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**DECLARATION OF CONDOMINIUM
OF
MILLWOOD LAND CONDOMINIUM**

ARTICLE I

PREAMBLE, NAME AND LEGAL DESCRIPTION

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

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

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

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

**ARTICLE II
DEFINITIONS**

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

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

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

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

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

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

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

2.7 Common Expenses shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE III **EXHIBITS**

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

Exhibit "A". A legal description and a survey of land committed to the condominium form of ownership pursuant to this Declaration and comprising the Condominium Property with sufficient detail to identify the Common Elements and each Unit and their relative locations and approximate dimension. As set forth in Exhibit "A", each Unit is identified by a distinctive letter so that no Unit bears the same designation as any other Unit. Copies of the survey are also recorded in Condominium Book 4, at Page 78, in the Office of the Judge of Probate for Lee County, Alabama.

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

Exhibit "C". The Bylaws of the Association.

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

ARTICLE IV
EASEMENTS, LIENS AND ENCUMBRANCES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE V

UNITS AND COMMON ELEMENTS

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

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

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

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

ARTICLE VI

ARCHITECTURAL STANDARDS

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

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

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

6.3 Approval of Plans and Specifications.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE III **EXHIBITS**

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

Exhibit "A". A legal description and a survey of land committed to the condominium form of ownership pursuant to this Declaration and comprising the Condominium Property with sufficient detail to identify the Common Elements and each Unit and their relative locations and approximate dimension. As set forth in Exhibit "A", each Unit is identified by a distinctive letter so that no Unit bears the same designation as any other Unit. Copies of the survey are also recorded in Condominium Book 4, at Page 78, in the Office of the Judge of Probate for Lee County, Alabama.

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

Exhibit "C". The Bylaws of the Association.

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

ARTICLE IV
EASEMENTS, LIENS AND ENCUMBRANCES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE V

UNITS AND COMMON ELEMENTS

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

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

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

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

ARTICLE VI

ARCHITECTURAL STANDARDS

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

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

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

6.3 Approval of Plans and Specifications.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE VII **MAINTENANCE, ALTERATION AND IMPROVEMENT**

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

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

(a) All Common Elements.

7.2 By the Owner.

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

(b) Each Unit Owner agrees as follows:

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

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

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

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

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

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

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

ARTICLE VIII

ASSESSMENTS AND COMMON EXPENSES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE IX **THE ASSOCIATION**

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

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

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

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

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

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

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

9.6 Transfer of Control of Association.

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

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

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

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

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

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

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

ARTICLE X INSURANCE

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

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

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

10.3 Coverage.

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

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

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

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

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

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

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

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

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

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

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

ARTICLE XI

RECONSTRUCTION OR REPAIR AFTER CASUALTY

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

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

b. Units.

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

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

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

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

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

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

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

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

ARTICLE XII **USE RESTRICTIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12.14 Size and Height Limitations. The minimum living space requirement for any dwelling constructed on the Unit shall be 1,800 square feet, and the height of said dwelling shall be compatible with all other dwellings adjacent to such Unit. No Improvement shall exceed two and one-half (21/2) stories in height, as measured from the finished grade of the Unit on the front of the dwelling facing the Private Drive.

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

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

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

12.17 Outdoor Furniture, Recreational Facilities, and Clotheslines.

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

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

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

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

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

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

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

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

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

12.19 Trash, Rubbish, and Nuisances.

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

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

12.20 Recreational Vehicles and Machinery and Equipment.

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

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

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

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

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

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

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

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

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

12.24 Construction of Improvements.

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

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

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

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

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

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

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

12.26 Golf Course Protection.

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

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

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

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

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

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

ARTICLE XIII **ALIENABILITY OF UNITS**

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

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

ARTICLE XIV **COMPLIANCE AND DEFAULT**

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

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

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

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

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

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

ARTICLE XV **AMENDMENTS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE XVI **TERMINATION**

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

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

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

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

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

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

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

ARTICLE XVII **VOTING RIGHTS**

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

ARTICLE XVIII **MERGER**

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

ARTICLE XIX **SEVERABILITY**

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

IN WITNESS WHEREOF, the Developer has executed this Declaration of Condominium this 22nd day of May, 2012.

DILWORTH DEVELOPMENT, INC.

By: 
Michael Dilworth, President


STATE OF ALABAMA

LEE COUNTY

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

Given under my hand the 22nd day of May, 2012.

(Notary Seal)


Notary Public, State at Large
My Commission Expires 4/2/16

Prepared by:
René E. Richard., Esq.
HAYGOOD, CLEVELAND, PIERCE, MATTSON & THOMPSON, L.L.P.
611 East Glenn Avenue
Post Office Box 3310
Auburn, Alabama 36831-3310
(334) 821-3892

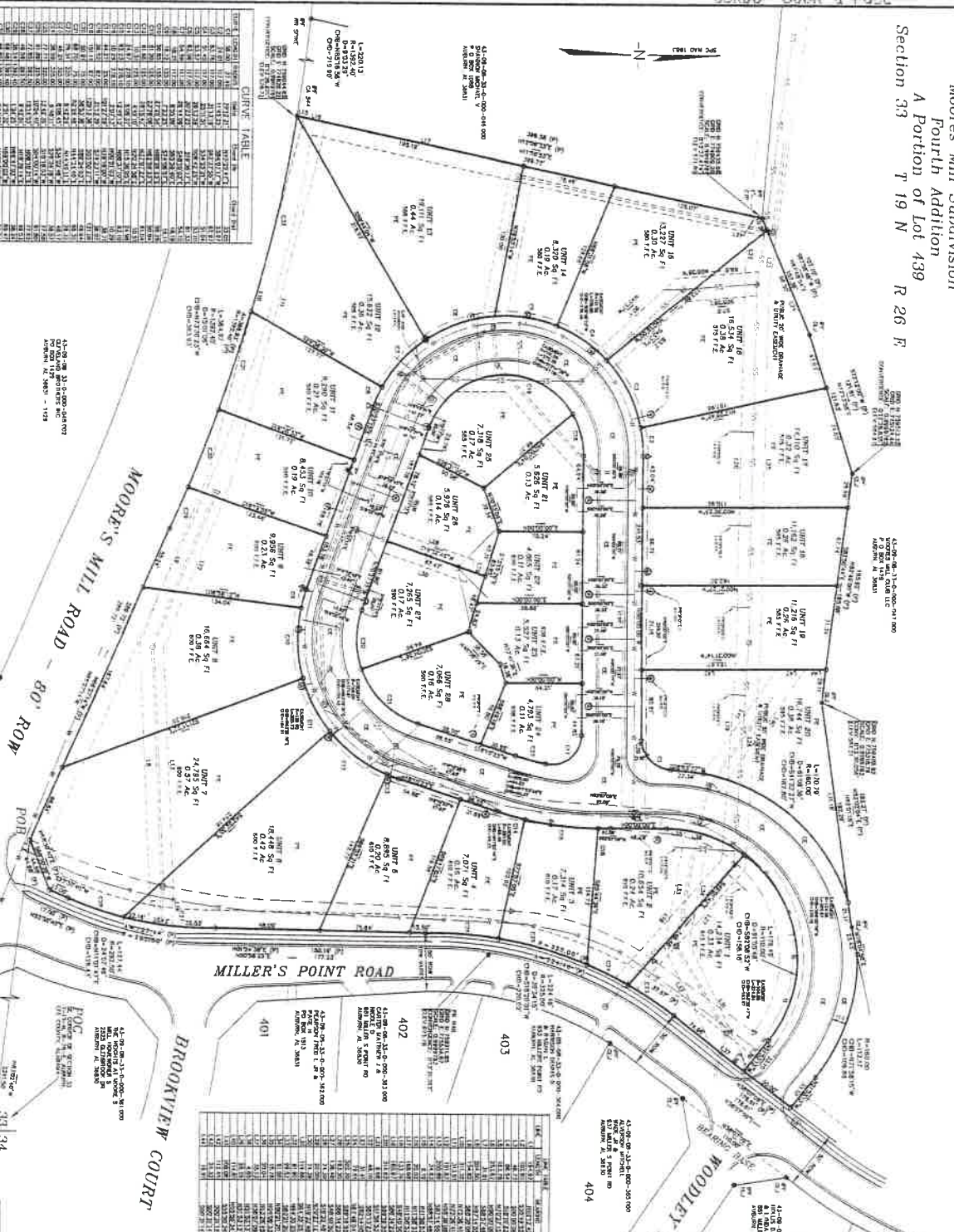
**Exhibit A to Declaration
Legal Description**

Metes and Bounds Description of Millwood Land Condominium Parcel

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

Millwood Land Condominium

Moores Mill Subdivision
 Fourth Addition
 A Portion of Lot 439
 Section 33 T 19 N R 26 F



CURVE TABLE

NO.	CHORD	CHORD BEARING	ARC LENGTH	AREA
1	13.36	S 48° 07' 45" E	4.00	1.00
2	13.36	S 48° 07' 45" E	4.00	1.00
3	13.36	S 48° 07' 45" E	4.00	1.00
4	13.36	S 48° 07' 45" E	4.00	1.00
5	13.36	S 48° 07' 45" E	4.00	1.00
6	13.36	S 48° 07' 45" E	4.00	1.00
7	13.36	S 48° 07' 45" E	4.00	1.00
8	13.36	S 48° 07' 45" E	4.00	1.00
9	13.36	S 48° 07' 45" E	4.00	1.00
10	13.36	S 48° 07' 45" E	4.00	1.00
11	13.36	S 48° 07' 45" E	4.00	1.00
12	13.36	S 48° 07' 45" E	4.00	1.00
13	13.36	S 48° 07' 45" E	4.00	1.00
14	13.36	S 48° 07' 45" E	4.00	1.00
15	13.36	S 48° 07' 45" E	4.00	1.00
16	13.36	S 48° 07' 45" E	4.00	1.00
17	13.36	S 48° 07' 45" E	4.00	1.00
18	13.36	S 48° 07' 45" E	4.00	1.00
19	13.36	S 48° 07' 45" E	4.00	1.00
20	13.36	S 48° 07' 45" E	4.00	1.00
21	13.36	S 48° 07' 45" E	4.00	1.00
22	13.36	S 48° 07' 45" E	4.00	1.00
23	13.36	S 48° 07' 45" E	4.00	1.00
24	13.36	S 48° 07' 45" E	4.00	1.00
25	13.36	S 48° 07' 45" E	4.00	1.00
26	13.36	S 48° 07' 45" E	4.00	1.00
27	13.36	S 48° 07' 45" E	4.00	1.00
28	13.36	S 48° 07' 45" E	4.00	1.00
29	13.36	S 48° 07' 45" E	4.00	1.00
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37	13.36	S 48° 07' 45" E	4.00	1.00
38	13.36	S 48° 07' 45" E	4.00	1.00
39	13.36	S 48° 07' 45" E	4.00	1.00
40	13.36	S 48° 07' 45" E	4.00	1.00
41	13.36	S 48° 07' 45" E	4.00	1.00
42	13.36	S 48° 07' 45" E	4.00	1.00
43	13.36	S 48° 07' 45" E	4.00	1.00
44	13.36	S 48° 07' 45" E	4.00	1.00
45	13.36	S 48° 07' 45" E	4.00	1.00
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49	13.36	S 48° 07' 45" E	4.00	1.00
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54	13.36	S 48° 07' 45" E	4.00	1.00
55	13.36	S 48° 07' 45" E	4.00	1.00
56	13.36	S 48° 07' 45" E	4.00	1.00
57	13.36	S 48° 07' 45" E	4.00	1.00
58	13.36	S 48° 07' 45" E	4.00	1.00
59	13.36	S 48° 07' 45" E	4.00	1.00
60	13.36	S 48° 07' 45" E	4.00	1.00

1.209-28-31-0-000-001-001
 CONDO PROJECT NO. 118
 MOORE'S MILL SUBDIVISION
 MOORE'S MILL SUBDIVISION

1.209-28-31-0-000-001-001
 CONDO PROJECT NO. 118
 MOORE'S MILL SUBDIVISION
 MOORE'S MILL SUBDIVISION

UNIT NO.	SQ. FT.	AREA
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1.209-28-31-0-000-001-001
 CONDO PROJECT NO. 118
 MOORE'S MILL SUBDIVISION
 MOORE'S MILL SUBDIVISION

LEGEND

1. NO DIMENSIONS SHOWN ARE TO BE CONSIDERED AS APPROXIMATE AND ARE NOT TO BE USED TO CONSIDER THE ACCURACY OF THE DRAWING. DIMENSIONS SHOWN ON THE DRAWING SHALL BE CONTROLLED BY THE DIMENSIONS SHOWN ON THE PLAN.

2. DIMENSIONS SHOWN ON THE DRAWING SHALL BE CONTROLLED BY THE DIMENSIONS SHOWN ON THE PLAN.

3. DIMENSIONS SHOWN ON THE DRAWING SHALL BE CONTROLLED BY THE DIMENSIONS SHOWN ON THE PLAN.

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10. DIMENSIONS SHOWN ON THE DRAWING SHALL BE CONTROLLED BY THE DIMENSIONS SHOWN ON THE PLAN.

Notes and Bonds Distribution of Millwood Land Condominium Project

Chapter 11 of the Condominium Act, Section 11.02, requires that the developer of a condominium project file a statement of facts with the Department of Consumer Affairs, State of New Jersey, and the Department of Community Development, State of New Jersey, before the project can be marketed. The developer has filed such a statement of facts with the appropriate state agencies.

The following is a true and correct copy of the statement of facts filed with the appropriate state agencies.

STATE OF NEW JERSEY
 DEPARTMENT OF COMMUNITY DEVELOPMENT
 DEPARTMENT OF CONSUMER AFFAIRS

DATE: 5/15/2012

SIGNED: [Signature]

PRECISION SURVEYING
 2124 Moores Mill Road
 Moores Mill Subdivision
 Millwood Land Condominium
 A Portion of Lot 439
 Section 33 T 19 N R 26 F

DATE: APRIL 2, 2012

SCALE: 1"=40'

NORTH

