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STATE OF MISSISSIPPI  
COUNTY OF OKTIBBEHA

**DECLARATION OF CONDOMINIUM**  
**FOR**  
**ANNABELLA CONDOMINIUM**  
**PHASE I**

FOR THE PURPOSES HEREINAFTER SET OUT, ANNABELLA, LLC, (hereinafter referred to as “Developer”), hereby declares that the property situated and being in The City of Starkville, Oktibbeha County, Mississippi (hereinafter referred to as the “Property”), described as follows:

**COMMENCE AT AN IRON PIN FOUND 20.00 FEET WEST OF THE NORTHEAST CORNER OF LOT 8 OF BLOCK 37, AS SHOWN ON THE MICHAEL BAKER OFFICAL MAP OF THE CITY OF STARKVILLE, MISSISSIPPI, AS REVISED JULY 1991; SAID FOUND IRON PIN IS ALSO THE POINT OF BEGINNING OF THIS DESCRIPTION.**

**THENCE RUN SOUTH ALONG THE WEST RIGHT OF WAY FOR SOUTH MONTGOMERY STREET 287.47 FEET TO AN IRON PIN SET ON THE NORTH RIGHT OF WAY FOR YELLOW JACKET DRIVE; THENCE RUN NORTH 88 DEGREES 32 MINUTES WEST ALONG SAID RIGHTOF WAY 154.50 FEET TO A SET IRON PIN; THENCE RUN ALONG SAID RIGHT OF WAY ALONG A CURVE HAVING A RADIUS OF 601.62 FEET AND ALSO HAVING A LONG CHORD BEARING NORTH 75 DEGREEES 52 MINUTES WEST AND LENGTH OF 263.78 FEET FOR AN ARC DISTANCE OF 265.94 FEET TO AN IRON PIN SET ON THE EAST RIGHT OF WAY FOR VINE STREET; THENCE RUN NORTH 00 DEGREES 40 MINUTES EAST ALONG SAID RIGHT OF WAY 219.12 FEET TO A SET IRON PIN; THENCE RUN NORTH 89 DEGREES 21 MINUTES EAST 212.00 FEET TO A FOUND 1.5 INCH GALVANIZED PIPE; THENCE RUN SOUTH 89 DEGREES 17 MINUTES EAST 195.72 FEET TO A FOUND IRON PIN AND THE POINT OF BEGINNING FOR THIS DESCRIPTION.**

**ALL BEING PART OF LOT 7 OF BLOCK 92, AS SHOWN ON THE MICHAEL BAKER OFFICAL MAP OF THE CITY OF STARKVILLE, MISSISSIPPI, 1974 EDITION.**

**PLUS OR MINUS A STRIP ACROSS THE EASTERN END TO THE WEST RIGHT OF WAY FOR SOUTH MONTGOMERY STREET.**

**PLUS OR MINUS A STRIP ACROSS THE SOUTHERN END TO THE NORTH RIGHT OF**

**WAY FOR YELLOW JACKET DRIVE.**

**PLUS OR MINUS A STRUP ACROSS THE WESTERN END TO THE EAST RIGHT OF WAY FOR VINE STREET.**

is submitted to the condominium form of ownership pursuant to Miss. Code Ann §89-9-1 et seq. to create Annabella Condominium (“Condominium”).

**RECITALS, INTENT AND PURPOSES**

WHEREAS, Developer, as owner of the Property, there being presently or contemplated thereon multi-family dwelling condominium units and other appurtenances and facilities, all as hereinafter described; and

WHEREAS, by this Declaration, the said improvements on the property are hereby subdivided into twenty (20) separate living spaces which, in accordance with the provisions herein contained, shall be subjected to the benefits and burdens of a condominium; and,

WHEREAS, the condominium form of ownership is a form of ownership which, when applied to a multi-family dwelling, provides for separate title to each residential unit, which title shall consist of a Dwelling Unit and an undivided interest in and to all of the property that remains other than Dwelling Units; and

WHEREAS, notwithstanding such separation of title, however, the owner, by placing the condominium plan into effect will, with others, own the Common Elements, including, but not limited to, the same such elements thereof as the parking lots, sidewalks, landscaped areas, fences and related facilities used and controlled in a manner consistent both with the needs and desires of the residents and the community in which the property is located; and,

WHEREAS, it is desirable, therefore, that this Declaration provide the basic requirements of such needs and provide for proper use of the Property, and that within these basic requirements, the Association hereinafter referred to, and its Board of Governors, shall have the right and duty to effect the purposes of the condominium;

NOW THEREFORE,

**DECLARATION**

Annabella, LLC by and through the Developer, hereby declares on behalf of itself, its successors, grantees, assigns and its/their respective heirs, administrators, successors and assigns

as well as any and all persons having, acquiring or seeking to have or acquire any interest of any nature whatsoever in and to any part of the Property, as follows:

The Property from and after the date of the recording of this Declaration in the Office of the Chancery Clerk in and for Oktibbeha County, Mississippi, shall be and continue to be subject to each and all of the terms hereof until this Declaration is terminated or abandoned in accordance with the provisions herein elsewhere contained.

## I. DEFINITIONS

As used herein or elsewhere in the Condominium Documents, unless otherwise provided, or unless the context requires otherwise, the following terms shall be defined as in this Article provided.

1. **Assessment.** That portion of the cost of maintaining, repairing, insuring, providing water and sewer, and managing the Property and Common Elements that is to be paid by each Dwelling Unit Owner, which respective portions, except as herein specifically otherwise provided, shall be as shown on Exhibit “C” and as set forth in the Condominium Plat that shall be filed in the Office of the Chancery Clerk of Oktibbeha County and made a part hereof by reference as Exhibit “A”.
2. **Association.** “Annabella Condominium Association” and its successors, the By-laws of which shall be provided by the Developer and amended as necessary by the Board of Governors of Annabella Condominium Association. The Association shall be formed as a non-profit corporation under the laws of the State of Mississippi.
3. **Board of Governors.** The “Board” is comprised of the officers and directors of the Association as provided in the By-Law of the Association (“By-Laws”).
4. **Building.** The buildings as shown on Condominium Plat, Plans and specifications.
5. **Common Elements.** All that part of the Property and improvements other than the Dwelling Units.
6. **Common Expenses.** The actual and estimated costs of:
  - (a) Ad valorem taxes for all Common Elements; maintenance of the roof, grounds; and all Common Elements and real property taxes thereon, if applicable.
  - (b) Utilities not otherwise paid by individual owners, insurance, maintenance, operation,

repair and replacement of the Common Elements and those parts of the Dwelling Units as to which pursuant to other provisions hereof it is the responsibility of the Association to maintain, repair and replace;

- (c) Management and administration of the Association, including, but not limited to, any compensation paid by the Association to a managing agent, accountants, attorneys and other employees;
  - (d) The monthly Condominium Assessment shall include all those expenses contemplated or referred to by reference in this paragraph, or any other items held by or in accordance with other Condominium Documents to be Common Expense.
7. **Common Surplus.** The excess of all receipts of the Association, including, but not limited to, assessments, rents, profits and revenues on account of the Common Elements, over the amount of Common Expense.
8. **Condominium Documents.** This Declaration, the Exhibits annexed hereto, and the Annabella Condominium Association By-laws and promulgated Rules and Regulations, as may be amended from time to time. Said Exhibits are as follows:  
Exhibit "A": The plat of said Condominium and description of the property filed on August 23, 2007 as Slide 256 B in the Office of the Chancery Clerk of Oktibbeha County, Mississippi.  
Exhibit "B": Consent Form.  
Exhibit "C": Undivided Interest in Common Elements.
9. **Developer.** Annabella, LLC, its assigns and/or successors.
10. **Dwelling Unit.** Any one of those parts of the Building that is separately described on the Condominium Plat, identified by a number and described in greater detail on the Plans and Specifications. The official plat thereof is filed and recorded in the official land records contained within the Office of the Chancery Clerk of Oktibbeha County, Mississippi, the same of which is hereby incorporated herein by reference as Exhibit "A" and made a part hereof.
11. **Dwelling Unit Owner.** The person, persons or entity holding title of a Dwelling Unit.
12. **Eligible Mortgage Holders.** Those holders of a first mortgage on a Dwelling Unit who have submitted a written request that Association notify them on any proposed action

13. **Mortgagee.** shall mean a holder of a Mortgage who has given notice to the Association that it is the holder of a Mortgage affecting all or any part of the Condominium Property as hereinafter provided
14. **Person.** Developer and any individual, firm, corporation, trustee, or other entity capable of holding title to real property in the State of Mississippi.
15. **Plans and Specifications.** The Plans and Specifications referred to in Article I. 3 and Article IV. 2 hereof, which shall be attached in detail as part of the recorded Plat. The Plans and Specifications describes the Condominium as built or intended to be built by the Developer.
16. **Property.** As defined and described in the Declaration of Condominium.
17. **Rules and Regulations.** The Rules and Regulations shall be approved by the Association, included as part of the Condominium Documents, further defined in Article II, and subject to review or amendment by the Board.
18. **Share.** The percentages of Common Element ownership attributable to each Dwelling Unit, as described in Exhibit "C."

## **II. COMMON ELEMENTS USE**

The Common Elements shall be used in accordance with and subject to the following provisions:

1. **Covenant against Partition.** In order to effectuate the intent hereof and to preserve the Condominium and the condominium form of ownership and adjoining property values, the Property shall remain undivided and no person, irrespective of the nature of his interest in the Property, shall bring any action or proceeding for partition or division of the Property or any part thereof until termination of the Declaration in accordance with provisions herein elsewhere contained or until the building is no longer habitable, whichever first occurs.
2. **Rules and Regulations Promulgated by Association.** The Board of Governors shall have the authority to promulgate reasonable rules and regulations. No person shall use the Common Elements or any part thereof in any manner contrary to or not in accordance with such rules and regulations pertaining thereto, as from time to time may be

promulgated by the Board. Without in any manner intending to limit the generality of the foregoing, the Board shall have the right but not the obligation to promulgate rules and regulations limiting the use of the Common Elements to Dwelling Unit Owners and their respective families, guests, invitees and servants or employees. Such use may be conditioned upon, among other things, the payment by the Dwelling Unit Owner of such assessment as may be established by the Association. It is expressly understood that a breach of the use restrictions and covenants contained in this Declaration (including Exhibits) and the Rules and Regulations, By-Laws, as amended, by any occupant, guest or visitor of a unit, while on the property, shall be deemed to be and treated as a breach by the Dwelling Unit Owner, thereby invoking all responsibilities, notices and assessments related thereto.

3. **Common Element maintenance and repair.** The maintenance, repair, management and operation of the Common Elements shall be the responsibility of the Association, but nothing herein contained, however, shall be construed so as to preclude the Association from delegating persons, firms or corporations of its choice, such duties as may be imposed upon the Association by the terms of this Article II, paragraph 3 and as are approved by the Board of Governors of the Association.
4. **Expenses.** The expenses incurred or to be incurred for the maintenance, repair, management and operation of the Common Elements shall be collected from Dwelling Unit Owners as assessed in accordance with provisions contained elsewhere herein.
5. **Use.** Subject to the rules and regulations from time to time pertaining thereto, all Dwelling Unit Owners may use the Common Elements, in such manner as will not restrict, interfere with, or impede the use thereof by other Dwelling Unit Owners. There shall be no preference of use of the Common Elements from one Dwelling Unit in favor of another, with the exception being the use of the parking spaces provided for each Unit.
6. **Alterations and Improvements.** The Association shall have the right to make or cause to be made such alterations and improvements to the Common Elements (which do not prejudice the right of any Dwelling Unit Owner, unless his written consent has been obtained), provided the making of such alterations and improvements are first approved by the Board of Governors of the Association and the first Mortgagee of the individual

Dwelling Unit. The costs of such alterations and improvements shall be assessed as Common Expenses, unless it is the judgment of not less than **75%** of the Board of Governors, the same are exclusively or substantially exclusively for the benefit of the Dwelling Unit Owner(s) requesting the same, in which case such requesting Dwelling Unit Owner shall be assessed therefore in such proportions as they approve jointly and failing such approval, in such as may be determined by the Board of Governors of the Association.

7. **Shares of Dwelling Unit Owners.** The shares of the Dwelling Unit Owners in the Common Elements shall be as stated in Exhibit "A" and Exhibit "C," annexed hereto, and may be altered only by amendments hereof executed in form for recording by all of the Dwelling Unit Owners and First Mortgagees of such Owners. No such alterations shall affect the lien of prior recorded mortgages unless written consent of the holder of such mortgage is obtained and recorded.
8. **Appurtenant and Inseparable.** The share of a Dwelling Unit Owner in the Common Elements is appurtenant to the Dwelling Unit owned by him and inseparable from Dwelling Unit ownership.

### **III. MAINTENANCE AND REPAIR OF DWELLING UNITS**

1. The Association, as a Common Element expense, unless otherwise provided herein, shall be responsible for the maintenance, repairs and replacement of:
  - (a) All portions of the Dwelling Unit that contribute to the Building, excluding, however, interior walls, ceilings and floor surfaces, including, but not limited to, outside walls of the Building, structural slabs, roof, interior boundary walls of Dwelling Units and load-bearing columns and walls and exterior windows and doors;
  - (b) All conduits, ducts, plumbing, fixtures, wiring and other facilities for the furnishing of utility services that are not contained in the Dwelling Unit but excluding therefrom heating, air-conditioning, and electrical equipment, together with all appliances within or outside the Dwelling Unit;
  - (c) All incidental damage caused to a Dwelling Unit by such work as may be done or caused to be done by the Association in accordance herewith.



2. The responsibility of the Dwelling Unit Owner shall be as follows:
  - (a) To maintain, repair and replace at his expense, all portions of the Dwelling Unit except the portions of each to be maintained, repaired and replaced by the Association.
  - (b) To perform his responsibilities in such manner so as not unreasonably to disturb other persons within the complex.
  - (c) Not to change or alter the paint color or scheme or otherwise decorate or change the appearance of any portion of the Building not within the walls of the Dwelling Unit, unless the written consent of the Association is obtained.
  - (d) To promptly report to the Association or its agent any defect or need for repairs, the responsibility of the remedying of which is with the Association.
  - (e) Not to make any alterations in the portions of the Dwelling Unit or the Building that are to be maintained by the Association or remove any portion thereof or make any additions thereto or do anything that would or might jeopardize or impair the safety or soundness of the Building without first obtaining the written consent of the Board of Governors of the Association and First Mortgagees of all individual Dwelling Units, nor shall any Dwelling Unit Owner impair any easement without first obtaining written consent of the Association and of the Dwelling Unit Owner(s), for whose benefits such easement exists. The Association and Dwelling Unit Owner must use a licensed and bonded person or entity, licensed to do business in the State of Mississippi for repairs of electrical, plumbing or building materials called for on the Property.
  
3. Nothing herein contained, however, shall be construed so as to impose a contractual liability upon the Association for maintenance, repair, and replacement, but the Association's liability shall be limited to damages resulting from negligence.

#### IV. DWELLING UNITS SHALL BE CONSTITUTED AS FOLLOWS

1. **Real Property.** Each Dwelling Unit, together with the space within it as shown on the Plans and together with all appurtenances thereto, including the undivided interest in the Common Elements shown on Exhibit “C”, and any Limited Common Elements shown on Exhibit “A,” and or defined herein, shall, for all purposes, constitute the interest of a separate parcel of real property, which may be owned and which may be conveyed, transferred and encumbered in the same manner as any other parcel of real property, independently of all other parts of the Property, subject only to the provisions of this Declaration.
2. **Boundaries.** Each Dwelling Unit shall be bounded as to both horizontal and vertical boundaries as shown on the Plans, subject to such encroachments as are contained in the Building, whether the same exist now or are created by construction, settlement or movement of the Building, or permissible repairs, reconstruction or alterations. Said boundaries are intended to be the interior unpainted surfaces of the perimeter walls, floors, ceilings, windows and doors thereof, and the unit includes both the portions of the Building so described and the airspace so encompassed. The following are not part of the Dwelling Unit: bearing walls, columns, floors, roofs, exterior windows and doors, foundations, reservoirs, tanks, pumps and other central services, pipes, ducts, flues, chutes, appliances, conduits, wires and other utility installations, wherever located, except the outlets thereof when located within the unit. In interpreting deeds and plans, the existing physical boundaries of the Dwelling Unit or of a Dwelling Unit reconstructed in substantial accordance with the original Plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in the deed or Plan, regardless of minor variance between boundaries shown on the Plans or in the deed and those of the Building.
3. **Appurtenances.** Each Dwelling Unit shall include and the same shall pass with each Dwelling Unit as an inseparable appurtenance thereto, whether or not separately described, conveyed or encumbered, all of the rights, title and interest of a Dwelling Unit

Owner in the Property, which shall include, but not be limited to:

- (a) Common Elements: The Common Elements are owned by Dwelling Unit Owners, with each owning an undivided interest in the form of “tenants in common” with the other Dwelling Unit Owners;
- (b) A license to maintain no more than one private passenger automobile per Dwelling Unit bedroom on the space provided for each Dwelling Unit or otherwise in accordance with the Rules and Regulations of the Association
- (c) Easements for the benefit of the Limited Common Elements provided to certain Dwelling Units, including, but not limited to, the right to the exclusive use of the patios and front porch, if any, adjacent thereto and the storage space above the Dwelling Unit and below the roof thereof as indicated on the plans and specifications;
- (d) Association membership and funds and assets, held by the Association for the benefit of the Dwelling Unit Owner;
- (e) All such appurtenances, however, shall be and continue to be subject to the easements for the benefit of other Dwelling Units;
- (f) In addition to and not in derogation of the ownership of the space described on the Condominium Plat and Plans, an exclusive easement for the use of the space not owned by the Dwelling Unit Owner and which is occupied by the Dwelling Unit, which easement shall exist until the earlier of such time as this Declaration is terminated in accordance with provisions herein elsewhere contained, or the building is no longer tenantable; and
- (g) The following easements from each Dwelling Unit Owner to each other Dwelling Unit Owner and to the Association.
  - (i) **Ingress and Egress.** Each Dwelling Unit Owner will have an unrestricted right of ingress and egress to his Unit. This right is perpetual and passes with each Unit estate as transfers of the Unit occur. Any conveyance, encumbrance, judicial sale, or other transfer of an individual interest in the common elements will be void unless the Unit to which that interest is also allocated is also transferred. Easements through the Common Elements for ingress and egress for all persons making use of such Common Elements in accordance with the terms of the

Condominium Documents.

(ii) **Maintenance, Repair, and Replacement.** Easements through the Dwelling Unit and Common Elements for maintenance, repair and replacement of the Dwelling Units shall be limited to reasonable hours, except that access to the Dwelling Units may be had at any time in case of emergency.

(iii) **Structural Support.** Every portion of a Dwelling Unit that contributes to the structural support of the Building shall be burdened with an easement of structural support for the benefit of the Common Elements and Dwelling Unit.

(iv) **Utilities.** Easements through the Dwelling Units and Common Elements for all facilities for the furnishing of utility service within the Building, which facilities shall include, but not be limited to, conduits, ducts, plumbing, and wiring; provided, however, that the easements for such facilities through a Dwelling Unit shall be only substantially in accordance with the Plans of the Building.

(v) **Emergency easement of Ingress and Egress.** Easements over all balconies, if any, whenever reasonably required for emergency ingress and egress.

4. **Limited Common Elements.** Each Dwelling Unit Owner shall be entitled to an exclusive easement for the use of any exterior balcony, patio or terrace directly accessible from his Unit, but such right shall not entitle a Dwelling Unit Owner to construct anything thereon or to change any structural part thereof. The balcony, patio or terrace shall be deemed to be a Limited Common Element appurtenant to the Unit(s) from which it is directly accessible, and costs and expenses related to the balconies, patios or terraces are to be paid by the Association, but may be assessed against the Unit Owner to whose Unit the balcony, patio or terrace attaches as a Limited Common Element. The Board shall have the right to limit and to remove any item of furniture, personalty, plant or decorative item that is not in keeping with the Rules and Regulations of the Association, it being recognized that the balconies, patios and terraces are visible from surrounding Units and properties and that there is a need for subtlety and uniformity of items placed on the balconies, patios and terraces.

## V. COVENANTS AND USE RESTRICTIONS

In order to provide for a congenial occupation of the Building and to provide for the protection of the investments, monetary and aesthetic values of the Dwelling Units and the Dwelling Unit Owners' interest therein, the use of the Property shall be restricted to and be in accordance with the following covenants and use restrictions:

1. **Residential Use.** The Dwelling Units shall be used for single family residential purposes only. Commercial uses are strictly prohibited.
2. **Common Areas.** The Common Elements shall be used for the furnishing of services and facilities for which the same area are reasonably intended, for the enjoyment of the Dwelling Unit Owners.
3. **Nuisances.** No nuisances shall be allowed upon the Property nor shall any use or practice be allowed which is a source of annoyance to residents or which interferes with the peaceful possession and proper use of the Property by its residents, and no immoral, improper, offensive or unlawful use shall be made of the Property, nor any part thereof. To this end it is an express prohibition to have any speaker, amplifier, radio or other electronic device any where outside a Dwelling Unit, or used in such a fashion that it can be heard outside a Dwelling Unit. The Association can make appropriate exceptions in the case of special events or outside events being held on the Property by one or more Dwelling Unit Owners. No private, public or other gathering of any type exceeding ten (10) people shall be allowed in any Dwelling Unit(s), regardless of relative noise levels or general nuisance created thereby, unless prior written approval is obtained by the Association.
4. **Lawful Use.** All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The respective responsibilities of Dwelling Unit Owners and the Association of complying with the requirements of governmental bodies which require maintenance, modification or repair of the Property shall be the same as hereinabove provided for the maintenance and repair of that portion of the Property subject to such

requirements.

5. **Owner Occupancy.** Subject to the provisions below in this Article, each Dwelling Unit shall be occupied, at a minimum, by the record owner of said Dwelling Unit. For purposes of determining Dwelling Unit Owner occupancy, it shall be acceptable if the occupation is by someone who is related to the Dwelling Unit Owner, as a husband or wife, son or daughter, mother or father, niece or nephew, or grandchild or grandparent. When a Dwelling Unit is owned in a partnership or a corporate form, each partner, stockholder, member, or manager of the entity will, for the purposes of this paragraph, be recognized as a Dwelling Unit Owner. Acceptable occupation shall be in the same degrees as above with respect to each partner, stockholder, member or manager.
6. **Leasing / Renting.** All leases have to have written approval by the Board of Governors and must be made subject to the Condominium Documents. Leases shall be in writing and tenants must acknowledge receipt and compliance with the Condominium Documents as a provision of the lease. All leases must be for a minimum term of twelve (12) months. Any such lease shall contain a provision to the effect that the rights of the tenant to use and occupy the Dwelling Unit shall be subject and subordinate in all respects to the provisions of the Declaration and By-Laws, and to such other reasonable rules and regulations relating to the use of the Common Elements, or other “house rules”, as the Board of Governors may from time to time promulgate. No Dwelling Unit shall be leased or rented for any period of time to any person or entity who is not within the definition of “Owner Occupancy”, in the foregoing paragraph. Notwithstanding this restriction, there shall be the right to lease, a portion of the Dwelling Unit that is less than the whole, so long as a Dwelling Unit Owner (as defined in Paragraph 9, above), is actively occupying the Dwelling Unit simultaneously with the non-owner. No Dwelling Unit shall be leased, rented or inhabited by more than two (2) unrelated persons in addition to the Owner Occupant in a three bedroom unit or one (1) unrelated person in addition to the Owner Occupant in a two bedroom unit. In any event, prior to such partial rental, the Dwelling Unit Owner must give the

Association advance written notice of the name and permanent address and telephone numbers of the non-owner individuals who will be occupying the unit. It shall be in the sole and absolute discretion of the Board of Governors to determine whether a Dwelling Unit Owner is actually actively occupying the Dwelling Unit as to permit a partial renting of the unit. In the event the Board of Governors determines that a Dwelling Unit Owner is not actively occupying the Dwelling Unit simultaneously with the non-owner, regardless of whether partially renting a portion of the Dwelling Unit, the Dwelling Unit Owner expressly understands and consents that the rights of the Association are paramount to any such agreements with non-owners and the Association shall have the absolute right to demand that the non-owner vacate the premises with seven (7) days of written notice posted at the Dwelling Unit. In the event legal action becomes necessary to enforce this provision, the Dwelling Unit Owner shall be responsible for the reasonable attorney fees and costs of court in bringing the Dwelling Unit into compliance with the Declaration. The provisions of this subsection shall not apply to any institutional mortgagee of any Dwelling Unit who comes into possession of the Dwelling Unit by reason of any remedies provided by law, or in such mortgage, or as a result of a foreclosure sale or other judicial sale, or as a result of any proceeding, arrangement, or deed in lieu of foreclosure.

7. **Heating / Cooling.** In order to protect the Common Elements in the Property and items that are the responsibility of the Association, each Dwelling Unit must maintain the heating system on a minimum of 55 degrees (Fahrenheit) during the cooler months, and the air conditioning on a maximum of 84 degrees (Fahrenheit) during the warmer months.
8. **Alterations.** No Dwelling Unit Owner or occupant shall paint, decorate or adorn the outside of the Dwelling Unit (including doors and windows) or install any canopy, awning, exterior radio or television or other antennae, or other equipment or fixtures without prior written consent of the Board of Directors of the Association. An exterior installation without the prior written consent of the association is liable to be removed without notice. Nothing shall be nailed or

screwed to, hung, stuck or otherwise attached in any manner to any portion of the exterior of any Dwelling Unit, specifically including, but not limited to, satellite dish antennae, planters, flag poles, wind chimes, hooks or rods. No statues, indoor furniture, shelving units, hunting or fishing gear, refrigerators, freezers, kegs, ice chests, Jacuzzis, hot tubs, swimming or wading pools, swing-sets, children toys, lawn chairs, boxes, crates or storage bins may be stored outside any Unit for any period of time. All grills, BBQ pits and garbage cans must be kept on side patios, rear porches or in the garage, as applicable.

9. **Parking and Vehicle Regulations** Each Unit has been provided one parking space per bedroom. No parking on the lawn or grounds of the Property is permitted at any time by any mode of transportation. The Association reserves the right to have removed at the Owner's expense any vehicles parked in any unauthorized manner.

1. No vehicle belonging to any Owner, Occupant or visitor is to be parked in such a manner as to impede or prevent ready access to other parking places. For clarification, no vehicle shall occupy more than one parking space at a time.

2. No trailer, camper, motor home, golf cart, travel trailer, utility trailer, 4-wheeler, 3-wheeler, off road motorcycle, pleasure/ski or fishing boat, boat motor or boat trailer, vehicle with more than six (6) wheels (with the exception of a moving or delivery vehicle in the active process of delivering or retrieving items) may be parked or stored in the parking areas or general Common Elements of the Property. If one is found to be located on the Property, and not immediately removed, the Association shall have the absolute right to immediately have the same towed or otherwise removed from the Property, without notice, at the expense of the Dwelling Unit Owner to which the non-compliant vehicle or piece of equipment is associated.

3. No vehicles shall be left in a parking space or driveway in a non-operative condition for more than Seventy-Two (72) hours, nor shall there be any non-emergency repairs to vehicles in a parking space or driveway other than emergency situations to make a non-operative vehicle immediately operate.



4. All trash must be in a trash container for pickup and must have a lid. All containers must have bags in case of accidental spillage, but bags only are not allowed. Trash may not be placed on the street until midnight on the day before the scheduled pickup. All empty trash containers must be removed on the day of pickup.

5. No recreational activities or games of any kind are allowed in the parking areas. Such activities are permitted only in, and confined to, grass-covered portions of the Common Areas, subject to previously defined limitations of damages to the lawn areas.

- 10. Patios / Fences.** Dwelling Unit Owners and Occupants are expected to maintain their front, side and/or rear porches or patios in a clean, sanitary and safe condition. No objects are to be placed on, mounted, hung, affixed or attached in any way, even temporarily, to any trellis, fence or gate, or to otherwise detract from the appearance of the Property (e.g., no bird houses, hammocks, ropes, wires, planters, articles of clothing are to be hung on the fences, etc.). Any and all furniture placed on the front porches must be of quality all-natural and/or resin material, exterior grade, with a white painted finish in good repair. Any and all cushions or fabrics used to accessorize items on the veranda must be of subtle color complimentary to exterior and in good repair. Any unsightly items or those in disrepair may be removed by the Association. Outdoor patio umbrellas, with wooden rods and hunter green or evergreen fabrics and in good repair, are permitted on the side patios only. No other items visible from the exterior of the patio shall be permitted without the prior written consent of the Association. Other than the fencing and gate encircling the perimeter of the property and the patio enclosures installed by the Developer and as repaired or replaced by the Association, no fences shall be permitted around, at or attached to any Dwelling Unit or its patio. Likewise, no gate shall be put into any existing fence by any individual.
- 11. Safety.** No common walks or drives may be obstructed in any way. All sidewalks and entrances must not be obstructed or encumbered or used for any purpose other

than ingress and egress to and from the premises. Bicycles must not be ridden or left standing in any manner that might interfere with the full use of walkways by pedestrians.

- 12. Signs.** No signs, ads or solicitations of any type are permitted in or about the Condominium Property without the prior, express written consent of the Board of Governors of the Association. “For Sale” signs are restricted to the small, generic, metal “For Sale” signs that will be made available by the Association in the event a Dwelling Unit becomes available for sale. Only one such sign shall be available per Dwelling Unit, which shall be placed in front of the flower bed, near the entry steps to the Dwelling Unit.
- 13. Waste.** In the event any Dwelling Unit Owner or occupant does or fails to do anything that causes a dramatic increase (more than five percent 5% of the total) in the water/sewer assessments, or the common insurance risk and premium, then such Dwelling Unit shall be subject to an increased assessment proportionate to the increase attributed to the Unit’s action or inaction.
- 14. Windows.** With the sole exception of a plant or unlit ornamental wreath, no Dwelling Unit shall have displayed, hanging, stored, or use signs, stickers, emblems, insignias, pennants, flags, banners, ornaments, fixtures, foil, tinting material, clothing, sheets, blankets, laundry, or any other articles outside the Unit, or which may be visible from the outside of the Dwelling Unit without prior written consent of the Board of Governors of the Association. No fans, air conditioners, heaters, or similar objects will be permissible in any window or door opening.
- 15. Window Treatments.** No Dwelling Unit shall use window treatments visible from the front exterior or rear exterior of the Dwelling Unit other than those provided by the Developer. The Board may alter the window treatments through the Association Rules and Regulations only if the window treatments are made applicable and uniform with all Dwelling Units.
- 16. 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.

- 17. 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 intended 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.

## **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 Governors (“Board”) elected by said Dwelling Unit Owners.
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 Governors of the Association, such act or approval must be that of the Board done or given in accordance with the By-Laws.

4. 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.
5. All funds and titles of 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.
6. 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:

**A. 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 Governors.

**B. Dwelling Unit Owners Personal Property and Liability.** Each Dwelling Unit Owner shall obtain insurance, at his own expense, affording coverage upon the 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 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.

**C. Mandatory Coverage:**

(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 Governors 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 a Dwelling Unit Owner.

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

**E. 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 of whatever character 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 family unit Owner and each family unit Owner's mortgagees, if any. Each 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 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 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 Owners, or their respective families, servants,

agents and guests;

(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 without prior demand that the Association or manager cure the defect; and

(4) That any "other insurance" clause in the master policy exclude 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 untenable 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 untenable 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 who, in the aggregate, own 80 percent or more of the shares, vote 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 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 Unit and in accordance with the formula used to determine the individual 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 Governors 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 Governors 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 Unit Owner shall execute appropriately and appoint the Association as an attorney-in-fact to represent each 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 the following manner:
  - (a) **Determination of value.** The total value for the tax or assessment roll for the Property shall be determined without regard to the Dwelling Units against which taxes and assessments ultimately are to be levied.
  - (b) **Allocation of Assessments to Dwelling Units.** The assessments for each Dwelling Unit shall be the Dwelling Unit's respective Share of the Assessment of the Dwelling Units.
  - (c) **Certificate.** Any Tax Assessor may rely upon a Certificate of the Association as to the Share of each Dwelling Unit and upon request or whenever appropriate, the Association shall issue such Certificate.
2. During the period of time the taxes and special assessments upon the Property or any portion thereof are not assessed to 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 Governors 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 Governors. Assessments 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.
2. **Assessments other than Common Expenses.** Any assessments in which the authority to levy is granted to the Association or its Board of Governors 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 from which it is appurtenant, 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;

(b) Alteration and Improvement Account - to which shall be credited all sums collected for alteration and improvement assessments;

(c) Reconstruction and Repair Account - to which shall be credited all sums collected for 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 Governors 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 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 Governors of the Association.
6. **Assessments for Emergencies.** Assessments for Common Expenses of emergencies that cannot be paid from the Common Expense Account shall be made only by the Board of Governors 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 Governors 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 as aforesaid shall be entitled to the benefit of all prepaid assessments paid beyond the date such purchaser acquires title. A Unit Owner's easement and access to the Common Elements may be restricted or denied by the Board of Governors 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:
  - (a) 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 twenty (20) 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, except that such lien shall be subordinate to prior bona fide liens of record.

(b) All tangible personal property located in the Dwelling unit except that such lien shall be subordinate to prior bona fide liens of record.

11. **Interest.** Application of Payments. Assessments and installments thereof paid on or before ten (10) days after the date when due shall not bear interest, but all sums not paid on or before twenty (20) days after the date when due shall bear interest at the rate of 12% per annum 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, specifically including Dwelling Unit occupants, guests and/or visitors, 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 Governors of the Association shall have the absolute right to assess a \$500.00 Fee against the Dwelling Unit Owner after one (1) prior,**

**legitimate complaint of the same violation of restrictions contained in the Declaration and/or Exhibits, or after two separate violations of different restrictions contained in the Declaration and/or Exhibits.** A legitimate complaint will consist of either a report from a law enforcement officer, or written, confirmed, and investigated complaint of another Dwelling Unit Owner. In other words, upon a second written complaint from any Dwelling Unit Owner, or a complaint following a matter handled by a law enforcement representative, the Board of Governors of the Association 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 Governors of the Association to appeal such penalty within thirty (30) days of the written notice. Since such assessments are permitted by the By-Laws of the Association, the Board of Governors of the Association are expressly authorized and will enter a lien against the Dwelling Unit in the official judgment rolls in the office of the Circuit Clerk of Oktibbeha County, Mississippi, if the Dwelling Unit Owner fails to pay the assessment within thirty (30) days of the notice, or the outcome of the appeal, whichever is longer. This remedy shall include and is not to the exclusion of any other remedy available in either law or equity.

2. **Legal Proceeding.** Failure to comply with any of the terms of the Condominium Documents or Rules and Regulations of the Association adopted pursuant thereto, shall be ground for relief that may include, but is not limited to, an action to recover sums due for damage, injunctive relief, foreclosure of lien or any combination thereof, and which relief may be sought by the Association, or if appropriate, by an aggrieved Dwelling Unit Owner.
3. **Intentional or Negligent Acts.** A Dwelling Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or by that of any member of his family, or their guests, employees, agents or

occupants, but only to the extent that such expense is not met by the proceeds of insurance rates occasioned by use, misuse, occupancy, or abandonment of any Dwelling Unit or its appurtenances. Such liability shall include any increase in hazard or liability insurance rates occasioned by use, misuse, occupancy, or abandonment of any Dwelling Unit or its appurtenances. Nothing herein contained however, shall be construed so as to modify any waiver by insurance companies of right of subrogation.

4. **Cost and Attorney's Fees.** In a proceeding arising because of an alleged default or breach by a Dwelling Unit Owner (including the guests, visitor or 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. **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 mortgage on a Dwelling Unit who have submitted a written request that owner's

association notify them on any proposed action requiring the consent of a specified percentage of eligible mortgage holders—must also have the right to join the decision-making about certain amendments to the project documents.

- (b) **Resolution.** A Resolution adopting a proposed amendment may be proposed by either the Board of Governors of the Association or by the Dwelling Unit Owners meeting as members of the Association and after being proposed and approved by the Board of Governors of the Association. Members of the Board Governors 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 Governors 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 fifteen (15) 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 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 the same shall not constitute a condition precedent to be effective of such amendment.

- 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 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, or rights to their use;
  - f. Redefinition of any unit boundaries;
  - g. Convertibility of 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 units;
  - k. Imposition of any restrictions on a unit owner's right to sell or transfer his 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 shall be terminated, if at all, in the following manner:

1. Termination of the Declaration of Condominium may be effected by the agreement of not less than **Seventy-Five Percent (75%)** of the Dwelling Unit Owners and at least **Fifty-One Percent (51%)** of all Eligible Mortgage Holders, that have provide notice to the Association, which agreement shall be evidenced by an instrument or instruments

executed in the manner required for conveyance of land. The termination shall become effective when such agreement has been recorded in the public records of Oktibbeha County, Mississippi, subject to the statutory partition justifications as set forth in Section 89-9-35.

2. **Destruction.** If it is determined in the manner elsewhere provided, that the Property shall not be reconstructed after casualty, the Declaration of Condominium will be terminated and the Condominium Documents revoked. The determination not to reconstruct after casualty shall be evidenced by a Certificate of Association certifying as the facts effecting their termination, which certificates shall become effective upon being recorded in the public records of Oktibbeha County, Mississippi.
3. **Shares of Dwelling Unit Owners after Termination.** After termination of the Declaration of Condominium, the Dwelling Unit Owners shall own the Property as tenants in common in proportion to their individual undivided shares of the Dwelling Unit Owners. The cost incurred by the Association in connection with the termination shall be a Common Expense.
4. Following termination, the Property may be partitioned and sold upon the application of any Dwelling Unit Owner. If the Board of Governors of the Association determines following termination, by not less than a three-fourths (3/4) vote, to accept an offer for the sale of the Property, each Dwelling Unit Owner shall be bound to execute such deeds and other documents reasonably required to effect such sale at such times and such forms as the Board of Governors of the Association directs. In such event, any action for partition or other division of the Property shall be held in abeyance pending such sale, and upon the consummation thereof shall be discontinued by all parties thereto.
5. The members of the Board of Governors of the Association acting collectively as agents for Dwelling Unit Owners, shall continue to have such powers as in this Article are granted, notwithstanding the fact that the Association itself may be dissolved upon a termination.
6. An Eligible Mortgage Holder will be deemed to have implied approval if that Eligible Mortgage Holder fails to submit a response to any written proposal for amendment within 30 days after it receives proper notice of the proposal, provided the proposal was delivered

by certified or registered mail, with a “return receipt” requested.

#### **XIV. MORTGAGE PROTECTION**

1. 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.
2. 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 and 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.

3. 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.
4. 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.
5. 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 by 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.
6. The holder of any Recorded First Mortgage 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.
7. The holder of any Recorded First Mortgage 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.
8. The holder of any Recorded First Mortgage 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.

9. 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.
10. 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 with the property;
  - (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. **Protection of Property:** 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** with this Article concerning liens will not affect the validity of any judicial sale.
5. 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 been obtained pursuant to the terms of this Declaration, shall be void unless subsequently approved by the Board of Governors of the Association, in writing, duly executed by the Board of Governors 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 Annabella, 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 Governors 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 (4) months after 75% of the Units in the project have been conveyed to Unit purchasers; or
  - b) three years after the first unit estate is conveyed, if only one phase; or
  - c) five years after the first unit estate is conveyed, if expandable phases.
3. With respect to all unsold Units, the Developer enjoys the same rights and assumes the same duties as they relate to each individual unsold Unit.

4. 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 valid 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. All such deeds shall be accepted and acknowledged by the grantee or legal representative thereof.

#### **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 Annabella Condominium, the Property, individual Dwelling Units, this Declaration of Condominium or any Exhibits, shall be vested in the Chancery Court of Oktibbeha County, Mississippi, and governed by the laws of the State of Mississippi.

**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 there from.

**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 Chapter 9, Section 89-9-1, et seq., Mississippi Code Annotated (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 Chapter 9, Section 89-9-1 et-seq., Mississippi Code Annotated (1972), the provisions of the statute shall control.

**IN WITNESS WHEREOF, THE DEVELOPER OF ANNABELLA CONDOMINIUM HAS EXECUTED THIS DECLARATION, this the \_\_\_\_ day of August, 2007.**

**DEVELOPER:**

**ANNABELLA, LLC, a Mississippi limited liability company**

**BY: \_\_\_\_\_  
JEREMY TABOR, Member**

**CONSENT BY SECURED PARTY:**

**M & F BANK**

**BY: \_\_\_\_\_**

**ITS: \_\_\_\_\_**

STATE OF MISSISSIPPI  
COUNTY OF \_\_\_\_\_

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 Member of Annabella, 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 \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

STATE OF MISSISSIPPI  
COUNTY OF \_\_\_\_\_

This day personally appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named, \_\_\_\_\_, who acknowledged that he is \_\_\_\_\_ of M & F BANK and that on behalf of said bank and as its act and deed, he consented, signed and delivered the above and foregoing instrument of , 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 \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

**EXHIBIT "A"**

The Annabella Condominium, Phase I, Plat recorded on 23<sup>rd</sup> day of August, 2007 at 3:47 P.M. as Slide 256 B 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 Annabella, 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 AN IRON PIN FOUND 20.00 FEET WEST OF THE NORTHEAST CORNER OF LOT 8 OF BLOCK 37, AS SHOWN ON THE MICHAEL BAKER OFFICAL MAP OF THE CITY OF STARKVILLE, MISSISSIPPI, AS REVISED JULY 1991; SAID FOUND IRON PIN IS ALSO THE POINT OF BEGINNING OF THIS DESCRIPTION.**

**THENCE RUN SOUTH ALONG THE WEST RIGHT OF WAY FOR SOUTH MONTGOMERY STREET 287.47 FEET TO AN IRON PIN SET ON THE NORTH RIGHT OF WAY FOR YELLOW JACKET DRIVE; THENCE RUN NORTH 88 DEGREES 32 MINUTES WEST ALONG SAID RIGHTOF WAY 154.50 FEET TO A SET IRON PIN; THENCE RUN ALONG SAID RIGHT OF WAY ALONG A CURVE HAVING A RADIUS OF 601.62 FEET AND ALSO HAVING A LONG CHORD BEARING NORTH 75 DEGREEES 52 MINUTES WEST AND LENGTH OF 263.78 FEET FOR AN ARC DISTANCE OF 265.94 FEET TO AN IRON PIN SET ON THE EAST RIGHT OF WAY FOR VINE STREET; THENCE RUN NORTH 00 DEGREES 40 MINUTES EAST ALONG SAID RIGHT OF WAY 219.12 FEET TO A SET IRON PIN; THENCE RUN NORTH 89 DEGREES 21 MINUTES EAST 212.00 FEET TO A FOUND 1.5 INCH GALVANIZED PIPE; THENCE RUN SOUTH 89 DEGREES 17 MINUTES EAST 195.72 FEET TO A FOUND IRON PIN AND THE POINT OF BEGINNING FOR THIS DESCRIPTION.**

**ALL BEING PART OF LOT 7 OF BLOCK 92, AS SHOWN ON THE MICHAEL BAKER OFFICAL MAP OF THE CITY OF STARKVILLE, MISSISSIPPI, 1974 EDITION.**

**PLUS OR MINUS A STRIP ACROSS THE EASTERN END TO THE WEST RIGHT OF WAY FOR SOUTH MONTGOMERY STREET.**

**PLUS OR MINUS A STRIP ACROSS THE SOUTHERN END TO THE NORTH RIGHT OF WAY FOR YELLOW JACKET DRIVE.**

**PLUS OR MINUS A STRUP ACROSS THE WESTERN END TO THE EAST RIGHT OF WAY FOR VINE STREET.**

and further that the said Annabella, LLC obtained said property by virtue of that certain Warranty Deed dated April 17, 2007, recorded on April 19, 2007 at 2:57:06 P.M. in Deed Book 2007 at Page 3088 in the office of the Chancery Clerk of Oktibbeha County, Mississippi; further, that there are not outstanding liens against said real property other than that certain Deed of Trust securing the construction/development loans with M&F Bank found among the aforesaid records in \_\_\_\_\_, and that said real property has not been pledged or otherwise hypothecated to secure the repayment of any loans other than to M&F Bank that there is no other “record owner” of the above described real property as contemplated by § 89-9-9, Mississippi Code of 1972, Annotated, and it hereby consents to the recordation of this Declaration of Condominium.

This, the \_\_\_\_ day of August, 2007.

**ANNABELLA, LLC, a Mississippi limited liability company**

**BY: \_\_\_\_\_**  
**JEREMY TABOR, 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 Member of Annabella, 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 \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:\_\_\_\_\_

**EXHIBIT "C"**

**UNDIVIDED INTEREST IN COMMON ELEMENTS**

**Each Dwelling Unit shall have the following interest, held by "tenants in common" with the other Dwelling Units:**

<b>Dwelling Unit No. 100-</b>	<b>1/20</b>
<b>Dwelling Unit No. 101-</b>	<b>1/20</b>
<b>Dwelling Unit No. 102-</b>	<b>1/20</b>
<b>Dwelling Unit No. 103-</b>	<b>1/20</b>
<b>Dwelling Unit No. 104-</b>	<b>1/20</b>
<b>Dwelling Unit No. 105-</b>	<b>1/20</b>
<b>Dwelling Unit No. 106-</b>	<b>1/20</b>
<b>Dwelling Unit No. 107-</b>	<b>1/20</b>
<b>Dwelling Unit No. 108-</b>	<b>1/20</b>
<b>Dwelling Unit No. 109-</b>	<b>1/20</b>
<b>Dwelling Unit No. 110-</b>	<b>1/20</b>
<b>Dwelling Unit No. 111-</b>	<b>1/20</b>
<b>Dwelling Unit No. 112-</b>	<b>1/20</b>
<b>Dwelling Unit No. 113-</b>	<b>1/20</b>
<b>Dwelling Unit No. 114-</b>	<b>1/20</b>
<b>Dwelling Unit No. 115-</b>	<b>1/20</b>
<b>Dwelling Unit No. 116-</b>	<b>1/20</b>
<b>Dwelling Unit No. 117-</b>	<b>1/20</b>
<b>Dwelling Unit No. 118-</b>	<b>1/20</b>
<b>Dwelling Unit No. 120-</b>	<b>1/20</b>





