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PLAN OF CONDOMINIUM
AND DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS
FOR
POINT CLEAR

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CONDITIONS AND RESTRICTIONS FOR POINT CLEAR**

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STATE OF MISSISSIPPI

COUNTY OF MADISON

**PLAN OF CONDOMINIUM AND DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
PLAN OF CONDOMINIUM FOR POINT CLEAR**

This Plan is made on this the 13th day of October, 1997, by POINT CLEAR, LLC (the "Declarant").

WITNESSETH:

The Declarant is the holder of a leasehold interest in and to that certain parcel of land more particularly described in Exhibit "A" (the "Land"), attached hereto and by reference made a part hereof, pursuant to the terms and conditions of that certain Lease dated July 7, 1982, by and between the Pearl River Valley Water Supply District (the "District") and Reservoir Properties, Ltd., and Edgewater Cove Apartments, a Mississippi limited partnership, a copy of which is on file and of record in the office of the Chancery Clerk of Madison County, Mississippi in Book 472 at Page 704, as amended by Amendment to Lease Agreement dated November 28, 1995, and recorded in the aforesaid Chancery Clerk's office in Book 367 at Page 463, and subsequently assigned to the Declarant by instrument dated April 2, 1997 recorded in the office of the aforesaid Chancery Clerk in Book 394 at Page 463, and is the owner of all of the buildings and improvements now or hereafter constructed or located on the Land (the "Improvements"), together with all rights, easements, privileges, and appurtenances belonging or in any way appertaining thereto. The Declarant desires to subject its leasehold interest in the Land and Improvements, said leasehold interest and Improvements are sometimes hereinafter referred to as the "Property", to this Plan of Condominium.

WHEREAS, a plat of the surface of said land as described on Exhibit "A" which shows the location of each condominium unit, its proximity to other units and each unit's dimensions, as well as all elements of common ownership is on file and of record in the office of the Chancery Clerk of Madison County, Mississippi in Plat Cabinet D at Slot 5, which, by reference is made a part hereof for all purposes and is incorporated herein as if set out in words and figures in full herein.

NOW THEREFORE, pursuant to the Mississippi Condominium Law (Section 89-9-1, et seq., Miss. Code 1972 Ann., as amended), (hereinafter called the "Act"), Declarant and all recorded holders of a security interest in the Property (as evidenced by a Certificate attached to the plan recorded in the office of the Chancery Clerk of Madison County at Canton, Mississippi and filed in accordance with Section 89-9-9 of the Act) do hereby submit the Property to the provisions of the Act and subject it to the condominium form of ownership as Point Clear, a condominium, as provided for in the Act and Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Land and be binding on all parties having right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof, to-wit:

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

ARTICLE I

DEFINITIONS AND DESCRIPTIONS

Section 1. Definitions. The terms used herein shall have the same meaning as set forth in the Act and as follows, unless the context otherwise requires:

- (a) "Act" shall mean the Mississippi Condominium Law of the State of Mississippi, as found in Title 89, Chapter 9, Section 1, et seq. of the Mississippi Code of 1972, Annotated.
- (b) "Assessment" shall mean the share allocated to a Unit and thereby the Unit Owners of such Unit of all Assessments levied by the Association pursuant to the provisions of Article VI hereof and any and all expenses, costs, charges and other amounts incurred with respect to either such Unit or the satisfaction, discharge or compliance with any obligations or duties of the Unit Owners of any Unit as specified in this Declaration.
- (c) "Association" shall mean Point Clear Condominium Association, Inc., a Mississippi nonprofit corporation, its successors and assigns.
- (d) "Board of Governors" shall mean the Board of Governors of the Association.
- (e) "Bylaws" shall mean the bylaws of the Association as amended from time to time.
- (f) "Charter" means The Articles of Incorporation of the Association, as amended from time to time.
- (g) "Common Area" or "common area" or "Common Elements" or "common elements" shall mean and include all parts of the condominium property not located within the boundaries of a unit. Pursuant to Section 89-9-13 of the Act, each unit is allocated an undivided percentage interest in the Common Area equal to each other unit, as further specified in Section 2(a) of this Article I.
- (h) "Common Expenses" or "common expenses" shall mean all expenditures lawfully made or incurred by, or on behalf of, the Association, together with all funds lawfully assessed for the creation and/or maintenance of reserves.
- (i) "Declarant" or "Developer" shall mean and refer to Point Clear, LLC, its successors and assigns if such successor or assign should acquire more than one undeveloped or partially undeveloped unit from the Declarant for the purpose of development.

(j) "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for Point Clear, as supplemented from time to time.

(k) "Eligible Mortgage Holder" shall mean those holders of a First Mortgage on a Unit who have requested, in writing, the Association to notify them on any proposed action that requires the consent of a specified percentage of eligible mortgage holders or of any Assessment or installment thereof, which shall become and remain delinquent for a period in excess of sixty (60) days.

(l) "First Mortgage" shall mean a mortgage, deed of trust or similar encumbrance creating a lien or encumbrance against a Unit which has priority over all other mortgages, deeds of trusts or similar encumbrances creating liens or encumbrances against such Unit.

(m) "Invitees" shall mean an Owner's tenants, guests, patrons, employees or other guests or invitees.

(n) "Limited Common Area" or "limited common area" shall mean and include the exclusive use of that portion or portions of the common area, if any, reserved for and granted to a specific unit or Unit Owner as provided in Article II, Section 3 hereof to the exclusion of the other Units and their respective Unit Owners.

(o) "Management Agent" means the Person, if any, employed or retained by the Board of Governors for the purpose of conducting and managing the daily operations of the Association.

(p) "Member" shall mean each Person who holds or has any class of membership in the Association as provided by Article III.

(q) "Mortgagee" shall mean any Person who owns, holds or is the beneficiary of a mortgage, deed of trust or similar encumbrance creating a lien or encumbrance against any Unit, including, but not limited, to (i) a bank, (ii) a savings and loan association, (iii) a trust company, (iv) an insurance company, (v) a mortgage company, (vi) a trust (vii) a mortgage insurance company (viii) a mutual savings bank, (ix) a real estate investment trust, (x) a credit union, (xi) a pension fund, (xii) the Federal National Mortgage Association, (xiii) the Federal Home Loan Mortgage Corporation (xiv) a recognized institutional type lender or loan correspondent, (xv) any agency or a department of The United States of America or any state, county or municipal government, (xvi) a corporation, or (xvii) an individual.

(r) "Plan" shall mean this Plan of Condominium for Point Clear.

(r) "Person" shall mean an individual, a corporation, a general or limited partnership, an association, a trust, an estate or any other legal entity.

(s) "Plat" shall mean the plat(s) of the Property which has been or shall be filed for record in the office of the Chancery Clerk of Madison County, Mississippi.

(t) "Properties," "Condominium," "Project," or "Property" shall mean the entire parcel of real property divided or to be divided into Condominiums, including the Declarant's leasehold interest, the land, all improvements and structures thereon and all easements, rights and appurtenances belonging thereto including any additions thereto as may hereafter be brought within the jurisdiction of the Association.

(u) "Supplement" means any amendment, modification, change or restatement of or to this Declaration.

(v) "Unit Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a leasehold interest in any unit which is a part of the Condominium, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.

(w) "Unit" or "unit" shall mean a portion of the Condominium within the boundaries hereinafter described which is not owned in common with all other owners of other units in the condominium project. The Condominium consists of 114 units which includes eleven (11) basic types of floor plans, each of which are depicted on the Plat. Each unit consists of a dwelling and its appurtenant percentage of undivided interest in the Common Area. Each unit's appurtenant percentage of undivided interest in the Common Area is equal to each other unit's interest, based on the type of floor plan of each unit. Each unit shall have an undivided percentage interest and in and to the Common Area as listed beside each unit plan type as follows.

<u>Number of Units</u>	<u>Plan Type</u>	<u>Percentage Interest For Each Such Unit</u>
8	A	1.0246
24	B	.6348
35	C	.8913
35	D	.9096
4	E	.9715
2	F	1.1648
1	G	1.1777
1	H	1.1522
1	I	1.1522
1	J	1.1777
2	K	1.3290

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The units are depicted on the diagrammatic floor plans of the buildings recorded in the office of the Chancery Clerk of the Madison County, Mississippi in accordance with Section 89-9-9 of the Act. Except as provided in Section 1(c) of this Article, which describes the Common Areas, each unit includes that part of the structure which lies within the following boundaries:

(i) Horizontal (upper and lower): the horizontal boundaries are the interior surfaces of the floors and ceilings. The lower boundary is the top of the unfinished concrete floor and the upper boundary is the bottom surface of the unfinished ceiling.

(ii) Vertical (perimetric): the vertical boundaries of each unit, and all portions of the units having exterior walls, is the inner unfinished surface of all such exterior walls, provided that where there are windows or doors, the boundary is the interior surface of such doors and windows when closed. As to the wall between a unit and the adjacent unit the boundary is the center line of such wall. Where a balcony, terrace or patio (access to which is only from the unit) is shown on the attached plans as part of an individual unit, such balcony, terrace or patio shall be and constitute a part of the unit, whether enclosed without the perimeter walls or not.

(iii) All attachments to the exterior wall or unit which are a part thereof, which protrude beyond the boundaries of a unit as specified above, and which were constructed in accordance with the original design of the unit, even though located beyond the boundaries thereof, shall be and are deemed to be included within the boundaries of the unit so served.

(iv) Any and all conduits, pipes, ducts, plumbing, wiring and other facilities for the furnishing of utility services which serve only one unit or part of that unit, when located within the boundaries thereof, shall be and are deemed to be included within the boundaries of the unit so served.

(v) The owner of each respective Unit shall not be deemed to own separately the basic structural and supporting portions of the perimeter walls, floors, and ceilings surrounding his respective Unit, nor shall the Unit Owner be deemed to own separately pipes, wire, conduits or other public utility lines, running through said respective Units which are utilized for or serve more than one Unit, but the same shall be owned as tenants in common as part of the Common Area; however, each Unit Owner shall have an easement in the interest of the other owners in and to the aforesaid Common Areas and facilities as shall be necessary for the support, maintenance, use and enjoyment of his Unit; such Unit Owner shall also be deemed to own the inner decorated and/or finished surfaces of the perimeter walls, floors, and ceilings and the facilities, fixtures and equipment built or placed in and outside said unit and used for the exclusive service and convenience of such Unit.

Section 2. Description.

a. Description of buildings and other improvements. Point Clear Condominium project will initially consist of 26 buildings consisting of not less than 114 units constructed of wood, brick masonry and concrete. The inter partitions between units consists of wood studs faced with gypsum sheet rock. The interior floors are concrete, wood, carpet, vinyl and tile floor coverings. Each building is supplied with electricity, water, sewer, garbage collection service, and electronic security system. Units in the buildings to be constructed will be furnished with gas. Each unit is equipped with individual heating and air conditioning equipment. The buildings are more fully depicted in the condominium plat and floor plans which are recorded in the office of the Chancery Clerk of Madison County, Mississippi in Plat Cabinet D at Slot 5. Other significant improvements in Point Clear Condominium project include roadways, walkways, green area, swimming pool, parking areas, club house and storage areas.

b. Description of units. The units are defined and described as set forth in Section 1(w) and as set forth in the previous section.

c. Description of common elements. Common elements are described as defined in Section 1(g) of this Article I and shall include but not by any way of limitation, roofs, foundations, pipes, ducts, flues, floors, ceilings, conduits, wires and other utility installations to the outlets, bearing walls, bearing columns, perimeter walls, to the undecorated or unfinished interior surfaces thereof, regardless of location, walkways, gardens, recreational areas, and facilities which are now or hereafter contained within the property, all limited common elements as hereinafter described, all installations of power, lights, gas, hot and cold water, existing for common use, and all parts of the property necessary or convenient to its existence, maintenance, and safety or normally in common use.

ARTICLE II

PROPERTY RIGHTS

Section 1 Ownership and Owner's Easements of Enjoyment. The above described land, buildings and all improvements located in the project are and shall be constituted as a condominium project as defined by the Act and shall continue as such forever unless terminated in the manner provided herein or in said Act and every Unit Owner shall have and be entitled to all the rights and privileges granted under said Act subject to the provisions as herein set forth:

- (a) Each Unit shall be individually transferred, conveyed and encumbered and shall be subject to ownership, possession, mortgage or sale and all other acts common to the ownership of real property as if it were solely and entirely independent of the other units in the project.
- (b) Every Unit Owner shall have an exclusive ownership of his unit and shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every unit, subject to the following provisions:

(i) the right of the Association, acting by and through its Board of Governors, to suspend the voting rights and right to use of the said facilities by a Unit Owner for any period during which any assessment against his unit remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(ii) the right of the Association, acting by and through its Board of Governors, to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility as provided in Article IV, Section 6 and for such other purposes and subject to such other conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by sixty-seven percent (67%) of the members agreeing to such dedication or transfer has been recorded;

(iii) the right of the Association, acting by and through its Board of Governors, to manage, control and adopt rules and regulations governing the management and use of the Common Area in accordance with this Declaration, the Articles of Incorporation and By-Laws of the Association.

Section 2. Delegation of Use. Any Unit Owner may delegate, in conformance with the By-Laws of the Association, his right of enjoyment of the Common Area and facilities to the members of his family, tenants under a lease approved pursuant to the provisions of Article VII, or contract purchasers who reside on the property and not otherwise.

Section 3. Limited Common Area. (a) ownership of each unit shall entitle the owner or owners thereof to the exclusive use of the following:

(i) Parking Rights. The use of not more than two automobile parking spaces per unit within the parking areas designated on the plat, which space shall at the option of the Board of Governors, be assigned by the Board of Governors or the Management Agent.

(ii) Storage Space. The Association will assign to each Unit Owner certain space adjacent to or in the close proximity of such Owner's unit, which space may be used as storage space. Such space shall, at the sole cost and expense of the Unit Owner, be landscaped, fenced and maintained by the respective Unit Owner in accordance with the criteria established by the Board of Governors or the Management Agent.

(b) Boat Slips. At such time as the Declarant, in its sole discretion, develops, constructs and offers for sale boat slips as depicted on the Plat of Point Clear a Unit Owner will be offered the opportunity to purchase from the Declarant, the exclusive right to use a boat slip in the boat slip Limited Common area as depicted on the Plat, as long as such boat slips are available. The exclusive use of the boat slip will be granted to the Unit Owner purchasing such exclusive right, together with the right to sell and assign such exclusive right to the designated boat slip to any other Unit Owner. Such designated boat slip will be assigned to such Unit Owner by a Lease Assignment from the

District. It is understood and agreed by any such purchaser of a boat slip that all owners of a boat slip, their guest and invitees, shall have a non-exclusive easement for pedestrian traffic over and across all walkways in the dock area.

(c) Garages. (i) Units 1 and 2 in Building 26 will each be assigned the exclusive right to use and occupy two (2) parking spaces in the Type O Limited Common Area garage located in front of Building 26 as shown on the Plat.

(ii) Units 3,4 and 5 in Building 25 will each be assigned the exclusive right to use and occupy a parking spaces in the Type N Limited Common Area garage located in front of Building 25 as shown on the Plat.

(iii) Units 6, 7 and 8 in Building 24 will each be assigned the exclusive right to use and occupy the Type M Limited Common Area garage located immediately in front of each respective Unit in Building 24 as shown on the Plat.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. The Members of the Association shall be and consist of each and all of the following, to-wit:

- (a) Every person who is, or who hereafter becomes, a Unit Owner.
- (b) The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Members other than persons herein defined as "Declarant," who is or who hereafter becomes the Unit Owner shall be a Class A Member of the Association.

Class B. The Class B Member(s) shall be each of the persons herein defined as "Declarant," and the nominee or nominees, if any, of each such person, shall be Class B Members of the Association.

Section 2. Voting Rights. Each Member shall have one vote in the election of each officer of the Association. For all other purposes, the voting rights of the Members shall be by class of membership, and shall be as follows, to-wit:

- (a) Class A Members. Class A Members shall be entitled to one vote for each unit in which they hold the interest required for membership. When more than one person holds such interest or interests in any unit, all such persons shall be Members" and the vote for such unit shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any such unit.

(b) Class B Members. The Class B Member(s) shall be entitled to four (4) votes for each Unit in which Declarant holds the interest required for membership. When the total votes outstanding in the Class A membership equal the votes outstanding in the Class B membership, then the Class B membership shall cease and be converted into Class A membership.

Section 3. Memberships Appurtenant to Real Property. In every case, the membership of both Class A and Class B Members shall be appurtenant to the ownership of a unit. A membership shall not be held, assigned, transferred, pledged, hypothecated, encumbered, conveyed or alienated in any manner except in conjunction with and as an appurtenance to the ownership, assignment, transfer, pledge, hypothecation, encumbrance, conveyance, or alienation of the unit to which the membership is appurtenant.

Section 4. Other Voting Provisions. If a unit is owned of record, by more than one person or entity, then the vote appurtenant to such unit may be exercised by any one of the owners thereof, unless the other owner or owners of such Unit shall object prior to the completion of voting upon the particular matter under consideration. In the case of any such objection, the vote appurtenant to said unit shall not be counted.

Section 5. Rights of Declarant. Until the Declarant has completed and sold all units or until the Declarant elects to terminate his control of the Condominium, whichever shall first occur, there shall be no meeting of members of the Association unless a meeting is called by the Board of Governors.

ARTICLE IV

MANAGEMENT AND CONTROL OF COMMON AREAS

The Association shall have the exclusive right to control all of the Common Area and each unit owner's ownership of an undivided interest in the Common Area is expressly made subservient to the rights of the Association to manage and control the Common Area. It is the intention of the Declaration that the Association be free and uninhibited in the exercise of its rights and duties hereunder, and to such end the words "management and control" shall be given their broadest possible meaning. In addition, the Association shall have the following powers and duties:

Section 1. Management, Control and Common Expenses. The Association, acting by and through its Board of Governors, shall manage, operate and maintain the condominium project and, for the benefit of the condominium units and the owners thereof, shall enforce the provisions hereof and shall pay out of a common expense fund the following:

(a) the cost of providing water, sewer, garbage and trash collection, electrical, gas and other necessary utility services for the common areas, and, to the extent that the same are not separately metered or billed to each condominium unit, for the condominium units;

(b) the cost of the services of a person or firm to manage the project to the extent deemed advisable by the Association, together with the services of such other personnel as the Board of Governors of the Association shall consider necessary for the operation of the condominium project;

(c) the cost of providing such legal and accounting services as may be considered necessary to the operation of the condominium project;

(d) the cost of painting, maintaining, replacing, repairing and landscaping the Common Area and such furnishings and equipment for the Common Area as the Board of Governors shall determine are necessary and proper; including, but not limited to:

(i) all portions of a unit, except interior surfaces, contributing to the support of the building, which portions shall include but not be limited to the outside walls of the building and all fixtures on the exterior thereof; boundary walls of units, floor and ceiling slabs; and load-bearing columns and load-bearing walls, all exterior walls and doors of any storage or closet located on a terrace or patio forming a part of any unit; and

(ii) all conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services which are contained in the portions of a unit maintained by the Association; and all such facilities contained within a unit which service part or parts of the condominium other than the unit within which contained.

All incidental damage caused to a unit by such work shall be promptly repaired at the expense of the Association.

(e) the cost of any and all other materials, supplies, labor, services, maintenance, repairs, taxes, assessments or the like, which the Association is required to secure or pay for by law, or otherwise, or which in the discretion of the Board of Governors shall be necessary or proper for the operation of the common areas; provided, however, that if any of the aforementioned are provided or paid for the benefit of a particular condominium unit or units, the cost thereof shall be specially assessed to the owner or owners thereof in the manner provided for special assessments, except that no vote of unit owners shall be required;

(f) the cost of the interior or exterior maintenance or repair of any condominium unit in the event such maintenance or repair is reasonable necessary in the discretion of the Board of Governors to protect the common areas or to preserve the appearance or value of the condominium project, or is otherwise in the interest of the general welfare of all owners of the condominium units; provided, however, that no such maintenance or repair shall be undertaken without a resolution by the Board of Governors and not without reasonable written notice to the owner of the condominium unit proposed to be so maintained and provided, further, that the cost thereof shall be assessed against the condominium unit on which such maintenance or repair is performed, and, when so assessed, a statement for the

amount thereof shall be rendered promptly to the then owner of said condominium unit at which time the assessment shall become due and payable and a continuing lien and obligation of said owner in all respects as other liens provided for herein; and

(g) any amount necessary to discharge any lien or encumbrance levied against the condominium project or any portion thereof, which may, in the opinion of the Board of Governors, constitute a lien against any of the Common Area rather than the interest of the owner of any individual condominium unit. Payment of this expense is discretionary with the Board of Governors.

Section 2. Association as Attorney-in-Fact. The Association, acting by and through its Board of Governors, is hereby irrevocably appointed as attorney-in-fact for the owners of all of the condominium units in the project, and for each of them, to manage, control and deal with the interests of such owners in the common areas of the project so as to permit the Association to fulfill all its powers, functions and duties under the provisions of this Declaration, the Charter and the By-Laws. The foregoing shall be deemed to be a power of attorney coupled with an interest and the acceptance by any person or entity of any interest in any condominium unit shall constitute an appointment of the Association as attorney-in-fact as aforesaid.

Section 3. Management Agent. The Association, acting by and through its Board of Governors, may by contract in writing delegate any of its ministerial duties, powers or functions to the Management Agent. The Association and Board of Governors shall not be liable for any omission or improper exercise by the Management Agent of any such duty, power or function so delegated. Any management agreement entered into by the Association shall provide, among other things, that such an agreement may be terminated for cause by either party upon thirty (30) days written notice thereof to the other party. The term of any such management agreement shall not exceed one year; provided, however, that the term of any such management agreement may be renewable by mutual agreement of the parties for successive one year periods.

Section 4. Unit Owner's Duty to Maintain. (a) The owner of any condominium unit shall, at such owner's expense, maintain the interior of such condominium unit and any and all equipment, appliances or fixtures therein situated, and its other appurtenances (including, without limitation, any balcony, deck or terrace appurtenant to such condominium unit and designated or reserved for exclusive use by the owner of a particular condominium unit), in good order, condition and repair, provided however, that all redecorating, painting and the like which may at any time be necessary to maintain the good appearance of any balcony, deck or terrace appurtenant to such unit shall be performed by the Association and not the Unit Owner. In addition to the foregoing, the owner of any condominium unit shall, at such owner's expense, maintain, repair, replace any plumbing and electrical fixtures, water heaters, plenum, heating and air-conditioning equipment (including air-conditioning compressors located outside the unit, which shall be maintained at each owner's expense), lighting fixtures, refrigerators, freezers, trash compactors, dishwashers, clothes washers, clothes dryers, disposals, ranges, range hoods, and/or other equipment that may be in or appurtenant to such condominium unit. All chimney flues shall be cleaned annually by a professional chimney sweep and certification by such chimney sweep furnished to the Board of Governors.

(b) Windows, Doors and Patios. The owner of any condominium unit shall, at such owner's expense, clean and maintain any balcony, deck, terrace or patio appurtenant to the condominium unit, the interior and exterior surface of all windows of the condominium unit, and both the interior and exterior glass surfaces of all glass entry doors of the condominium unit, including the interior and exterior surfaces of any door leading into a unit or to any balcony, deck, terrace or patio appurtenant to the condominium unit. Maintenance of exterior surfaces required by this subsection (b) shall not include painting. All exterior painting shall be done under the supervision, control and expense of the Association unless otherwise herein specifically provided.

(c) In the event that the owner of any unit fails to maintain such owner's unit and all of the equipment, appliances, fixtures and equipment and its other appurtenances and such failure, in the opinion of the Board of Governors, might cause or result in damage to the property or other units within the property if not repaired or properly maintained as required by this Section 4, the Association, after approval by two-thirds vote of the Board of Governors, shall have the right through its agents and employees to enter upon said parcel and to repair, maintain and restore such unit. The cost of such repair and maintenance shall be assessed to such unit and its owner as provided in Section 5 of Article V.

Section 5. Access at Reasonable Times. For the purpose solely of performing any of the repairs or maintenance required or authorized by this Declaration, or in the event of a bona fide emergency involving illness or potential danger to life or property, the Association, through its duly authorized agents or employees, shall have the right, after reasonable efforts to give notice to the Unit Owner or occupant, to enter any condominium unit at any hour considered to be reasonable under the circumstances.

Section 6. Easements for Utilities and Related Purposes. The Association is authorized and empowered to grant (and shall from time to time grant) such licenses, easements and/or rights-of-way for sewer lines, water lines, electrical cables, telephone cables, gas lines, storm drains, underground conduits and/or such other purposes related to the provision of public utilities to the condominium project as may be considered necessary and appropriate by the Board of Governors for the orderly maintenance, preservation and enjoyment of the Common Area or for the preservation of the health, safety, convenience and/or welfare of the owners of the condominium units, the Declarant.

Section 7. Limitation of Liability. (a) The Association shall not be liable for any failure of water supply or other services to be obtained by the Association or paid out of the common expense funds, or for injury or damage to person or property caused by the elements or by the owner of any condominium unit, or other person, or resulting from electricity, water, snow or ice which may leak or flow from any portion of the common areas, another Unit, or from any wire, pipe, drain, conduit, appliance, or equipment. The Association shall not be liable to the owner of any condominium unit for loss or damage, by theft or otherwise, of articles which may be stored in any Unit or upon any of the Common Area.

(b) The Association shall not be liable nor shall the Association bound either directly or indirectly to any contracts or leases (including a Management Contract) made by the Declarant prior to the determination of Class B Membership pertaining to maintenance, operation or control of the Project or common area or any function or responsibility delegated to the Association pursuant to this Declaration unless such contract or lease contains a right of termination, without cause, which is exercisable without penalty at any time after Class B Membership has been terminated upon not more than 90 days notice to the other party thereto.

ARTICLE V

USE RESTRICTIONS

Section 1. Residential Use. All condominium units shall be used for private residential purposes exclusively. Nothing in this Section, or in any other section in this Declaration, shall be construed to prohibit the Declarant from the use of any condominium units which the Declarant owns for promotional or display purposes as "model apartments" or from leasing any unit or units which Declarant owns except that Declarant shall nevertheless be bound by the provisions of Section 3 of this Article.

Section 2. Model Units and Sales Office. Declarant and Declarant's duly authorized agents, representatives, and employees shall have the right to maintain model units and a sales office on land within the project, and to use the model units and sales office during the period that units remain unsold. No more than two model units and one sales office will be maintained by Declarant.

Section 3. Leasing. With the exception of a lender in possession of a condominium unit following a default in the first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Unit Owner, other than the Declarant, shall be permitted to lease such owner's unit without first obtaining the written permission of the Board of Governors and complying with all rules and regulations as may from time to time be adopted by the Board of Governors.

Section 4. Time Sharing. No Unit Owner shall be permitted to sell time share interest in and to his unit. No Unit Owner shall be entitled to sell, transfer or convey less than an undivided interest in the unit, in toto.

Section 5. Prohibited Uses and Nuisances. (a) no noxious or offensive trade or activity shall be carried on within the project or within any condominium unit situated thereon, nor shall anything be done therein or thereon which may be or become an annoyance to the neighborhood or the other owners. No nuisances shall be permitted within the condominium project, nor shall any use or practice be permitted which is or becomes a source of annoyance to the members or which interferes with the peaceful use and possession thereof by the members;

(b) there shall be no obstruction, of any Common Area. Nothing shall be stored upon any Common Area (excepting those areas designated for storage of personal property by the owners of the condominium units), or within or upon any parking space (except for motor vehicles), without

the approval of the Board of Governors. Vehicular parking upon the common areas may be regulated by the Board of Governors;

(c) nothing shall be done or maintained in any condominium unit or upon the common area which will increase the rate of insurance on any condominium unit or common area, or result in the cancellation thereof, without the prior written approval of the Board of Governors. Nothing shall be done or maintained in any condominium unit or upon the Common Area which would be in violation of any law. No waste shall be committed upon the Common Area;

(d) no structural alteration, construction, addition or removal of any portion of the common area or common elements shall be commenced or conducted except in strict compliance with the provisions of this Declaration and with the written approval of the Architectural Review Committee as required by Article XIV hereof;

(e) no pet shall be allowed outside their owner's unit under any circumstances unless accompanied by and under the control of the Unit Owner; keeping or harboring pets in units shall be governed by such rules and regulations as may from time to time be adopted by the Board of Governors;

(f) except for such signs as may be posted by the Declarant for promotional or marketing purposes, no signs of any character, including "For Sale" signs, shall be erected, posted or displayed upon, in, from or about any condominium unit, including any window of a Unit, or common areas. The Board of Governors, at its sole discretion, may place any such signage at such location it may determine. The provisions of this subsection shall not be applicable to the institutional holder;

(g) except as herein elsewhere provided, no junk vehicle or other vehicle on which current registration plates are not displayed, trailer, truck, camper, camper truck, house trailer, boat or the like shall be kept upon any of the common areas, nor shall the repair or extraordinary maintenance of boats, automobiles or other vehicles be carried out on any of the Common Areas or within or upon any parking area or pier;

(h) no part of the Common Areas shall be used for commercial activities of any character. This subsection shall not apply to the use of condominium units by the Declarant for display, marketing, promotional or sales purposes or as "model" condominium units;

(i) no burning of any trash and no unreasonable or unsightly accumulation or storage of litter, new or used building materials, or trash of any other kind shall be permitted within any condominium unit or upon any Common Areas. Trash and garbage containers shall not be permitted to remain in public view. All refuse shall be placed in plastic bags and deposited with care in trash compactors designated for such purpose at such locations as may from time to time be designated by the Board of Governors. All cardboard boxes must be disassembled before depositing in trash compactor;

(j) no structure of a temporary character, trailer, tent, shack, barn or other outbuilding shall be maintained upon any common elements at any time, outdoor clothes dryers or clothes lines shall not be maintained upon any of the common areas at any time. No clothing, laundry or the like shall be hung from any part of any condominium unit or upon any of the Common Areas or from or upon any balcony, deck or terrace;

(k) no outside television or radio aerial or antenna or other aerial or antenna, for reception or transmission, shall be maintained upon any condominium unit or upon any of the common areas except for such antenna or dish that may be placed upon the Common Area by Developer or the Association for service to all units without the prior written consent of the Board of Governors;

(l) nothing shall be stored upon any of the Common Areas nor shall the cooking or preparation of food be permitted thereon or upon any other portion of the Common Areas of the project, except for areas designated for such purposes on the plan attached hereto and such other areas as may be designated by the Board of Governors from time to time;

(m) no member shall engage or direct any employee of the Association on any private business of the membership during the hours such employee is employed by the Association nor shall any member direct, supervise or in any manner attempt to assert control over any employee of the Association; and

(n) there shall be no violation of any rules for the use of the common areas, or other "house rules", which may from time to time be adopted by the Board of Governors, pursuant to Article XV.

(o) that portion of all window coverings and all covering used in connection with windows or glass enclosing any terrace, including but not limited to shades, curtains, sheers, drapes, blinds, etc, which are visible when looking at the exterior of the building, must be off-white in color.

(p) No child care service or related activities shall be conducted or carried on within a Unit or on the Common Area.

ARTICLE VI

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each unit fully renovated, completed and ready for sale within the Properties, hereby covenants, and each owner of a unit that has been fully renovated, completed whether or not it shall be so expressed in his deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments of charges on a per unit basis; (2) special assessments for capital improvements and (3) assessments for boat slips and garages, if such Unit Owner owns a boat slip or has been assigned a space or spaces in a Limited Common Area garage. Such assessments are to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable

attorney's fees, shall be a charge on the unit and shall be a continuing lien upon the unit against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the obligation of the owner of such unit at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the owner's successors in title unless expressly assumed by them, but the passing of title shall not affect the validity of the lien upon the unit.

Section 2. Purpose of Assessments. The assessment levied by the Association shall be used exclusively for the protection, improvement and maintenance of the Common Area. Such assessments shall include, but shall not be limited to, funds for the actual cost of the Association of all administration, insurance, repair, replacements and maintenance of the Common Area as may be required by the Declaration, including water and sewer services provided for common use, and as may from time to time be authorized by the Association or its Board of Governors, and shall include the establishment and maintenance of an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Area and the Limited Common Area which the Association, by the terms of this Declaration, may be obligated to maintain.

Section 3. Annual Maintenance Assessment. Prior to the first day of January in each year the Board of Governors shall adopt a budget estimated by the Board of Governors to be sufficient to meet the cost and expenses described in Section 2 hereof and shall fix and levy the Annual Maintenance Assessment at an amount sufficient to meet the budget adopted by the Board of Governors. The Board of Governors may fix the annual assessment at any amount not in excess of the maximum.

Section 4. Additional Capital Improvement Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a capital improvement assessment applicable to that year only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of fifty-one percent (51%) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Assessment for Maintenance of Boat Slips and Garages. In addition to the Annual Maintenance Assessment provided in Section 3 above, the Board of Governors shall:

- (i) adopt a budget deemed to be sufficient to meet the costs and expenses of all administration, insurance, repair and maintenance of the boat slips, which cost and expense will be assessed equally among the Unit Owners owning a boat slip and shall be levied against such owner's boat slip and his respective Unit;
- (ii) adopt a budget deemed to be sufficient to meet the costs and expenses of all administration, insurance, repair and maintenance of all Limited Common Area garages, which cost and expense will be assessed to the Unit Owners assigned a space or spaces in a

Limited Common Area garage and shall be levied against such owner's parking space(s) and his respective Unit.

Said assessment shall be paid within thirty (30) days of notice from the Board of Governors to such owners of their proportionate share of such assessment and shall be subject to the provisions of Section 6(h) pertaining to delinquent payments.

Section 6. Special Assessments. The Association may levy special assessments against units for reimbursement of repairs, corrections or other actions performed by the Association pursuant to this Declaration or the Bylaws together with interest and other reasonable charges thereon resulting from the following circumstances:

(a) Insurance Proceeds Insufficient. If the proceeds of insurance obtained by the Association are not sufficient to reconstruct improvements located on the Property or otherwise effect any repair or restoration of any damage or destruction to all or any portion of the Property, then and in that event, all the Unit owners shall be assessed, as a special assessment, for the necessary funds to restore the damaged improvements. Said special assessment shall be made by written notification from the Board of Governors to the Owners of the Property which is to be repaired or restored as provided in Article XI of this Declaration and shall be payable in full to the Association, as Trustee, within sixty (60) days following such notice or as otherwise may be specified in said notice.

(b) Owners failure to Maintain Improvements. If any Unit Owner fails to perform the maintenance or make the repairs required by Section 4 of Article IV of this Declaration, and the Board of Governors causes such maintenance or repair to be performed in accordance with the provisions of this Declaration, all costs and expenses incurred in connection with such work, maintenance or repairs shall be immediately assessed and charged solely to and against such unit as a special assessment. Said special assessment shall be made by written notification by the Board of Governors to the Unit Owner and shall be payable in full to the Association within thirty (30) days following such notice.

(c) Damaged Common Areas. If any damage or destruction to any portion of the Common Area or Limited Common Area (if any) is caused by any negligent or malicious act or omission of any Unit Owner or his invitee, the Board of Governors shall cause the same to be repaired or replaced, and all costs and expense incurred in connection therewith (to the extent not covered or reduced by insurance proceeds paid to or received by the Association) shall be assessed and charged solely to and against said Unit Owner and his unit as a special assessment. Said special assessment shall be made by written notification from the Board of Governors to the Unit Owner and shall be payable in full to the Association within thirty (30) days following such notice.

(d) Act Increasing Insurance Premiums. If any act or omission of any Unit Owner or any of his invitees shall increase the premiums for any insurance policy maintained by the Association for the benefit of the Property and the owners, the amount of such increase shall be assessed

and charged solely to and against such Unit Owner and his unit as a special assessment. Said special assessment shall be made by written notification from the Board of Governors to the Unit Owner and shall be payable in full to the Association within (10) days in advance of the date or dates for the payment of such increased insurance premiums, or within ten (10) days following such notice, whichever is later. The making of such payment by said Unit Owner shall in no way violate, authorize, sanction, or permit the particular act or omission and shall not limit any of the right of the Association provided by law or granted herein, including without limitation the right to enjoin the particular activity.

(e) Excessive Use of Common Metered Utilities. Any Unit Owner desiring to use appliances, air conditioning or other equipment or utilities which would result in such Unit Owner using more of the common metered utilities than the normal anticipated use, as determined by the Board of Governors, may request that his unit be assessed for such additional use. If the Board of Governors, in its sole discretion, determines that an owner's use of the common metered utilities is, in its opinion, substantially greater than that of other owners, and such Unit Owner has not submitted same to the Association for assessment, the Board of Governors shall be entitled to levy a special assessment against such Unit Owner and his unit to cover the additional cost of the Association of such owner's heavy use. Said special assessment shall be made by written notification from the Board of Governors to the Unit Owner and shall be payable in full to the Association within thirty (30) days following such notice.

(f) Excessive Use Damaging Property. In the event any portion of the Property is damaged as a result of excessive usage, by any Unit Owner of his invitees, the cost of such maintenance and repairs shall be assessed against such Unit Owner as a special assessment. Such special assessment shall be made by written notification from the Board of Governors to the Unit Owner and shall be payable in full to the Association within thirty (30) days following such notice.

(g) Other Special Assessments Authorized by this Declaration. In addition to the special assessments specifically authorized by the provisions of this section, whenever this Declaration provides that the Association shall have the right to assess a cost or expense against a Unit Owner and his unit as a special assessment, such special assessment shall be made by written notification from the Board of Governors to the Unit Owner and shall be payable in full to the Association within thirty (30) days from such notice or within such extended period as the Association shall determine shall be applicable to any such special assessment.

(h) Delinquent Payment. Any special assessment made in accordance with this Declaration shall be a separate debt of each Unit Owner against whom the same is specially assessed and against his unit and shall bear interest upon any unpaid portion thereof after the due date at the maximum rate permitted by law or at the rate of eighteen percent (18%) per annum, whichever is less.

Section 7. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty per cent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall not be necessary, and the assessment may be approved by the assent of sixty-seven percent (67%) of the votes of the members who are voting in person or by proxy.

Section 8. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all units and may be collected on a monthly, quarterly or annual basis, at the discretion of the Board of Governors.

Section 9. Date of Commencement of Annual Assessments, Due Dates. The annual assessments provided for herein shall commence as to all assessable units on the first day of the month following the conveyance of the first unit. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Governors shall fix the amount of the annual assessment against each unit at least thirty (30) days in advance of each annual assessment period. After the first year, or part thereof, the annual assessment period shall be January 1 thru December 31. Written notice of the annual assessment shall be sent to every Unit Owner subject thereto. The due dates shall be established by the Board of Governors, provided however, at unit owners request, said assessment may be paid quarterly.

Section 10. Effect of Nonpayment of Assessments, Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten (10) percent per annum. The Association may bring an action at law against the Unit Owner, who is personally obligated to pay the same, or foreclose the lien against the property or both. No Unit Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his unit and no Unit Owner may voluntarily resign from membership.

Section 11. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage on the property, or upon any individual unit and the Lease granted any Unit Owner by the Pearl River Valley Water Supply District. Sale or transfer of any unit shall not affect the assessment lien. Provided, the sale or transfer of any unit pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall only extinguish the lien of such assessments as to payments which become due prior to such sale or transfer, and no such sale or transfer shall relieve such unit from liability for any assessments thereafter becoming due or from the lien thereof, and the grantee of any such unit shall become a Unit Owner thereof subject to this Declaration.

ARTICLE VII

RESTRICTIONS ON TRANSFER

Section 1. Transfer of Units. The Owner of any Unit shall have the right and privilege to sell, convey and transfer said unit on such terms and conditions as he may desire, provided such terms and conditions are not in conflict with the provisions of this Declaration.

Section 2. Transfer of Boat Slips. The Owner of a Boat Slip(s) shall have the right and privilege to sell, convey and transfer said Boat Slip to any Owner of a Unit on such terms and conditions as he may desire, provided such terms and conditions are not in conflict with the provisions of this Declaration. Boat Slips may only be sold or transferred to a Unit Owner.

ARTICLE VIII

CONSENT OF ELIGIBLE MORTGAGE HOLDERS

The Unit Owners, or the Board of Governors, or the Association, by any act or omission, shall not do any of the following things without the prior written consent and approval of the holders of fifty-one percent (51%) of the outstanding first mortgages who have requested notice from the Association of any proposed action that requires the consent of a specified percentage of Eligible Mortgage Holders:

- voting rights;
- increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens;
- reductions in reserves for maintenance, repair, and replacement of common elements;
- responsibility for maintenance and repairs;
- reallocation of interests in the general or limited common elements, or rights to their use;
- redefinition of any unit boundaries;
- convertibility of units into common elements or vice versa;
- expansion or contraction of the project, or the addition, annexation, or withdrawal of property to or from the project;

- hazard or fidelity insurance requirements;
- imposition of any restrictions on the leasing of units;
- imposition of any restrictions on a unit owner's right to sell or transfer his or her unit;
- a decision by the Association to establish self-management;
- restoration or repair of the project (after damage or partial condemnation) in a manner other than that specified in the documents;
- any provisions that expressly benefit mortgage holders, insurers, or guarantors; or
- partition or subdivide a condominium unit.

ARTICLE IX

ADDITIONAL RIGHTS OF MORTGAGEES

Section 1. Notice to and Rights of Eligible Mortgage Holders. The Association shall promptly notify any Eligible Mortgage Holder on any Unit for which any Assessment remains delinquent for at least 60 days, and the Association shall promptly notify the holder of the First Mortgage on any Unit for which there is default by the Unit Owner with respect to performance of any other obligation or duty under this Declaration which remains uncured for at least 60 days following the date of such default. Any failure to give any such notice shall not affect the validity of priority of any First Mortgage on any Unit, and the protection provided in this Declaration to any Eligible Mortgage Holder on any Unit shall not be altered, modified or diminished by reason of such failure, nor shall any such failure affect the validity of the lien of any Assessment or affect any of the priorities for liens as specified in Article VI. No suit or other proceeding may be brought to foreclose the lien for any Assessment levied pursuant to this Declaration, except after 10 days written notice to any Eligible Mortgage Holder holding a first mortgage encumbering the Unit which is the subject matter of such suit or proceeding.

Section 2. Eligible Mortgage Holders, will, upon request, be entitled to: (a) inspect the books and records of the Project during normal business hours; and (b) receive an annual audited financial statement of the Project within 90 days following the end of any fiscal year of the Project; and (c) written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings; and (d) current copies of this Declaration, the By-Laws of the Association and other rules concerning the Project.

Section 3. In the event of substantial damage to or destruction of any unit or any part of the common area, then the holder of any first mortgage on a unit will be entitled to timely written notice of any such damage or destruction and no provision of any document establishing the Project will entitle the Unit Owner or other party to priority over such institutional holder with respect to the distribution to such unit of any insurance proceeds.

Section 4. If any unit or portion thereof or the common area or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the holder of any first mortgage on a unit will be entitled to timely written notice of any such proceeding or proposed acquisition and notwithstanding any other provisions of this instrument, neither the Unit Owner or any other party shall be entitled to priority over such institutional holder with respect to the distribution to such unit of the proceeds of any award or settlement.

ARTICLE X EASEMENTS

Section 1. Enjoyment of Common Area. Every Unit Owner shall have a right and easement of enjoyment in and to the unlimited common area (as distinguished from limited common area) and such easement shall be appurtenant to and shall pass with the title to every unit, subject to the following provisions:

- (a) the right of the Association's Board of Governors to limit the number of guests that may use the common area;
- (b) the right of the Association's Board of Governors to charge reasonable admission and other fees for the use of any recreational facilities situated upon the common area; and
- (c) the right of the Association's Board of Governors to suspend the voting rights and right to use of the recreational facilities by a Unit Owner for any period during which any assessment against his unit remains unpaid, and for a period not to exceed 60 days for any infraction of its published rules and regulations. Any Unit Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the common area to the members of his family or his tenants who reside on the property.

Section 2. Encroachments and Support. Each unit and the property included in the common area shall be subject to an easement for encroachments created by construction, settling and overhangs as designed or constructed by the Declarant. A valid easement for said encroachments and for the maintenance of same, so long as they stand, shall and does exist. In the event that any building is partially or totally destroyed and then rebuilt, the owners of the units so affected agree that minor encroachments of parts of the adjacent unit or common area due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist. Every portion of a unit contributing to the support of an abutting unit shall be burdened with an easement of support for the benefit of such abutting unit.

Section 3. Utilities, Etc. (a) an easement in each Unit shall exist for the benefit of all units for pipes, wired, conduits, or utility lines which are utilized by or serve more than one unit as set forth in Article I, Section (i) (v).

(b) There is hereby granted a blanket easement upon, across, over and under all of the property for ingress, egress, installation, replacing, repairing and maintaining a master television antenna system, television cable, and all utilities including, but not limited to, water, sewers, telephones and electricity. By virtue of this easement, it shall be expressly permissible for the Declarant and the providing utility company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain utility wires, circuits and conduits on, above, across and under the roofs and exterior and interior walls of the units. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said property except as initially programmed and approved by the Declarant or thereafter approved by the Declarant or the Association's Board of Governors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Declarant shall have the right to grant such easement on said property without conflicting with the terms hereof. The easements provided for in this Article XII shall in no way affect any other recorded easement on said property.

Section 4. Developer's Easement. Declarant, and persons it may select, shall have the right of ingress and egress over, upon, and across the general and limited common elements and the right to store materials thereon and make such other use thereof as may be reasonably necessary incident to construction, development, and sales of the condominiums and operation of the units and common elements in connection with Point Clear and the overall development, of which the property is a part. Declarant and its agent shall retain the right to use the sales office and model units and the general and limited common elements, in connection therewith, during the period of development and sale of Point Clear.

Section 5. Other There is hereby granted a blanket easement to the Association, its Governors, officers, agents and employees, to any Manager employed by or on behalf of the Association and to all policemen, firemen, ambulance personnel and all similar persons to enter upon the property or any part thereof in the proper performance of their respective duties. Except in the event of emergencies, the rights accompanying the easements provided for in this Article X shall be exercised only during reasonable daylight hours and then, whenever practicable, only after advance notice to and with the permission of the Unit Owner or Owners directly affected thereby.

ARTICLE XI

INSURANCE AND CASUALTY LOSSES

Section 1. Insurance. The Association's Board of Governors shall have the authority to and shall obtain insurance for all of the improvements on the property (with the exception of improvements and betterments made by the respective owners at their expense) against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief, in

an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard, and shall also obtain a public liability policy covering all common area and all damage or injury caused by the negligence of the Association or any of its agents, which public liability policy shall be at least \$1,000,000.00 single limit as respects bodily injury and property damage. Premiums for all such insurance coverage shall be common expenses. All such insurance coverage obtained by the Board of Governors shall be written in the name of the Association as Trustee for each of the unit owners in the percentages of undivided interest in and to the common area as provided for in Article IV hereof. Such insurance shall be governed by the provisions hereinafter set forth:

- (a) All policies shall be written with a company, admitted or nonadmitted, holding a Best's Rating Classification of "A" or better and a Financial Size Category of "X" or better as reflected from time to time in the current edition of BEST'S KEY RATING GUIDE, PROPERTY-CASUALTY.
- (b) All policies shall be for the benefit of the unit owners and their mortgagees as their interests may appear.
- (c) Provision shall be made for the issuance of a certificate of insurance to each Unit Owner and his mortgagee, if any, which shall specify the proportionate amount of such insurance attributable to the particular owner's unit.
- (d) The original of all policies and endorsements thereto shall be deposited with the Insurance Trustee which shall hold them subject to the provisions of Section 3 of this Article.
- (e) Exclusive authority to adjust losses under policies hereafter in force on the property shall be vested in the Association's Board of Governors; provided, however, that no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- (f) In no event shall the insurance coverage obtained and maintained by the Association's Board of Governors hereunder be brought into contribution with insurance purchased by individual owners or their mortgagees.
- (g) Each Unit Owner may obtain additional insurance at his own expense; provided, however, that no Unit Owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association, on behalf of all of the owners and their mortgagees, may realize under any insurance policy which the Association's Board of Governors may have in force on the property at any particular time.
- (h) Any Unit Owner who obtains an individual insurance policy covering any portion of the property, other than improvements and betterments made by such Unit Owner, shall be required to file a copy of each such individual policy with the Association's Board of Governors within 30 days after purchase of such insurance.

(i) It shall be the individual responsibility of each Unit Owner at his own expense to provide, as he sees fit, owner's title insurance on his individual unit, homeowner's liability insurance, theft and other insurance covering improvements, betterments and personal property damage and losses.

(j) The Association's Board of Governors shall conduct an annual insurance review which shall include a replacement cost appraisal, without respect to depreciation, of all improvements on the property (with the exception of improvements and betterments made by the respective owners at their expense) by one or more qualified persons at least one of whom should be a qualified building cost estimator.

(k) The Association's Board of Governors shall be required to make every reasonable effort to secure insurable policies that will provide for the following: (1) a waiver of subrogation by the insurer as to any claims against the Association's Board of Governors, its Manager, the owners and their respective servants, agents and guests; (2) a waiver by the insurer of its right to repair and reconstruct instead of paying cash; (3) that the master policy on the property cannot be canceled, invalidated or suspended on account of any one or more individual owners; (4) that the master policy on the property cannot be canceled, invalidated or suspended on account of the conduct of any director, officer or employee of the Association or its duly authorized Manager without a prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its Manager, any Unit Owner or mortgagee; and (5) that any "other insurance" clause in the master policy exclude individual owner's policies from consideration.

Section 2. No Partition. There shall be no judicial partition of the property or any part thereof, nor shall the Declarant or any person acquiring any interest in the property or any part thereof seek any such judicial partition except: (1) as set forth in Section 4 of this Article in the case of damage or destruction of the property and (2) as provided by Section 89-9-35 of the Miss. Code of 1972, as the same may be hereafter amended or modified and any other applicable laws of the State of Mississippi.

Section 3. Insurance Trustee. (a) All insurance policies purchased by and in the name of the Association shall provide that proceeds covering property losses shall be paid to the Association. The Board of Governors may serve as the Insurance Trustee or may, at its discretion, select another to serve as Insurance Trustee. Immediately upon the receipt by Association of such proceeds, the Association shall endorse the instrument by means of which such proceeds are paid and delivered or cause to be delivered such instrument to the Insurance Trustee. The Insurance Trustee shall not be liable for payment of premiums, for the renewal or the sufficiency of the policies or for the failure to collect any insurance proceeds. Nor shall the Insurance Trustee have any obligation to inspect the property to determine whether a loss has been sustained or to file any claim or claims against any insurer or any other person.

(b) The duty of the Insurance Trustee shall be to receive such proceeds as are paid and delivered to it and to hold such proceeds in trust for the benefit of the owners and their mortgagees in the following shares, but which shares need not be set forth in the records of the Insurance Trustee. An undivided share of such proceeds on account of damage or destruction to the common area shall be held in trust for the owners in accordance with their respective percentages of undivided interest in and to the common area as provided for in Article IV hereof. Proceeds on account of damage or destruction to units shall be held in trust for the owners of the damaged or destroyed units in proportion to the cost of repairing or reconstructing the damage or destruction suffered by each such Unit Owner. In the event that a mortgagee endorsement has been issued as to any particular unit, the share of each Unit Owner shall be held in trust for such Unit Owner and his mortgagee as their interests may appear.

(c) Proceeds of insurance policies received by the Insurance Trustee shall be disbursed as follows:

(i) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying cost of repairs or reconstruction shall be disbursed to the beneficial owners, remittances to unit owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by such mortgagee.

(ii) If it is determined as provided for in Section 4 of this Article that the damage or destruction for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed to such persons as therein provided.

(iii) Any and all disbursements of funds, whether such funds consist of insurance proceeds, special assessments, sales proceeds or any combination thereof, to be made by the Insurance Trustee for any purpose whatsoever shall be made pursuant to and in accordance with a certificate of the Association signed by the President or Vice President and attested by the Secretary setting forth whether or not the damage or destruction is to be repaired or reconstructed and whether the damage or destruction was to the common area or one or more units or both. If the damage or destruction is not to be repaired or reconstructed, said certificate shall direct that disbursements be made by the Insurance Trustee as by law provided in accordance with the terms of Section 4(c) of this Article.

If the damage or destruction is to the common area and is to be repaired or reconstructed, said certificate shall also be signed by or on behalf of the mortgagee known by the Insurance Trustee to have the largest interest in or lien upon such common area and may direct that disbursements be made by the Insurance Trustee to those persons and in such amounts as may be specified therein or, in the alternative, said certificate may authorize the Insurance Trustee to make disbursements upon and pursuant to such written authorizations as may be submitted to it by an architect or other person named therein as having been employed by the Association to supervise such repairs or reconstruction.

If the damage or destruction is to one or more units and is to be repaired or reconstructed, said certificate shall also be signed by or on behalf of the mortgagee or mortgagees, if any, known by the Insurance Trustee to have an interest in or lien upon such unit or units and may direct that disbursements be made by the Insurance Trustee to those persons and in such amounts as may be specified therein or, in the alternative, said certificate may authorize the Insurance Trustee to make disbursements upon and pursuant to such written authorization as may be submitted to it by an architect or other person named therein as having been employed by the Association to supervise such repairs or reconstruction.

The Insurance Trustee shall not incur any liability to any Unit Owner, mortgagee or other person for any disbursements made by it pursuant to and in accordance with any such certificates or written authorizations.

Section 4. Damage and Destruction. (a) Immediately after the damage or destruction by fire or other casualty to all or any part of the property covered by insurance written in the name of the Association, the Board of Governors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition in which it existed prior to the fire or other casualty with each unit and the common area having the same vertical and horizontal boundaries as before.

(b) In the event more than 75% of the project has been destroyed or substantially damaged, any such damage or destruction shall be repaired or reconstructed unless at least 50% of the total vote of the Association shall decide within 60 days after the casualty, not to repair or reconstruct. If, for any reason the amount of the insurance proceeds to be paid as a result of such damage or destruction or reliable and detailed estimates of the cost of repair or reconstruction are not made available to the Association within said period of 60 days after the casualty, then such period shall be extended until such information shall be made available to the Association; provided, however, that said period of time shall in no event exceed 90 days after the casualty.

(c) In the event that it should be determined by the Association in the manner prescribed above that the damage or destruction shall not be repaired or reconstructed, then and in that event (i) the property shall be deemed to be owned in common by the unit owners, (ii) the undivided interest in the property owned in common which shall appertain to each Unit Owner shall be the percentage of undivided interest previously owned by such Unit Owner in the common area, (iii) any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the percentage of undivided interest of the Unit Owner in the property and (iv) the property shall be subject to an action for partition at the suit of any Unit Owner, in which event the net proceeds of sale shall be paid to the Insurance Trustee. Said net proceeds of sale, together with the net proceeds of the insurance on the property, shall be considered as one fund which, after paying all expenses of the Insurance Trustee, shall be divided among all of the unit owners in a percentage equal to the percentage of undivided interest owned by each owner in the property, after first paying out of the respective share of the unit owners, to the extent sufficient for the purpose, all liens of the

undivided interest in the property owned by each Unit Owner. Disbursements to such owners shall be made as provided for in Section 3 of this Article. The foregoing provisions of this Section 4(c) shall apply only as long as may be necessary to comply with the applicable provisions of the Act. The foregoing provisions of this Section 4(c) shall apply only as long as said provisions are not in conflict with Section 89-9-35 of the Miss. Code of 1972 or any other applicable laws of the State of Mississippi. In the event that the laws of the State of Mississippi should be hereafter amended so as to eliminate the right of action for partition upon determining that the damage or destruction shall not be repaired or reconstructed, then this Section 4 (c) , and such other provisions hereof as may be necessary to its implementation, shall be deemed amended accordingly.

Section 5. Repair and Reconstruction. (a) If the damage or destruction for which the insurance proceeds are paid to the Insurance Trustee is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Governors shall, subject to Article VI hereof and without a vote of the members, levy a special assessment against all owners of the damaged units, and against all owners in the case of damage to the common area, in sufficient amounts to provide funds to pay such excess cost of repair or reconstruction. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. Such assessments on account of damage to the common area shall be in proportion to the owner's share in the common area.

(b) Any and all sums paid to the Association under and by virtue of those special assessments provided for above to defray the estimated excess cost of repair or reconstruction shall be deposited by the Association with the Insurance Trustee. The proceeds from insurance and assessments, if any, received by the Insurance Trustee, when the damage or destruction is to be repaired or reconstructed, shall be disbursed as provided for in Section 3 of this Article.

Section 6. Minor Repairs. (a) Notwithstanding the foregoing provisions of this Article, in the event of damage by fire or other casualty to either the common area or a single unit covered by insurance written in the name of the Association and if the insurance proceeds initially offered or paid therefor are less than \$2,000.00 and the estimated cost of repairing such damage is less than twice the amount of such proceeds, then the instrument by means of which such proceeds are paid shall be endorsed by the Insurance Trustee and delivered to the Association and the damage shall be repaired in accordance with the following provisions.

(b) If the damage is confined to the common area, such insurance proceeds shall be used by the Association to defray the cost of such repairs. If the cost of such repairs is less than the amount of such insurance proceeds, the excess shall be retained by the Association or its duly authorized agent and placed in the reserve maintenance fund or such other fund as may be established for the purpose of providing for the maintenance, repair and replacement of the common area. If the cost of such repairs exceed the amount of such insurance proceeds, such excess may be provided subject to Article VI hereof either by means of a special assessment levied by the Board of Governors, without a vote of the members, against all owners in proportion to each owner's share in the common area or by means of an appropriation from the reserve maintenance fund or such other fund as may be

established for the purpose of providing for the maintenance, repair and replacement of the common area as the Board of Governors in the exercise of its sole discretion may determine.

(c) If the damage is confined to a single unit, such insurance proceeds shall be used by the Association to defray the cost of such repairs. If the cost of such repairs is less than the amount of such insurance proceeds, the excess shall be paid jointly, to the Unit Owner and his mortgagee, if any, who may use such proceeds as they alone may determine. If the cost of such repairs exceeds the amount of such insurance proceeds, such excess shall be provided by means of a special assessment levied by the Board of Governors, subject to Article VI hereof and without a vote of the members, against the owner of the damaged unit. Payments for repairs provided for in this subparagraph (c) shall be made only after all such repairs have been completed and approved by the Association, the Unit Owner and his mortgagee, if any, which approval shall not be unreasonably withheld.

Section 7. Expenses of Insurance Trustee. Any expenses incurred by the Insurance Trustee shall be paid from the general assessments, if the same are sufficient for the purpose; otherwise from the proceeds of special assessments levied in accordance with Section 5 of this Article.

ARTICLE XII

CONDEMNATION

In the event of a taking in condemnation or by eminent domain of part or all of the Common Elements, the award made for such taking may be payable to the Board of Governors if such award amounts to \$50,000 or less, and to the Insurance Trustee if such award amount to more than \$50,000%, If 75% or more of the unit owners duly and promptly approve the repair and restoration of such Common Elements, the Board of Governors shall arrange for the repair and restoration of such common elements, and the Board of Governors or the Insurance Trustee, as the case may be, shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. In the event that 75% or more of unit owners do not duly and promptly approve the repair and restoration of such common elements, the Board of Governors or the Insurance Trustee, as the case may be, shall disburse the net proceeds of such award in the same manner as they are required to distribute insurance proceeds where there is no repair or restoration of damages, as provided in Section 4 of Article XI of this Declaration.

ARTICLE XIII

ADDITIONS TO PROPERTY SUBJECT TO THIS DECLARATION

Additional lands may become subject to this Declaration in any of the following manners:

(a) The Association upon first obtaining the affirmative approval of 67% of the unit owners; provided, however that no land shall be added to the provisions of this declaration unless said land is adjacent to the condominium.

(b) Any additions made pursuant to Paragraphs (a) or (b) of this Section, when made, shall automatically extend the jurisdiction, functions, duties and membership of the Association to the properties added. Upon filing of record a supplementary Declaration of Covenants, Conditions and Restrictions describing the property to be annexed which shall extend the scheme of the Covenants, Conditions and Restrictions of this declaration to such property; however, in no event shall such supplementary declaration otherwise modify the covenants established by this declaration for the existing properties.

(c) Upon a merger or consolidation of the Association with another association, as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties rights and obligations of another association may, by operations of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration except as hereinafter provided.

ARTICLE XIV

ARCHITECTURAL CONTROL

Section 1. Architectural Review. (a) Except for the original construction and except for the purposes of proper maintenance and repair or as otherwise provided in this Declaration, no change or alteration in any manner whatsoever shall be made to the exterior of any unit, including any terrace or patio, window or exterior door (including any alteration or change in color) until the proposed plans and specifications showing the nature, kind, shape, height, materials, exterior color or finish, shall have been submitted to and approved in writing by the Architectural Review Committee, which Committee shall be composed of five (5) or more representatives. So long as the Declarant owns any unit subject to this Declaration, three (3) of the representatives shall be appointed by the Declarant; the two (2) remaining representatives shall be appointed by the Board. No alteration in the exterior appearance of the building shall be made without approval from the Architectural Review Committee.

(b) Two (2) copies of all plans and related data shall be furnished the Architectural Review Committee. One (1) copy shall be retained by the committee and the other copy shall be returned to the Unit Owner marked approved or disapproved. Approval shall be dated and shall be effective for construction commenced more than six (6) months after such approval. Disapproved plans and related data shall be accompanied by a reasonable statement of items found unacceptable. In the event the Architectural Review Committee fails to approve or disapprove such plans within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

(c) Refusal of approval of the plans, specifications or related data may be based by the Architectural Review Committee upon any ground, including purely aesthetic considerations, so long

as they are not arbitrary and capricious. Neither the board or the Architectural Review Committee shall be liable to a Unit Owner or to any other person on account of any claim, liability or expense suffered or incurred by or threatened against a Unit Owner or such other person arising out of or in any way relating to the subject matter or any reviews, acceptances, inspections, permissions, consents or required approvals which must be obtained from the Architectural Review Committee or public authorities whether given, granted or withheld.

Section 2. Rules and Regulations, etc. The Architectural Review Committee may from time to time adopt and promulgate such rules and regulations regarding the form and content of plans and specifications to be submitted to it for approval, and may publish and record such statements of policy, standards, guidelines and may establish certain criteria relative to architectural styles, details, colors, materials or other matters relative to architectural review and the promotion of the building and property, as it may consider necessary or appropriate. No such rules, regulations, statements, criteria or the like shall be considered as a waiver of the provisions of this Article or any other provision or requirement of this Declaration. The decision of the Architectural Review Committee shall be final except that any member who is aggrieved by any action or forbearance from action by the Committee (or any policy, standard or guideline established by the Committee) may appeal the decision by the Architectural Review Committee to the Board of Governors, and upon written request, such member shall be entitled to a hearing before the Board of Governors.

ARTICLE XV

RULE MAKING

Section 1. Rules and Regulations. Subject to the provisions hereof, the Board of Governors may establish reasonable rules and regulations concerning the use of the common areas, common elements, limited common area, including boat slips, and facilities as said Board, from time to time, may determine necessary or prudent for the protection, use and enjoyment of all of the Owners, including regulating the size, type and horsepower of all boats and other water craft stored on, launched from, docked, beached or grounded on the Property.

ARTICLE XVI

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Unit Owner, shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration and the By-Laws and Articles of Incorporation of the Association. Failure by the Association or by any Unit Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. Except as elsewhere provided otherwise, this declaration may be amended in the following manner:

(a) Notice. Notice of such matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

(b) Resolutions. Resolutions for the adoption of a proposed amendment may be proposed by either the Board of Governors of the Association or by the members of the Association. Governors and members not present in person or by proxy 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 elsewhere provided, such approval must be either by:

(i) not less than 67% of the entire membership of the Board of Governors and not less than 67% of the votes of the entire membership of the Association; or

(ii) not less than 80% of the votes of the entire membership of the Association; or

(iii) until the first election of governors, only by all of the governors, provided the amendment does not increase the number of units nor alter the boundaries of the common elements.

(c) Restrictions. No amendment shall discriminate against any Unit Owner or against any unit or class or group of units unless the unit owners so effected shall consent. No amendment shall change any unit nor the share in the common elements appurtenant to it, nor increase the owner's share of common expenses, unless the record owner of the unit and all recorded owners of liens thereon shall join in the execution of the amendment. Neither shall an amendment make any change in Article XI entitled "Insurance and Casualty Losses" unless the record owners of all mortgages upon the condominium or any part thereof shall join in the execution of the amendment.

(d) Amendments. Notwithstanding Section 3 of this Article XVI, this Declaration may be amended, modified and/or changed either (i) by the Declarant and the District properly filing for record a Supplement prior to December 31, 2003 or (ii) by a Supplement properly filed for record and executed by the District and the owners of at least 75% of the Units if amended, modified and/or changed prior to January 1, 2037, and thereafter by the District and the Owners of at least 51% of the Units.

(e) Execution recording. A copy of each amendment shall be certified by the president or secretary of the Association as having been duly adopted and shall be effective when recorded in the office of the Chancery Clerk of Madison County at Canton, Mississippi.

Section 4. Certificate of Consent by Owner. By executing this Plan of Condominium, Declarant, the owner of the real property hereinabove described, hereby consents to the recordation of the Plan pursuant to the provisions of Chapter 9, Section 89-1-1, et seq., Mississippi Code of 1972 as amended.

Section 5. Certificate of Consent by Secured Party. By executing this Plan of Condominium, Trustmark National Bank, being the holder of recorded security interests in the real property hereinabove described, hereby consent to the recordation of this Plan and the Declaration of Restrictions pursuant to the provisions of Chapter 9, Section 89-9-1, et seq., Mississippi Code of 1972 as amended, except that the said Trustmark National Bank, its trustees, officers, employees and agents shall have no liability whatsoever, expressed or implied, in connection with this Plan of Condominium, its terms, conditions, restrictions or provisions, which limitation of liability is hereby conclusively accepted by the Declarant.

Section 6. Certificate of Consent by Secured Party. By executing this Plan of Condominium, the District, being the record holder of the fee simple title to the Land hereby consents to the recordation of this Plan and the Declaration of Restrictions pursuant to the provisions of Chapter 9, Section 89-9-1, et seq., Mississippi Code of 1972 as amended, except that the said District, its directors, officers, employees and agents shall have no liability whatsoever, expressed or implied, in connection with this Plan of Condominium, its terms, conditions, restrictions or provisions, which limitation of liability is hereby conclusively accepted by the Declarant.

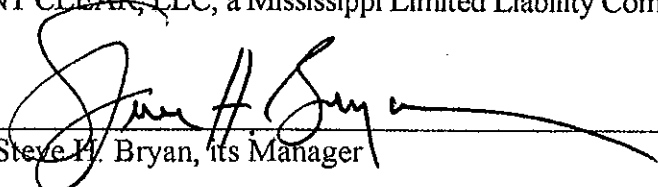
Section 7. Pearl River Valley Water Supply District Lease. Nothing contained herein shall be deemed to extend or alter the terms of any lease between the Pearl River Valley Water Supply District and the Declarant or any Unit Owner, their successors or assigns, and should there be any conflict between the terms and conditions of any such lease and this Declaration, such lease shall control and be considered prior to this Declaration. The Pearl River Valley Water Supply District by consenting to this Declaration incurs no liability hereunder for the performance of any covenant or condition or for the payment of any assessment provided herein.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal, this the 13th day of October, 1997.

DECLARANT

POINT CLEAR, LLC, a Mississippi Limited Liability Company

BY:


Steve H. Bryan, its Manager

STATE OF MISSISSIPPI

BOOK 1060 PAGE 131

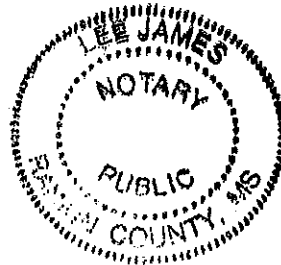
COUNTY OF HINDS

PERSONALLY appeared before me, the undersigned authority in and for the said county and state, on this 31st day of October, 1997 within my jurisdiction, the within named STEVE H. BRYAN, who acknowledged that he is Manager of POINT CLEAR, LLC, a Mississippi limited liability company, and that for and on behalf of said limited liability company and as its act and deed, he executed the foregoing instrument, for the purposes mentioned, on the day and year therein mentioned, after first having been duly authorized by said limited liability company so to do.

Lee James
NOTARY PUBLIC

My Commission Expires:

Notary Public State of Mississippi At Large
My Commission Expires: August 22, 2000
BONDED THRU HEIDEN-MARCHETTI, INC.



STATE OF MISSISSIPPI

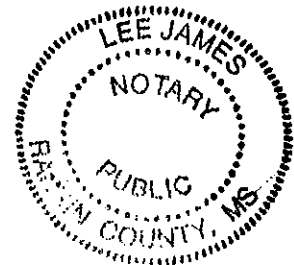
COUNTY OF HINDS

PERSONALLY appeared before me, the undersigned authority in and for the said county and state, on this the 13th day of October, 1997, within my jurisdiction, the within named Manica A Day, who acknowledged that he is Vice President of TRUSTMARK NATIONAL BANK, and that for and on behalf of said bank, and as its act and deed, he executed the foregoing instrument of writing after first having been duly authorized by said bank so to do.

Lee James
Notary Public

My Commission Expires:

Notary Public State of Mississippi At Large
My Commission Expires: August 22, 2000
BONDED THRU HEIDEN-MARCHETTI, INC.



STATE OF MISSISSIPPI

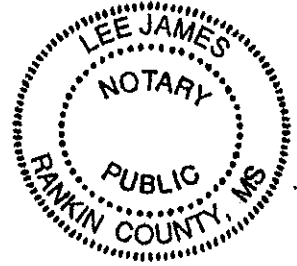
COUNTY OF MADISON

PERSONALLY appeared before me, the undersigned authority in and for the said county and state, on this the 13th day of October, 1997, within my jurisdiction, the within named Kenneth C. Griffin and Patricia R. Webster, duly identified before me, who acknowledged that they are General Manager and Assistant Secretary, respectively, of PEARL RIVER VALLEY WATER SUPPLY DISTRICT, an Agency of the State of Mississippi, and that for and on behalf of said District, and as its act and deed, they sealed and executed the above and foregoing instrument of writing, after first having been duly authorized by said District so to do.

Lee James
Notary Public

My Commission Expires:

Notary Public State of Mississippi At Large
My Commission Expires: August 22, 2000
BONDED THRU HEIDEN-MARCHETTI, INC.



**EXHIBIT A
LEGAL DESCRIPTION**

The unexpired portion of that certain Lease dated July 7, 1980, by Pearl River Valley Water Supply District as Lessor, and Reservoir Properties, Ltd., and Edgewater Cove Apartments, both Mississippi limited partnerships, as Lessee, filed of record in Book 472 at Page 704 and all amendments, modifications and assignments thereof, covering the following described property:

Starting at the Southeast corner of Section 22, township 7 North, Range 2 East, Madison County, Mississippi, run thence West for 193.50 feet; thence North 48°18' West for 243.45 feet; thence North 30°41' West for 273.08 feet; thence South 66°43' West for 307.55; thence South 69°45' West for 218.90 feet to a point, said point hereinafter referred to as the POINT OF BEGINNING:

Thence South 54°09'23" West for 84.13 feet; Thence South 20°37'21" East for 800.35 feet; Thence South 60°22'28" West for 143.51 feet; Thence South 82°37'53" West for 100.46 feet; Thence North 78°25'39" West for 94.36 feet; Thence North 21°59'17" West for 126.84 feet; Thence North 12°56'07" West for 189.85 feet; Thence North 17°45'12" West for 226.00 feet; Thence North 42°06'43" West for 295.80 feet; Thence South 84°26'56" West for 149.46 feet; Thence North 57°38'40" West for 128.47 feet; Thence North 55°13' East for 693.87 feet; Thence South 24°30'16" East for 356.32 feet to the POINT OF BEGINNING.

The above tract lies and is situated in Sections 22 and 27, Township 7 North, Range 2 East, Madison County, Mississippi, and contains 9.763 acres, more or less.

AND ALSO:

That certain easement 100 feet in width from the above described apartment house parcel to Post Road, which 100 foot wide easement is more particularly described as follows, to-wit:

From the Point of Beginning of the apartment house parcel above described proceed thence South 54°9'23" West for 84.13 feet; proceed thence South 20°37'21" East for 800.35 feet; thence South 60°22'28" West for 143.51 feet; thence South 82°37'53" West for 100.46 feet; thence North 78°25'39" West for 94.36 feet; thence North 21°59'17" West for 126.84 feet; thence North 12°56'07" West for 189.85 feet; thence North 17°45'12" West for 226.00 feet; thence North 42°06'43" West for 295.80 feet; thence South 84°26'56" West for 149.46 feet; thence North 57°38'40" West for 128.47 feet; thence North 55°13' East for 369.3 feet to a point, which point is the POINT OF BEGINNING of the center line of the easement herein described; the said easement is 100 feet in width lying 50 feet on either side of a centerline running from the POINT OF BEGINNING North 69°0' West for 177.5 feet to the centerline of Post Road.

Together with an easement for the term of this lease agreement and any extension hereof from the waterfront boundary of the above described property to the water's edge at pool elevation 297 of the Ross R. Barnett Reservoir for the sole purpose of ingress and egress from the leased premises to the water's edge. Lessee covenants and agrees not to construct any improvements on the easement herein granted or change the grade or contour of the real property located therein. Lessor covenants and agrees not to construct any improvements or obstruct access within the easement area unless such improvement or construction is necessary for public health, safety or welfare or for the proper maintenance and operation of the Ross R. Barnett Reservoir.

STATE OF MISSISSIPPI, COUNTY OF MADISON:

I certify that the within instrument was filed for record in my office this 14 day of Oct, 1997, at 4:10 o'clock P M., and was duly recorded on the OCT 14 1997, Book No. 1060, Page 93.



STEVE DUNCAN, CHANCERY CLERK

BY: R Gregory D.C.

BY-LAWS

BY-LAWS
OF
POINT CLEAR CONDOMINIUM ASSOCIATION, INC.

ARTICLE I.
Name and Location

Section 1. Name and Location. These are the By-Laws of and for the Mississippi nonprofit and non-share corporation named:

POINT CLEAR CONDOMINIUM ASSOCIATION, INC.

Said corporation is referred to herein at times as the "Association." The principal office of the Association is located at 779 Avery Boulevard North, Ridgeland, Mississippi.

ARTICLE II.
Definitions

Section 1. Declarant. "Declarant," as used herein, means Point Clear, LLC, its successors and assigns.

Section 2. Project. The word "project" and the word "community" as used herein, mean that certain community known generally as "Point Clear" being developed by the Declarant in Madison County, Mississippi.

Section 3. Declaration. "Declaration," as used herein, means that certain instrument entitled "Declaration of Covenants, Conditions and Restrictions for Point Clear under date of October 13, 1997, filed for record in the office of the Chancery Clerk of Madison County, Mississippi, as same may hereafter be supplemented or amended.

Section 4. Board of Governors. "Board of Governors," as used herein, means the Board of Governors of the Association.

Section 5. Articles. "Articles," as used herein, means the Articles of Incorporation of the Association.

Section 6. President, Vice President, Secretary and Treasurer. The words "President," "Vice President," "Secretary" and "Treasurer," as used herein, mean, respectively, the President, Vice President, Secretary and Treasurer of the Association.

Section 7. Other Definitions. Unless a different meaning is apparent from the context, all other expressions used herein shall have the same meaning as they are defined to have in the Declaration, except that the word "herein" as used in these Bylaws, shall mean in these Bylaws.

ARTICLE III.
Membership and Voting Rights

Section 1. Membership.

(a) The Members of the Association shall be and consist of every person who is, or becomes an Owner of record of a leasehold interest in a Unit and is included in the definition of an Owner under Article I of the Declaration. When more than one person owns or holds an interest or interests in a Unit, then all such persons shall be members.

(b) The Association shall have two classes of voting membership:

Class A. Class A Members shall be all members with the exception of the Declarant and its nominee or nominees, if any.

Class B. Class B Member(s) shall be the Declarant and its nominee or nominees, if any.

Section 2. Members' Voting Rights. The voting rights of the Members shall be as follows, to-wit:

(a) Class A Members. Each person, other than the Declarant, who is or who hereafter becomes the Owner of a Unit shall be a Class A Member of the Association. Class A Members shall be entitled to one vote for each Unit owned. When more than one person or entity holds an interest or interests in any Unit, all such persons or entities shall be Members, and the vote for such Units shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any such Unit.

(b) Class B Members. The Declarant and its nominee or nominees, if any, shall be Class B Members of the Association. Class B Members shall be entitled to four votes for each Unit owned. When the total votes outstanding in the Class A membership equal the votes outstanding in the Class B membership, then the Class B membership shall cease and be converted into Class A membership.

Wherever any provision of the Declaration or the Bylaws requires a vote of a specified percentage of the voting power of each class of Members, then such provisions shall require a separate vote by the specified percentage of the voting power of the Class A Members and by the specified percentage of the voting power of the Class B Members. Whenever any provisions of the Declaration requires a vote of a specified percentage of the voting power of the Members, then such provision shall require a vote by the specified percentage of the combined voting power of all Members.

Section 3. Membership Appurtenant to Real Property. The membership shall be appurtenant to the ownership of a Unit. A membership shall not be held, assigned, transferred, pledged, hypothecated, encumbered, conveyed or alienated in any manner except in conjunction with and as

a appurtenance to the ownership, assignment, transfer, pledge, hypothecation, encumbrance, conveyance or alienation of the Unit to which the membership is appurtenant.

Section 4. Voting Conflict Between Members. If the leasehold title to a particular Unit is owned of record by more than one Member, then the one vote appurtenant to such Unit may be exercised by any one of such Members, unless the other Members who own an interest in such leasehold title to the Unit shall object prior to the completion of voting upon the particular matter under consideration. In the event of any such objection, the one vote appurtenant to such Unit shall not be counted.

Section 5. No Preemptive Rights. The Members of the Association simply by virtue of being such Members, shall have no preemptive rights to acquire any additional memberships which the Association may issue from time to time.

Section 6. Membership Certificates. In the event the Board of Governors should consider it necessary or appropriate to issue membership certificates or the like, then each such membership certificate shall state that the Association is organized under the laws of the State of Mississippi, and shall state the name of the registered holder or holders of the membership represented thereby, and shall be in such form as shall be approved by the Board of Governors. Membership certificates shall be consecutively numbered, bound in one or more books, and shall be issued therefrom upon certification as to the transfer of title to a Unit to which such membership is appurtenant. Every membership certificate shall be signed by the President or Vice President and the Secretary or an Assistant Secretary and shall be sealed with the corporate seal. Such signatures and seal may be original or facsimile.

Section 7. Lost Certificates. The Board of Governors may direct that a new certificate or certificates be issued in place of any membership certificate or certificates previously issued by the Association and alleged to have been destroyed or lost, upon the making of an affidavit of that fact by the person claiming the membership certificate to be lost or destroyed. When authorizing such issuance of a new certificate or certificates, the Board of Governors may, in its discretion, and as a condition precedent to the issuance thereof, require the registered holder of such Unit or destroyed certificate or certificates, or his legal representative, to advertise the same in such manner as the Board of Governors shall require and to give the Association a bond in such sum as the Board of Governors may require as indemnity against any claim that may be made against the Association on account of the issuance of such new certificate.

Section 8. Rights of Declarant. Until the Declarant has completed and sold all units or until the Declarant elects to terminate his control of the Condominium, whichever shall first occur, there shall be no meeting of members of the Association unless a meeting is called by the Board of Governors.

ARTICLE IV. Meetings of Members

Section 1. Place of Meeting. Meetings of the Members shall be held at the principal office or place of business of the Association, or at whatever other suitable place or places within the State of

Mississippi as are reasonably convenient to the membership as may be designated by the Board of Governors from time to time.

Section 2. Organizational Meeting. The organizational meeting of the Members shall be held at whatever time and place as may be designated by the initial Board of Governors named in the Articles, and shall be held within no more than sixty (60) days following the issuance of the Articles.

Section 3. Annual Meetings. The first meeting of the Members shall be held at whatever time and place as may be designated by the initial Board of Governors named in the Articles; provided, however, that the first annual meeting of Members shall be held immediately subsequent to the termination of all Class B Memberships as provided in Section 2(b) of Article III. Thereafter the annual meeting shall be held on the second Tuesday of March in each succeeding year. At such annual meetings, there shall be elected by ballot of the Members a Board of Governors in accordance with the provisions of Article V of these Bylaws. The Members also may transact such other business as may properly come before them.

Section 4. Special Meetings. It shall be the duty of the President to call a special meeting of the Members whenever such is directed by resolution of the Board of Governors, or whenever such is requested by a petition presented to the Secretary after first having been signed by at least twenty percent (20%) of the Members; provided, however, that no special meetings shall be called, except upon resolution of the Board of Governors, prior to the first meeting of the Members as hereinabove provided. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except such as is stated in the notice.

Section 5. Notice of Meetings.

(a) It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof, as well as the time and place where the meeting is to be held, to each Member of record, at his address as it appears on the membership roster of the Association or, if no such address appears, at his last known address, at least fifteen (15) but not more than sixty (60) days prior to such meeting. Any notice so mailed shall be considered as a notice properly served. Attendance by a Member at any meeting of the Members shall be a waiver by him of notice of the time, place and purpose thereof. Notice of any annual or special meeting of the Members also may be waived in any other manner by any Member either prior to, at or after any such meeting.

(b) Meetings at which any action is authorized pursuant to Sections 4 and 6 of Article VI of the Declaration must be held in not less than thirty (30) nor more than sixty (60) days after notice to all Members as provided by Section 5(a) hereof.

Section 6. Roster of Membership. The Secretary shall maintain a current roster of the names and addresses of the Members of the Association. Each Member, upon becoming a Member, shall furnish the Secretary with his current mailing address, and thereafter shall notify the Secretary immediately in writing of any change or changes in his current mailing address.

Section 7. Quorum.

(a) The quorum required for any action referred to in Section 5(b) of this Article shall be as follows:

At the first such meeting called, the presence of members or of proxies entitled to cast sixty per cent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall not be necessary, and the assessment may be approved by the assent of sixty-seven percent (67%) of the votes of the members who are voting in person or by proxy. Notwithstanding any provision of these Bylaws to the contrary, any action referred to in Section 5(b) of this Article may be taken with the assent given in writing and signed by Members having sixty-seven percent (67%) of the total votes held by all Members.

(b) Quorum and voting requirements for all meetings of members other than as described in Paragraph (a) of this Section shall be as follows:

The presence, either in person or by proxy of Members having at least twenty percent (20%) of the votes held by all Members shall constitute a quorum for the transaction of business at any such meeting of Members.

Section 8. Adjourned Meetings. If at any particular meeting of Members, the number of Members present should be less than or should fall below the number required for a quorum, and if such deficiency is brought to the attention of the presiding officer by a proper call or request for a determination of quorum (which call and the results thereof shall be shown on the Minutes of the meeting), then no further business may be transacted at such meeting until the proper quorum is present. In such an event, one additional meeting may be called subject to the notice requirements hereinabove set forth, and the required quorum at the subsequent meeting shall not be necessary. Such subsequent meeting shall be held not more than twenty-one (21) days following the initial meeting at which the quorum requirements were not met.

Section 9. Voting. At every meeting of Members, the Members shall have the voting rights specified in Article III above. The affirmative vote of the Members having at least fifty-one percent (51%) of the total number of votes represented at the meeting, in person or by proxy, shall be necessary to decide any question properly brought before the meeting, unless the question be one as to which, by provision of law, or the Articles, or the Declaration, or by these Bylaws, a different vote is required, in which case such provision of law, or the Articles, or the Declaration, or these Bylaws, shall govern and control. In the event any membership is owned by a corporation, the vote or votes for such membership may be cast by an individual designated in a certificate signed by the president or any vice president of the corporation and attested by the secretary or any assistant secretary of such corporation and filed with the Secretary of the Association prior to or during the meeting at which the vote is to be cast. The vote or votes for any membership which is owned by a trust or partnership may be cast by any trustee of the trust or any partner of the partnership, as the case may be, and, unless another trustee of the trust or another partner of the partnership, as the case may be, shall object prior to the completion of voting upon the particular matter under consideration, the

presiding officer of the meeting shall have no duty to inquire as to the authority of the individual casting any such vote or votes. No Member who is shown by the books of the Association to be more than sixty (60) days delinquent in any payment due the Association shall be eligible to vote, either in person or by proxy, and no such delinquent Member shall be eligible to be elected to the Board of Governors or as an officer of the Association.

Section 10. Voting by Class. Whenever by law, or the charter, or the Declaration, or these Bylaws, any action is required to be taken by a specified percentage of "each class of the then Members" of the Association, then such action shall be required to be taken separately by the specified percentage of the votes of the then outstanding Class A Members, and by the specified percentage of the votes of the then outstanding Class B Members. Whenever by law, or the Charter, or the Declaration, or these Bylaws, any action is required to be taken by a specified percentage of the "then Members" of the Association, then such action shall be required to be taken by the specified percentage of the votes of the then outstanding total membership of the Association.

Section 11. Proxies. A Member may appoint only another Member or the Management Agent as his proxy; provided that in no case may any Member other than a Declarant or the Management Agent cast more than one (1) vote on behalf of another Member by virtue of a proxy from such other Member. All proxies must be in writing and must be in such form as has been approved by the Board of Governors and must be filed with the Secretary prior to the appointed time of the meeting at which the proxy is to be exercised. Unless limited by its provisions to a shorter term, each proxy shall continue until revoked by a writing properly filed with the Secretary or by the death of the Member who gave the proxy, provided, however, that no proxy shall be effective for a period in excess of one hundred eighty (180) days. All proxies shall automatically cease upon conveyance by the Member of his Unit.

Section 12. Rights of Mortgagees. Any holder of a Recorded First Mortgage on any Unit who desires notice of the annual and special meetings of the Members shall notify the Secretary to that effect by Certified or Registered Mail, Return Receipt Requested. Any such notice shall contain the name and post office address of such holders of Recorded First Mortgages and the name of the individual at such address to whom notices of the annual and special meetings of the Members should be directed. The Secretary shall maintain a roster of all holders of Recorded First Mortgages from whom such notices have been received and it shall be the duty of the Secretary to mail or otherwise cause the delivery of a notice of each annual and special meeting of the Members to each such holder of a Recorded First Mortgage, in the same manner, and subject to the same requirements and limitations as are otherwise provided in this Article for notice to the Members. Any such holder of a Recorded First Mortgage shall be entitled to designate a representative to attend any annual or special meeting of the Members and such representative may participate in the discussion at any such meeting and, upon his request made to the presiding officer in advance of the meeting, may address the Members present at any such meeting. Such representative shall be entitled to copies of the minutes of all meetings of the Members upon request made in writing to the Secretary.

Section 13. Order of Business. The order of business at all regularly scheduled meetings of the Members shall be as follows:

- (a) Roll Call and certification of proxies.

- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading and approval of minutes of preceding meeting.
- (d) Reports of officers, if any.
- (e) Reports of committees, if any.
- (f) Unfinished business.
- (g) New business.
- (h) Election of Governors.
- (i) Adjournment.

Section 14. Rules of Order and Procedure. The rules of order and all other matters of procedure at all annual and special meetings of the Members shall be determined by the presiding officer of such meeting.

ARTICLE V.

Governors

Section 1. Number and Qualifications. The affairs of the Association shall be managed and controlled by the Board of Governors. Prior to the first meeting of the Members, held at the time and place as specified in Section 3 of Article IV hereof, the Board of Governors shall consist of the three individuals named as initial Governors in the Articles, said three individuals being Steve H. Bryan, John King and Doris Warren. Following the first annual meeting of Members, and continuing each year thereafter, the Board of Governors shall consist of five (5) individuals, who shall be elected as prescribed by these Bylaws. Governors need not be Members of the Association.

Section 2. Term of Office. Governors shall be elected for one (1) year at annual Members' meetings and shall serve until their successors shall be elected and qualified in accordance with these Bylaws.

Section 3. Change in Number. The number of Governors may be changed from time to time by the Board of Governors or by appropriate amendment to these Bylaws, provided, however, that the number of Governors shall never be less than three (3) nor more than nine (9), and provided further, that a decrease in the number of Governors shall not operate to shorten the term of any incumbent Governor.

Section 4. Nomination. Nomination for election to the Board of Governors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Governors, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Governors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Governors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-Members.

Section 5. Election of Governors. Governors shall be elected by the Members and shall be elected at the annual Members' meetings, or in the event of a vacancy, either at the next ensuing annual Members' meeting or at a special Members' meeting called for that purpose. The election of Governors shall be by secret written ballot, unless such be dispensed with for any particular election by the majority consent of the Members present, in person or by proxy, at the meeting during which the election is held. Each Governor shall hold office until his successor has been elected at the next ensuing annual Members' meeting and has duly qualified.

Section 6. Powers and Duties. In the management and administration of the Association's affairs, the Board of Governors shall have power, authority and duty to do all acts and actions, except acts and actions which by law, the Declaration, the Articles or these Bylaws may be exercised only by or are reserved only to the Members. Such power, authorities and duties of the Board of Governors to create, establish or approve policies or decisions relating to the management and administration of the Association's affairs include, but shall not be limited to, the following:

- (a) all of the exclusive right and control delegated to the Board of Governors under Article IV of the Declaration.
- (b) To provide for the maintenance, care, upkeep, surveillance, services and efficient operation of the Common Area and Common Elements.
- (c) To establish, determine, assess, collect, use and expend the Assessments from the Members, and to file and enforce liens for such Assessments.
- (d) To select, designate, train, hire, supervise and discharge personnel necessary or appropriate for the proper maintenance, care, upkeep, surveillance, services and efficient operation of the Common Area and Common Elements, and to establish the compensation and other benefits of or for such personnel.
- (e) To authorize the payment of patronage refunds to the Members if and when the Board of Governors determine that the funds derived from Assessments are more than sufficient to satisfy all reasonably foreseeable financial needs or requirements of the Association during the current fiscal year, including funds for reserves.
- (f) To purchase insurance upon the Common Area and Common Elements.
- (g) To maintain, repair, restore, reconstruct or demolish all or any portion of the Common Area and Common Elements after any casualty loss, and to otherwise improve the Common Area and Common Elements.
- (h) To lease and to grant licenses, easements, rights of way, and other rights of use in or option, sell, assign, exchange, trade, transfer, quitclaim, surrender, release, abandon, mortgage or encumber or otherwise convey all or any portion of the Common Area and Common Elements upon such terms, conditions and provisions as the Board of Governors considers to be advisable, appropriate, convenient or advantageous for or to the Association.

(i) To lease as tenant, purchase or otherwise acquire Units and to option, lease, sell, assign, exchange, trade, transfer, quitclaim, surrender, release, abandon, mortgage or encumber or otherwise convey any of such Units upon such terms, conditions and provisions as the Board of Governors considers to be advisable, appropriate, convenient or advantageous for or to the Association.

(j) To retain or employ a Management Agent for such compensation and for the performance of such duties and services as established or prescribed by the Board of Governors from time to time.

(k) To negotiate, prepare, execute, acknowledge and deliver all contracts, agreements, commitments and other documents relating to the Association's affairs.

(l) To prosecute, defend, appeal, settle, compromise or submit to arbitration any suit, action, claim or proceeding at law or in equity or with or before any governmental agency or authority which involves or affects the Association, including the Common Area and the Common Elements.

(m) To retain or employ and pay the fees, expenses or other compensation of accountants, attorneys, architects, contractors, engineers, consultants or other Persons who may be helpful, necessary, appropriate or convenient in or to the Association's affairs, whether or not related to or affiliated with any Governor or officer of the Association or any Member.

(n) To establish rules, regulations, restrictions and requirements or fees and charges from time to time relating to the use of the recreational areas and amenities now or hereinafter located in or on the Common Area, including the Common Elements.

(o) To adopt, promulgate and enforce such rules, regulations, restrictions and requirements as may be recommended by the Architectural Review Committee, the Management Agent, or as the Board of Governors may consider to be appropriate with respect to the Property, the Units, any improvements on the Units, including Dwellings, or the use, occupancy and maintenance of the Common Areas and Common Elements including, but not limited to, rules, regulations, restrictions and requirements designed to prevent unreasonable interference with the use, benefit and enjoyment of the Common Areas and Common Elements by the Members and other authorized Persons, or to govern activities which may be environmentally dangerous or hazardous, including the use or application of fertilizers, pesticides and other chemicals in or on the Property.

Section 7. Vacancies. Should the office held by a Governor become vacant, such vacancy shall be filled by an election at the next ensuing annual Members' meeting or at a special Members' meeting called for that purpose, and each individual so elected shall serve as Governor until his successor has been elected at the next ensuing annual Members' meeting, and has been duly qualified.

Section 8. Removal of Governors. At any special Members' meeting duly called for such purpose, any Governor may be removed from office, with or without cause, by the affirmative vote of a

majority of the votes of the Members present and voting, in person or by proxy, at such meeting, and in the event of such removal, a successor to the Governor thus removed may be elected then and there to fill the vacancy thus created. Any Governor whose removal has been proposed shall be given an opportunity to be heard at the meeting called for the purpose of considering such removal. If any Governor who is a Member becomes more than sixty (60) days delinquent in payment of any Assessment or carrying charge owed the Association, he may be removed from his office as a Governor by a resolution adopted by a majority of the remaining Governors, and in the event of such removal, said remaining Governors may appoint an individual to serve as his successor, in which event the individual so appointed shall serve as Governor until the next ensuing annual Members' meeting.

Section 9. Compensation. Except upon the resolution of at least of the then Members of the Association, no compensation shall be paid to Governors for their services as Governors. After the first annual Members' meeting, no remuneration shall be paid to any Governor who is also a Member for services performed by him for the Association in any other capacity unless a resolution authorizing such remuneration shall have been adopted by the Board of Governors before such services are undertaken. Governors may be reimbursed for their actual out-of-pocket expenses necessarily incurred in connection with their services as Governors.

Section 10. Organizational Meeting. The first meeting of a newly constituted Board of Governors shall be held within ten (10) days after the annual Members' meeting at which the elected Governors on such Board were elected, and such first meeting shall be held at the principal office of the Association or at such other place as may have been fixed by the Members at such annual Members' meeting, and no notice shall be necessary to the Governors of such first meeting.

Section 11. Regular Meetings. Regular meetings of the Board of Governors may be held at such time and place as shall be determined, from time to time, by a majority of the Governors, but at least two (2) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Governors shall be given to each Governor, personally or by mail, telephone or telegraph, at least six (6) days prior to the day fixed for such meeting.

Section 12. Special Meetings. Special meetings of the Board of Governors may be called by the president on three (3) days' notice to each Governor, given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Governors shall be called by the President or Secretary in like manner and upon like notice if requested in writing by at least one-half (1/2) of the Governors.

Section 13. Waiver of Notice. Before, at or after any meeting of the Board of Governors, any Governor may waive, in writing, notice of such meeting, and such waiver shall have the same effect as if notice of the meeting had been properly and timely given to said Governor. Attendance by a Governor at any meeting of the Board of Governors shall be a waiver of notice by him of the time, place and purpose thereof. If all the Governors are present at any meeting of the Board of Governors, no notice shall be required and business of any type may be transacted at such meeting.

Section 14. Quorum. At all meetings of the Board of Governors, a majority of the Governors shall constitute a quorum for the transaction of business, and the actions of the majority of the Governors

present at any meeting at which a quorum is present shall be the actions of the Board of Governors. If at any meeting of the Board of Governors, including any one or more adjourned meetings, there should be less than a quorum present, the majority of those present may adjourn the meeting to a later time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 15. Action Without Meeting. Any action by the Board of Governors required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Board of Governors shall consent individually or collectively in writing to such action. Such written consent or consents shall be filed as part of the minutes of the Board of Governors.

Section 16. Rights of Mortgages. Any holders of Recorded First Mortgages of any Unit who desires notice of the regular and special meetings of the Board of Governors shall notify the Secretary to that effect by Certified or Registered Mail, Return Receipt Requested. Any such notice shall contain the name and post office address of such holders of Recorded First Mortgages and the name of the individual at such address to whom notices of the regular and special meetings of the Board of Governors should be directed. The Secretary shall maintain a roster of all holders of Recorded First Mortgages from whom such notices have been received and it shall be the duty of the Secretary to mail or otherwise cause the delivery of a notice of each regular and special meeting of the Board of Governors to each such institutional mortgagee, in the same manner, and subject to the same requirements and limitations, as are otherwise provided in this Article for notices to the Governors. Any such holders of Recorded First Mortgages shall be entitled to designate a representative to attend any regular or special meeting of the Board of Governors and such representative may participate in the discussion at any such meeting and, upon his request made to the President in advance of the meeting, may address the Board of Governors at any such meeting. Such representative shall have no voting rights at any such meeting. Such representative shall be entitled to copies of the minutes of all meetings of the Board of Governors upon request made in writing to the Secretary.

Section 17. Fidelity Bonds. The Board of Governors shall require that all officers, Governors and employees of the Association who regularly handle or otherwise are responsible for the funds of the Association shall furnish adequate fidelity bonds or equivalent insurance against acts of dishonesty in accordance with the requirements of Article X of these Bylaws. The premiums on such bonds or insurance shall be paid by the Association.

Section 18. Committees. The Board of Governors, by resolution adopted by a majority of the Governors, may appoint committees to perform such tasks and to serve for such periods as the Board may deem desirable. Such committees shall perform duties and have such powers as may be provided in the resolution. Each committee will be composed as required by law and shall operate in accordance with the terms of the resolution of the Board of Governors designating the committee or with rules adopted by the Board of Governors and such provisions as designated in the Declaration.

ARTICLE VI.

Officers

Section 1. Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, all of whom shall be appointed by the Governors. Only those individuals who are members of the then current Board of Governors shall be eligible to serve as officers of the Association. In addition to the officers named above, the Members may elect one or more Assistant Secretaries and one or more Assistant Treasurers and such other officers as is their judgment may be necessary or appropriate. The offices of Secretary and Treasurer may be filled by the same individual, and likewise, the offices of Assistant Secretary and Assistant Treasurer may be filled by the same individual.

Section 2. Election of Officers. The initial officers of the Association shall be elected at the organizational meeting of the Members. Thereafter, the officers of the Association shall be elected annually at each annual Members' meeting, or, in the event of a vacancy, at a special Members' meeting called for such purpose. Each officer so elected shall hold office until his successor has been elected at the next ensuing annual Members' meeting, and has duly qualified.

Section 3. Vacancies. Should the office held by an officer become vacant, such vacancy shall be filled by an election at the next annual Members' meeting or at a special Members' meeting called for that purpose, and the individual so elected shall hold the office to which elected until his successor has been elected at the next ensuing annual Members' meeting, and has duly qualified.

Section 4. Removal of Officers. At any special Members' meeting duly called for such purpose, any officer may be removed from office, with or without cause, by the affirmative vote of a majority of the Members present and voting, in person or by proxy, at such meeting, and in the event of such removal, a successor to the officer thus removed may be elected then and there to fill the vacancy thus created. Any officer whose removal has been proposed shall be given an opportunity to be heard at the meeting called for the purpose of considering such removal.

Section 5. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Members and all meetings of the Board of Governors. He shall have all of the general authorities, powers and duties which are normally vested in the office of president of a corporation, provided, however, that such authorities, powers and duties, from time to time, and at any time, may be restricted or enlarged by the Board of Governors.

Section 6. Vice President. The Vice President shall take the place of the President, and shall have the authorities and powers and perform the duties of the President, whenever the President is unwilling or unable to act. If neither the President nor the Vice President is willing and able to act, then the Board of Governors shall appoint one of its members to act as the chief executive officer of the Association on an interim basis. The Vice President shall assist the President generally, and when acting for the President, shall have the same authorities, powers and duties as the President. The authorities, powers and duties of the Vice President, from time to time and at any time, may be restricted or enlarged by the Board of Governors.

Section 7. Secretary. The Secretary shall keep the minutes of all Members' meetings and the minutes of all Board of Governors' meetings. The Secretary shall give notice of all annual and special Members' meetings and all regular and special Board of Governors' meetings. The Secretary shall have custody of the seal of the Association, if any. The Secretary shall have charge of the membership transfer books and of such other books and papers as the Board of Governors may specify. In addition, the Secretary shall have whatever other authorities, powers and duties, but only such authorities, powers and duties, as may be prescribed by the Board of Governors. if, at any one or more times, the Secretary is unwilling or unable to perform his duties, such duties may be performed by any one or more individuals designated by the Board of Governors.

Section 8. Treasurer. The Treasurer shall have responsibility for the funds and securities of the Association, and shall have responsibility for keeping, or causing to be kept, full and accurate accounts of all receipts and disbursements in books belonging to the Association. The Treasurer shall have responsibility for causing the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as from time to time may be designated by the Board of Governors. In addition, the Treasurer shall have whatever other authorities, powers and duties, but only such authorities, powers and duties, as may be prescribed by the Board of Governors. If, at any one or more times, the Treasurer shall be unwilling or unable to perform any part of his duties, such duties may be performed by one or more other individuals designated by the Board of Governors.

ARTICLE VII.

Indemnification of Officers and Governors

Section 1. Indemnification. The Association shall indemnify every officer and Governor of the Association, and every person who may serve at the request of the Board of Governors as a Governor or officer of another association in which the Association owns an interest or shares of stock or of which the Association is a creditor, against all costs actually and reasonably incurred by any such officer, Governor or person in connection with the defense of any action, suit or proceeding, civil or criminal, to which any such officer, Governor or person is a party by reason of his being or having been such officer, Governor or person, provided that such indemnification shall not extend to any matters concerning which such officer, Governor or person has failed to act in accordance with the standard of conduct prescribed by Section 79-11-267 or by Section 79-11-275 as applicable to Mississippi Code of 1972, as amended. Such indemnification shall include amounts payable as the result of the settlement of any such action, suit or proceeding; provided, however, that any such settlement shall be approved in writing by the then Board of Governors. The officers and Governors of the Association shall not be liable to the Members or to the Association for any mistake of judgment, or otherwise, except as provided by law and except for their own individual willful misconduct or bad faith. The officers and Governors of the Association shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association, and the Association shall indemnify and forever hold each such officer and Governor free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or Governor of the Association, or former officer or Governor of the

Association, may be entitled, whether by law, by resolution adopted by the Members after notice, or otherwise.

Section 2. Conflict and Identity of Interest. The Governors and officers shall exercise their powers and duties in good faith and with a view to the interest of the Association. No contract or other transaction between the Association and one or more of its Governors or officers, or between the Association and any corporation, firm or association in which one or more of the Governors or officers of this Association are Governors or officers or are pecuniarily or otherwise interested, shall be either void or voidable because such Governor or Governors or officer or officers were present at the meeting of the Board of Governors or any committee thereof which authorized or approved the contract or transaction, or because his or their votes were counted for such purpose, if any of the conditions specified in any of the following paragraphs exist:

- (a) The fact of the common directorate or interest is disclosed or known to the Board of Governors or a majority thereof or noted in the minutes of the Board, and the Board authorizes, approves, or ratifies such contract or transaction in good faith by a vote sufficient for such purpose; or
- (b) The fact of the common directorate or interest is disclosed or known to the Members, or a majority thereof, and they approve or ratify the contract or transaction in good faith by a vote sufficient for such purpose; or
- (c) The contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved or executed.

A common or interested Governor may be counted in determining the presence of a quorum at any meeting of the Board of Governors or any committee thereof which authorizes, approves or ratifies any contract or transaction, and may vote thereat to authorize any contract or transaction with like force and effect as if he were not a common or interested Governor.

ARTICLE VIII. **Limitation of Liability**

Section 1. Limitation of Liability. The Association, the Board of Governors and each Governor and each officer of the Association shall not be liable for any failure to provide any service to be furnished by the Association or to be paid with funds from charges or fees or from Assessments, or for injury, including death, or damage to any Person or property caused by the elements or caused by or resulting from electricity or water which may discharge or flow from any portion of the Common Area or Common Elements, or from any wire, pipe, drain, conduit or similar property. The Association shall not be liable to any Member or any other Person for theft or other loss of or damage to any property which may be left or stored upon the Common Area or Common Elements. No diminution or abatement of annual maintenance or special Assessments shall be claimed or allowed for inability to use, inconvenience or discomfort caused by or arising or resulting from the need for or the conduct of routine or other maintenance or repairs or the construction or reconstruction of improvements on the Common Area or Common Elements, or from any action taken or omitted or from inaction by the Association to comply with any of the provisions of this

Declaration, any law or ordinance or the order or directive of any governmental authority or any court.

ARTICLE IX.
Management Agent

Section 1. Management Agent. The Board of Governors will retain or employ a Management Agent at a rate of compensation established by the Board of Governors to perform such duties and services as the Board of Governors shall direct and authorize which may include, without being limited to, the following power and authority:

- (a) To establish and collect the annual maintenance and special Assessments, and enforce liens to secure the collection of such Assessments.
- (b) To provide for the maintenance, care, upkeep, surveillance, services and efficient operation of the Common Areas and Common Elements.
- (c) To select, designate, train, hire, supervise and discharge personnel necessary or appropriate for the proper maintenance, care, upkeep, surveillance, services and efficient operation of the Common Area and Common Elements.
- (d) To enforce and to recommend the Board of Governors to approve and enforce such rules and regulations, restrictions and requirements relating to maintenance, care, upkeep, surveillance, services and operation of the Common Areas and Common Elements.
- (e) To provide such other services for the Association as may be requested by the Board of Governors, including legal and accounting services.

Any management agreement entered into by the Association and any Management Agent shall permit termination for cause by the Association upon thirty (30) days' written notice to the Management Agent. The term of any such management agreement shall not exceed one (1) year, but may be renewable by mutual agreement for successive one (1) year terms.

ARTICLE X.
Fiscal Management

Section 1. Fiscal Year. The fiscal year of the Association shall begin on the first day of January of each year, except for the first fiscal year which shall begin on the date of the filing for record of the Declaration in the Land Records in the Office of the Chancery Clerk of Madison County, Mississippi. The commencement date of the fiscal year as herein established shall be subject to change from time to time by resolution of the Board of Governors should the Board of Governors deem any such change or changes appropriate.

Section 2. Principal Office: Change of Same. The principal office of the Association shall be at the location set forth in Article I of these Bylaws. The Board of Governors, by resolution, may change the location of the principal office of the Association from time to time.

Section 3. Books and Accounts. Books and accounts of the Association shall be kept under the direction of the Treasurer in accordance with generally accepted accounting practices, consistently applied. The same shall include books with detailed accounts, in chronological order, of receipts and expenditures and other transactions of and for the Association. The amount of any Assessment or portion of any Assessment required for payment of any capital expenditures as to any reserves of the Association shall be credited upon the books of the Association to a restricted capital or reserve account. The receipts and expenditures of the Association shall be credited and charged to other accounts under classifications consisting of no less than the following:

(a) "Current Operations" which shall involve the control of actual expenses of the Association, including reasonable allowances for necessary contingencies and working capital funds to meet unforeseen expenditures to purchase any additional equipment or services. The Declarant shall establish this account in an amount equal to two months of estimated common charges for each unit in relation to the Assessments and expenses herein elsewhere provided for; and

(b) "Reserves for Replacement" which shall involve the control of such reserves for replacement as are provided for in these Bylaws and as may be approved from time to time by the Board of Governors; and

(c) "Other Reserves" which shall involve the control over funding of and charges against any other reserve funds which may be approved from time to time by the Board of Governors; and

(d) "Investments" which shall involve the control over investment of reserve funds and such other funds as may be deemed suitable for investment on a temporary basis by the Board of Governors; and

(e) "Betterments" which shall involve the control over funds to be used for the purpose of defraying the cost of any construction or reconstruction, unanticipated repair or replacement of the common areas and community facilities and for expenditures for additional capital improvements or personal property made or acquired by the Association with the approval of the Board of Governors.

Section 4. Reporting. At the close of each fiscal year, the Association shall furnish the Members and any mortgagee requesting same with an annual financial statement, which shall set forth a summary of all pertinent financial data, including the income and disbursements of the Association. Such annual financial statement shall be furnished within ninety (90) days following the end of each fiscal year. Upon written request of fifty-one percent (51%) of the membership, the books and records of the Association shall be audited by an independent Certified Public Accountant whose report shall be prepared and certified in accordance with generally accepted auditing standards,

consistently applied. Based upon such report, the Association shall furnish the Members and any mortgagee requesting same a copy of said audited financial report.

Section 5. Inspection of Books. The books and accounts of the Association, the vouchers accrediting the entries made thereupon and all other records maintained by the Association shall be available for examination by the Members and their duly authorized agents or attorneys, and by the holders of Recorded First Mortgages on the Units and their duly authorized agents and attorneys, during normal business hours and for purposes reasonably related to their respective interests and after reasonable notice.

Section 6. Execution of Corporate Documents. With the prior authorization of the Board of Governors, all notes and contracts shall be executed on behalf of the Association by either the president or Vice President, and all checks shall be executed on behalf of the Association by such officers, agents or other persons as may be authorized from time to time by the Board of Governors.

Section 7. Seal. The Board of Governors may provide a suitable corporate seal containing the name of the Association, which seal shall be in the charge of the Secretary. If so directed by the Board of Governors, a duplicate seal may be kept and used by the Treasurer or any assistant secretary or assistant treasurer.

ARTICLE XI. Amendments

Section 1. Amendments. Subject to any other applicable limitations set forth in these Bylaws, these Bylaws may be amended by vote of the Members if, and only if, the number of votes cast in favor of any particular amendment shall be equal to at least sixty-seven percent (67%) of the membership. Amendment of these Bylaws shall be considered only at a special or annual meeting of Members, and only if a description of the proposed amendment accompanied a proper notice of such meeting.

Section 2. Proposal of Amendments. Amendments to these Bylaws may be proposed by the Board of Governors or by petition signed by Members having at least twenty-five percent (25%) of the total votes of all Members, which petition shall be delivered to the Secretary. A description of any proposed amendment shall accompany the notice of any annual or special meeting of the Members at which such proposed amendment is to be considered and voted upon.

Section 3. Mortgagee Approval.

(a) Notwithstanding Section 1 of this Article XI, no amendments of a material nature shall be made without the consent of fifty-one percent (51%) of the holders of a Recorded First Mortgage who have requested, in writing, notice from the Association of any proposed action that requires the consent of a specified percentage of Eligible Mortgage Holders. An amendment to change any of the following would be considered as material:

- voting rights;

- increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens;
- reductions in reserves for maintenance, repair, and replacement of common elements;
- responsibility for maintenance and repairs;
- reallocation of interests in the general or limited common elements, or rights to their use;
- redefinition of any unit boundaries;
- convertibility of units into common elements or vice versa;
- expansion or contraction of the project, or the addition, annexation, or withdrawal of property to or from the project;
- hazard or fidelity insurance requirements;
- imposition of any restrictions on the leasing of units;
- imposition of any restrictions on a unit owner's right to sell or transfer his or her unit;
- a decision by the Association to establish self-management;
- restoration or repair of the project (after damage or partial condemnation) in a manner other than that specified in the documents;
- any provisions that expressly benefit mortgage holders, insurers, or guarantors; or
- partition or subdivide a condominium unit.

(b) Any amendment to abandon or terminate the Declaration for reasons other than substantial destruction or condemnation of the Property, must be agreed to by the eligible holders of Recorded First Mortgages representing sixty-seven percent (67%) of the votes of the mortgaged Units.

All amendments, if any, shall be recorded in the Office of the Chancery Clerk Madison County, Mississippi.

ARTICLE XII.
Mortgages - Notices - Other
Rights of Mortgagees

Section 1. Additional Rights of Eligible Mortgage Holders - Notice

(a) The Association shall promptly notify any Eligible Mortgage Holder on any Unit, which such holder is the holder of a Recorded First Mortgage, of any Assessment levied pursuant to the Declaration, or any installment thereof, which shall become and remain delinquent for a period in

excess of sixty (60) days, and the Association shall promptly notify such holder on any Unit as to which there is default by the Owner with respect to performance of any other obligation under the Declaration which remains uncured for a period in excess of sixty (60) days following the date of such default. Any failure to give any such notice shall not affect the validity or priority of any Recorded First Mortgage on any Unit, and the protection extended in the Declaration to the holder of any such mortgage shall not be altered, modified or diminished by reason of such failure. Also, any failure to give any such notice shall not affect the validity of the lien for any Assessment levied pursuant to the Declaration, nor shall any such failure affect any of the priorities for liens as specified in Article VI of the Declaration.

(b) No suit or other proceeding may be brought to foreclose the lien for any Assessment levied pursuant to the Declaration except after ten (10) days' written notice to the holder of the Recorded First Mortgage encumbering the Unit which is the subject matter of such suit or proceeding.

(c) Any holder of a Recorded First Mortgage on any Unit upon the Property may pay any taxes, utility charges or other charges levied against the Common Area which are in default and which may or have become a charge or lien against any of the Common Area. Any holder of a Recorded First Mortgage who advances any such payment shall be due immediate reimbursement of the amount so advanced from the Owners.

(d) No mortgagee and no beneficiary or trustee under a deed of trust shall become personally liable for or obligated for any unpaid maintenance fund assessment.

(e) No amendment to the Declaration shall affect the rights of the holder of any Recorded First Mortgage recorded prior to recordation of such amendment who does not join in the execution thereof.

(f) The holders, insurers or guarantors of any Recorded First Mortgage on a Unit who have requested the Association in writing will be entitled to: (i) inspect the books and records of the property during normal business hours; (ii) receive an annual financial statement of the Project within ninety (90) days following the end of any fiscal year of the Project; (iii) written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings; and (iv) current copies of the Declaration, the Bylaws of the Association and all other rules concerning the Project.

Section 2. Record of Mortgage. Any holder of a Recorded First Mortgage shall be entitled to notify the Association that such mortgagee holds a mortgage on a Unit. The Board of Governors shall maintain such information in a book entitled "Holders of Recorded First Mortgages."

Section 3. Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered forty-eight (48) hours after a copy of the same has been deposited in the United States mail, postage pre-paid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association; provided, however, that notice of meetings need not be

mailed by Certified Mail, Return Receipt Requested. Such addresses may be changed from time to time by notice in writing to the Association.

ARTICLE XIII.
Interpretation - Miscellaneous

Section 1. Conflict. These Bylaws are subordinate and subject to all provisions of the Declaration and to the provisions of the Articles. All the words and expressions in these Bylaws shall have the same meanings, respectively, as are attributed to them by the Declaration, except where such is clearly repugnant to the context.

In the event of any conflict between these Bylaws and the Declaration, the provisions of the Declaration shall control; and in the event of any conflict between these Bylaws and the Articles, the provisions of the Articles shall control.

Section 2. Notices. Unless another type of notice is herein elsewhere specifically provided for, any and all notices called for in these Bylaws shall be given in writing.

Section 3. Severability. In the event any promise or provisions of these Bylaws shall be determined to be invalid, void or unenforceable, such determination shall not render invalid, void or unenforceable any other provisions hereof which can be given effect.

Section 4. Waiver. No restriction, condition, obligation or provision of these Bylaws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

Section 5. Captions. The captions contained in these Bylaws are for convenience only and are not a part of these Bylaws and are not intended in any way to limit or enlarge the terms and provisions of these Bylaws or to aid in the construction thereof.

Section 6. Gender, etc. Whenever in these Bylaws the context so requires, the singular number shall include the plural and the converse, and the use of any gender shall be deemed to include all genders.