

Developer. The Board may alter the window treatments through the Association Rules and Regulations only if the window treatments are made available by the Association and are made uniform with all Dwelling Units.

15. **Rules and Regulations.** Additional regulations may be written and defined as Rules and Regulations concerning (primarily) the use of the Property, in addition to those already contained herein or made a part hereof, and may be promulgated by the Board as herein set forth; provided, however, that copies of such new regulations are furnished to each Dwelling Unit Owner prior to the time that the same become effective. Such act or approval must be that of the Board done or given in accordance with the By-Laws. Such regulations shall not impair or limit the rights of mortgagees, as elsewhere recited.
16. **Enforcement.** The Association shall have the priority right of enforcement of the matters contained in the Declaration and the Rules & Regulations. However, if after ten (10) days from the date of delivery of written notice to an officer of the Association by a Dwelling Unit Owner, the Association has not acted or given written notice that it intends to act on the complaint within thirty (30) days, then such complaining Dwelling Unit Owner shall have the right to seek judicial enforcement of the Declaration, most recently published Rules and Regulations, and Exhibits, and, in accordance with the provisions contained in Section XI, be entitled to an award of attorney fees and court costs should he/she/it prevail. In such an action, no Dwelling Unit Owner shall be required to show that the violation of the Declaration has resulted in a diminution in property value, but shall merely be required to establish that the offending Dwelling Unit or Dwelling

Unit Owner is out of compliance with the Declaration or other Condominium Document.

VI. ADMINISTRATION

The Administration of the Property, including, but not limited to, the acts required by the Association, shall be governed by the following provisions:

1. The Association shall be a non-profit corporation organized under the laws of Mississippi and composed of an association of the Dwelling Unit Owners with a Board of Directors ("Board") elected in accordance with applicable law.
2. The duties and powers of the Association shall be those set forth in this Declaration and the By-Laws, together with those reasonably implied to effect the purposes of the Association and this Declaration; provided, however, that if there are conflicts or inconsistencies between this Declaration and the By-Laws, the terms and provisions of this Declaration shall prevail and the Dwelling Unit Owners covenant to vote in favor of such amendments in the By-Laws and any duties or rights of the Association that are granted by or to be exercised in accordance with the provisions of this Declaration, shall be so exercised except that wherever this Declaration requires the act or approval of the Board of Directors of the Association, such act or approval must be that of the Board done or given in accordance with the By-Laws.
3. Notices or demands, for any purpose, shall be given by the Association to Dwelling Unit Owners and by Dwelling Unit Owners to the Association and other Dwelling Unit Owners in the manner provided for notices to members of the Association by the By-Laws of the Association.

4. All funds and titles to all properties owned by the Association and the proceeds thereon after deduction therefrom the costs incurred by the Association in acquiring the same shall be held for the benefit of the Dwelling Unit Owners for the purposes herein stated.
5. All income received by the Association from the rental or leasing of any part of the Common Elements (as well as such income anticipated) shall be used for the purpose of reducing prospective Common Expenses prior to establishing the annual assessments for Common Expenses.

VII. INSURANCE

The Insurance which shall be carried upon the Property shall be governed by the following provisions:

1. **Authority to Purchase.** Except Builders' Risk and other required Insurance furnished by Developer during construction, all insurance policies upon the Property (except hereinafter provided) shall be purchased by the Association for the benefit of the Dwelling Unit Owners and their respective mortgagees as their interests may appear, and shall provide for the issuance of certificates of insurance, mortgage endorsements to the holders of mortgages on the Dwelling Units or any of them, and, if insurance companies will agree, shall provide that the insurer waives its rights of subrogation as to any claims against Dwelling Unit Owners, the Association and their respective servants, agents, and guests. Such policies and endorsements shall be deposited with the Insurance Trustee, (as hereinafter defined), who must first acknowledge that the policies and

any proceeds thereof will be held in accordance with the terms hereof, and such acknowledgment shall be in writing duly delivered to the Board of Directors.

2. **Dwelling Unit Owners Personal Property and Liability.** Each Dwelling Unit Owner shall obtain insurance, at his own expense, affording coverage of his interest in: 1) his Dwelling Unit as described herein, 2) his personal property and 3) his personal liability, and as may be required by law, but all such insurance shall contain the same waiver of subrogation as that referred to in Article VII (1) hereof (if same is available). It is the duty of each Dwelling Unit Owner to provide a current copy of the Condominium Documents to their insurer to ensure the policy is issued in order to afford proper coverage. The insurer insuring each Dwelling Unit shall provide a policy that provides coverage of the Dwelling Unit as described in Article IV, herein. Further, each insurer shall give the Association ten (10) days written notice of any cancellation of a policy. Each Dwelling Unit Owner shall furnish the Association with a copy of each such policy within ten (10) days following acquisition and annually as determined by the Association. Insofar as may be permitted by law, each such policy acquired by Dwelling Unit Owner shall contain waivers of subrogation and of any defense based on co-insurance and shall further provide that any such policy shall not be cancelable, invalidated or suspended on account of the conduct of one or more of the Dwelling Unit Owners, or his respective family, servants, agents and guests. Any Dwelling Unit Owner who offers his Dwelling Unit for rent shall obtain appropriate landlord coverage in accordance with this paragraph and shall require

his tenants to obtain appropriate personal property and liability coverage in accordance with this paragraph.

3. **Mandatory Coverages.** The following coverages shall be required to be obtained by the Association:

(1) Casualty. The Building and all other insurable improvements upon the land and all personal property as may be owned by the Association shall be insured in an amount equal to the maximum insurable replacement value thereof (exclusive of excavation and foundations) as determined annually by the insurance company affording such coverage. Such coverage shall afford protection against:

(a) Loss or damage by fire and other hazards covered by the standard extended coverage endorsement;

(b) Such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use as the Building, including but not limited to, vandalism, malicious mischief, windstorm and water damage.

(2) Public Liability and Property Damage. Public Liability and property damage shall be obtained in such amounts and in such forms as shall be required by the Association, and shall include but not limited to water damage, legal liability, hired automobile, non-owned automobile and off-premises employee coverages.

(3) Workers Compensation. Coverage shall be obtained to meet the requirements of law.

(4) Director's & Officer's. Coverage shall be provided to the Board of Directors of the Association.

(5) All liability insurance so obtained shall contain cross-liability endorsements to cover liabilities of the Dwelling Unit Owners as a group to an individual Dwelling Unit Owner.

4. **Premiums.** Premiums upon insurance policies purchased by the Association shall be paid by the Association and charged to Common Expenses.

5. **Insurance.** The Association shall obtain and continue in effect master or blanket policies (including, without limitation, fire and other hazards) and liability insurance to insure the project and the Owners thereof against risks reasonably insured under standard forms of commercial insurance without prejudice to the right of each Owner to additionally insure his own Dwelling Unit on his own account and for his own benefit. Such insurance shall be written in the name of the Association or any person designated in the By-Laws of this Declaration as a trustee for each Dwelling Unit Owner and each Dwelling Unit Owner's mortgagees, if any. Each Dwelling Unit Owner and his mortgagee, if any, shall be beneficiary, even though not expressly named, in the percentages or fractions established in this Declaration. In the event of loss the Association is irrevocably designated as trustee of each of the Dwelling Unit Owners for purposes of adjusting losses with the carrier on the master policy, and shall have full control of the proceeds for purposes of reconstruction.

The Association shall be required to make every effort to secure insurance policies providing:

(1) Waiver of subrogation by Insurer as to any claims against the Association, Manager and Dwelling Unit Owners, their respective families, servants, agents and guests;

(2) That the master policy not be cancelable, invalidated or suspended on account of the conduct of one or more of the individual Dwelling Unit Owners, or their respective families, servants;

(3) That the master policy not be cancelable invalidated or suspended on account of the conduct of the Association or Manager without prior demand that the Association or Manager cure the defect; and

(4) That any "other insurance" clause in the master policy exclude Dwelling Unit Owners' policies from consideration.

The insurance cost and premiums for any such blanket or master insurance coverage shall be a Common Expense to be paid by monthly or other periodic assessments as determined by the Association, and all such payments collected for insurance cost or premiums as the same become due.

In the event a Dwelling Unit Owner may carry property or liability insurance individually upon his interest in the project, which, in case of loss, results in a proration of insurance proceeds between the master policy carried by the Association and the Dwelling Unit Owner's insurer, the proceeds available under the Dwelling Unit Owner's policy shall be payable to the Association, which is irrevocably designated as trustee of each insuring Dwelling Unit Owner for the purpose of reconstruction. Any over-plus remaining upon completion of reconstruction directly affecting any such Dwelling Unit Owner shall thereupon be paid by the Association to such Dwelling Unit Owner.

VIII. RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE

1. If any part of the Common Elements shall be damaged by casualty, the determination of whether or not to reconstruct or repair the same shall be made as

follows:

- (a) Partial destruction, which shall be deemed to mean destruction that does not render one-half (1/2) or more of the Dwelling Units unlivable shall be reconstructed or repaired unless at a meeting of the members of the Association, which shall be called prior to commencement of such reconstruction or repair, this Declaration is terminated.
- (b) Total destruction, which shall be deemed to mean destruction that renders one-half (1/2) or more of the Dwelling Units unlivable shall be reconstructed or repaired unless at a meeting, which shall be called within ninety (90) days after the occurrence of the casualty or if by such date, the insurance loss has not been finally adjusted, then within thirty (30) days thereafter, of Dwelling Unit Owners there is a vote by the owners of 80 percent or more of the shares against such reconstruction or repair.
- (c) Any such reconstruction or repair shall be substantially in accordance with the Plans and Specifications.
- (d) Encroachment upon, or in favor of Dwelling Units, which may be created as a result of such reconstruction or repair shall not constitute a claim or basis of a proceeding or action by the Dwelling Unit Owner upon whose property such encroachment exists, provided that such reconstruction was either substantially in accordance with the Plans and Specifications or as the Building was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the Building stands.

2. **Responsibility.** If the damage is only to that part of one Dwelling Unit for which the responsibility of maintenance and repair is that of the Dwelling Unit Owner, then the Dwelling Unit Owner shall be responsible for reconstruction and repair after casualty. In other instances, the responsibility of reconstruction and repair after casualty shall be that of the Association. Any proceeds from a settlement shall be made payable to the Association, or to the insurance trustee for the benefit of the Dwelling Unit Owners and their Mortgage holders. The distribution of funds in connection with the termination of the project should be made based on the relative value of each Dwelling Unit and in accordance with the formula used to determine the individual Dwelling Unit Owner's interest in the Common Elements.

(a) Estimate of Costs. Immediately after a casualty causes damage to property for which the Association has the responsibility of maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in a condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors of the Association desires.

(b) Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction (including the aforesaid fees and premiums, if any) assessments shall be made against the Dwelling Unit Owners who own the damaged property in sufficient amounts to provide funds to pay the estimated costs. If at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of such costs thereof are

insufficient, assessments shall be made against the Dwelling Unit Owners who own the damaged property, in each instance.

(c) Insurance Adjustments. Each Dwelling Unit Owner shall be deemed to have delegated to the Board of Directors his right to adjust with insurance companies all losses under policies purchased by the Association except in any case where the damage is restricted to one Dwelling Unit, subject to the rights of mortgagees of such Dwelling Unit Owners.

(d) Power of Attorney. Upon the Condemnation, Destruction or Liquidation of Condominium each Dwelling Unit Owner shall execute appropriately and appoint the Association as an attorney-in-fact to represent each Dwelling Unit Owner in the related proceedings, negotiations, settlements, or agreements.

IX. TAXES AND SPECIAL ASSESSMENTS

1. The assessment of each of the Dwelling Units for taxes and special assessments by governmental bodies shall be done in accordance with applicable law. Any Tax Assessor may rely upon a Certificate of the Association as to the Share of each Dwelling Unit for purposes of determining taxes and special assessments and upon request or whenever appropriate, the Association shall issue such Certificate.

2. In the event any taxes or special assessments upon the Property or any portion thereof are not assessed to individual Dwelling Units as aforesaid, the taxes and assessments not separately assessed to Dwelling Units shall be included in the budget of the Association and shall be paid by the Association. The Association shall assess each Dwelling Unit Owner in accordance with the manner hereinabove set forth for allocation of taxes and special assessments by Tax Assessors.

X. ASSESSMENTS

Assessments against the Dwelling Unit Owners shall be made or approved by the Board of Directors of the Association and paid by the Dwelling Unit Owners to the Association in accordance with the following provisions, but shall be an initial monthly amount set by the Developer and then determined by the Association's Board of Directors shall begin no later than sixty (60) days after the first unit is conveyed.

1. **Share of Expense.** Common Expenses - Each Dwelling Unit Owner shall be liable for his share of the Common Expenses; and, any Common Surplus shall be owned by each Dwelling Unit Owner in a like share. Each Dwelling Unit Owner's share shall be a fraction based on the number of individual units each Dwelling Unit Owner owns and the total number of individual Dwelling Units on the first day of each month. The Association may allocate for a reduced assessment for unsold or unoccupied units. The Association reserves the right to allocate assessments for taxes on the Common Elements based upon the method and manner of assessment by the taxing authority. In all such cases, the assessments shall be based upon the Share owned by each Dwelling Unit Owner.

2. **Assessments other than Common Expenses.** Any assessments in which the authority to levy is granted to the Association or its Board of Directors by the Condominium Documents, shall be paid by the Dwelling Unit Owners to the Association in the proportions set forth in the provision of the Condominium Documents authorizing the assessment.

3. **Reserve Fund for Capital Improvement, Replacements, and Repair.** All sums collected by the Association may be co-mingled in a single fund, but they shall be held

for the Dwelling Unit Owners in the respective shares in which they are paid and may be credited to separate accounts from which shall be paid Common Expenses, alterations and improvements, reconstruction and repairs, and emergency needs. Such a fund will be established and maintained to meet the estimated expenditures for a minimum of twelve (12) months operation of the Property. The proportionate interest of any Dwelling Unit Owner, in any reserve fund, shall be considered an appurtenance of his Dwelling Unit and shall be deemed to be transferred with the conveyance of such Dwelling Unit. Such accounts shall be as follows:

- (a) Common Expense Account - to which shall be credited collections of assessments for all Common Expenses as well as payments received for defraying costs of the use of Common Elements – this Account shall be subdivided into subaccounts, which may be maintained on paper only, for each of the various Common Elements;
- (b) Alteration and Improvement Account - to which shall be credited all sums collected through alteration and improvement assessments;
- (c) Reconstruction and Repair Account - to which shall be credited all sums collected through reconstruction and repair assessments;
- (d) Emergency Account - to which shall be credited all sums collected for emergencies.

4. **Assessments for Common Expenses.** Assessments for Common Expenses shall be made for the calendar year annually in advance on or before the second Monday in December of the year preceding for which the assessments are made and at such other additional times as in the judgment of the Board of Directors of the Association,

additional Common Expenses assessments are required for the proper management, maintenance and operation of the Common Elements. Such annual assessments shall be due and payable in twelve (12) equal consecutive monthly payments, on the first day of each month, beginning with January of the year for which the assessments are made. The total of the assessments shall be in the amount of estimated Common Expenses for the year, for those Common Elements in which the Dwelling Unit owner has an ownership interest, including a reasonable allowance for contingencies and reserves less the amounts of unneeded Common Expenses Account balances and less the estimated payments to the Association for defraying the costs of the use of Common Elements. If an annual assessment is not made as required, a payment in the amount required by the last prior assessment shall be due upon each assessment payment date until changed by a new assessment.

5. **Other Assessments.** Other assessments shall be made in accordance with the provisions of the Condominium Documents; and if the time of payments is not set forth in the Condominium Documents, the same shall be determined by the Board of Directors of the Association.

6. **Assessments for Emergencies.** Assessments for expenses associated with emergencies that cannot be paid from the Common Expense Account shall be made only by the Board of Directors of the Association.

7. **Assessments for Liens.** All liens of any nature including taxes and special assessments levied by governmental authority that are a lien upon more than one (1) Dwelling Unit, or upon any portion of the Common Elements, shall be paid by the Association as a Common Expense and shall be assessed against the Dwelling Units in

accordance with the ownership of the Dwelling Units concerned or charged to the Common Expenses, whichever in the judgment of the Board of Directors of the Association is appropriate.

8. **Assessment Roll.** The assessments against all Dwelling Unit Owners shall be set forth upon a roll of the Dwelling Units that shall be available in the Office of the Association for inspection at all reasonable times by the Dwelling Unit Owners or their duly authorized representatives, such authorization to be presented in writing signed by the Dwelling Unit Owner. Such roll shall indicate for each Dwelling Unit the name and address of the Dwelling Unit Owner or Dwelling Unit Owners, the assessments for all purposes and the amounts of all assessments paid and unpaid. The Association shall issue such certificates to such persons as a Dwelling Unit Owner may request in writing.

9. **Liability for Assessments.** Subject to the provisions § 89-9-21, Mississippi Code Annotated (1972), as amended, a Dwelling Unit Owner and his grantee shall be jointly and severally liable for all unpaid assessments due and payable at the time of a conveyance but without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefore. Such liability may not be avoided by a waiver of the use or the enjoyment of any Common Element or by abandonment of the Dwelling Unit for which the assessments are made. A purchaser of a Dwelling Unit by a judicial or foreclosure sale or a first mortgagee who accepts a deed in lieu of foreclosure shall be liable only for assessments coming due after such sale and for that portion of due assessments prorated to the period after the date of such sale. Such a purchaser shall be entitled to the benefit of all prepaid assessments paid beyond the date such a purchaser acquires title. A Dwelling Unit Owner's easement and access to the Common Elements

may be restricted or denied by the Board of Directors for failure to pay assessments or abide by the Association's rule for the use of Common Elements and facilities.

10. **Lien for Assessments.** The unpaid portion of an assessment that is due shall be secured by a lien covering the Dwelling Unit and all appurtenances thereto when a notice claiming the lien has been recorded by the Association in the public records of Oktibbeha County. The Association shall not, however, record such claim of lien until the assessment is unpaid for not less than thirty (30) days after it is due. Such a claim of lien shall also secure all assessments that come due thereafter until the claim of lien is satisfied.

11. **Interest/Application of Payments.** Assessments and installments thereof paid on or before fifteen (15) days after the date when due shall not bear interest, but all sums not paid on or before fifteen (15) days after the date when due shall bear interest at the rate of 4% per annum, or the maximum amount allowed pursuant to Miss. Code Ann. § 75-17-1(1), whichever is lesser, from the date when due until paid. All payment upon account shall be applied first to interest and then to the assessment payment first due. All interest collected shall be credited to the Common Expense Account.

12. **Suit.** The Association at its option may enforce collection of delinquent assessments by suit at law or by foreclosure of the liens securing the assessments or by any other competent proceeding and in either event, the Association shall be entitled to recover in the same action, suit or proceeding the payments that are delinquent at the time of judgment or decree together with interest thereon at the rate of 12% per annum, and all costs incident to the collection and the action, suit or proceedings, including, but not limited to, reasonable attorneys' fees.

XI. COMPLIANCE AND DEFAULT / BREACH

Each Dwelling Unit Owner, occupant, guest and/or visitor, shall be governed by and shall comply with the terms of the Condominium Documents and all Rules & Regulations of the Association adopted pursuant thereto, as they now exist or are hereafter adopted or amended. A default shall entitle the Association or other Dwelling Unit Owners to the following relief:

1. **Assessment / Lien.** The Board of Directors of the Association shall have the absolute right to assess a \$250.00 Fee against the Dwelling Unit Owner after one (1) prior, legitimate complaint of the same violation of restrictions contained in the Condominium Documents, or after two separate violations of different restrictions contained in the Condominium Documents. A legitimate complaint will consist of a report from a law enforcement officer. In other words, upon a second complaint handled by a law enforcement representative, the Board will have the right to assess the fee against the Dwelling Unit Owner. The fee will be due within one (1) month after written notification is mailed to the Dwelling Unit Owner, which shall be deemed to be effective from the date of mailing, and sufficient if mailed to the last address on the books of the Association. Notice to the Dwelling Unit Owner will consist of a letter from the President or Secretary of the Association stating the nature of the complaints and informing the Dwelling Unit Owner of his/her/its right to appear before the Board of Directors of the Association to appeal such penalty within thirty (30) days of the written notice. The Board may take any and all lawful action to collect this assessment, including the filing of any allowed notices or suits in any proper court. The Dwelling Unit

occupants of the Dwelling Unit Owner), the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be determined by the Court.

5. No Waiver of Rights. The failure of the Association or a Dwelling Unit Owner to enforce any right, provision, covenant or condition that may be granted by the Condominium Documents shall not constitute a waiver of the right of the Association or Dwelling Unit Owner to enforce such right, provisions, covenant or condition in the future.

6. Cumulative Rights. All rights, remedies and privileges granted to the Association or a Dwelling Unit Owner pursuant to any terms, provisions, covenants or conditions of the Condominium Documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies or privileges as may be granted to such party by the Condominium Documents or at law or in equity.

XII. AMENDMENTS

Except for alterations in the shares that cannot be done except with the consent of all Dwelling Unit Owners whose shares are being affected, and their mortgagees, the Condominium Documents may be amended in the following manner:

1. Declaration. Amendments to the Declaration shall be proposed and adopted as follows:

(a) Notice. Notice of the subject matter of the proposed amendment in reasonably detailed form shall be included in the Notice of any meeting at which a proposed amendment is considered. Eligible Mortgage Holders—those holders of a first

(b) Resolution. A Resolution adopting a proposed amendment may be proposed by either the Board of Directors of the Association or by the Dwelling Unit Owners meeting as members of the Association. Members of the Board of Directors of the Association and Dwelling Unit Owners not present at the meeting considering such amendment may express their approval in writing or by a proxy. Such approvals must be not less than seventy-five percent (75%) of the Board of Directors of the Association and seventy-five percent (75%) of the Dwelling Unit Owners and fifty-one percent (51%) of the Eligible Mortgage Holders.

Notwithstanding anything contained herein to the contrary, until twenty units have been transferred by the Developer to a third party, the Developer shall have the absolute right to unilaterally modify or amend this Declaration, other than the modifications identified as Material Amendments below, without the need of any formal meeting, quorum or notice. Such a Developer amendment or modification shall be effective upon the filing of the same in the office of the Chancery Clerk of Oktibbeha County, Mississippi.

(c) Recording. A copy of each amendment shall be certified by at least two (2) officers of the Association as having been duly adopted and shall be effective when recorded in the office of the Chancery Clerk of Oktibbeha County, Mississippi. Copies of same shall be sent to each Dwelling Unit Owner and any

Eligible Mortgage Holder in the manner elsewhere provided for the giving of notices but notice shall not constitute a condition precedent to be effective of such amendment, so long as the conditions of this Section have been satisfied.

2. **Amendments of a Material Nature.** Amendments of a Material Nature must be agreed to by Dwelling Unit Owners who represent at least 75% of the total allocated votes in the Association and by Eligible Mortgage Holders who represent at least 51% of the votes of Dwelling Units that are subject to mortgages held by Eligible Mortgage Holders. If an Eligible Mortgage Holder does not respond to a written request to vote on the amendment, then the Eligible Mortgage Holder shall be deemed to have waived its rights. A change to any of the provisions governing the following shall be considered as material:

- (a) Voting rights;
- (b) Increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens;
- (c) Reductions in reserves for maintenance, repair, and replacement of Common Elements;
- (d) Responsibility for maintenance and repairs;
- (e) Reallocation of interests in the general or limited Common Elements (except as provided in Section XVIII, Paragraph 4 herein, those changes being approved by all interested parties upon delivery of a deed), or rights to their use;
- (f) Redefinition of any Dwelling Unit boundaries;
- (g) Convertibility of Dwelling Units into Common Elements or vice versa;
- (h) Expansion or contraction of the project, or the addition, annexation, or

withdrawal of the property to or from the project;

- (i) Hazard or fidelity insurance requirements;
- (j) Imposition of any restrictions on the leasing of Dwelling Units;
- (k) Imposition of any restrictions on a Dwelling Unit Owner's right to sell or transfer his Dwelling Unit;
- (l) Restoration or repair of the project after damage or partial condemnation;
- (m) Any provision that expressly benefits mortgage holders, insurers or guarantors.

3. **Association By-Laws.** The By-Laws of the Association shall be amended in the manner provided by such documents.

XIII. TERMINATION

The Declaration of Condominium, and resulting form of ownership, shall be terminated, if at all, in accordance with Miss. Code Ann. § 89-9-1 et seq., or other applicable law. The Association is hereby granted all rights and powers regarding termination as granted by the referenced statutes or as otherwise necessary to accomplish the termination. Without limiting the foregoing, every Dwelling Unit Owner, by taking delivery of a deed to a Dwelling Unit, grants to the Board an irrevocable power of attorney to sell the entire Property for the benefit of all of the Dwelling Unit Owners when partition may be had under Miss. Code Ann. § 89-9-35, as the same may be amended from time to time. Said power of attorney is binding on all of the Dwelling Unit Owners, whether they assume the obligations of the construction or not; and may be exercisable by less than all but not less than a majority of the directors of the Board. This power may be exercised only in accordance with applicable law and only after the

recording of a certificate, by those who have the power to exercise the power of attorney, reflecting that said power is properly exercisable hereunder. Such a certificate shall be conclusive evidence thereof in favor of any person relying thereon in good faith.

XIV. MORTGAGE PROTECTION

Notwithstanding any provision of this Article, a “Recorded First Mortgage” shall be deemed to mean a mortgage or deed of trust, properly recorded in the Office of the Chancery Clerk of Oktibbeha County, Mississippi, or other public office designated by the statutes and laws of the State of Mississippi, for the recording of mortgages in Oktibbeha County, Mississippi, the lien of which is prior, paramount, and superior to the lien of all other mortgages and deeds of trust; providing, further, however that a purchase money mortgage or purchase money deed of trust executed in favor of any individual Dwelling Unit Owner to secure the payment or part or all of the purchase price of the Dwelling Unit shall not be deemed to be a Recorded First Mortgage for the purpose of this Article.

However, any recorded mortgage or deed of trust executed in favor of the Developer, the lien of which is prior, paramount, and superior to all other mortgages and deeds of trust, shall be deemed to be a “Recorded First Mortgage.” A holder of a recorded first mortgage must provide notice to the Association of its status as a secured lien holder and an address for notification.

The items for assessments created hereunder upon any Dwelling Unit shall be subject and subordinate to the lien of any Recorded First Mortgage. The holder of any Recorded First Mortgage who comes into possession of any Dwelling Unit pursuant to the remedies provided in the mortgage (whether by way of foreclosure of the mortgage,

or deed (or assignment) in lieu of foreclosure) shall take the Property free of any claims for unpaid assessments or charges against the mortgaged unit that accrued prior to the time such holder comes into possession of the Dwelling Unit; provided that, after the foreclosure, there may be a lien created on the interest of such purchaser, grantee, or assignee to secure all subsequent assessments, whether regular or special, which may be assessed hereunder (after such foreclosure or sale in lieu thereof) to such purchase, assignee, or grantee as an owner and that such subsequent assessment lien shall have the same effect and be enforced in the same manner as provided herein. Sale or transfer of any Dwelling Unit shall not affect the assessment lien; however the sale or transfer of any unit pursuant to foreclosure of a Recorded First Mortgage or any proceeding in lieu thereof shall extinguish the lien of assessments as to payments that become due prior to such foreclosure sale or deed of assignment in lieu thereof; provided, however, the lien shall continue and attach to any proceeds from any foreclosure sale (or sale in lieu thereof) that might be due unto the mortgagor of the Dwelling Unit being foreclosed, or his successors in interest. No sale or transfer of a Dwelling Unit (other than ones in lieu of foreclosure of a Recorded First Mortgage) shall relieve such Dwelling Unit Owner from liability for any assessments or from the lien thereof, and no foreclosure (or transfer in lieu thereof) or any other deed of trust or mortgage shall relieve any Dwelling Unit Owner from personal liability for assessments coming prior to such foreclosure or transfer in lieu thereof.

No amendment to this Declaration of Condominium shall affect the rights of the holder of any Recorded First Mortgage recorded prior to recordation of such amendment who does not join in the execution thereof.

No mortgagee and no beneficiary or Trustee under a deed of trust shall become personally liable for or obligated for any unpaid maintenance funds assessment.

Any Recorded First Mortgage upon a Dwelling Unit in the project may provide that default by the mortgagor in the payment of any assessment levied pursuant to this Declaration of Condominium or By-Laws of the Association or any installment thereof shall likewise be a default in such mortgage shall not affect the validity or priority thereof nor diminish the protection extended to the holder of such mortgage or the indebtedness secured thereby.

The holder of any Recorded First Mortgage, who has provided proper notice to the Association, shall be entitled to written notification from the Association of any default by the mortgagor of such Dwelling Unit in the performance of such mortgagor's obligations under the Condominium Documents that is not cured within thirty (30) days.

The holder of any Recorded First Mortgage, who has provided proper notice to the Association, shall be entitled to a prior written notification of any change of managing agent of the Property, which notification shall be furnished to such mortgage holders not less than thirty (30) days in advance of such change.

The holder of any Recorded First Mortgage, who has provided proper notice to the Association, shall be entitled to written notice of any proceedings for the condemnation of the Property or any part thereof after the commencement of such proceeding.

The holder of any Recorded First Mortgage shall be entitled, upon demand, to examine the books and records of the Association, at the Office of the Association and

during regular business hours, and to require the submission to him of the annual reports of the Association and such other financial data as he may reasonably request.

Unless fifty-one percent (51%) of all of the holders of Recorded First Mortgages (based upon one vote for each mortgage owned) of Dwelling Units have waived or given their prior written approval, neither the Association nor the Dwelling Unit Owners shall be entitled to:

- (a) by act or omission seek to abandon the condominium status of the Property or remove the Property from the provisions of this Declaration of Condominium; except that if such abandonment is allowed by statute or Condominium Documents in the case of substantial loss to the Dwelling Units and Common Elements.
- (b) change the pro rata interest or obligations of any Dwelling Unit for (i) purposes of levying assessments or charges or allocating distribution of hazard insurance proceeds or condemnation awards or (ii) determining the pro rata share of ownership by each Dwelling Unit of the Common Elements, except as otherwise noted herein with respect to the addition of property to the Plat;
- (c) partition or subdivide any Dwelling Unit;
- (d) by act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer, the Common Elements. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Property shall not be deemed a transfer within the meaning of this clause.

XV. COVENANTS RUNNING WITH THE LAND

All provisions of the Condominium Documents, shall be construed to be covenants running with the land and with every part thereof and interest therein including, but not limited to, every Dwelling Unit and the appurtenances thereto and every Dwelling Unit Owner and Claimant of the Property or any part thereof or interest therein, and his heirs, executors, administrators, successors and assigns shall be bound by all of the provisions of the Condominium Documents, as well as any occupants, guests or visitors to the Property and individual Dwelling Units.

XVI. LIENS

1. **Time for Payment.** All liens against a Dwelling Unit other than for permitted mortgages, taxes, or special assessments by the Association will be satisfied within thirty (30) days from the date that it attaches. All taxes and special assessments upon a Dwelling Unit shall be paid before becoming delinquent.

2. **Notice of Lien.** A Dwelling Unit Owner shall give notice to the Association of every lien upon his Dwelling Unit other than for permitted mortgages, taxes, and special assessments within five (5) days after the attaching of the lien.

3. **Notice of Suit.** A Dwelling Unit Owner shall give written notice to the President of the Association of every suit or other proceeding that will or may affect the title to his Dwelling Unit or any other part of the Property, such notice to be given within five (5) days after the Dwelling Unit Owner receives notice thereof.

4. **Failure to Comply.** Failure to comply with this Article concerning liens will not affect the validity of any judicial sale.

5. **Register.** The Association shall maintain a register of all permitted mortgages.

XVII. JUDICIAL SALES

1. No judicial sale of a Dwelling Unit, nor any interest therein, shall be valid unless the sale is a result of a public sale, with open bidding, in compliance with applicable law.

2. Unauthorized Transactions. Any sale, mortgage or lease that is not authorized pursuant to the terms of this Declaration or for which authorization has not been obtained pursuant to the terms of this Declaration, shall be void unless subsequently approved by the Board of Directors of the Association, in writing, duly executed by the Board of Directors of the Association or any executive officer thereof.

3. In the event proceedings are instituted to foreclose any mortgage on any Dwelling Unit, the Association, on behalf of one or more Dwelling Unit Owners, shall have the absolute right to purchase the mortgage for the amount of indebtedness remaining unpaid thereon, provided the holder of the mortgage agrees to assign it to the Association; and/or to bid upon said Dwelling Unit at the foreclosure sale in accordance with provisions of §89-1-55 and §89-9-21, Mississippi Code Annotated (1972), as amended. Nothing herein contained shall preclude a mortgage institution, bank, savings & loan association, insurance company, or any other recognized lending institution, from owning a mortgage on any Dwelling Unit; and, such lending institution shall have an unrestricted absolute right to accept title to the Dwelling Unit in settlement and satisfaction of said mortgage, or to foreclose the mortgage, in accordance with the terms thereof, and the laws of the State of Mississippi, and to bid upon said Dwelling Unit at the foreclosure sale. If the Association, or any member, as aforesaid, redeems such mortgage, or cures such default, it shall have a lien against the Dwelling Unit for all sums

expended in connection therewith, and shall have the same rights to collect such sums as in the case of a past due assessment.

XVIII. PROVISIONS PERTAINING TO DEVELOPER

For so long as Belle Grove, LLC or its assigns continues to own any of the Dwelling Units, the following provisions shall be deemed to be in full force and effect, none of which shall be construed so as to relieve the Developer from any obligations of a Dwelling Unit Owner to pay assessments as to each Dwelling Unit owned by it, in accordance with Condominium Documents.

1. For so long as the Developer owns more than thirty percent of the total Dwelling Units, a majority of the Board of Directors of the Association shall be selected by the Developer and such members as may be selected by the Developers need not be residents in the Building.

2. The Developer shall transfer control of the Association to the Unit Owners no later than the earlier of:

(a) four months after 70% of the Dwelling Units in the project have been conveyed to Dwelling Unit Owners; or

(b) three years after the first Dwelling Unit is conveyed, if only one phase; or

(c) five years after the first Dwelling Unit is conveyed, if multiple phases.

3. Notwithstanding anything to the contrary herein, the Developer reserves, for a period of 10 years from the date of this Declaration, the right to grant easements for ingress and egress and other proper easements and/or licenses for the use of the Common Elements to the developer of the real property located adjacent to the Property or in other appropriate circumstances. Said easements and/or licenses shall not unreasonably

interfere with the use and enjoyment of the Property and shall be on such terms and conditions as deemed appropriate by the Developer. The Developer likewise reserves the right, for the same time period, to modify, revise or cancel any easement or license granted in favor of the Property.

4. The Developer reserves the right to incorporate the real property located south of the Property and east of South Montgomery Street into the Plat referenced in Exhibit "A." The Dwelling Unit Owners hereby agree and consent to such addition and alteration to the Plat, so long as the area to be incorporated into the Plat is to be used in accordance with the Condominium documents and will execute any and all documents necessary to effectuate this change. Eligible Mortgage Holders hereby likewise consent to such changes and will execute any and all documents necessary to effectuate this change. All parties recognize that the incorporation of the unplatted areas will change the ownership interest in Common Area A only and will result in an increase in the property included within Common Area A. The remainder of the Common Areas will not be affected by this change, except that additional Common Areas may be created, which will not be owned by the Dwelling Unit Owners, owning a Dwelling Unit in Phase 1.

5. With respect to all unsold Dwelling Units, the Developer enjoys the same rights and assumes the same duties as they relate to each individual unsold Dwelling Unit, except that the Developer shall not be responsible for the payment of dues under this Document. Dwelling Units owned by the Developer but rented or leased in accordance with the Condominium Documents shall be subject to all assessments applicable to the Dwelling Unit.

6. The Developer specifically disclaims any intent to have made any warranty or representation in connection with the Property, except as required by law, or the Condominium Documents except as specifically set forth therein and no person shall rely upon any warranty or representation not so specifically made therein. The estimates of Common Expenses are deemed accurate, but no warranty or guaranty is made nor intended, nor may one be relied upon.

XIX. INTERPRETATION

If any term, covenant, provision, phrase or other element of the Condominium Documents is held to be invalid or unenforceable by a court of competent jurisdiction for any reason whatsoever, such holding shall not be deemed to affect, alter, modify or impair in any manner whatsoever any other term, provision, covenant or element of the Condominium Documents. Further, in the event such a term, covenant, provision, phrase or other element of the Condominium Document is held to be invalid or unenforceable by a court of competent jurisdiction, the same shall be written in the narrowest possible fashion by such court so that it carries out the intent of an otherwise invalid or unenforceable provision, as if the same had been written that way in the original Declaration of Condominium.

XX. DWELLING UNIT DEEDS

Any transfer of a Dwelling Unit shall convey all appurtenances thereto whether or not specifically described, and must specifically incorporate this Declaration of Condominium and all of the Exhibits attached hereto and comprising a part of this Declaration of Condominium, as the same currently exists or is hereafter amended. Each Grantee or his legal representative shall further acknowledge, in writing, receipt and

acceptance of this Declaration of Condominium, together with all Exhibits and incorporated documents.

XXI. CAPTIONS

Captions used in the Condominium Documents are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect of meaning of any of the text of the Condominium Documents.

XXII. JURISDICTION

The exclusive jurisdiction over all disputes arising from or in any manner related to Belle Grove Condominiums, the Property, individual Dwelling Units, this Declaration of Condominium or any Exhibits, shall be vested in the state courts located in Oktibbeha County, Mississippi, or the federal courts in the district where said county is located and shall be governed by the laws of the State of Mississippi. All parties hereby consent to the jurisdiction of said courts and the application of said laws.

XXIII. GENDER, SINGULAR, PLURAL

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

XXIV. SEVERABILITY

If any provision of the Declaration of Condominium, or any section, sentence, clause, phrase, or word, or the application thereof in any circumstances be judicially held in conflict with the Laws of the State of Mississippi, then the laws shall be deemed controlling and the validity of the remainder of this Declaration of Condominium and the

application of any such provision, section, sentence, clause, phrase, or word, in other circumstances, shall not be affected thereby.

XXV. HOLD HARMLESS

Nothing in these covenants shall be construed as a responsibility of the City either for maintenance or liability of the following, which shall include, but not be limited to, any private open space areas, parks, recreational facilities, and the owners, developers, tenants or any other user of the property that is the subject of these covenants does hereby agree, to hold harmless the City of Starkville from all liability for the City of Starkville for the development and or use of this property and will indemnify and defend the City from any claims related thereto.

XXVII. SEWER DISCLOSURE

The City of Starkville has granted the Developer the ability to use the existing water and sewer lines. In consideration, the Association shall be responsible for any repair or corrective work to the Common Elements, including, but not limited to asphalt, curbs, sod and driveways, should it be necessary for the City of Starkville or its agents to dig, remove, replace, maintain or construct the current sewer and water system. Further, should the City of Starkville or its agent cause any damage to the Common Elements, then the Common Elements shall be replaced by the Association unless the City should be found to be negligent.

XXVII. ADDITIONAL PROVISIONS

All provisions of this Declaration of Condominium are in addition to the provisions of Miss. Code Ann. Section 89-9-1, et seq. (1972), as amended, with said statutes made a part hereof, as though fully copied herein in words and figures. In the

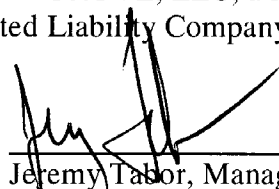
event of any conflict between this Declaration of Condominium and the provisions of said statutory authority, the provisions of the statute shall control.

IN WITNESS WHEREOF, THE DEVELOPER OF BELLE GROVE
CONDOMINIUMS HAS EXECUTED THIS DECLARATION, this the 12 day of
November, 2009.

DEVELOPER:

BELLE GROVE, LLC, a Mississippi
Limited Liability Company

By:


Jeremy Tabor, Managing Member

STATE OF MISSISSIPPI
COUNTY OF OKTIBBEHA

This day personally appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named, JEREMY TABOR, who acknowledged that he is a Managing Member of BELLE GROVE, LLC, a Mississippi limited liability company, and that in said representative capacity he signed and delivered the above and foregoing instrument, after first having been authorized so to do, on the day and year therein mentioned.

Witness my signature and official seal of office, this the 12 day of Nov,
2009.


NOTARY PUBLIC

My Commission Expires



EXHIBIT "A"

The Belle Grove Condominium Plat recorded on the 18th day of Nov, 2009, at 01:57:49 p.m. as Slide 272B of the official public land records on file and of record in the office of the Chancery Clerk of Oktibbeha County, Mississippi, is hereby incorporated as Exhibit "A."

EXHIBIT "B"

STATE OF MISSISSIPPI
COUNTY OF OKTIBBEHA

CERTIFICATE OF CONSENT

The undersigned BELLE GROVE, LLC, a Mississippi limited liability company, by and through its duly authorized member, does hereby certify that it is the record owner of the real property situated in the City of Starkville, Oktibbeha County, Mississippi, particularly described as follows:

Commence at a found iron pipe being used as the Northwest corner of Lot 1 of Block 93 as shown on the Michael Baker Official Map of the City of Starkville, Mississippi, 1974, in the Office of the Chancery Clerk of Oktibbeha County, Mississippi; Said found iron pipe also being the point of beginning for this description.

Thence run South 00 degrees 18 minutes West 220.23 to a set iron pin; thence run West 162.73 feet to a set pk nail; thence run North 6.48 feet to a set pk nail; thence run West 80.09 feet to a set iron pin; thence run North 00 degrees 23 minutes West 210.55 feet to a found iron pin; thence run North 89 degrees 15 minutes East 245.45 feet to a found iron pipe and the point of beginning for this description.

Being a total of 1.21 acres, more or less.

All being part of Lot 2 of Block 93 of the City of Starkville, Mississippi.

Also being part of the Northwest Quarter of the Southwest Quarter of Section 2, Township 18 North, Range 14 East, Oktibbeha County, Mississippi.

Also being subject to all easements as shown.

and further that the said BELLE GROVE, LLC obtained said property by virtue of that certain Warranty Deed dated January 29, 2008, and recorded January 29, 2008 at 1:09

p.m. in Deed Book 2008 at page 378 in the office of the Chancery Clerk of Oktibbeha County, Mississippi (as subsequently corrected by that certain Correction Warranty Deed dated April 7, 2009 and recorded April 8, 2009 at page 1912 in Deed Book 2009 in the office of the Chancery Clerk of Oktibbeha County, Mississippi); further, that there are not outstanding liens against said real property other than those certain Deeds of Trust securing the construction/development loans with Guaranty Bank & Trust Co. found among the aforesaid records in Book 2009 at Page 7007 and in Book 2009 at Page 7014, and that said real property has not been pledged or otherwise hypothecated to secure the repayment of any loans other than the debt referenced herein and that there is no other "record owner" of the above described real property as contemplated by Miss. Code Ann. § 89-9-9, and it hereby consents to the recordation of this Declaration of Condominium.

This, the 12 day of November, 2009.

BELLE GROVE, LLC, a Mississippi
Limited Liability Company

By: 

Jeremy Tabor, Managing Member

CONSENT BY SECURED PARTY:
Guaranty Bank & Trust Co.

By: 

Hue Townsend, Senior Vice President

STATE OF MISSISSIPPI
COUNTY OF OKTIBBEHA

This day personally appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named, JEREMY TABOR, who acknowledged that he is a Managing Member of BELLE GROVE, LLC, a Mississippi limited liability company, and that in said representative capacity he signed and delivered the above and foregoing instrument, after first having been authorized so to do, on the day and year therein mentioned.

Witness my signature and official seal of office, this the 12 day of November, 2009.

My Commission Expires:



Katherine K. Regimbal
NOTARY PUBLIC

STATE OF MISSISSIPPI
COUNTY OF Humphreys

This day personally appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named, Hue Townsend, who acknowledged that he is a Senior Vice President of Guaranty Bank & Trust Co., and that in said representative capacity he signed and delivered the above and foregoing instrument, after first having been authorized so to do, on the day and year therein mentioned.

Witness my signature and official seal of office, this the 15th day of November, 2009.

My Commission Expires:



Paula M. Rowland
NOTARY PUBLIC

EXHIBIT "C"
UNDIVIDED INTEREST IN COMMON ELEMENTS

Each Dwelling Unit shall have the following interest in the Common Area identified as Common Area A on the plat referenced in Exhibit A hereto. Such interest shall be held as "tenants in common" with the other Dwelling Units:

Dwelling Unit No. 33 – 1/15
Dwelling Unit No. 34 – 1/15
Dwelling Unit No. 35 – 1/15
Dwelling Unit No. 36 – 1/15
Dwelling Unit No. 37 - 1/15
Dwelling Unit No. 38 - 1/15
Dwelling Unit No. 39 – 1/15
Dwelling Unit No. 40 - 1/15
Dwelling Unit No. 41 - 1/15
Dwelling Unit No. 42 - 1/15
Dwelling Unit No. 43 - 1/15
Dwelling Unit No. 44 - 1/15
Dwelling Unit No. 45 - 1/15
Dwelling Unit No. 46 - 1/15
Dwelling Unit No. 47 - 1/15

The following Dwelling Units shall have the following interest in the Common Area identified as Common Area B on the plat referenced in Exhibit A hereto. Such interest shall be held as "tenants in common" with the other Dwelling Units identified below:

Dwelling Unit No. 33 – 1/3
Dwelling Unit No. 34 – 1/3
Dwelling Unit No. 35 – 1/3

The following Dwelling Units shall have the following interest in the Common Area identified as Common Area C on the plat referenced in Exhibit A hereto. Such interest shall be held as "tenants in common" with the other Dwelling Units identified below:

Dwelling Unit No. 44 – 1/4
Dwelling Unit No. 45 – 1/4
Dwelling Unit No. 46 – 1/4
Dwelling Unit No. 47 – 1/4



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