

STATE OF ALABAMA

COUNTY OF BALDWIN

**DECLARATION OF RIGHTS, COVENANTS, RESTRICTIONS
AFFIRMATIVE OBLIGATIONS AND CONDITIONS
APPLICABLE TO AUDUBON, PHASE I
A RESIDENTIAL SUBDIVISION**

State of Alabama, Baldwin County
I certify this instrument was filed
and taxes collected on:

2006 October -30 1:42PM

Instrument Number 1010996 Pages 25

Recording 75.00 Mortgage

Deed Min Tax

Index DP 5.00

Archive 5.00
Adrian T. Johns, Judge of Probate

This Declaration Of Rights, Covenants, Restrictions, Affirmative Obligations And Conditions Applicable To Audubon, Phase I, a residential subdivision (the "Declaration") made this 26 day of October, 2006, by **Bentley Oaks, LLC**, an Alabama limited liability company (the "Developer"), applicable to **Audubon, Phase I**, a subdivision (the "Subdivision")

WHEREAS, the Developer owns that certain land located in Baldwin County, Alabama as shown on the subdivision plat of Audubon, Phase I, recorded in Slide 2299 E and Slide 2299 F in the records of the Office of the Judge of Probate of Baldwin County, Alabama (the "Property"),

WHEREAS, the Developer desires to provide for the preservation of the value of the Subdivision and for the maintenance of the Common Properties, and to this end, the Developer has consented to subject the Property to the covenants, restrictions, easements, affirmative obligations, charges and liens hereinafter set forth (the "General Covenants") or "these Covenants"), each and all of which are hereby declared to be for the benefit of the Property and every owner of any and all parts thereof

WITNESSETH

NOW, THEREFORE, the Developer hereby declares that the Property is and shall be held, transferred, sold, conveyed, given, purchased, leased, occupied and used subject to these Covenants. These Covenants, the benefit of these Covenants and the affirmative and negative burdens of these Covenants shall touch and concern and run with the property

ARTICLE I

In this Declaration, the following words will have the meaning described to them in this Article I

Section 1 01 ASSOCIATION shall mean and refer to The Property Owners Association of Audubon, an Alabama non-profit corporation, its successors and assigns. This is the Declaration of Rights, Covenants, Restrictions, Affirmative Obligations and

1010996
07660101

Conditions to which the Articles of Incorporation and By-Laws of the Association make reference

Section 1 02 COMMON PROPERTY OR PROPERTIES OR COMMON AREA PROPERTY OR PROPERTIES shall mean and refer to that certain real and/or personal property conveyed to the Association by the Developer in accordance with Section 7 01

Section 1 03 DEVELOPER shall mean and refer to **BENTLEY OAKS, LLC**, its successors and assigns

Section 1 04 DWELLING UNIT shall mean and refer to that portion of any Improved Lot intended for use, or being used, as a single-family residential dwelling

Section 1 05 ENCLOSED LIVABLE AREA shall mean and refer to that area of the Dwelling Unit that is completely enclosed and protected from the weather (heated and cooled) and intended as the living quarters of the Dwelling Units

Section 1 06 IMPROVED LOT shall mean and refer to a Lot on which is located a building and/or other structure(s) as to which required approvals for use and occupancy have been obtained

Section 1 07 INSTITUTIONAL MORTGAGEE shall mean and refer to any federal or state chartered bank, life insurance company, federal or state savings and loan association or real estate investment trust which holds a first mortgage or other first lien or charge upon the Property or portion of the Property or any interest therein which is of record in the Office of the Judge of Probate of Baldwin County, Alabama

Section 1 08 LOT shall mean and refer to any of the seventy (70) numbered and delineated parcels shown on the Plat, as the same may be amended from time to time

Section 1 09 MEMBERS OR MEMBERSHIP shall mean and refer to the Association's members

Section 1 10 OWNER OR PROPERTY OWNER shall mean and refer to the holder of record of fee simple title to any Lot Notwithstanding any applicable legal theory of any mortgagee, "Owner" shall not mean or refer to the mortgagee, mortgagee's heirs, successors or assigns, unless such mortgagee has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure, nor shall the term "Owner" mean or refer to any lessee of any Owner, nor shall the term "Owner" mean or refer to any person holding title merely as a security for the payment of a debt In the event there is of record a deed granting one or more parties a life estate in any Lot, the Owner of said Lot shall be the holder or holders of the life estate, regardless of who owns the fee interest

Section 1 11 PLAT OR SUBDIVISION PLAT shall mean and refer to the Subdivision plat of Audubon, Phase I, as recorded at Slide # _____ through

_____ in the records in the Office of the Judge of Probate, Baldwin County, Alabama

Section 1 12 PUBLIC RECORDS shall mean and refer to the records of the Office of the Judge of Probate, Baldwin County, Alabama

Section 1 13 SUBDIVISION shall mean Audubon, Phase I, a subdivision, as shown on the Plat of Audubon, Phase I, recorded in the Public Records

Section 1 14 UNIMPROVED LOT shall mean and refer to any Lot that is not an Improved Lot

ARTICLE II General Covenants and Restrictions

Section 2 01 PURPOSES The primary purpose of these covenants and restrictions and the foremost consideration in the origin of same has been the creation of a subdivision that is aesthetically pleasing and functionally convenient. The establishment of objective standards relating to design, size and locations of dwellings and other structures makes it impossible to take full advantage of the individual characteristics of each parcel of property and of technological advances and environmental values. For this reason such standards are not established by these Covenants. In order to implement the purposes of these Covenants, the Developer shall have full authority and discretion to enforce the objectives set out in Section 4 02 herein.

Section 2 02 LOTS LIMITED TO RESIDENTIAL USE All Lots shall be used for single-family residential purposes exclusively. No structure, except as hereinafter provided, shall be erected, altered, placed, attached to or permitted to remain on any Lot other than those structures and improvements approved for use and occupancy by the Developer.

Section 2 03 SITING All Dwelling Units, buildings, and other improvements must be located with the setback lines as shown on the Subdivision plat. All improvements shall be located so that the maximum view and privacy will be available to each Dwelling Unit, and all improvements will be ideally located with regard to topography of each Lot taking into consideration the location of trees or plants, and other aesthetic and environmental considerations. The Developer reserves unto itself, its successors and assigns, the right to control and to decide solely, subject to the provisions of the pertinent land use regulations of public authorities having jurisdiction, the precise site and location of any Dwelling Unit, building, structure or other improvement on any property in the Subdivision. The location shall be determined only after reasonable opportunity is afforded to the Property Owner to recommend a specific site, provided however, that in the event an agreed location is stipulated in writing in the contract of purchase from the Developer, and such location complies with the applicable local city and county subdivision regulations, the Developer shall approve such location for a residence or group of residences.

Section 2 04 TYPE AND SIZE OF BUILDINGS Except as otherwise provided herein, no building or other structure shall be erected, altered, placed or permitted to remain on any Lot in any Subdivision other than one (1) single family dwelling. No dwelling shall have habitable area of less than 2400 square feet, exclusive of basements, open porches, garages and the like. A garage may be erected or permitted on any Lot subject to the restrictions set out in Section 2 22 herein. No pre-manufactured housing unit (including trailers or mobile homes) shall be used as a residence on any Lot.

Section 2 05 SIGNS No signs shall be erected or maintained on the Property or on any Lot at any time by anyone, including without limitation, a Property Owner, realtor, contractor, or subcontractor, except the following approved signs: (1) one (1) "For Sale" or "For Rent" sign, (2) one (1) sign for a contractor displayed during construction for a maximum of twelve (12) months or until completion of construction, whichever shall first occur, (3) one (1) sign for an architect or designer displayed during construction for a maximum of twelve (12) months or until completion of construction, whichever shall first occur, (4) a sign which must be posted as a result of legal proceedings pursuant to a statute or court order, or (5) a sign which has been specifically approved in writing by the Developer. The Developer reserves the right to restrict the size, color, content, location, number and method of display of each approved sign.

Section 2 06 MAILBOXES No mailboxes may be erected or maintained on the Property except mailboxes approved by the Developer. The actual cost of providing, erecting and maintaining a mailbox, including Developer approved numbering or lettering, shall be paid by the Property Owner. The Developer reserves the right to designate the location of all mailboxes.

Section 2 07 UNSIGHTLY CONDITIONS It shall be the responsibility of each Property Owner and tenant thereof to prevent the accumulation of litter, trash, packing crates or rubbish or the development of any unclean, unsightly, or unkempt condition of buildings or grounds on their Lot either before, during or after construction. Each Owner must provide or require an onsite dumpster for trash and litter during construction. It shall also be the responsibility of each Property Owner and tenant thereof to prevent accumulation which shall tend to substantially decrease the beauty of the community as a whole or the specific area.

Section 2 08 LIGHTS The design and location of all exterior lighting fixtures shall be subject to the approval of the Developer. Neither these nor any other illumination devices located anywhere on the structures or grounds of any Dwelling Unit shall be located, directed, or of such intensity as to affect adversely the enjoyment of any adjacent Property owner.

Section 2 09 ANIMALS No animals, livestock, or poultry of any kind shall be raised, bred, kept or pastured on the Property, except that a maximum of three (3) dogs and three (3) cats may be kept in any one Dwelling Unit, provided said pets must be secured by a leash under the control of a responsible person and obedient to that person's

commend at any time they are permitted outside a Dwelling Unit Any areas located on a Lot for the maintenance or confinement of pets are subject to prior approval by the Developer

Section 2 10 SEWAGE Prior to the occupancy of a Dwelling Unit, proper and suitable provisions shall be made for the disposal of sewage by connection with the sewer mains No sewage or other waste material shall be emptied or discharged except into the sanitary sewer system

Section 2 11 REPAIRS AND HAZARDS Any building or other improvement on any Lot attached thereto that is destroyed partially or totally by fire, storm or other means shall be repaired or demolished within a reasonable period of time, and the land on which it was located restored to an orderly and attractive condition Any damage which causes a dangerous or unsafe condition to persons or which is unsightly and which is not repaired within a reasonable time (in no event longer than sixty (60) days) following notice, may be repaired or removed at the direction of the Association or the Developer, and the cost of such repairs or removal shall become a lien against the pertinent Lot and become the personal obligation of the Owner of such Lot Any entry upon a Lot to effect such emergency repairs or removal shall not be deemed a trespass

Section 2 12 OFFENSIVE ACTIVITY No noxious or offensive activity shall be carried on upon any Lot or any other portion of the Property, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to the community The Developer shall have the express right, in its sole discretion, to publish rules from time to time to prohibit, regulate or otherwise deal with activities which violate this Section

Section 2 13 UTILITIES All electrical, cable and telecommunication lines located upon the Property, other than those existing on the date of this Declaration, shall be installed and maintained underground unless the Developer specifically approves above ground installation of such lines

Section 2 14 ANTENNAS No telephone antenna, receiving "dish", radio receiver or sender or other similar device shall be attached to or installed on any Lot or structure within the Subdivision without the prior written consent of the Developer Nor shall radio, television signals, nor any other form of electromagnetic radiation be permitted to originate from any building, Dwelling Unit, Lot or any other portion of the Property which may unreasonably interfere with the reception of television or radio signals upon any other part of the Property However, the provisions of this Section shall not prohibit the Developer from installing equipment necessary for a master antenna system, security system, cable television and mobile radio systems or other similar systems within the Subdivision

Section 2 15 TRESPASS Whenever the Developer is permitted by this Declaration to correct, repair, clean, preserve, clear out or do any action on any of the

Property or on the easement areas adjacent thereto, entering such Property and taking such action shall not be deemed a trespass

Section 2 16 PARCELS No Lot shall be subdivided, or its boundary lines changed, except with the prior written consent of the Developer. However, the Developer hereby expressly reserves to itself, its successors and assigns, the right to replat any Lot and to take such other steps as are reasonably necessary to make such replatted Lot suitable and fit as a building site including, but not limited to, the relocation of any Lot or easements, walkways, tunnels, rights-of-way, roadways, and Common Areas. The provisions of this Section shall also not prohibit the combining of two (2) or more contiguous Lots into one (1) large Lot. Three (3) Lots may be divided into two (2) Lots with approval by the Developer.

Section 2 17 INGRESS AND EGRESS The Property Owner, in accepting title to Property conveyed subject to the covenants and restrictions of this Declaration, waives all rights of uncontrolled and unlimited ingress and egress to such Property (and waives such rights for any person claiming entry rights by virtue of any relationship or permission of such Property Owner and successors in title) and agrees that such ingress and egress to the Owner's Lot may be limited to roadways built or approved by the Developer. The Developer, its successors, assigns, agents, employees and licensees, expressly reserve a right of ingress and egress upon and through any and all roads, roadways, bridges and any other designated access routes in the Subdivision to any portion or part of the Subdivision or Property. Nothing in this Section shall be construed as placing an affirmative obligation on the Developer to provide or construct any road, bridge, or other means of ingress and egress to or within the Subdivision.

Section 2 18 FIREARMS No hunting by any means or discharge of firearms of any type shall be allowed on the Property.

Section 2 19 LANDSCAPING No weeds, underbrush or other unsightly growth which would unreasonably interfere with the enjoyment of adjacent property Owners shall be permitted to grow or remain upon any part of a Lot and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain upon any part of a Lot, including vacant parcels, Common Area, or road right-of-way. All landscaping of any Lot shall be completed within ninety (90) days from the completion of construction of the improvements. These provisions shall not apply to the Developer until the last Lot is sold to an Owner other than the Developer.

Section 2 20 TEMPORARY STRUCTURES No structure of a temporary character, trailer, basement, tent or shack shall be used at any time as a residence either temporarily or permanently. No storage building of any type shall be permitted unless such building is designed as part of the main Dwelling Unit and approved by the Developer. There shall be no occupancy of any Dwelling Unit until the interior and exterior of the Dwelling Unit are completed and a certificate of occupancy, or other satisfactory evidence of completion, is received and approved by the Developer.

Section 2 21 FENCES All fences and similar improvements must be approved by the Developer Chain link or any other wire fences shall not be used A wooden, brick, stucco, wrought iron or similar approved fence or privacy screen may be used if constructed and placed in accordance with plans approved by the Developer

Section 2 22 GARAGES All Dwelling Units must have a minimum of a two (2) vehicle enclosed garage No carports will be allowed In all cases electric automatic door openers/closers shall be installed and used Any garages visible from the street must be kept closed when not in use No front-loading garages are allowed unless previously approved by the Developer

Section 2 23 RECREATIONAL VEHICLES AND BOATS No boat, trailer, house trailer, horse trailer, trailer, camper, motor home, unmaintained cars, trucks, or any similar items shall be stored on or at any Lot for a period of time in excess of twenty-four (24) hours, unless housed in an enclosed garage or kept out of sight from other properties within the Subdivision

Section 2 24 REMEDIES FOR VEHICLE AND RECREATIONAL EQUIPMENT VIOLATIONS The Owner of any such vehicle or recreational equipment parked in violation of these or other regulations contained herein or in the rules and regulations now or hereafter adopted by the Association shall be fined \$25 00 per day for each day the subject vehicle or equipment remain in violation If the violation remains for more than thirty (30) days, the subject vehicle or equipment may be towed by the Association or the Developer, at the sole expense of the Owner of such vehicle or recreational equipment The Association or the Developer shall not be liable to the owner of such vehicle or recreational equipment for trespass, conversion or otherwise, nor guilty of any criminal act by reason of such towing and neither its removal nor failure of the owner to receive any notice of said violation shall be grounds for relief of any kind

Section 2 25 LEASING RESTRICTIONS No Dwelling Unit or other structure shall be leased by the Property Owner for a lease term of less than six (6) months, and only one primary family per Dwelling Unit shall be allowed No boarders or persons with similar living arrangements shall be allowed

Section 2 26 PARKING Each Owner shall provide sufficient space off Subdivision roadways, for the parking of approved vehicles for the Owner's and Owner's family's use and the use of the Owner's guests in accordance with reasonable standards established by the Developer Parking on the paved portion of any roadway not identified as parking areas within the Subdivision shall be prohibited at all times Any vehicle violating this restriction may be removed by the Developer or its designated agent, and the owner of the vehicle shall be responsible for all charges for towing and storing the vehicle

Section 2 27 SIDEWALKS Each individual Property Owner shall be responsible for constructing a four foot wide sidewalk four feet from the back of the street curb across the front of their respective Lot In areas where the wetlands abut the

road right of way, the Developer shall construct the sidewalk during the land development

ARTICLE III Easements

Section 3 01 DEVELOPER EASEMENTS The Developer reserves unto itself, its successors, assigns, contractors, licensees, and agents a perpetual, alienable, and releasable easement and right on, over and under the ground of the Property (including each Lot) to erect, maintain and use electric, cable television and telephone poles, wires, cables, conduits, drainage ways, sewers, wells, pumping stations, tanks, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, drainage, or other public conveniences or utilities on, in or over those portions of the Property as may be reasonably required for any purposes and to grant access easements or relocate any existing access easements in, on, or over any portion of the Property as the Developer shall deem necessary or desirable for the proper operation and maintenance of the Property as may (a) have been used prior to the installation of such utilities for construction of a building or structure whose plans were approved pursuant to this Declaration by the Developer, or (b) such portion of the Property as may be designated as the site for a building or structure on a site plan or for erection of a building or structure which has been filed with the Developer and which has been approved in writing by the Developer These easements and rights expressly including the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance Any material disturbance to the grounds of any Property Owner caused by such utility installation shall be repaired and said grounds returned to their prior condition by the Developer, or prompt and reasonable remuneration for such repairs shall be made to such Property Owner by the Developer

Section 3 02 UTILITY AND GOVERNMENTAL SERVICES AND PRIVATE EASEMENTS All Lots within the Subdivision shall be subject to utility, governmental services and private drainage easements as shown on the face of the recorded Plat and all rights of ingress, egress and access for persons and equipment associated therewith In addition to the foregoing, the Developer reserves unto itself, its successors, assigns, contractors, licensees and agents a perpetual, alienable and releasable easement and right on, over and under the ground located ten (10) feet along both sides of all roads and rights-of-way and ten (10) feet along the side and rear lines of each Lot

ARTICLE IV Architectural and Design Review

Section 4 01 PURPOSE In order to preserve the natural beauty of Audubon, Phase I, and its setting, to maintain Audubon, Phase I as a pleasant and desirable environment, to establish and preserve a harmonious design for the community, to provide for the community's organized development, and to protect and promote the

value of property, no building, fence, paving materials of any kind, screen enclosures, sewer drains, disposal systems, landscaping, or any other structure or improvement of any nature or any future addition or improvement shall be erected, placed, attached to or altered unless and until the proposed plans, design, specifications, exterior color or finish, plot plan (showing the proposed location of such building structure, drives and parking areas), building height, landscape plan, size and construction schedule shall have been approved in writing by the Developer prior to commencement of construction and a permit shall have been issued authorizing the structure or improvement

Section 4 02 OBJECTIVES Architectural and design review shall be directed toward attaining the following

- (a) Preventing excessive or unsightly grading, indiscriminate earth moving, clearing of Property, or removal of trees and vegetation which could cause disruption of nature water courses or scar natural landforms,
- (b) Ensuring that the location and configuration of structures are visually harmonious with the terrain and vegetation of the Lots, with surrounding Lots and structures, and do not unnecessarily block scenic views from existing structures or tend to dominate any general development or natural landscape,
- (c) Ensuring that the architectural design of structures and their materials and colors are visually harmonious with the Subdivision's overall appearance, with the surrounding development, with natural landforms and native vegetation, and with development plans officially approved by the Developer, or any governmental or public authority, if any, for the areas in which the structures are proposed to be located,
- (d) Ensuring the plans for landscaping provide visually pleasing settings for structures on the same Lot and on adjoining or nearby Lots and blend harmoniously with the natural landscape,
- (e) Ensuring that any development structure, building or landscaping complies with the provisions of these Covenants, and
- (f) Promoting building design and construction techniques that respond to energy consumption and environmental quality considerations such as heat loss, air emissions, and run-off water quality

Section 4 03 SUBMISSION, APPROVAL AND REFUSAL OF ARCHITECTURE SITING, LANDSCAPING AND OTHER BUILDING PLANS Two copies of all plans and related data shall be submitted to the Developer prior to any improvements or modifications of any kind being made to any Lot The Developer shall establish a fee sufficient to cover the expense of reviewing plans and related data at the time they are submitted for review and to compensate any consulting architects,

landscape architects, urban designers, or attorney's retainer. The fee initially established by these General Covenants shall be \$250.00 for each submission. The Developer shall have the right to increase this amount not more than once in any subsequent twelve (12) month period. Approvals shall be dated and shall not be effective for construction commenced more than nine (9) months after such approval. Unapproved plans and related data shall be accompanied by a reasonable statement of items found unacceptable. In the event the approval of such plans is neither granted nor denied within sixty (60) days following receipt by the Developer of the written request for approval, the provisions of this Section shall be thereby waived. Refusal or approval of plans, site location, building height, or specifications may be based by the Developer upon any ground which is consistent with the objectives set out herein, including purely aesthetic considerations.

For any Owner hiring a contractor to construct a residence on their respective Lot, before the plans can be approved as set forth hereinabove, documentation must be submitted to the Developer that the selected contractor (1) is licensed in the State of Alabama by the Alabama Home Builders Licensure Board or the Alabama General Contractors Board, (2) has obtained construction financing, and (3) has in place general liability insurance (in a minimum amount of \$1 million), builders risk insurance and workman's compensation insurance.

For any Owner acting as its own contractor, before the plans can be approved as set forth hereinabove, documentation must be submitted to the Developer that the Owner has obtained construction financing.

Section 4.04 APPROVAL NOT A GUARANTEE OR REPRESENTATION OF PROPER DESIGN OR GOOD WORKMANSHIP No approval of plans, location or specifications shall ever be construed as representing or implying that such plans, specifications or standards will, if followed, result in a properly designed residence or that it will comply with applicable federal, state or local governmental regulations. Such approvals and standards shall in no event be construed as representing or guaranteeing that any residence or improvement thereto will be built in a good and workmanlike manner. The Developer, its agents and assigns, shall not be responsible or liable for any defects in any plans or specifications submitted, revised or approved under these Covenants nor for any defects in construction pursuant to such plans and specifications. The Property Owner shall have sole responsibility for compliance with approved plans and does hereby hold the Developer, its agents or assigns, harmless for any failure thereof caused by the Property Owner's architect or builder. The Developer reserves the right to prohibit the Property Owner's building and/or general contractor from the site in the event it is determined that failure to comply with approved plans is determined by the Developer, in its sole discretion, to be intentional or due to gross negligence.

ARTICLE V
Dwelling Units

Section 5 01 BUILDING SIZE All Dwelling Units shall comply with all applicable guidelines and approvals of the Developer and be designed and constructed in an architecturally aesthetic manner in order to carry out the objectives set forth in Section 4 02 of this Declaration

Section 5 02 SETBACK AND SIDE LINE REQUIREMENTS All buildings built on any Lot shall comply with the setback and side lines restrictions as required upon such Lot as set forth in the recorded Plat Such setback restrictions shall be a covenant running with the land

Section 5 03 COMPLETION OF CONSTRUCTION All permanent improvements built on any Lot must be completed with one (1) year from the date the foundation is completed Should construction not be completed within said timeframe, a penalty of \$100 00 per day will be assessed for every day beyond the said timeframe until construction is completed, unless an extension of said deadline is granted by the Developer or the Architectural Control Committee Dwelling Units may not be temporarily or permanently occupied until the Certificate of Occupancy has been received from the City of Spanish Fort

During construction, the Property Owner shall require the contractor to maintain the Lot in a clean and uncluttered condition Upon completion of construction, the Property Owner shall cause the contractor to immediately remove all equipment, tools, construction material and other debris from the Lot Any damage to roadways, paths, Common Properties or any other Property owned by any person or entity caused by the Property Owner's contractor or other parties providing labor or services to the Property Owner shall be repaired by the Property Owner, or by the Developer at the Property Owner's expense

Section 5 04 SERVICE YARDS Each Property Owner shall provide a visually screened area to serve as a service yard and an area in which garbage receptacles, electric meters, air conditioning equipment, and other unsightly objects must be placed or stored in order to conceal them from view from the road and adjacent properties No window air conditioning units may be installed or used on any Lot No clotheslines are allowed on any Lot

Section 5 05 GOVERNMENTAL APPROVAL All construction and alterations shall also be subject to applicable permit requirements and to all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees

ARTICLE VI
Additional Restrictions to Implement
Effective Environmental Controls

In order to protect the natural beauty of the vegetation, topography, and other natural features of all properties with the Subdivision and in furtherance of the safe and aesthetic enjoyment of the Subdivision, the following environmental controls and restrictions are hereby established

Section 6 01 TOPOGRAPHY AND VEGETATION In order to protect the natural beauty of the vegetation and topography of the woodlands and other areas within the Subdivision, written approval of the Developer is hereby required for the removal, reduction, cutting down, excavation, filling or alteration of topographic and vegetation characteristics. Written approval will be granted for the amount of earth movement required in plans and specifications approved pursuant to the provisions of Section 4 03

Section 6 02 TREE OR UNDERBRUSH REMOVAL Prior to approval of a Property Owner's final draw-up or plans by the Developer, no trees or underbrush may be removed without the written consent of the Developer

Section 6 03 NATURAL BUFFER AREA As shown on the Subdivision Plat, there is a fifty (50) foot buffer strip across the rear of the Lots identified below which shall remain in its 100% natural state. No cutting or removal of any growth within this 50 foot area will be allowed, except for the removal of dead trees and limbs. More landscaping and/or vegetation may be added to this area upon prior written approval by the Developer. The Lots which are burdened by the 50 foot natural buffer area are as follows

Lots 1, 2, 3, 4, 5, 6, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 63 and 64

On all other Lots within the Subdivision, as shown on the Subdivision Plat, there is a thirty (30) foot buffer area which must be maintained in its 100% natural state. No cutting or removal of any growth within this 30 foot area will be allowed, except for the removal of dead trees and limbs. More landscaping and/or vegetation may be added to this area upon prior written approval by the Developer

Section 6 04 WETLANDS Throughout the Common Areas of the Subdivision, wetlands are present. No one, including Property Owners, shall disturb the wetlands in any form or fashion

ARTICLE VII
Provisions Relating to Common Property

Section 7 01 COMMON PROPERTY The Developer intends to convey by statutory warranty deed to the Association as Common Property the following, subject to

all restrictions and limitations of record and to all additional restrictions and covenants set forth in the deed of conveyance

- (a) Those certain Common Property Areas as shown on the Plat as such, subject to any and all applicable restrictions, reservations, encumbrances and limitations of record and to all additional restrictions and covenants set forth in the deed of conveyance, and
- (b) Any other property located within or without the Subdivision that the Developer elects in its sole discretion to become Common Property

Until the time the Developer conveys the Common Property Areas to the Association, the Developer shall be responsible for the maintenance and upkeep of all Common Property Areas

Section 7 02 EROSION CONTROL Each individual Lot owner shall have the obligation, and be responsible for, controlling surface water runoff from its respective Lot, both during construction and after construction is completed. By accepting title to its respective Lot, each individual owner acknowledges that neither the City of Spanish Fort nor Baldwin County will be responsible for the control of said surface water runoff. Each individual Lot owner shall be responsible for obtaining its own land disturbance permit prior to construction commencing.

The Developer shall have the right, but not the obligation, to protect from erosion any property in the Subdivision including the Common Property by planting trees, plants, and shrubs where and to the extent necessary or by such mechanical means as construction and maintenance of siltation basins, or other means deemed expedient or necessary by the Developer. The right is likewise reserved to the Developer to take steps necessary to provide and ensure adequate drainage ways, to remove diseased, dead or dangerous trees or underbrush, and to carry out other similar activities.

Section 7 03 RESERVATION OF EASEMENTS The Developer reserves unto itself, its successors, licensees, contractors, agents and assigns, a perpetual alienable and releasable easement, to go on, over, and under the Common Properties to erect, maintain, and use electric, community antenna television, telephone poles, wires, cables, conduit, drainage ways, sewers, water mains, and other suitable equipment for the conveyance and use of electricity, telephone and television equipment, gas, sewer, water drainage, or other public conveniences or utilities in the Common Properties. These reservations and rights expressly include the right to cut trees, bushes or shrubbery as is reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. Such rights may be exercised by any licensee or assignee of the Developer, but this reservation shall not be considered an obligation of the Developer to provide or maintain any such utility or service.

Section 7 04 PUBLIC RIGHTS LIMITED The granting of the easement in Common Properties in this part in no way grants to the public or to the owners of any land outside of the Subdivision the right to enter such Common Properties or use the roadways or designated access routes located on the Common Properties without the express permission of the Developer, or the Association after the Common Properties are conveyed to the Association by the Developer

Section 7 05 RESERVATIONS The Developer expressly reserves to itself, its successors, assigns, licensees and agents every reasonable use and enjoyment of said Common Properties, in a manner not inconsistent with the provisions of this Declaration, including but not limited to the use of the roadways and designated access routes in the Common Properties

Section 7 06 DEVELOPER ACTIONS Where the Developer is permitted by this Declaration to correct, repair, clean, preserve, clear out or do any action on any Property, entering the Property and taking such action shall not be deemed a trespass or breach of these Covenants

Section 7 07 NO OBLIGATION ON DEVELOPER It is expressly understood and agreed that the granting of these easements set out in this Article in no way places a burden of affirmative action on the Developer

ARTICLE VIII

Membership in the Association

The Developer has formed or will cause to be formed The Property Owner's Association of Audubon, an Alabama non-profit corporation

Section 8 01 MEMBERSHIP Every Owner, including the Developer, shall automatically, and by virtue of such status as an Owner, be a Member of the Association. Membership shall be automatic and shall be appurtenant to and may not be separated from ownership of any Lot. Transfer of record of the ownership of any Lot shall automatically transfer membership in the Association. Should other units or phases of Audubon be developed by Developer, every owner of a Lot in said future units or phases shall automatically, by virtue of such status as an Owner, be a Member of the Association

Section 8 02 VOTING RIGHTS AND GOVERNANCE OF THE ASSOCIATION Voting rights of Members are as follows

- (a) Class A Members consisting of all Members other than the Developer shall be entitled to cast one (1) vote for each Improved or Unimproved Lot owned in all matters in which membership voting is authorized in the Declaration, the Articles of Incorporation, the By-Laws or any other rules and regulations binding upon the Association, except as specifically provided herein

- (b) The Class B Member, being the Developer, shall be entitled to cast five (5) votes for each Improved or Unimproved Lot owned by Developer in all matters in which membership voting is authorized in the Declaration, the Articles of Incorporation, the By-Laws or any other rules and regulations binding upon the Association. So long as there is a Class B Member of the Association, the Class B Member shall be entitled to elect a majority of the members of the Board of Directors
- (c) Notwithstanding any provision herein to the contrary, no amendment to the Declaration or to the Articles of Incorporation shall be effective without the written consent of the Class B Member, so long as there is a Class B Member of the Association, that is, until the Developer has sold or otherwise conveyed all of the Lots it owns
- (d) Notwithstanding the preceding paragraphs, if any assessment required to be paid by a Member is past due as of the time a vote is being taken, such Member shall not be entitled to cast any vote at such time with respect to the Lot on which the assessment is past due
- (e) A Member entitled to more than one (1) vote must vote all of the Member's votes for or against a matter submitted to the Members for a vote, or such Member may abstain from voting entirely, i e , a Member entitled to more than one (1) vote may not split or fragment such Member's votes, but must vote (or abstain from voting) as a single unit
- (f) When any Lot entitling the Owner thereof to membership in the Association has Owners which are corporations, trusts or partnerships, or where two (2) or more persons or entities are Owners, whether fiduciaries, joint tenants, tenants in common, tenants in partnership or in any other manner of joint or common ownership, one (1) officers, trustee, person or entity shall be designated the voting Member for all the others. Written evidence of such designation in a form satisfactory to the Association shall be delivered to the Association prior to the exercise of a vote by such Owners

ARTICLE IX
Members' Rights in the Common Properties

Section 9 01 MEMBERS' EASEMENTS OF ENJOYMENT OF COMMON PROPERTIES Subject to the provisions of this Declaration, the rules and regulations of the Association, and any fees or charges established by the Association, every Member and every guest or lessee of such Member shall have an easement of enjoyment in and to the Common Properties, and such easement shall be appurtenant to and shall pass with the title to every Lot. A Member's or lessee's spouse and children who reside with such Member or lessee on the Property shall have the same easement of enjoyment hereunder as a member. The easement of enjoyment herein shall pass from a Member to a lessee during the lease term, provided, however, the Association may adopt additional

restrictions to its rules and regulations limiting the easement of enjoyment of guests and lessees, including but not limited to the specification of minimum lease terms, the number of guests allowed, or the prohibition or use by lessees or guests of specific Association properties

Section 9 02 TITLE TO COMMON PROPERTIES The Developer has or will convey the Common Properties by statutory warranty deed to the Association, subject to all restrictions and limitations of record and to all additional restrictions and covenants set forth in the deed of conveyance The Association shall be required to accept such conveyance of the Common Properties and shall, after such conveyance become responsible for all maintenance, operation and such additional construction of improvements as may be authorized by the Association's Board of Directors, subject to this Declaration The Common Properties shall also be conveyed subject to all easements and restrictive covenants of record at the time of conveyance and the rights that others may have, as referred to in Section 9 01, to use certain Common Properties

ARTICLE X

Covenants for Assessments

Section 10 01 CREATION OF THE LIEN AND PERSONAL OBLIGATIONS FOR ASSESSMENTS Each Owner, except the Developer, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to all terms and provisions of this Declaration and to pay to the Developer or the Association as provided below the following (1) annual assessments or charges, and (2) special assessments or charges for the purposes set forth in this Article, both such assessments to be fixed, established and collected from time to time as hereinafter provided The annual and special assessments shall be a charge and continuing lien on the real Property and improvements thereon against which each such assessment is made Each such assessment, together with interest thereon at a rate per annum equal to ten percent (10%) from the date of delinquency until collected (unless waived by the Board), and the costs of collection thereof, including reasonable attorneys' fees, shall also be the personal obligation of the Owner of such real Property at the time when the assessment first becomes due and payable In the case of co-ownership of a Lot, all of such co-Owners shall be jointly and severally liable for the entire amount of the assessment, interest, penalties, and cost of collection If an assessment is not paid within forty-five (45) days after the due date, such assessment shall then be delinquent and interest shall be added to the amount as provided herein and a penalty in an amount to be determined annually by the Board of Directors of the Association and consistently applied shall be added to such assessment, and further, the Association may bring an action at law against the Owner personally, and there shall be added to the amount of such assessment the Association's actual attorneys' fees and disbursements related to such action In the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and such actual counsel fees and disbursements together with the costs of the action Unless otherwise provided by the Board of Directors, annual assessments shall be due and payable on or before the first day of the calendar year for which the assessment is due

Section 10 02 PURPOSE OF THE ASSESSMENTS AND PAYMENT TO DEVELOPER Notwithstanding any provision contained herein, until such time that the Developer has in fact conveyed to the Association all of the Common Properties, all assessments of any nature provided for herein shall be due and payable to the Developer, its successors or assigns, and all rights hereby established on behalf of the Association, including all remedies in event of default by an Owner, shall accrue to the benefit of the Developer. The assessments levied by the Association or the Developer shall be used exclusively for the improvement, landscaping, replacement, maintenance, repair, enhancement, enlargement and operation of the roadways, paths, tunnels, boardwalks, bridges, security systems, patrols and gates, insect control, vegetation control, drainage systems and similar purposes which are for the benefit of Property Owners, including Common Properties, and to provide all services which the Developer or Association is authorized to provide hereunder, including but not limited to, payment of taxes and insurance, cost of labor and equipment, erosion control devices, materials, management supervision, accounting and Property Owner information services, repayment of loans and such other action as is necessary to carry out its authorized functions. Such assessments shall not be used to maintain or repair any Property not belonging to the Association comprising a portion of the Common Properties.

Section 10 03 SPECIAL ASSESSMENTS FOR IMPROVEMENTS AND ADDITIONS The Association may also levy special assessments against the Property Owners for the following purposes

- (a) construction or reconstruction, repair or replacement of capital improvements upon the Common Properties, including the necessary fixtures and personal property related thereto,
- (b) additions to the Common Properties,
- (c) facilities and equipment required to offer the services authorized herein,
- (d) repayment of any loan made by the Association to enable it to perform the duties and functions authorized herein

The proportion of each special assessment to be paid by the Owners of the assessable Property shall be equal to their respective proportions of the annual assessments made for the assessment year during which such special assessments are levied

Section 10 04 RESERVE FUNDS The Association may establish reserve funds from its annual assessments to be held in reserve in an interest bearing account or in obligations of the United States, State of Alabama, or any agency of either, or in Triple-A debt, or in a prime commercial paper with a maturity of not more than one (1) year, as a reserve for (a) major rehabilitation or major repairs, (b) emergency and other repairs required as a result of storm, fire, natural disaster, or other casualty loss, (c) recurring periodic maintenance, and (d) initial costs of any new service to be performed by the Association

Section 10 05 DUTIES OF THE BOARD OF DIRECTORS The Board of Directors of the Association shall fix the amount of the annual assessment against each Lot, in accordance with the assessment schedule as provided hereinabove, and shall at that time direct the preparation of an index of the properties and assessments applicable thereto which shall be sent promptly to every Member subject thereto

The Association shall upon written demand from any Owner at any time furnish to such Owner liable for any assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid Such certificate shall be conclusive evidence against all but the Owner of payment of any assessment therein stated to have been paid

Section 10 06 SUBORDINATION OF THE LIEN OF MORTGAGE The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage now or hereafter placed upon the properties subject to assessment, provided, however, that such subordination shall apply only to the assessments occurring subsequent to the date such mortgage becomes of record and, provided further, that upon a sale or transfer of such Property pursuant to foreclosure, or any other proceeding or deed in lieu of foreclosure, the title acquired by the purchaser of such Property shall be subject to the lien of such subsequent assessments

Section 10 07 EXEMPT PROPERTY The following property, individuals, partnerships, or corporations subject to this Declaration shall be exempted from the assessments, charges and lien created herein

- (a) the Developer and any Lot(s) owned by the Developer,
- (b) the grantee in conveyances made for the purpose of granting utility and drainage easements,
- (c) the Common Properties,
- (d) property which is used in the maintenance and service of facilities within Common Properties, or by non-profit, governmental or charitable institutions

Section 10 8 ANNUAL STATEMENTS The President, Treasurer, or such other officer as may have custody of the funds of the Association, within ninety (90) days after the close of each fiscal year of the Association, shall prepare and execute general itemized statements as of the close of such fiscal year of the Association, showing the actual assets and liabilities of the Association, and a statement of revenues, costs and expenses The name of any creditor to which an amount of more than Two Hundred Fifty and No/100 Dollars (\$250 00) is owed by the Association shall be set out in such statement The Association shall furnish to each member of the Association who may make a request therefore in writing, a copy of such statement within thirty (30) days after receipt of such request Such copies may be furnished to the Member either in person or by mail

Section 10 9 ANNUAL BUDGET The Developer shall prepare an initial budget of the Association for the first year of operation Each Owner, at the closing of the purchase of their respective Lot, will pay to the Association one-third (1/3) of the first year's assessment The Developer guarantees that all expenses incurred during the first year by the Association will be paid

Beginning with the second year, the Board of Directors shall cause to be prepared and make available to all Members at the office of the Association at least thirty (30) days prior to the first day of the following fiscal year, a budget outlining anticipated receipts and expenses for such fiscal year The financial books of the Association shall be available for inspection by all Members at the office of the Association at all reasonable times

ARTICLE XI

Functions of the Association

Section 11 01 OWNERSHIP AND MAINTENANCE OF COMMON PROPERTIES The Association shall be authorized to own and/or operate and maintain Common Properties and equipment, furnishings, and improvements devoted thereto Land included in Common Properties shall be used in the manner set forth by the Developer and/or the Association

Section 11 02 SERVICES The Association shall be authorized, but not required, to provide the following services

- (a) employment of a manager, an independent contractor, or such other employees as are necessary to perform services for the Association,
- (b) cleanup and maintenance of all roadways, road medians and Common Properties within the Property and also all public properties which are located within or in a reasonable proximity to the Property such that their deterioration would affect the appearance of the Property as a whole,
- (c) landscaping and landscape maintenance of roadways, sidewalks, walking and bicycle paths, access routes, and any Common Properties,
- (d) lighting of roadways, sidewalks and paths through the Property,
- (e) insect and pest control to the extent that it is necessary and desirable in the judgment of the Board of Directors of the Association,
- (f) legal and scientific resources for the improvement of air and water quality within the Property,
- (g) construction of improvements on Common Properties as may be required to provide the services and equipment as authorized in this Article,

- (h) administrative services including but not limited to legal, accounting and financial services, and communication services informing Members of activities, notice of meetings, referenda and other matters incident to the above listed services,
- (i) liability and hazard insurance covering improvements and activities on the Common Properties,
- (j) water, sewer and any necessary utility services not provided by a public body, private utility or the Developer
- (k) exercise of any rights reserved by the Developer and transferred by the Developer to the Association, including but not limited to all rights and functions of the Developer under the General Covenants, and
- (l) taking of any and all actions necessary in the discretion of the Board of Directors to enforce this Declaration and all other covenants and restrictions affecting the properties of the Association and to perform any of the functions or services delegated to the Association in this Declaration or other covenants or restrictions or authorized by the Board of Directors

Section 11 03 OBLIGATIONS OF THE ASSOCIATION Except as provided in Sections 11 04 and 11 05 of this Article, the Association shall not be obligated to carry out or offer any of the functions or services specified by the provisions of this Article. The functions or services to be carried out or offered by the Association at any particular time shall be determined by the Board of Directors of the Association or set forth in the By-Laws, taking into consideration the funds available to the Association and the needs of the Members of the Association.

Section 11 04 MORTGAGE AND PLEDGE The Board of Directors of the Association shall have the power and authority to mortgage the Property of the Association and to pledge the revenues of the Association as security for loans made to the Association to perform its authorized functions. The Developer may make loans to the Association, subject to approval by the Developer of the use to which such loan proceeds will be put and the terms pursuant to which such loans will be repaid. Notwithstanding anything in this Declaration to the contrary, the Association shall not be allowed to reduce the limits of the maximum regular annual assessments at any time there are outstanding any amounts owing the Developer from loans made by the Developer to the Association.

Section 11 05 TRANSFER OF AUTHORITY This Declaration provides the Developer with various controls and rights, to be exercised (if at all) at the discretion of the Developer. This Declaration further provides that any of the Developer's rights and powers set forth herein may be specifically assigned to the Association. In the event that such powers are assigned of record to the Association, the Association shall promptly

provide for appropriate procedures to perform its obligations pursuant to the powers transferred to it

ARTICLE XII

Architectural Control by Association

Section 12 01 BOARD Upon assignment of the architectural control function by the Developer to the Association, the Association shall appoint an Architectural Review Board composed of three (3) people, all of whom shall be appointed by the Board of Directors of the Association. At least one (1) Member of the Association other than the officers, employees or agents of the Developer shall be a member of the Architectural Review Board. The Board of Directors of the Association may establish the rules of procedure for the Architectural Review Board in connection with the General Covenants.

Section 12 02 ARCHITECTURAL REVIEW AND APPROVAL FOR THE PROPERTY Upon assignment by the Developer of architectural control functions to the Association with respect to any Lot within the Subdivision, the Architectural Review Board shall function to ensure compliance with the restrictions set forth herein and shall in all respects with regard to such Lot succeed to the powers of the Developer with respect to architectural review and approval. The Architectural Review Board shall have the general rights of enforcement as set forth in this Declaration, including without limitation the right to enjoin violations.

Section 12 03 TRANSFER OF ARCHITECTURAL REVIEW AND APPROVAL The Developer may assign its architectural control functions as provided in this Declaration, including those set forth in Article IV, at any time. The Association shall be required to accept such assignment and comply with the provisions contained in this Declaration. Thereafter, all architectural control functions of the Developer as provided in this Declaration shall be performed by the Association.

ARTICLE XIII

Amendment of Declaration

Section 13 01 AMENDMENT BY DEVELOPER The Developer reserves the right unilaterally to amend this Declaration, and to do so at such time, and upon such conditions, in such form and for such purposes as it, in its sole discretion, shall deem appropriate by preparing and recording an amendment hereto, provided however, that this right of unilateral amendment shall expire after all Lots included herein have been sold to Owners other than the Developer, or fifteen (15) years from the date of the recording of this Declaration, whichever shall first occur, after which time this Declaration may be amended only in the manner set forth in Section 13 02 below.

Section 13 02 AMENDMENT BY ASSOCIATION After the expiration of the right of the Developer to unilaterally amend this Declaration as provided in Section 13 01 above, amendments to this Declaration may be proposed by either the Board of Directors of the Association acting upon a vote of the majority of the Directors, or by an affirmative vote of Members of the Association entitled to vote not less than a majority of

the votes entitled to be cast by all Members, regardless of class, as approved in this Declaration, the Association's Articles and By-Laws, whether meeting as Members or by instrument in writing signed by them. Upon any amendment or amendments to the Declaration being proposed by the said Board of Directors or Members, such proposed amendment or amendments shall be transmitted to the President of the Association or, in the absence of the President, such other officer of the Association, who shall thereupon call a special meeting of the members of the Association for a date not sooner than twenty (20) days, nor later than sixty (60) days, from receipt by such officer of the proposed amendment or amendments, and it shall be the duty of the Secretary of the Association to give each Member written or printed notice of such special meeting, state the time and place thereof, and reciting the proposed amendment or amendments in reasonably detailed form, which, notice shall be mailed no less than ten (10) days or more than fifty (50) days before the date set for such special meeting. Such notice shall be given to any Institutional Mortgagee of record who requests such notices and provides an address therefore to the Association. If mailed, such notice shall be deemed to be properly given when deposited in the United State mail, addressed to the Member at the Member's mailing address as it appears on the records of the Association, the postage thereon being prepaid. Any Member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such Member. At such special meeting, the amendment or amendments proposed must be approved by the affirmative vote of members of the Association entitled to vote not less than two-thirds (2/3) of the total number of votes which may be voted by all of the Members, regardless of class, present or represented by proxy at a meeting called for such purposes, a quorum being present. Thereupon, such amendment or amendments to the Declaration shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted and the original or executed copy of such amendment or amendments so certified and executed with the same formalities as a deed shall be recorded in the Office of the Judge of Probate of Baldwin County, Alabama, within twenty (20) days from the date on which, the same became effective, such amendment or amendments to specifically refer to the recording identifying the Declaration. Thereafter, a copy of said amendment or amendments, in the form in which the same were placed of record, shall be delivered to all of the Owners, but mailing or delivering a copy thereof shall not be a condition precedent to the effectiveness of such amendment or amendments. The written vote of any Member of the Association shall be recognized if such member is not in attendance at such meeting or represented there at by proxy, provided such written vote is delivered to the Secretary of the Association at or prior to such meeting.

ARTICLE XIV **General Provisions**

Section 14 01 DURATION All covenants, restrictions, and affirmative obligations set forth in this Declaration shall run with the land and shall be binding on all parties and persons claiming under them specifically including, but not limited to, the successors and assigns, if any, of the Developer for a period of thirty (30) years from the

execution date of the Declaration, after which time all said covenants shall be automatically extended for successive periods of ten (10) years each, unless changed in whole or in part by an instrument approved by the affirmative vote by all of the Members, regardless of class, present or represented by proxy at a meeting called for such purposes

Section 14 02 ENFORCEMENT This Declaration shall be enforceable by the Association, the Developer, the Architectural Review Board, or any Member of the Association by a proceeding at law or in equity against any person or persons violating or attempting to violate or circumvent any covenant or restriction, either to restrain violation or to recover damages, and to enforce any lien created by this Declaration. Failure of the Association or any Member or the Developer to enforce any covenant or restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right of any of the foregoing to enforce same thereafter

Section 14 03 INTERPRETATION The Board of Directors of the Association shall have the right to determine all questions arising in connection with this Declaration and to construe and interpret its provisions, and the determination of the Board shall be final and binding

Section 14 04 SEVERABILITY Should any covenant or restriction herein contained, or any article, section, subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect

Section 14 05 AUTHORIZED ACTION All actions which the Association is allowed to take under this instrument shall be authorized actions of the Association in the manner provided for in the Articles and By-Laws of the Association, unless the terms of this instrument provide otherwise

Section 14 06 NOTICE Any notice required to be sent to any Member under the provision of this Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, with the proper postage affixed, to the address of such Member appearing on the Association's Membership list not less than thirty (30) days prior to the date of the meeting at which any proposed action is to be considered. Notice to one or more co-Owners or co-tenants of a Lot shall be considered notice to all co-Owners. It shall be the obligation of every Member to immediately notify the Secretary of the Association in writing of any change of address. Any person who becomes a Member following the first day of the calendar month in which said notice is mailed shall be deemed to have been given notice if the notice was given to the Member's predecessor in title

Section 14 07 LIMITED LIABILITY In connection with all reviews, acceptances, inspections, permissions, consents or required approvals by or from the

Developer contemplated under this Declaration, the Developer shall not be liable to an Owner or to any other person on account of any claim, liability, damage or expense suffered or incurred by or threatened against an Owner or such other person and arising out of or in any way relating to the subject matter of any such review, acceptance, inspection, permission, consent, or required approval, whether given, granted, or withheld

Section 14 08 SUCCESSORS TO DEVELOPER The Developer reserves the right to assign to the Association or to any other entity any of its rights or functions reserved in these Covenants including, but not limited to, its rights to approve (or disapprove) plans and specifications of proposed improvements, its right to amend this Declaration, and its rights of enforcement

Section 14 09 CAPTIONS The captions in this Declaration are for convenience only and are not a part of this Declaration and do not in any way limit or amplify the terms and provisions of this Declaration

ARTICLE XV

Arbitration

Section 15 01 GOVERNING LAW AND ARBITRATION OF DISPUTES Should any dispute between any of the parties whose rights or duties are affected or determined by these Covenants, including both the original purchasers of lots and subsequent purchasers and/or assignees and successors in title, such dispute shall be governed by the laws of the State of Alabama, and such dispute, disagreement, or question between the parties, including any between the Association and Developer, except a dispute concerning the filing or enforcement of a lien as provided for elsewhere in these Covenants, shall be submitted to arbitration under the Rules of the American Arbitration Association for commercial disputes or as the concerned parties may later agree in writing, however, although the rules of the American Arbitration Association may be used, the arbitration proceedings shall not be conducted through the AAA. The arbiter shall render a decision which shall be binding on all parties to the arbitration, based on traditional and standard interpretation of the laws of the State of Alabama. All parties subject to these Covenants, including original purchasers of lots and subsequent purchasers and/or assignees and successors in title, forego all right to take legal action thereunder except to enforce any arbitration award which award shall be a condition precedent to any right of legal action that any party may have against the other. It shall be deemed that each party who takes title subject to the terms of these Covenants stipulates that these Covenants and purchase agreements relating to same have a substantial effect on interstate commerce

IN WITNESS WHEREOF, the parties hereto have executed these presents on this
the 26 day of October, 2006

BENTLEY OAKS, LLC

By Stephen Schuhmann
STEPHEN SCHUHMAN
Its Authorized Agent