

MILLWOOD LAND CONDOMINIUM

SUMMARY OF REQUIRED DISCLOSURES

THIS OFFERING STATEMENT CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.

ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS OFFERING STATEMENT AND ITS EXHIBITS FOR CORRECT REPRESENTATIONS.

THE CONDOMINIUM IS BEING SOLD AS FEE SIMPLE INTERESTS

THE DEVELOPER HAS THE RIGHT TO RETAIN CONTROL OF THE ASSOCIATION AFTER THE MAJORITY OF THE UNITS HAVE BEEN SOLD.

EXCEPT FOR THOSE WARRANTIES REQUIRED BY THE CONDOMINIUM ACT, THE DEVELOPER DOES NOT MAKE ANY WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AND THE DEVELOPER HEREBY DISCLAIMS ANY SUCH WARRANTIES, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND THE OWNERS AND THE ASSOCIATION ASSUME ALL RISK AND LIABILITY RESULTING FROM THE USE OF THIS PROPERTY

An agreement to purchase a Unit is voidable by buyer by delivering written notice of the buyer's intention to cancel within seven (7) days of execution of such agreement by the buyer, and receipt by buyer of all of the items required to be delivered to him by the developer under §35-8A-403 through §35-8A-406, Code of Alabama (1975). An agreement to purchase a Unit is also voidable by buyer by delivering written notice of the buyer's intention to cancel within seven (7) days after the date of receipt from the developer of any amendment which materially alters or modifies the offering in a manner that is adverse to the buyer. Any purported waiver of these voidability rights shall be of no effect. Buyer may extend the time for closing for a period of not more than seven (7) days after the buyer has received all of the items required to be delivered to him by the developer under §35-8A-403 through §35-8A-406, Code of Alabama (1975). Buyer's right to void an agreement to purchase a Unit shall terminate upon the closing thereof.

MILLWOOD LAND CONDOMINIUM

OFFERING STATEMENT

1. Declaration of Condominium

Exhibit "A" Legal Description and Survey

Exhibit "B" Association Certificate of Formation

Exhibit "C" Association Bylaws

Exhibit "D" Percentage Interest in Common Elements

2. Budget

**MILLWOOD LAND CONDOMINIUM
OFFERING STATEMENT**

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MILLWOOD LAND CONDOMINIUM

OFFERING STATEMENT

1. Description of Condominium.

The name of the condominium is MILWOOD LAND CONDOMINIUM (the "Condominium"). The Condominium Property is located in Auburn, Lee County, Alabama, and is more specifically described in the survey attached as Exhibit "A" to the Declaration of Condominium, which is attached as Exhibit 1 to this Offering Statement. Use of the Property as a condominium is permitted under the Zoning Ordinance of the City of Auburn.

2. Description of Units.

The Property contains twenty-eight (28) Units, each of which shall include the perimetrical boundaries described on the survey attached hereto as Exhibit A and the improvements to be constructed thereon. Plans and specification for the construction of improvements on each Unit must be submitted to and approved by the Architectural Review Committee in accordance with the provisions of Article VI of the Declaration attached to this Offering Statement as Exhibit 1.

Developer reserves the right to alter the boundaries between Units or to combine two or more Units into a single Unit, thereby decreasing the total number of Units, so long as the Developer owns the Units so altered and provided that a combination of Units which will result in less than a total of 25 Units may not be made without an amendment of this Declaration approved by the Owners and Mortgagees in the manner provided herein.

Each Unit includes, and the Owner is solely responsible for maintenance of, all electrical, gas, and water lines, the sanitary and storm sewer facilities, and all lines, pipes, ducts, flues, chutes, conduits, cables, wires and all other apparatus and installations in connection therewith, located within and servicing such Unit. See Article V, Section 5.2 and of the Declaration attached to this Offering Statement as Exhibit 1.

3. Description of Common Elements.

The Common Elements consists of all portions of the Condominium Property, other than the Units, including the Private Drive, together with the electrical, gas, and water lines, the sanitary and storm sewer facilities, and all lines, pipes, ducts, flues, chutes, conduits, cables, wires and all other apparatus and installations in connection therewith, located in the Common Elements, except when such is otherwise designated as a Private Element (e.g. the lines bringing service to the Unit), and all other parts of the Condominium Property existing for the common use or necessity of the existence, maintenance and safety of the Condominium. Each Unit shall have as an appurtenance thereto an undivided share of the Common Elements which has been determined and fixed so that all Units have an equal share in said elements. See Article V, Sections 5.3 and 5.4 of the Declaration attached to this Offering Statement as Exhibit 1.

4. **Status of Title to the Real Property.**

Title to the real property underlying the Condominium is subject to the following:

a. **Encumbrances.** The Developer is the fee simple owner of the property comprising the Condominium. There are no existing or intended easements located or to be located on the Condominium Property other than those described in the Declaration, which is attached to the Offering Statement as Exhibit 1 or which are described above. The property submitted to the condominium form of ownership is subject to the Moore's Mill Subdivision Declaration of Covenants, Conditions and Restrictions recorded in Deed Book 1661 at Page 36 in the Office of the Judge of Probate of Lee County, Alabama.

b. **Closing.** Upon the closing of the purchase of a Unit, the Developer will cause any mortgage to be released as to that Unit or shall have such mortgage satisfied. Each purchaser's Unit shall be free and clear of all liens, encumbrances, defects, judgments, leases and mortgages except that each such Unit shall be subject to the following matters of title; (i) the Declaration of Condominium and all exhibits attached thereto; (ii) any mortgage placed upon the purchaser's unit in connection with purchase money financing; (iii) taxes and assessments for the year of closing and subsequent years, including, but not limited to, pending and certified governmental liens, and (iv) any restrictions, reservations, conditions, limitations and easements placed of record prior to purchase or imposed by governmental authorities having jurisdiction or control over the property. Developer reserves the right to place a mortgage(s) on the Condominium Property in connection with the development and construction of the project.

5. **No Recreational or Other Commonly-Used Facilities.** There are no recreational or other commonly-used facilities forming part of the Condominium. However, each Owner of a Unit shall also be a member of the Moores Mill Homeowners' Association, Inc. and shall enjoy the use of common elements and amenities provided to the members thereof.

6. **Sale, Lease or Transfer Restrictions.** The sale of Units is not restricted or controlled. Owners may lease or rent their Units for non-transient occupancy.

7. **Developer's Control of the Association.**

THE DEVELOPER HAS THE RIGHT TO RETAIN CONTROL OF THE ASSOCIATION AFTER THE MAJORITY OF THE UNITS HAVE BEEN SOLD. The Developer will control the Association through the appointment of a majority of the Board of Directors until such time as transfer of control of the Association is required by Alabama law. See Article IX, Section 9.6 of the Declaration, a copy of which is attached to this Offering Statement as Exhibit 1, for further details.

8. **Restrictions on Use of Units and Common Areas.**

There are several restrictions on the use of the Units and Common Areas of the Condominium. Refer to Article XII of the Declaration, a copy of which is attached to this Offering Statement as Exhibit 1; and to the Condominium Rules and Regulations, if any, promulgated by the Board of Directors of the Association.

9. **Apportionment of Common Expenses and Common Elements.**

Each Unit in the Condominium has appurtenant to it an equal share of the common expenses and common surplus and an undivided interest in the Common Elements of the Condominium as set forth in Article VI of the Declaration attached to this Offering Statement as Exhibit 1. If the Developer exercises its right to combine two Units into a single Unit, then the Undivided Interest of each Unit Owner in the Common Elements will be increased accordingly. Any amendment to the Declaration or revision to the condominium plat reflecting a combination of Units which will result in less than a total of 25 Units must be approved by the Owners and Mortgagees as provided in the Declaration.

10. **Annual Estimated Operating Budget: Developer Guaranty.**

The estimated annual operating budget for the Condominium is set forth in Exhibit "2" to this Offering Statement and is based on twenty-eight Units. Until twelve months from the date of closing of the first Unit in the Condominium, the Developer will pay the balance of any Common Expenses not fully paid by assessments against Unit Owners. The obligation of Unit Owners to pay assessments for Common Expenses is a personal obligation and the failure of any Unit Owner to pay such assessments may result in the filing of a lien against such Unit.

11. **Assessments and Association Fees.**

The annual regular assessment for each Unit will be payable to the Association annually, on the first day of the year. Annual regular assessments do not include ad valorem taxes on individual Units or any special assessments that may be levied by the Association. For more information see Article VIII of the Declaration, which is attached as Exhibit 1 to the Offering Statement, and the Annual Estimated Operating Budget, which is attached as Exhibit 2 to the Offering Statement.

In addition to assessment payable to the Millwood Owners Association, Inc., each Unit Owner shall be responsible for payment of annual dues to the Moores Mill Homeowners Association, Inc. for the use and enjoyment of common areas within Moores Mill Subdivision.

12. **Closing Costs.**

As set forth in the Purchase Contract, a specimen copy of which is attached to this Offering Statement as Exhibit 3, a Purchaser can expect to pay all closing costs associated with the purchase of a Unit. Such closing costs include the cost of Alabama deed taxes on the deed of conveyance, recording fees, attorney document preparation fee and purchaser's share of prorated ad valorem taxes. If purchaser finances any portion of the purchase price, purchaser shall also be responsible for paying all closing costs connected with said financing, including, but not limited to, Alabama mortgage tax, the cost of recording the mortgage, and the premium for a mortgagee policy of title insurance. Purchaser shall also be required to pay at closing the prorated annual assessment of condominium fees.

13. **Financing.**

The Developer does not offer or arrange, nor is Developer responsible in any way for, financing the purchase of any Unit. If the Purchase Agreement does not contain a provision conditioning the Purchaser's obligation to perform the contract upon obtaining financing, the Purchaser will forfeit any deposits paid, if the Purchaser requires financing but does not qualify for such financing.

14. **Zoning.**

Use of the Condominium Property as a condominium is permitted under the Zoning Ordinances of the City of Auburn.

15. **Insurance.**

The requirements as to insurance for the Condominium and the Unit Owners are provided in Article X of the Declaration. The Association is required to obtain, maintain and pay the premiums on such coverage, as a Common Expense.

16. **Escrow Account for Deposits.**

Any deposit made in connection with the purchase of a unit will be held in escrow by the listing agent and will be returned to the purchaser, if the purchaser cancels the contract pursuant to section 35-8A-408. The name and address of the listing agent is set forth in the executed Construction Contract.

17. **Description of Developer.**

The Developer of this Condominium is Dilworth Development, Inc., an Alabama corporation which has been involved in the development of real estate and condominium projects in Auburn, Alabama for a number of years.

DILWORTH DEVELOPMENT, INC.
an Alabama corporation

By: _____
Michael Dilworth

PURCHASER IS REQUIRED TO SIGN AND DATE THE RECEIPT CONTAINED ON THE LAST PAGE OF THIS DOCUMENT ON THE DATE OF ACTUAL RECEIPT THEREOF.

Exhibit 1 to Offering Statement
Declaration of Condominium

See attached

**DECLARATION OF CONDOMINIUM
OF
MILLWOOD LAND CONDOMINIUM**

**ARTICLE I
PREAMBLE, NAME AND LEGAL DESCRIPTION**

The undersigned, **DILWORTH DEVELOPMENT, INC.**, whose address is 2124 Moores Mill Dr. Suite 130A, Auburn, Alabama, 36830, ("Developer"), being the holder of fee simple title to that certain real property located in Lee County, Alabama, and more particularly described hereinafter, does hereby submit such lands as described in Paragraph 1.2 below together with the improvements thereon to the condominium form of ownership in accordance with the provisions of Title 35, Chapter 8A, Code of Alabama (1975), and the following provisions:

1.1 Name. The name by which this condominium is to be identified is **Millwood Land Condominium** (the "Condominium").

1.2 Legal Description. Developer is the owner of that certain real property located in Lee County, Alabama, more particularly described in the attached Exhibit "A", which is incorporated herein by this reference. The property that is hereby submitted to the condominium form of ownership under this Declaration of Condominium consists of that certain real property set forth in the attached Exhibit "A" together with those easements more specifically and particularly described in Article IV herein.

1.3 Additional Property. Developer will not submit additional property to the Condominium.

**ARTICLE II
DEFINITIONS**

The terms used in this Declaration and in its Exhibits, including the Certificate of Formation and Bylaws of the Association, shall be defined in accordance with the provisions of Title 35, Chapter 8A, Code of Alabama (1975) and as follows unless the context otherwise requires:

2.1 Ad Valorem Real Estate Taxes shall mean those real property taxes assessed against the Units and their respective undivided interests in the Common Elements by the Revenue Commissioner of Lee County, Alabama.

2.2 Assessment shall mean the equal share of the funds required for the payment of the Common Expenses, which from time to time may be levied against each Unit Owner.

2.3 Association shall mean **Millwood Owners Association, Inc.**, a non-profit Alabama corporation, and its successors, which is the entity responsible for the administration, operation and management of the Condominium.

2.4 Bylaws shall mean the duly adopted Bylaws of the Association as they may be amended from time to time. A copy of the present Bylaws are attached hereto as Exhibit "C" and incorporated herein by reference.

2.2 Certificate of Formation shall mean the Certificate of Formation of the Association, as they may be amended from time to time. A copy of the present Certificate of Formation are attached hereto as Exhibit "B" and incorporated herein by reference.

2.6 Common Elements shall mean all of those items defined in the Condominium Act as Common Elements and those items hereinafter declared to be included within the Common Elements.

2.7 Common Expenses shall include:

a. Expenses of administration, operation and management of the Condominium Property and of the Association including, without limitation, compensation paid by the Association to a manager, accountant, attorney or other employee or independent contractor.

b. Expenses of maintenance, operation, repair and replacement of the Common Elements, as well as all other costs and expenses properly incurred by the Association.

c. Expenses declared Common Expenses by the provisions of this Declaration, the Condominium Documents or the Condominium Act.

d. Any valid charge against the Condominium Property as a whole.

e. All costs and expenses incurred by the Association in connection with regulatory compliance.

f. All reserves for replacement and maintenance of the Condominium Property as required by the Condominium Act.

Common Expenses shall not include Ad Valorem Real Estate Taxes assessed against each Condominium Parcel.

2.8 Common Surplus shall mean any excess of all receipts of the Association over the amount of the Common Expenses.

2.9 Condominium shall mean and refer to Millwood Land Condominium, and consists of the Condominium Property submitted to the condominium form of ownership by this Declaration.

2.10 Condominium Act shall mean the provisions of Title 35, Chapter 8A, Code of Alabama (1975), as the same are constituted on the date of recording of this Declaration.

2.11 Condominium Documents shall include this Declaration, together with exhibits attached hereto and all other documents expressly incorporated herein by reference, as the same may be amended from time to time.

2.12 Condominium Parcel is a Unit, together with the undivided share in the Common Elements and Common Surplus which are appurtenant to the Unit.

2.13 Condominium Property shall mean and include the lands, leaseholds, easements and personal property including, without limitation, the Common Elements that are subjected to condominium ownership from time to time as part of this Condominium, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with this Condominium.

2.14 Condominium Rules and Regulations shall mean and refer to the rules and regulations concerning the use of Condominium Property as may be promulgated and amended from time to time by the Association in the manner provided by its Certificate of Formation and Bylaws.

2.15 Declaration shall mean this Declaration of Condominium of Millwood Land Condominium, as it may be amended from time to time.

2.16 Developer shall mean Dilworth Development, Inc., an Alabama corporation, its successors and assigns. No party other than Dilworth Development, Inc. shall exercise the rights and privileges reserved herein to the Developer unless such party shall receive and record in the Office of the Judge of Probate of Lee County, Alabama, a written assignment from Dilworth Development, Inc. of all or a portion of such rights and privileges.

2.17 Golf Course shall mean the golf course at Moore's Mill Club located adjacent to the Property.

2.18 Governmental Authority shall mean any and all city, county, state, and federal governmental or quasi-governmental agencies, bureaus, departments, divisions, or regulatory authorities having jurisdiction over any portion of the Condominium.

2.19 Improvement. The term "Improvement," with an initial capital letter, shall mean and refer to any dwelling, building or structure constructed, erected, or placed upon any Unit which in any way affects the exterior appearance of any Unit. Improvements shall include, by way of illustration and not limitation, buildings, sheds, foundations, covered patios, underground utilities, driveways, walkways, paving, curbing, parking areas, trees, shrubbery, landscaping, fences, screening, walls, signs, and any other artificial or man-made changes or alterations to the natural condition of any Unit. "Improvements" shall also mean any grading, any excavation, or fill, the volume of which exceeds eight (8) cubic yards.

2.20 Mortgagee shall mean the Developer (and any successor-in-interest to the Developer as to a purchase-money mortgage), the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), or any trust, savings and loan association, credit union, mortgage company, bank, insurance company, or commercial loan company licensed to do business in the State of Alabama, to the extent that any of the same hold a first mortgage encumbering any Unit.

2.21 Occupant shall mean and include any Owner, the family members, guests, tenants, agents, servants, employees, and invitees of any Owner and their respective family members, guests, tenants, agents, servants, employees, invitees, and any other person who occupies or uses any Unit within the Condominium. All actions or omissions of any Occupant is and shall be deemed the action or omission of the Owner of such Unit.

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

2.23 Private Drive shall mean that certain property shown on the attached Exhibit "A" and labeled "Private Drive".

2.24 Unit shall mean a condominium unit as that term is defined in the Condominium Act and in Article V of this Declaration and refers to that part of the Condominium Property which is subject to exclusive ownership by one or more persons.

2.25 Utility Services shall include, without limitation, electric power, cable television, water, garbage and sewer disposal and telephone service, and all other public service and convenience facilities.

ARTICLE III

EXHIBITS

The Exhibits referred to in this Declaration shall include the following:

Exhibit "A". A legal description and a survey of land committed to the condominium form of ownership pursuant to this Declaration and comprising the Condominium Property with sufficient detail to identify the Common Elements and each Unit and their relative locations and approximate dimension. As set forth in Exhibit "A", each Unit is identified by a distinctive letter so that no Unit bears the same designation as any other Unit. Copies of the survey are also recorded in Condominium Book __, at Page __, in the Office of the Judge of Probate for Lee County, Alabama.

Exhibit "B". The Certificate of Formation of the Association.

Exhibit "C". The Bylaws of the Association.

Exhibit "D". Percentage Interest in the Common Elements.

ARTICLE IV **EASEMENTS, LIENS AND ENCUMBRANCES**

The following easements are hereby expressly reserved or have been granted:

4.1 General Easements. Non-exclusive easements over, across and under the Condominium Property are expressly provided for and reserved in favor of the Developer, the Owners and their respective lessees, guests and invitees, as follows:

a. Utilities. Easements are reserved over, across and under the Condominium Property as may be required for Utility Service in order to serve the Condominium adequately, including, without limitation, easements for the purpose of allowing such access rights as are necessary to utilize and service utility equipment located within the Condominium Property. Specific utility easements that exist on Condominium Property, if any, are set forth in Exhibit "A" attached hereto.

b. Encroachments. In the event that any Unit shall encroach upon any of the Common Elements or upon any other Unit, or in the event any Common Element shall encroach upon any Unit, then an easement shall exist to permit such encroachment so long as the same shall exist.

c. Right of Way. An easement shall exist for ingress and egress over such Private Drive, walks, and other rights-of-way serving the Units as shall be necessary to provide for reasonable access to the public rights-of-way.

4.2 Association Easements. Except as limited by the Condominium Act, the Association may grant easements from time to time over the Common Elements.

4.3 Developer Easements. The Developer hereby reserves the following exclusive easements and rights to grant easements.

a. Marketing, Sales and Rental. The Developer reserves exclusive easement rights over and across the Condominium Property for the purpose of marketing, sales and rental of Units and other accommodations owned or operated by the Developer or one of its affiliates on adjoining properties which are not part of the Condominium.

b. Governmental Requirements. The Developer reserves the right to grant such easements from time to time as may be required by any governmental agency. Such easements shall specifically include, without limitation, any environmental easements required

by state or federal environmental agencies for so long as Developer holds any interest in any Unit subject to this Declaration.

c. Developer Easements. The Developer reserves unto itself, for so long as it holds any interest in any Unit (including leaseholds), specific easement rights over and across the Condominium Property as it may deem necessary for its use from time to time.

d. Construction Easements. The Developer, on behalf of itself and its affiliates, hereby reserves easement rights over, under and across the Condominium Property as is necessary from time to time for the purpose of constructing improvements on property adjacent to and in the vicinity of the Condominium Property, but only if access thereto is otherwise not reasonably available.

4.4 Other Easements, Liens and Encumbrances. Other easements, if any, may have been granted over the Condominium Property as set forth in the survey contained in Exhibit "A" attached hereto.

4.5 Moore's Mill Subdivision. The property submitted to the condominium form of ownership by this Declaration is subject to the Moore's Mill Subdivision Declaration of Covenants, Conditions and Restrictions recorded in Deed Book 1661 at Page 36 in the Office of the Judge of Probate of Lee County, Alabama, as amended, and each Unit Owner shall be a member of both the Millwood Owners Association, Inc. and the Moore's Mill Homeowners Association, Inc.

ARTICLE V

UNITS AND COMMON ELEMENTS

5.1 Description of Units. The Property contains twenty-eight (28) Units, each of which shall include the perimetrical boundaries described on the survey attached hereto as Exhibit A-1 and the improvements constructed thereon. Developer reserves the right to alter the boundaries between Units or to combine two or more Units into a single Unit, thereby decreasing the total number of Units, so long as the Developer owns the Units so altered. Any change in the boundaries between the Units shall be reflected by recording an amendment to this Declaration and a revision to the condominium plat, each of which may be executed and acknowledged by the Developer and need not be approved by the Owners and Mortgagees. Notwithstanding anything to the contrary contained herein, any amendment to this Declaration or revision to the condominium plat reflecting a combination of Units which will result in less than a total of 25 Units may not be made without an amendment of this Declaration approved by the Owners and Mortgagees in the manner provided herein.

5.2 Private Elements. Each Unit shall include all Improvements constructed thereon, and all electrical, gas, and water lines, the sanitary and storm sewer facilities, and all lines, pipes, ducts, flues, chutes, conduits, cables, wires and all other apparatus and installations in connection therewith, located within and servicing such Unit.

5.3 Common Elements. The Common Elements of the Condominium are all portions of the Condominium Property, other than the Units, and include the Private Drive and property adjacent thereto which does not form part of a Unit, together with the electrical, gas, and water lines, the sanitary and storm sewer facilities, and all lines, pipes, ducts, flues, chutes, conduits, cables, wires and all other apparatus and installations in connection therewith, located in the Common Elements, except when such is otherwise designated as a Private Element (e.g. the lines bringing service to the Unit), and all other parts of the Condominium Property existing for the common use or necessity of the existence, maintenance and safety of the Condominium.

5.4 Undivided Interest in Common Elements. Each Unit has an undivided interest in the Common Elements as set forth in Exhibit "D" hereto annexed, and as expressed in this Declaration. The amount of the undivided interest in the Common Elements has been determined and fixed so that each Unit has an equal share in said elements, without regard to the relative size each bears to the entire Condominium Property. As such, if the Developer exercises its right to combine two Units into a single Unit, then the Undivided Interest of each Unit Owner in the Common Elements will be increased accordingly. No Unit Owner shall have the right to bring any action for partition or division of the Common Elements. The ownership interest in the Common Elements shall not be conveyed, transferred, encumbered, or otherwise affected separate from the ownership of the Unit, and any agreement to the contrary shall be void.

ARTICLE VI

ARCHITECTURAL STANDARDS

Developer hereby declares that each Unit is and shall be subject to the easements, covenants, conditions, restrictions, charges, liens, and regulations of this Declaration and shall be held, owned, sold, transferred, conveyed, hypothecated, encumbered, leased, occupied, and otherwise used, improved, and maintained subject to the terms of this Declaration, which easements, covenants, conditions, restrictions, charges, liens, and regulations shall run with the title to the Unit.

6.1 **Architectural Control Committee**. The Board of Directors of the Association shall appoint an Architectural Review Committee ("ARC") consisting of not less than two members to review and approve plans and specifications for dwellings and Improvements to be constructed on any Unit and any modification, repair or replacement made thereto.

6.2 **Architectural Standards**. The ARC is hereby authorized to promulgate and amend or modify from time to time written Architectural Standards governing policies, guidelines, and minimum requirements to be satisfied with respect to the construction, location, landscaping, and design of all Improvements on any Unit, the content and manner in which plans and specifications and other documentation and information concerning the construction of any Improvements on a Unit are to be submitted to and approved by the ARC, and any other matters affecting the construction, repair, or maintenance of any Improvements on any Unit. The Architectural Standards adopted by the ARC shall be in addition to the provisions and requirements set forth in this Declaration and shall be binding upon and enforceable against all Owners.

6.3 Approval of Plans and Specifications.

(a) In order to preserve the architectural and aesthetic appearance and the natural setting and beauty of the Condominium, to establish and preserve a harmonious design therefore, and to protect and promote the value of the Condominium Property and each Unit, no Improvements of any nature shall be commenced, erected, installed, placed, moved onto, altered, replaced, relocated, permitted to remain on or maintained on any Unit by any Owner, other than Developer, which affect the exterior appearance of any Improvement on any Unit, unless plans and specifications therefore have been submitted to and approved by the ARC in accordance with the terms and provisions of section 6.3(b) below. Without limiting the foregoing, the construction and installation of any further Improvements on any Unit shall not be undertaken, nor shall any exterior addition to or change or alteration be made (including, without limitation, painting or staining of any exterior surface) to any Improvements existing on any Unit, unless the plans and specifications for the same have been submitted to and approved by the ARC in accordance with the terms and provisions of section 6.3(b) below.

(b) The ARC is hereby authorized and empowered to approve all plans and specifications and the construction of all Improvements on any part of the Condominium. Prior to the commencement of construction of any Improvements on any Unit, the Owner thereof shall submit to the ARC plans and specification and related data for all such Improvements, which shall include two copies of each of the following, if applicable:

- (i) Plans and specifications for the construction of all Improvements.
- (ii) Color samples and specifications of all changes to exterior materials and finishes.
- (iii) Site development plan prepared by a licensed surveyor.
- (iv) Such other plans, specifications or other information or documentation as may be required by the rules and regulations of the ARC.

(c) The ARC shall, in its sole discretion, determine whether the plans and specifications and other data submitted by any Owner for approval are acceptable. One copy of all plans, specifications, and related data so submitted to the ARC shall be retained in the records of the ARC and the other copy shall be returned to the Owner submitting the same marked "approved," "approved as noted," or "disapproved." The ARC shall establish a fee sufficient to cover the expense of reviewing plans and related data and to compensate any consulting architects, landscape architects, designers, engineers, inspectors, and/or attorneys retained in order to approve such plans and specifications and to monitor and otherwise enforce the terms hereof. Notwithstanding anything provided herein to the contrary, an Owner may make interior improvements and alterations within the dwelling constructed on the Unit that do not affect exterior appearance without the necessity or requirement that ARC approval or consent be obtained.

(d) The ARC shall have the right to disapprove any plans and specifications upon any ground which is inconsistent with the objectives and purposes of this Declaration, including

purely aesthetic considerations, any failure to comply with any of the provisions of this Declaration or the Architectural Standards, failure to provide requested information, objection on the ground of incompatibility of any such proposed improvement with the scheme of development proposed for the Development, objection to the location of any proposed Improvements on any such Unit, objection to the landscaping plan for such Unit, objection to the color scheme, finish, proportions, style of architecture, height, bulk, or appropriateness of any Improvement or any other matter which, in the sole judgment of the ARC, would render the proposed Improvement inharmonious with the general plan of development contemplated for the Condominium. The ARC shall have the right to approve any submitted plans and specifications with conditions or stipulations by which the Owner of such Unit shall be obligated to comply and must be incorporated into the plans and specifications for such Unit. Approval of plans and specifications by the ARC for Improvements to one particular Unit shall not be deemed an approval or otherwise obligate the ARC to approve similar plans and specifications or any of the features or elements for the Improvements for any other Units within the Condominium.

(e) In the event the ARC fails to approve in writing any such proposed plans and specifications within forty-five (45) days after such plans and specifications have been submitted, then the plans and specifications so submitted will be deemed to have been approved.

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

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

6.4 Construction Without Approval. If (a) any Improvements are initiated, installed, maintained, altered, replaced, or relocated on Unit without ARC approval of the plans and specifications therefor or (b) the ARC shall determine that any approved plans and specifications for any Improvements or the approved landscaping plans for any Unit are not being complied with, then, in either event, the Owner of such Unit shall be deemed to have violated this Declaration and the ARC shall have the right to exercise any of the rights and remedies set forth in Section 6.9 below.

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

6.6 No Representation or Warranty. Any approval of plans and specifications by the ARC pursuant to Section 6.3 shall not be construed in any respect as a representation or warranty of the ARC, the Developer, or the Association that such plans are in conformity with any

applicable rules, regulations, and requirements of any Governmental Authorities or that any such plan or the dwelling based thereon is architecturally sound or meets any standards of engineering compliance or is properly designed. It shall be the responsibility of each Owner who submits any such plans to the ARC to satisfy himself as to such conformity and proper design.

6.7 Limitation of Liability. Notwithstanding anything provided herein to the contrary, neither Developer, the ARC, the Association, nor any agent, employee, representative, member, shareholder, partner, joint venturer, officer or director thereof, shall have any liability of any nature whatsoever for any damage, loss or prejudice suffered, claimed, paid or incurred by any Owner or any other person on account of (a) any defects in any plans and specifications submitted, reviewed or approved in accordance with the provisions of this Article 6, (b) any defects, structural or otherwise, in any work done according to such plans and specifications, (c) any failure to approve or disapprove any plans, drawings, specifications or other data submitted by any Owner for approval pursuant to the provisions of this Article 6, (d) any construction or performance of any work related to such plans, drawings and specifications, (e) any bodily injuries (including death) to any Owner, occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of any such Owner or occupant, or any damage to any Improvements or the personal property of any Owner, occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of such Owner or Occupant, which may be caused by, or arise as a result of any defect, structural or otherwise, in any Improvements or the plans and specifications therefore or any past, present or future soil and/or subsurface conditions, known or unknown (including, without limitation, underground mines, tunnels or other geological formations or conditions on or under any Unit) and (f) any other loss, claim, damage, liability or expense, including court costs and attorneys' fees, suffered, paid or incurred by any Owner arising out of or in connection with the use and occupancy of any Unit or any improvements situated thereon.

6.8 Commencement and Completion of Construction. Upon commencement of construction of any Improvement, construction work thereon shall be prosecuted diligently and continuously and shall be completed within one (1) year of the commencement date of said construction, such completion to be evidenced by a certificate of occupancy issued by the appropriate Governmental Authorities.

6.9 Enforcement and Remedies. In the event any of the provisions of this Article VI are breached or are not otherwise being complied with in all respects by any Owner or occupant or the respective family members, guest, invitees, agents, employees or contractors of any Owner or occupant, then the ARC and the Association shall each have the right, but not the obligation, at their option to (a) enjoin any further construction on any Unit and require the removal or correction of any work in place which does not comply with the plans and specifications approved by the ARC for such Improvements, and/or (b) through their designated agents, employees, representatives and independent contractors, enter upon such Unit and take all action necessary to extinguish such violation or breach. All costs and expenses incurred by the ARC or the Association in enforcing any of the provisions of this Article 6, including, without limitation, attorneys' fees, court costs, costs and expenses of witnesses, engineers, architects, designers, land planners and any other persons involved in the correction of nonconforming work, the completion of uncompleted work or in any judicial proceeding, together with any other costs or expenses incurred by the ARC or the Association in causing any Owner or such Owner's

contractors, agents or invitees to comply with the terms and provision of this Article 6, shall be paid by such Owner, shall constitute an individual Assessment to such Owner and, if the same is not paid when due, shall be subject to the lien provided for in Article 6 below and be subject to foreclosure as provided for therein. Notwithstanding anything provided herein to the contrary, the right and remedies of the ARC and the Association set forth herein shall not be deemed exclusive of any other rights and remedies which the ARC or the Association may exercise at law or in equity or hereunder.

ARTICLE VII

MAINTENANCE, ALTERATION AND IMPROVEMENT

Responsibility for the maintenance of the Condominium Property, and restrictions upon its alteration and improvement, shall be as follows:

7.1 By the Association. Unless caused by the specific abuse of an Owner, Occupant or any licensee, guest or tenant of an Owner, the Association shall maintain, repair and replace at the Association's expense:

(a) All Common Elements.

7.2 By the Owner.

(a) Except for those portions of the Condominium Property which the Association is required to maintain and repair, each Owner, Occupant shall, at such Owner's expense, maintain his, her or its Unit in good tenantable condition and repair, and shall be responsible for the repair, maintenance and replacement, if necessary, of all Improvements constructed on the Unit, including electrical, gas and water lines and sanitary and storm water facilities located within the boundary of and serving only his, her or its Unit.

(b) Each Unit Owner agrees as follows:

(i) To perform all maintenance, repairs and replacements which are his or her obligations under subparagraph (a) of this Section 7.2;

(ii) To pay all Utility Services provided to the Unit and all taxes levied against the Condominium Parcel;

(iii) Not to make, or cause to be made, repairs to any utility systems located outside his Unit but required to be maintained by him under subparagraph 7.2(a)(ii), except by licensed plumbers or electricians authorized to do such work by the Association or its delegate;

(iv) Not to make any alteration, addition, improvement, decoration, repair, replacement or change to the exterior of any Improvements located on the Unit without the prior written consent of the ARC obtained pursuant to the procedure set forth in Article 6;

(v) Not to make any alteration, addition, improvement, decoration, repair, replacement or change to the Common Elements or to do any act that would impair the overall design scheme of any part of the Condominium Property or that would impair any easement or right of a Unit Owner without the prior written consent of the ARC and all Owners affected thereby; and

(vi) To promptly report to the Association any defects or needed repairs for which the Association is responsible.

7.3 Association's Access to Units. The Association has the irrevocable right of reasonable access to each Unit whenever necessary for maintaining the Common Elements, for making emergency repairs necessary to prevent damage to the Common Elements or to another Unit and for servicing and reading utility lines, valves, conduits and meters.

ARTICLE VIII

ASSESSMENTS AND COMMON EXPENSES

8.1 Common Expenses. In addition to those items defined as Common Expenses in Article 2.7 *supra*, Common Expenses shall include the following:

(a) Repair, replacement and upkeep of the Common Elements including, without limitation, the Private Drive and landscaping at the entrance thereto;

(b) Liability insurance on the Condominium Property and fidelity bonds for Association employees;

(c) Utility Services for the Condominium Property not attributable to individual Units;

(d) Any other expenses incurred in the normal operation and maintenance of the Condominium which cannot be attributed to a particular Owner.

8.2 Assessments. In addition to the Common Expenses to be charged by the Association, as provided herein, each Unit Owner shall be responsible for payment of annual dues to the Moores Mill Homeowners Association, Inc. for the use and enjoyment of common areas within Moores Mill Subdivision.

(a) No Unit Owner may exempt himself from the liability for payment of his Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his Unit; however, where a Unit Owner has transferred his entire interest in the Unit in accordance with the terms of the Condominium Documents, he shall not be liable for Common Expenses incurred subsequent to the date of transfer.

(b) The Common Expenses shall be charged by the Association to the Unit Owners equally. Any Common Surplus funds held by the Association shall be returned to the

Unit Owners equally or in the alternative, at the discretion of the Association, may be held as a fund to be credited against future Assessments charged to the Unit Owners.

(c) If during the course of any fiscal year, it shall appear to the Board that the Assessments, as determined in the annual budget, are insufficient or inadequate to cover the estimated Common Expenses for the remainder of such year, then the Board shall prepare and approve a supplemental budget covering the estimated deficiency. Copies of the supplemental budget shall be delivered to each Unit Owner, and thereupon a Supplemental Assessment shall be made to each Unit Owner for his or her share of the supplemental budget.

(d) Insurance shall be obtained upon the Common Elements and improvements thereon and the cost therefor shall be borne as common charges and paid as Common Expenses as hereinafter more fully set forth.

(e) Assessments for Common Expenses shall be made for each fiscal year by the Association. Such annual Assessments shall be due and payable on the dates established by the Board of Directors, who may review and reconsider the Assessments made and may increase or decrease the same. If an increase is required for the proper management, maintenance and operation of the Common Elements, the Unit Owners shall pay any such increase on the date established by the Association and included in the notice of the increase.

(f) All liens against the Common Elements of any nature including taxes and special assessments levied by governmental authority may be paid by the Association and shall be assessed by it against the Unit or Units in accordance with their respective interest, or to the Common Expense account, whichever in the judgment of the Association is appropriate.

(g) All Special Assessments, being those Assessments not otherwise provided for in this Article which are necessary to meet the requirements of the Association and the Condominium may be made by the Association at any time and from time to time, provided that such Special Assessment shall not be levied without the prior approval of Unit Owners representing, in the aggregate, sixty-six and two-thirds (66-2/3%) percent of the Units.

(f) The Assessments against all Unit Owners shall be set forth upon a roll of the Units which shall be available in the Office of the Association for inspection at all reasonable times by Unit Owners or their duly authorized representatives. Such roll shall indicate for each Unit the name and address of the Unit Owner(s), the Assessments for all purposes and the amounts of all Assessments paid and unpaid. A certificate made by the Association as to the status of a Unit Owner's Assessment account shall limit the liability of any person acquiring the Unit Owner's interest. The Association, or its agents, shall issue to the holder of first mortgagee upon its written demand a certificate showing the status on the Assessments due from the person as a Unit Owner.

(g) The Owners of a Unit and his grantee shall be jointly and severally liable for all unpaid Assessments due and payable at the time of conveyance. A purchaser of a Unit at a judicial sale shall be liable for such unpaid Assessments.

(h) If any Assessment or Common Expenses shall remain due and unpaid for more than thirty (30) days, the Association is empowered to file of record a lien therefor and to enforce the same pursuant to the Condominium Act. In the event any Unit Owner fails to timely pay any Assessment, the Association shall, if the funds are required in order to enable the Association to discharge its obligations, levy a Special Assessment against all the remaining Unit Owners on a prorated basis according to their respective percentage interest in the Common Elements. If the delinquent unpaid Assessments are subsequently secured from the defaulting Unit Owner, then in that event the Special Assessment shall be returned to the contributing Unit Owners.

8.3 Common Surplus. Each Owner shall own a share of the Common Surplus attributable to each Unit owned in accordance with Section 5.3.

8.4 Refunds of Common Surplus. If the Association shall refund all or a portion of any Common Surplus to the Owners for any fiscal year in which the Developer paid any assessment, such refund shall be prorated as of the date of closing of any sale of a Unit upon which the sale was closed by Developer during such year, and the prorated amount allocable to the period of time of the Developer's ownership shall be refunded directly to the Developer by the Association.

8.5 Certificate. Any Owner shall have the right to require from the Association a certificate showing the amount of unpaid assessments against him with respect to his Unit. The holder of a mortgage or other lien shall have the same right as to any Unit upon which it has a lien. Any person who relies upon such certificate shall be protected thereby.

ARTICLE IX

THE ASSOCIATION

The operation of the Condominium shall be by the Association, which shall fulfill its functions pursuant to the following provisions:

9.1 Membership in Association. Membership of each Owner in the Association shall be acquired pursuant to the provisions of the Certificate of Formation and Bylaws of the Association. Each Unit shall have one (1) vote in the Association. Where a Unit is owned by more than one owner, the co-tenants of the Unit shall file a voting certificate with the Association, in accordance with the Articles and Bylaws of the Association, setting forth which co-tenant is designated to cast the vote for that Unit.

9.2 Certificate of Formation. A copy of the present Certificate of Formation of the Association, which set forth its powers and duties, are attached hereto as Exhibit "B".

9.3 Bylaws. A copy of the present Bylaws of the Association are attached hereto as Exhibit "C" and are incorporated herein by reference.

9.4 Limitation Upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair portions of the Condominium Property, the Association shall

not be liable to Owners for injury or damage other than for the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association or caused by the elements or other Owners or persons.

9.5 Restraint Upon Assignment of Shares and Assets. Each Owner's share in the funds and assets of the Association cannot and shall not be assigned, hypothecated or transferred in any manner except as an appurtenance to the Owner's Unit.

9.6 Transfer of Control of Association.

a. Owners of Units other than the Developer will be entitled to elect members of the Board of Directors of the Association as follows:

(1) The Owners of Units other than the Developer shall be entitled to elect a majority of the members of the Board of Directors not later than the earliest of (i) sixty (60) days after conveyance of seventy-five percent (75%) of the Units which may be created to Unit Owners other than the Developer; or (ii) two years after Developer has ceased to offer Units for sale in the ordinary course of business. Developer may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of that period, but in the event Developer may require, for the duration of the period of Developer control, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by the Developer, be approved by the Developer before they become effective.

(2) Not later than ninety (90) days after conveyance of twenty-five percent (25%) of the Units which may be created to Unit Owners other than the Developer, at least one member and not less than twenty-five percent (25%) of the members of the Board of Directors must be elected by Unit Owners other than the Developer. Not later than ninety (90) days after conveyance of fifty percent (50%) of the Units which may be created to Unit Owners other than Developer, not less than one-third (1/3) of the members of the Board of Directors must be elected by Unit Owners other than the Developer.

(3) Nothing in this subparagraph shall be construed so as to preclude the Developer from relinquishing control of the Board of Directors at any time the Developer may elect.

b. The Developer is entitled to elect at least one member of the Board of Directors of the Association for so long as the Developer holds for sale in the ordinary course of business at least five percent (5%) of the Units in the Condominium.

c. Following the time the Developer relinquishes control of the Association, the Developer may exercise the right to vote any Developer-owned Units in the same manner as any other Owner except for purposes of requiring control of the Association or selecting the majority members of the Board of Directors.

9.7 Availability of Documentation. The Association shall be required to make available to Owners, any Mortgagee and the holders and insurers of the first mortgage on any Unit, current copies of this Declaration, the Articles and Bylaws of the Association and other rules governing this Condominium and other books, records and financial statements of the Association. The Association also shall make available to prospective purchasers current copies of this Declaration, the Articles and Bylaws, other rules governing the Condominium and the most recent annual audited financial statement, if such is prepared. "Available" shall at least mean available for inspection upon request, during normal business hours or under other reasonable circumstances.

ARTICLE X **INSURANCE**

The insurance other than title insurance, if any, that shall be carried upon the Condominium Property shall be governed by the following provisions:

10.1 Insurance Maintained by the Association. All insurance policies upon the Condominium Property shall be purchased by the Association from a fiscally responsible company authorized to do business in the State of Alabama and shall have a minimum term of one year. The named insured shall be the Association individually and as agent for the Owners, without naming them, and as agent for their Mortgagees. Such policies shall provide that payments by the insurer for losses shall be made to the Association or the Insurance Trustee designated below, and all policies and their endorsements shall be deposited with the Association or the Insurance Trustee. Such policies shall also include a "condominium endorsement" which shall provide for recognition on any insurance trust agreement, waiver of the right of subrogation against Owners individually, that the insurance is not prejudiced by the act or neglect of individual Owners which is not in the control of such Owners collectively and that the policy is primary in the event the Owners have other insurance covering the same loss.

10.2 Insurance Responsibility of Owners. Each Owner shall be responsible for maintaining, at the Owners expense, insurance coverage for loss or damage to the Improvements constructed on the Unit and all furnishings and personal property stored on the Unit, as well as insurance coverage against personal liability for injury to the person or property of another while on the Owner's Unit.

10.3 Coverage.

a. Casualty. All buildings and improvements upon the Condominium Property shall be insured in an amount equal to 100% of the current replacement cost, exclusive of land, foundation and excavation costs, and all other items normally excluded from coverage, and all personal property owned by the Association shall be insured for its current replacement cost, all as shall be determined from time to time by the Board of Directors of the Association. Coverage shall afford protection against:

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

(2) Such other risks as from time to time shall be customarily covered with respect to building similar in construction, location and use as the buildings on the Condominium Property, including floods and other perils normally covered by the standard "all risk" endorsement where such is available, including, without limitation, vandalism and malicious mischief.

b. Public Liability. Public liability insurance shall be carried in such amounts and with such coverage as shall be required by the Board of Directors of the Association from time to time; provided, however, that such coverage shall in no event be in an amount less than One Million Dollars (\$1,000,000.00) per occurrence. Wherever and whenever it is possible and economically feasible to do so, the Board of Directors shall attempt to obtain adequate insurance protection in reasonably prudent coverages. Except as required herein, nothing in this Declaration shall be construed to require the Board of Directors to obtain such coverage as a condition precedent to the Association conducting business.

c. Worker's Compensation. Worker's compensation insurance shall be carried to the extent necessary to meet the requirements of law.

d. Fidelity Bond. Fidelity insurance coverage shall be carried in the name of the Association for all officers, directors and employees of the Association and all other persons handling or responsible for funds of the Association. The fidelity bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. The fidelity bonds shall not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten days' prior written notice to the Association.

e. Other Insurance. Such other insurance may be carried as the Board of Directors shall determine from time to time to be desirable.

10.4 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense.

10.5 Proceeds. All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Association hereinabove set forth shall be paid to it. The Association shall act as the insurance trustee. The sole duty of the insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Unit Owners and their respective mortgagees, except that no mortgagee shall have any right to determine or participate in the determination whether or not damaged property shall be reconstructed or repaired except as may be specifically provided to the contrary herein.

10.6 Association as Agent and Attorney-in-Fact. The Association is hereby irrevocably appointed agent and attorney-in-fact for each Owner to adjust all claims arising under the insurance policies purchased by the Association and to execute and deliver releases upon the payment of the claim.

10.7 Notice to Owners and Mortgagees. No insurance policy required by this Declaration may be canceled or substantially modified without at least ten (10) days' prior written notice to the Association and each Mortgagee holding a first mortgage and which is listed as a scheduled holder of a first mortgage in the policies. Certificates of insurance shall be issued to each Owner and Mortgagee upon written request therefor.

ARTICLE XI

RECONSTRUCTION OR REPAIR AFTER CASUALTY

11.1 Obligation to Reconstruct or Repair. If any part of the Condominium Property shall be damaged by casualty, whether or not it shall be reconstructed or repaired, shall be determined in the following manner:

a. Common Elements. If the damaged improvement is a Common Element then the damaged property shall be reconstructed or repaired unless it is determined that the Condominium shall be terminated because of damage to Units as set forth in Article 11.1(b).

b. Units.

(1) Minor Damage. If the damage is to Units and if less than fifty percent (50%) of the Units are found by the Board of Directors of the Association to be untenantable, the damaged property shall be reconstructed or repaired.

(2) Major Damage. If the damage is to Units and if fifty percent (50%) or more of the Units are found by the Board of Directors of the Association to be untenantable, then the damaged property will be reconstructed or repaired unless within sixty (60) days after the casualty, the holders of ninety percent (90%) of all votes of the Association agree in writing to not reconstruct or repair and to terminate the Condominium. Any election to terminate the Condominium after substantial destruction or a substantial taking in condemnation of the Condominium Property must have the prior approval of the Mortgagees holding first mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to mortgages held by Mortgagees are allocated.

c. Certificate. The Insurance Trustee may rely upon a certificate of the Association made by its President and attested by its Secretary as to whether or not the damaged property is to be reconstructed or repaired.

11.2 Plans and Specifications. Any reconstruction or repairs must be substantially in accordance with the plans and specifications for the damaged property as originally constituted or, in lieu thereof, according to the plans and specifications approved by the ARC

pursuant to Section 6.3 or by the Association. Any restoration or repair of the Condominium after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original Condominium plans and specifications unless the approval of the Mortgagees holding first mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to mortgages held by Mortgagees are allocated is obtained.

11.3 Eminent Domain. The Association is hereby empowered to defend and/or settle any action or threatened action with respect to the taking in condemnation of any portion of the Common Elements of any Unit or portion of any Unit. Upon obtaining knowledge of such action or threatened action, the Association shall notify all affected Mortgagees of record of same.

a. Common Elements. Any award or settlement made as result of such a taking of all or a portion of the Common Elements shall be made payable to the Association. Any such award or settlement shall be held in trust by the Association for the benefit of the Owners and Mortgagees holding a first mortgage as their interest may appear. In the event any repair or restoration of the Common Elements is necessary in the opinion of a majority of the Board of Directors of the Association on account of such taking, or in the event a majority of the voting interests at a duly called and constituted meeting of the Association promptly approve such restoration or repair, the Board of Directors shall arrange for same and shall disburse such of the proceeds of such award or settlement as shall reasonably be necessary to effect such restoration or repair to the contractors engaged for such purpose in appropriate progress payments. The balance of such proceeds, or all of such proceeds if no determination to repair or restore is made, shall be disbursed by the Association in the same manner as insurance proceeds under Section 10.6 hereof where there is no repair or restoration of damage.

b. Units. Any award or settlement for the taking in condemnation of a Unit shall be made payable to the Owner(s) of such Unit.

ARTICLE XII

USE RESTRICTIONS

The use of the Condominium Property shall be in accordance with the following provisions as long as the Condominium exists:

12.1 Units. Each Unit shall be used for single-family residential purposes only and no trade or business of any kind may be carried on in or from Improvements constructed thereon. No Unit may be divided or subdivided into a smaller Unit, without the prior written consent of the ARC and/or the Association; provided however that Developer reserves the right to alter the boundaries between Units and to increase or decrease the number of Units so long as the Developer owns the Units so altered. Any change in the boundaries between the Units shall be reflected by recording an amendment to this Declaration and a revision to the condominium plat.

12.2 Common Elements. The Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the personal use of the Owners, their guests and lessees and other authorized occupants of Units. There shall be no obstruction of the Common Elements, nor shall anything be kept or stored on the Common Elements nor shall anything be constructed on or planted in or removed from the Common Elements, nor shall the Common Elements in any other way be altered without the prior written consent of the Association.

12.3 Nuisance. No nuisance shall be allowed upon the Condominium Property or within a Unit, nor any use or practice that is the source of annoyance to Owners or which interferes with the peaceful possession and proper use of the Condominium Property by the Owners. All parts of the Condominium shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate nor any fire hazard allowed to exist.

12.4 Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the Condominium Property or a Unit, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies for maintenance, modification or repair of the Condominium Property or a Unit shall be the same as the responsibility for the maintenance and repair of the property concerned.

12.5 Signs. No signs or advertising posters of any kind shall be maintained or permitted on any portion of any Unit, without the express written permission of the Association; provided however, that the Developer (and entities affiliated with the Developer or employed by the Developer to market the Units) may display such signs as it deems necessary and appropriate to promote the development of the Condominium Property and sales of Units, and provided further that one "for rent" or "for sale" sign may be placed on the Unit without permission from the Association.

12.6 Condominium Rules and Regulations. Reasonable rules and regulations concerning the use of Condominium Property may be promulgated and amended from time to time by the Board of Directors of the Association in the manner provided by its Certificate of Formation and Bylaws.

12.7 Developer's Use. The Developer, its agents or an entity affiliated with the Developer may make such use of the Common Elements and the Units as may facilitate the sale or rental of Units, including, without limitation, showing of the property, maintaining a sales office within a Unit, maintaining a model Unit, and the display of signs and other promotional devices.

12.8 Antennas. No satellite dishes shall be allowed on any Unit more than two (2) feet in diameter or projecting higher than ten (10) feet above the roof line. The satellite dish must not be visible from any street within the Condominium, and the location of such satellite dish must be approved by the ARC. No radio antenna, radio receiver or other similar device or aerial shall be attached to or installed on any Unit or dwelling unless the same is (i) contained entirely with the interior of a building or other structure, (ii) not visible from any street within the

Condominium or adjacent Unit or dwelling, and (iii) approved by the ARC. No radio or television signals or other form of electromagnetic radiation or transmission shall be permitted to originate from any Unit or dwelling which may interfere with the reception of radio or television signals within the Condominium or any other real property situated in close proximity to the Condominium.

12.9 Exterior Lighting. All exterior lighting for Improvements, including, without limitation, free standing lighting and utility (e.g., flood) lights attached to a dwelling, must be of a design and in a location approved by the ARC.

12.10 Exterior Materials and Finishes. No exterior materials and finishes may be changed except with approval of the ARC. All wood surfaces utilized on the exterior of any dwelling, including windows and doors, shall be painted or stained at all times. Prohibited exterior finish materials shall include particle board, plywood, simulated brick or simulated stone and any other materials as the ARC may from time to time determine.

12.11 Garages. Garage doors shall be subject to the approval of the ARC and shall be constructed of such materials as are approved by the ARC. Garage doors shall be kept closed at all times except when in use. No garage shall be converted to any use other than for the parking of vehicles therein without the approval of the ARC.

12.12 Fences. No fences shall be permitted, except with the express written approval of the ARC as the type of materials utilized for (including the color thereof) and location thereof. It is not anticipated that any fences will be allowed on Units that adjoin the Golf Course. No fences shall be allowed in front yards.

12.13 Windows, Window Treatments and Doors. Reflective glass shall not be permitted on the exterior of any dwelling. No foil or other reflective materials shall be installed on any windows or used for sun screens, blinds, shades or other purposes. The ARC may adopt guidelines for the types of windows and materials from which windows may be allowed on any dwelling. Burglar bars or doors (including wrought iron doors) are not permitted. No aluminum or metal doors with glass fronts (e.g., storm doors) shall be allowed on the front of any dwelling. Appropriate window treatments shall be used on all windows. Sheets, bed linens, blankets and paper or plastic bags are not appropriate window treatments.

12.14 Size and Height Limitations. The minimum living space requirement for any dwelling constructed on the Unit shall be 1,800 square feet, and the height of said dwelling shall be compatible with all other dwellings adjacent to such Unit. No Improvement shall exceed two and one-half (2 1/2) stories in height, as measured from the finished grade of the Unit on the front of the dwelling facing the Private Drive.

12.15 Utility Meters and HVAC Equipment. All electrical, gas, telephone, and cable television meters, to the extent practicable, shall be located at the rear of all Improvements. All exterior heating, ventilating, and air conditioning compressor units and equipment shall be located, to the extent practicable, at the rear of the Improvement and, if the same are visible from the street, such compressor units and equipment shall be screened from public view by either

walls or landscaping to be approved by the ARC. No window mounted heating or air conditioning units or window fans shall be permitted.

12.16 Driveways and Sidewalks. All driveways and sidewalks on a Unit shall be constructed of concrete. Other materials may be used but only if approved by the ARC.

12.17 Outdoor Furniture, Recreational Facilities, and Clotheslines.

a. No furniture shall be placed, kept, installed, maintained, or located in or on the front or side yards or areas of a Unit. Any furniture placed, kept, installed, maintained, or located at the rear of or behind the Improvements constructed on the Unit shall, to the greatest extent practicable, be located so that the same shall not be visible from any street.

b. Wood piles shall be located only at the rear or side of the Improvements constructed on the Unit and shall be screened by appropriate landscaping from view from streets and, to the extent practicable, from adjacent Units.

c. Children's toys, swing sets, jungle gyms, trampolines, and other outdoor and recreational equipment and appurtenances shall be allowed only in the rear of the and at least fifty (50) feet from the boundary of the Golf Course properties; such items shall, to the extent practicable, be located so that the same are not visible from any street.

d. Free-standing playhouses and tree houses shall be permitted, but only after ARC approval of the same.

e. Basketball backboards shall be located in a location approved by the ARC.

f. Outside clotheslines or other outside facilities for drying or airing clothes shall be prohibited on any Unit unless such clotheslines or other facilities are screened by appropriate landscaping from view from any street and from any adjacent Unit. No clothing, rugs, or other items shall be hung, placed, or allowed to remain on any railing, fence, or wall.

g. Barbecue grills or other types of outdoor cooking equipment and apparatus shall be located only at the rear of the Improvements constructed on the Unit and, to the extent practicable, shall not be visible from the street.

h. Bird feeders, wood carvings, plaques, and other types of homecrafts shall not be permitted in the front yards of any Unit nor shall any of the foregoing items be attached to the front or side of any Improvement constructed thereon. All bird feeders, wood carvings, plaques, and other types of homecrafts shall be located so as to not be visible from any the Private Drive or any adjacent street.

12.18 Pets and Animals. No animals, livestock, birds, or poultry of any kind shall be kept, raised, or bred by any Owner upon any Lot or other portion of the Condominium; provided, however, that not more than three (3) dogs or cats (or a combination thereof not to exceed three (3) in number) may be kept and maintained on a Lot so long as they are not kept for breeding or commercial purposes. No pet shall be allowed to make an unreasonable amount of noise or become a nuisance. All such structures or areas for the care, housing, or confinement of any pet shall be located at the rear of the Improvement constructed on the Unit, shall not be visible from any street, and shall be constructed of materials and of a size approved by the ARC. Dogs and cats shall not be allowed to roam unattended within the Condominium; all dogs shall be kept and maintained within fenced or walled areas on a Unit, as approved by the ARC, or otherwise under leash. The ARC shall have the right from time to time to promulgate rules and regulations governing keeping the pets within the Condominium, including the right to assess fines for violations of such rules and regulations.

12.19 Trash, Rubbish, and Nuisances.

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

b. Trash, garbage, and any other refuse or waste shall not be kept on any Unit except in sanitary containers or garbage compactor units. Trash cans and containers shall at all times be kept at the rear of or inside a Dwelling and shall be screened from view from streets and adjacent Lots and Dwellings by appropriate landscaping or fencing approved by the ARC; provided, however, that trash cans and containers can be moved to the front or side yard of any Dwelling on trash collection days for such Unit.

12.20 Recreational Vehicles and Machinery and Equipment.

a. Mobile homes, motor homes, trailers of any kind, campers, vans, motorcycles, motorized carts and all-terrain vehicles, lawn mowers, tractors, tools,

construction machinery and equipment of any nature, golf carts, boats and any other type of watercraft, including boat trailers, and any other similar types of vehicles, machinery, or equipment shall not be permitted stored or allowed to remain on any Unit unless the same is placed, stored, and maintained within a wholly-enclosed structure, with roofing and doors, on such Unit. Any such enclosed structure must be approved by the ARC.

b. Each Unit shall provide for adequate off-street parking (i.e., parking areas located solely within the property lines of such Unit). Vehicles shall be parked only in driveways constructed in accordance with the provisions of Section 5.19 above or in garages constructed in accordance with the provisions of Section 5.13 above. Vehicles shall not be parked on any landscaped or natural areas of a Unit.

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

d. The ARC shall have the right at any time and from time to time to adopt rules and regulations with respect to the keeping, storage, parking, operation, use, or maintenance of mobile homes, tractors, equipment, machinery, trailers (with or without wheels), motor homes, trucks (other than pick-up trucks), commercial vehicles of any type, campers, motorized campers or trailers, boats or other watercraft, boat trailers, motorcycles, motorized bicycles, all-terrain vehicles, motorized go-carts, and other forms of transportation.

12.21 Signage. No signs or advertising posters of any kind shall be maintained or permitted within any windows or on the exterior of any unit or elsewhere on any portion of the Condominium Property without the express written permission of the Association. The approval of any signs and posters, including, without limitation, political campaign signs and name and address signs, shall be upon such conditions as may from time to time be determined by the Board of Directors.

12.22 Above Ground Tanks and Wells. No exposed above-ground tanks for the storage of fuel, water, or any other substances shall be located on any Unit. No private water wells may be drilled or maintained and no septic tanks or similar sewage facilities may be installed or maintained on any Unit except for wells maintained solely for irrigation purposes. All such irrigation wells must be approved in writing by the ARC prior to the installation of the same.

12.23 Temporary Structures. No temporary house, trailer, shack, tent, barn, shed, stable, poultry house or yard, rabbit hut, tree house, or other outbuilding or structure of any kind shall be permitted, constructed, installed, or allowed to remain on any Unit; provided, however, that the foregoing shall not be deemed to prohibit (a) temporary structures for social functions as may be permitted by the rules and regulations of the ARC, (b) any detached garages or other structures which are approved in writing by the ARC, (c) dog houses for not more than two (2) dogs so

long as such dog houses are visibly screened from view from all streets and adjacent Units, and (d) construction trailers and/or sales offices erected or placed on any part of the Property by Developer.

12.24 Construction of Improvements.

a. During the construction of any Improvements, the Units subject to such construction shall be maintained in a clean condition, free of debris and waste material, all unused construction materials shall be stored, to the extent practicable, out of view from any road, all construction trash, debris and rubbish on each Unit shall be properly disposed of outside the Condominium at least weekly, and any temporary or portable toilet will be placed out of view from any road. Used construction materials shall not be burned on-site. In no event shall any used construction materials be buried on or beneath the ground or any Unit or any other portion of the Condominium.

b. During the construction of any Improvements, construction equipment and the vehicles of all contractors, subcontractors, laborers, materialmen and suppliers shall utilize off-street parking only, and enter the Unit on which such improvements are being constructed from the driveway for such Unit.

c. A maximum of two (2) signs, in size and color to be approved by the ARC, may be posted on a Unit upon a single sign slab approved by the ARC, at a height not to exceed five (5) feet from the ground level advertising the Unit or the dwelling thereon for sale, or during the construction of such dwelling, containing information identifying the builder of such Improvement. No other signage, banners, flags, or advertising posters shall be allowed without obtaining ARC approval. The location of such signage shall be established by the ARC but in no event shall any signage authorized by this section or which may be approved by the ARC be attached, nailed or otherwise adhered to any tree or other plant life on a Unit.

d. No construction trucks, equipment or machinery, including any trailers used for the transportation of construction equipment or machinery, shall be parked on any roads within the Condominium. Upon completion of construction of any Improvements, any construction machinery, tools and equipment, all unused construction materials and all trash, debris and rubbish shall be immediately removed from the Unit and such Unit shall be kept and maintained in a clean and uncluttered condition.

e. All Improvements shall be constructed in compliance with any rules established by the ARC, all applicable federal, state, county and local laws, ordinances, rules, regulations, and zoning and building code requirements. Each Owner shall be solely responsible for obtaining from the appropriate governmental authorities all necessary permits and licenses and otherwise paying all required fees for the construction of any Improvements on such Owner's Unit. Each Owner shall also be responsible for strict compliance with any rules established by the ARC and all applicable watershed protection, soil erosion and other governmental requirements, both during and after completion of construction of any Improvements on such Owner's Unit.

f. When any Owner submits to the ARC plans and specifications for construction of improvements in accordance with Article 4 above, the name of the building contractor selected by such Owner for construction of such improvement shall also then be submitted to the ARC; however, if the identity of the building contractor is not known at that time, then the name of the building contractor will be submitted when determined prior to construction. The ARC shall have the right, in its sole discretion, to approve or disapprove of any building contractor so selected by such Owner. Each building contractor approved by the ARC in accordance with this section will be required to remit to the ARC a refundable damage/clean up deposit (the "Deposit") in an amount established by the Association or the ARC. Should such building contractor damage or fail to properly clean up the Condominium or Common Elements as required herein, or any supplemental rules or regulations promulgated by the ARC, the ARC may, in its sole discretion, initiate appropriate action to remediate any such condition at such building contractor's expense. The cost of any such remediation shall be deducted from the Deposit and any amount expended by the ARC in excess of the Deposit in remediating such condition shall be billed to such building contractor. Within thirty (30) days of the completion of such dwelling (as evidenced by the issuance of the Certificate of Occupancy), the ARC shall refund to such building contractor any unexpended portion of the deposit.

12.25 Swimming Pools and Tennis Courts. Swimming pools, outdoor hot tubs, reflecting ponds, saunas, whirlpools, lap pools, and tennis courts may be constructed, installed, and maintained on any Unit, subject to the prior written approval by the ARC and the restrictions contained herein. Above-ground pools shall not be permitted. The ARC shall have the right to adopt further rules and regulations governing the construction of swimming pools, other outdoor water features or amenities, and tennis courts within the Condominium.

12.26 Golf Course Protection.

a. Owners and Occupants, as well as their family members, guests, agents and invitees shall be obligated to refrain from any actions or activities which would detract from the playing qualities on the Golf Course, distract golfers, or which would create a nuisance. Such prohibited activities shall include, without limitation, burning materials where the smoke would cross the Golf Course, maintenance of dogs or other pets which would interfere with Golf Course play due to their loud barking or odors, entrance onto the Golf Course property, passage over and along the golf cart pathways, playing of loud radios, televisions, stereos or musical instruments, running or walking on the fairways, picking up golf balls or similar interference with play or allowing unsightly trash, rubbish, weeds or undergrowth to remain or grow on any Unit.

b. Owner and Occupants, together with their respective family members, guests, agents and invitees, do, by acceptance of a deed to such Unit or by their entrance onto such Unit, hereby waive and release Developer, its employees, golf course employees, the ARC, shareholders, members and partners, from any and all liability of any nature whatsoever arising out of or in connection with any damage or injury

(including death) to their person or property caused by any golf balls entering onto such Unit and/or the Improvements constructed thereon.

c. No landscaping or plantings which would interrupt or interfere with the natural flow of the visual and actual play of the Golf Course shall be permitted. No trees located within fifty (50) feet of the boundary between the Golf Course property and any lot within this subdivision shall be cut, mutilated, or destroyed without the express written approval of the ARC.

12.27 Compliance with Governmental Regulations. Each Owner and Occupant shall at all times comply with all applicable laws, ordinances, statutes, rules, regulations, requirements, and code provisions of the Governmental Authorities.

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

ARTICLE XIII

ALIENABILITY OF UNITS

13.1. No Alienability Restrictions. The right of an Owner to sell, transfer, assign or hypothecate his Unit shall not be subject to the approval of the Association. Accordingly, a proper transfer or conveyance of such Unit shall not require the written approval of the Association.

13.2 Leasing and Rental. Owners may lease or rent their Units for non-transient occupancy.

ARTICLE XIV

COMPLIANCE AND DEFAULT

14.1 Compliance and Default. Each Owner shall be governed by and shall comply with the terms of the Condominium Documents and the Condominium Rules and Regulations adopted pursuant to those documents and as they may be amended from time to time. Failure of an Owner to comply with the provisions of such documents and regulations shall entitle the Association or other Owners to pursue any and all legal and equitable remedies for the enforcement of such provisions, including, but not limited to, an action for damages, an action for injunctive relief or an action for declaratory judgment. Failure of the Association to comply with the provisions of the Condominium Documents and the Condominium Rules and Regulations adopted pursuant to those documents as they may be amended from time to time shall entitle the Owners to pursue any and all legal and equitable remedies for the enforcement of such provisions, including, but not limited to, an action for damages, an action for injunctive

relief or an action for declaratory judgment. All provisions of this Declaration shall be enforceable equitable servitudes and shall run with the land and shall be effective until the Condominium is terminated.

14.2 Costs and Attorney's Fees. In any proceeding arising because of an alleged failure of an Owner or the Association to comply with the terms of the Condominium Documents or the Condominium Rules and Regulations adopted pursuant to them as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and recover such reasonable attorney fees incurred therein, including all appeals and all proceedings in bankruptcy.

14.3 No Waiver of Rights. The failure of the Association or any Owner to enforce any covenant, restriction or other provision of the Condominium Act), the Condominium Documents or the Condominium Rules and Regulations shall not constitute a waiver of the right to do so thereafter.

14.4 Injunctive Relief. The Association may seek an injunction from a court of equity to compel or prohibit compliance or violation of the Condominium Documents regardless of whether an adequate remedy at law exists.

14.5 Governing Law: Waiver of Jury Trial: Venue of Actions. This Declaration shall be governed by, and shall be construed in accordance with, the laws of the State of Alabama, as the same may exist on the date of recording hereof. The Association, an Owner or Owners, the Developer, the Management Company and any other party claiming rights or obligations by, through or under this Declaration, or two or more of the foregoing, each hereby waive any right they may have under any applicable law to a trial by jury with respect to any suit or legal action which may be commenced by or against the others concerning the interpretation, construction, validity, enforcement or performance of this Declaration or any other agreement or instrument executed in connection with this Declaration. In the event any such suit or legal action is commenced by any party, the other parties hereby agree, consent and submit to the personal jurisdiction of the circuit court for the county in which the Condominium is situated, with respect to such suit or legal action, and each party also hereby consents and submits to and agrees that venue in any such suit or legal action is proper in said court and county, and each party hereby waives any and all personal rights under applicable law or in equity to object to the subject matter or personal jurisdiction and venue in said court and county. Such jurisdiction and venue shall be exclusive of any other jurisdiction and venue.

ARTICLE XV **AMENDMENTS**

15.1 By Owners. Except as otherwise provided herein, this Declaration may be amended in the following manner:

a. Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting of the Association at which a proposed amendment is to be considered.

b. Resolution. A resolution for the adoption of a proposed amendment shall be included in the notice of any meeting of the Association at which a proposed amendment is to be considered.

c. Adoption. A resolution amending the Declaration shall be adopted in the following manner:

(1) Board of Directors. Until the first election of a majority of the directors of the Association by Owners other than the Developer, proposal of any amendment and approval thereof shall require only the affirmative action of two-thirds (2/3) of the entire membership of the Board of Directors of the Association, and no meeting of the Owners nor any approval thereof need be had. However, no amendment may, unless specifically approved as provided in Section 15.1(c)(2) or below:

(a) materially alter or modify the appurtenances to the Unit, including voting rights, rights to use Common Elements, interests in Common Elements or the leasing of Units;

(b) materially amend any provision regulating assessments, assessment liens or subordination of liens;

(c) materially amend any provision regarding reserves for maintenance, repair and replacement of the Common Elements;

(d) materially amend any provision regarding insurance or fidelity bonds;

(e) materially amend any provision regarding the responsibility for maintenance and repair of the Condominium;

(f) impose any right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey a Unit;

(g) which address the convertibility of Units into Common Element or Common Elements into Units; or

(h) which changes the proportion or percentage by which an Owner shares the Common Expenses and owns the Common Surplus.

(2) Board of Directors and Owners. In addition to the procedure set forth above and after the first election of a majority of the directors of the Association

by Owners other than the Developer, a resolution for the adoption of a proposed amendment may be proposed by the Board of Directors of the Association or by the Owners. Owners may propose such an amendment by instrument in writing directed to the president or secretary of the Board signed by not less than holders of thirty-three percent (33%) of all of the votes of the Association. Amendments may be proposed by the Board of Directors by action of a majority of the Board at any regularly constituted meeting thereof. Upon an amendment being proposed as herein provided, the president or, in the event of his refusal or failure to act, the Board of Directors, shall call a meeting of the Owners to be held not sooner than fifteen (15) days nor later than sixty (60) days thereafter for the purpose of considering said amendment. Directors and Owners not present at the meeting considering the amendment may express their approval in writing; provided such approval is delivered to the secretary at or prior to the meeting. Except as provided herein, such approvals must be by not less than sixty-seven percent (67%) of the entire membership of the Board of Directors and not less than sixty-seven percent (67%) of the votes of the Association. Any amendment proposed by the Board of Directors as provided herein may be approved by the written consent of not less than sixty-seven percent (67%) of the votes of the Association.

(3) Any amendment listed under Section 15.1(c)(1) requires the consent of those Mortgagees providing notice to the Association under Section 15.3 below. Any amendment which would adversely affect Mortgagees must have the prior written consent of Mortgagees holding a first mortgage on Units to which at least fifty-one percent (51%) of the votes of the Association appertain and the prior written consent of Owners representing not less than sixty-seven percent (67%) of all of the votes of the Association.

d. Execution and Recording. Each amendment shall be attached to or shall contain a certificate certifying that the amendment was duly adopted, and the certificate shall be executed by the president of the Association and attested by the secretary with the formalities of a deed, and said amendment shall be effective upon recordation of the amendment and certificate in the Office of the Judge of Probate of Lee County, Alabama.

15.2 By the Developer. The Developer reserves the right at any time, so long as it owns any of the Units in the Condominium, to unilaterally amend this Declaration as it may deem appropriate, in its sole discretion, to carry out the purposes of the project, or as may be required by any lending institution, FHA, VA, FHLMC, FNMA, title insurance company or public body or as may be necessary to conform the same to the requirements of law or to facilitate the operation and management of the Condominium or the sale of Units in an FHA/VA approved condominium. Any amendments to this Declaration which may be unilaterally made by the Developer shall become effective upon the recording in the Office of the Judge of Probate of Lee County, Alabama, of an instrument executed solely by the Developer, setting forth the text of such amendment in full, together with the appropriate recording data of this Declaration.

No amendment to this Declaration unilaterally made by the Developer shall be permitted if such amendment would: (i) change the configuration, boundaries or size of any Unit in any material fashion; (ii) materially alter or modify the appurtenances to any Unit, including voting rights, rights to use Common Elements, interests in the Common Elements or the leasing of Units; (iii) which materially changes the proportion or percentage by which the Owners share the Common Expenses and own the Common Surplus; (iv) which materially amend any provision contained within this Declaration, the Association Articles or Bylaws regulating assessments, assessment liens or the subordination of liens, reserves for maintenance, repair or replacement of Common Elements; (v) which materially modifies the responsibility for maintenance and repair of the Condominium Property; (vi) which materially modifies the provisions regarding expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium; (vii) which addresses the convertibility of Units into Common Elements or Common Elements into Units; (viii) which imposes any right of first refusal or similar restrictions on the right to transfer or otherwise convey a Unit; (ix) which establishes self-management by the Association where professional management has been required by any Mortgagee; or (x) which materially amends any provision in this Declaration regarding insurance or fidelity bonds.

15.3 Notice to Mortgagees. Any Mortgagee, upon written request to the Association (such request to state the name and address of such Mortgagee and the Unit number at issue), will be entitled to timely written notice of any proposed amendment to this Declaration affecting a change in the boundaries of any Unit or the exclusive easement rights appertaining thereto, the interest in the Common Elements appertaining to any Unit or the liability for Common Expenses appertaining thereto, the number of votes in the Association appertaining to any Unit or the purposes to which any Unit or the purposes to which any Unit or the Common Elements are restricted.

ARTICLE XVI **TERMINATION**

The Condominium may be terminated in the following manners, in addition to the manner provided by the Condominium Act:

16.1. Agreement. The Condominium may be terminated at any time upon prior notification to the Division by the approval in writing of all Owners and all Mortgagees of record. Notice of a meeting at which the proposed termination is to be considered shall be given not less than thirty (30) days prior to the date of such meeting.

16.2. Termination Through Condemnation. The Condominium shall only be terminated by virtue of a condemnation action if all Condominium Property is taken in condemnation. If less than all of the Condominium Property is taken in condemnation, the Condominium shall continue as to those portions of the Condominium Property not so taken.

16.3. Certificate. Termination of the Condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its president and

secretary certifying to the facts effecting the termination, said certificate to become effective upon being recorded in the Public Records of Lee County, Alabama.

16.4 Shares of Owners after Termination. After termination of the Condominium, each Owner shall own an undivided share of the Condominium Property and all assets of the Association as a tenant in common in accordance with Exhibit "D".

16.5 Notice to Mortgagees. Any Mortgagee, upon written request to the Association (such request to state the name and address of such Mortgagee and the Unit number at issue), will be entitled to timely written notice of any proposed termination of the Condominium.

ARTICLE XVII **VOTING RIGHTS**

Association Membership and Voting. Each Unit shall have one (1) vote in the Association. Where a Unit is owned by more than one owner, the co-tenants of the Unit shall file a voting certificate with the Association, in accordance with the Articles and Bylaws of the Association, setting forth which co-tenant is designated to cast the vote for that Unit.

ARTICLE XVIII **MERGER**

This Declaration, the Association and the Common Elements of the Condominium described herein may be merged with the declaration of condominium, condominium association and common elements of another independent and separate condominium to form a single condominium with the consent of sixty-six and two-thirds percent (66-2/3%) of the total number of voting interests and with the approval of all of the record owners of liens on the Units. In the event such consent and approval is obtained, a new or amended declaration of condominium, Certificate of Formation and bylaws of the Association shall be recorded and shall contain such provisions as are necessary to amend and modify the appurtenances to the Units and percentages by which the Owners of Units share the Common Expenses and own the Common Surplus and Common Elements in order to create a consolidated single condominium.

ARTICLE XIX **SEVERABILITY**

The invalidity in whole or in part of any covenant or restriction, or any article, section, subsection, sentence, clause, phrase or word, or other provision of the Condominium Documents and the Condominium Rules and Regulations shall not affect the validity of the remaining portions.

IN WITNESS WHEREOF, the Developer has executed this Declaration of Condominium this ____ day of _____, 2012.

DILWORTH DEVELOPMENT, INC.

By: _____
Michael Dilworth, President

STATE OF ALABAMA

LEE COUNTY

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Michael Dilworth, whose name is signed to the foregoing Declaration of Condominium as President of Dilworth Development, Inc., an Alabama corporation, and who is known to me, acknowledged before me on this day that, being informed of and understanding the contents of same, that he executed the same voluntarily as such officer for and on behalf of said corporation on the day the same bears date.

Given under my hand the ____ day of _____, 2012.

(Notary Seal)

Notary Public, State at Large
My Commission Expires

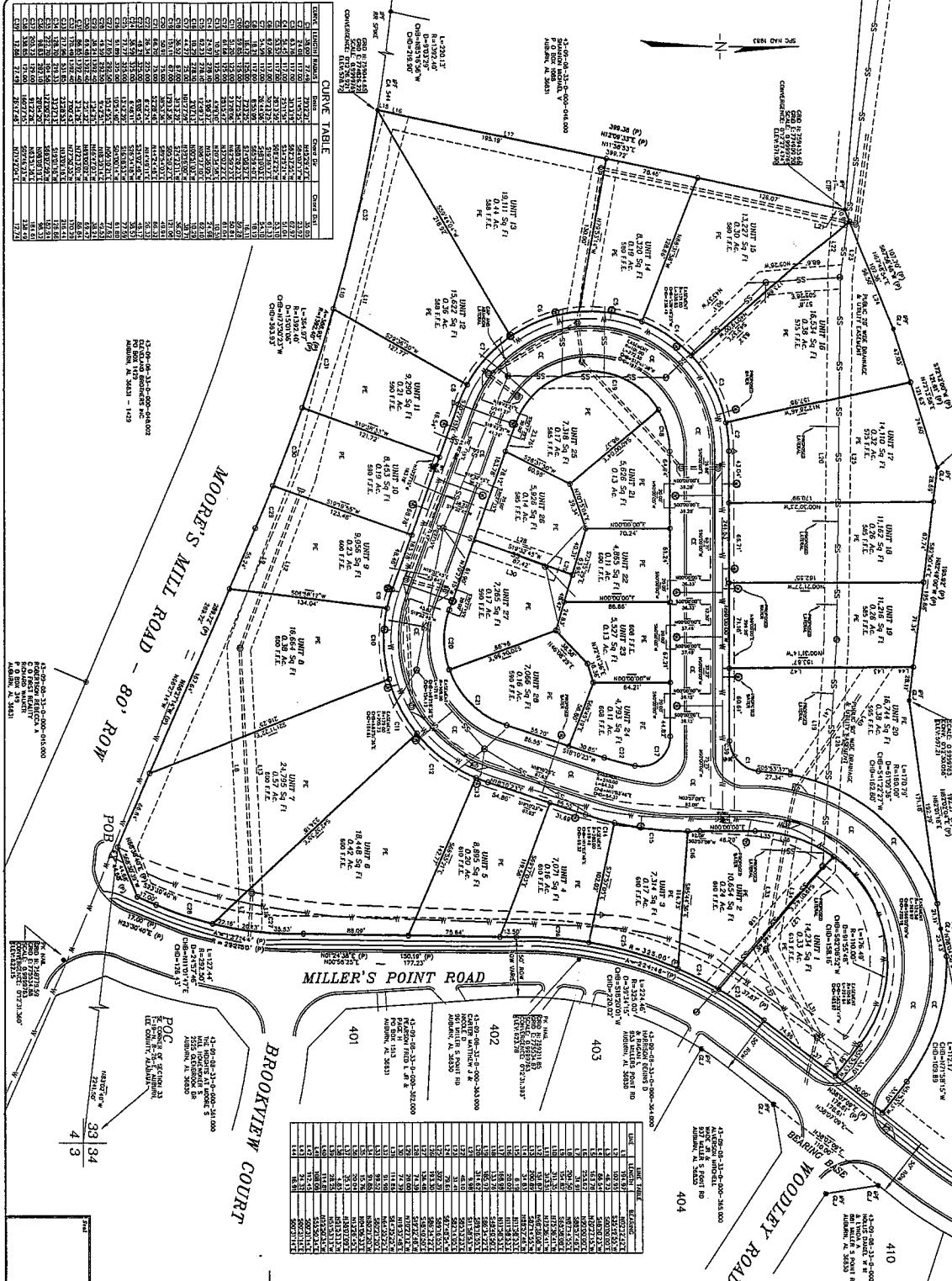
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**Exhibit A to Declaration
Legal Description**

Metes and Bounds Description of Millwood Land Condominium Parcel

Commence at the Southeast corner of Section 33, Township 19 North, Range 26 East, Auburn, Lee County, Alabama, thence North 83°02'40" West, a distance of 2241.50 feet to a set ½" rebar by Precision Surveying (CA-788) and the point of beginning of the parcel herein to be described; from this POINT OF BEGINNING, thence along the North right of way of Moores Mill Road North 66°27'14" West, a distance of 289.72 feet to a set CA-788 rebar and the beginning of a curve concave to the south having a radius of 1392.40 feet and a central angle of 15°01'06" and being subtended by a chord which bears North 73°30'23" West 363.93 feet; thence along the Northely right of way of Moores Mill Road westerly along said curve, a distance of 364.97 feet to a found ½" rebar with CA-544 plastic cap (Robertson Land Surveying) and a point of cusp; thence leaving said right of way North 11°58'53" East, a distance of 399.72 feet to a 1" open top iron pin; thence North 67°48'54" East, a distance of 107.36 feet to a found pin by Grady L Jimmerson (GLJ); thence North 72°13'58" East, a distance of 121.63 feet to a found GLJ pin; thence South 82°50'44" East, a distance of 195.88 feet to a found GLJ pin; thence North 82°01'18" East, a distance of 192.29 feet to a found GLJ pin in the Northwest margin of a private road for Millwood Land Condominium thence along said private road North 78°04'58" East, a distance of 23.43 feet to a CA-788 ½" rebar and a point of cusp on a curve of the Northerly margin of a private road for Millwood Land Comdominium, said curve being concave to the Southeast having a radius of 160.00 feet, an arc length of 112.17 feet and a chord bearing of North 71°58'15" West and a chord distance of 109.89 feet to a CA-788 1#2" rebar; thence tangent to said curve and following the Northerly margin of said private road North 51°53'13" West, 33.10 feet to a CA-788 1#2" rebar set in the Westerly right of way of Miller Pointe Road; thence along said road South 38°07'09" West tangent to said curve, a distance of 124.96 feet to a CA-788 ½" rebar at the beginning of a curve tangent to said line; thence along said right of way southwesterly a distance of 224.46 feet along the curve concave to the east, having a radius of 325.00 feet and a central angle of 39°34'15" to a CA-788 ½" rebar; thence along said right of way South 00°58'25" West, a distance of 177.23 feet to a CA-788 ½" rebar and the beginning of a curve concave to the west having a radius of 292.50 feet and a central angle of 24°57'46" and being subtended by a chord which bears South 11°01'47" West 126.43 feet; thence southerly along said curve, a distance of 127.44 feet to a CA-788 ½" rebar; thence South 23°30'40" West tangent to said curve, a distance of 17.00 feet to a CA-788 ½" rebar; thence South 68°30'39" West, a distance of 44.68 feet to the point of beginning.

Millwood Land Condominium Moore's Mill Subdivision Fourth Addition A Portion of Lot 439 Section 33 T 19 N R 26 E



STATION	CHORD BEARING	CHORD DIST.	CHORD AREA
1	N 10° 00' 00" E	100.00	100.00
2	N 10° 00' 00" E	100.00	100.00
3	N 10° 00' 00" E	100.00	100.00
4	N 10° 00' 00" E	100.00	100.00
5	N 10° 00' 00" E	100.00	100.00
6	N 10° 00' 00" E	100.00	100.00
7	N 10° 00' 00" E	100.00	100.00
8	N 10° 00' 00" E	100.00	100.00
9	N 10° 00' 00" E	100.00	100.00
10	N 10° 00' 00" E	100.00	100.00
11	N 10° 00' 00" E	100.00	100.00
12	N 10° 00' 00" E	100.00	100.00
13	N 10° 00' 00" E	100.00	100.00
14	N 10° 00' 00" E	100.00	100.00
15	N 10° 00' 00" E	100.00	100.00
16	N 10° 00' 00" E	100.00	100.00
17	N 10° 00' 00" E	100.00	100.00
18	N 10° 00' 00" E	100.00	100.00
19	N 10° 00' 00" E	100.00	100.00
20	N 10° 00' 00" E	100.00	100.00
21	N 10° 00' 00" E	100.00	100.00
22	N 10° 00' 00" E	100.00	100.00
23	N 10° 00' 00" E	100.00	100.00
24	N 10° 00' 00" E	100.00	100.00
25	N 10° 00' 00" E	100.00	100.00
26	N 10° 00' 00" E	100.00	100.00
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PRECISION SURVEYING
2124 Moore's Mill Road
Suite 100
Moore's Mill Subdivision
Fourth Addition
A Portion of Lot 439
Section 33 T 19 N R 26 E

Exhibit B to Declaration
Certificate of Formation of Millwood Owners Association, Inc.

See attached.

**CERTIFICATE OF FORMATION
OF
MILLWOOD OWNERS ASSOCIATION, INC.
(An Alabama Non-Profit Corporation)**

The undersigned, for the purpose of forming a non-profit corporation pursuant to the provisions of Alabama Code §10A-1-1.01 to §10A-1-9.32 and Alabama Code §10A-3-1.01 to §10A-3-8.02, does hereby adopt the following Certificate of Formation::

1. **NAME.** The name of the corporation is “Millwood Owners Association, Inc.” (hereinafter referred to as the “Association”).
2. **TYPE OF ENTITY.** The type of entity being formed is a non-profit corporation.
3. **DURATION.** The period of duration of the Association shall be perpetual.
4. **PURPOSES.** The purposes for which the Association is organized are:

(a) To own, operate, maintain, manage, repair, and replace Common Elements of Millwood Land Condominium and all appurtenances thereto, which is situated in the Lee County, State of Alabama and described as follows:

See Exhibit “A”, attached hereto and incorporated herein.

all of the foregoing being hereinafter referred to as “Millwood” or the “Property”.

(b) To perform and carry out the acts, duties, responsibilities, and conditions delegated to the Association in the Declaration under Alabama Uniform Condominium Act, these Articles of Incorporation, the Bylaws of this Association and all amendments thereto, and all the powers enumerated in Section 35-8A-302 Code of Alabama (1975).

(c) To make, establish and enforce reasonable rules and regulations governing the administration, operation, and management of the Property.

(d) To make, levy, collect, and enforce assessments, as defined in the Declaration, and to use and expend such assessments in the manner set forth in the Declaration.

(e) To employ personnel and contract for services, material, and labor, including contracting for the management of the Common Areas.

(f) To purchase and maintain insurance for such coverages, with such insurance carriers, in such amounts, at such rates, and with such deductibles as may be necessary for the protection of the Association, its officers, directors, and members.

(g) to sue and be sued, complain and defend in its corporate name.

(h) To enter into, make and perform contracts of every kind for any lawful purpose, without limit as to the amount, with any person, firm, association, partnership, limited partnership, corporation, municipality, county, state, territory, government, governmental subdivision or body politic.

(i) To carry on any other business in connection with the foregoing, to transact any or all lawful business for which corporations may be incorporated under the Alabama Nonprofit Corporation Act, as amended, and to have and exercise all powers necessary or convenient to effect the purposes of the Association in accordance with and subject to the terms and provisions of the Declaration.

5. **INITIAL REGISTERED OFFICE AND AGENT.** The location and mailing address of the initial registered office of the Association, and the name of its initial registered agent at such address, are as follows:

Michael Dillworth
2124 Moores Mill Road, Suite 130A
Auburn, Alabama 36830

6. **NONSTOCK AND NONPROFIT STATUS.** The Association shall have no capital stock, is not organized for profit, and does not contemplate pecuniary gain or profit to the members thereof. No part of the earnings of the Association shall inure to the benefit of any member, individual, officer, or director. The Association does not contemplate the distribution of gains, profits, or dividends to the members thereof and is organized solely for nonprofit purposes.

7. **MEMBERS.** The members of the Association shall consist of all Owners of Units in Devonshire. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Unit. The voting rights of any member may be limited and suspended in accordance with the provisions of the Declaration.

8. **DIRECTORS.**

(a) **Number of Directors.** Subject to the terms of the Declaration, which shall be deemed controlling in the event of any conflict with these Articles, the affairs of the Association shall be managed by a Board of Directors. The number of Directors constituting the initial Board of Directors shall be three (3). Thereafter, the number of Directors may be increased or decreased from time to time by action of a majority of the Board of Directors; provided, however, that (i) the number of Directors shall in no event consist of less than three (3) Directors and (ii) no decrease in the number of Directors shall have the effect of shortening the term of any incumbent Director. The names and addresses of each person who is to serve as an initial Director of the Association until their successors are elected and qualified or until such Directors are removed as provided in Paragraph 7(b) of these Articles are as follows:

Michael T. Dilworth
2124 Moores Mill Road
Suite 130A
Auburn, AL 36830

Spencer Sisson
2124 Moores Mill Road
Suite 130A
Auburn, AL 36830

Daniel DeShazo
2124 Moores Mill Road
Suite 130A
Auburn, AL 36830

(b) **Removal.** The members of the Association shall have the right at any time and from time to time to remove any Director, either with or without cause, and may appoint a successor to such removed Director. Any vacancies which may thereafter arise on the Board shall be filled as provided in the Bylaws.

(c) **Powers.** Except as may be otherwise provided to the contrary in the Declaration, these Articles of Incorporation or the Bylaws of the Association, all powers of the Association shall be exercised by or under authority of, and the business and affairs of the Association shall be managed under the direction of, the Board of Directors. The Board of Directors shall by majority action appoint and remove the Officers of the Association.

(d) **Conflicts of Interest.** No contract or other transaction between the Association and one or more of its Directors or any other corporation, firm, association, or entity in which one or more of its Directors are directors or officers or are financially interested, shall be either void or voidable because of such relationship or interest. Any Director of the Association or any corporation, firm, association, or entity of which any Director of the Association is a director or officer or is financially interested may be a party to, or may be pecuniarily or otherwise interested in, any contract or transaction of the Association, provided that such relationship or interest in such contract or transaction shall be disclosed or known to the Board of Directors at a meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction and, if such fact shall be disclosed or known, any director so related or interested may be counted in determining a quorum at such meeting and may vote on such matter or action with the same force and effect as if he were not so related or interested. Any Director of the Association may vote on any contract or other transaction between the Association and any affiliated corporation without regard to the fact that he is also a director of such affiliated corporation.

8. **INCORPORATOR.** The names and addresses of the incorporators are as follows:

Michael Dillworth
2124 Moores Mill Road, Suite 130A
Auburn, Alabama 36830

9. **DISTRIBUTION OF ASSETS UPON DISSOLUTION.**

(a) Upon dissolution of the Association, all of its assets remaining after provision for creditors and payment of all costs and expenses of such dissolution shall be distributed in the following manner:

(i) Real property contributed to the Association without the receipt of other than nominal consideration Dillworth Development, Inc. shall be returned to Dilworth Development, Inc. unless it refuses to accept the conveyance (in whole or in part);

and

(ii) Unless otherwise agreed to the contrary in the plan of distribution, all remaining assets shall be distributed among the members of the Association, as tenants in common, with each member's share of the assets to be determined in accordance with its voting rights.

(b) Dissolution of the Association shall be accomplished as set forth in the Alabama Nonprofit Corporation Act.

10. POWER OF PRESIDENT AND VICE PRESIDENT TO EXECUTE DOCUMENTS.
The President and each Vice President of the Association shall each have the authority to execute all instruments, documents and contracts on behalf of the Association.

11. INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS.

(a) The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed claim, action, suit, or proceeding, whether civil, criminal, administrative, or investigative, including appeals (other than an action by or in the right of the Association), by reason of the fact that he is or was a Director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a Director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such claim, action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association; and, with respect to any criminal action or proceeding, no reasonable cause to believe his conduct was unlawful. The termination of any claim, action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed claim, action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a Director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a Director, officer, partner, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association; provided, however, that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for willful, deliberate, or wanton misconduct in the performance of his duty to the Association unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

(c) To the extent that a Director, officer, employee, or agent of the Association has been successful on the merits or otherwise in the defense of any action, suit, or proceeding referred to in Paragraphs 11(a) and (b) above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith, notwithstanding that he has not been successful on any other claim, issue or matter in any such action, suit or proceeding.

(d) Any indemnification under Paragraphs 11 (a) and (b) above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Paragraphs 11(a) and (b) above. Such determination shall be made (i) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to or who have been wholly successful on the merits or otherwise with respect to such claim, action, suit, or proceeding, (ii) if such quorum is not obtainable, or, even if obtainable, if a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion or (iii) by a majority vote of the members of the Association.

(e) Expenses (including attorneys' fees) incurred in defending a civil or criminal claim, action, suit, or proceeding may be paid by the Association in advance of the final disposition of such claim, action, suit, or proceeding as authorized in the manner provided in Paragraph 11(d) above upon receipt of an undertaking by or on behalf of the Director, officer, employee or agent to repay such amount if and to the extent that it shall ultimately determine that he is not entitled to be indemnified by the Association as authorized in this Paragraph 11.

(f) The indemnification authorized by this Paragraph 11 shall not be deemed exclusive of and shall be in addition to any other right to which those indemnified may be entitled under any statute, rule of law, provisions of these Articles of Incorporation, Bylaw, agreement, vote of members or disinterested Directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person.

(g) The Association shall have power to purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a Director, officer, partner, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Paragraph 11.

12. **AMENDMENT.** These Articles may be amended, subject to the terms and conditions of the Declaration, by the affirmative vote of at least two-thirds (2/3) of the total votes in the Association (i.e., two-thirds (2/3) of all Owners).

13. **INCORPORATION BY REFERENCE.** All of the terms, provisions, definitions, covenants and conditions set forth in the Declaration are hereby expressly incorporated herein by reference as if fully set forth herein. In the event of any conflict or ambiguity between the terms, provisions, definitions, covenants, and conditions set forth herein and the Declaration, then the provisions of the Declaration shall at all times control.

IN WITNESS WHEREOF, the undersigned Incorporator has hereunto subscribed his name to these Articles of Incorporation as of this the ____ day of _____, 2012.

Michael Dilworth

STATE OF ALABAMA

LEE COUNTY

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Michael Dilworth, whose name is signed to the foregoing Articles of Incorporation and who is known to me, acknowledged before me on this day that, being informed of the contents of the Articles of Incorporation, he executed the same voluntarily for and as act of said limited liability company.

Given under my hand this the ____ day of _____, 2012.

(NOTARY SEAL)

Notary Public, State at Large
My commission expires

Prepared by:

René E. Richard, Esq.

HAYGOOD, CLEVELAND, PIERCE, MATTSON & THOMPSON, L.L.P.

611 East Glenn Avenue

Post Office Box 3310

Auburn, Alabama 36831-3310

(334) 821-3892

**Exhibit C to Declaration
Bylaws of Millwood Owners Association, Inc.**

See attached.

BYLAWS
OF
MILLWOOD OWNERS ASSOCIATION, INC.

The operation of the Condominium Property of the Condominium described and named in the Bylaws to which these Bylaws are attached shall be governed by these Bylaws.

ARTICLE I: ASSOCIATION MEMBERS: MEETINGS

Section 1. *Member and Voting Rights.* Each Unit Owner shall be a member of Millwood Owners Association, Inc. (hereinafter the "Association"). The membership of the Association shall consist of all of the Unit Owners. Each Unit Owner shall be entitled to one vote for each Unit owned by him.

Section 2. *Transfer of Membership.* The Association shall not issue stock. Membership in the Association may be transferred only as an incident to the transfer of title to a Unit as and in the manner provided for by the Declaration and these Bylaws, and, upon compliance with all of the terms thereof, shall become effective, if in accordance with the foregoing, upon the recording of a deed of conveyance to the said Unit.

Section 3. *Annual Meeting of Members.* The annual meeting of the Unit Owners shall be held on the first Monday in the same month each year beginning on the first Monday in the sixth month following the first sale of a Unit, or at such other date as may be specified by a majority of the Board of Directors, at such location on the Condominium Property as the President or a majority of the Board of Directors shall specify in writing to the Unit Owners, or at such other place in Lee County, Alabama, as the President or a majority of the Board of Directors shall designate.

Section 4. *Special Meetings of Members.* A special meeting of the Unit Owners may be called at any time by the President or by a majority of the Board of Directors, and shall be held at such place as is designated by the President or a majority of the Board of Directors and stated in a written notice. No special meeting shall be called unless the Secretary of the Association shall have mailed to or served upon all of the Owners written notice of the said meeting at least ten (10) days prior to the date of said meeting. A special meeting shall also be called by the President upon written demand of a majority of the Unit Owners, and in the event such demand is made, then and in that event, the President shall direct the Secretary to mail to or serve upon all of the Unit Owners written notice of the said meeting at least ten (10) days prior to the date of the meeting. All notices shall be mailed to or served at the address of the Unit Owner as it appears on the books of the Association.

Section 5. *Qualifications of Officers.* Until more than fifty percent (50%) of the Units are sold to persons other than the Developer, an officer need not be a Unit Owner. Thereafter, at least two (2) of the officers shall be Unit Owners. No Unit Owner shall be eligible for election as an officer if he is delinquent in the payment of his assessment. Except for the Developer, a transfer of title of his Unit by an officer who is a Unit Owner shall automatically operate as his resignation as an officer and as a member of the Board of Directors.

Section 6. *Removal and Vacancies.* An officer or Director may be removed from office upon the affirmative vote of a majority of the Unit Owners for any reason deemed by the Unit Owners to be in the best interest of the Condominium. In the event of any removal, resignation or vacancy in any of the offices, the remaining members of the Board of Directors shall elect a person to serve as a successor to the removed, resigned or vacant officer, who shall hold office for the balance of the unexpired term and shall succeed to a membership in the Board of Directors for the same term. The election held for the purpose of filling said vacancy may be held at any regular or special meeting of the Board of Directors.

Section 7. *Annual Meeting of Board of Directors.* The annual meeting of the Board of Directors shall be held at such place in Lee County, Alabama, as may be agreed upon by the Board of Directors immediately following the adjournment of the annual meeting of the Owners. The Board of Directors may establish a schedule of regular meetings to be held at such place as the Board of Directors may designate, in which event no notice shall be required to be sent to the said Board of Directors of said regular meetings once said schedule has been adopted.

Section 8. *Special Meetings of Board of Directors.* Special meetings of the Board of Directors may be called by the President, and in his absence, by the Vice-President, or by a majority of the members of the Board of Directors, by giving three (3) days notice, in writing, to all of the members of the Board of Directors of the time and place of said meeting, said notice to be mailed to or personally served on each member of the Board of Directors by the Secretary of the Association. By unanimous consent of the Board of Directors, a special meeting of the Board of Directors may be held without notice at any time or place. All notices of special meeting shall state the purpose of the meeting.

Section 9. *Quorum.* A quorum for the transaction of business at any regular or special meeting of the Board of Directors shall consist of a majority of the members of the Board but a majority of those present at any annual, regular or special meeting shall have the power to adjourn the meeting to a future time, provided that written notice of the new time, date and place shall be mailed to or personally served on each member of the Board of Directors by the Secretary of the Association at least three (3) days prior to the time fixed for said meeting.

Section 10. *Compensation.* The officers and Directors of this Association shall serve without compensation.

ARTICLE II. OFFICERS: POWERS AND DUTIES

Section 1. *The President.* He shall be the Chief Executive Officer of the Association. He shall preside at all meetings of the Unit Owners and of the Board of Directors. He shall have executive powers and general supervision over the affairs of the Association and other officers. He shall sign all written contracts of the Association, and shall perform and have the powers necessary to perform all of the duties incident to his office and that may be delegated to him from time to time by the Board of Directors.

Section 2. *The Vice-President.* He shall perform all of the duties of the President in the event of the President's absence and such other duties as may be required of him from time to time by the Board of Directors.

Section 3. *The Secretary-Treasurer.*

A. He shall issue notices of all Board of Directors meetings and all meetings of the Unit Owners; he shall attend and keep the minutes of the same; he shall have charge of all of the Association books, records and papers.

B. He shall have the custody of the Association funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit all moneys and other valuable effects in the name and to the credit of the Association in such depositories as may be designated from time to time by the Board of Directors.

C. He shall disburse the funds of the Association as may be ordered by the Board in accordance with these Bylaws, making proper vouchers for such disbursements, and shall render to the President and Board of Directors at the regular meeting of the Board of Directors, or whenever they may require it, an account of all of his transactions as Treasurer and of the financial condition of the Association.

D. He shall collect the assessments and shall promptly report the status of collections and of all delinquencies to the Board of Directors.

E. He shall also give status reports to potential transferees, on which reports the transferees may rely. The liability of the Owners shall continue until the transfers have been approved and all such transferees shall be deemed liable for past due assessments (other than institutional mortgagees or purchasers at institutional mortgage foreclosure sales).

Section 4. *Bond.* The Secretary-Treasurer and all officers who are authorized to sign checks, must be bonded in an amount equal to the total anticipated assessments for a full year.

ARTICLE III: POWERS OF THE ASSOCIATION

The Association, acting through the Board of Directors, shall have the following powers:

Section 1. *Declaration.* All of the powers specifically set forth in the Declaration and all of the powers incidental thereto.

Section 2. *Bylaws.* All of the powers specifically set forth in the Bylaws and all of the powers incidental thereto.

Section 3. *Condominium Act.* All of the powers specifically set forth in the Condominium Act and all powers incidental thereto.

Section 4. *Miscellaneous Powers.*

A. To use and expend the assessments collected to carry out the purposes and powers of the Association.

B. To employ attorneys, accountants and other professionals as the need arises.

C. To employ workmen, janitors, gardeners, and such other agents and employees to carry out the powers of the Association and to purchase supplies and equipment therefor.

ARTICLE IV: FINANCE AND ASSESSMENTS

Section 1. *Depository.* The funds of the Association shall be deposited in a bank in Lee County, Alabama, designated by the Board of Directors in an account for the Association under resolutions approved by the Board of Directors and shall be withdrawn only upon checks and demands for money signed by any of the officers of the Association. All notes of the Association shall be signed by any two of the officers of the Association.

Section 2. *Fiscal Year.* The fiscal year for the Association shall begin on the first day of January of each year; provided, however, that the Board of Directors is expressly authorized to change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed by the Internal Revenue Code of the United States of America at such time as the Board of Directors deems it advisable.

Section 3. *Determination of Assessments.*

A. The Board of Directors of the Association shall fix and determine from time to time the sum or sums necessary and adequate for the common expenses of the Condominium Property. Common Expenses shall include expenses for the operation, maintenance, repair or replacement of the Common Elements, costs of carrying out the powers and duties of the Association, all insurance premiums and expenses relating thereto, taxes until separately assessed, and any other expenses designated as common expense from time to time by the Board of Directors of the Association. The Board of Directors is specifically empowered on behalf of the Association to make and collect assessments and to lease, maintain, repair, and replace the Common Elements of the Condominium. Funds for the payment of common expenses shall be assessed against the Unit Owners in the proportions or percentages of sharing common expenses provided in the Declaration. Said assessments shall be payable monthly, in advance, or as ordered by the Board of Directors. Special assessments, should such be required by the Board of Directors, shall be levied and paid in the same manner as hereinbefore provided for regular assessments.

B. When the Board of Directors has determined the amount of any assessment, the Secretary-Treasurer of the Association shall mail or present a statement of the assessment to each of the Owners. All assessments shall be payable to the Secretary-Treasurer of the Association and, upon request, the Secretary-Treasurer shall give a receipt for each payment made to him.

Section 4. *Delinquent Assessments.* In the event an assessment is not paid within fifteen (15) days of the date it is due and payable, the Association, through its Board of Directors, may proceed to enforce and collect said assessment and interest at the rate of eighteen percent (18%) per annum against the Unit Owner owing the same in any manner provided for or allowed by the Condominium Act.

Section 5. *Collection and Enforcement.* In connection with assessments, the Association shall have all of the powers, rights and privileges and legal remedies provided for by the Declaration and the Condominium Act for collection and enforcement of assessments. Further, in this connection, each Unit Owner shall be liable for his assessment in the same manner provided for by the Declaration, and shall likewise be responsible for reasonable attorney fees, interest and costs incurred by the Association incident to the collection of such assessment or enforcement of any lien held by the Association for unpaid assessments.

ARTICLE V: MAINTENANCE AND REPAIRS

Section 1. *Access.* Any officer of the Association, or any agent of the Board of Directors, shall have the irrevocable right to have access to each Unit from time to time during reasonable hours that may be necessary for the inspection, maintenance, repair or replacement of any Common Element therein or accessible therefrom or for making emergency repairs therein to prevent damage to the Common Elements or to another Unit or Units.

Section 2. *Maintenance and Repair.* The Board of Directors may enter into a contract with any firm, person or corporation for the maintenance and repair of the Condominium Property and may join with other condominium associations in contracting with the same firm, person or corporation for maintenance and repair. The Board of Directors may, by contract, empower and grant to such firm, person or corporation the right of access as set forth in Section 1 of this Article.

Section 3. *Unit Owners.* Every Unit Owner must perform promptly all maintenance and repair work within his own Unit which, if omitted, would affect the Condominium Property, and the condominium project in its entirety, or in part belonging to other owners, being expressly responsible for the damages and liabilities that his failure to do so may engender.

Section 4. *Prohibition.* No Unit Owner shall make any alteration in the portions of the improvements of a condominium which are to be maintained by the Association, or remove any portion thereof, or make any additions thereto, or do any work which would jeopardize the safety or soundness of the building containing his Unit or impair any easement.

Section 5. *Material Alterations.* There shall be no material alterations or substantial additions to the Common Elements, except as the same are authorized by the Board of Directors and ratified by the affirmative vote of a majority of the Unit Owners present at any regular or special meeting of the Unit Owners.

ARTICLE VI: VIOLATIONS

Section 1. In the event of a violation (other than the non-payment of an assessment) by the Unit Owner in any of the provisions of the Declaration, these Bylaws, or the applicable portions of the Condominium Act, the Association, by direction of its Board of Directors, may notify the Unit Owner by written notice of such breach, transmitted by Registered or Certified Mail, Return Receipt Requested, and if such violation shall continue for a period of thirty (30) days from the date of such notice, the Association, through its Board of Directors, shall have the right to treat such violation as an intentional, inexcusable and material breach of the Declaration, the Bylaws, or the pertinent provisions of the Condominium Act, and the Association may then, at its election, pursue any of the following options: (i) an action at law to recover for its damage on behalf of the Association or on behalf of the other Unit Owners; (ii) an action in equity to enforce performance on the part of the Unit Owner; or (iii) an action in equity for such equitable relief as may be necessary under the circumstances, including injunctive relief. Failure on the part of the Association to maintain such an action at law or in equity within sixty (60) days from date of a written request, signed by a Unit Owner, sent to the Board of Directors, shall authorize any Unit Owner to bring an action in equity or suit at law on account of the violation, in the manner provided for by the Condominium Act or other applicable statute. Any violations which are deemed by the Board of Directors to be a hazard to public health may be corrected immediately as an emergency matter.

ARTICLE VII: ACQUISITION OF UNITS

Section 1. *Voluntary Sale or Transfer.* Upon receipt of a Unit Owner's written notice, in accordance with the Declaration or the Condominium Act, the Board of Directors may, with the authorization and approval of a majority of the Unit Owners present at any regular or special meeting of the Unit Owners, acquire a condominium parcel in the name of the Association or a designee.

Section 2. *Acquisition on Foreclosure.* At any judicial sale of a Unit, the Board of Directors may, with the authorization and approval of a majority of the Unit Owners present at any regular or special meeting of the Unit Owners, acquire a condominium parcel in the name of the Association or its designee. The term "judicial" as used in this Section shall include any foreclosure, including by non-judicial power of sale, of any lien, including a lien for assessments. The power of the Board of Directors to acquire at any judicial sale shall never be interpreted as any requirement or obligation on the part of the Board of Directors, or of the Association, to acquire at any judicial sale, the provisions hereof being permissive in nature and for the purpose of setting forth the power in the Board of Directors to so acquire should the requisite approval of the Unit Owners be obtained.

ARTICLE VIII: NOTICE

Section 1. Whenever notices are required to be sent hereunder, the same shall be sent to the Unit Owners by Certified Mail, at their place of residence in the condominium building, and to the Association, by Certified Mail, at P.O. Box 1929, Auburn, AL, 36831. All notices shall be deemed and considered sent when mailed. Any party may reserve the right to change the place of notice to him or it by written notice, in accordance with the terms and provisions of this Article.

ARTICLE IX: AMENDMENTS TO THE BYLAWS

Section 1. These Bylaws may be amended in the same manner as the Declaration may be amended, and in accordance with the provisions of the Condominium Act and the Articles of Incorporation of the Association. No modification or amendment shall be valid unless set forth in, or annexed to, a duly recorded Amendment to the Declaration.

ARTICLE X: RULES AND REGULATIONS

Section 1. The Board of Directors may, from time to time, adopt and amend previously adopted administrative Rules and Regulations covering the details of the operation and use of the Common Elements of the Condominium; provided, however, that no such Rules and Regulations shall conflict with the Declaration, these Bylaws or the provisions of the Condominium Act, and in the event of any conflict between the said Rules and Regulations and the foregoing, the latter shall prevail. The Board of Directors shall, from time to time, post in a conspicuous place on the Condominium Property a copy of the Rules and Regulations adopted, from time to time, by the Board of Directors.

APPROVED AND DECLARED AS BYLAWS OF MILLWOOD OWNERS ASSOCIATION, INC., by the Undersigned:

DIRECTORS:

Michael Dilworth

Spencer Sisson

Daniel DeShazo

Exhibit D to Declaration
Undivided Interest in Common Elements

Each Unit Owner owns an equal share in Common Elements, which amounts to a $1/28^{\text{th}}$ undivided interest therein.

Exhibit 2 to Offering Statement
Budget

The attached budget has been prepared by the Developer.

Millwood Land Condominium
Initial Projected Budget

			Monthly	Annual
Revenue				
	Association Monthly Assessment:			
	28		\$1,400.00	\$16,800.00
Total Revenue			\$1,400.00	\$16,800.00
Expenses				
Utilities	Electric-C/A Lighting		\$375.00	\$4,500.00
	Water & Sewer		\$0.00	\$0.00
	Irrigation		\$75.00	\$900.00
	Garbage Removal		\$0.00	\$0.00
	Total Utilities		\$450.00	\$5,400.00
Operations	Landscape Maintenance		\$225.00	\$2,700.00
	Grounds Maint.	Straw	\$30.00	\$360.00
	Common Area Maintenance		\$45.00	\$540.00
	Pest Control & Termite bonds		\$0.00	\$0.00
	Total Operations		\$300.00	\$3,600.00
Insurance	Fire & Extended Coverage		\$125.00	\$1,500.00
	Fiduciary Policy		\$20.00	\$240.00
	Total Insurance		\$145.00	\$1,740.00
Administration	Professional Management		\$280.00	\$3,360.00
	Legal & Accounting		\$35.00	\$420.00
	Office Supplies & Postage		\$25.00	\$300.00
	Miscellaneous		\$20.00	\$240.00
	Total Administration		\$360.00	\$4,320.00
Total Expenses			\$1,255.00	\$15,060.00
Reserves				
Common Drive Resurfacing			\$145.00	\$1,740.00
Total Reserves			\$145.00	\$1,740.00
Total Expenses + Reserves			\$1,400.00	\$16,800.00
Revenue less Expenses and Reserves			\$0.00	\$0.00

**MILLWOOD LAND CONDOMINIUM
RECEIPT FOR CONDOMINIUM DOCUMENTS**

The undersigned acknowledges that the documents checked below have been received.

DOCUMENT

RECEIVED

Offering Statement

Declaration of Condominium

Certificate of Formation for Association (Exhibit to Declaration)

Bylaws for Association (Exhibit to Declaration)

Estimated Operating Budget (Exhibit to Offering Statement)

Condo Plat (Exhibit to Declaration)

Signature

Date

Printed Name: _____

Unit No. _____