

8008 1
Recorded in the Above
CONDO Book & Page
08-16-2019 02:01:15 PM
Bill English - Probate Judge
Lee County, AL
Book/Pg: 8008/1
Term/Cashier: CHPJDSK02 / CO
Tran: 22007.318145.425052
Recorded: 08-16-2019 14:01:40
REC Recording Fee
Total Fees: \$ 272.00

272.00

**DECLARATION OF CONDOMINIUM
OF
COLLEGE OAKS, A CONDOMINIUM**

**THIS INSTRUMENT PREPARED BY:
DAVIS, BINGHAM, HUDSON & BUCKNER, P.C.
ATTORNEYS AT LAW
324 EAST MAGNOLIA AVENUE
AUBURN, ALABAMA 36830
334.821.1908**

**DECLARATION OF CONDOMINIUM
OF
COLLEGE OAKS, A CONDOMINIUM**

This Declaration is made this 15 day of August, 2019, by FMS Holdings, LLC, an Alabama limited liability company, hereinafter called the "Declarant."

WITNESSETH:

WHEREAS, the Declarant is the fee simple owner and developer of certain real property located in Lee County, Alabama, as more particularly described in EXHIBIT "A", attached hereto and incorporated herein by reference (the "Land"); and

WHEREAS, the Declarant intends to improve said Land in the manner set out herein; and

WHEREAS, by this Declaration, the Declarant intends to develop and subdivide the Land into real estate parcels or units to establish a Condominium under the provisions of the Alabama Uniform Condominium Act, §§35-8A-101, et seq., Code of Alabama, 1975, as amended, hereinafter called the "Condominium Act" or "Act"; and

WHEREAS, a Condominium is a method of ownership which provides for a separate title to each unit and an undivided interest in and to the Common Elements of the development; and

WHEREAS, under the said Condominium Act it is necessary that the rights, privileges, and obligations of the Declarant, Owners, Occupants, the Association, Mortgagees and others who may be interested therein, be explicitly set forth.

NOW THEREFORE, the Declarant, pursuant to the Condominium Act, does hereby declare and state on behalf of itself, its successors and assigns, and on behalf of all persons having or seeking to acquire any interest of any nature whatsoever in the said Condominium Property, as follows:

ARTICLE I
PURPOSE

The Declarant states it is the owner in fee simple of and hereby submits the Land hereinafter described to the provisions of the Condominium Act referenced above. In addition, Declarant, its successors and assigns, may subsequently hereto submit additional real property to the provisions of the Declaration and this Condominium Act and may specifically include said additional real property as phases to this development and, as such, the same shall be treated as a part hereof as if originally so included and each Owner of such phased property shall have the same rights, privileges, burdens and duties as an original Owner. Each Owner shall also acquire a Common Interest in the Common Elements of any additional real property, or new phase, as if originally included herein.

ARTICLE II
DESCRIPTION OF LAND

The Land owned by the Declarant, which is herewith submitted to the condominium form of ownership is those certain parcels of land situated, lying and being in the County of Lee, State of Alabama, located off of Gay Street in Auburn, Alabama and being more particularly described in Exhibit "A" attached hereto and specifically made a part hereof.

ARTICLE III
DEFINITION AND TERMS

The following terms, when used in this Declaration and in the other instruments constituting the Condominium Documents, are intended to be consistent with the meaning subscribed to them by the Condominium Act and are defined herein as follows:

"Affiliate(s)" shall mean and refer to those fee simple title holders of the any Additional Land (if applicable), that submits their Land to the terms, easements, covenants, and restrictions of this Declaration, the Declarant's Control, and the development plan of College Oaks Condominium.

"Amenity Areas" means those portions of the Condominium Property forming part of the Common Elements and containing amenities intended for the benefit and use of Owners, their families, guests, occupants and invitees.

"Articles" means the Articles of Incorporation of the Association, recorded in the Office of the Judge of Probate of Lee County, Alabama.

"Assessment" means a proportionate share of the funds required for the payment of the Common Expenses, which from time to time may be levied against each Owner.

"Association" or "Owners Association" means the non-profit corporation known as College Oaks Condominium Owners Association, Inc., or a successor organization organized pursuant to the Condominium Act, of which all Owners shall be members, and which shall operate and manage the Condominium.

"Board" means the Board of Directors of the Association.

"Building" means all structures or structural improvements located on the Land and forming part of the Condominium.

"Bylaws" means the duly adopted Bylaws of the Association.

"Common Elements" means all that part of the Condominium Property which is not a part of the Units shown on the plat and plans, attached hereto as Exhibit "B" and as more particularly set forth in Article X and is the part or parts of the Condominium Property as set forth in the Declaration in which all of the Owners have an undivided interest as set forth on Exhibit "C". Common Element may be illustrated as "CE" on the Plats and Plans.

"Common Expenses" means and includes the actual and estimated expenses of operating the Condominium Property including, but not limited to, the maintenance, administration, improvement and repair of the Common Elements and Limited Common Elements, and any reasonable reserve for such purposes for which the Owners are liable to the Association in accordance with the Declaration and Bylaws.

"Common Interest" means the proportionate undivided interest in fee simple of the Common Elements appertaining to each Unit as expressed in this Declaration. The Common Interest of each Unit shall be determined by dividing each Unit (the "Numerator") by the total number of Units planned to be developed in the Condominium (the "Denominator"), and may be adjusted by the subdivision or creation of additional Units. The Common Interest shall be set forth on Exhibit C, as may be amended pursuant to the terms herein.

"Common Surplus" means the excess of all receipts of the Association including but not limited to rents, dues, Assessments, profits and revenues from the Common Elements or other assets of the Association remaining after the deduction of the Common Expenses and allowing for the retention of a reasonable reserve for future expenditures, all as fixed by the Association.

"Condominium" means College Oaks, a Condominium, and consists of the Land and Condominium Property submitted to the condominium form of ownership by this Declaration. Each Unit in the Condominium consists of the Private Elements together with an undivided interest in Common Elements.

"Condominium Act" means §§ 35-8A-101, et seq. Code of Alabama (1975, as amended), as may be amended from time to time.

"Condominium Documents" means and includes this Declaration, as the same may be amended from time to time, and the Exhibits attached hereto and incorporated herein by reference, which may also be amended from time to time and identified as follows:

EXHIBIT "A":	Description of Land
EXHIBIT "B":	Condominium Plat and Plans
EXHIBIT "C":	Common Interest in Common Elements and Limited Common Elements of each Owner.
EXHIBIT "D":	Articles of Incorporation of College Oaks Condominium Owners Association, Inc.
EXHIBIT "E":	Bylaws of College Oaks Condominium Owners Association, Inc.

"Condominium Property" or "Property" means and includes the Land, the Condominium and improvements located thereon which may be adjusted by Declarant as described herein, and all easements and rights appurtenant thereto for use or benefit in connection with the Condominium.

"Declarant" means FMS Holdings, LLC, its successors and assigns, as the maker of the Declaration, the developer of the Condominium, the respective Seller and the Grantor in the deeds originally conveying the Units.

"Declaration" means this instrument, by which the Land and the Condominium Property is submitted to the provisions of the Condominium Act, and such instruments as from time to time amend the same in accordance with said Act, the Bylaws and this Declaration.

"Institutional Mortgagee" means a bank, a savings and loan association, an insurance company, an FHA-approved mortgage lender, a pension fund, a credit union, a real estate or mortgage investment trust, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a mortgage banker or any other lender generally recognized in the community as an institutional type of lender or its loan correspondent, or the Declarant, holding a Mortgage on one or more Units.

"Land" means and includes the real property located in Lee County, Alabama, described and incorporated herein by reference on attached Exhibit "A" on which the Condominium Property and improvements are situated.

"Limited Common Elements" shall have the same meaning as is defined in the Act and as set out in Article X, of the Declaration. Limited Common Elements may be illustrated as "LCE" on the Plats and Plans.

"Majority" means Owners who in the aggregate, who are possessed of at least Two-Thirds (2/3) of the Common Interest.

"Member" means a member of the Association, membership in which is confined to persons holding fee simple ownership in a Unit.

"Occupant" means a person or persons in possession of a Unit, regardless of whether that person is an Owner, tenant, or lessee.

"Officers" means the officers of the Association.

"Owner" means the Person or Persons, individually or collectively, vested in aggregate fee simple ownership of a Unit, including the Common Interest associated therewith.

"Parking Area" means the improvements within the Condominium Property or improvements as may be dedicated on adjacent property designated for parking of automobiles and similar sized vehicles as dedicated by the Declarant, which includes reserved parking specifically delineated in the Plans for the Units. Units shall have two (2) parking space per Unit as shown on the Plans and designated as Private Element for each respective Unit. Each building shall have one (1) parking space designated for the benefit of visitors as shown on the Plans. Each buildings visitor parking space shall be a deemed a Limited Common Element for benefit of that specific building's Owners and occupants.

"Person" means a natural person, a corporation, partnership, association, trustee, fiduciary or other legal entity and their successors in interest.

"Plans" means the site plan, building plans and floor plans, which depict the location, layout, identifying number, and dimensions of the Units, Private Elements, Limited Common Elements and the Common Elements, identified as College Oaks, a Condominium, that are attached hereto as Exhibit "B", and by this reference made a part hereof.

"Private Elements" means a part or parts of the Condominium Property as set forth in this Declaration and intended for exclusive ownership or possession of a Unit as set forth herein, but subject to the easement rights granted herein to the Declarant, other Owners, and the Association. Private Element may be illustrated as "PE" on the Plats and Plans.

"Property" means and includes all improvements located on the Land as set forth in the Declaration, and as may be amended pursuant to the terms of the Declaration, and the easement rights and appurtenances thereunto belonging, and all other property, real, personal or mixed, intended for use in connection with the Condominium.

"Rules and Regulations" shall mean the Rules and Regulations that may from time to time be approved by the Declarant, the Association or the Board.

"Share" means the percentages in and to the Common Elements attributed to each Unit as set forth on Exhibit "C" and also referred to as the Common Interest, and by this reference made a part hereof.

"Special Assessments" means the costs and expenses, other than Common Expenses, for which the Owners are liable to the Association.

"Supplemental Assessments" means costs and expenses, other than Common Expenses and Special Assessments for which the Owners are liable to the Association. Said costs and expenses will be approved by the Board and a supplemental budget prepared to meet the needs of the insufficient or inadequate annual budget.

"Unit" means a part of the Property designed and intended for the use described herein and so specified as a Unit on the Plat and Plans.

- (a) The horizontal boundaries of each Unit shall be the upper and lower boundaries, as described below, extended to their planer intersects with the parametrical boundaries as follows:
 - (i) The upper boundary shall be the horizontal plane of the lower unfinished surface of the ceiling of the Unit.
 - (ii) The lower boundary shall be the horizontal plane of the upper surface of the supportive structure which serves the Unit's floor, excluding any floor

covering such as carpeting, hardwood or tile, which are all deemed to be part of the Unit.

- (b) The vertical boundaries of each Unit shall be the vertical planes of the interior surfaces of exterior windows, the interior surfaces of the entry doors bounding a Unit, and the inside of the inner edge of the vertical studs within the walls of the Unit perimeter extended to their planar intersections with each other and with the upper and lower boundaries. Sheetrock, paint, wall paper and light fixtures are specifically included in the Unit.
- (c) Each Unit shall include all improvements contained within such area, all interior walls within the Unit and any and all mechanical, plumbing and electrical fixtures and wiring and ducts located within and servicing such Unit.
- (d) When a Unit is conveyed, the following shall pass with it as appurtenances thereto: (i) an undivided share in the Common Elements and Common Surplus; (ii) the exclusive right to use such portion of the Common Elements as may be provided by this Declaration and as may not be separately conveyed in accordance with this Declaration; (iii) an exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, provided that an easement in a space that is vacated shall be terminated automatically; and (iv) other appurtenances as may be provided in this Declaration.

"Unit Designations" means the number, letter or combination thereof or other official designations as shown on the Condominium Plat and Plans attached hereto as Exhibit "B", and by this reference made a part hereof.

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

ARTICLE IV EASEMENTS AND TITLE EXCEPTIONS

SECTION 1. The Land, Units, Common Elements and Limited Common Elements shall be subject to the restrictions, easements, conditions, covenants, and limitations prescribed and established herein and are further declared to be subject to the restrictions, easements, conditions, covenants and limitations now of record affecting the Land and Condominium Property.

SECTION 2. Easements are hereby reserved throughout the Land and Condominium Property, including the Units, as may be required for utility services (including, without limitation, water, sewer, electricity, telephone and cable television) in order to adequately serve the Condominium Property.

SECTION 3. There may be utility equipment located in or on the Common Elements appurtenant to some Units. An easement is hereby reserved in favor of each Unit for the purpose of

placement, maintenance, repair and replacement of said utility equipment by the Declarant and the Owner of the appurtenant Unit; provided that no utility equipment shall be placed in any part of the Common Elements or Limited Common Elements without the prior written consent of the Board.

SECTION 4. The Common Elements shall be subject to a perpetual nonexclusive easement of way in favor of all Owners and the Declarant for all proper and nominal purposes and for the furnishing of services and facilities for which the same are reasonably intended for the enjoyment of said Owners and the Declarant, subject to all restrictions in the Condominium Documents. The Limited Common Elements shall be subject to a nonexclusive easement in favor of the Association for repair, service and other uses reasonably intended or required by the Association.

SECTION 5. An easement is hereby reserved over, under and through the Land, Condominium Property and all Units, in favor of the Association for purposes of permitting the Declarant or the Association to access any Common Element or Limited Common Element for maintenance, repair or replacement purposes; provided, however, that the Declarant or the Association shall take advantage of and use such easement only when any such Common Element or Limited Common Element is not otherwise reasonably accessible without entering into any such Unit; and provided, further, however, that any entry into a Unit by the Declarant or the Association or its agents pursuant to this Section shall occur in such a manner as to reasonably minimize the disruption caused to any lawful occupants of such Unit except in the event of an emergency wherein there is the potential of damage to life or property, the determination of which shall be in the sole and absolute discretion of the Association, in which event the Declarant or the Association and its agents shall be permitted to make such entry into such Units as is reasonably necessary to address and remedy said emergency.

SECTION 6. The Declarant or the Association may, but shall not be obligated to, dispense chemicals for the extermination of insects and pests within the Units, Common Elements, and Limited Common Elements. In the event the Association chooses to provide such pest control services, the Association and its duly authorized contractors, representatives and agents shall have, and the same is hereby declared, an easement to enter Units for the purpose of dispensing chemicals for the exterminating of insects and pests within the Units, Common Elements, and Limited Common Elements.

SECTION 7. As described in greater detail in Article V hereof, the Declarant has reserved development rights to add additional real property. Therefore, in addition to any easement rights granted in favor of the Declarant by the Act, an easement is hereby reserved for the benefit of the Declarant and its contractors and subcontractors over and across the Land and Condominium Property for all purposes necessary to enable the Declarant to construct and develop additional real property, as the case may be.

SECTION 8. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements, for itself, and the Association, and their respective representatives, successors and assigns, contractors and agents, over, across, under, through and upon each Unit for the purposes of:

(a) controlling soil erosion, including grading and planting with vegetation any areas of any Unit which are or may be subject to soil erosion;

(b) drainage of natural or man-made water flow and water areas from any portion of the Property;

(c) changing, modifying or altering the natural flow of water, water courses or waterways on or adjacent to any Unit, Common Element or Limited Common Element;

(d) dredging, enlarging, reducing or maintaining any water areas or waterways within the Condominium Property; and

(e) installing such pipes, lines, conduits or other equipment as may be necessary for slope control, drainage and waterway maintenance of any portion of the Condominium Property.

SECTION 9. The Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements for itself and its duly authorized successors and assigns, including without limitation, successors-in-title, agents, representatives, and employees, successors, assigns, licensees, and mortgagees, an easement over the Common Elements and Limited Common Element for the purposes of enjoyment, use, access, and development of the additional property, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Element and Limited Common Element for construction of roads, for the posting of signs, and for connecting and installing utilities serving the additional property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Element or Limited Common Element as a result of vehicular traffic connected with development of the additional property.

SECTION 10. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements for the Association to enter upon any Unit for emergency, security, and safety reasons. Such right may be exercised by the Declarant, any member of the Board, the Association's officers, committee members, agents, employees and managers of the Association, and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in emergencies, entry onto a Unit shall be only during reasonable hours and after notice to the Owner. This easement includes the right to enter any Unit to cure any condition which may increase the possibility of fire, slope erosion, immediate risk of personal injury, or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Board, but shall not authorize entry into any Unit without permission of the Owner, except by emergency personnel acting in their official capacities. Entry under this Section shall not constitute a trespass.

SECTION 11. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant rights and easements for the Association to enter all portions of the Condominium Property, including each Unit but excluding the interior of any residential dwelling, to make inspections to ensure compliance with the governing documents. Except in emergencies, entry onto a Unit shall be only during reasonable hours. This easement shall be exercised with a minimum of interference to the quiet enjoyment to Owners' property, and any damage shall be repaired by the Association at its expense.

Additionally, the Declarant or the Association may also enter into any area of the Condominium Property, to abate or remove, using such measures as may be reasonably necessary, any structure, thing or condition which violates the governing documents. All costs incurred, including reasonable attorney's fees, may be assessed against the violator as a Special Assessment.

Entry under this Section shall not constitute a trespass, and prior notice to the Owner shall not be required.

SECTION 12. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, reciprocal, appurtenant easements over every portion of the Common Elements, Limited Common Elements, every Unit, and any improvement which contributes to the lateral support of another portion of the Common Elements, Limited Common Element, or of a another Unit for lateral support, and each shall also have the right to lateral support which shall be appurtenant to and pass with title to such property.

SECTION 13. Declarant reserves, creates, establishes, promulgates and declares for itself and its successors, assigns, and designees and the Association the nonexclusive, perpetual, appurtenant right and easement, but not the obligation, to enter upon the ponds, streams, and wetlands located within the Common Elements or Limited Common Elements to (a) install, keep, maintain, and replace pumps and irrigation systems in order to provide water for the irrigation of any of the Common Elements or Limited Common Elements; (b) draw water from such sources for purposes or irrigation; (c) construct, maintain, and repair any bulkhead, wall, dam, or other structure retaining water; and (d) remove trash and other debris therefrom and fulfill maintenance responsibilities as provided in this Declaration. The Declarant, the Association, and their designees shall have an access easement over and across any of the Condominium Property abutting or containing any portion of any lake, pond, stream, or wetland to the extent reasonably necessary to exercise their rights under this Section.

SECTION 14. In addition to the items set forth in this Article IV, the Land, Condominium Property, the Units, Common Elements and Limited Common Elements are further declared to be subject to the following restrictions, easements, conditions, limitations, and title exceptions:

A. The terms, conditions, covenants, and provisions of the Condominium Documents;

B. Sewer, water, electric, telephone, cable, internet and other utility easements, if any, now or hereafter placed of record, including the right to erect, maintain and install all electrical, telephone and television wires, cables and conduits, sewers, water pipes and drains, and other improvements for public conveniences or utilities in, on, under, over, and through the Condominium Property.

C. Easements existing and to be created for ingress and egress to the Condominium;

D. Reservation of all oil, gas, and other minerals, together with all rights of ingress and egress for the use and enjoyment of same, which have heretofore been reserved or conveyed to others;

E. Any encroachments or facts which might be revealed by an accurate survey or personal inspection of the Condominium;

F. Ad valorem taxes which are a lien upon the Condominium, but are not yet due and payable;

G. Any and all restrictive covenants, reservations, restrictions, easements, rights of way, building setback lines, drainage and utility line easements, and reservations presently of record applicable to said Condominium Property;

H. Building setback lines and drainage and utility line easements as shown on the Plat or Plans, if any;

I. Zoning, planning and other restrictions or regulations upon the use of the Property as may be imposed by the City of Auburn, Alabama, or any other governmental authorities having jurisdiction over the Land and Condominium Property.

J. Development Rights and Special Declarant Rights granted Declarant by the Condominium Documents and by the Condominium Act.

K. Easements or claims of easements not shown by the public record.

L. Terms and conditions of all permits and licenses of federal, state and local government, including applicable agencies and departments and private and quasi governmental agencies having jurisdiction over the Property.

M. Those certain construction Mortgages held by River Bank & Trust.

SECTION 15. No Owner shall have a claim or cause of action against the Declarant, the Board, the Association, their successors or assigns, arising out of the exercise or non-exercise of any easement reserved hereunder or shown on any subdivision plat for the Condominium Property, except in cases of willful or wanton misconduct.

ARTICLE V **DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS**

SECTION 1. The Declarant reserves the right to change the interior design and arrangement of the Condominium Property and all Units, including without limitation, the erection or removal of interior walls, fixtures, plumbing, electrical wiring, doors, flooring, heating and air conditioning, ventilation and ducts, to alter the boundaries between Units and to increase or decrease the number of Units so long as the Declarant, or its affiliates or owners, owns the Units so altered. Changes in the boundaries between Units, as hereinbefore provided, shall be reflected by an amendment to the Plat and/or Plans and, if necessary, an amendment to this Declaration. An amendment to the Plat

and/or Plans or this Declaration reflecting an alteration of the boundaries of the Units owned by the Declarant must be signed and acknowledged only by the Declarant and need not be approved by the Owners and Mortgagees, whether or not such approval may elsewhere be required herein; provided, however, that, except as is set forth in Section 4 and Section 5 hereof, any change which shall result in a change in the undivided interest in the Common Elements or the Limited Common Elements or a change in the share of the Common Expenses or the Limited Common Expenses with respect to Owners of Units other than the Declarant at the time of such change or which shall result in the alteration of boundaries of Units (other than the common walls separating the Units owned by the Declarant) may not be made without an amendment of this Declaration approved by the Owners and Mortgagees in the manner elsewhere required herein.

SECTION 2. All Units, Common Elements, and Limited Common Elements shall be subject to the statutory right concerning sales and management offices and models in Units and the Common Elements in favor of the Declarant provided in § 35-8A-215 of the Condominium Act. The Declarant expressly reserves the right to use Units owned by Declarant as models, and any portion of the Common Elements or Units for management offices and/or sales and leasing offices. The Declarant further reserves the right to maintain on the Common Elements advertising signs in any location or locations and from time to time to relocate and/or remove the same, and to use and store a golf cart, or similar vehicle, to show the Condominium Property, all in the sole discretion of the Declarant.

SECTION 3. Neither the Owners nor the Board nor their use of the Condominium Property or application of this Declaration shall interfere with the completion of the contemplated improvements and sales of the Units in the Condominium until the Declarant has completed all of the Declarant's contemplated improvements and closed the sales of all of such Units. These special declarant rights exist so long as the Declarant owns any Unit in the Condominium or holds any Unit in the Condominium for sale in the ordinary course of business or leases any Unit it owns. The Declarant expressly reserves the right to lease any Unit which it may own in the Condominium Property on such terms as it may deem proper and desirable and may transfer Units subject to such lease, including leasing such Unit(s) to the Association for use as a management, sales, or leasing office.

SECTION 4. The Declarant hereby reserves the right to add up to four (4) additional Units, as well as applicable Limited Common Elements, to the Condominium, as Declarant may elect in its sole discretion. Any additional Units and any additional Common Elements and Limited Common Elements created within the Condominium will be substantially identical to those currently in existence, in external appearance, except that their size, configuration, use, proportions and number of rooms may be altogether different and no assurances are given with regard to such. The Declarant reserves the right to create Limited Common Elements and to designate Common Elements therein which may subsequently be assigned as Limited Common Elements and/or to designate Common Elements in areas reserved for additional Units. Upon the completion of any additional Units to the Condominium, the allocated Common Interests in the Common Elements and the Limited Common Elements, as is currently set forth on Exhibit "C" of the Declaration, shall be reallocated in accordance with the Declaration. When the Declarant elects to add additional Units to the Condominium as provided herein, it will do so by complying with the provisions of Alabama Code § 35-8A-210 (1975).

SECTION 5. The Declarant hereby reserves the right to add additional real property to develop up to thirty (30) additional Units to the Condominium on said additional real property, as Declarant may elect in its sole discretion ("Phase II"). Any such additional Units shall be built upon that portion of the adjacent real property to the Condominium (the "Phase II Land"); provided, however, that the Declarant expressly reserves the right to construct such additional Units anywhere on the Phase II Land that Declarant, in its sole and absolute discretion, deems necessary and appropriate. Any additional Units and any additional Common Elements and Limited Common Elements created within the Phase II Land will be substantially identical to those currently in existence, in external appearance, except that their size, configuration, proportions and number of rooms may be altogether different and no assurances are given with regard to such. The Declarant reserves the right to create Limited Common Elements within the Phase II Land and to designate Common Elements therein which may subsequently be assigned as Limited Common Elements and/or to designate Common Elements in areas reserved for additional Units. In the event that additional real property for Phase II is added, and Units are constructed and added to the Condominium, the allocated Common Interests in the Common Elements and the Limited Common Elements, as is currently set forth on Exhibit "C" attached to this Declaration, shall be reallocated in accordance with the Declaration. In the event Declarant exercises this development right, Declarant may, in its sole discretion, elect to build and construct Units in any one or more portions of the Phase II Land without building and constructing Units on the entirety of the Phase II Land all at once. Declarant expressly reserves the right to exercise this development right on multiple occasions until such time as either Declarant has constructed a maximum of thirty (30) Units on the Phase II Land and added such Units to the Condominium or the rights reserved by Declarant relative to Phase II expire and terminate. The Declarant's option to add additional real property to form Phase II, or any portion thereof, to the Condominium shall expire on the tenth (10th) anniversary of the recording of this Declaration. Should the Declarant elect to add additional real property and Units to the Condominium as provided herein, it will do so by complying with the provisions of Alabama Code § 35-8A-210 (1975), and Declarant shall not require the consent of any Unit Owner or mortgagee of any Unit. Any assurances made in this Section 5 will only apply if the Declarant adds additional real property and additional Units to the Condominium.

SECTION 6. Notwithstanding anything contained above to the contrary, the timing of the addition to the Condominium of Phase II, or any portion thereof, shall be in the sole and absolute discretion of the Declarant, and the Declarant makes no representations or warranties with respect thereto.

SECTION 7. Pursuant to the Code of Alabama § 35-8A-205 (a)(8), to exercise any development right reserved under said section, the Declarant shall prepare, execute, and record an amendment to the Declaration as specified in Code of Alabama § 35-8A-217 and comply with Code of Alabama § 35-8A-209.

SECTION 8. Any or all of the special rights and obligations of the Declarant set forth in this Declaration or other the governing documents may be transferred or assigned in whole or in part to the Association or to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the Bylaws. Upon any such transfer, the Declarant shall be automatically released from any and all liability arising with respect to such transferred rights and obligations. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records.

SECTION 9. The Declarant may maintain and carry on the Condominium Property such activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the development of the Condominium Property and/or the construction or sale of Units and/or other Units, projects and properties owned or controlled by the Declarant or affiliates of the Declarant, such as sales activities, tournaments, charitable events, and promotional events, and restrict Owner and Occupants from using areas of the Common Elements during such activities. Such activities shall be conducted in a manner to minimize (to the extent reasonably possible) any substantial interference with the Members' use and enjoyment of the Common Element. In the event that any such activity necessitates exclusion of Owners from Common Elements, such activities shall not exceed seven (7) consecutive days. The Declarant shall have easements over the Condominium Property for access, ingress and conducting such activities.

In addition, the Declarant may establish within the Condominium Property beneficial Amenities, including any clubhouse, such facilities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the development of the Condominium Property and/or the construction or sale of Units, including, but not limited to, business offices, signs, model Units, tents, sales offices, sales centers and related parking facilities (hereinafter collectively referred to as the "Sales Offices"). During the period of Declarant's control, Owners may be excluded from use of all or a portion of Sales Offices in the Declarant's sole discretion. The Declarant shall have easements over the Condominium Property for access, ingress, and egress and use of the Sales Offices. In addition, the Declarant may use the Sales Offices to promote and sell other Units, projects and properties, owned or controlled by the Declarant or affiliates of the Declarant.

Declarant may permit the use of any facilities situated on the Common Elements by Persons other than Owners without the payment of any use fees.

SECTION 10. The Declarant and its employees, agents and designees shall also have a right and easement over and upon all of the Common Elements for the purpose of making, constructing and installing such improvements to the Common Elements as it deems appropriate in its sole discretion.

SECTION 11. No Person shall record any declaration of covenants, conditions and restrictions, easements, or similar instrument affecting any portion of the Condominium Property without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by the Declarant and recorded in the Public Records. No such instrument recorded by any Person, other than the Declarant pursuant to Section, may conflict with the Declaration, Bylaws or Articles.

SECTION 12. Until the Declarant no longer owns any portion of the Condominium Property or has the right to annex property pursuant to the provisions herein, the Declarant shall have the right to disapprove any action, policy or program of the Association, the Board and any committee which, in the sole judgment of the Declarant, would tend to impair rights of the Declarant under the governing documents, or interfere with development of, construction on, or marketing of any portion of the Condominium Property, or diminish the level of services being provided by the Association. This right to disapprove is in addition to, and not in lieu of, any right to approve or

disapprove specific actions of the Association, the Board or any committee as may be granted to the Declarant in this Declaration or associated governing documents:

(a) The Declarant shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board or any committee. Such notice shall be given by certified mail, return receipt requested, email or by personal delivery at the address the Declarant has registered with the secretary of the Association, which notice complies with the Bylaws and which notice shall, except in the case of the regular meetings held pursuant to the Bylaws, set forth in reasonable particularity the agenda to be followed at such meeting. The Declarant may waive its right to receive notice in the same manner as provided in the Bylaws; and

(b) The Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Declarant, its representatives or agents may make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee; and

(c) No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met and the time period set forth in subsection (d) below has expired; and

(d) The Declarant, acting through any authorized representative, may exercise its right to disapprove at any time within ten (10) days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within ten (10) days following receipt of written notice of the proposed action. No action, policy or program shall be effective or implemented if the Declarant exercises its right to disapprove. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, or the Board or the Association. The Declarant shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

SECTION 13. Notwithstanding any contrary provision of this Declaration, no amendment to this Declaration shall be effective without prior notice to and the written consent of the Declarant, during the period of Declarant's control.

ARTICLE VI **NAME AND UNIT DESIGNATIONS**

The name by which this Condominium is to be known is COLLEGE OAKS, A CONDOMINIUM. The Unit designation of each Unit, its location, dimensions, approximate area, Common Elements to which it has immediate access, and other data concerning its proper identification, are set forth in the Plat and Plans marked Exhibit "B" attached hereto and made a part hereof.

ARTICLE VII
SERVICE OF PROCESS

The name of the person designated to receive process in any action which may be instituted in relation to this Condominium or any parts thereof, together with his business address is Joel Funderburk, 1293 North Dean Rd., Auburn, AL 36830.

ARTICLE VIII
EFFECTIVE DATE OF THE CONDOMINIUM

The effective date of the Condominium is the date when this Declaration is recorded and the other associated Condominium Documents are filed in the Office of the Judge of Probate of Lee County, Alabama. From and after the date of the recording of this Declaration, the Land and Condominium Property hereinafter described shall be and shall continue to be subject to each and all the terms thereof until this Declaration and this Condominium is terminated or abandoned in accordance with the provisions of the Condominium Act and of this Declaration.

ARTICLE IX
CONDOMINIUM UNITS

SECTION 1. General Description. The Condominium shall consist of one or more Buildings, together with parking areas, landscaping and other Common Elements, Limited Common Elements, and facilities as more specifically set forth and described in this Declaration and the Plat and Plans attached hereto. The floor plan and square footage of each Unit is shown on the Plans attached hereto as Exhibit B.

SECTION 2. Unit Ownership- Private Elements. Each Owner shall be entitled to the exclusive ownership, use and possession of his/her/its Unit, the floor plans of which are shown on the Plans attached hereto as Exhibit "B" and designated Private Elements. Each Owner shall have the unrestricted right of ingress and egress to his/her/its Unit, which right shall be an appurtenance to the Unit. The Private Elements will include the following:

- A. The air space of the area lying within the Unit boundaries.
- B. The structural components and surfacing materials of all interior walls located within the boundaries of the Unit.
- C. The surfacing materials on the interior of the exterior wall, all interior walls, floors and ceilings located within the boundaries of the Unit; and, with respect to ground floor Units, the sub-flooring.
- D. All interior trim and finishing materials within the confines of the Unit.
- E. Any toilets, sinks, appliances, and fixtures installed within a Unit, including but not limited to, lighting fixtures and all hardware and interior wall fixtures.

F. All pipes, ducts, vents, wires, cables and conduits within the boundaries of the Unit and forming part of any system servicing such Unit with power, light, telephone, sewer, water, heat and air conditioning, and specifically including the air conditioning unit servicing the Unit and all ducts, pipes, vents, and wiring relating thereto, some or all of which may be located outside of the Unit.

G. The associated parking spaces and patios for each Unit as delineated on the Plats and Plans attached on Exhibit "B" as "PE".

SECTION 3. Surfaces. No Owner shall be deemed to own the structural components of the exterior or adjoining walls. However, an Owner shall be deemed to own and shall have the exclusive right and duty to repair and maintain the sheetrock, paint, tile, paper or otherwise finish and decorate the surfacing materials on the interiors of exterior and adjoining walls. In addition, the Owner shall have the exclusive right and duty to wash and keep clean the interior surfaces of windows and doors bounding his/her/its Unit.

SECTION 4. Changes. The Declarant reserves the right to change the interior design and arrangement of the Condominium Property and any and all Units it owns. The Declarant further reserves the right to alter the boundaries between Units, which said alterations shall be reflected by an amendment of the Declaration and shall be known as a Special Declarant Right, which may be executed by the Declarant alone, notwithstanding the procedures for amendment described herein. However, no such change of boundaries shall increase or decrease the number of Units, nor alter the boundaries of the Common Elements, without the amendment of this Declaration in the manner described herein. No assurance is made concerning whether or not any Unit will be or will not be changed by the Declarant nor is any assurance made concerning the nature, character, or quality of said change. The exercise by the Declarant of the Special Declarant Right to change the Condominium Property, a Unit or number of Units does not obligate the Declarant to exercise said right in any one or all of any other Unit in the Condominium. Declarant reserves the right as a Special Declarant Right to add additional property to the Condominium as such right is allowed as Special Declarant Right pursuant to the Act, in which case the allocated Common Interests in the Common Elements and Limited Common Elements shall be adjusted accordingly.

ARTICLE X

COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

SECTION 1. Common Elements. Any right, title or interest in a Unit shall automatically carry with it as an appurtenance and without the necessity of specific reference thereto its respective undivided interest of the Common Elements and a right to use the Common Elements in conjunction with the other Owners. The Common Elements of the Condominium are all portions of the Condominium Property, other than the Units and Private Elements, and will include the common areas and facilities located substantially as shown on the Plat and Plans. Such Common Elements and facilities will include the following:

A. All of the Property, except property defined as a "Unit" or "Private Element" by this Declaration.

B. All improvements and parts of the Condominium Property which are not a Unit or Private Element, including but not limited to the Amenities Areas, if any.

C. The driveways, walkways and other means of ingress and egress to the Condominium Property and all signage located thereon.

D. The mechanical systems and installations providing service to any building or to any Unit other than HVAC units which shall be the responsibility of the respective Owner, such as electrical power, water, sanitary and storm sewer facilities, and including all lines, pipes, ducts, flues, chutes, conduits, cables, wires and all other apparatus and installations in connection therewith, whether located in the Common Elements, except when situated entirely within a Unit for service only of that Unit.

E. All tangible personal property required for the maintenance and operation of the Condominium and for the common use and enjoyment of the Owners.

F. All foundations, slabs, columns, railings, beams and supports of any building and such component parts of exterior walls and walls separating Units, roofs, floors and ceilings as are not described herein as Private Elements.

G. All tanks, pumps, motors, fans, compressors and control equipment, and garbage equipment which are not reserved for the use of certain Owners.

H. Lawn areas, landscaping, mail boxes, walkways, breezeways, sidewalks, curbs and steps forming part of the Condominium Property.

I. All area, outdoor and exterior lights not metered to individual Units.

K. All other parts of the Condominium Property existing for the common use or necessity of the existence, maintenance and safety of the Condominium or as designated as "CE" on the Plats and Plans.

L. All other items listed as such in the Act.

The Declarant, or the Association, as the case may be, reserves the right to adopt rules for the use of Common Elements, and may limit access to the Common Areas or Amenity Areas to certain times and/or under certain conditions.

SECTION 2. Limited Common Elements. The Limited Common Elements located on the Condominium Property and the Unit to which they are assigned are as designated on the Plats and Plans. The area above the upper surface of the ceiling of the Unit and the area within the interior and exterior walls of the Unit which contain plumbing lines, electrical and heating and air conditioning duct and similar mechanical or electrical systems shall also be deemed Limited Common Areas. The maintenance, repair and upkeep of systems and services and equipment within said area shall be the responsibility of the Association unless due to damage caused by the Owner to which the Limited Common Element is appurtenant. Notwithstanding the above, maintenance of any exterior windows, patios, balconies, doors, lighting, plugs, fans and fixtures within the Limited

Common Elements by Owners shall remain the responsibility of said Owners for maintenance, repair and/or replacement.

SECTION 3. Use. Each Owner may use the Common Elements in accordance with the purposes for which they are intended without hindering the exercise of or encroaching upon the rights of other Owners. The rights to use the Common Elements shall be subject to and governed by the provisions of the Act, Declaration, Bylaws, and the rules and regulations of the Association, as may be amended from time to time.

SECTION 4. Parking Area. The Parking Areas as designated by the Declarant on the Plats and Plans, located on the Condominium Property, are to be used by the Owners subject to the ordinances of the City of Auburn and any other rules/regulations as may be imposed. There shall be two (2) guaranteed parking space for each Unit which shall be designated as Private Element of such Unit. The Board may impose further regulations on the Parking Areas as it deems in the best interest of the Association.

ARTICLE XI **COMMON INTEREST**

SECTION 1. Each Unit shall have an undivided interest in the Common Elements as set forth in Exhibit "C" attached hereto, and as expressed in this Declaration. The Common Interest of each Owner in the Common Elements is determined by dividing each Unit (the "Numerator") by the total number of Units planned to be developed in the Condominium (the "Denominator"). For purposes of percentage of Common Interests in the Common Elements, the percentages as set out on Exhibit C shall govern. No 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.

SECTION 2. The Common Interest appurtenant to each Unit shall be permanent in character but will be altered without the consent of the Owners if any Unit is subdivided or Phase II is developed and dedicated as part of the Condominium subject to the conditions thereto. Any amendment to the Declaration which sets forth the proper subdivision of a Unit or subjects Phase II to the terms hereof will include a statement as to undivided Common Interest associated to each Unit following such subdivision or inclusion of additional Units.

SECTION 3. The Declarant shall have the irrevocable right, to be exercised by the Association or its designee, to have access to each Unit for the purpose of inspecting and making repairs, replacements or improvements to any Common Elements or Limited Common Elements and to the Unit itself where the responsibility therefore is upon the Association, or to prevent damage to the Common Elements, Limited Common Elements or other Units, or to abate any violations of law, orders, rules or regulations of any governmental authorities having jurisdiction thereof, or to correct any condition which violates the provisions of any mortgage covering another Unit.

SECTION 4. The Association shall, if any question arises, determine the purpose for which a Common Element or Limited Common Element is intended to be used. The Association shall have the right to promulgate rules and regulations limiting the use of the Common Elements and Limited

Common Elements to Owners, their agents, guests, invitees and employees. The Association shall also have the right to fix the rules regarding parking on the Condominium Property or adjacent property, including the requirement that vehicles parked bear a permit or decal.

SECTION 5.

A. The Association shall be responsible for the maintenance, repair, and replacement of the Common Elements and Limited Common Elements, except as otherwise provided for herein; provided that, if any repairs or replacements are made necessary because of abuse or negligent use thereof by an Owner or his/her/its agents, guests, invitees, or employees, the cost of such repair or replacement may be assessed against such Owner.

B. The maintenance, repair, replacement, management, operation and use of the Units and associated Private Elements are the responsibility of the Owners.

C. The Association may enter into a contract with any firm, person, or entity, or may join with other entities in contracting for the management, maintenance, and repair of the Condominium Property, and may delegate to such agent all or any portion of the powers and duties of the Association, except such as are specifically required by the Condominium Documents to have the approval of the Members of the Association; provided, however, that any such contract with the Declarant or an affiliate of Declarant shall be for a term not to exceed one year, and shall provide that it may be terminated by either party, without cause or payment of any fee, on not more than Ninety (90) days prior written notice.

SECTION 6.

A. Each Owner shall be liable for a proportionate share of the Common Expenses, and the proportionate share of Common Expenses shall be the same ratio as the Common Interest associated to each Unit. Payment of Common Expenses shall be in such monthly amounts and at such times as determined in the Bylaws by the Association. No Owner shall be exempt from payment of his/her/its proportionate share of the Common Expenses by waiver or non-use or non-enjoyment of the Common Elements, or by abandonment of his/her/its Unit.

B. Expenses incurred or to be incurred for the maintenance, repair, replacement, management, operation and use of the Common Elements and Limited Common Elements shall be collected from the Owners and assessed as Common Expenses by the Association.

C. If any Owner shall fail or refuse to make any payment of the Common Expenses when due, the amount due, together with interest thereon at the rate of Eighteen (18%) percent per annum or such lesser percentage as may then be permitted under the laws of the State of Alabama, from and after the date said Assessment becomes due and payable, shall constitute a lien on the interest of the Owner's Unit.

SECTION 7.

A. The Association shall have the right to make or cause to be made such alterations and improvements to the Common Elements or Limited Common Elements as in its opinion may be beneficial and necessary or which are requested in writing by an Owner and approved by the Association. The Association may require the consent in writing of such Owners and the holders of mortgages thereon, whose rights, in the sole opinion of the Association, may be prejudiced by such alteration or improvement.

B. If, in the sole opinion of the Association, as evidenced by a vote of a majority of the Board of Directors, an alteration or improvement is general in character, the costs thereof shall be assessed as Common Expenses.

C. If, in the sole opinion of the Association, as evidenced by a vote of a majority of the Board of Directors, an alteration or improvement is exclusively, or substantially exclusively, for the benefit of one or more requesting Owner(s), the cost shall be assessed against such Owner(s) in such proportion as the Association shall determine is fair and equitable. Nothing herein shall prevent the Owners affected by such alteration or improvements from agreeing in writing, either before or after the assessment is made, to be assessed in different proportions.

D. Except for repairs and maintenance of the existing improvements, after the completion of the improvements in accordance with the Plat and Plans, there shall be no alteration or further improvement of the Common Elements or Limited Common Elements without the prior approval of Owners representing a majority of the Common Interests. Any such alteration or improvement shall be financed and constructed in accordance with the provisions of the Bylaws.

SECTION 8. The Declarant, and upon termination of the Declarant's control the Association, shall determine the exterior color scheme of the Building, the Common Elements and Limited Common Elements. No Owner shall do any work which would affect or alter any of the Common Elements or impair any easement or hereditament therein. No Owner shall remodel the exterior, change the appearance of the exterior or paint the exterior a different color than originally painted without the prior approval of the Declarant, and upon termination of the Declarant's control the Association, or a Committee appointed thereby.

SECTION 9. While the Land and Condominium Property remains subject to this Declaration and the Condominium Act, no liens of any nature shall arise or be created against the Common Elements or Limited Common Elements, except with the unanimous consent in writing of all the Owners and the holders of first liens thereon, except such liens as may arise or be created against the several Units and their respective Common Interests under the provisions of the Condominium Act. Every agreement for the performance of labor or the furnishing of materials to the Common Elements, limited or otherwise, whether oral or in writing, must provide that it is subject to the provisions of this Declaration and the Condominium Act and the right to file a mechanic's lien by reason of labor performed or materials furnished must be waived. This provision shall not apply to liens created by virtue of Declarant's construction financing necessary to develop and complete the Condominium.

SECTION 10. All assessments received or to be received by the Association and the right to receive such funds shall constitute trust funds for the purpose of paying the cost of labor and materials furnished to the Common Elements and Limited Common Elements at the express request or with the consent of the Association and the same shall be expended first for such purpose before expending any part of the same for any other purpose.

SECTION 11. Every Owner, his/her/its assignee, grantee, occupant, lessee, sub-lessee, or successor in interest, shall comply strictly with the terms of this Declaration, Bylaws, rules, regulations, resolutions and decisions adopted by the Association pursuant thereto in relation to the Units or the Common Elements and Limited Common Elements. Failure to comply with any of the same shall be grounds for an action to recover sums due for damage or injunctive relief or any or all of them. Such action may be maintained by the Association on its own behalf or on behalf of the Owners aggrieved. In any case of flagrant or repeated violations, a violator may be required by the Association to give sufficient surety or sureties for future compliance with the Declaration, Bylaws, rules, regulations, resolutions, and decisions adopted by the Association. Nothing herein contained shall prevent, in the proper case, an independent action by an aggrieved Owner for such relief.

ARTICLE XII **MAINTENANCE AND REPAIR**

SECTION 1. No Owner shall do or cause to be done any work affecting his/her/its Unit which would jeopardize the soundness or safety of the Condominium Property, reduce the value thereof, or impair any easement or hereditament therein. No structural alteration may be made to a Unit without the prior written consent of the Association. The Owner shall cause any work being performed on its Unit, which in the sole opinion of the Board violates this Section, to be immediately stopped and he/she/it shall refrain from recommencing or continuing the same without the consent in writing of the Association, and the Owner shall then immediately repair the Unit to its original condition at his/her/its sole expense, and upon his/her/its failure to do so, the Association may enter upon said Unit and repair the same at the Owner's expense and charge the costs to the Owner.

SECTION 2. Association's Responsibility.

A. The Association shall maintain and keep in good condition, order and repair the Common Area and Limited Common Area, which shall include, but need not be limited to:

- (i) all Common Element;
- (ii) all street trees and street lighting;
- (iii) all landscaping and other flora, parks, lakes, ponds, structures, and improvements, including any entry features, gates, gate systems, gate houses, parking areas, sprinkler and irrigation systems, sidewalks, bike and pedestrian pathways/trails, gardens, clubhouse, and swimming pools situated upon the Common Elements;
- (iv) all furnishings, equipment and other personal property of the Association;
- (v) any landscaping and other flora, parks, bike and pedestrian pathways/trails,

sidewalks, bus stops and shelters, sprinkler and irrigation systems, buffers, entry features and gates, gate systems, gate houses, walls, fences, structures and improvements within public rights-of-way within or abutting the Properties or upon such other public land adjacent to the Properties as deemed necessary in the discretion of the Board;

(vi) such additional portions of any property included within the Common Element and Limited Common Element as may be dictated by this Declaration, any Supplemental Declaration, any cost sharing agreement, or any contract or agreement for maintenance thereof entered into by the Association;

(vii) all Detention Facilities, ponds, streams and/or wetlands located within the Condominium Property which serve as part of the drainage and storm water retention system for the Condominium Property, including any retaining walls, bulkheads or dams (earthmen or otherwise) retaining water therein, and any fountains, lighting, pumps, conduits, and similar equipment installed therein or used in connection therewith unless such facilities are located within a Private Element and are maintained by the Owner of the Private Element;

(viii) any Private Streets located on Common Element;

(ix) any property and facilities owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Owners, such property and facilities to be identified by written notice from the Declarant to the Association and to remain a part of the Common Element and Limited Common Element and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association;

(x) any wetlands or other natural areas which shall remain in its natural state located within the Condominium Property; provided, however, that such natural areas do not have to be maintained to the same standard as other areas maintained by the Association; and

(xi) any signage located outside of the Condominium Property which advertises or promotes the development or name of Condominium and any landscaping related to such signs.

The Association may, as a Common Expense, maintain other property and improvements which it does not own, including, without limitation, Private Streets, property dedicated to the public, or provide maintenance or services related to such property over and above the level being provided by the property owner, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the community-wide Standard.

B. The Association shall maintain any facilities and equipment within the Common Element and Limited Common Element in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless Members holding Majority Interest in the Common Interests of the Association, and the Declarant, agree in writing to discontinue such operation.

C. The Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that (i) such maintenance responsibility is otherwise assumed by

or assigned to an Owner or (ii) such property is dedicated to any local, state, or federal government or quasi-governmental entity; provided however, that in connection with such assumption, assignment or dedication, the Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Board determines that such maintenance is necessary or desirable to maintain the community-wide standard.

Except as provided above, the Common Element and Limited Common Element shall not be reduced by amendment of this Declaration or any other means during the Declarant's control period except with the written consent of the Declarant.

D. Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Common Element shall be a Common Expense to be allocated among all Land Units as part of the General Assessment, without prejudice to the right of the Association to seek reimbursement from the Owner(s) of, or other Persons responsible for, certain portion of the Common Element pursuant to the governing documents, any recorded covenants, or any agreements with the Owner(s) thereof. All costs associated with maintenance, repair and replacement of Limited Common Elements shall be a Specific Assessment against the particular Units to which the Limited Common Elements are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

E. In the event that the Association fails to properly perform its maintenance responsibilities hereunder and to comply with the community-wide standard, the Declarant may, upon not less than ten (10) Days' notice and opportunity to cure such failure, cause such maintenance to be performed and in such event, shall be entitled to reimbursement from the Association for all costs incurred.

SECTION 3. It shall be the sole responsibility of the Owner:

A. To maintain, repair or replace, at his/her/its own expense, if necessary, the following:

- (1) The fixtures and equipment in his/her/its Unit and Private Element(s), and except as otherwise stated herein his/her/its Limited Common Element, including, but not limited to, HVAC units, the refrigerator, stove, fans, dishwasher, and all other appliances, drains, plumbing fixtures and connections, sinks, and plumbing within the Unit; electric panels, wiring, outlets, and electric fixtures within the Unit; doors, windows, screening and glass, and all wall and floor coverings within a Unit; and
- (2) The plumbing, heating, ventilation, air conditioning, and electrical systems serving only that Unit, whether located within or without the boundary of that Unit, including the HVACs, hot water heaters, breaker boxes, wiring, and all other plumbing, electrical, or mechanical systems. In the event any such system or a portion thereof is within another Unit, or requires access to another Unit, the repair, maintenance, or replacement thereof shall be performed by the Association, and the cost thereof shall constitute an Assessment against the Owner responsible therefore;

B. To paint, wallpaper, decorate and maintain the interior surface of all walls, ceilings and floors of each Unit, associated Private Element, and Limited Common Element;

C. To perform all responsibilities in such a manner and at such reasonable hours so as not to unreasonably disturb other Owners and Occupants;

D. To refrain from repairing, altering, replacing, painting, decorating or changing the exterior of the Unit or any exterior appendages, including the balconies, breezeways, and railings, whether exclusively used by the Owner or otherwise, without obtaining the prior written approval of the Association; and

E. To promptly report to the Association, or its agent, all work that he/she/it intends to perform for repair of any kind, the responsibility for the remedying of which lies with the Association. Any consent by the Association to the performance of such work by the Owner shall not constitute an assumption by the Association to pay therefore. The failure of the Association to take action on the notice shall not be deemed a waiver by it of its rights and shall not constitute the consent by the Association of any assumption by it to pay for any work performed by the Owner. Any consent given by the Association may set forth the terms of such consent and the Owner shall be required to abide thereby.

SECTION 4. Each Owner agrees as follows:

A. To perform all maintenance, repairs, and replacements which are his/her/its obligation under this Declaration, and maintain his/her/its Unit, Private Element(s) and associated Limited Common Element in good tenable condition.

B. To pay for electricity, telephone, gas, cable, water, internet and other utilities used within the Unit, including connection fees (if applicable) and all taxes levied against his/her/its Unit, unless the Association elects to pay for any of the same. In the event that the Association elects to provide any utility to some or all of the Units, the Association shall assess the Units for the cost of providing said utility as part of the Common Expenses. The Association reserves the sole right to make a Special Assessment to any Unit to which it provides any utility, in the event that the cost of providing such utility is more than budgeted. In determining the Common Expense to be charged to any applicable Owner for providing any utility, the Association shall multiply the cost associated with said utility by the ratio of the individual square footage of the Unit being supplied the utility and the total square footage of Condominium Property being supplied the utility. In addition, the Association may, in its absolute discretion, consider the Unit's use of the utility for its particular purpose and the overall reasonableness of the assessment.

C. To make no alterations, additions, improvements, repair, replacement, or change to the Common Elements or Limited Common Elements, or to any outside or exterior portion of the Unit, without the prior written consent of the Association. If consent is granted, the Owner shall use only a licensed contractor who shall comply with all rules and regulations with respect to the work which may be adopted by the Association. The Owner shall be liable for all damages to any other Unit, to the Common Elements, and to the Limited Common Elements caused by any contractor employed by such Owner and/or by the subcontractors or employees of such contractor, whether said damages are caused by negligence, accident, or otherwise.

D. To allow the Association, its delegates, agents, or employees at all reasonable times to enter into any Unit for the purpose of maintaining, inspecting, repairing, or replacing Common Elements or Limited Common Elements; or to determine, in case of emergency, the circumstances threatening the Unit, the Common Elements or the Limited Common Elements, and to correct the same; or, to determine compliance with the provisions of the Condominium Documents; and in connection therewith submits his/her/its Unit to the master key system maintained by the management agent engaged by the Association to manage, operate and maintain the Condominium Property. In connection therewith, each Owner further agrees to provide any necessary security system information which will permit access to his/her/its Unit.

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

SECTION 5. Nothing in this Article shall be construed so as to impose a personal liability upon the Declarant, any of the members of the Board or the Officers of the Association for the maintenance, repair or replacement of any Unit, Common Element or Limited Common Element, or give rise to a cause of action against them. The Declarant, Board and Officers of the Association, as such, shall not be liable for damages of any kind except for willful misconduct or bad faith.

ARTICLE XIII UNITS: HOW CONSTITUTED AND DESCRIBED

SECTION 1. Every Unit, together with its undivided Common Interest in the Common Elements, shall for all purposes be and it is hereby declared to be and to constitute a separate parcel of real property and the Owner thereof shall be entitled to the exclusive ownership and possession of his/her/its Unit subject only to the covenants, restrictions, and easements, established in the Declaration and the Bylaws and the rules, regulations, resolutions and decisions adopted by the Association pursuant thereto, or as may from time to time be duly adopted.

SECTION 2. A deed conveying a Unit shall contain the following information:

A. A distinctive Unit identified by letter, number, or other means, which Unit identification has been reflected on Exhibit "B" attached to the Declaration.

B. The name of the Condominium as set forth in the Declaration and a reference to the recording office and the book and page where the Declaration and the Plat of Condominium are recorded.

C. A recital that the conveyance is made together with the benefits, rights and privileges and is subject to the duties, obligations and burdens all as stated in the Declaration and Bylaws, as now existing or hereafter amended, and to the rules, regulations, resolutions and decisions of the Association adopted pursuant thereto in relation to the Units, the Common Elements, and the Limited Common Elements.

SECTION 3. Every conveyance or lien using the Unit designation assigned to it, as shown on Exhibit "B" hereto attached, shall be deemed to include its initial proportionate undivided

Common Interest in the Common Elements and shall include, without requiring specific reference thereto or enumerating them, all the appurtenances and easements in favor of the Unit and similarly be subject to all easements in favor of others, including the Association.

SECTION 4. Each Person who shall acquire a Unit or interest in or lien upon any Unit shall be deemed by accepting a conveyance of or otherwise acquiring such Unit, interest or lien, to have agreed and consented to be bound by the terms and provisions hereof and to further have agreed and consented that any amendments to the Declaration executed by the Declarant shall be binding and effective, notwithstanding the fact that the undivided Common Interests of the Unit in the Common Elements may be changed thereby.

ARTICLE XIV ASSOCIATION

SECTION 1. The Declarant does hereby declare that the affairs of the Condominium shall be governed and controlled under the Bylaws, a copy of which is attached hereto as Exhibit "E", and by the Association, which will be a corporation known as the College Oaks Condominium Owners Association, Inc., of which all Owners shall be members, and which shall operate and manage the Condominium Property by and through its duly elected officers and Board of Directors. There shall not be less than Three (3) and no more than Five (5) members of the Board of Directors of the Association, all of whom shall be elected for a term of Three (3) years, and there shall be as officers of the Association, not less than a President, Secretary and Treasurer, all of whom shall be elected for a term of One (1) year. Any person may hold one or more offices, except that the same person may not simultaneously hold the office of President and Secretary.

SECTION 2. The Association shall have charge of and be responsible for and is authorized to manage the affairs of the Condominium, the Common Elements, Limited Common Elements and other assets held by it on behalf of the Owners except as herein otherwise limited. It shall have the powers, rights, duties and obligations wherever set forth in this Declaration or in the Condominium Documents. It shall adopt and execute all measure of proceedings necessary to promote the interests of the Condominium Property. It shall fix charges, assessments, fees and rents, and shall collect and hold all of the foregoing funds or other assets of the Condominium and administer them for the benefit of the Owners. It shall keep accurate records and audit and collect bills. It shall contract for all loans, mortgages, leases and purchase or sale of Units in the Condominium acquired by it or its designee on behalf of all of the Owners, where applicable. It shall direct all expenditures, select, appoint, remove and establish the salaries of employees, and fix the amount of bonds for officers and employees. It shall license or lease any concessions and installation of vending machines. It may in its discretion and on behalf of the Condominium, lease additional land for parking facilities. It shall maintain the Common Elements as herein specified paying for services and supervising repairs and alterations. It shall pass upon recommendations of all committees and adopt rules and regulations as in its judgment may be necessary for the management, control, and orderly use of the Common Elements, and in general, it shall manage the Condominium as provided herein and in the Bylaws; but nothing herein shall prevent the Association from employing and delegating such powers as it deems advisable.

SECTION 3. In order to limit the liability of the Owners, the Association, its officers, Directors or its designee, under any contract or other commitment made by the Association, or a

designee in its behalf, said contract may contain the following statement: "The Association, by and through its Officers, Directors, its managing agent, manager or other designee, as the case may be, in executing this instrument, is acting only as agent for the Owners, and shall have no personal liability on any contract or commitment (except as Owners), and that the liability of any Owner on any such contract or commitment shall be limited to such proportionate share of the total liability as the Common Interest of each Owner bears to the aggregate Common Interest of all Owners." The Board, or Officers of the Association, shall have no liability to the Owners for error of judgment or otherwise, except for willful misconduct or bad faith. It is discretionary with the Board whether its members shall be bonded for this purpose, unless otherwise directed by the Owners.

SECTION 4. True copies of the Plats, Plans, this Declaration, the Bylaws, the rules and regulations, resolutions and decisions shall be kept on file in the office of the Association and shall be available for inspection at convenient hours during week days by the Owners or their designated representative.

SECTION 5. The Association, or a managing agent that it employs, as the case may be, shall keep detailed accurate records, in chronological order, of the receipts and disbursements arising from the operation of the Condominium. It shall also keep an Assessment roll as more fully set forth in Article XV, Section 10, hereof. Such records shall be available for examination by the Owners at convenient hours and upon reasonable notice.

SECTION 6. Each Owner shall be a member of the Association so long as he/she/it is an Owner. An Owner's membership shall automatically terminate when he/she/it ceases to be an Owner. The membership of an Owner cannot be assigned or transferred in any manner except as an appurtenance to his/her/its Unit.

SECTION 7. Each Unit is entitled to a single vote in the Association equal to the Unit's Common Interest, which vote is not divisible. Where the Owner is more than one person, if only one person is present at a meeting of the Association, that person shall be entitled to cast the vote pertaining to that Unit. If more than one such person is present at a meeting, the vote pertaining to that Unit shall be cast in accordance with the provisions set forth in the Bylaws. Where the Owner is an entity, an authorized person of such entity shall be entitled to vote on behalf of the entity.

SECTION 8. An organizational meeting of the Association shall be held as set forth in the Bylaws. The Declarant will maintain control of said Association from the time of the filing of said Declaration, until the earliest of (i) 60 days after conveyance of 75 percent of the Units to Owners other than the Declarant; (ii) two (2) years after the Declarant has ceased to offer Units for sale in the ordinary course of business; or (iii) two (2) years after any development to add new Units was last exercised. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board prior to the aforesaid time periods. Except as provided for in the Act, not later than termination of any period of Declarant control, the Owners shall elect a Board of at least three (3) members, a majority of whom must be Owners other than the Declarant. So long as Declarant has the exclusive right to appoint, remove, and designate the officers and members of the Board of Directors, the Declarant may increase or reduce the number of members of the Board.

ARTICLE XV
CHARGES, ASSESSMENTS AND PROFITS

SECTION 1. No Owner may exempt himself/herself/itself from the liability for payment of his/her/its Common Expenses by waiver of the use or enjoyment of any of the Common Elements or other benefits provided to all Units by the Association, or by abandonment of his/her/its Unit; however, where an Owner has transferred his/her/its entire interest in the Unit in accordance with the terms of the Condominium Documents, he/she/it shall not be liable for Common Expenses incurred subsequent to the date of transfer.

SECTION 2. The Common Expenses shall be charged by the Association to the Owners based on their respective Unit's Common Interest. All Assessments shall be paid on a monthly basis. Upon the purchase of a Unit from the Declarant, the purchaser of such Unit shall pay a prorated monthly assessment for the month in which the purchase takes place. Any Common Surplus funds held by the Association shall be returned to the Owners proportionately to the amount paid by each Unit 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 Owners.

SECTION 3. If during the course of any fiscal year it shall appear to the Board that the monthly 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 Owner, and thereupon a Supplemental Assessment shall be made to each Owner for his/her/its proportionate share of the supplemental budget.

SECTION 4. Insurance shall be obtained upon the Common Elements, Limited Common Elements, and improvements thereon, and the cost therefore shall be borne as a common charge and paid as Common Expenses as is hereinafter more fully set forth.

SECTION 5. Assessments against the Owners shall be made and approved by the Association and shall be paid by the Owners, and each Owner shall be liable for his/her/its share of the Common Expenses. Notwithstanding anything to the contrary herein, the Declarant shall not be required to pay Assessments with respect to unsold Units unless said Units are being occupied under a lease where the Declarant is the lessor.

SECTION 6. Assessments for Common Expenses shall be made for each fiscal year by the Association on a monthly basis. Such 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 Owners shall pay any such increase on the first day of the month following notice of the increase, or from time to time as may be established by the Association.

SECTION 7. Taxes, assessments, insurance costs, water and sewage charges to the Condominium Property owned by the Association and other charges which may be levied against the Condominium Property as a whole before separate Assessments for each Unit are made as provided

by the Condominium Act shall be paid by the Association and shall be included in the budget and paid by the Owners as a Common Expense.

SECTION 8. All liens against the Common Elements and Limited Common Elements of any nature including taxes and special assessments levied by any 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.

SECTION 9. 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, including, but not limited to, capital improvements, 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 Owners representing, in the aggregate, a Majority of the Common Interests.

SECTION 10. The Assessments against all 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 Owners or their duly authorized representatives. Such roll shall indicate for each Unit the name and address of the Owner, 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 an Owner's Assessment account shall limit the liability of any person acquiring the Owner's interest. The Association, or its agents, shall issue to the holder of the first mortgage, upon its written demand, a certificate showing the status on the Assessments due from any Owner.

SECTION 11. The Owners and his/her/its 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 to the extent permitted by the Act.

SECTION 12. If any Assessment or Common Expense shall remain due and unpaid for more than Thirty (30) days, the Association is empowered to file of record a lien therefore and to enforce the same pursuant to the Condominium Act. In the event any 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 Owners on a prorated basis according to their respective Common Interest. If the delinquent unpaid Assessments are subsequently secured from the defaulting Owner, then in that event the Special Assessment shall be returned to the contributing Owners.

ARTICLE XVI **RESTRICTIONS**

SECTION 1. The Declarant, Affiliate and every Owner, by the acceptance of a deed or leasehold interest, and their heirs, successors and assigns, covenant that they will faithfully observe all of the terms and restrictions on use of Units, covenants and conditions wherever imposed in this Declaration or other Condominium Documents, including Bylaws, rules, regulations, resolutions, and decisions adopted by the Association pursuant thereto. All provisions of the Declaration, Bylaws, and any of rules and regulations, or restrictions concerning the conduct of Owners and

establishing sanctions against Owners shall also apply to all occupants even though occupants are not specifically mentioned

SECTION 2. Each Owner of a Unit, his/her/its heirs, successors and assigns, further covenants:

A. Subdivision. That he/she/it will not use, cause or permit the Unit to be used other than as provided in this Declaration, nor will he/she/it use, cause or permit the Unit to be subdivided, changed or altered without first having obtained the approval of the Board which may be withheld in the sole discretion of the Board. However, any such subdivision approved by the Board shall be in conformance with the Condominium Act, this Declaration, and shall not adversely affect the structural integrity of any improvements on the Condominium Property. Furthermore, any fees, expenses and costs associated with the subdivision of a Unit shall be the sole responsibility of the party requesting such subdivision. Subdivision of said Units shall be evidenced by filing in the Probate Judge's Office of Lee County, Alabama, by the associated Owner, an amendment to the Declaration with site and floor plans of said subdivided Unit(s). Once so subdivided, each Owner shall be subject to the terms, conditions, and obligations on this Declaration and each Owner shall own his/her/its proportionate part of Common Elements and be chargeable with his/her/its proportionate part of Common Expenses.

B. Residential Use. Units may be used only for residential purposes of a single family and for ancillary business or home office uses. A business or home office use shall be considered ancillary so long as: (a) the existence or operation of the activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (b) the activity conforms to all zoning requirements for the Condominium Property; (c) the activity does not involve regular visitation of the Unit by clients, customers, employees, suppliers, or other invitees of door-to-door solicitation of residents of the Condominium Property; (d) the activity does not increase traffic or include frequent deliveries within the Condominium Property; and (e) the activity is consistent with the residential character of the Condominium Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other occupants of the Condominium Property, as may be determined in the sole discretion of the Board. There shall be no solicitation by any person in the Condominium Property for charity, food delivery or for any cause whatsoever.

No other business or trade of similar activity shall be conducted upon a Unit without the prior written consent of the Board. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provisions of goods or services to person other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

The leasing of a Unit shall not be considered a business or trade within the meaning of this Section. This Section shall not apply to any activity conducted by the Declarant with respect to its development and sale of the Units or its use of any Units which it owns within the Condominium Property.

C. Prohibited Activities. No noxious or offensive activity shall be carried on within the boundaries of any Unit, Limited Common Element or upon any Common Element, including any action within the boundaries of the Unit and/or Limited Common Element that is visible or noticeable from any Common Element. Each Owner, his/her/its family, tenants, guests and invitees, shall refrain from any act or use of his/her/its Unit, Limited Common Element or any portion of the Common Elements, which could reasonably cause embarrassment, discomfort, annoyance, or nuisance to any other Owner, tenant, guest or invitee.

D. Nuisances. No trash, waste, rubbish or debris of any kind shall be dumped, placed, or permitted to accumulate upon any portion of the Land or Condominium Property so as to render the same unsanitary, unsightly or offensive. No nuisance shall be permitted to exist upon any portion of the Land or Condominium Property.

E. Parking. Automobiles and non-commercial trucks and vans shall be parked only in the appropriate parking spaces serving the Units unless otherwise approved by the Board; provided however, the Declarant and/or the Association may designate certain on-street parking areas for visitors or guests subject to reasonable rules. No automobile or non-commercial truck or van may be left upon any portion of the Condominium Property, if it is unlicensed or if it is in a condition such that it is incapable of being operated upon the public highways. Such vehicle shall be considered a nuisance and may be removed from the Condominium Property at the expense of the owner. No motorized vehicles shall be permitted on pathways, sidewalks, or unpaved Common Elements or Limited Common Elements except for public safety vehicles authorized by the Board. In addition, no vehicle shall block the sidewalks.

No recreational vehicles shall be permitted to be parked or stored at any place on any Unit except for inside a closed garage, if available. The term "recreational vehicles," as used herein, shall include, without limitation, motor homes, campers, mobile homes, boats, "jet skis" or other watercraft, trailers, other towed vehicles, motorcycles, minibikes, scooters, go-carts, golf carts, campers, buses, commercial trucks and commercial vans. Any recreational vehicle parked or stored in violation of this provision shall be considered a nuisance and may be removed from the Condominium Property.

Service and delivery vehicles may be parked in the Condominium Property only during daylight hours for such periods of time as are reasonably necessary to provide service or to make a delivery within the Condominium Property.

All vehicles shall be subject to such reasonable rules and regulations as the Board may adopt. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed in accordance with the governing documents.

F. Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on or in any Unit, with the exception of dogs, cats, or other usual and common household pets not to exceed four (4) of any one type in number. The keeping of a dog or other domestic pet is not a right, but a conditional license which may be revoked as set forth below. Pets may not be tied outside without constant supervision. No animals shall be kept, bred or maintained for commercial purposes without prior written Board approval. All permitted pets shall be reasonably controlled by the owner whenever outside of the Unit and shall be kept in such a manner

as to not become a nuisance by barking or other acts. All Owners or occupants must strictly comply with all applicable laws and ordinances concerning pets. Furthermore, all Owners or occupants shall be immediately responsible for the pickup, removal and proper discard of all fecal excrements produced by their pets. Noncompliance may result in the pickup of animals by the appropriate governmental authorities. The owners of the pet shall be responsible for all of the pet's actions. Pets shall not be permitted in any lake, pond or other body of water, within any Common Elements except in compliance with conditions established by the Board. If, in the sole opinion of the Board, any animal becomes dangerous or an annoyance or nuisance on any of the Condominium Property or to nearby property or destructive of wildlife, then this conditional license may be terminated by the Board and such animal shall be removed from the Condominium Property. In the event any of the conditions set forth in this Section are violated, then this conditional license may be terminated by the Board, in its sole discretion, and such animal shall be removed from the Condominium Property. By way of explanation and not limitation, this Section may be enforced by exercising self-help rights. This provision shall not be construed to interfere with any provision under the Americans with Disabilities Act or any similar applicable federal, state or local law, ordinance or regulation. Service animals in active use shall be permitted on the Condominium Property.

G. Signs. No signs or advertising devices of any kind shall be maintained or permitted on any portion of the Unit, Common Element, or Limited Common Element, except one "For Sale" sign and/or one "For Rent" in the window of the Unit which is no larger than 20 inches by 24 inches in size. The Association may grant written approval of other types of signs upon such conditions as may from time to time be determined in the sole discretion of the Board.

H. Storage. No portion of any Limited Common Element, including patios and balconies or Common Element, including breezeway and stairwells. Furthermore, nothing shall be done or kept within the boundaries of any Unit or on any Common Element which will increase the rate of insurance for the Condominium Property. No Owner shall permit the storage of unusual or unnecessary amounts of flammable liquids, explosives, corrosives, poisons or other lethal chemicals, or any substance within the boundaries of his/her/its Unit, Private Element, or upon any Common Element or Limited Common Element, which would result in the cancellation of insurance on any Unit, any portion of the Common Elements, any portion of the Limited Common Elements, or which would be in violation of any law.

I. Temporary Structures. Subject to the right of the Declarant to promote the sale of Units within the Condominium, no structure of a temporary character shall be permitted on the Land or Condominium Property at any time, whether temporary or permanently, except with the prior written consent of the Association; provided, however, that temporary structures may be erected for use in connection with the repair or rebuilding of the Condominium Property or any portion thereof, or in connection with the initial sales of Units by the Declarant.

J. Antennas. No exterior antennas, aerials or satellite dishes shall be constructed or installed on the Condominium Property without the prior written consent of the Association.

K. Clotheslines. No outside clotheslines or other facilities for drying or airing clothes shall be erected, placed or maintained on any portion of the Condominium Property, nor shall any clothing, rugs or any other item be hung on any railing or fence located on the Condominium Property.

L. Improvements. No structure or other improvement shall be constructed on Condominium Property or any Unit, nor shall any fixture be attached to any part of the Condominium Property or such Unit, nor shall any equipment, materials or other personal property be stored, placed or maintained on any portion of Condominium Property or such Unit so that such fixture, equipment, material or other personal property shall be visible from the street, from the Common Elements or from any other Unit, without the prior written consent of the Association.

M. Balconies and Patios. All balconies and patios shall be kept neat and clean and free from garbage or other debris. Gas grills and outdoor furniture such as chairs, tables, and other patio furniture may be kept on the patios or balcony; provided same are tasteful and maintained in good repair and condition; and provided further that maintenance thereof does not violate public safety guidelines. Charcoal grills are prohibited. No additional lighting may be placed on any balcony or patio, whether temporary or permanent, and string or rope lights, colored lights, and neon signs are strictly prohibited on any portion of the balcony or patio and exterior doors and windows leading thereto. The Board or the management agent engaged by the Association reserves the right to remove items from the patios and balconies which are not permitted to be kept thereon without prior notice to the Owner. No exterior fires whatsoever; except fire pits and barbecue fires contained in proper receptacles, shall be permitted within the Condominium Property.

N. Storage of Materials, Garbage and Dumping. All garbage cans shall be located or screened so as to be concealed from view of neighboring streets and properties. All rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate. There shall be no dumping of grass clippings, leaves or other debris; rubbish, trash or garbage; petroleum products, fertilizers, or other potentially hazardous or toxic substances in any pond, lake, drainage ditch or stream within the Condominium Property or on any Common Elements or Limited Common Elements, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff. Each Owner shall maintain its Unit in a neat and orderly condition and not allow trash or debris from its activities to be carried by the wind or otherwise scattered within the Condominium Property. Trash and debris shall be contained in standard size dumpsters or other appropriate receptacles and removed regularly from Units and shall not be buried, burned or covered on the Unit.

O. Nuisance. It shall be the responsibility of each Owner and occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his/her/its Unit. No Unit, Private Element, Common Element or Limited Common Element within the Condominium Property shall be used, in whole or in part, for the storage of any property or thing that will cause such Unit to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might, in the sole discretion of the Board, disturb the peace, quiet, safety, comfort, or serenity or the occupants surrounding the property.

No noxious or offensive activity shall be conducted within the Condominium Property, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Condominium Property. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the

Condominium Property. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes or as approved by the Board, shall be located, installed or maintained upon the exterior of any Unit unless required by law. Any siren or device for security purposes shall contain a device or system which causes it to shut off automatically.

The reasonable and normal development, construction and sales activities conducted or permitted by the Declarant shall not be considered a nuisance or a disturbance of the quiet enjoyment of any Owner or occupant.

P. Leasing. In order to protect the equity of the individual Owners and to carry out the purpose of preserving the character of the Condominium Property as a homogenous residential community, each Owner shall be responsible for the acts and omissions, whether negligent or willful, of any person residing in such Owner's Unit, and for all guests, invitees of the Owner or any such resident, and in the event the acts or omissions of any of the foregoing shall result in any damage to other Units, the Common Elements, Limited Common Elements or any liability to the Association, the Owner shall be assessed a specific assessment for the same. Furthermore, any violation of any of the provisions of the governing documents, by any occupant of any Unit, or any guest or invitee of an Owner or any occupant of a Unit, shall also be deemed a violation by the Owner, and shall subject the Owner to the same liability as if such violation was that of the Owner.

With respect to any tenant, occupant or any person present in any Unit or any portion of the Condominium Property, if such person shall materially violate any provision of the governing documents, or be a source of annoyance to the Owners or other occupants of the Condominium Property, or shall willfully damage or destroy any other Units, Private Elements, Common Elements, Limited Common Elements or personal property of the Association or other occupants, then upon written notice by the Association, such person shall be required to immediately leave the Condominium Property and if such person does not do so, the Association is authorized to commence an action to evict such tenant or occupant, or compel the person to leave the Condominium Property and, where necessary, to enjoin such person from returning to the Condominium Property. The expense of any such action, including attorneys' fees, may be assessed against the applicable Owner as a Specific Assessment, and the Association may collect such assessment and have a lien for the same elsewhere provided. The foregoing shall be in addition to any other remedy of the Association.

The Board shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with this Declaration and the Bylaws, in order to enforce the provisions of this Section.

Q. Private Streets. All streets within the Condominium Property are private streets and shall be subject to the provisions of this Declaration regarding use of Common Element. Additionally, Owners and other permitted users of the private streets shall be obligated to refrain from any actions which would deter from or interfere with the use and enjoyment of the private streets by other authorized users of the private streets. Prohibited activities shall include without limitation obstruction of any of the private streets.

R. Use of Common Element. There shall be no obstruction of the Common Element, nor shall anything be kept, parked or stored on any part of the Common Element without the prior written consent of the Association. With the prior written approval of the Board, and subject to any restrictions imposed by the Board, an Owner or Owners may reserve portions of the Common Element for use for a period of time as set by the Board. Any such Owner or Owners who reserve a portion of the Common Element as provided herein shall assume, on behalf of himself/herself/themselves and his/her/their guests, occupants and family, all risks associated with the use of the Common Element and all liability for any damage or injury to any person or thing as a result of such use. The Declarant, the Board, and the Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Declarant, the Board, the Association, their agents or employees. The Board shall determine an appropriate fee for reservation and use of the Common Element.

S. Firearms. The discharge of firearms on the Condominium Property is prohibited. The term "firearms" includes without limitation "B-B" guns, pellet guns, and firearms of all types. The Board may impose fines and exercise other enforcement remedies as set forth in this Declaration, but shall have no obligation to exercise self-help to prevent or stop any such discharge.

T. Drainage and Grading. Catch basins and drainage areas are for the purpose of natural flow of water only. No improvements, obstructions or debris shall be placed in these areas. No Owner or occupant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Each Owner shall be responsible for maintaining all drainage areas located on its Unit. Required maintenance shall include, but not be limited to, maintaining ground cover in drainage areas and removing any accumulated debris from catch basins and drainage areas.

Each Owner shall be responsible for controlling the natural and man-made water flow from its Unit. No Owner shall be entitled to overburden the drainage areas or drainage system within any portion of the Property with excessive water flow from its Unit. Owner shall be responsible for all remedial acts necessary to cure any unreasonable drainage flows from its Unit. Neither the Association nor the Declarant bears any responsibility for remedial actions to any Unit.

Use of any areas designated as "drainage easement areas" or "detention pond" on any recorded subdivision plat of the Condominium Property, shall be subject to strict prohibitions against encroachment of structures into, over or across the drainage easement areas or detention pond, and the right of the Declarant to enter upon and maintain the drainage easement areas or detention pond.

No Person shall alter the grading of any Unit without prior approval from the Board. The Declarant hereby reserves for itself and the Association a perpetual easement across the Property for the purpose of altering drainage and water flow. The exercise of such an easement shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent.

All Persons shall comply with any and all applicable erosion control ordinances and regulations in construction of improvements on any Unit and in conducting any activity within non-disturbance buffer zones. All Persons shall comply with any and all applicable state or county ground disturbance laws.

U. Lakes, Ponds and Other Water Bodies. All lakes, ponds, streams and water detention facilities within the Condominium Property, if any, shall be used only in accordance with the rules and regulations adopted by the Board. Swimming, boating, fishing, and other active uses of lakes, ponds, or other bodies of water within the Condominium Property shall be prohibited, unless otherwise approved by the Board. The Declarant, the Board, and the Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, or other bodies of water within the Condominium Property. Lakes, detention or retention ponds, or other wetlands in the Condominium Property, may be designed as water management areas and are not necessarily designed as recreational or aesthetic features. Due to fluctuation in ground water elevations within the immediate area, the water level of lakes and other areas will rise and fall. Neither the Declarant nor the Association shall be responsible for maintaining, increasing or decreasing the water level within any of the lakes or other areas or removing vegetation from any of the lakes or other areas.

SECTION 3. Rules and Regulations. The Board may from time to time adopt, modify, amend, or add to rules and regulations concerning the use of the Condominium Property; provided, however, that Members holding a Majority of the Common Interests may overrule the Board with respect to any such rules and regulations or modifications thereof or any amendments or additions thereof by presenting the Board with a written opposition concerning the same. Copies of such rules and regulations, or any amendments, additions or modifications thereto, shall be delivered to each Owner and Occupant not less than Fourteen (14) days prior to the effective date thereof. No rule or regulation that is in conflict with the Condominium Documents shall be adopted.

SECTION 4. Resale of Units. There is no limitation on the amount for which a Unit may be sold or amount that may be received by a Unit Owner on sale, condemnation, or casualty loss to the Unit or to the Condominium, or on the termination of the Condominium.

ARTICLE XVII

DEFAULT OF MORTGAGES OR OTHER LIENS ON UNITS

SECTION 1. Upon the happening of a default under the terms of a mortgage which would permit the holder thereof to declare the entire principal sum due, notice of the intention of the holder to do so shall be given to the Association.

SECTION 2. The Association shall be entitled to bid at any sale, whether or not the action be in its name or it be a defendant therein, and to purchase any Unit at a foreclosure sale for such amount as shall be approved by a majority of the Board of Directors of the Association, taking into consideration the amount due the holder, the costs and disbursements associated therewith, and all other charges affecting the Unit. The Association shall not, however, be limited in its bidding to such amount or total, but may bid any higher sum that it finds necessary in order to protect the interests of the other Owners.

ARTICLE XVIII
COMPLIANCE AND DEFAULT

Each Owner shall be governed by, and shall comply with, the terms of the Declaration, the Condominium Documents, the Bylaws, the rules, regulations, resolutions and decisions adopted by the Association pursuant thereto as they now exist or as they may be amended from time to time. A default of the foregoing shall entitle the Association or other Owners to the following relief:

SECTION 1. Failure to comply with any of the same shall be grounds for an action to recover the sums due, for damages or injunctive relief, or both, maintainable by the Association on behalf of the Owners, or in a proper case, by an aggrieved Owner. In any case of flagrant or repeated violations by an Owner, he/she/it may be required by the Association to give sufficient surety or sureties for his/her/its future compliance with the Declaration, the Condominium Documents, the Bylaws, the rules, regulations, resolutions and decisions adopted by the Association pursuant thereto.

SECTION 2. Each Owner shall be liable for the expenses of any maintenance, repair or replacement rendered necessary by act, neglect or carelessness, to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Unit. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

SECTION 3. In any proceeding arising because of an alleged default by an Owner, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorneys' fees.

SECTION 4. The failure of the Association, the Declarant, or of an Owner to enforce any rights, provisions, covenants or conditions which may be granted by the Condominium Documents and the rules, regulations, resolutions and decisions adopted by the Association pursuant thereto, shall not constitute a waiver of the right of the Association, the Declarant or Owner to enforce such right, provision, covenant, or condition in the future.

SECTION 5. All rights, remedies and privileges granted to the Association, the Declarant, its designated agent, or an Owner, pursuant to any terms, provisions, covenants or conditions of the Condominium Documents and the rules, regulations, resolutions and decisions adopted by the Association pursuant thereto, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such party by the Declaration, the Condominium Documents, the Bylaws, the rules, regulations, resolutions and decisions adopted by the Association pursuant thereto, or at law or in equity.

ARTICLE XIX
AMENDMENT

Except as otherwise set out in this Declaration, the Condominium Documents may be amended in the following manner:

SECTION 1. Notice of the subject matter of any proposed amendment in reasonably detailed form shall be included in the notice of any meeting of the Association at which a proposed amendment is considered.

SECTION 2. A resolution adopting an amendment may be proposed by either the Board of Directors of the Association or by the Owners, and must be approved by the Owners at a meeting called for this purpose. Owners not present at the meeting considering such amendment may exercise their approval in writing or by proxy. Such approval must be by Owners who in the aggregate possess not less than a Majority of the Common Interests.

SECTION 3. A copy of each amendment shall be certified by the Chairman of the meeting and the Secretary of the Association, as having been duly adopted and shall be effective when recorded in the Office of the Judge of Probate of Lee County, Alabama. Copies of the same shall be sent to each Owner in the manner elsewhere provided for the giving of notice, but the same shall not constitute a condition precedent to the effectiveness of such amendment.

ARTICLE XX
INSURANCE

SECTION 1. The Association shall obtain and maintain, to the extent available, insurance on only the Common Elements, Limited Common Elements and improvements thereon, together with machinery and equipment and all other personal property as may be held and administered by the Association for the benefit of the Owners covering the Association, and all Owners and their mortgagees, as their interest may appear. The insurance shall be purchased from recognized insurance companies duly licensed to operate in the State of Alabama.

SECTION 2. The Association shall obtain policies of insurance which shall provide that the loss hereunder shall be paid to the Association as insurance trustees under this Declaration. A certificate of insurance with proper mortgagee endorsements shall be issued to the owner of each Unit and the original thereof shall be delivered to the mortgagee, if there be one, or retained by the Owner if there is no mortgagee. The certificate of insurance shall show the relative amount of insurance covering the Unit's Common Interest in the Common Elements and Limited Common Elements of the Condominium. Such master insurance policies and certificates shall contain provisions that the insurer waives its right to subrogation as to any claim against the Association, its agents and employees, Owners, their respective employees, agent and guests, and of any defense based on the invalidity arising from the acts of the insured, and providing further that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners as hereinafter permitted. The Association must acknowledge that the insurance policies and any proceeds thereof will be held in accordance with the terms hereof. The Association shall promptly pay when due the premiums for the insurance hereinafter required to be carried.

SECTION 3. The Association shall insure against the following risks:

A. Casualty or physical damage insurance in an amount equal to the full replacement value of the Common Elements on not less than an Eighty (80%) percent co-insurance basis, with waiver of depreciation and waiver of subrogation endorsements as determined annually by the Association with the assistance of the insurance company affording such coverage. Such coverage shall afford protection against the following:

1. Loss or damage by fire and other hazards covered by the standard extended coverage endorsement.
2. Such other risks as from time to time customarily shall be covered with respect to such improvements, including but not limited to vandalism, malicious mischief, and damage from natural disaster, and such other insurance as the Association may determine. The policies providing such coverage shall provide that, notwithstanding any provisions thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the approval of the Association except where in conflict with the terms of this Declaration, and shall further provide that the coverage thereof shall not be terminated for nonpayment of premiums without Thirty (30) days notice to all of the insured, including each Unit mortgagee.
3. All policies of casualty or physical damage insurance should provide that such policies may not be canceled or substantially modified without at least Ten (10) days prior written notice to all of the insureds, including all mortgagees of the Units.

B. Public liability insurance in such amounts and in such forms as shall be required by the Association, including but not limiting the same to water damage, legal liability, hired automobile, non-owned automobile bodily injury and off-premises employee coverages.

C. Workmen's Compensation insurance to meet the requirements of law.

D. Fidelity Insurance and/or Employee Dishonesty Insurance covering those employees of the Association and those agents and employees hired by the Association who handle Condominium funds, in amounts as determined by the Association.

SECTION 4. It shall be the responsibility of each Owner to obtain personal liability and casualty insurance on his/her/its Unit, at his/her/its own expense and such insurance shall contain the same waiver of subrogation as that referred to in the preceding Section 2 of this Article. Each Owner is also responsible for obtaining insurance at his/her/its own expense affording coverage upon his/her/its personal property located in his/her/its Unit and personal property that may be stored elsewhere on the Condominium Property. An Owner shall be liable for any claim, damage or judgment entered with respect to his/her/its own Unit or that of another Owner's, which results from such Owners own conduct, use or operation of his/her/its Unit.

SECTION 5. Premiums upon insurance policies purchased by the Association shall be paid by it and charged as Common Expenses. Owners shall pay their proportionate part of the premiums due in accordance with their Common Interests and as set forth in the budget or as may further be determined by the Association.

SECTION 6. 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 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.

SECTION 7. Each Owner shall be deemed to have delegated to the Association his/her/its right to adjust with the insurance companies all losses under policies purchased by the Association. The Association shall also have the power to bring suit thereon in its name and/or in the name of other insureds; to deliver releases on payments of claims; to compromise and settle such claims; and otherwise to exercise all of the rights, powers, and privileges of the Association and each Owner or any other holder of an insured interest in the property under such insurance policies.

SECTION 8. In no event shall any distribution of proceeds be made by the Association directly to an Owner where there is a mortgage endorsement on the certificate of insurance. In such event any remittances shall be to the Owner and his/her/its mortgagee jointly. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by it.

ARTICLE XXI RECONSTRUCTION OR REPAIR

Except as hereinafter provided, damage to or destruction of a Unit shall be promptly repaired and reconstructed by the Owner, using the proceeds of insurance, if any, on the Unit for that purpose and any deficiency shall be paid for by the Owner; provided, however, that if Seventy-Five (75%) percent or more of the Condominium is destroyed or substantially damaged and the Owners who in the aggregate represent One Hundred (100%) percent or more of the Units' interest do not duly and promptly resolve to proceed with repair or restoration, then the net proceeds shall be considered as one fund and shall be divided among all the Owners in proportion to their respective Common Interest. No payment shall be made to an Owner until there has first been paid off out of his/her/its share of such sale and insurance proceeds all liens on his/her/its Unit.

A. Any such reconstruction or repair shall be substantially in accordance with the original plans and specifications or according to plans and specifications approved by the Association.

B. Immediately after a casualty causing damage to property for which the Association has the responsibility of maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Association desires. If insurance proceeds are not sufficient to cover such estimated costs, then an Assessment shall be

made against Owners, except that each Owner shall be responsible for the cost, not otherwise covered by insurance carried by the Association, of any reconstruction, repair or replacement costs which are necessitated by his/her/its negligence or misuse or the negligence or misuse by his/her/its agents, guests, invitees or employees.

C. The proceeds of insurance collected by the Association on account of casualty, and the sums received by the Association from collections of Assessments against Owners on account of such casualty, shall constitute a construction fund and all insurance proceeds shall be applied to the payment of the actual Common Elements and Limited Common Elements costs.

D. Each Owner shall be responsible for the costs of reconstruction, repair, or replacement of his/her/its Unit.

E. If the proceeds of insurance are not sufficient to defray completely the estimated costs of reconstruction and repair of the Common Elements and/or the Limited Common Elements by the Association, Assessments shall be made against all Owners in sufficient amounts to provide funds for the payment of such costs in proportion to the Owner's Common Interest.

F. In the event of any taking of any Unit by eminent domain, the Owner and the mortgagee of such Unit shall be entitled to receive the award for such taking, and after acceptance thereof, he/she/it and the mortgagee shall be divested of all interest in the Condominium Property if such Owner shall vacate his/her/its Unit by virtue of such taking. If any repair or rebuilding of the remaining portions of the Condominium Property is required as a result of such taking, a majority of Owners in percentage of Ownership of the remaining Owners, shall determine by vote or written consent whether to rebuild or repair the Condominium Property or take such other action as such remaining Owners deem appropriate. If no repair or rebuilding shall be required or shall be undertaken, the remaining portion of the Condominium Property shall be re-surveyed and the Condominium Documents thereto shall be amended to reflect such taking and to proportionately readjust the Common Interests of the remaining Owners based upon a continuing total ownership of the Condominium Property of One Hundred (100%) percent.

G. Encroachments upon or in favor of Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis of a proceeding or action by the Owners upon whose property such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Building was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the Building stands.

H. In the event that there is any surplus of monies in the construction fund after the reconstruction or repair of the casualty damage has been fully completed and all costs paid, such sums may be retained by the Association as a reserve of may be used in the maintenance and operation of the Condominium Property, or, at the discretion of the Association, it may be distributed to the Owners and their mortgagees who are the beneficial owners of the fund. The action of the Association in proceeding to repair or reconstruct damage shall not constitute a waiver of any rights against an Owner for committing willful or malicious damage.

ARTICLE XXII
TERMINATION

SECTION 1. The Declarant reserves the right to terminate this Declaration and to discharge the same of record provided that no titles or leasehold interests have been conveyed or assigned to independent owners or lessees. It is distinctly understood and agreed by all persons having any interest in this Condominium that a declaration by the Declarant herein to the effect shall be sufficient to discharge same of record.

SECTION 2. Subject to the provisions of this Declaration, the Condominium may be terminated in accordance with Condominium Act, as now existing or hereafter amended, in which event the Property shall be subject to an action for partition by any Owner as if owned in common, in which event the net proceeds of sale shall be divided among all the Owners as provided in said statute, provided, however, that no payment shall be made to an Owner until there has first been paid off, out of his/her/its share of such net proceeds, all liens on his/her/its Unit. Such withdrawals of the property from the Condominium Act shall not bar its subsequent admission to the provision thereof in accordance with the terms of the Condominium Act.

SECTION 3. The Condominium may be terminated by the agreement of Owners of Units to which not less than One Hundred (100%) percent of the votes in the Association appertain, and the unanimous consent of all the mortgagees on such Units, the Land, and Condominium Property. The determination to terminate shall be evidenced by a certificate of the Association signed by the President or Vice President and by the Secretary certifying as to the facts effecting the termination, which certification shall become effective upon being recorded in the Office of the Judge of Probate of Lee County, Alabama.

SECTION 4. After termination of the Condominium, the Owners shall own the Condominium Property as tenants in common in undivided shares and the holders of mortgages and liens against the Unit or Units formerly owned by such Owners shall have mortgages and liens upon the respective undivided Common Interest of the Owners. Such undivided Common Interest of the Owners shall be as set forth in Exhibit "C" as same may be amended from time to time. All funds, held by the Association and insurance proceeds, if any, shall be and continue to be held for the Owners in proportion to the amount of their Common Interest. The cost incurred by the Association in connection with a termination shall be a Common Expense.

SECTION 5. The members of the Board of Directors of the Association, acting as agent for all Owners, at the time of termination, shall continue to have such power as in this Article are granted, notwithstanding the fact that the Association and/or the Condominium may be dissolved upon a termination.

SECTION 6. Unless terminated as provided in this Section, the provisions of this Declaration shall run with, bind the Land and Condominium Property and remain in effect perpetually to the extent permitted by law; provided, however, so long as Alabama law limits the period during which covenants restricting lands to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land for so long as permitted by Alabama law. To the extent that Alabama law limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the

expiration of such period for successive periods of twenty (20) years each. Notwithstanding the above, if any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of any member of the Declarant.

ARTICLE XXIII COVENANTS WITH THE LAND

All provisions of the Condominium Documents, as now existing, or hereafter duly amended, shall be construed to be covenants running with the Land and with every part thereof and interest therein, including but not limited to every Unit and the appurtenances thereto; and every Owner and claimant of the Land, Units, Condominium Property or any part thereof of interest therein, and his/her/its heirs, executors, administrators, successors, and assigns shall be bound by all of the provisions of the Condominium Documents and the rules, regulations, resolutions and decisions adopted by the Association pursuant thereto.

ARTICLE XXIV LIENS AND SUITS

SECTION 1. All liens against a Unit other than those permitted for mortgages, taxes or Special Assessments shall be satisfied or otherwise removed within Thirty (30) days from the date the lien attaches. All taxes and Special Assessments upon a Unit shall be paid before becoming delinquent.

SECTION 2. An Owner shall give notice to the Association of every lien upon his/her/its Unit or any other part of the Land or Condominium Property other than for mortgages, taxes and Special Assessments within Five (5) days from the date the lien attaches.

SECTION 3. Owners shall give notice to the Association of every suit or other proceeding which will or may affect the title to his/her/its Unit, Land or any other part of the Condominium Property, such notice to be given within Five (5) days after the Owner received notice thereof.

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

ARTICLE XXV MORTGAGE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in the Condominium Property. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

SECTION 1. An institutional holder, insurer, or guarantor of a first Mortgage who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Condominium Property or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in fine payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of the Declaration or Bylaws relating to such Unit or the Owner or occupant which is not cured within sixty (60) days;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders pursuant to Federal Home Loan Mortgage Corporation requirements.

SECTION 2. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Element or Limited Common Element.

SECTION 3. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

ARTICLE XXVI **WARRANTY LIMITATION**

Except for those warranties required by the Alabama Uniform Condominium Act, or as otherwise required by law, the Declarant does not make any warranty of any kind, express or implied, and the Declarant hereby disclaims any such warranties, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose, and the Owners and Association assume all risk and liability resulting from the use of the Condominium Property.

ARTICLE XXVII **CAPTIONS**

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

ARTICLE XXVIII **GENDER, SINGULAR, PLURAL**

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

ARTICLE XXIX
SEVERABILITY

If any provision of this Declaration, the Articles, the Bylaws, any rules and regulations of the Association promulgated thereto, and any exhibits attached hereto, as the same may be amended from time to time, or any section, sentence, clause, phrase or word, or the application thereof in any circumstances be judicially held in conflict with the laws of the State of Alabama, then the said laws shall be deemed controlling and the validity of the remainder of this Declaration and application of any such provision, section, sentence, clause, phrase or word in other circumstances shall not be affected thereby.

ARTICLE XXX
GOVERNING LAW

Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by the Condominium Documents or any rules and regulations adopted pursuant to such documents, such dispute or litigation shall be governed by the laws of the State of Alabama.

ARTICLE XXXI
RATIFICATION

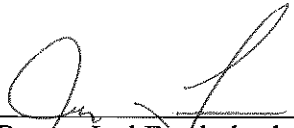
Each Owner, by reason of having acquired ownership of a Unit, whether by purchase, gift, operation of law, or otherwise, shall be deemed to have acknowledged and agreed that all the provisions of the Condominium Documents and any rules and regulations promulgated hereunder are fair and reasonable in all material respects. Failure to comply shall be grounds for an action by the Association, the Declarant, or by any aggrieved Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted herein.

This page is intentionally left blank.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed for it and in its name on this 15 day of August, 2019.

DECLARANT:

FMS Holdings, LLC,
an Alabama limited liability company



By: Joel Funderburk
Its: Managing Member

STATE OF ALABAMA
COUNTY OF LEE

I, the undersigned authority, a Notary Public in and for said State at Large, hereby certify that **Joel Funderburk**, whose name as **Managing Member of FMS Holdings, LLC**, an Alabama limited liability company, is signed to the foregoing, and who is known to me, acknowledged before me on this day that, being informed of the contents of this instrument, he executed the same voluntarily and with full authority on the day the same bears date as the act of said company.

Given under my hand and seal of office, this the 15th day of August, 2019.




Notary Public
My Commission expires: 6-13-21

STATE OF ALABAMA
COUNTY OF LEE

CONSENT OF MORTGAGE HOLDER

River Bank & Trust, an Alabama banking corporation ("Mortgage Holder"), beneficiary under those Construction Mortgages both dated May 8th, 2019, and recorded on May 10th, 2019, and May 14th, 2019, in the Office of the Judge of Probate of Lee County, Alabama in Mortgages Book 4466, at Page 186, and Mortgages Book 4466, at Page 782 (as may be amended, collectively hereinafter the "Mortgage"), for itself and its successor's and assigns, hereby approves, ratifies, and consents to the foregoing Declaration of Condominium of College Oaks, A Condominium (the "Declaration"). Mortgage Holder agrees and acknowledges that, upon recordation of the Declaration, the easements, covenants, conditions, and restrictions contained in the Declaration will run with the land as defined therein which serves as security for the debt evidenced by the Mortgage and further agrees that any foreclosure or enforcement of any other remedy available to Mortgage Holder under the Mortgage will not render void or otherwise impair the validity of the Declaration.

Executed this 15 day August, 2019.

MORTGAGE HOLDER:

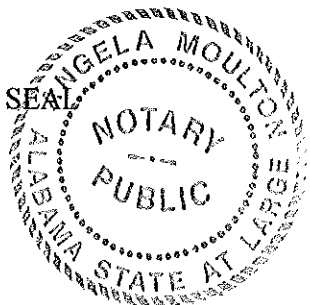
River Bank & Trust,
an Alabama banking corporation

[Signature]
By: Boles Reques
Its: EVP

STATE OF ALABAMA
COUNTY OF LEE

I, the undersigned authority, a Notary Public, in and for said State at Large, hereby certify that Boles Reques, as EVP of River Bank & Trust, an Alabama banking corporation, is signed to the foregoing consent, and who is known to me, acknowledged before me on this day that, being informed of the contents of this consent, he, as such officer and with full authority executed the same voluntarily on the day the same bears date as an act of said banking corporation.

Given under my hand and seal this the 15 day of August, 2019.



[Signature]

Notary Public

My Commission Expires: My Commission Expires August 31, 2019

EXHIBIT "A"

DESCRIPTION OF LAND

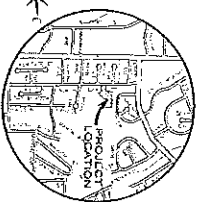
Lot 1 of College Oaks Subdivision, a consolidation of 808 and 810 North Gay Street as recorded in Plat Book 42, at Page 54, in the Office of the Judge of Probate of Lee County, Alabama.

EXHIBIT "B"

CONDOMINIUM PLAT AND PLANS

College Oaks Condominium Plat, Phase I, is recorded in Condo Plat Book 4, at Pages 143 & 144, in the Judge of Probate Office of Lee County, Alabama, and attached hereto and incorporated herein by reference.

**The attached Plat is for Phase I only, additional Condominium Plats and Plans shall be added hereto by amendment as additional future phases are developed.

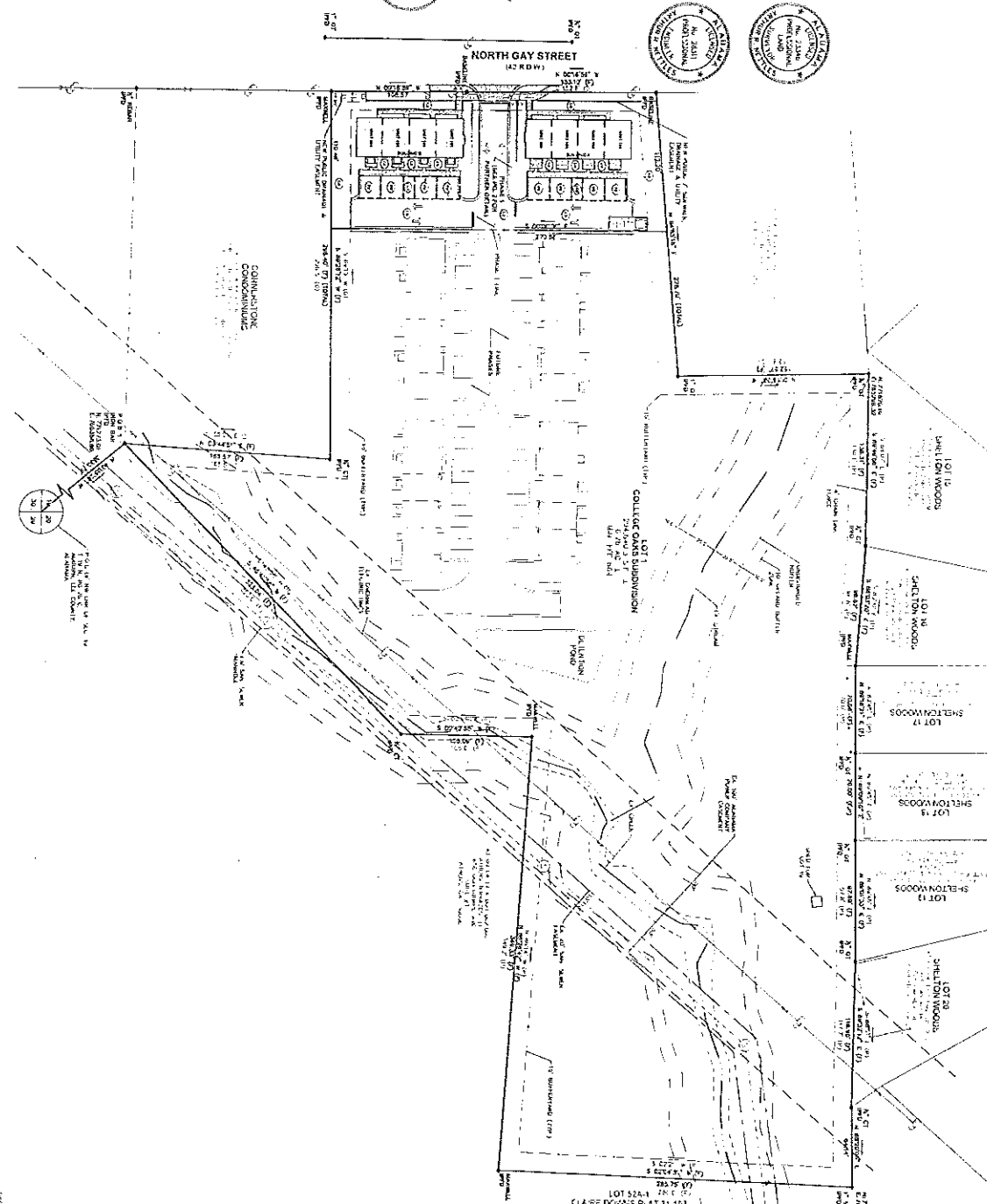
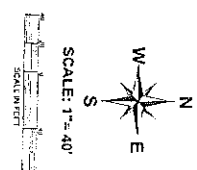


THIS IS A PRELIMINARY PLAT OF THE COLLEGE OAKS CONDOMINIUMS, PHASE 1, SUBDIVISION, LEE COUNTY, ALABAMA. THE PLAT IS SUBJECT TO THE APPROVAL OF THE ALABAMA DEPARTMENT OF REVENUE, THE ALABAMA DEPARTMENT OF ENVIRONMENTAL AFFAIRS, AND THE ALABAMA DEPARTMENT OF TRANSPORTATION. THE PLAT IS NOT VALID WITHOUT BOTH SHEETS.

THE PLAT IS SUBJECT TO THE APPROVAL OF THE ALABAMA DEPARTMENT OF REVENUE, THE ALABAMA DEPARTMENT OF ENVIRONMENTAL AFFAIRS, AND THE ALABAMA DEPARTMENT OF TRANSPORTATION. THE PLAT IS NOT VALID WITHOUT BOTH SHEETS.

THE PLAT IS SUBJECT TO THE APPROVAL OF THE ALABAMA DEPARTMENT OF REVENUE, THE ALABAMA DEPARTMENT OF ENVIRONMENTAL AFFAIRS, AND THE ALABAMA DEPARTMENT OF TRANSPORTATION. THE PLAT IS NOT VALID WITHOUT BOTH SHEETS.

THE PLAT IS SUBJECT TO THE APPROVAL OF THE ALABAMA DEPARTMENT OF REVENUE, THE ALABAMA DEPARTMENT OF ENVIRONMENTAL AFFAIRS, AND THE ALABAMA DEPARTMENT OF TRANSPORTATION. THE PLAT IS NOT VALID WITHOUT BOTH SHEETS.



COLLEGE OAKS CONDOMINIUMS, PHASE 1
(SHEET 1 OF 2, NOT VALID WITHOUT BOTH SHEETS)

COLLEGE OAKS CONDOMINIUMS, PHASE 1
SEC 15 T19N R32E
AUBURN LEE COUNTY ALABAMA
SCALE: 1"=40' DATE: 07/08/11
ARTHUR R. NETTLES, A.L.P.S. REG. NO. 21345
ALABAMA CERT. OF AUTH. CA. NO. 922



THIS DRAWING IS THE PROPERTY OF BASELINE SURVEYING & DESIGN, LLC. THE USER OF THIS DRAWING IS TO BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT PERMISSION IN WRITING FROM BASELINE SURVEYING & DESIGN, LLC.

DATE	BY	CHKD	APPD	JOB NO.
07/08/11	BAS			828417.01

HOLDING A, UNIT 104 LEGAL

Building a Unit 193 Local

BUILDING A, UNIT 302 LEGAL
COMMENCE AT 10:00 AM/10:00 Yr. Control

[illegible]

BUILDING U, UNIT 104 LEGAL

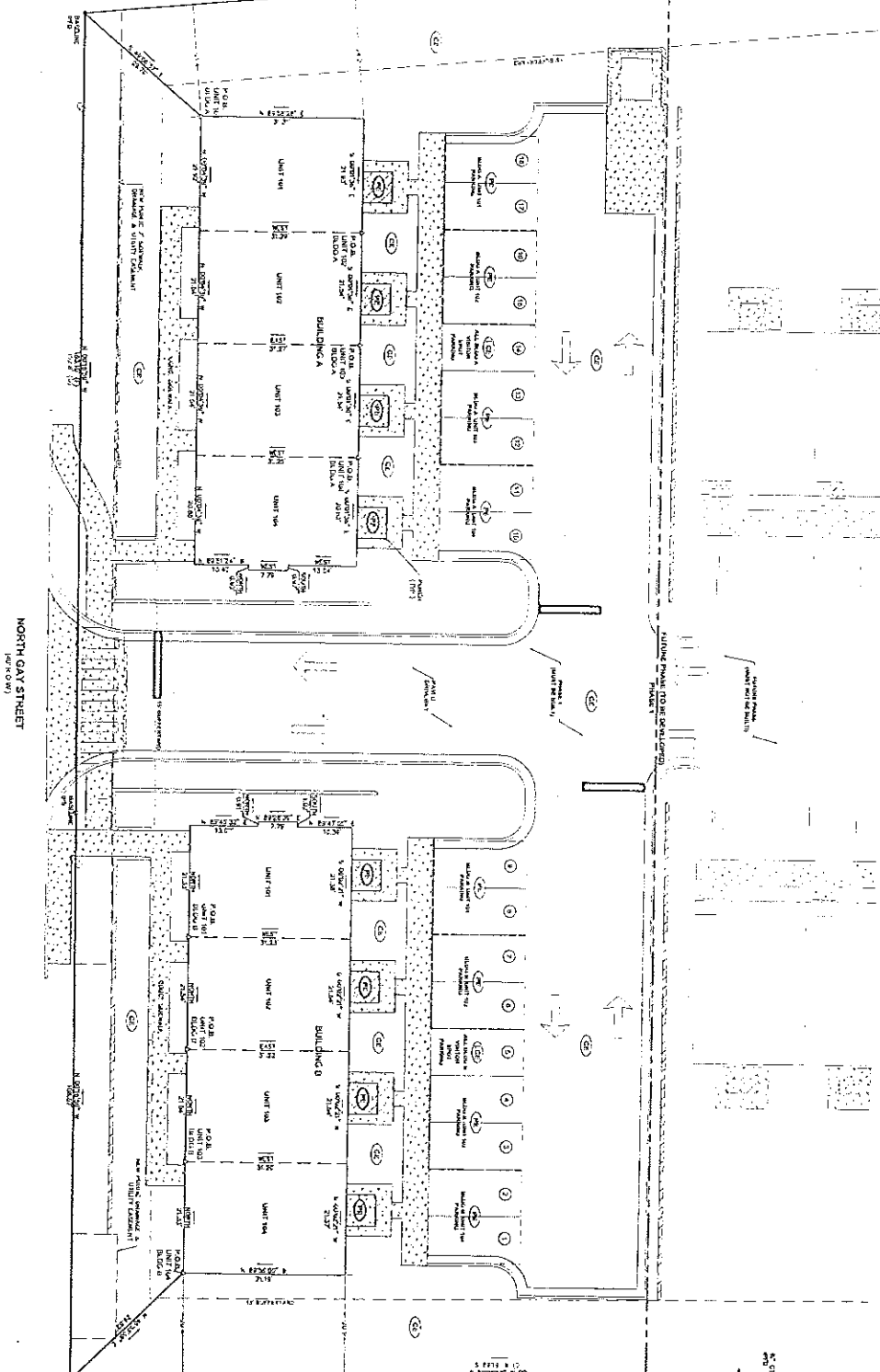
[illegible]

BUILDING 8, UNIT 102 LEGAL

BUILDING R. UNIT 101, LEOLA

BUILDING 6, UNIT 101 LEGAL

located at 1100 University Avenue, a distance of 1.2 km from the study site. The study site was located on the north shore of Lake Ontario, near the intersection of Highway 404 and Highway 7. The study site was located on the north shore of Lake Ontario, near the intersection of Highway 404 and Highway 7. The study site was located on the north shore of Lake Ontario, near the intersection of Highway 404 and Highway 7.



NORTH GAY STREET
(Folklore)

[illegible]

COLLEGE OAKS CONDOMINIUMS, PHASE 1
SEC 16 T19N R26E
AUBURN LEE COUNTY ALABAMA
SCALE: 1"=10' JUL 8, 2019
ARTHUR R NETTLES, AL PLS REG NO 23346
ALABAMA CERT. OF AUTH. CA. NO 522



THIS DRAWING IS THE PROPERTY OF EASELINE SURVEYING & DESIGN, INC.
 THE DRAWING IS THE PROPERTY OF EASELINE SURVEYING & DESIGN, INC. AND SHALL NOT BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF EASELINE SURVEYING & DESIGN, INC.

CRAWFORD	DRAWN	DATE	JOB NO.
----------	-------	------	---------



EXHIBIT "C"

COMMON INTEREST IN COMMON ELEMENTS

Each Owner shall have a Common Interest in the Common Elements and the Common Expense Budget of the Condominium equal to a percentage of each Unit (the "Numerator") divided by the total number of Units planned to be developed (the "Denominator"). The initial plans are to develop thirty-two (32) Units in the Condominium; therefore, the initial Common Interest in the Common Elements and the Common Expense Budget of the Condominium for each Owner shall be as follows:

1/32 or 3.125%

However, Common Interest in the Common Elements and the Common Expense Budget of the Condominium shall be subject to amendment in the event Units are withdrawn, subdivided or additional property is annexed in accordance with the provisions provided herein this Declaration. In such event, the Denominator in the formula above would be increased or decreased to reflect such amendment, and subsequently each Owner's Common Interest in the Common Elements and the Common Expense Budget of the Condominium would be recalculated to reflect such change.

In the event Units are withdrawn, subdivided or additional property is annexed in accordance with the provisions provided herein this Declaration, this Exhibit shall also be amended to reflect such change.

EXHIBIT "D"

**ARTICLES OF INCORPORATION
OF THE
COLLEGE OAKS CONDOMINIUM OWNERS ASSOCIATION, INC.**

STATE OF ALABAMA
COUNTY OF LEE

ARTICLES OF INCORPORATION
OF
COLLEGE OAKS CONDOMINIUM OWNERS ASSOCIATION, INC.

8008 56
CORP Book & Page
Recorded in the Above
CORP Book & Page
08-16-2019 01:45:19 PM
Bill English - Probate Judge
Lee County, AL
Book/PG: 1328/849
Term/Cashier: CHPJDSK02 / CO
Tran: 22007.318142.425049
Recorded: 08-16-2019 13:45:45
REC Recording Fee
55.00

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, desiring to form a non-profit corporation for the purposes hereinafter set forth, pursuant to the provisions of the Alabama Nonprofit Corporation Act, Code of Alabama (1975), Sections 10-3A-1, et seq., do hereby make and subscribe their names to these Articles of Incorporation and certifies as follows:

ARTICLE I
NAME

The name of the corporation shall be "College Oaks Condominium Owners Association, Inc." (the "Association").

ARTICLE II
PURPOSES

The purposes of the corporation shall be to function as a condominium "association" as that term is used in Volume 19 Code of Alabama 1975, Title 35-8A-101, et seq. (Condominium Act), and to carry out all of the duties and responsibilities of a condominium association as are required under said statute and under the Declaration of Condominium of College Oaks, A Condominium (the "Declaration"), which said Declaration shall be recorded in the Office of the Judge of Probate of Lee County, Alabama. Capitalized terms that are not otherwise defined herein shall have the meaning given to such term in the Declaration.

ARTICLE III
POWERS

The Association shall have all powers of an association as are provided in the Condominium Act and in the Declaration of Condominium of College Oaks, A Condominium (hereinafter the "Condominium"), and all such powers as may be necessary or desirable to discharge the duties of an association under the Condominium Act and the Declaration of Condominium of College Oaks, A Condominium, including, but not limited to, the power to enter into and perform any contract and to perform all acts which may be necessary or convenient to the operation, management, maintenance, and administration of the Condominium.

Not in limitation of the foregoing powers, but in addition thereto, the Association shall have the following powers:

(1) To enforce the covenants and restrictions contained in the Declaration, and to make, establish, and enforce reasonable Rules and Regulations governing the administration, management, and use of the Condominium Property.

(2) To establish a budget for the operations of the Condominium; to designate those expenses which shall constitute the Common Expenses of the Condominium; to make, levy, and collect Assessments against Unit Owners of the Condominium; to provide the funds to pay for Common Expenses of the Condominium as provided for in the Condominium Documents and in the Condominium Act; and to use and expend the proceeds of Assessments in the exercise of the powers and duties of the Association.

(3) To maintain, repair, replace, and operate those portions of the Condominium Property that the Association has the duty or right to maintain, repair, replace, and operate under the Condominium Documents.

(4) To have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair, or replacement of any Common Elements therein or accessible therefrom, or, to have immediate access at any time as may be necessary for making emergency repairs necessary to prevent damage to any other Unit or Units, when such action is required by the Association.

(5) To contract for the management of the Condominium Property and to delegate such agent(s) all or some of the powers, duties, and responsibilities of the Association.

(6) To employ personnel to perform the services required for proper operation of the Condominium.

(7) To purchase and maintain all forms of insurance on the Condominium Property for the protection of the Association and its Members.

(8) To reconstruct the Condominium Property after casualty or other loss.

(9) To make additional improvements on and to the Condominium Property.

(10) To approve or disapprove the transfer, mortgage, and ownership of Units to the extent such power is granted to it under the Condominium Documents.

(11) To retain legal counsel at the expense of the Association and to enforce by legal action the provisions of the Condominium Documents and the Rules and Regulations of the Association.

(12) To acquire, by purchase or otherwise, Units in the Condominium, and to hold, lease, mortgage, and convey the same.

(13) To lease or license the use of Common Elements in a manner not inconsistent with the rights of Unit Owners.

(14) To pay taxes and assessments which are liens against any part of the Condominium other than individual Units (unless individual Units are owned by the Association) and the appurtenances thereto, and to assess the same against the Units subject to liens for such purposes.

(15) To pay the cost of all power, water, sewer, trash, garbage, and other utility services rendered to the Condominium and not billed to the individual Units.

(16) To adopt and establish Bylaws for the operation of the Condominium Association.

(17) To enforce the covenants and restrictions contained in the Declaration, and to make, establish, and enforce reasonable Rules and Regulations governing the administration, management, and use of the Condominium Property.

(18) To purchase, lease, or otherwise lawfully acquire and hold all materials, fixtures, machinery, office supplies, furniture and equipment, and other apparatus, of whatever nature, if the same shall be necessary or incident to the business aforesaid.

(19) To purchase, acquire, hold, improve, sell, convey, assign, release, mortgage, encumber, lease, hire and deal in real and personal property of every nature, including stocks and securities of other corporations and to lend money and take securities for the payment of all sums due to the corporation to sell, assign, and/or release such securities.

(20) To borrow money for any of the purposes of the Association and to issue notes and other obligations thereof, with or without security, and to pledge or mortgage the whole, or any part of its property, real or personal; and to draw, make, accept, endorse, discount, guarantee, execute and issue promissory notes and similar types of obligations or instruments.

(21) To establish lines of credit with banking houses or elsewhere, for the purposes hereinbefore and set forth, and to incur indebtedness, and to raise, borrow and secure the payment

of money in any lawful manner for any purposes in or about its business or affairs without limit as to amount.

(22) To do any and all things herein set forth and in addition, such other acts and things as are necessary or convenient to attainment of the purpose of this Association, or any of them, to the same extent as natural persons might or could do in any part of the world, insofar as such acts are permitted to be done by a non-profit corporation organized under the laws of the State of Alabama.

The foregoing clauses may be construed as objects and powers and it is hereby expressly provided that the foregoing enumeration or specific powers shall not be held to limit or restrict in any manner the powers of the corporation. In addition to the objects aforesaid, the Association shall have the power to conduct and carry on any business or activity not prohibited by law, nor required by law to be specifically stated in these Articles.

ARTICLE IV ASSOCIATION FUNDS AND PROPERTY

The Association shall pay no dividend, and shall distribute no part of its income to its Unit Owners which shall be deemed "Members" of the Association as set forth below in Article V, its Directors or Officers. Nevertheless, the Association may pay compensation in a reasonable amount to its Members, Directors and Officers for services rendered, and it may confer benefits on its Members in conformity with the Declaration and the purposes of the Association. On termination, the Association may make distributions to its Members as permitted by law, and no such payment, benefit, or distribution shall be deemed to be a dividend or distribution of income. All funds and property acquired by the Association and all proceeds therefrom shall be held and used for the benefit of the Members of the Association in accordance with the provisions of the Declaration, these Articles, and the Bylaws.

ARTICLE V MEMBERS

Each Owner, as that term is used in the Declaration, shall be a member of the Association and no other person or entity shall be entitled to membership.

The share of an Owner in the funds and assets of the Association cannot be assigned, pledged, or transferred in any manner, except as an appurtenance to his/her/its Unit.

Each Owner shall be entitled to one (1) vote for each Unit owned, as more fully set forth in the Declaration. No Owner shall be entitled to vote at any meeting of the Association until he has presented evidence of ownership of a Unit to the Board of Directors. The vote of each Owner

may only be cast by such Owner or by a proxy given by such Owner to his duly authorized representative. If title to a Unit shall be in the name of two or more persons as owners, any one of such owners may vote as the Owner of such Unit at any meeting of the Association and such vote shall be binding on such other owners who are not present at such meeting unless written notice to the contrary has been received by the Board of Directors prior to any such vote being cast.

ARTICLE VI
BOARD OF DIRECTORS

The number of Directors shall be fixed by the Bylaws, but shall not be less than three (3) nor more than five (5). The number of Directors constituting the initial Board of Directors is three (3), and the names and addresses of the persons who are to serve as the initial Directors are:

<u>NAME</u>	<u>ADDRESS</u>
Joel Funderburk	1293 North Dean Rd. Auburn, AL 36830
John D. Marshall Sr.	660 North College, Suite A Auburn AL, 36830
Lee Harris	2021 S College St., Suite A, Auburn, AL 36832

The Directors shall be elected or appointed in such a manner and at such times as may be prescribed in the Bylaws. Except as may otherwise be provided for in the Bylaws, each Director shall be a person designated by the Declarant or a person entitled to cast a vote in the Association.

Directors may be designated or elected and removed, and vacancies on the Board of Directors shall be filled as provided in the Bylaws.

All of the duties and powers of the Association existing under the Condominium Act, the Declaration, these Articles, and the Bylaws shall be exercised exclusively by the Board of Directors, its agents, officers, contractors, or employees, subject only to approval by Owners when such approval is specifically required by the Condominium Act, the Declaration, these Articles, or the Bylaws.

ARTICLE VII
OFFICERS

The Officers of the Corporation shall consist of a President, Secretary, Treasurer and such other officers as the Board may determine. More than one office may be held by one person. Each said Officer shall be elected or appointed at such time and in such manner and for such terms as may be prescribed by the Bylaws. The initial Officers of the Corporation who will serve until election or appointment of their successors in accordance with the Bylaws, with their respective addresses, are as follows:

<u>OFFICER</u>	<u>NAME</u>	<u>ADDRESS</u>
President	Joel Funderburk	1293 North Dean Rd. Auburn, AL 36830
Secretary	John D. Marshall Sr.	660 North College, Suite A Auburn AL, 36830
Treasurer	Lee Harris	2021 S College St., Suite A, Auburn. AL 36832

ARTICLE VIII
EXECUTION OF INSTRUMENTS

All instruments for the Association shall be signed, executed and/or acknowledged under seal by the President, Vice President, or such other officer or officers as the Board of Directors shall designate.

ARTICLE IX
INDEMNIFICATION

Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a director or officer of the Association, or any settlement thereof, whether or not he is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Association. The foregoing right of

indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

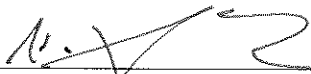
ARTICLE X
TERM

The term of the Association shall be perpetual; provided, however, that the Association shall be terminated by the termination of the Condominium in accordance with the terms of the Declaration.

ARTICLE XI
REGISTERED AGENT

The registered office of said Corporation shall be at 1293 North Dean Rd., Auburn, AL 36830, and the registered agent at such address is Joel Funderburk. The mailing address of the Corporation shall be 1293 North Dean Rd., Auburn, AL 36830.

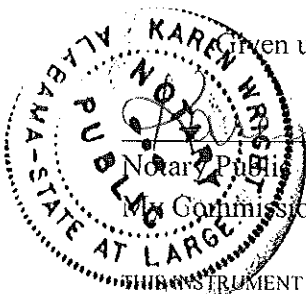
IN WITNESS, WHEREOF, the undersigned incorporator has subscribed his name to these Articles of Incorporation on this the 15 day of August, 2019.



H. Taylor Buckner, Incorporator

STATE OF ALABAMA
COUNTY OF LEE

I, the undersigned authority, a Notary Public in and for said State at Large, hereby certify that H. Taylor Buckner, whose name is signed to the foregoing, and who is known to me, acknowledge before me on this day that, being informed of the contents of this instrument, he, executed the same voluntarily on the day the same bears date.

Given under my hand and seal of office, this the 15th day of August, 2019.




Notary Public
My Commission Expires
August 27, 2019

THE INSTRUMENT PREPARED BY:
DAVIS, BINGHAM, HUDSON & BUCKNER, P.C.
324 EAST MAGNOLIA AVE.
AUBURN, ALABAMA 36830
334-821-1908

John H. Merrill
Secretary of State

P.O. Box 5616
Montgomery, AL 36103-5616

STATE OF ALABAMA

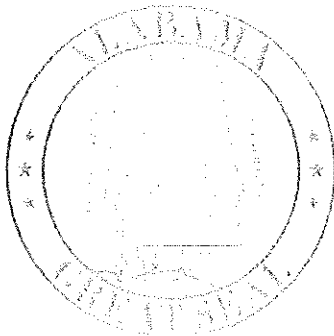
I, John H. Merrill, Secretary of State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that

pursuant to the provisions of Title 10A, Chapter 1, Article 5, Code of Alabama 1975, and upon an examination of the entity records on file in this office, the following entity name is reserved as available:

College Oaks Condominium Owners Association, Inc.

This name reservation is for the exclusive use of H. Taylor Buckner, 324 East Magnolia Avenue, Auburn, AL 36830 for a period of one year beginning July 19, 2019 and expiring July 19, 2020

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the city of Montgomery, on this day.



RES847998

July 19, 2019

Date

J. H. Merrill

John H. Merrill

Secretary of State

EXHIBIT "E"

**BYLAWS
OF THE
COLLEGE OAKS CONDOMINIUM OWNERS ASSOCIATION, INC.**

8008 65
CONDO Book & Page

8007 958
Recorded in the Above
CONDO Book & Page
08-16-2019 01:49:29 PM
Bill English - Probate Judge
Lee County, AL
Book/Pg: 8007/958
Term/Cashier: CHPJDSK02 / CO
Tran: 22007.318143.425050
Recorded: 08-16-2019 13:49:58
REC Recording Fee
Total Fees: \$ 80.00

80.00

BYLAWS

OF

COLLEGE OAKS CONDOMINIUM OWNERS ASSOCIATION, INC.

- TABLE OF CONTENTS -

	Page
ARTICLE 1: NAME, PRINCIPAL OFFICE, DEFINITIONS AND PURPOSE	5
1.1 Name	5
1.2 Principal Office	5
1.3 Definitions	5
1.4 Purpose	5
ARTICLE 2: MEMBERSHIP, MEETINGS, NOTICE, QUORUM, VOTING	5
2.1 Membership	5
2.2 Place of Meetings	5
2.3 First Organizational Meeting and Annual Meetings	6
2.4 Special Meetings	6
2.5 Notice of Meetings	6
2.6 Waiver of Notice	6
2.7 Adjournment of Meetings	7
2.8 Voting	7
2.9 List for Voting	7
2.10 Proxies	7
2.11 Quorum	7
2.12 Conduct of Meetings	8
2.13 Action Without a Meeting	8
2.14 Order of Business	8
ARTICLE 3: BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS	9
3.1 Governing Body; Composition	9
3.2 Number of Directors	9
3.3 Directors During Declarant Control Period	9
3.4 Nomination and Election Procedures	9
3.5 Election and Term of Office	10
3.6 Removal of Directors and Vacancies	10
3.7 Organizational Meetings	11
3.8 Regular Meetings	11
3.9 Special Meetings	11
3.10 Notice	11
3.11 Waiver of Notice	12
3.12 Participation in Meetings	12
3.13 Quorum of Board of Directors	12
3.14 Compensation	12

3.15 Conduct of Meetings	13
3.16 Open Meetings	13
3.17 Action Without a Formal Meeting	13
3.18 Powers	13
3.19 Duties	13
3.20 Management	15
3.21 Accounts and Reports	15
3.22 Borrowing	16
3.23 Right to Contract	16
3.24 Enforcement	16
ARTICLE 4: OFFICERS	17
4.1 Officers	17
4.2 Election and Term of Office	17
4.3 Removal and Vacancies	17
4.4 Powers and Duties	18
4.5 Resignation	18
4.6 Execution of Instruments	18
4.7 Compensation	18
ARTICLE 5: COMMITTEES	19
5.1 General	19
ARTICLE 6: FISCAL MANAGEMENT	19
6.1 Assessment Roll	19
6.2 Annual Budget	19
6.3 Copies of Budget	20
6.4 Depository	20
6.5 Financial Summary	20
6.6 Bonds	20
6.7 Assessments	20
6.8 Failure to Make a Timely Payment of Assessment Installment	20
6.9 Special Assessments	21
6.10 Supplemental Assessments	21
6.11 Annual Statement	21
6.12 Accounting Records	21
ARTICLE 7: MISCELLANEOUS	21
7.1 Fiscal Year	21
7.2 Parliamentary Rules	21

7.3 Conflicts	22
7.4 Books and Records	22
7.5 Notices	22
7.6 Amendment	23

**BYLAWS
OF
COLLEGE OAKS CONDOMINIUM OWNERS ASSOCIATION, INC.**

ARTICLE 1: NAME, PRINCIPAL OFFICE, DEFINITIONS AND PURPOSE

1.1 Name. The name of the corporation is College Oaks Condominium Owners Association, Inc. (the "Association"), a nonprofit corporation under the laws of the State of Alabama, formed for the purpose of managing and operating a certain condominium located in Auburn, Lee County, Alabama, known as College Oaks, hereinafter referred to as the "Condominium".

1.2 Principal Office. The initial principal office of the Association shall be located in Lee County, Alabama. The Association may have such other offices, either within or outside the State of Alabama, as the Board of Directors may determine or as the affairs of the Association may require.

1.3 Definitions. The words used in these Bylaws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that Declaration of Condominium of College Oaks, A Condominium, filed, or to be filed, in the Public Records, as it may be amended (the "Declaration"), unless the context indicates otherwise.

1.4 Purpose. This Condominium is formed under the provisions of Volume 19 Code of Alabama 1975 (as amended), Title 35-8A-101, et. seq., being the Condominium laws and statutes of the State of Alabama, and hereinafter known as the "Condominium Act" or the "Act", to serve as the means through which the Owners, as defined in the Declaration, may express their opinions, wishes, and take action with regard to the administration, management and operation of the Condominium and the Condominium Property as described in the Declaration.

ARTICLE 2: MEMBERSHIP, MEETINGS, NOTICE, QUORUM, VOTING

2.1 Membership. Each person who is the owner of a Unit in the Condominium shall be a member of the Association (hereinafter referred to as "Member") and shall have one (1) vote for each Unit owned, as more fully set forth in the Declaration, the terms of which pertaining to membership are incorporated by this reference. Membership in the Association shall be appurtenant to, and may not be separated from ownership of a Unit.

2.2 Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as the Board may designate, either within the Condominium Property or as convenient to the Condominium Property

as is possible and practical. Meetings may be held by means of telephone conference, video conference or similar communications equipment, by means of which all persons participating in the meeting can converse with each other. Participation by one of these methods shall constitute presence in person at such meeting.

2.3 First Organizational Meeting and Annual Meetings. The first meeting of the Association, whether regular or special, shall be held within one (1) year from the date of incorporation of the Association. Meetings shall be of the Members. Thereafter, subsequent regular meetings shall be held annually on a date and at a time set by the Board.

2.4 Special Meetings. After the first annual meeting, the president or secretary may call special meetings of the Members. In addition, it shall be the duty of the president to call a special meeting within thirty (30) days if so directed by resolution of the Board or upon a petition signed by Members holding at least twenty percent (20%) of the total votes in the Association or upon written request of the Declarant. Such written request shall state the purpose or purposes of the proposed meeting, and business transacted at such special meeting shall be confined to the purpose(s) stated in such notice.

2.5 Notice of Meetings. Written notice stating the place, day, and time of any meeting of the Members shall be delivered to each Member entitled to vote at such meeting, not less than ten (10) nor more than sixty (60) days before the date of such meeting, by or at the direction of the president or the secretary or the officers or persons calling the meeting. No business shall be transacted at a meeting except as stated in the notice; provided however, if Members holding in aggregate more than fifty percent (50%) of the votes are present at an annual meeting, in person or by proxy, matters in addition to those set forth in the notice of the meeting may be voted upon without further notice to the Members. Additionally, notice of all meetings at which a disposition of is to be made of assets, and/or granting rights or easements in the Condominium Property must also be given to the holders of first mortgages on any Units and other necessary parties.

2.6 Waiver of Notice. Waiver of notice of a meeting of the Association shall be deemed the equivalent of proper notice. Any Member may, in writing given to the Board of Directors, waive notice of any meeting of the Association, either before or after such meeting. Attendance at a meeting shall be deemed a waiver of any objection as to notice of the time, date, and place thereof; unless a specific objection as to the lack of proper notice is given at the time the meeting is called to order.

Attendance at a meeting shall also be deemed a waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7 Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, Members or proxies holding a Majority of the votes represented at such meeting may adjourn the meeting to a time not less than five (5) nor more than twenty (20) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not set by those in attendance at the original meeting or if for any reason a new date is set for reconvening the meeting after adjournment, notice for reconvening the meeting shall be given to Members in the manner prescribed in Section 2.5.

2.8 Voting. The voting rights of the Members shall be as set forth in the Declaration and in these Bylaws, and such voting rights provisions are specifically incorporated by this reference. The Board may adopt policies and procedures regarding the methods of casting votes, such as written ballots, secret ballots or computer access. No Member who has failed to pay his or her Assessments or charges shall be eligible to vote at any meeting of the Association.

2.9 List for Voting. After setting a record date for notice of a meeting, the Board shall prepare an alphabetical list of the names of the Members entitled to notice of such meeting. The list shall show the address of the Member and the number of votes each is entitled to vote at the meeting. The list for voting shall be made available for inspection in accordance with Alabama law.

2.10 Proxies. At all meetings of the Members, each Member may cast its votes in person (if a corporation, partnership, limited liability company, or trust, through any officer, director, partner, member, manager or fiduciary duly authorized to act on behalf of the Member) or by proxy, subject to the limitations of Alabama law relating to use of general proxies and subject to any specific provision to the contrary in the Declaration or these Bylaws. Every proxy shall be in writing specifying the Unit(s) for which it is given, signed by the Member or such Member's duly authorized attorney-in-fact, dated, and filed with the secretary of the Association prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two (2) or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. Every proxy shall be revocable and shall automatically cease upon conveyance of any Unit for which it was given, or upon receipt of notice by the secretary of the death or judicially declared incompetence of a Member who is a natural person, or of written revocation, or eleven (11) months from the date of the proxy, unless a shorter period is specified in the proxy.

2.11 Quorum. The presence, in person or by proxy, of Members holding in aggregate more than fifty percent (50%) of the votes entitled to be cast shall constitute a quorum at all meetings of the Association. If a quorum is present at a duly called or held meeting, business may

be continued until adjournment, provided that any action taken is approved by at least a Majority of the votes required to constitute a quorum. When a quorum is once present to call the meeting, it cannot be broken by the subsequent withdrawal of a Member or Members.

2.12 Conduct of Meetings. The President of the Association shall preside over all meetings of the Association, and the secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted amid all other transactions occurring at such meetings.

2.13 Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Association may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by at least two-thirds (2/3) of the Members entitled to vote on such matter. Such consents shall be signed within sixty (60) days after receipt of the earliest dated consent, dated and delivered to the Association at its principal place of business in the State of Alabama. Such consents shall be filed within the minutes of the Association and shall have the same force and effect as a vote of the Members at a meeting. Within ten (10) days after receiving authorization for any action by written consent, the secretary shall give written notice to all Members summarizing the material features of the authorized action.

2.14 Order of Business. The order at the annual meeting of the Members shall be:

- (a) Call to order.
- (b) Calling the roll, certification of proxies, and establishing a quorum.
- (c) Reading of the minutes from the prior meeting.
- (d) Reports of the Board of Directors and/or Officers of the Condominium.
- (e) Reports of the management agency.
- (f) Budget and financial review.
- (g) Selection and appointment of inspectors of election, if necessary.
- (h) Election of Board of Directors of the Association.
- (i) Old business.
- (j) New business.
- (k) Adjournment.

The order of business at all other meetings of the Members shall as far as practical conform to the order of business at the annual meeting insofar as the special purpose of the meeting will permit.

ARTICLE 3: BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS

A. Composition and Selection.

3.1 Governing Body; Composition. The affairs of the Association shall be managed and governed by a Board of Directors, each of whom shall be over the age of twenty-five (25) years and have one (1) equal vote. Except with respect to directors appointed by the Declarant or serving as a representative of the Declarant, the directors shall be eligible Members; provided however, no more than one Owner of a Unit may serve on the Board at the same time. No Owner shall be eligible to serve as a Director if any assessment for such Owner's Unit is delinquent. In the case of a Member which is not a natural person, any officer, director, partner, member, manager, employee, or fiduciary of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member, provided that, no Member may have more than one (1) such representative on the Board at a time, except in the case of directors appointed by or serving as representatives of the Declarant. If a Director shall cease to meet such qualifications during his or her term, he or she shall cease to be a Director, and his or her place on the Board shall be deemed vacant.

3.2 Number of Directors. The Board shall consist of three (3) directors. The number of directors may be changed by resolution of the Board, but shall consist of not less than three (3) and no more than five (5).

3.3 Directors During Declarant's Control Period. The directors shall be selected by the Declarant acting in his sole discretion and shall serve at the pleasure of the Declarant for so long as the Declarant's control exists; however, subject to the Declaration and the Alabama Condominium Act. Directors appointed by or serving as representatives of the Declarant shall not be subject to the qualifications for directors set forth in Section 3.1.

3.4 Nomination and Election Procedures.

(a) Nomination of Directors. Except with respect to directors appointed by the Declarant; directors shall be nominated from the floor by at least thirty percent (30%) of the Members eligible to vote and may also be nominated by a nominating committee, if such a committee is established by the Board. Such committee shall report its nominees by notice send by mail to all Members at least ten (10) days prior to the date of the annual meeting. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes. Directors appointed by or serving as representatives of the Declarant shall not be subject to these nomination requirements.

8007 966
CONDO Book & Page

(b) Election Procedures. Each Member may cast the vote(s) assigned to the Member's Unit(s) for each position to be filled. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms. Voting may be verbal, by show of hands, or by written ballot. In the event voting is by written ballot, the President shall appoint inspector(s) of the election who shall collect, receive, canvass, and report votes cast at such election. Inspectors shall not be candidates.

3.5 Election and Term of Office. Notwithstanding any other provision of these Bylaws, not later than the first annual meeting after the termination of the Declarant's control, the directors appointed by the Declarant shall resign, and the Association shall hold an election at which time the Members shall be entitled to elect the Directors; provided, however, that during the Development Period, the Declarant shall have the right, in its sole discretion, to appoint one (1) of the three (3) Directors. Two (2) directors shall serve a term of two (2) years and one (1) Director shall serve a term of one (1) year; as such Directors determine among themselves. Upon the expiration of the term of office of each Director elected by the Members, the Members shall elect a successor to serve a term of two (2) years. Upon the expiration of the term of office of a Director appointed by the Declarant during the Development Period, the Declarant shall have the right, in its sole discretion, to appoint a successor to serve a term of two (2) years. Directors shall hold office until their respective successors have been elected.

3.6 Removal of Directors and Vacancies. Any Director elected by the Members may be removed, with or without cause, by the Members holding at least two-thirds (2/3) of the total votes allocated to all the Units, but shall not be subject to removal solely by the Declarant. Any Director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a Director, a successor shall be elected by the Members to fill the vacancy for the remainder of the term of such Director.

Any Director elected by the Members who has three (3) or more consecutive unexcused absences from Board meetings, or who is more than thirty (30) Days delinquent (or is the resident of a Unit that is delinquent or is an officer, director, partner, member, employee, or trust officer of a Member who is delinquent) in the payment of any assessment or other charge due the Association, may be removed by a Majority of the Directors, and the Board may appoint a successor to fill the vacancy until the next annual meeting, at which time the Members may elect a successor for the remainder of the term.

In the event of the death, disability, or resignation of an elected Director or the adoption of a Board resolution increasing the number of Directors, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members may elect a successor for the remainder of the term. Upon receipt of a letter of resignation from a

shall be given at the Director's telephone or telecopier number or sent to the Director's address as shown on the records of the Association. Notices sent by first class mail shall be deemed communicated when deposited into a United States mailbox. Notices given by personal, overnight or courier delivery, telephone, telecopier, telegraph, electronic mail, or e-mail shall be deemed communicated when delivered, telephoned, telecopied, electronically mailed, e-mailed, or given to the telegraph company.

3.11 Waiver of Notice. The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.12 Participation in Meetings. Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means of telephone conference, video conference or similar communications equipment, by means of which all persons participating in the meeting can converse with each other. Participation in a meeting pursuant to this Section shall constitute presence in person at such meeting.

3.13 Quorum of Board of Directors. At all meetings of the Board, a Majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a Majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these Bylaws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by at least a Majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a Majority of the Directors present at such meeting may adjourn the meeting to a time not less than four (4) nor more than twenty (20) Days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.14 Compensation. Directors shall not receive any compensation from the Association for acting as such unless approved by Members holding a Majority of the total votes in the Association at a regular or special meeting of the Association. Any Director may be reimbursed for expenses incurred on behalf of the Association upon approval of a Majority of the other Directors. Nothing herein shall prohibit the Association from compensating a Director, or any entity with which a Director is affiliated, for services or supplies furnished to the Association in a capacity other than as a Director pursuant to a contract or agreement with the Association, provided that such

Director's interest was made known to the Board prior to entering into such contract and such contract was approved by a Majority of the Board of Directors, excluding the interested Director.

3.15 Conduct of Meetings. The president shall preside over all meetings of the Board, and the secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings. In the case of a tie vote on a motion or resolution before the Board, the motion or resolution is considered lost.

3.16 Open Meetings. Subject to the provisions of Sections 3.12 and 3.17, all meetings of the Board shall be open to all Members, but attendees other than directors may not participate in any discussion or deliberation unless permission to speak is requested on an attendee's behalf by a Director. In such case, the president may limit the time any individual may speak. Notwithstanding the above, the president may adjourn any meeting of the Board, reconvene in executive session, and exclude Persons other than Directors, to discuss matters of a sensitive nature, including, but not limited to pending or threatened litigation and personnel matters.

3.17 Action Without a Formal Meeting. Any action to be taken at a meeting of the Directors or any action that may be taken at a meeting of the Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the Directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

3.18 Powers. The Board shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Governing Documents and as provided by law. The Board may do or cause to be done all acts and things which the Governing Documents or Alabama law do not direct to be done and exercised exclusively by the membership generally.

3.19 Duties. The duties of the Board shall include, without limitation:

(a) preparing and adopting, in accordance with the Declaration, an annual budget establishing each Owner's share of the Common Expenses;

(b) levying and collecting such assessments from the Owners;

(c) providing for the operation, care, upkeep, replacement and maintenance of the Common Element;

(d) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) depositing all funds received on behalf of the Association in a bank depository which it shall approve and using such funds to operate the Association, provided any reserve funds may be deposited, in the directors' best business judgment, in depositories other than banks;

(f) making and amending rules in accordance with the Declaration;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) contracting for repairs, additions, and improvements to or alterations of the Common Element or Limited Common Element in accordance with the Governing Documents;

(i) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association in accordance with the Governing Documents;

(j) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;

(k) paying the costs of all services rendered to the Association;

(l) keeping books with detailed accounts of the receipts and expenditures of the Association;

(m) making available to any Owner, and the holders, insurers, and guarantors of any mortgage on any Unit, current copies of the Governing Documents and all other books, records, and financial statements of the Association as provided in Section 6.4;

(n) permitting utility suppliers to use portions of the Common Element reasonably necessary to the ongoing development or operation of the Condominium Property;

(o) indemnifying a Director, officer or committee member, or former Director, officer or committee member of the Association to the extent such indemnity is required or permitted under Alabama law or the Governing Documents; and

(p) assisting in the resolution of disputes between Owners and others without litigation as set forth in the Declaration.

(q) prevent loss or damage to the Condominium by paying taxes, insurance, garbage, Assessments or water bills or other liens against any part of the Condominium Property and to assess the same against the Unit or Units subject to such liens.

(r) temporarily close or restrict the use of Common Elements and Limited Common Elements in the Condominium when required for a special use.

(s) borrow money on behalf of the Association when required in connection with the operation, care, upkeep, and maintenance of the Common Elements and Limited Common Elements.

(t) pay the cost of all power, water, sewer, or other utility services rendered to the Condominium Property which are not separately billed to the Owners.

(u) sell, lease, mortgage, or otherwise deal with Units acquired by the Association.

(v) hire and discharge persons employed for the operation of the Condominium Property on such terms and conditions as the Board in its sole discretion may deem advisable.

(w) do any and all things which prudent operation of the Condominium Property would require.

3.20 Management. The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policy-making authority. The Declarant or an affiliate of the Declarant may be employed as managing agent or manager.

The Board may delegate to one (1) of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

3.21 Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

(a) cash or accrual accounting, as defined by generally accepted accounting principles, shall be employed;

(b) accounting and controls should conform to generally accepted accounting principles;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any item of value received shall benefit the Association;

(e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board; and

(f) an annual financial report shall be made available to all Members within one hundred twenty (120) days after the close of the fiscal year. Such annual report may be prepared on an audited, reviewed or compiled basis, as the Board determines.

3.22 Borrowing. The Association shall have the power to borrow money for any legal purpose; provided however, if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous twelve (12) month period, exceeds or would exceed ten percent (10%) of the budgeted gross expenses of the Association for that fiscal year, the Board shall obtain the approval of Members holding at least two-thirds (2/3) of the total votes allocated to Units prior to borrowing such money.

3.23 Right to Contract. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or other owners or resident, associations, within and outside the Properties.

3.24 Enforcement.

(a) Notice. Prior to imposition of any sanction requiring compliance with these procedures as set forth in the Declaration, the Board or its delegate shall serve the alleged violator with written notice including (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a statement that the alleged violator may present a written rebuttal to the Board within fifteen (15) days of the notice; and (iv) a statement that the proposed sanction shall be

imposed as contained in the notice unless a written rebuttal within fifteen (15) Days of the notice is received. If a timely rebuttal is not received, the sanction stated in the notice shall be imposed; provided however, the Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the fifteen (15) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person. In the event of a continuing violation, each day the violation continues beyond the fifteen (15) day period shall constitute a separate offense, and fines may be imposed on a per diem basis without further notice to the violator. In the event of a violation which recurs within one (1) year from the date of any notice hereunder, the Board or covenants committee may impose a sanction without further notice to the violator. The Board may, but shall not be obligated to, adopt a schedule of sanctions for violations of the Governing Documents.

(b) No Hearing. The alleged violator shall be afforded a reasonable opportunity to respond in writing to the sanctions within the allotted fifteen (15) day period; however, there shall be no formal hearing. It shall be the sole and absolute discretion of the Board to suspend any proposed sanction. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the Association's records. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by time officer, director, or delegate who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator responds in writing to the proposed sanction. The Association's records shall contain a written statement of the results of the rebuttal and the sanction imposed, if any.

ARTICLE 4: OFFICERS

4.1 Officers. The officers of the Association shall be a president, secretary, and treasurer. The president and secretary shall be elected from among the members of the Board; other officers may, but need not be members of the Board. The Board may appoint such other officers, including one (1) or more vice presidents, one (1) or more assistant secretaries and one (1) or more assistant treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two (2) or more offices may be held by the same person, except the offices of president and secretary.

4.2 Election and Term of Office. The Board shall elect the officers of the Association at the first meeting of the Board following each election of new directors. Such officers shall serve until their successors are elected.

4.3 Removal and Vacancies. The Board may remove any officer at any time in its sole discretion with or without cause and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise for the unexpired portion of the term.

4.4 Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board of Directors. The president shall be the chief executive officer of the Association and shall have all the powers and duties usually vested in a president of an Association, including, but not limited to, the power to appoint committees with the consent of the Board, presided over all meetings of the Members and of the Board, sign as president all deeds, contracts, and other instruments that have been duly approved by the Board, to call meetings of the Board whenever necessary in accordance with the rules set forth herein, and to have general supervision, direction, and control of the affairs of the Association. Furthermore, the president shall exercise such other powers and duties prescribed by the Board, see that all orders and resolutions of the Board are carried into effect, and in the event of a vice president, delegate some of his/her duties. The treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both. Furthermore, the treasurer shall keep the financial records of the Association, the books of accounts, have custody of all Association funds, keep assessment rolls, deposit all monies and other valuables in the name of and to the credit of the Association in such depositories as designated by the Board, disburse funds as authorized by the Board, keep vouchers and receipts for such disbursements, render an annual report at the annual meeting to the Members, and collect assessments/common expenses on behalf of the Association. The secretary shall be responsible for preparing minutes of meetings of the Association and the Board, authenticating records of the Association, attend to giving all notices as stated herein, have custody of the Association seal and affix the same to such instruments as may require a seal, prepare and have available at each meeting a certified alphabetical list of Owners' names and their associated Common Interest, certify that Members are entitled to vote, and sign all instruments that require a secondary signature by the Association. Furthermore, the secretary shall perform all duties as may be required by the president or the Board.

4.5 Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the president, or the secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6 Execution of Instruments. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by Board resolution.

4.7 Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.14.

ARTICLE 5: COMMITTEES

5.1 General. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution. Any such committee shall consist of at least three (3) members, at least one (1) of whom shall be a Director. Unless otherwise provided by the Board, committee members shall be eligible Members; provided however, no Member may have more than one (1) representative on a committee at any time. No committee appointed by the Board shall be empowered to take any affirmative action or to bind the Board or the Association without the consent of the Board. Any such committee shall keep regular minutes of its proceedings and shall report the same to the Board.

ARTICLE 6: FISCAL MANAGEMENT

6.1 Assessment Roll. The Assessment roll shall be maintained in a set of accounting books, duly approved by an accountant, in which there shall be an account for each Unit. Such account shall designate the name and address of the Owner(s), the amount of each Assessment against the Owners, the dates and amounts in which the Assessments come due, the amounts paid upon the account and the balance due on the Assessments. In making up the Assessment roll, the Unit is treated as such and no division shall be made because the Unit is held by more than one (1) person.

6.2 Annual Budget. The Board shall prepare, or cause to be prepared, an annual budget for each fiscal year, to be adopted, containing reserve accounts for, but not limited to, capital expenditures and deferred maintenance, and, for each year shall contain estimates of the cost of performing the various functions of the Condominium and shall include among its items:

1. Common Expense budget:
 - a. Maintenance and operation of Common Elements, Limited Common Elements, entrance, landscaping, private street, walkways, and parking.
 - b. Utility services, septic systems and garbage.
 - c. Casualty insurance.
 - d. Liability insurance.
 - e. Fidelity and/or employee dishonesty insurance.
 - f. Administration.
 - g. Ad valorem taxes.
 - h. Municipal assessment.
 - i. Reserves.
 - j. Any other items which the Board finds necessary to include therein.

2. The proposed Assessment against each Unit and the manner of payment.

6.3 Copies of Budget. Copies of the budget and Assessments shall be transmitted to each Member. If the budget is subsequently amended before the Assessments are made, a copy of the amended budget shall be furnished to each Member concerned.

6.4 Depository. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Board. The monies of the Association shall be deposited therein. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Board.

6.5 Financial Summary. A financial summary of the accounts of the Association shall be made annually by a certified public accountant and a copy of the report shall be furnished to each Member not later than one hundred twenty (120) days after the end of the year for which the report is made.

6.6. Bonds. Bonds may be required by the Board from all officers and employees of the Association. The amounts of such bonds shall be determined by the Board. The premium on such bonds shall be paid by the Association.

6.7 Assessments. On or before the first day of each fiscal year for which the Assessments are made, each Owner shall be notified of his/her/its share of the Common Expenses for such year as shown by the annual budget. The Assessments of the Common Expenses shall be as set forth in the Declaration, but the yearly Assessment for each Unit shall be in proportion to its respective Common Interests in the Common Elements and Limited Common Elements, which may be amended from time to time as set forth in the Declaration.

The Board may cause to be sent to each Owner, on or before the first day of each year, a statement of the annual Assessment. However, the failure to send or receive such annual statement shall not relieve the Owner of his/her/its obligation to make timely payment of the annual Assessment. If the Board shall not approve an annual budget or shall fail to determine new annual Assessments for any year, or shall be delayed in doing so, each Owner shall continue to pay the amount of his/her/its annual Assessment as last determined. No Owner shall be relieved of his/her/its obligation to pay his/her/its Assessment by abandonment of his/her/its Unit or lack of use of the Common Elements.

6.8 Failure to Make Timely Payment of Assessment Installment. If an Owner shall be in default in the payment of any installment of an annual Assessment for more than sixty (60) days,

the Board may accelerate all remaining installments due for the balance of the term covered by the annual budget, and the same shall thereupon become immediately due and payable. In addition, late payment or non-payment of Assessment may result in other penalties as may be determined by the Board, including, but not limited to, fines or suspension/revocation of parking or other privileges afforded to members of the Association.

6.9 Special & Specific Assessments. The Board can cause to be sent to each Owner statements for all Special and/or Specific Assessments, in accords with the Declaration, that are necessary to meet the requirement of the Association and the Condominium Property, for which the Owners are liable to the Association.

6.10 Supplemental Assessments. If during the course of any fiscal year, it shall appear to the Board that the annual 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 Owner, and thereupon a supplemental Assessment shall be made to each Owner for his or her proportionate share of the supplemental budget.

6.11 Annual Statement. Within one hundred twenty (120) days after the end of each fiscal year, the Board shall cause to be furnished to each Owner, a statement for the year so ended showing the receipts and expenditures of the Association, and such other information as the Board may deem desirable.

6.12 Accounting Records. The Board shall cause to be kept, in accordance with generally accepted accounting principles, a record of all receipts and expenditures; as well as an account for each Unit showing the Assessments or other charges due, due dates thereof, present balance due, and any interest in common surplus. Such records shall be open to inspection by Owners at reasonable times.

ARTICLE 7: MISCELLANEOUS

7.1 Fiscal Year. The fiscal year of the Association shall be the calendar year unless the Board establishes a different fiscal year by resolution.

7.2 Parliamentary Rules. Except as may be modified by Board resolution, *Robert's Rules of Order Newly Revised* (current edition) shall govern the conduct of Association proceedings when not in conflict with Alabama law, the Articles of Incorporation, the Declaration, or these Bylaws.

7.3 Conflicts. If there are conflicts between the provisions of Alabama law, the Declaration, the Articles of Incorporation, and these Bylaws, the provisions of Alabama law, the Declaration, the Articles of Incorporation, and the Bylaws (in that order) shall prevail.

7.4 Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Unit, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to such Person's interest in a Unit: the Declaration, Bylaws, and Articles of Incorporation, any amendments and supplements to the foregoing, the rules of the Association, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association, which may include the office of the Association's management agent, if any, or at such other place within the Properties as the Board shall designate during normal business hours.

(b) Rules for Inspection. The Board may establish rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents requested.

(c) Inspection by Directors. Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make a copy of relevant documents at the expense of the Association.

7.5 Notices. Except as otherwise provided in the Declaration or these Bylaws, all notices, demands, bills, statements, and other communications under the Declaration or these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) if to a Member, at the address which the Member has designated in writing and filed with the secretary or, if no such address has been designated, at the address of the Unit of such Member; or

(b) if to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

If mailed, any notice shall be deemed to be delivered when deposited in the United States mail addressed with postage prepaid. To increase flexibility, any Person, including the Association, may consent to or request in writing additional methods of receiving notice, including but not limited to, facsimile, electronic mail or e-mail.

7.6 Amendment.

(a) By Declarant. Until termination of the Declarant's control, the Declarant may unilaterally amend these Bylaws for any purpose. Thereafter, the Declarant may unilaterally amend these Bylaws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example, the U.S. Department of Veterans Affairs ("VA"), the U.S. Department of Housing and Urban Development ("HUD"), the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee Mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state or federal governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing. The failure of an amendment to apply uniformly to all Units shall not constitute a material adverse effect upon the rights of any Owner. In addition, during the Development Period, the Declarant may unilaterally amend these Bylaws for any other purpose, provided the amendment has no material adverse effect upon any right of any Member.

(b) By the Board. The Board shall be authorized to amend these Bylaws without the consent of the Members (i) for the purpose of submitting the Condominium Property to the Alabama Uniform Condominium Act, §§35-8A-101, et seq. Code of Alabama, (1975, as amended) and conforming these Bylaws to any mandatory provisions thereof, (ii) to correct scrivener's errors and other mistakes of fact, provided that any amendments under this provision have no material adverse effect on the rights of the Members; and (iii) for the purpose of bringing any provision contained herein into compliance with the Fair Housing Amendments Act of 1988, as more fully set forth in Section 15.4 of the Declaration. During the period of Declarant's control, any such amendments shall require the written consent of the Declarant.

(c) By Members. Except as provided above, these Bylaws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members holding at least

two-thirds (2/3) of the total votes in the Association, and, during the Development Period, the written consent of the Declarant.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(d) Validity and Effective Date. Any amendment to these Bylaws shall become effective upon recordation in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these Bylaws.

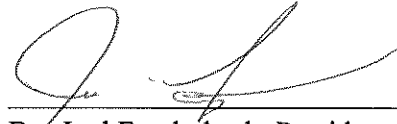
No amendment may remove, revoke, or modify, any right or privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege.

If a Member consents to any amendment to the Declaration or these Bylaws, it will be conclusively presumed that such Member has the authority to consent and no contrary provision in any Mortgage or contract between the Member and a third party will affect the validity of such amendment.

Signatures appear on the following page.

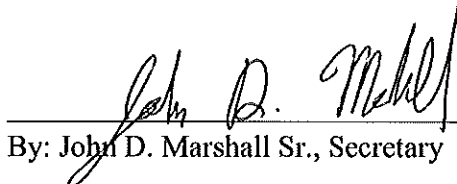
IN WITNESS, WHEREOF, the undersigned have subscribed their names to the Bylaws of College Oaks Condominium Owners Association, Inc., on this the 15 day of August, 2019.

College Oaks Condominium Owners Association, Inc.



By: Joel Funderburk, President

Attest:



By: John D. Marshall Sr., Secretary

THIS INSTRUMENT PREPARED BY:
DAVIS, BINGHAM, HUDSON & BUCKNER, P.C.
ATTORNEYS AT LAW
324 EAST MAGNOLIA AVENUE
AUBURN, ALABAMA 36830
334-821-1908