to all Owners pursuant to this Section 8.04 or Sections 9.01 (b) and 9.03 (a) (i) below. The Board may make such Special Assessments payable in one lump sum or in installments over a period of time which may, in the Board's discretion, extend beyond the then fiscal year in which said Special Assessments are levied and assessed. Special Assessments shall be levied against and payable by each Owner in accordance with the provisions of Section 8.02 above.

8.05 INDIVIDUAL ASSESSMENTS. The Association may, in its sole discretion, at any time and from time to time levy and assess as Individual Assessments (collectively, "Individual

Assessments") against any Lot: (a) fines against an Owner and such Owner's Lot in accordance with the terms and provisions of Sections 11.02 thereof or adopted by the ARC or Association pursuant to Sections 11.01 and 6.30 thereof and, (b) any costs or expenses incurred by the ARC or the Association as a result of the failure of any Owner, Occupant or their respective family members, agents, guests, servants, employees, invitees and contractors, to at all times observe and perform their respective duties and obligations under this Declaration, including, without limitation, any such costs and expenses incurred by the ARC or the Association pursuant to any of the terms and provisions of this Declaration. The Individual Assessments provided for in this Section 8.05 shall be levied by the Board and the amount and due date of such Individual Assessment shall be specified by the Board in a notice to such Owner.

8.06 EFFECT OF NON-PAYMENT; REMEDIES OF THE ASSOCIATION.

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

(b) In the event any Assessments are not paid by any Owner within 30 days from the statement billing date, then, in addition to all other rights and remedies provided at law or in equity, the Association, acting through its Board or through any of its officers or authorized representatives, may undertake any or all of the following remedies: (i) The Association may commence and maintain a suit at law against an Owner to enforce such charges and obligations for Assessments and any such judgment rendered in any such action shall include the late charge and interest at the Applicable Rate, together with attorneys' fees, court costs and all other expenses paid and incurred by the Association in collecting such unpaid Assessments; and/or (ii) The Association may enforce the lien created pursuant to Sections 8.01 and 8.06(c) hereof in the manner hereinafter provided

(c) There is hereby created a continuing lien on each Lot and all Improvements thereto, with power of sale, which secures the payment to the Association of any and all Assessments levied against or upon such Lot, all late charges, interest at the Applicable Rate and

all attorneys' fees, court costs and all other expenses paid or incurred by the Association in collecting any Assessments. In the event any Assessments are payable in installments, the entire amount of such Assessment shall constitute a lien from the time the first installment of such Assessment becomes due and payable and, as provided in Section 8.06(a) above, to the extent any installment of such Assessment is not paid in full within 30 days from the statement billing date, then all remaining unpaid installments for the remainder of the then applicable calendar year shall be due and payable in full. If any portion of any Assessments remains unpaid for more than 30 days from the statement billing date, then the Association, through the Board or any officer or authorized representative thereof, may, but shall not be obligated to, make written demand on such defaulting Owner, which demand shall state the date and amount of delinquency. Each default shall constitute a separate basis for a demand and claim of lien, but any number of defaults may be included in a single demand. If such delinquency is not paid in full within ten (10) days after the giving of such demand or, even without giving demand, the Association may file a claim (including a foreclosure action) and perfect its lien against the Lot of such delinquent Owner, which claim shall be executed by any member of the Board or any officer of the Association, contain the following information and be recorded in the Probate Office:

- (i) The name of the delinquent Owner;
- (ii) The legal description and street address, if any, of the Lot upon which the lien claim is made
- (iii) The total amount claimed to be due including late charges, interest at the Applicable Rate, collection costs and attorneys' fees incurred to date and a statement, if applicable, that such charges and costs shall continue to accrue and be charged until full payment has been received; and
- (iv) A statement that the claim of lien is made by the Association pursuant to this Declaration and is claimed against such Lot (and all Improvements thereto if any) in an amount equal to that stated therein.

The lien provided for herein shall be in favor of the Association and may be foreclosed in the same manner as a foreclosure of a mortgage on real property under the laws of the State of Alabama, as the same may be modified or amended from time to time. The Association shall have the right and power to bid at any such foreclosure sale and to purchase, acquire, hold, lease, mortgage, convey and sell any such Lot. Each Owner, by acceptance of a deed to any Lot, shall be deemed to (1) grant to and vest in the Association and its agents, the right and power to exercise the power of sale granted herein and foreclose the lien created herein, (2) grant to and vest in the Association and its agents the right and power to bring all actions against such Owner personally for the collection of all amounts due from such Owner, (3) expressly waive any objection to the enforcement and foreclosure of the lien created herein and (4) expressly waive the defense of the statute of limitations which may be applicable to the commencement of any such suit or action for foreclosure.

(d) In addition to the other rights and remedies provided herein, in the event any Owner fails to pay any Assessments within thirty days from the statement billing date for such

Assessments, then the Association shall have the right to suspend the privileges of such Owner, his or her Occupants, family members, guests and invitees from using any of the Recreational Facilities.

8.07 SUBORDINATION OF LIEN. Notwithstanding anything provided herein to the contrary, the lien for Assessments and other charges authorized herein with respect to any Lot within the Property is and shall be subordinate to the lien of any Mortgage held by any Mortgagee, but only to the extent that the Mortgage held by any such Mortgagee is recorded in the Probate Office prior to the filing of a claim of lien by the Association pursuant to Section 8 07(c) above. When a Mortgagee exercises its foreclosure rights provided in its Mortgage and acquires title to or sells to a third party its interest in any Lot, then such Mortgagee or its purchaser or transferee at such foreclosure sale shall (a) not be liable for the then unpaid portion of any Assessments or other charges incurred prior to the date of transfer or acquisition of title by foreclosure so long as the Mortgage held by such Mortgagee was recorded in the Probate Office prior to the filing of a claim of lien by the Association pursuant to Section 8.06(c) above, but (b) be liable for all Assessments and other charges levied, assessed or incurred with respect to such Lot from and after the date of such foreclosure sale. The foregoing shall not relieve any Owner whose Lot has been foreclosed from the personal obligation to pay all Assessments and other charges levied, assessed or incurred by the Association and the Association shall have the right to pursue all rights and remedies against a defaulting Owner notwithstanding the foreclosure of a Mortgage by Mortgagee on such Owner's Lot.

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

ARTICLE IX

CASUALTY, CONDEMNATION AND INSURANCE

9.01 DAMAGE OR DESTRUCTION TO COMMON AREAS.

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

(b) Notwithstanding anything to the contrary provided in Section 9.01 (a) above, in the event the amount of insurance proceeds, if any, recovered as a result of such damage or destruction is insufficient to fully repair, replace and restore the damaged portions of the Common Areas, and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, then the Board may levy a

Special Assessment against all Owners, without the necessity of a vote of the Owners approving or disapproving the same, which such Special Assessments shall be (i) in an amount sufficient to provide funds to pay the remaining costs necessary to repair, replace or restore the Common Areas to the condition as existed immediately prior to such fire or other casualty and (ii) levied against each Owner equally as provided in Section 8.02 above. Any and all insurance proceeds received by the Association on account of any damage to or destruction of any of the Common Areas or any sums paid to the Association under or by virtue of such Special Assessments shall be held by and for the benefit of the Association and shall be disbursed by the Association in payment for the costs of such repair or restoration in such manner as may be determined by the Board. In no event shall the Owner or Mortgagee of any Lot or Dwelling be entitled to any portion of the proceeds of insurance payable as a result of the damage to or destruction of any portion of the Common Areas.

(c) Notwithstanding anything provided to the contrary in this Declaration, the Board may, in its sole discretion, determine that the Common Areas damaged or destroyed by such fire or other casualty either be partially restored or replaced or not restored or replaced at all, in which event all insurance proceeds received by the Association which are not utilized for restoration purposes shall be retained by and for the benefit of the Association and the Common Areas which are not restored or replaced shall be cleared of all debris and damaged Improvements thereto and left in a clean, orderly, safe and sightly condition.

9.02 DAMAGE OR DESTRUCTION TO LOTS OR DWELLINGS In the event of any fire or other casualty which damages or destroys any portion of any Lot or any Improvements thereto, then the Owner of such Lot shall promptly repair and otherwise restore such Lot and the Improvements thereto to the condition to which the same existed immediately prior to such fire or other casualty; provided, however, that any such restoration or repair shall be subject to compliance with all of the terms and provisions set forth in Article V above and all then applicable rules, regulations, statutes and ordinances of the Governmental Authorities. Any such restoration or repair shall be commenced within one hundred eighty (180) days following the occurrence of such fire or other casualty and shall be diligently prosecuted to completion without further delay in accordance with all of the terms and provisions of this Declaration.

9.03 CONDEMNATION OF COMMON AREAS.

(a) In the event of the taking of all or any portion of any of the Common Areas as a result of, in lieu of or in anticipation of the exercise of the right of eminent domain, condemnation or by private purchase in lieu thereof, then the award from such taking or sale in lieu thereof shall be paid to the Association and shall be disbursed or held as follows: (i) To the extent the Common Areas subject to such taking can either be restored or replaced, then, to the extent practicable, the Board is hereby empowered, authorized and directed to take such action, including the purchase of any remaining lands within the Property or the utilization of any other Common Areas within the Property, to restore, rebuild or replace, as the case may be, those portions of the Common Areas subject to such taking. If the award is insufficient to fully defray the cost of such repair or

replacement and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, then the Board may levy a Special Assessment against all Owners, without the necessity of a vote of the Owners approving or disapproving the same, which such Special Assessments shall be (1) in an amount sufficient to provide funds to pay the remaining costs of repair, restoration or reconstruction and (2) levied against each Owner equally as provided in Section 8.06 above; and (ii) To the extent the Common Areas subject to such taking cannot be restored or replaced or additional lands within the Property cannot be purchased by the Association in order to repair, replace or restore the Common Areas so taken or if the Board shall determine that the portions of the Common Areas so taken should not be replaced or restored, then in any such event, the net award from such taking shall be retained by and for the benefit of the Association.

(b) Notwithstanding anything provided to the contrary in this Declaration to the contrary, the Board may, in its sole discretion, determine that any Common Areas subject to any taking either be partially restored or replaced or not restored or replaced at all, in which event all portions of the condemnation award received by the Association which is not utilized for restoration purposes shall be retained by and for the benefit of the Association and the Common Areas which are not repaired or restored after such taking shall be left in a clean, orderly, safe and attractive condition. Except as specifically provided in Section 9.03 (c) below, no Owner or Mortgagee shall be entitled to any portion of the award made to the Association as a result of the taking of any portion of the Common Areas.

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

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

9.05 INSURANCE. Each Owner shall be solely responsible for obtaining and maintaining public liability, property damage, title and all other types of insurance with respect to his or her Lot, Dwelling and all other Improvements situated thereon. Each Owner, by acceptance of a deed to or other conveyance of any interest in any Lot, does hereby waive and release the Association, the ARC, Developer and their respective agents, employees, representatives, partners, shareholders, members, officers and directors from any and all liabilities or responsibilities or any other claims by or through such Owner, by way of subrogation or otherwise, for any loss or damage covered by (or which should be covered by) broad form fire and extended coverage insurance (or homeowner's insurance coverage) and comprehensive public or general liability insurance coverage maintained or which should be maintained by any Owner as required herein, even if such loss or damage has been caused by the fault or negligence of the Association, the ARC, or any of their respective agents, employees, representatives, partners, shareholders, members, officers or directors.

ARTICLE X

TERM AND AMENDMENTS

10.01 TERM The terms, covenants, conditions and restrictions set forth in this Declaration shall run with and bind all of the Property, shall inure to the benefit of all Owners and Mortgagees and their respective heirs, executors, personal representatives, administrators, successors and assigns, and shall be and remain in effect for a period of ninety-nine (99) years from and after the date hereof, after which time this Declaration shall be automatically renewed and extended for successive and continuous periods often (10) years each, unless, at any time after ninety-nine (99) years from the date hereof, an agreement executed by the Owners of at least seventy-five percent (75%) of all Lots or Dwellings within the Property agreeing to terminate or modify this Declaration has been recorded in the Probate Office; provided, however, that the rights of way and easements established, granted and reserved in Article III and in Section 7 01 hereof shall continue and remain in full force and effect for the time periods and duration specified therein.

10.02 AMENDMENTS. Amendments to this Declaration and to the Bylaws of the Association shall be proposed and adopted only by the affirmative vote of seventy-five (75 %) of the total entitled votes of the Association at a duly constituted meeting of the Owners held in accordance with the terms and provisions of the Bylaws or who are voting in a ballot vote submitted to the Owners pursuant to the terms and provisions of the Bylaws, or by votes cast electronically utilizing a commercially reasonable notice and voting software platform. Any other attempt to amend this Declaration shall be deemed null and void. Any and all amendments which have been approved in accordance with the terms and provisions of this Section 10.02 shall be executed by all parties whose consent to the same is required; provided, however, that in the alternative, the sworn statement of the President of the Association, if any, stating unequivocally that the agreement of the requisite number of Owners was lawfully obtained may be attached to and incorporated into such amendment without joinder of any of the Owners. Any such amendment shall be effective upon recording of the same in the Probate Office.

ARTICLE XI

ENFORCEMENT

11.01 AUTHORITY AND ENFORCEMENT. In addition to the other enforcement rights and remedies set forth in this Declaration, in the event any Owner or Occupant or their respective agents, contractors or invitees, violates any of the provisions of this Declaration, the Articles of Incorporation, the Bylaws or any other rules and regulations adopted by the Board from time to time, then the Board shall have the power and right, at its option, to (a) enjoin such violation or noncompliance, (b) impose monetary fines which shall constitute an Individual Assessment, (c) suspend an Owner's right, if any, to vote in the Association or (d) suspend or terminate an Owner's or Occupant's privilege (and the privilege of such Owner's or Occupant's family members, guests and tenants) to use all or any of the Recreational Facilities, and the Board shall have the power to impose all or any combination of any of the foregoing sanctions. Any such suspension or termination of rights or privileges may be for the duration of the infraction as well as for any additional time after the cure of such infraction as the Board may, in its sole discretion, determine.

11.02 PROCEDURE.

(a) In the event any of the terms or provisions of this Declaration, the Articles of Incorporation, the Bylaws or any rules and regulations of the Association are violated by any Owner or Occupant, or the respective agents, contractors or invitees of any Owner or Occupant, the Board shall not impose a fine, suspend voting rights or suspend or terminate any other rights pursuant to Section 11.01 above unless written demand to cease and desist from an alleged violation shall be served upon the Owner responsible for such violations setting forth the information required by Section 11.02(b) above and providing to such Owner the opportunity to appear before and be heard by the Board.

(b) Any notices required by Section 11.02(a) above shall specify:

- (i) The alleged violation;
- (ii) The action required to abate such violation;
- (iii) A time period of not less than ten (10) days during which the violation may be abated and corrected by such Owner without further sanction if such violation is a continuing one or, if the violation is not a continuing one, a statement that an further violation of the same provision of this Declaration, the Articles of Incorporation, the Bylaws or any of the rules and regulations of the Association may result in the imposition of sanctions; and

- (iv) The date, which shall be no earlier than ten (10) days from the date of such written notice, time and place at Which such Owner may appear before the Board and be heard.

(c) The foregoing procedure shall only be applicable to the enforcement rights specified in Section 11.01 above and shall not apply to the exercise of any of the rights and remedies specified in any other section or provision of this Declaration.

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

ARTICLE XII

MISCELLANEOUS PROVISIONS

12.01 LEGAL EXPENSES. In addition to the rights and remedies set forth in this Declaration, in the event either the Board, the Association, , the ARC or any of their respective agents and representatives, undertake any legal or equitable action which any of them deem necessary to abate, enjoin, remove or extinguish any violation or breach of this Declaration, then all costs and expenses incurred by any of them, including, without limitation, attorneys' fees and court costs, in enforcing any of the terms, provisions, covenants or conditions in this Declaration shall be paid for by the Owner against whom such action was initiated.

12.02 SEVERABILITY. If any provision of this Declaration or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Declaration or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each provision hereof shall be valid and enforceable to the fullest extent permitted by law.

12.03 CAPTIONS AND HEADINGS. The captions and headings contained in this Declaration are for convenience of reference only and shall not be used in the construction or interpretation of any provisions of this Declaration. The table of contents, cover page and any index to this Declaration are for convenience of reference only and shall not define or limit any of the terms and provisions hereof.

12.04 PRONOUNS AND PLURALS. All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders. The use of the singular tense shall include the plural and the use of the plural shall include the singular.

12.05 BINDING EFFECT. The terms and provisions of this Declaration shall be binding upon each Owner, Occupant and Mortgagee and their respective heirs, executors, administrators,

personal representatives, successors and assigns, and shall inure to the benefit of the Association, the ARC, all of the Owners and their respective Mortgagees and their respective heirs, executors, administrators, personal representatives, successors and assigns.

12.06 CONFLICT OR AMBIGUITY. In the event of any conflict or ambiguity in the terms and provisions of this Declaration, the general rules of construction against one party as a result of that party having drafted this Declaration are hereby waived by each Owner and, to the fullest extent allowed by law, no conflicts or ambiguities shall be resolved in favor or to the advantage of one party as opposed to another in interpreting any ambiguity or conflict contained herein. In the event of any conflict, ambiguity or inconsistency between the provisions of this Declaration, the Articles of Incorporation, the Bylaws or any rules and regulations adopted from time to time by the Association, then the provisions of this Declaration, the Articles of Incorporation, the Bylaws and any rules and regulations adopted by the Association, in that order, shall prevail and each Owner, by acceptance of a deed or other conveyance to a Lot, covenants and agrees to vote in favor of and execute any amendments as may be necessary to remove or alleviate any such conflict ambiguity or inconsistency.

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

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

12.09 RIGHTS OF THIRD PARTIES. This Declaration shall be recorded for the benefit of the Owners and their respective Mortgagees and by such recording, no other adjoining property owner or third party shall have any right, title or interest whatsoever in the Property or its operation and continuation, in the enforcement of any of the provisions of this Declaration or the right to consent to or approve any amendment or modification to this Declaration.

12.10 NO TRESPASS. Whenever the Association, the ARC and their respective agents, employees, representatives, successors and assigns, are permitted by this Declaration to enter upon or correct, repair, clean, maintain or preserve or do any other action within any portion of a Lot, the entering thereon and the taking of such action shall not be deemed a trespass.

12.11 NO PARTITION. Each Owner hereby waives any right to seek or obtain judicial partition of any portion of the Property.

12.12 STANDARDS FOR REVIEW. Whenever in this Declaration the ARC or the Association has the right to approve, consent to, or require any action be taken pursuant to the terms hereof, such approval, consent or required action shall, except as otherwise specifically provided herein to the contrary, be given or withheld in the sole and absolute discretion of the ARC or the Association, as the case may be.

12.13 ORAL STATEMENTS. Oral statements or representations of the Association, the ARC, or any of their respective employees, agents, representatives, successors or assigns, shall not be binding on the Association or the ARC.

12.14 NOTICES. Each Owner shall be obligated to furnish to the Association, in writing, the address, if other than the Lot of such Owner, to which any notice to such Owner under this Declaration is to be given and, if no address other than such Lot shall have been designated in writing, then all notices and demands shall be mailed or delivered to the Lot of such Owner. Any Owner may, for the purposes of notices hereunder, specify in writing to the Association that all notices be submitted to such Owner through the Internet utilizing a specific electronic mailbox for that particular Owner. All notices required or permitted to be given to any Owner pursuant to the terms and provisions of this Declaration shall be deemed to have been sufficiently given or served upon any Owner when either (a) deposited in the United States mail for first-class delivery with postage prepaid and addressed to the last address furnished by such Owner to the Association (or if no address has been furnished, then to the Lot of such Owner), in which case notice shall be deemed given upon deposit of same in the United States mail, (b) delivered to the Dwelling, if any, situated on an Owner's lot in which event notice shall be deemed given upon personal delivery of such notice to the mailbox or when attached to the front door of such Lot, or (c) sent by Internet to an electronic mailbox address provided in writing by such Owner to the Association, which notice shall be deemed to have been given upon transmission of such electronic mail by the Association. All notices to the Association (or to the ARC) shall be delivered or sent to the following address:

Marina Marin Estates Owners' Association, Inc.
11 Marin Parkway
Dadeville, Alabama 36853

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

12.15 ASSIGNMENT. DELETED.

12.16 FURTHER ASSURANCE. Each Owner covenants and agrees to execute, sign and deliver, or cause to be executed, signed and delivered and to otherwise do or make, or cause to be done and made, any and all agreements, instruments, papers, deeds, acts or things, supplemental, conformity or otherwise, which may be reasonably requested by the Association

or the ARC for the purpose of or in connection with clarifying, amending or otherwise consummating any of the transactions and matters herein.

12.17 NO WAIVER. All rights, remedies and privileges granted to the Association and the ARC pursuant to the terms and provisions of this Declaration shall be deemed to be cumulative and the exercise of anyone or more of such rights, remedies or privileges shall not be deemed to constitute an election of remedies nor shall it preclude the party exercising the same, or any other party, from pursuing such other and/or additional rights, remedies or privileges as may be available to such party at law or in equity. The failure by the ARC of the Association at any time to enforce any covenant or restriction set forth herein shall in no event be deemed a waiver of the right thereafter to enforce such covenant or restriction.

12.17 PERPETUITIES. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now-living descendants of George Herbert Walker Bush, former President of the United States.

IN WITNESS WHEREOF, the Association has caused this Declaration to be duly executed as of the day and year first above written.

Marina Marin Estates Owners' Association, Inc.

By:

Its:

STATE OF ALABAMA

COUNTY OF

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that , whose name as of Marina Marin Estates Owners' Association, Inc., an Alabama non-profit corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of such corporation .

Given under my hand and official seal, this the day of , 2022

Notary Public

My Commission Expires: