

EXHIBIT "G"

BY-LAWS  
OF  
GUYTON PLACE OWNERS ASSOCIATION, INC.

GENERAL

**1.01. Purpose.** These are the By-laws of the GUYTON PLACE OWNERS ASSOCIATION, INC., a non-profit Mississippi Corporation (hereinafter referred to as the "Association") organized pursuant to the Mississippi Condominium Law, Section 89-9-1, et seq. of the Mississippi Code of 1972, as amended, and the Mississippi Non-profit Corporation Act (the "Act"), Sections 79-11-101, et seq. of the Mississippi Code of 1972, as amended, for the purpose of maintaining, repairing, replacing, administering and operating GUYTON PLACE, a Condominium Facility, hereinafter referred to as the "Condominium".

**1.02. Applicability of By-laws.** The provisions of these By-laws are applicable to the Condominium Property and to the use thereof. All present and future owners, mortgagees, lessees and owners of Units, and any other persons who may use the facilities of the Property in any manner are subject to these By-laws and the Declaration made in accordance therewith. The acceptance of a deed or conveyance or the entering into of a lease or the act of occupancy of a Unit shall constitute an agreement that these By-laws and the Declaration, as they may be amended from time to time, are accepted, ratified, and will be complied with.

**1.03. Principal Office.** The principal office of the Association shall be at 922 Porter Avenue, Suite 101, Ocean Springs, MS 39564, or at such other place as may be designated subsequently by the Board of Directors or as the business of the Association may require. All books and records of the Association shall be kept at its principal office.

**1.04. Terms Defined.** "Declaration" shall mean that certain Declaration of Condominium, Restrictive Covenants, and Easements of GUYTON PLACE, a Condominium Facility, filed in the Office of Jackson County, Mississippi, in Book \_\_\_\_\_ at Page \_\_\_\_\_ as the same may be amended from time to time in accordance with the terms thereof. All other terms used herein shall have the meaning given to them in the Declaration and are hereby incorporated by reference and made a part hereof.

MEMBERSHIP

**2.01. Qualification.** The qualification for membership shall be ownership of a Residential Unit or Commercial Unit in the Condominium. No membership may be separated from the Unit to which it is appurtenant.

**2.02. Members' Rights and Duties.** Each Member of the Association shall have the rights, duties, and obligations set forth in the Declaration, these By-laws, and the rules and regulations established by the Association, as the same may time to time be amended.

**2.03. No Additional Qualifications.** No initiation fees, costs, or dues shall be assessed against any Unit owner as a condition of the exercise of the rights of membership except such Assessments, levies, and charges as are specifically

authorized in the Declaration.

**2.04. Succession.** The membership of each Unit Owner shall automatically terminate on the conveyance, transfer or other disposition of a Unit Owner's interest in the Unit. The Unit Owner's membership shall automatically be transferred to the new Unit Owner succeeding to such ownership interest. On the conveyance, transfer or other disposition of a portion of a Unit Owner's interest in a Unit, the transferring Unit Owner and the transferee shall each be Members of the Association in accordance with the ownership interest of each following such conveyance or transfer.

**2.05. Not for Profit Corporation.** The Association is a not for profit corporation organized under the laws of the State of Mississippi and pursuant to the Mississippi Condominium Law and the Mississippi Non-Profit Corporation Act. The Association shall issue no shares of stock of any kind or nature whatsoever.

### MEETINGS OF MEMBERS

**3.01. Annual Meeting.** A meeting of the Association must be held at least once each year. The annual meeting of Members shall be held at the office of the Association, or at such other place as may be designated in the notice of the meeting, at 9:00 a.m., local time, on the first Saturday of October of each year for the purpose of electing Directors and transacting any other business authorized to be transacted by the Members; provided, however, if that day is a legal holiday, the meeting shall be held at the same hour on the next day following that is not a legal holiday.

**3.02. Change of Annual Meeting.** The time of holding the annual meeting of Members may be changed at any time prior to but not less than ten (10) days nor more than sixty (60) days in advance of the regular day for holding such meeting by a resolution duly adopted by the Board of Directors or by the Members, provided that notice of such change be mailed to each Member of record, at such address as appears upon the records of the Association, not less than ten (10) days before the holding of such meeting nor more than sixty (60) days in advance of the regular meeting; and further provided that each annual meeting of Members shall be held within one (1) month of the date on which it should regularly have been held but for such change.

**3.03. Special Meeting.** Special meetings of the Members of the Association may be held whenever called by the President or Vice President or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from Members entitled to cast one third (1/3) of the votes of the entire membership.

**3.04. Notice of Meeting.** Notice of all meetings of Members must be given stating the time and place and an identification of agenda items, shall be given by the President or Vice-President or Secretary unless waived in writing. Such notice shall be in writing to each Member at his address as it appears on the books of the Association and shall be mailed not less than ten (10) days nor more than sixty (60) days prior to the date of the meeting. Proof of such mailing shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived before or after meetings. Adequate notice of Members' meetings shall also be posted in a conspicuous place on the condominium property at least fourteen (14) continuous days preceding said meeting, except in emergency. Notice of any meeting where assessments against Unit Owners are to be considered for any reason shall specifically contain the statement that the

assessments will be considered and the nature of such assessments.

**3.05. Waiver of Notice.** Any Member or first Mortgagee may waive the right to receive notice of any meeting, before or after the meeting, by sending a written waiver to the Board of Directors for inclusion in the minutes or filing with the records of the Association. Attendance by a Member at any meeting, either in person or by proxy, shall constitute waiver of notice of such meeting.

**3.06. Record Date.** The Board of Directors may fix in advance a past or future date as the record date for determining the members entitled to notice of, to vote at a member's meeting and to exercise any rights in respect of any other lawful action not less than ten (10) nor more than seventy (70) days before the meeting or action requiring a determination of members occurs. In the absence of a resolution fixing the record date by the Board of Directors, members at the close of business on the business day preceding the day of which notice is given or, if notice is waived, at the close of business on the business day preceding the day on which the meeting is held are entitled to notice of the meeting. If no such record date is fixed for determining members entitled to vote, the members on the date of the meeting who are otherwise eligible to vote are entitled to vote at the meeting. If no such record date is fixed for determining members entitled to exercise any other lawful action, the members at the close of the business day on which the Board of Directors adopts the resolution relating thereto, or the sixtieth (60<sup>th</sup>) day prior to the date of such other action, whichever is later, are entitled to exercise such rights. A membership meeting is effective for any adjournment of the meeting unless the Board fixes a new record date, which it must do if the meeting is adjourned to a date more than seventy (70) days after the record date is fixed for determining the members entitled to notice of the original meeting. After a record date is fixed for a notice of a meeting, the Secretary of the Association shall prepare an alphabetical list of the names of all members who are entitled to notice of the meeting and those members that are entitled to vote at the meeting but have waived notice, showing the address and number of votes each member is entitled to vote at the meeting. This list shall be available at the meeting and any member, member's agent or attorney is entitled to inspect the list at any time during the meeting or any adjournment thereof.

**3.07. Quorum.** The Residential Units represent Fifty (50%) of the voting rights of the Association and the Commercial Units represent Fifty (50%) of the voting rights of the Association. A quorum of Members for any meeting shall be deemed present throughout such meeting if Members, represented in person or by proxy, holding more than fifty-one percent (51%) of the votes for each of the Residential Unit Owners and Commercial Unit Owners, entitled to be cast at such meeting are present throughout such meeting, except as otherwise provided by the Declaration or by these By-laws. Until such time as the developer has conveyed all of the Units, a quorum shall require a representative of the developer to be present, in person or by proxy.

**3.08. Adjournment for Lack of Quorum.** In the absence of a quorum at any meeting of Members, a majority of those Members entitled to vote thereat, present in person or by proxy, shall have the power to adjourn the meeting, from time to time, without notice other than announcement at the meeting, until the requisite number of Members, present in person or by proxy, shall be present.

**3.09. Action without Meeting.** Any action which may be taken at a meeting of the Members may also be taken without a meeting, if a consent in writing setting forth the action so taken, is signed by the number of Members required to take such action at

a meeting, and is filed with the Secretary of the Association.

3.10. **Minutes of Meeting.** The minutes of all meetings Members shall be kept in a book available for inspection by Unit Owners or authorized representatives.

### VOTING RIGHTS

4.01. **Votes.** Each Residential Unit and Commercial Unit owner shall be entitled to one (1) vote as a Member of the Association. The Residential Units represent Fifty (50%) of the voting rights of the Association and the Commercial Units represent Fifty (50%) of the voting rights of the Association. The vote of a Unit shall not be divisible. A Commercial Suite may contain a number of Commercial Units which shall be treated as separate Units for voting purposes. The designation of the voting Member shall be determined as set out in the Declaration.

4.02. **Votes Required to Transact Business.** When a quorum is present at any meeting, the holders of a majority of the voting rights present in person or represented by written proxy shall decide any questions brought before the meeting, unless the question is one upon which, by express provision of the Act, the Declaration, or the By-laws, a different number or manner of voting is required, in which case the express provision shall govern and control the decision in question. Until such time as the developer has conveyed all of its units, all action taken shall require the consent of the developer.

4.03. **Voting by Proxy.** Votes may be cast in person or by proxy as provided by the Act. All proxies must be in writing, dated, signed by the Member generating the proxy, and filed with the Secretary of the Association before the appointed time of the meeting to which it applies. The appointment of a proxy is valid for eleven (11) months, unless a different period of time is expressly provided in the appointment form. A Member may revoke a proxy at any time by delivering a written notice of revocation to the Association. The death or incapacity of a member appointing a proxy does not affect the right of the Association to accept the proxy's authority unless notice of the death or incapacity is received by the Secretary or other officer or agent authorized to tabulate votes before the proxy exercises authority under the appointment.

4.04. **Voting by Mortgagee.** The execution and delivery of mortgage on a Unit by its Unit Owner shall be construed as conferring upon the Mortgagee a conditional proxy to cast the vote or votes attributable to such Unit at any regular or special meeting of the Association. The condition of such proxy shall be notice by such Mortgagee to the Association, in writing, of its intent to exercise the conditional proxy rights granted to it, as Mortgagee, by the terms of this subparagraph. In the absence of such written notice, the Association shall be entitled to recognize the Unit Owner of the mortgaged Units as fully entitled to cast the vote or votes attributable. However, once such written notice is received by the Association, the Mortgagee's right to cast the vote or votes attributable to that Unit shall be recognized by the Association until the Mortgagee withdraws its intent to cast such votes in writing, or until the mortgage is paid in full and satisfied of record, whichever first occurs.

4.05. **Order of Business.** The order of business at annual meetings of Members and, as far as practical, at all other meetings of Members, shall be:

- Call to order
- Calling of the roll and certifying of proxies

Proof of notice of meeting or waiver of notice  
Reading and disposal of any unapproved minutes  
Reports of officers  
Reports of committees  
Election of directors  
Unfinished business  
New business  
Adjournment

## BOARD OF DIRECTORS

**5.01. Number.** The affairs of the Association shall be conducted by a Board of Directors which shall consist of not fewer than three (3) persons nor more than nine (9) persons. The number of Directors shall be fixed from time to time by the Association Members.

**5.02. Qualification.** Except for directors appointed by Developer, each director shall be a Unit Owner. If a Unit Owner is a trust, then the beneficiary of the trust may be a director; and if a Unit Owner is a corporation or partnership, then an officer, partner, or employee of such Unit Owner may be a director. If a director shall cease to meet such qualifications during his term, he/she shall cease to be a director and his/her place on the Board of Directors shall be vacant.

**5.03. Appointment by Developer.** The Initial Board of Directors, as well as successive directors shall be appointed by the Developer, and may be removed by the Developer at any time. The directors appointed by the Developer need not be Unit Owners. Until such time as Members other than the Developer own 40% or more of the Units, Developer shall be entitled to elect all Members of the Board. At such time as Members other than Developer own 40% or more of the Units, Members other than the Developer shall be entitled to elect no less than one-third of the members of the Board. Members other than Developer shall be entitled to elect a majority of the Members of the Board upon the first of the following to occur: (i) three years after 50% of the Units have been conveyed to purchasers; (ii) three months after 90% of the Units have been conveyed to purchasers; (iii) when all of the Units have been completed, some of which have been conveyed to purchasers, and none of the others of which are being offered for sale by Developer in the ordinary course of business; (iv) at such time as some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by Developer in the ordinary course of business; or (v) seven years after recordation of the Declaration of Condominium.

Developer shall be entitled to elect at least one member of the Board for so long as Developer holds for sale in the ordinary course of business at least one (1) of the Units operated by the Association. At such time as the Developer fully relinquishes control of the Board, Developer may exercise the right to vote any Developer owned Units in the same manner as any other Member, except for purposes of re-acquiring control of the Association or selecting the majority members of the Board.

**5.04. Nomination for Election.** Nomination for election to the Board of Directors shall be made from the floor at the annual meeting of Members or at any other meeting of Members called for the purpose of electing directors. Nominations shall also be made by a nominating committee appointed by the Board prior to the annual meeting of the Members or prior to any other meeting of Members called for the purpose of electing directors.

**5.05. Election of Directors.** Directors shall be elected in accordance with the Act and the provisions of the Declaration. Directors shall be elected at the annual meeting of Members or at a special meeting called for that purpose. The election shall be by secret ballot (unless dispensed with by unanimous consent) and each Member shall be entitled to vote for each vacancy. There shall be no cumulative voting. Those candidates receiving the greatest number of votes cast either person or by proxy shall be elected.

**5.06. Term.** Each director elected by the Members shall hold office until the next annual meeting of Members, and until his/her successor shall be elected and qualified or until he/she resigns or is removed in any manner provided elsewhere herein. Each director appointed by the Developer shall hold office until he/she resigns, is removed by the Developer, or his/her term expires as provided for herein and in the Declaration.

**5.07. Vacancies.** Any vacancy in the position of a director elected by the Members of the Association shall be filled by a majority vote of the remaining directors, and any director so elected shall hold office for a term equal to the unexpired term of the director whom he succeeds. Any vacancy in the position of a director appointed by the Developer shall be filled by the Developer.

**5.08. Removal.** Any director, other than one appointed by the Developer, may be removed in accordance with the Act. The vacancy in the Board of Directors so created shall be filled by the Members at the same meeting.

**5.09. Compensation.** A director shall not receive any compensation for any services he/she may render to the Association as a director; provided, however, that any director may be reimbursed for actual out-of-pocket expenses incurred by him/her in performance of his/her duties.

**5.10. Proviso.** Provided, however, the Developer shall retain control of the Association in accordance with the terms and conditions stated herein.

**5.11 Personal Liability.** Except as otherwise provided in the Declaration and by these By-laws, no member of the Board of Directors or any officer of the Association, or the Developer, shall be personally liable to any Unit Owner, or to any other party, including the Association, for the acts, debts, liabilities or obligations of the Association, or for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, the Board of Directors or any other representative or employee of the Association, or any officer of the Association.

## MEETINGS OF DIRECTORS

**6.01. Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the directors. Notice of regular meetings shall be given to each director, personally or by mail, telephone or telegraph, not less than ten (10) nor more than sixty (60) days in advance of any meeting.

**6.02. Special Meetings.** Special meetings of the directors may be called by the President and must be called by the Secretary at the written request of one-third

(1/3) of the votes of the Board. Not less than three (3) days notice of the meeting shall be given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting.

**6.03. Open Meetings.** All meetings of the Board of Directors shall be open to all Members of the Association, and notice of such meetings shall be posted conspicuously on the Property at least forty-eight (48) hours prior to the meeting, except in the event of an emergency.

**6.04. Waiver of Notice.** Any director may waive notice of a meeting either before or after the meeting, or may consent to the holding of a meeting without notice. Attendance by any director at a meeting shall constitute waiver of notice of the meeting, except when attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business on the grounds that the meeting was not lawfully called.

**6.05. Quorum.** A quorum shall consist of the number of directors entitled to cast a majority of the votes of the entire Board of Directors. The acts of the directors approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors. The joinder of a director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such a director for the purpose of determining a quorum. So long as the Developer shall own at least one unit, the presence of the Developer, whether in person or by proxy, shall be required for a quorum.

**6.06. Action without Meeting.** Any action permitted or required to be taken at a meeting of the directors may be taken without a meeting if written consent setting forth the action so taken shall be signed by all the directors, and filed with the minutes of the proceedings of the Board.

**6.07. Minutes of Meetings.** The minutes of all meetings of the Board of Directors shall be kept in a minute book available for inspection by Unit Owners, or their authorized representatives, or any directors at any reasonable time.

**6.08. Presiding Officer.** The presiding officer of directors' meetings shall be the President. In the absence of the President, the directors present shall designate one of their number to preside.

#### **POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

**7.01. Powers Defined.** The Board of Directors shall have the power to exercise all powers, duties, and authority vested in the Association by the Act, the Declaration, or these By-laws, except for such powers and duties reserved thereby to the Members or the Developer. The powers and the duties of the Board shall include, but shall not be limited to the following:

- (1) To elect and remove officers of the Association as hereinafter provided.
- (2) To administer the affairs of the Association and the Condominium Property.

(3) To maintain bank accounts on behalf of the Association and to designate signatories required therefore.

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

(5) To pay the cost of all taxes and utilities assessed against the Condominium that are not assessed and billed to the Unit Owners of individual Units.

(6) To borrow money on behalf of the Association when required in connection with the operation, care, upkeep, and maintenance of the Common Elements; provided, however, that the consent of at least two-thirds (2/3) of the votes of the Members, obtained at a meeting duly called and held for such purpose in accordance with the provision of these By-laws, shall be required for the borrowing of such money.

(7) To estimate the amount of the annual budget and to make, levy, enforce, and collect Assessments against Unit Owners to defray the costs, expenses, and losses of the Condominium, and to provide adequate remedies for failure to pay such Assessments.

(8) To use the proceeds of Assessments in the exercise of its powers and duties.

(9) To maintain, repair, replace, and operate Property, including the reasonable right of entry upon any Unit to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the project and the right to grant permits, licenses, and easements over the common areas for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance or operation of the Development.

(10) To purchase insurance on the Property, and to purchase insurance for the protection of the Association and its Members, and the members of the Board of Directors and officers of the Association.

(11) To reconstruct Improvements after casualty and to further improve the Property.

(12) To make and amend reasonable Rules and Regulations respecting the use of the Property and the operation of the Condominium, including those specified in the Declaration and these Bylaws.

(13) To enforce by legal means the provisions of the Mississippi Condominium Law, the Mississippi Nonprofit Corporation Act, the Declaration, the Articles, the By-laws, and the Rules and Regulations for the use of the Property.

(14) To contract for the management of the Property and to delegate to such managing agent all powers and duties of the Association except such as are specifically required by the Declaration to have approval of the Board of Directors or the membership of the Association.

(15) To contract for the management or operation of portions of the Common Elements of the Condominium susceptible to separate management or operation, and to lease such portions.

(16) To retain attorneys and accountants.

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

(18) Except as prohibited by the Declaration, to purchase a Unit of the Condominium for the purposes authorized in the Declaration.

(19) To procure such fidelity bonds, as the Board deems advisable, covering officers and employees of the Association handling and responsible for the Association's funds and personal property, and to procure directors' and officers' liability insurance, if the Board deems it advisable, and the premiums of such bonds and insurance shall be paid by the Association as Common Expense.

**7.02. Committees.** The Board of Directors may, by resolution, appoint such committees as deemed appropriate in carrying out its purpose, and such committees shall have the powers of the Board of Directors for the management of the affairs and business of the Association to the extent provided in the resolution designating such a committee. Any such committee shall keep regular minutes of its proceedings and shall report the same to the Board of Directors.

**7.03. Managing Agent.** The Board of Directors shall be authorized to employ the services of a manager or managing agent who may either be a director, officer, or employee of the Association, or an independent Person or firm qualified to manage the Property and affairs of the Condominium under the supervision of the Board. The compensation paid to any such manager or managing agent shall be in the amount established from time to time by the Board.

**7.04. Order of Business.** The order of business at directors' meetings shall be:

- Call of Roll
- Proof of due notice of meeting
- Reading and disposal of unapproved minutes
- Reports of officers and committees
- Election of Officers
- Unfinished business
- New business
- Adjournment

## OFFICERS

**8.01. Executive Officers.** The executive officers of the Association shall be a President, who shall be a director; a Vice President, who shall be a director; and a Secretary-Treasurer, who shall be a director, all of whom shall be elected annually by the Board of Directors and shall perform the duties set forth in these By-laws, and, to the extent consistent with these By-laws, the duties prescribed by the Board. The executive officers of the Association may be peremptorily removed by vote of the directors at any meeting in accordance with the Act. Any Person may hold two (2) or more offices,

except that the President shall not also be the Secretary. The Board of Directors shall from time to time elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

**8.02. Term.** Each officer shall hold office for the term of one (1) year and until his successor shall have been appointed or elected and qualified, provided that any officer may succeed himself.

**8.03. Resignation and Removal.** Any officer may be removed from office either with or without cause by concurrence of a majority of the votes of the entire membership at a special meeting of the Members called for that purpose. Any officer may resign at any time by giving written notice to the Board. Such resignation shall take effect on the date of receipt or at any later time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**8.04. Vacancies.** A vacancy in any office shall be filled by a majority vote of the directors at any meeting. An officer elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds.

**8.05. Compensation.** An officer shall not receive any compensation for any service he/she may render to the Association as an officer; provided, however, that any officer may be reimbursed for actual out-of-pocket expenses incurred by him/her in the performance of his/her duties.

**8.06. President.** The President, who shall be a director, is the chief executive officer of the Association, and shall have all the powers and duties that are vested in the office of President by the Board of Directors, including, but not limited to the following powers:

- (1) To preside over all meetings of the Members and of the Board.
- (2) To sign as President all deeds, contracts, and other instruments that have been duly approved by the Board.
- (3) To call meetings of the Board whenever he deems it necessary in accordance with the rules.
- (4) To have the general supervision, direction and control of the affairs of the Association.

**8.07. Vice President.** The Vice President, who shall be a director, shall have all the powers and duties that are vested in the office of the Vice-President as established by the Board of Directors and these By-laws. The Vice President shall, in the absence of or disability of the President, exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board.

**8.08. Secretary.** The Secretary, who shall be a director, shall have all the powers and duties that are vested in the Secretary as established by the Board of Directors and these By-laws. The Secretary shall keep the minutes of all proceedings of

the Board and the Members. He shall attend to the giving and serving of all notices to the Members and directors and other notices required by law. He shall have custody of the seal of the Association and affix the same to the instruments requiring a seal when duly signed. To sign as Secretary all deeds, contracts, all other instruments which have been duly approved by the Board, if said instrument requires the signature or attestation of the Secretary. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the Secretary of an Association as may be required by the directors or the President.

**8.09. Treasurer.** The Treasurer, who shall be a director, shall be the financial officer of the Association, and shall have all the powers and duties that are usually in the Treasurer of an Association by the Board of Directors and these By-laws. The Treasurer shall have custody of all property of the Association, including funds, securities, and evidences of indebtedness. He shall keep the financial records and books of account of the Association in accordance with good accounting practices; shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Common Elements and facilities, specifying and itemizing the maintenance and repair expenses of the Common Elements and facilities and any other expenses incurred; and he shall perform all other duties incident to the office of the Treasurer. The records, books of account, and the vouchers authorizing payments, shall be available for examination by a Member of the Association at convenient hours of weekdays.

#### FISCAL MANAGEMENT

**9.01. The Fiscal Year.** The fiscal year of the Association shall be such as shall from time to time be established by the Association.

**9.02. Budget.** The Board shall adopt a budget for each calendar year, which shall include estimated Common Expenses, including a reasonable allowance for contingencies and reserves less the unneeded fund balances on hand. The budget shall also include reserve accounts for working capital expenditures, deferred maintenance, reserves and contingencies. The amount reserved shall be computed by means of a formula that is based on the estimated life and estimated replacement cost of each reserve item. The budget shall also set forth each Unit Owners proposed Assessments for Common Expenses. Copies of the budget and proposed Assessments shall be transmitted to each Member in accordance with the Act.

**9.03. Adoption of the Annual Budget.** The Board shall prepare or cause to be prepared a proposed annual budget for each fiscal year of the Association in accordance with the Act.

**9.04. Assessments.** Assessments for Common Expenses shall be made in accordance with the Declaration, and these By-laws. Assessments shall be collected by the Association on a monthly basis as follows: On or before the first day of each month of the fiscal year for which the Assessments are made, each Unit Owner shall pay their portion of the Common Expenses for such year as shown by the annual budget. The Residential Unit owners shall pay three-fourths (3/4) of the total assessment for the common elements, and Commercial Unit owners shall pay one-fourth (1/4) of the total assessment for the common elements. The Board may cause to be sent to each Unit Owner, on or before the first day of each month, a statement of the monthly Assessments. However, the failure to send or receive such monthly statement shall not

relieve the Unit Owner of his obligation to make timely payment of the monthly Assessments. If the Board shall not approve an annual budget or shall fail to determine new monthly Assessments for any year, or shall be delayed in doing so, each Unit Owner shall continue to pay the amount of his monthly Assessment as last determined. No Unit Owner shall be relieved of his obligation to pay his Assessment by abandonment of his Unit or lack of use of the Common Elements.

**9.05. Reserves for Replacements.** The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Elements. At closing, each Unit shall pay one month of their monthly assessment into said capital reserve fund as provided for in the Declaration of Condominium, Restrictive Covenants and Easements in Item 17.4 thereof. At closing, each Unit shall also pay two months of their monthly assessment into a operating reserve fund as provided for in said Declaration in Item 17.5 thereof.

**9.06. Lien for Expenses.** If any Unit Owner shall fail or refuse to make any payment of the Common Expenses or other Assessments when due, the amount due, together with costs, reasonable attorney's fees, and interest thereon at a rate to be set by the Board but in no event greater than eighteen percent (18%), or the maximum allowable by law, from and after the date said Common Expenses or other Assessments became due and payable in accordance with the Declaration and the Act, shall constitute a lien on the interest of the Unit Owner in the property.

**9.07. Acceleration of Assessment Installments Upon Default.** If a Unit Owner shall be in default in the payment of an installment upon any Assessment for a period of more than thirty (30) days, the Board may accelerate the remaining installments of such Assessments upon notice thereof to the Unit Owner, and thereupon the unpaid balance of the Assessment shall come due upon the date stated in the notice, but not less than ten (10) days after delivery thereof to the Unit Owner, or not less than twenty (20) days' after the mailing of such notice to him by registered or certified mail, whichever shall first occur. Upon default in the payment of an installment upon any Assessment, the Board shall be entitled to charge interest and service charges at the highest available rate allowable under the Act.

**9.08. Default.** In the event a Unit Owner does not pay any sums, charges or Assessments required to be paid to the Association within ninety (90) days from the due date, the Association may foreclose the lien encumbering the Unit created by non-payment of the required moneys in accordance with the Act; provided that thirty (30) days prior notice of the intention to foreclose shall be mailed, postage prepaid, to the Unit Owner and to all Persons having a mortgage lien or other interest of record in such Unit as shown in the Association record of ownership. The Association shall be entitled to the appointment of a receiver, if it so requests. The Association shall have the right to bid on the Unit at a foreclosure sale and to acquire, hold, mortgage and convey the same. In any such foreclosure action, the lien of the Association shall be as stated in the Declaration. In lieu of foreclosing its lien, the Association may bring suit to recover a money judgment for any sums, charges or Assessments required to be paid to the Association without waiving its lien securing same. In any action either to foreclose its lien or to recover a money judgment, brought by or on behalf of the Association against a Unit Owner, the losing defendants shall pay the cost thereof together with a reasonable attorney's fee. If the Association becomes the Unit Owner by reason of foreclosure, it shall offer said Unit and properties for sale and at such time as a sale is consummated it shall deduct from such proceeds all sums of money due it for monthly

Assessments and charges, all costs incurred in the bringing of the foreclosure suit, including reasonable attorney's fees, and any and all expenses incurred in the resale of the Unit, which shall include but not be limited to advertising expenses, real estate brokerage fees and expenses necessary for the repairing and refurbishing of the Unit in question. All moneys remaining after deducting the foregoing items of expense shall be returned to the former Unit Owner in question.

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

**9.10. Annual Statement.** Within sixty (60) days after the end of each fiscal year, the Board shall cause to be furnished to each Unit Owner, a statement for the year so ended showing the receipts and expenditures of the Association, and such other information as the Board may deem desirable.

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

**9.12. Depository.** The depository of the Association shall be such bank or banks and/or savings and loan associations as shall be designated from time to time by the directors and in which moneys of the Association shall be deposited. Withdrawal of moneys from such account shall be only by checks signed by such persons as are authorized by the directors.

**9.13. Fidelity Bonds.** Fidelity bonds shall be required by the Board from all officers and employees of the Association from any manager handling or responsible for Association funds and from any employee, agent or subcontractor of a manager handling or responsible for Association funds. The amount of such bonds shall be determined by the Board, but shall be at least the amount of one hundred and fifty percent (150%) of the total annual Assessments against Members for recurring expenses. The premiums on such bonds shall be paid by the Association.

#### OBLIGATIONS OF THE OWNERS

**10.01. Assessments.** Every Unit Owner in the Condominium shall contribute toward the expense of administration of the Condominium, as provided in the Declaration and in these By-laws. Each Assessment against a Unit shall also be the personal obligation of the Unit Owner at the time the Assessment fell due. Such personal obligation shall not pass to successors in title unless assumed by such successors, or required by applicable law.

**10.02. Maintenance and Repair.** Every Unit Owner shall promptly perform all maintenance and repair work, as provided in the Articles, the Declaration or these By-

laws. A Unit Owner shall reimburse the Association for any expenditures incurred in repairing or replacing any Common Elements or facilities damaged through the Unit Owner's fault.

**10.03. Use of Units.** All Units shall be utilized in accordance with the provisions of the Declaration, these By-laws and the Rules and Regulations of the Association.

### RULES AND REGULATIONS

**11.01. House Rules.** The Board may from time to time, and subject to the provisions hereof providing for Developer control, adopt, modify, amend, or add to Rules and Regulation concerning the use of the Property. The Rules and Regulations shall not discriminate against Unit Owners and shall not be inconsistent with the Declaration or these By-laws. Copies of such Rules and Regulations, or any amendments, additions, or modifications, shall be delivered to each Unit Owner not less than fourteen (14) days prior to the effective date thereof. No rule or regulation that is in conflict with the Declaration shall be adopted.

### AMENDMENTS TO THE BY-LAWS

**12.01. Adoption.** So long as the Developer owns at least one Unit, it shall have the discretion to make, amend or repeal these By-laws. After the Developer has conveyed all of its Units, the Members may make, amend, and repeal these By-laws at any regular meeting or at any special meeting called for that purpose by a vote of two-thirds (2/3) of the votes cast at the meeting called for such purpose, or a majority of the voting power of the membership, whichever is less, and all By-laws may be altered or repealed by the Members in like manner. Additionally, material changes to these By-laws shall require the approval of Registered Mortgagees who represent at least fifty-one percent (51%) of the Units subject to mortgages held by Registered Mortgagees.

**12.02. Prohibited Amendments.** No amendment may be adopted that would eliminate, modify, prejudice, abridge, or otherwise adversely affect any rights, benefits, privileges, or priorities granted to the Developer or Eligible Mortgagee without the consent of the Developer or such Mortgagee, as the case may be. No amendment that is in conflict with the Articles, the Declaration, or the Act shall be adopted.

**12.03. Recording.** Any amendment shall become effective when recorded in the office of the Chancery Court, Jackson County, Mississippi, with these By-laws in accordance with the Act.

### MISCELLANEOUS

**13.01 Construction.** Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of gender shall be deemed to include all genders.

**13.02. Captions.** The captions herein are inserted only as a matter of convenience for all reference, and in no way define, limit, or describe the scope of these By-laws or the intent of any provision hereof.

**13.03. Conflicts.** In the event of any conflict between the provisions of the Declaration and the By-laws, the Declaration prevails, except to the extent the

Declaration is inconsistent with the Act.

**13.04. Compliance.** These By-laws are set forth to comply with the requirements of the Act and the Mississippi Condominium Law and shall be considered an appendage to the Declaration filed prior hereto in accordance with said Act. In case any of these By-laws conflict with the provisions of said statutes, it is hereby agreed and accepted that the provisions of the Act will apply.

**13.05. Right of Entry.** The manager and any person authorized by the Board shall have the right to enter each Unit in case of any emergency originating in or threatening such Unit whether or not the Unit Owner or Occupant is present at the time. Every Unit Owner and Occupant, when so required, shall permit other Unit Owners or their representatives to enter his Unit at reasonable times for the purpose of performing authorized installations, alterations, repairs to the Common Elements therein for central services provided that requests for entry are made in advance.

**13.06. Parliamentary Rules.** Roberts Rules of Order (latest edition) shall govern the conduct of Association meetings when not in conflict with the Act, Declaration or these By-laws.

#### REGISTERED OFFICE AND AGENT

**14.01. Name and Address.** The location and mailing address of the initial registered office of GUYTON PLACE OWNERS ASSOCIATION, INC. is \_\_\_\_\_ The name of the corporation's initial registered agent at such address is \_\_\_\_\_

The foregoing was adopted as the By-laws of GUYTON PLACE OWNERS ASSOCIATION, INC., at the first meeting of the BOARD OF DIRECTORS on the \_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Secretary

Approved:

\_\_\_\_\_  
President

EXHIBIT "H"

ACORD

## EVIDENCE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)  
12/11/2008

THIS EVIDENCE OF PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE OF PROPERTY INSURANCE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

AGENCY Lemon-Mohler Insurance Agency 806 Washington Ave Ocean Springs, MS 39564	PHONE (228) 875-7777	COMPANY Lloyd's of London
FAX (228) 875-2867	E-MAIL ADDRESS	
CODE: 00012699	SUB CODE:	POLICY NUMBER TBD- LLOYDS
AGENCY CUSTOMER ID: INSURED Guyton Place Owners Association Inc 922 Porter Avenue Suite 101 Ocean Springs, MS 39564	LOAN NUMBER:	EXPIRATION DATE 12/11/2009
	EFFECTIVE DATE 12/11/2008	CONTINUED UNTIL TERMINATED IF CHECKED
THIS REPLACES PRIOR EVIDENCE DATED:		

## PROPERTY INFORMATION

LOCATION/DESCRIPTION  
1. Loc 00001 Bldg 00001 922 Porter Avenue Ocean Springs, MS 39564  
2. Loc 00001 Bldg 00002 922 Porter Avenue Ocean Springs, MS 39564

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

## COVERAGE INFORMATION

	COVERAGE / PERILS / FORMS	AMOUNT OF INSURANCE	DEDUCTIBLE
1	Building, RC, Wind Indicator	3,120,000	5%
1	Business Personal Property, RC, Wind Indicator	2,500	5%
2	Building, RC, Wind Indicator	550,000	5%
2	Business Personal Property, RC, Wind Indicator	2,500	5%

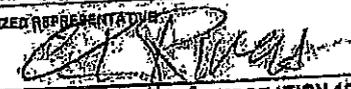
## REMARKS (Including Special Conditions)

REMARKS (Including Special Conditions)

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE ADDITIONAL INTEREST NAMED BELOW, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

## ADDITIONAL INTEREST

NAME AND ADDRESS Guyton Place Homeowner Association Inc Granville Smith 922 Porter Avenue Suite 101 Ocean Springs, MS 39564	MORTGAGEE	ADDITIONAL INSURED
	LOAN #	
AUTHORIZED REPRESENTATIVE 		

ACORD 27 (2006/07)

© ACORD CORPORATION 1993-2006. All rights reserved.  
The ACORD name and logo are registered marks of ACORD

ACORD

# EVIDENCE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)  
12/11/2008

THIS EVIDENCE OF PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE OF PROPERTY INSURANCE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

AGENCY: Lemon-Mohler Insurance Agency 806 Washington Ave Ocean Springs, MS 39564	PHONE (228)875-7777 (228)875-2867 FAX (228)875-2867 AGENCY CUSTOMER ID: 00012699 INSURED: Guyton Place Owners Association Inc 922 Porter Avenue Suite 101 Ocean Springs, MS 39564	COMPANY: Philadelphia Insurance Company One Bala Plaza Suite 100 Bala Cynwyd, PA 19004
POLICY NUMBER: TBD-PHILADELPHIA	EFFECTIVE DATE: 12/11/2008	EXPIRATION DATE: 12/11/2009
CONTINUED UNTIL TERMINATED IF CHECKED		
THIS REPLACES PRIOR EVIDENCE DATED:		

**PROPERTY INFORMATION**

LOCATION/DESCRIPTION	LOCATION/DESCRIPTION
1	Loc 00001 Bldg 00001 922 Porter Avenue Ocean Springs, MS 39564
2	Loc 00001 Bldg 00002 922 Porter Avenue Ocean Springs, MS 39564

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE INFORMATION		AMOUNT OF INSURANCE	DEDUCTIBLE
1	Building, RC, Special form, Excluding Wind	3,120,000	2500
1	Business Personal Property, RC, Special form, Excluding Wind	2,500	2500
2	Building, RC, Special form, Excluding Wind	550,000	2500
2	Business Personal Property, RC, Special form, Excluding Wind	2,500	2500

REMARKS (Including Special Conditions)

**CANCELLATION**  
 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE ADDITIONAL INTEREST NAMED BELOW, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

ADDITIONAL INTEREST NAME AND ADDRESS Guyton Place Homeowner Association Inc. Granville Smith 922 Porter Avenue Suite 101 Ocean Springs, MS 39564	MORTGAGEE	ADDITIONAL INSURED
	LOSS-PAYEE	
	LOAN #	
	AUTHORIZED REPRESENTATIVE	

ACORD 27 (2008/07)

# ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
12/11/2008

PRODUCER (228)875-7777 FAX (228)875-2867  
Lemon-Mohler Insurance Agency  
806 Washington Ave  
Ocean Springs, MS 39564

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED Guyton Place Owners Association Inc  
922 Porter Avenue  
Suite 101  
Ocean Springs, MS 39564

INSURERS AFFORDING COVERAGE  
INSURER A: Philadelphia Insurance Company  
INSURER B:  
INSURER C:  
INSURER D:  
INSURER E:

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ACDY LTR HSRM	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	TBD-PHILADELPHIA	12/11/2008	12/11/2009	EACH OCCURRENCE	\$ 1,000,000
	DAMAGE TO RENTED PREMISES (Per occurrence)				\$ 100,000	
	MED EXP (Any one person)				\$ 5,000	
	PERSONAL & ADV INJURY				\$ 1,000,000	
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				GENERAL AGGREGATE	\$ 2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				PRODUCTS - COMP/OP AGG	\$ 2,000,000
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				COMBINED SINGLE LIMIT (Ea accident)	\$
	EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 10,000	TBD-PHILADELPHIA	12/11/2008	12/11/2009	BODILY INJURY (Per person)	\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER				BODILY INJURY (Per accident)	\$
					PROPERTY DAMAGE (Per accident)	\$
					AUTO ONLY - EA ACCIDENT	\$
					OTHER THAN AUTO ONLY: EA ACC	\$
					AGG	\$
					EACH OCCURRENCE	\$ 1,000,000
					AGGREGATE	\$
					1,000,000	\$ 1,000,000
						\$
						\$
					WC STATL- TORY LIMITS	OTH- FR
					E.L. EACH ACCIDENT	\$
					E.L. DISEASE - EA EMPLOYEE	\$
					E.L. DISEASE - POLICY LIMIT	\$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

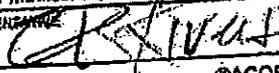
## CERTIFICATE HOLDER

Guyton Place Owners Association Inc  
Granville Smith  
922 Porter Avenue Suite 101  
Ocean Springs, MS 39564

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



©ACORD CORPORATION 1988

## **IMPORTANT**

If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## **DISCLAIMER**

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

EXHIBIT "T"

Guyton Place

Initial 2009 Monthly Expenses for Owners Association

EXTERIOR ELECTRIC .....	\$	500
INSURANCE .....	\$	3750
MAINTENANCE – BUILDING .....	\$	800
MAINTENANCE – GROUNDS .....	\$	850
PEST CONTROL .....	\$	60
PROFESSIONAL FEES .....	\$	350
RESERVES .....	\$	1000
TAXES – COMMON AREA .....	\$	45
WASTE DISPOSAL .....	\$	325
WATER .....	\$	1300
<b>TOTAL MONTHLY BUDGET .....</b>	<b>\$</b>	<b>8980</b>
<b>TOTAL ANNUAL BUDGET .....</b>	<b>\$</b>	<b>107760</b>
<b>RESIDENTIAL ANNUAL ALLOCATION 75% .....</b>	<b>\$</b>	<b>80820</b>
<b>COMMERCIAL ANNUAL ALLOCATION 25% .....</b>	<b>\$</b>	<b>26940</b>

EXHIBIT "I" (cont.)  
 Guyton Place  
Initial 2009 Monthly Expenses for Owners Association  
Residential & Commercial Unit Allocations

Total Annual HOA Budget	\$ 107,760.00	100%
Residential Annual Allocation	\$ 80,820.00	75%
Residential Monthly Allocation	\$ 6,735.00	

Unit #	Total SF	Allocation %	Annual Dues	Monthly Dues
			\$ 3,519.08	\$ 293.26
201	832	4.35%	\$ 3,836.29	\$ 319.69
202	907	4.75%	\$ 4,077.37	\$ 339.78
203	964	5.05%	\$ 3,595.20	\$ 299.60
204	850	4.45%	\$ 3,599.43	\$ 299.95
205	851	4.45%	\$ 3,519.06	\$ 293.26
206	832	4.35%	\$ 3,544.44	\$ 295.37
207	838	4.39%	\$ 4,978.29	\$ 414.86
208	1,177	6.16%	\$ 3,519.06	\$ 293.26
209	832	4.35%	\$ 3,595.20	\$ 299.60
210	850	4.45%	\$ 3,290.66	\$ 274.22
211	778	4.07%	\$ 3,540.21	\$ 295.02
212	837	4.38%	\$ 3,540.21	\$ 295.02
213	837	4.38%	\$ 3,540.21	\$ 295.02
214	837	4.38%	\$ 3,557.13	\$ 296.43
215	841	4.40%	\$ 3,476.77	\$ 289.73
216	822	4.30%	\$ 3,671.33	\$ 305.94
217	868	4.54%	\$ 4,221.18	\$ 351.77
218	998	5.22%	\$ 3,561.36	\$ 296.78
219	842	4.41%	\$ 3,540.21	\$ 295.02
220	837	4.38%	\$ 3,552.90	\$ 296.07
221	840	4.40%	\$ 3,544.44	\$ 295.37
222	838	4.39%	\$ 80,820.00	\$ 6,735.00
<b>total</b>	<b>19,108</b>	<b>100.00%</b>	<b>\$</b>	<b>\$</b>

Commercial Annual Allocation	\$ 28,940.00	25%
Commercial Monthly Allocation	\$ 2,245.00	

Unit #	Total SF	Allocation %	Annual Dues	Monthly Dues
			\$ 2,095.10	\$ 174.59
101	495	7.78%	\$ 2,095.10	\$ 174.59
102	495	7.78%	\$ 2,095.10	\$ 174.59
103	495	7.78%	\$ 2,095.10	\$ 174.59
104	495	7.78%	\$ 2,095.10	\$ 174.59
105	495	7.78%	\$ 2,095.10	\$ 174.59
106	495	7.78%	\$ 2,095.10	\$ 174.59
107	495	7.78%	\$ 3,301.37	\$ 275.11
108	780	12.25%	\$ 2,243.24	\$ 186.94
109	530	8.33%	\$ 2,243.24	\$ 186.94
110	530	8.33%	\$ 2,243.24	\$ 186.94
111	530	8.33%	\$ 2,243.24	\$ 186.94
112	530	8.33%	\$ 2,243.24	\$ 186.94
<b>total</b>	<b>6,365</b>	<b>100.00%</b>	<b>\$ 28,940.00</b>	<b>\$ 2,245.00</b>



200829509 60 PGS

OFFICIAL RECORDS JACKSON COUNTY  
Terry Miller  
CHANCERY CLERK  
RECORDING FEE: \$95.00  
#200829509 BK: 1563 PG: 379-438  
12/12/2008 03:06 PM 60 PGS  
JGARULO, DC Rept#018611

60

# DECLARATION OF CONDOMINIUM, RESTRICTIVE COVENANTS, AND EASEMENTS

FOR

## GUYTON PLACE, A CONDOMINIUM FACILITY

THIS DECLARATION is made this 12<sup>th</sup> day of DECEMBER, 2008, by GUYTON PLACE, LLC, a Mississippi Limited Liability Company (the "Declarant").

1. **DECLARATION.** Declarant hereby declares that it is the sole owner in fee simple title of the land described in Section 3 hereof, together with all buildings and improvements thereon or to be constructed thereon, and all easements and rights appurtenant thereto (the "Condominium Property"), and that Declarant hereby submits the same to the condominium form of ownership as provided in this Declaration. All provisions hereof shall be deemed to run with the land and shall constitute benefits and burdens to the Declarant, its successors and assigns, and to all parties hereafter having any interest in the Condominium Property.

2. **NAME AND ADDRESS.** The name of the Condominium is **GUYTON PLACE, A CONDOMINIUM FACILITY**, herein called the "Condominium". The street address is 922 Porter Avenue, Ocean Springs, Mississippi 39564.

3. **THE LAND.** The land hereby submitted to this Declaration (the "Land") is situated in Ocean Springs, Jackson County, Mississippi, and is described on Exhibit "A" attached hereto. A Condominium Plat or Plan of the Land and improvements thereon submitted to this Declaration is attached hereto as a part of Exhibit "B", and has been filed of record in the office of the Chancery Clerk of Jackson County, Mississippi, in Plat Book 23, at Page 12-81.

4. **DESCRIPTION OF CONDOMINIUM PROPERTY.** The improvements constructed on the Condominium Property consist of Two (2) buildings with Twenty-two (22) Residential Units and Twelve (12) Commercial Units. A graphic description of the buildings in which the Units are to be located is annexed hereto and made a part hereof as Exhibit "B", consisting of the Condominium Plat and a description and floor plans of the proposed improvements hereon, together with this Declaration, identify the "Common Elements", "Limited Common Elements", each "Residential Unit" and each "Commercial Unit", and their relative locations and approximate dimensions. In addition to and as a part of the buildings situated thereon, the Condominium Property also includes Fifteen (15) covered parking spaces, as well as uncovered parking spaces located on the Condominium Property; storage units; walkways; staircases; drives; patios; landscaping; underground structures; and other improvements which are part of and located within the Condominium Property, such as wires, cables, drains, pipes, ducts, conduits, valves and fittings. The Condominium Property also includes one (1) swimming pool.

5. **DEFINITION OF RESIDENTIAL UNITS AND COMMERCIAL UNITS, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS.** The Condominium consists of "Residential Units", "Commercial Units", "Common Elements" and "Limited Common Elements", as those terms are herein defined.

5.1 **Unit.** The term "Unit" or "Units", as used herein, shall refer to the Residential Units and Commercial Units comprising the Condominium Property, together with a portion of the Common Elements relative to the square footage of the unit as to the total square footage, and a parking space if assigned, if applicable.

**5.2 Residential Units and Commercial Units.** The term "Residential Units", as used herein, means the Twenty-two (22) residential dwellings in the Condominium which are located and shown on Exhibit "B" hereto. The term "Commercial Units" as used herein, means the Twelve (12) Commercial Units which are located and shown on Exhibit "B" hereto. Both Residential Units and Commercial Units exclude the following: (1) all spaces and improvements lying beneath the undecorated and/or unfinished inner surfaces of the perimeter walls and floors, and above the lowest horizontal plane of the upper structural element of each unit; (2) all spaces and improvements lying beneath or within the undecorated and/or unfinished inner surface of all interior columns, bearing walls and/or bearing partitions; and (3) all pipes, ducts, vents, wires, conduits and other facilities, equipment and/or fixtures running through any interior wall or horizontal or vertical partition of a Unit, for the furnishing of utility services, heating and cooling and/or ventilation to Residential Units and Commercial Units, Common Elements and/or Limited Common Elements. All glass and other transparent or translucent material, insect screens and screening in windows and doors and the materials covering other openings in the exterior of Units shall be construed to be within the boundaries or limits of units exclusively served by such windows, doors and other openings. The HVAC room and air conditioning units serving a particular Unit shall be construed to be within the boundaries or limits of the Unit served by such air conditioning unit. ~~The Declarant reserves the right to combine two or more Units into one Unit by modifying or eliminating portions of the non-weight bearing walls between Units. However, any Units which have been combined shall continue to be treated as separate Units for purposes of allocating assessments and votes of Unit owners. In the event that this is done, the plans and specifications for the combining of the Units shall be approved by the Board of Directors prior to commencement of work.~~

**5.3 Common Elements.** The term "Common Elements", as used herein, means all of the real property and improvements owned by the Declarant, which shall be transferred to the Owners Association of the Condominium Property, except the Residential Units and Commercial Units, as described herein. Common Elements include, without limitation: (1) the land within the legal description of the Condominium; (2) the building exterior, foundation, roof, bearing walls and columns, the common areas and all parts of the building not included in the Units, including the walkways and stairways; (3) the attic space in each Unit; (4) easements through Units for conduits, pipes, ducts, vents, plumbing, wiring and other facilities, equipment and/or fixtures for the furnishing of utility services, heating and cooling and/or ventilation to Units and Common Elements; (5) easements of support in every portion of a Unit which contributes to the support of other Units and/or Common Elements; (6) installations for the furnishing of utility services to more than one Unit or to the Common Elements or to a Unit other than the Unit containing the installation; (7) the property and installations in connection therewith required for the furnishing of services to more than one Unit or to the Common Elements; (8) fixtures owned or held for the common use, benefit and enjoyment of all owners of Units in the Condominium; (9) the riparian and/or littoral rights appertaining to the Land, if any; (10) the swimming pool; and (11) any other common facilities which are presently owned by the Declarant and which shall in the future be conveyed to the Owners Association which are for the non-exclusive use and enjoyment of the Unit owners.

**5.4 Limited Common Elements.** "Limited Common Elements", as the term is used herein, means those portions of the Common Elements which are reserved herein for the exclusive use of a certain Unit or Units to the exclusion of other Units, which shall be assigned by the Developer or Association, as applicable. The Limited Common Elements shall consist of the following:

(1) To each Residential Unit the exclusive right to use any exterior private terrace and/or balcony, along with a private storage area, which is attached or contiguous to the Unit, if applicable; and

(2) To each Residential Unit the right to use a numbered storage unit found on the First Floor of the Condominium Property to be designated with the Letter "S" and a Unit number, which shall be assigned by the Developer or Association, with any unassigned storage unit being considered a common element. The numbered storage units cannot be separated, sold, transferred or conveyed to another individual or entity without ownership of a Unit. The Initial Assignment of Ground Floor Storage Units is attached as Exhibit "C" hereto; and

(3) To those certain Residential Unit that has negotiated in their contract for purchase of the Unit for a covered automobile parking space on the First Floor of the Condominium Property, one shall be hereby assigned to that Residential Unit. The assigned parking spaces cannot be separated, sold, transferred or conveyed to another individual or entity without ownership of a Unit. The Initial Assignment of Covered, Reserved Parking Spaces is attached as Exhibit "D", which is attached hereto. There will be parking spaces outside the buildings that will be unassigned but reserved for Unit Owners only. All other outside parking spaces that are not reserved for Unit owners will be open to public on a first come first serve basis.

**2. COMMON OWNERSHIP; APPURTENANCES TO UNITS AND EASEMENTS.** There shall be appurtenant, and pass with title to each Residential Unit and Commercial Unit, the rights, shares, and interests which shall be deemed to include, without limitation, the following:

2.1 An undivided ownership share in the Common Elements and in the "Common Surplus" (as that term is elsewhere herein defined). The undivided ownership share in the Common Elements and the Common Surplus of the Condominium appurtenant to each Residential Unit and Commercial Unit are based upon the square footage of each respective Unit in uniform relationship to the aggregate square footage of all Units in the Condominium, as set forth on Exhibit "E"; and

2.2 The right to use exclusively, or in common with certain other Units where so specified, those portions of the Common Elements designated and/or reserved herein and/or granted elsewhere to a certain Unit or Units as Limited Common Elements, and

2.3 An exclusive easement for the use of the air space occupied by the Unit as it exists at any particular and as it may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is permanently vacated from time to time; and

2.4 Non-exclusive easements, to be used and enjoyed in common with the owners of all Units in the Condominium, for use of those Common Elements not designated elsewhere herein as easements for:

(1) The furnishing and maintenance of public utility services to all parts of the Condominium Property over, across, in and through the Land, buildings and other improvements, as the fixtures and equipment therefor now exist and/or may be modified or relocated; and

(2) Vehicular and pedestrian access over, across, upon, in and through the drives, walkways, entries, gates, walks, grounds, and other portions, if any, of the Common Elements as are intended and/or provided for pedestrian and vehicular traffic

throughout the Condominium and over, across, upon, in and through such other lands not a part of the Condominium as are provided for such pedestrian and vehicular traffic.

6.5 A non-exclusive easement for the unintentional and non-negligent encroachment by any Unit upon any other Unit and/or Common Element, or for any reason not caused by or resulting from the willful or negligent act of Declarant or any Unit owner or owners, including without limitation, encroachments caused by or resulting from the original construction of improvements, which exclusive easement shall exist at all times curing the continuance of such encroachment, as an easement appurtenant to the encroaching Unit or other improvement, to the extent of such encroachment; and

6.6 The right of membership in the "Association" (elsewhere herein defined), upon the terms and conditions referenced herein.

6.7 Non-exclusive easement for ingress and easement through the walkways and drives for purposes of accessing the Residential Units and Commercial Units, subject to restriction, rules and regulations as may be imposed by the Declarant from time to time.

6.8 Non-exclusive use of the trash dumpster for the disposal of non-hazardous trash, subject to restriction, rules and regulations as may be imposed by the Declarant from time to time.

7. **COMMON EXPENSES AND COMMON SURPLUS.** The term "Common Expenses", as used herein, shall mean all expenses for which all the owners of Residential Units and Commercial Units of the Condominium Property shall be liable to the Association. The term "Common Surplus", as used herein, shall mean the excess of all receipts of the Association, including, without limitation, assessments, rents, profits and revenues on account of the Common Elements, over the amount of the Common Expenses incurred. Except as hereafter provided, all of the owners of Units shall share the Common Expenses and shall own the Common Surplus in the proportions or percentages set forth in Exhibit "E" attached.

8. **VOTING RIGHTS OF UNIT OWNERS.** The owner or owners of each Residential Unit and Commercial Unit shall become a member of the Association automatically upon and simultaneously with delivery of a deed of conveyance of fee title thereto from Declarant or, in a conveyance by a grantee or a remote grantee of Declarant, a deed which otherwise complies with the terms and conditions of this Declaration, the Articles of Incorporation and Bylaws of the Association. The Residential Units represent Fifty (50%) of the voting rights of the Association. The Commercial Units represent Fifty (50%) of the voting rights of the Association. There shall be appurtenant, and pass with title, to each Residential Unit and Commercial Unit one (1) vote as a member of the Association, which may be exercised by the owner(s), or the duly constituted proxy of the owner(s), from time to time, of each Residential Unit and Commercial Unit, at all meetings of members and in connection with all matters upon which members of the Association are entitled to vote. No fractional votes may be cast by co-owners. A Commercial Suite (as indicated on Exhibit "B") may contain a number of Commercial Units which shall be treated as separate Units for voting purposes. Any dispute as to ownership shall be decided by the Association. The qualification of members of and manner of admission to membership in the Association, and the termination of such membership and voting by members shall be as provided for in the Articles of Incorporation, Bylaws, or both, of the Association.

9. **NAME OF ASSOCIATION.** The entity responsible for the operation of the Condominium shall be GUYTON PLACE OWNERS ASSOCIATION, INC., a Mississippi not for profit Corporation (the "Association"). A copy of the Articles of Incorporation for the Association

is annexed hereto and made a part hereof as Exhibit "F". The Association shall administer and manage the Condominium Property; provided that, the Association may, by contract, partially or wholly delegate its maintenance, management and operational duties and obligations.

10. **BYLAWS OF ASSOCIATION.** The procedures for the internal administration and functioning of the Association are set forth in the Bylaws. A copy of the Bylaws of the Association is annexed hereto and made a part hereof as Exhibit "G", and shall include Amendments as may be necessary as provided therein.

11. **AMENDMENT OF DECLARATION.** Except for amendments which Declarant is authorized and/or obligated elsewhere herein to make, this Declaration may be amended only in the following manner:

11.1 **Notice.** Notice of the subject matter of any proposed amendment to this Declaration shall be included in the notice of any meeting at which such proposed amendment is to be considered.

11.2 **Proposal.** Amendments to this Declaration may be proposed by the Board of Directors (the "Board") of the Association by resolution adopted by a majority vote of the Directors present at any regular or special meeting of the Board at which a quorum is present or, in the alternative, by a written instrument signed by a majority of the Board, or by the owners of a majority of the Units, whether by vote of such owners as members of the Association at a special or regular meeting of the members or by written instrument signed by them.

11.3 **Adoption.** Any amendment to this Declaration so proposed by the Board or members of the Association shall be transmitted to the President of the Association, or, in the absence of the President, to a Vice President or other acting chief executive officer, who shall thereupon call a special meeting of the members of the Association to consider and vote upon such proposed amendment; provided, that a proposed amendment may be considered and voted upon at an annual meeting of the members of the Association if the next such meeting is to be held within the time hereafter limited and if notice of the proposed amendment shall be included in the notice of such meeting. The special or annual meeting, as the case may be, of the members shall be held not sooner than thirty (30) days nor later than sixty (60) days from the date of receipt by the Association of the proposed amendment. Notice of the meeting shall be in the form and shall be delivered and the meeting shall be called and held as provided for in the Bylaws of the Association; provided, that any member may, in writing signed by such member, waive notice of such meeting in the manner provided for in the Bylaws of the Association and such waiver, when delivered to the Secretary of the Association for filing in its records, whether before, during or after such meeting shall be construed to be the equivalent of giving notice to such member. The proposed amendment may be adopted, and shall become effective, by and upon the affirmative vote at such meeting of members owning Units to which not less than two-thirds (2/3) of the Common Elements are appurtenant. Notwithstanding the foregoing, any amendment so proposed may be adopted, without a formal meeting of the members by an instrument executed and acknowledged with the formalities of a deed by members owning Units to which not less than two-thirds (2/3) of the Common Elements are appurtenant.

11.4 **Proviso.** No amendment shall:

(1) Change any Unit boundaries unless the record owner(s) thereof and all Registered Mortgagees, as hereinafter defined, thereon shall join in the execution and acknowledgment of the amendment, or

(2) Discriminate against any Unit owner or against any Unit or building comprising part of the Condominium Property, or

(3) Change the share of Common Elements appurtenant to any Unit or Units or the share of any Unit owner in the Common Surplus, unless the record owners of all Units and the Registered Mortgagees thereon shall join in the execution and acknowledgment of such amendment, or

(4) Increase the share of any Unit owner(s) in the Common Expenses, unless the record owners of all Units and the Registered Mortgagees thereon shall join in the execution and acknowledgment of such amendment, or

(5) Make any substantial change in Article 13 hereof, entitled "Insurance", nor in Article 14 hereof, entitled "Reconstruction or Repair After Casualty", unless the Registered Mortgagees encumbering Units shall join in the execution and acknowledgment of the amendment, or

(6) Amend the provisions of Article 20 or Article 21 hereof without Declarant's joinder and consent.

(7) Since the Commercial Units will be primarily using their units during the daytime and the Residential Units will be primarily using their units in the evening times, Residential Units cannot bring for vote any change that will adversely affect Commercial Units; likewise, the Commercial Units cannot bring for vote any change that will adversely affect Residential Units.

(8) No amendment shall be passed which shall in any way affect any of the rights, privileges, powers, or options of the Declarant without the prior consent of the Declarant.

11.5 **Secret Ballot.** Any vote to amend this Declaration relating to a change in percentage of ownership of the Common Elements or sharing of the Common Expense shall be conducted by secret ballot.

11.6 **Effective Date and Recording Evidence of Amendment.** Any amendment to this Declaration shall be effective at the time of filing the amendment or certificate of amendment in the Public Records of Jackson County, Mississippi. The President of the Association, or, in the absence of the President, a Vice President or other acting chief executive officer of the Association, shall cause to be filed in the Public Records of Jackson County, Mississippi, the original amendment to the Declaration, if it is in the form of an instrument executed and acknowledged by Unit owners and the Registered Mortgagees, or a certificate of amendment, if it is a certification by the proper officers of the Association that such amendment was adopted by the Association at a meeting of the members. A true and correct copy of each such amendment or certificate of amendment shall be delivered, forthwith after adoption thereof, to the record owners of all Units by the President, Vice President, or other acting chief executive officer of the Association, but delivery of such copies shall not be a condition precedent to the effectiveness or any such amendment.

**11.7 Amendment to Correct Omission or Error in Condominium Documents.** Notwithstanding any provision to the contrary set forth in this Article 11 or elsewhere in this Declaration or Articles or Bylaws of the Association, the affirmative vote of the owners of Units to which not less than two-thirds (2/3) of the Common Elements are appurtenant shall be sufficient to adopt an amendment to this Declaration for the purpose of correcting a defect, error, or omission in or to this Declaration not materially or adversely affecting the rights of owners, lienors or mortgagees. Provided, however, nothing herein is intended to limit any statutory method of correcting an error or omission. Furthermore, the Declarant reserves the right at any time to amend this Declaration and any exhibits to it for the purpose of correcting any defect, error or omission herein or therein which prevents this Declaration from creating a valid condominium under Mississippi law or prevents the units from qualifying for financing from VA/FHA, Fannie Mae, or other federally related lenders or other financing that condominiums typically qualify for or in order to increase sales of the Units.

**11.8 Amendments by Declarant.**

Declarant reserves the right to amend this Declaration, and any exhibits hereto, for any one or more of the following purposes:

(1) To correct any errors or omissions not materially and adversely affecting the rights of Unit owners, lienors or mortgagees.

(2) To make reasonable changes to the Condominium Property or Units that do not materially and adversely affect the interest of the Registered Mortgagees, nor the Unit owners, nor the Unit owner's share of the Common Elements.

Any such amendment need be executed and acknowledged only by the Declarant and need not be approved by the Association, Unit owners or Registered Mortgagees, whether or not elsewhere required for amendments, provided however, that the Declarant's right to amend this Declaration shall cease and terminate five (5) years from the date of recording of this Declaration in the Land Records in the Office of the Chancery Clerk, Jackson County, Mississippi, or from the date Declarant transfers the common areas to the Association.

**12. MAINTENANCE, REPAIRS AND REPLACEMENTS.** Responsibility for maintenance, repairs and replacements of Condominium Property and property of Unit owners located or situated within the Condominium shall be as follows:

**12.1 Units.** Each Residential Unit and Commercial Unit, and the fixtures, equipment and appliances comprising a part thereof, located therein, or exclusively serving the same (but not otherwise including Limited Common Elements except where expressly so indicated in Section 12.3), shall be maintained and kept in good repair. Said Units and the fixtures, equipment and appliances shall be insured by policy held by the Association to the extent provided in Section 13 herein. Any emergency maintenance, repairs and/or replacements for which Unit owners are responsible and are obligated to perform, which, if not performed or omitted, would affect other Units or Common Elements shall be performed promptly as the need arises, and if Unit owner(s) fail to promptly perform same, the Association shall have the right to perform same, and to specially assess the responsible Unit owner(s) and Unit therefor. Notwithstanding the obligation of Unit owners for maintenance, repair or replacement of and in Units, the proceeds of all insurance awards or payments under insurance that shall be carried by the Association for loss of, or damage to Units shall be applied against repairs and replacements to the extent that such award or payments exceed the deductible provisions of such insurance.

12.2 **Common Elements.** The Association shall be responsible for maintaining, repairing, replacing and keeping in clean and orderly condition, all of the Common Elements, and shall assess against and collect from the owners of all Units in the Condominium, the costs thereof. The Association shall, at the expense of the owners of all Units in the Condominium, repair any and all incidental damage to Units resulting from maintenance, repairs and/or replacements of or to Common Elements.

12.3 **Limited Common Elements.** The Association shall be responsible for, and shall assess against and collect against all Unit owners the cost of performing necessary maintenance, repairs and replacements, and keeping in clean and orderly condition the exterior of the terraces/balconies, the storage units, and the covered parking areas which are designated as the Limited Common Elements. However, the responsibility for, and the cost of, repairing, maintaining and keeping in a clean and orderly condition the interior of those Limited Common Elements, shall be borne by the owner(s) of the Unit(s) to which the same are appurtenant.

13. **INSURANCE.** Insurance shall be carried and kept in force at all times in accordance with the following provisions:

13.1 **Duty and Authority to Obtain.** The Association shall obtain and keep in force at all times the insurance coverage which it is required hereby to carry and may obtain and keep in force any or all of such other or additional insurance coverage as it is authorized hereby to carry. All insurance obtained by the Association shall be purchased for the benefit of the Association and the Unit owners. The cost of said insurance policy shall be prorated for the year as of the date of closing. The owner(s) of each Unit may, at his own expense, obtain insurance coverage against damage to and loss of the contents of the Unit, insurance not covered by the Association policy, and comprehensive public liability. Any such policies of insurance purchased by a Unit owner shall, where such provision is available, contain a clause providing that the insurer waives its right to subrogation as to any claim or claims against other Unit owners, the Association, and their respective employees, agents, guests and invitees.

13.2 **Required Coverage.** The Association shall purchase and carry insurance coverage as follows (however, such coverage shall only insure the Condominium in the manner permitted by applicable law, if any, and according to the original plans and specifications, and coverage for any alterations, improvements or modifications to Units made by Unit owner[s] shall be the responsibility of Unit owner[s]):

Property insurance covering the replacement value of the base building finish established at initial completion, as described in Exhibit "H" attached hereto; however, the policy can be amended by Association pursuant to the Bylaws. The Association shall be not be obligated to use any particular insurance company and can change to another insurance company at their discretion. For purposes of this provision, the Association shall be deemed to have an insurable interest in the foregoing. Such insurance to afford protection against:

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

(b) Such other risks of a similar or dissimilar nature as are required by law or as are customarily covered with respect to a building and other improvements similar, in construction, location and use, to the building and other improvements of the Condominium, including, without limitation, vandalism, malicious mischief, windstorm, or water damage (as distinguished from water intrusion damage); and

(c) General liability insurance including bodily injury and property damage, in an amount no less than \$1,000,000.00, with such coverage and in such forms as shall be required by the Board of Directors of the Association, to protect the Association and the owners of all Units, including non-owned automobiles, off-premises employee coverage; and

(d) Worker's compensation insurance to meet the requirements of law; and

(e) Flood insurance to the extent that Association deems necessary, if Association elects to put flood insurance policy in place at a later date; and

(f) Fidelity insurance, as required by law, covering all officers and employees of the Association and any managing agent who handles Association funds.

**13.3 Optional Coverage.** The Association may purchase and carry such other insurance coverage, as the Board of Directors of the Association, in its sole discretion, may determine from time to time to be in the best interests of the Association and Unit owners.

**13.4 Premiums.** Premiums for all insurance obtained and purchased by the Association shall be paid by the Association. The cost of insurance premiums, the cost of financing insurance premiums, and other incidental expenses incurred by the Association in administering and carrying out the provisions of this Article, shall be assessed against and collected from Unit owners as Common Expenses.

**13.5 Insured.** All policies of insurance obtained and purchased by the Association shall be for the benefit of the Association, the owners of Units, as their interests may appear, and shall provide that all proceeds covering casualty losses shall be paid to the Association as Trustee for the benefit of whomever is entitled to the proceeds or an independent "Insurance Trustee", if one has been appointed. The proceeds from insurance against any casualty loss shall be held for the use of the Association, Unit owners and their Registered Mortgagees, as their interests may appear, to be applied or distributed in the manner herein provided. The Association is hereby constituted and appointed agent for all Unit owners, with authority to negotiate and settle the value and extent of any and all losses covered under any policy of casualty insurance, and the Association is granted full right and authority to execute, in favor of any insurer, a release of liability arising out of any occurrence covered by any policy or policies of casualty insurance and resulting in loss of or damage to insured property.

**13.6 Insurer.** All persons beneficially interested in the insurance coverage obtained, purchased and maintained by the Association shall be bound by the Association's selection of its insurer(s) and the amount of insurance coverage carried and kept in force by the Association. No Member of Board of Directors nor Officer shall be entitled to a commission on the premium paid unless the premium is less than all other companies' premiums.

**13.7 Insurance Trustee.** The Association shall be the Insurance Trustee unless the owners of one-third (1/3) of the Residential Units and one-third (1/3) of the Commercial Units or their mortgagees make written demand to the Association requesting the appointment of an independent trustee. In such event, any proceeds will be paid to or any undisbursed proceeds in the control of the Association will be paid over to the independent Insurance Trustee. All persons for whose benefit such insurance is held shall be bound by the Association's selection of the Insurance Trustee.

If such event should occur, the independent Insurance Trustee shall be selected by the Board of Directors. It shall be a bank or other federally insured institution with trust powers doing business in the State of Mississippi. The Insurance Trustee shall not be liable for the payment of premiums, the renewal of any policy or policies of casualty insurance, the sufficiency of coverage, the form or content of policies, nor for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds of casualty insurance as are paid and to hold the same in trust for the purposes herein stated, and for the benefit of the Association, Unit owners and their respective mortgagees, to be disbursed as herein provided. The Association shall pay a reasonable fee to the Insurance Trustee for services rendered hereunder and shall pay such costs and expenses as the Insurance Trustee may incur in the performance of its duties hereunder; such fees and costs to be assessed against and collected from Unit owners as a Common Expense. The Insurance Trustee shall be liable only for its willful misconduct, bad faith or gross negligence, and then only for such money as may come into the possession of the Insurance Trustee. If and when the Insurance Trustee is required to distribute insurance proceeds to Unit owners and their mortgagees, as their respective interests may appear, the Insurance Trustee may rely upon a certificate of the President and Secretary of the Association executed under oath and provided to the Insurance Trustee upon request to the Association; such certificate to certify the name or names of the owners of each Unit, the mortgagee(s) thereof, as provided in Article 18, and the respective percentages of any distribution which is to be made to such owner(s) and mortgagee(s), as their respective interests may appear. It shall be the obligation of each Unit owner to supply the Association a written payoff from each of their mortgages within ten (10) days of the Association request with a per diem for daily interest. Failure to do so may result in a delay of payment to such Unit owner's mortgagee. If and when insurance proceeds are paid to the Insurance Trustee for any casualty loss, the holder(s) of any mortgage or mortgages encumbering a Unit shall have no right to determine or participate in the determination of repair or replacement of any loss or damage, and shall have no right to elect to apply insurance proceeds to the reduction of indebtedness secured by such mortgage(s), unless the insurance proceeds represent a distribution to the owner(s) of the Unit and the mortgagee(s) thereof, after such insurance proceeds have been first applied to the repair, replacement or reconstruction of any loss or damage, or unless such casualty insurance proceeds are authorized to be distributed to the owner(s) of the Unit and the mortgagee(s) thereof by reason of loss of or damage to personal property constituting a part of the Common Elements and as to which a determination is made not to repair, replace or restore such personal property.

**13.8 Application of Insurance Proceeds.** The proceeds of casualty insurance paid to the Association, or to an independently appointed Insurance Trustee, by an insurer for loss or damage to real and/or personal property upon which the Association carries insurance, shall be applied and paid as follows:

(1) **Common Elements Only.** The proceeds paid to the Insurance Trustee for loss of or damage to real property constituting Common Elements only shall be applied to the repair, replacement or reconstruction of such loss or damage. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such Common Elements, the excess shall be paid by the Insurance Trustee to the owners of all Units, and their mortgagees, as their interests may appear, in shares or proportions equal to the undivided interest, based on square footage, appurtenant to each Unit in the Common Elements. As stated herein, the Residential Units pay three-fourths (3/4) of the total assessment for the Common Elements and the Commercial Units pay one-fourth (1/4) of the total assessment for the Common Elements so the proceeds will be distributed accordingly. If the insurance proceeds shall be insufficient to pay the cost of the repair, replacement or reconstruction of such Common Elements, the Association shall deposit with the Insurance Trustee, from any

Association Reserve Fund which may have been established, the difference between the total cost of repairing, replacing or reconstructing such loss or damage and the amount of the insurance proceeds. If no such Association Reserve Fund has been established, or if any such Association Reserve Fund has been established and is insufficient to pay to the Insurance Trustee such difference, the Association shall assess the amount of the difference against, and collect it from, all Unit owners as a Common Expense, in proportion equal to the undivided interest in the Unit.

(2) **Units.** The proceeds paid to the Association or independent Insurance Trustee for loss of or damage to a building containing Common Elements and one or more Units shall be first applied to the repair, replacement or reconstruction of Common Elements, then to the repair, replacement or reconstruction of any Unit or Units in such building which have been destroyed or damaged. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such Common Elements and Units, the excess shall be paid by the Insurance Trustee to the owners of the damaged or destroyed Unit(s) and their mortgagees, as their interests may appear, in shares or proportions equal to the undivided interest appurtenant to each such Unit in the Common Elements. If the insurance proceeds shall be sufficient to pay for the repair, replacement or reconstruction of the Common Elements but shall be insufficient to pay the cost of the repair, replacement or reconstruction of the damaged or destroyed Unit or Units in such building, the Association shall assess the amount of the difference against, and collect the same from all owners as a Common Expense so long as the damage to the Units is of a nature as to which the Association is required to carry insurance. If it is not, then the affected Unit owner shall pay the uncovered cost. If the insurance proceeds shall be insufficient to pay the cost of the repairs, replacements, or reconstruction of the Common Elements (to which the Insurance Trustee is required first to apply such proceeds before applying any part thereof to the repair, replacement or reconstruction of Units), the difference between the total cost of repairing, replacing or reconstructing the Common Elements and the amount of the insurance proceeds shall be assessed by the Association against, and collected from, all Unit owners, as a Common Expense and the Unit Owner shall pay all costs of their Unit.

**13.9 Deposits to Insurance Trustee After Damage.** Within sixty (60) days after a loss of or damage to Condominium Property covered by casualty insurance, the Association shall obtain estimates of the cost of repairing, replacing or restoring the same, including the cost of professional fees and any construction bond which the Board of Directors may require. If, from such estimates, it shall appear that the insurance proceeds payable for such loss or damage will be insufficient to pay the cost of such repair, replacement or reconstruction, the additional money required to pay the total cost thereof, whether it is to be paid by one or more Unit owners, shall be deposited with the Association or the independent Insurance Trustee, as the case may be, not later than thirty (30) days from the day on which the Insurance Trustee receives the insurance proceeds.

**14. RECONSTRUCTION OR REPAIR AFTER CASUALTY.** Whether, and the manner in which, any or all of the Condominium Property which may be damaged or destroyed by casualty shall be repaired, reconstructed or replaced shall be determined as follows:

**14.1 Residential and Commercial Buildings.** If any buildings are damaged or destroyed, repair or reconstruction thereof, or termination of the Condominium, shall be in accordance with the following:

(1) **Major Destruction of Buildings.** If any buildings are damaged or destroyed so that Units in the Condominium to which more than 50% of the Common Elements

cannot be used, neither the building or buildings so damaged or destroyed, nor any of the improvements comprising Common Elements in said building or buildings, shall be reconstructed unless the owners of Units to which two-thirds (2/3) of the Common Elements are appurtenant agree in writing, within ninety (90) days after the date of such destruction, to reconstruct the same and unless the then applicable zoning and other regulatory laws and ordinances shall allow the same to be reconstructed, or unless any policy or policies of casualty insurance covering the same shall require reconstruction thereof as a condition precedent to the payment of proceeds thereunder. If it is not so decided to reconstruct the building(s), then the Condominium shall be terminated as otherwise provided herein.

(2) **Other Damage to and/or Destruction of Buildings.** If any building is damaged, but Units in the Condominium to which at least 50% of the Common Elements can be used, the damaged or destroyed Common Elements and/or Units shall be repaired or reconstructed, so that the buildings and/or Unit(s) shall be restored to substantially the same condition as existed prior to such damage or destruction, unless within ninety (90) days after the casualty it is determined by agreement in the manner elsewhere herein provided that the Condominium shall be terminated.

14.2 **Common Elements.** Damaged or destroyed improvements constituting part of the Common Elements shall be repaired, reconstructed and/or replaced unless, in the event of total destruction of all of the Units, or, by agreement after partial destruction, the Condominium shall be terminated.

14.3 **Certificate.** The Insurance Trustee may rely upon a certificate executed by the President and Secretary of the Association to determine whether or not damaged or destroyed Condominium Property shall be repaired or reconstructed.

14.4 **Plans and Specifications.** Repair or reconstruction of Condominium Property shall be substantially in accordance with the plans and specifications pursuant to which the same was originally constructed; provided that the Board of Directors of the Association may authorize reasonable variations from the original plans and specifications as may appear to them to be necessary or desirable. Any variations from the original plans and specifications submitted for approval shall be prepared by an architect registered to practice in Mississippi.

14.5 **Responsibility.** If the damage or destruction shall be limited only to one or more Units for which the responsibility of maintenance and repair is that of the affected Unit owners, then such Unit owners shall be responsible for carrying out the repair or reconstruction thereof. In all other instances of damage or destruction, the Association shall be responsible for carrying out the repair and reconstruction thereof.

14.6 **Construction Funds.** All funds for the payment of repair and reconstruction costs, consisting of insurance proceeds and/or funds collected by the Association from Unit owners, shall be disbursed toward payment of such costs in the following manner:

(1) **Association.** If the total funds assessed against and collected from Unit owners by the Association for payment of repair and reconstruction costs is more than Ten Thousand Dollars (\$10,000.00), then all such sums shall be deposited by the Association with and disbursed by the Insurance Trustee, if one is appointed as aforesaid. In all other cases the Association shall hold such sums so assessed and collected and shall disburse the same in payment of the costs of reconstruction and repair.

(2) **Insurance Trustee.** The proceeds of insurance collected on account of a casualty, and the sums assessed against and collected from Unit owners by the Association and deposited with the Insurance Trustee shall constitute a construction fund which shall be disbursed in payment of the costs of repair and reconstruction in the following manner:

(a) **Unit Owner.** The portion of insurance proceeds representing damage for which the responsibility of repair and reconstruction is upon one or more, but less than all, Unit owners, shall be paid by the Insurance Trustee to the affected Unit owners and, if any of such Units are mortgaged, to the affected mortgage company for the benefit of the Unit owner or to the Unit, as determined by the Board of Directors. Unit owners and their mortgagees jointly; or, at the direction of the Board of Directors, to the general contractor charged with performing the remedial work.

(b) **Association - Lesser Damage.** If the amount of the estimated costs for reconstruction and repair which is the responsibility of the Association is less than Ten Thousand Dollars (\$10,000.00), then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided, however, that upon request by a mortgagee which is a beneficiary of an insurance policy the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereafter provided for the reconstruction and repair of major damage.

(c) **Association - Major Damage.** If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is more than Ten Thousand Dollars (\$10,000.00), then the construction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors of the Association and upon approval of an architect registered to practice in Mississippi and employed by the Association to supervise the work.

(d) **Surplus.** It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in the construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund and their mortgagees, if applicable, in the manner elsewhere herein stated; except, however, that the amount of any surplus which is less than the portion of the construction fund in excess of available insurance proceeds shall not be made payable to any mortgagee.

(e) **Certificate.** Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by Unit owners upon assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be upon the order of the Association or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund nor to determine the payee nor the amount to be paid, nor to determine whether surplus funds to be distributed are less than the assessments paid by owners. Instead, the Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary as to any or all of such matters and stating that the sums to be paid are due and properly payable and stating the name of the payee and the amount to be paid; provided that when a mortgagee is herein required to be named as payee, the Insurance Trustee shall also name the mortgagee as payee; and further provided that when the Association, or a mortgagee which is the beneficiary of an insurance policy the proceeds of which are included in the construction fund, so requires, the approval of an architect named by the Association shall be first obtained by the Association.

15. **USE RESTRICTIONS.** Use of the Condominium Property shall be in accordance with the following provisions so long as the Condominium exists:

15.1 **Designated Residential Units.** Each of the Residential Units shall be occupied only for residential purposes and by servants and guests, or tenants under lease, as provided for herein, as a place of residence (temporary or permanent) and for no other purpose. One bedroom Residential Units may be occupied by no more than four (4) persons and two-bedroom Residential Units may be occupied by no more than six (6) persons. No Unit may be can have fractional ownership, be sub-divided, or converted to a "time share".

15.2 **Designated Commercial Units.** Each of the Commercial Units shall be used for commercial and business purposes only. No Unit may be sub-divided.

15.2 **Common Elements.** The Common Elements and Limited Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities incidental to the enjoyment of the Units.

15.3 **Nuisances.** No nuisances shall be allowed upon the Condominium Property, nor any use or practice which is the source of annoyance to residents or businesses which interferes with the peaceful possession and proper use of the Condominium Property by residents and commercial unit owners. All parts of the Condominium Property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate nor shall any fire hazard be allowed to exist. No use shall be made of any Unit or of the Common Elements or Limited Common Elements which would increase the cost of insurance upon the Condominium Property.

15.4 **Lawful Use.** No immoral, improper, offensive or unlawful use shall be made of the Condominium Property or any part thereof; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies pertaining to maintenance, replacement, modification or repair of the Condominium Property shall be as is elsewhere herein specified.

15.5 **Pets.** Unit owners shall be permitted to keep pets, including birds, such as canaries or parakeets; fish, such as gold fish and tropical varieties; cats and dogs not exceeding twenty inches (20") in height at the shoulder or twenty-five (25) pounds in weight at maturity, except that Unit owners can have larger cats and dogs with the approval of the Association, which shall be decided on a per pet basis. No pets shall be raised for commercial purposes, and no more than one dog per Unit may be kept on the premises; a second dog may be kept but only with the written approval of the Association. Pets shall never be allowed to run freely upon any of the Condominium Property, except within a Unit, and when outside of a Unit shall be leashed and in the company of an individual willing and able to fully control it. Each owner shall be responsible for the actions of each pet kept within his Unit, and for cleaning up after such pet when outside of the Unit. Any Unit owner maintaining a pet upon the Condominium Property, or whose guests, lessee or invitee bring any animal upon the Condominium Property, shall be fully responsible for, and shall bear the expense of, any damage to persons or property resulting therefrom. Any such damage shall be determined by the Board of Directors of the Association and collected by the Association. All pet owners shall identify and register their pet with the Association. In the event that any pet kept on the premises should constitute a nuisance in the opinion of a majority of the Board of Directors, then the owner, when so notified in writing, shall be required to immediately remove said pet from the Condominium Property. The Association may promulgate rules restricting the areas within the

Condominium Property where pets can be walked. Notwithstanding the foregoing, the size and weight limitations provided herein shall not apply to any Unit owner or guest requiring a dog for doctor prescribed medical assistance purposes and approved by the Board of Directors.

**15.6 Terraces/Balconies.** Private terraces, balconies, and entry terraces within a Unit or which are Limited Common Elements appurtenant thereto may be used only for recreational purposes and may not be improved except as permitted or required hereby. Such areas may not be used for hanging laundry or beach towels and clothing, and may not be enclosed, painted or the color or appearance otherwise altered by the owner except with the prior written consent of the Board of Directors of the Association, and except for approved hurricane/storm shutter installations in accordance with Section 19.3 herein.

**15.7 Floor Coverings.** The floor area of all Units shall be covered with carpeting over sound-absorbing padding, or ceramic tile, hardwood, or other hard surface flooring which shall be placed over a padding or a resilient sound absorbing underlayment of material acceptable to the Association, which shall be of sufficient quality and quantity to buffer "normal usage" noises heard by the Unit below.

**15.8 Children.** Children may occupy Units provided, however, that children shall be closely supervised at all times by an adult to ensure that they do not become a nuisance to other residents of the Condominium. The Board of Directors may establish Rules and Regulations regarding running and loud talking and other Rules that may be necessary to protect the rights of other Unit Owners.

**15.9 Rental and For Sale Signs.** No signs advertising the rental or sale of Units or other signs of any nature may be posted on the Condominium Property, including exteriors or doors and windows of the Units, without the prior written approval of the Association's Board of Directors. No "lock boxes" shall be permitted on doors to Units. The foregoing provisions shall not apply to Declarant during development and sale of the Units and shall not apply to businesses in the operation of same in the Commercial Units.

**15.10 Exterior of Units.** No Unit owner shall cause anything to be applied or attached to, hung, displayed or placed on the exterior walls, terraces, doors or windows of any that would be considered offensive or unappealing to other Unit owners. This includes window treatments and patio decorations of any kind. Association decorations for holiday events are excluded.

**15.11 Barbecue Grills.** Gas or electric barbecue grills will be permitted only in areas designated by the Association. All other barbecue grills are prohibited.

**15.12 Garbage.** Unit owners shall dispose of their garbage, waste and debris in the designated dumpster located on the Condominium Property. No garbage, waste and debris shall be left anywhere else on Condominium Property.

**15.13 Vehicles and Boats.** No inoperative or "junk" automobiles, trucks, tractors, trailers, motorbikes, bicycles, or water craft shall be parked or stored on Condominium Property.

**15.14 Hurricane Shutters.** Unit owners may install approved hurricane/storm shutters protecting the terrace/balcony/lanai, and similar areas which are a part of their Unit or limited Common Elements appurtenant to their Unit pursuant to Section 19.4 herein.

15.15 **Leasing.** Owners of Residential Units may rent or lease their Units for residential purposes and owners of Commercial Units may rent or lease their Units for commercial or business purposes. Unit owners may not rent or lease their units for less than a 30 day term. Unit owners must follow all local zoning rules and regulations.

15.16 **Regulations.** Reasonable regulations concerning the use of the Condominium Property may be made and amended from time to time by the Board; provided, however, that all such regulations and amendments thereto may be nullified by the vote of not less than two-thirds (2/3) of the total voting interests in the Association before the same shall become effective. Copies of such regulations and amendments thereto shall be furnished by the Association to all Unit owners and residents of the Condominium upon request.

15.17 **Development.** Until Declarant has completed and conveyed all of the Units, neither Unit owners nor the Association shall interfere with the completion of the proposed improvements and the sale of the Units. Declarant may make such use of the unsold Units and Common Elements as may facilitate such completion and sale, including, but not limited to, maintenance of a sales/development office, model apartments, the showing of the Condominium Property and the display of signs showing Units for sale or for rent.

16. **COMPLIANCE AND DEFAULT.** Each Unit owner and any member of the Unit owner's family or their guests, employees, agents, lessees or other invitee, shall be governed by and shall comply with the terms of this Declaration of Condominium, the Articles of Incorporation and Bylaws of the Association, and any and all regulations adopted pursuant thereto, as they may be amended from time to time. Failure of the Unit owner to comply therewith shall entitle the Association or other Unit owners to the following relief in addition to the remedies provided by the Bylaws:

16.1 **Negligence.** A Unit owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by the Unit owner's act, neglect or carelessness or by that of any member of the Unit owner's family or their guests, employees, agents, lessees or other invitee, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such expense may be specially assessed against the Unit owner and his Unit and secured by the lien described in Section 17 herein.

16.2 **Costs and Attorneys' Fees.** If any legal proceeding arises because of an alleged failure of a Unit owner to comply with the terms of this Declaration, the Articles of Incorporation and Bylaws of the Association, as provided above, and any and all rules and regulations adopted pursuant thereto, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees, costs of litigation, expert witness fees and other costs and expenses as may be awarded by the court.

16.3 **No Waiver of Rights.** The failure of the Association or any Unit owner to enforce any covenant, restriction or other provision of this Declaration, the Articles of Incorporation and Bylaws of the Association, or the regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

17. **ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT.** To provide the funds necessary for proper maintenance, operation and management of the Condominium, the Association is hereby granted the right to make, levy and collect assessments against the Units and the owners thereof. The following provisions shall govern the making, levying and

collecting of such assessments and the payment of the costs and expenses of maintaining, operating and managing the Condominium by the Association.

**17.1 Determination of Assessments.** Based on the total square footage of use, Commercial Units shall pay one-fourth (1/4) of the total Assessments and Residential Units shall pay three-fourths (3/4) of the total Assessments, with individual Unit Assessments still being based on square footage of the Unit. Should the Association become the owner of any Unit(s), the assessment which would otherwise be due and payable to the Association by the owner(s) of such Unit(s), reduced by an amount of income which may be derived from the leasing of such Unit(s) by the Association, shall be a Common Expense of the Association apportioned and the assessment therefor levied among the owners of all Units as provided herein, which are not owned by the Association, based upon their proportionate interests in the Common Elements exclusive of the interests therein appurtenant to any Unit or Units owned by the Association.

**17.2 Time for Payment.** The assessment levied against the Unit and the owner thereof shall be assessed on an annual basis and may be payable in quarterly, monthly, or such other installments and at such times as shall from time to time be fixed by the Board in accordance with provisions of applicable law.

**17.3 Annual Budget.** The Initial 2009 Monthly Expenses for the Association is attached as Exhibit "I" hereto based on the allocations as described in Section 17.1 hereinabove. Subsequent to the first year, the Board shall, in accordance with the Bylaws of the Association, establish an Annual Budget in advance for each calendar year, including estimates for all expenses for the forthcoming year required for the proper operation, management and maintenance of the Condominium, including, unless deemed unnecessary by the Board, a reasonable allowance for contingencies and general operating reserves. Upon adoption of each annual budget by the Board, copies thereof shall be delivered to each Unit owner, and the assessment for the year shall be based upon such Budget. Such budget shall be located in the office records of the Association and available to any Unit owner upon request. Therefore, failure to deliver a copy of the Budget to a Unit owner shall, however, not affect the liability of such owner for such assessment. Should the Board at any time and from time to time determine, in the sole discretion of the Board, that the assessments levied are or may prove to be insufficient to pay the costs of operation and management of the Condominium, or in the event of emergencies, the Board shall have the authority to levy such additional assessment or assessments as it shall deem to be necessary.

**17.4 Capital Expense Reserve Fund.** The Board, in establishing each annual budget shall at closing collect a sum to be maintained as reserve funds for the replacement of Common Elements and personal property held for the common use and benefit of the owners of all Units. The initial fund shall equal 1/12 of the annual Unit dues.

**17.5 General Operating Reserve.** The Board, when establishing each annual budget, shall include therein a sum to be collected and maintained as a general operating reserve to provide a measure of financial ability during periods of financial stress when such sums may be used to meet deficiencies from time to time existing as a result of delinquent payment of assessments by owners of Units, as a result of emergencies, or for other reasons placing financial stress upon the Association. The initial reserve shall equal 2/12 of the annual Unit dues.

**17.6 Use of Association Funds.** All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the

Association to the payment of any expense of maintaining, operating and managing the Condominium, and to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles, and Bylaws. As the monies for annual assessments are paid to the Association by any Unit owner, the same may be commingled with monies paid to the Association by the other owners of Units. Capital Expense Reserve and General Operating Reserve funds of the Association shall not be commingled, but may be invested in a common investment, as long as separate accounts are maintained for each fund. All funds and other assets of the Association, and any increments thereto or profits derived therefrom, or from the leasing or use of Common Elements, including, without limitation, Common Surplus, shall be held for the benefit of the members of the Association; however, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Unit.

**17.7 Delinquency or Default.** The payment of any assessment or installment thereof due to the Association shall be in default if not paid to the Association on or before the due date thereof. When in default, the delinquent assessments or installments thereof shall bear interest at the rate of eighteen (18%) percent per annum, or the maximum allowable by law, and all interest due thereon, has been paid in full. If the assessment is not paid when due, and if the Association thereafter files a claim of lien in respect to it, then all assessments due in respect to the Unit for the remainder of the year in which the claim of lien is filed shall be accelerated and will stand due and payable in full and be secured by such claim of lien.

**17.8 Personal Liability of Unit Owner.** The owner(s) of each Unit shall be personally liable, jointly and severally, as the case may be, to the Association for the payment of all assessments, regular or special, interest on such delinquent assessments or installments thereof as above provided, and for all costs of collecting the assessments and interest thereon, including a reasonable attorney's fees, costs of litigation, expert witness fees and other costs and expenses, whether suit be brought or not, levied or otherwise coming due while such person(s) or entity own(s) a Unit.

**17.9 Liability Not Subject to Waiver.** No owner of a Unit may exempt himself or herself from liability for any assessment levied against such owner and his or her Unit by waiver of the use or enjoyment of any of the Common Elements, or by abandonment of the Unit, or in any other manner.

**17.10 Lien for Assessment.** The Association is hereby granted a lien upon each Unit, which includes the percentage of common area relative to the Unit size, and its appurtenances, which lien shall and does secure the monies due for all: (i) assessments levied against the Unit and the owner(s) thereof, (ii) interest, if any, which may become due on delinquent assessments owing to the Association, and (iii) costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association in enforcing its lien upon the Unit and its appurtenances. The lien granted to the Association shall be established and may be foreclosed in the appropriate court in and for Jackson County, Mississippi as provided by the laws of the State of Mississippi.

**17.11 Recording and Priority of Lien.** The lien of the Association shall be effective from and after recording, in the Public Records of Jackson County, Mississippi, a claim of lien stating the description of the Unit encumbered thereby, the name and address of the Association, the name of the record owner, the amount and the date when due, and shall continue in effect, or until all sums secured thereby shall have been fully paid. Such claims of lien shall secure all unpaid assessments, interests, costs and attorney's fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to entry of a final

judgment of foreclosure. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. The lien of the Association (regardless of when a claim therefor is recorded or the period of time for which the assessment is due) shall be a lien on the Unit encumbered superior in priority to all mortgages or other liens regardless of when recorded, but shall be subordinate to the lien of any first mortgage which is recorded prior to the time of recording the Association's claim of lien. Provided, however, the lien of the Association for tax or special assessment advances made by the Association where any taxing authority having jurisdiction levies any tax or special assessment against the Condominium as an entirety instead of levying the same against each Unit and its appurtenant undivided interest in Common Elements, shall be prior in lien, right and dignity to the lien of all mortgages, liens and encumbrances, whether or not recorded prior to the Association's claim of lien therefor, and the Association's claim of lien for collection of such portion of any tax or special assessment shall specifically designate that the same secures an assessment levied pursuant to this provision.

**17.12 Effect of Foreclosure or Judicial Sale.** A lien that is registered prior to recording of a mortgage that is subject to foreclosure or judicial sale shall have priority; whereas a lien arising after a mortgage is filed shall be cancelled at the time of a foreclosure or judicial sale. In the event that any person, firm or corporation shall acquire title to any Unit and its appurtenant undivided interest in Common Elements by virtue of any foreclosure, judicial sale, or deed in lieu of foreclosure, of a first mortgage, such person, firm or corporation so acquiring title shall be liable and obligated for assessments as shall accrue and become due and payable for the Unit and its appurtenant undivided interest in Common Elements subsequent to the date of acquisition of such title, and shall be jointly and severally liable with the previous owner for the payment of any assessments which were in default and delinquent at the time it acquired such title, except that such person, firm or corporation shall acquire such title subject to the lien of any assessment by the Association representing an apportionment of taxes or special assessment levied by tax authorities against the Condominium in its entirety which survives the foreclosure. The grantee is jointly and severally liable with the grantor for all unpaid assessments against the grantor for the grantor's share of the Common Expenses up to the time of transfer of title, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee.

In the event of the acquisition of title to a Unit by the first mortgagee or its successor or assign by foreclosure, judicial sale, or deed in lieu of foreclosure, any assessment or assessments as to which the party so acquiring title shall not be liable shall be absorbed and paid by all owners of all Units as a part of the Common Expense, although nothing herein contained shall be construed as releasing the party personally liable for such delinquent assessment from the payment thereof or the enforcement or collection of such payment by means other than foreclosure.

**17.13 Effect of Voluntary Transfer.** When the owner of any Unit proposes to lease, sell or mortgage the same in compliance with other provisions of this Declaration, the Association, upon written request of the owner of such Unit, shall furnish to the proposed lessee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Association by the owner of such Unit. Such statement shall be executed by any officer of the Association and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.

In the event that a Unit is to be leased, sold or mortgaged at the time when payment of any assessment against the owner of the Unit and Unit due to the Association shall

be in default (whether or not a claim of lien has been recorded by the Association) then the rent, proceeds of such sale or mortgage proceeds, as the case may be, shall be applied by the lessee, purchaser or mortgagee first to payment of any then delinquent assessment or installment thereof due to the Association before payment of the balance of such rent, proceeds of sale or mortgage to the owner of the Unit responsible for payment of such delinquent assessment.

In any voluntary conveyance of a Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor made prior to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefore, provided said Association lien is filed of record in the Condominium lien records of the Chancery Clerk of Jackson County, Mississippi.

Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which shall prevent its thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed to be an election precluding the institution of suit at law to attempt to effect collection of any sum then remaining owing to it.

**18. REGISTRY OF OWNERS AND MORTGAGEES.** The Association shall at all times maintain a Register of the names and addresses of the owners and mortgagees of all Units. Upon the transfer of title to any Unit, the transferee shall notify the Association in writing of his or her interest in such Unit together with recording information identifying the instrument by which such transferee acquired his interest in the Unit ("Registered Owners"). The owner of each Unit encumbered by a mortgage shall notify the Association of the name and address of the mortgagee, the amount of such mortgage, or mortgages, and the recording information identifying the same ("Registered Mortgagees"). The holder of any mortgage encumbering a Unit may notify the Association of any such mortgage(s), and upon receipt of such notice, the Association shall register in its records all pertinent information pertaining to the same. The Association shall have no duty to research the public records of the land records in Jackson County. Failure of a Owner/Mortgagee to provide documentation shall constitute a waiver of their rights herein as to notice.

**19. ALTERATIONS OF AND IMPROVEMENTS TO UNITS AND COMMON ELEMENTS.** Neither a Unit owner nor the Association shall make any alterations, improvements or additions to Units or Common Elements, except in compliance with the following:

**19.1 By Unit Owner.** Unless the Unit owner(s) shall first submit plans for such work to the Board, and the Board, by resolution adopted by the affirmative vote of a majority of all members thereof, shall approve and consent thereto, no alteration of or improvement or addition to a Unit, or to any Limited Common Element to which the owner has an exclusive right of use, shall be made, constructed, erected or installed which shall: (1) remove, in whole or in part, replace, reroute, or otherwise affect any column, bearing wall or partition, pipe, duct, wire or conduit, or obstruct any easement herein provided for, or (2) remove, or change the style, pattern, material, texture or outside color of any door, window, screen, fixture, equipment or appliance in or on an exterior Unit or building wall, or (3) cover, from the inside or outside, the glass or other transparent and/or translucent material in any exterior door or window with, or apply or affix thereto, any material or substance which shall render the same opaque or change the exterior color thereof, except interior draperies, curtains, shades or shutters which are lined, backed, covered or painted on the side visible from the exterior with a neutral color material, or

(4) affix to or over any exterior door or window, or otherwise install on the exterior, of any Unit or building, any storm or hurricane shutter or awning or any protective or decorative panel, paneling, trim, enclosure, fixture, or appliance, excepting hurricane/storm shutters for terraces/balconies/lanais in accordance with Section 19.3 below, or (5) enclose any balcony, terrace or lanai adjoining a Unit or forming a part of a Unit (except as permitted in this Declaration, or (6) otherwise change, modify or alter the exterior of any Unit or building so that it thereby differs in appearance from any other Units.

A Unit owner making or causing to be made any such additions, alterations, or improvements agrees, and shall be deemed to have agreed, for such Unit owner and his heirs, personal representatives, successors, and assigns, as appropriate, to hold the Association, and any manager of the Condominium, together with all their officers, directors, partners, and all other Unit owners, harmless from any liability or damage to the Condominium Property and expenses arising therefrom, and shall be solely responsible for the maintenance, repair and insurance thereof from and after the date of installation or construction thereof, as may be required by the Condominium Association. The Unit owner is responsible and liable for any damage done to other Units during any such approved additions, alterations or improvements.

A Unit owner making or causing to be made any such additions, alterations or improvements acknowledges that same may not be covered by the Association's insurance policy and duty is on the Unit owner to make determination.

**19.2 By Association.** There shall be no material alterations or substantial improvements or additions to the Common Elements except in the following manner: subject to the foregoing restrictions against changing the exterior appearance of Units and/or buildings, the Association shall have the right to make or cause to be made alterations, improvements and/or additions to the Common Elements, except the acquisition of additional real property, which improvements, together with the costs thereof, have been approved by the owners of Units to which two-thirds (2/3) of the Common Elements are appurtenant. The cost of such alterations, improvements and/or additions shall be assessed against and collected from the owners of all Units as Common Expenses.

**19.3 Hurricane/Storm Shutters.** Unit owners may install hurricane/storm shutters protecting their windows with approval from the Board of Directors of the Association. No storm shutter except of the models, colors and styles adopted by the Board of Directors shall be used in or upon the Condominium Property which comply with applicable building codes.

**20. TERMINATION.** The Condominium may be terminated in the following manner:

**20.1 Destruction.** In the event it is determined in the manner elsewhere herein provided that the improvements shall not be reconstructed because of total destruction or major damage, the Condominium plan of ownership will be thereby terminated unless agreement under Article 20.2.

**20.2 Agreement.** The Condominium may be terminated at any time by the approval in writing of all of the owners of Units in the Condominium. If the proposed termination is submitted to a meeting of the members of the Association, the notice of which meeting gives notice of the proposed termination, and if the approval of the owners of Units to which not less than seventy-five percent (75%) of the Common Elements are appurtenant, and of the Registered Mortgagees, are obtained not later than thirty (30) days after the date of such meeting, then the approving owners shall have an option to buy all of the Units of the non-

approving Unit owners during a period ending on the sixtieth (60th) day from the date of such meeting. Such option shall be upon the following terms:

(1) **Exercise of Option.** The option shall be exercised by delivery or mailing by certified mail to each of the record owners of the Units to be purchased of an agreement to purchase signed by the record owners of Units who will participate in the purchase. Such agreement shall indicate which Units will be purchased by each participating owner and shall agree to purchase all of the Units owned by owners not approving the termination, but the agreement shall effect a separate contract between each seller and his purchaser.

(2) **Price.** The sale price for each Unit shall be the fair market value determined by agreement between the seller and purchaser within thirty (30) days from the delivery or mailing of such agreement, and in the absence of agreement as to price, it shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Unit; and a judgment of specific Performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

(3) **Payment.** The purchase price shall be paid in cash.

(4) **Closing.** The sale shall be closed within ten (10) days following the determination of the sale price.

(5) **Extension of Closing.** Failure to exercise said Option to Purchase within the sixty (60) days shall waive same unless 100% of the non-approving Unit owners extend such time period. Should there be a situation involving arbitration referred to in Item 20.2(2) above, the closing shall be extended sixty (60) days.

**20.3 Certificate.** The termination of the Condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its President and Secretary certifying as to facts effecting the termination, which certificate shall become effective upon being recorded in the Public Records of Jackson County, Mississippi.

**20.4 Shares of Owners After Termination.** After termination of the Condominium the Unit owners shall own the Condominium Property and all assets of the Association as tenants in common in undivided shares, and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the Unit owners. Such undivided shares of the Unit owners shall be the same as the undivided shares in the Common Elements appurtenant to the owners' Units prior to the termination as set forth in Exhibit "E" hereto.

**20.5 Amendment.** This Article 20 shall not be amended without consent of all Unit owners and of all Registered Mortgagees.

## **21. ADDITIONAL RIGHTS OF DECLARANT.**

**21.1 Models and Sales Offices.** So long as Declarant, or any mortgagees succeeding Declarant in title, shall own any Unit, it shall have the right to use any such Unit as a model and/or office, to lease or sell any such Unit to any person, firm or corporation, upon any

terms and conditions as it shall deem to be in its own best interests. Declarant additionally reserves the right to add additional recreational facilities or to expand the existing facilities without the necessity of obtaining the consent of the Unit owners or the Association; provided, however, that the Declarant is under no obligation to add any such facilities.

**21.2 Telecommunication Equipment.** The Declarant reserves unto itself, the power and authority, but not the obligation, to contract for, construct or install over, through, under, across and under any portion of the Condominium Property for the use of the Unit owners and the Declarant, its successors and assigns, one or more telephone, cable and/or telecommunications receiving and distributions systems, electronics surveillance systems, emergency, medical or surveillance monitoring or alarm systems, and all associated equipment, lines, antennae, satellites or other telecommunication equipment presently existing or hereafter created (hereinafter the "Equipment Systems"), together with the perpetual, non-exclusive easement right and privilege of (1) unlimited ingress and egress to and upon, and use of, the Condominium Property, including Units, for installing, constructing, inspecting, repairing, maintaining, altering, moving, improving and replacing the Equipment Systems, and (2) distribution of signals and transmissions of whatever type. The Equipment Systems may be owned and exclusively controlled by the Declarant, its successors and assigns. The Declarant, its successor and assigns shall have a perpetual non-exclusive easement right and privilege to use portions of the Condominium Property for the Equipment Systems as well as for the services to be provided thereby, in its sole discretion, so long as such use does not unreasonably interfere with the intended use of the Condominium Property by the Unit owners.

**21.3 Amendment.** This Article 21 shall not be amended without the consent of the Declarant.

**22. MORTGAGEE PROTECTION CLAUSE.** The Association shall have no duty to research title to the Unit to determine mortgagee's interest and no notice shall exist without registration by mortgagee of its lien position. The following provisions are for the benefit of Registered Mortgagees and to the extent these provisions conflict with any other provisions of this Declaration, these provisions shall control:

**22.1** All such mortgagees who have registered their names with the Association shall be given (i) thirty (30) days written notice prior to the effective date of any proposed, material amendment to this Declaration or the Articles of Incorporation or Bylaws of the Association and prior to the effective date of any termination of any agreement for professional management of the Common Elements following a decision of the Unit owners to assume self-management of the Common Elements; (ii) immediate notice following any damage to the Common Elements whenever the cost of reconstruction exceeds Ten Thousand Dollars (\$10,000.00), and as soon as the Board learns of any threatened condemnation proceeding or proposed acquisition of any portion of the Common Elements; (iii) thirty (30) days notice after delinquency of more than sixty (60) days in payment of assessments by the owner of the Unit on which it holds a registered mortgage; (iv) thirty (30) days written notice prior to lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and (v) thirty (30) days written notice prior to any proposed action which requires the consent of any percentage of Registered Mortgagees.

**22.2** Unless at least sixty percent (60%) of Registered Mortgagees (based upon one vote for each Mortgage owned), and sixty percent (60%) of the Unit owners (other than Declarant) have given their prior written approval, and the approval of Declarant has been obtained if Declarant holds any Units for sale in the ordinary course of business, neither the Association, nor the Unit owners shall:

(1) Change the method of determining the obligations, assessments, dues or other charges which may be levied against a Unit;

(2) Except as otherwise provided by reservation to Declarant herein, amend this Declaration or the Articles of Incorporation or Bylaws of the Association in such a manner that the rights of any mortgagee will be directly and adversely affected.

22.3 Whether registered or not, any action of the Board of Directors or the Association shall be subject to any and all liens of record against a Unit at the time of the action and any taking of the Units is subjected to such Mortgagee's lien.

### 23. LIABILITY - GENERALLY.

23.1 **General Provisions.** Notwithstanding anything contained in this Declaration, the Articles, Bylaws or rules and regulations of the Association, or any other document governing or binding the Association ("Property Documents"), neither the Declarant nor Association, will be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Unit owner, occupant or user of any portion of the Property, including without limitation, residents, their families, guests, invitees, licensees, agents, servants, contractors or subcontractors, nor for any property of such persons.

23.2 **Specific Provisions.** Without limiting the generality of the foregoing:

(1) It is the express intent of the Property Documents that the various Provisions of the documents which are enforceable by the Association and which govern or regulate the use of Condominium Property have been written and are to be interpreted and enforced for the sole purpose of enhancing and maintaining the enjoyment of the Condominium Property and the value thereof.

(2) Neither the Declarant nor the Association, are empowered to enforce or insure compliance with the laws of the United States, the State of Mississippi, the County, or any other jurisdiction, or to prevent tortious activities by Unit owners or third parties.

(3) The provisions of the documents setting forth the uses of Association which relate to health, safety or welfare will be interpreted and applied only as limitations on the uses of such funds and not as creating a duty of the Association, or the Declarant to protect or further the safety or welfare of the persons, even if such funds are used for such purposes.

23.3 **Owner Covenant.** Each Unit owner, his heirs, for himself and his successors and assigns (by virtue of his acceptance of title to his Unit) and each other person or entity having an interest or lien upon or making use of any portion of the Condominium Property (by virtue of accepting such interest or lien or by making use thereof), will be bound by this Section and will be deemed to have automatically waived any and all rights, claims, demands or causes of action against the Association, and the Declarant arising from or connected with any manner for which the liability of the Association, and the Declarant have been disclaimed in this Section. It is further agreed that each Unit owner agrees to defend, indemnify and hold harmless the Declarant, Association and their agents, officers, employees and insurers against any loss, cost, claim or damage including but not limited to attorney's fees, expert fees and all other costs and expenses of litigation, arbitration, mediation or consultation with counsel, arising out of personal injury, illness, death, property damage or other damage or loss of any kind or nature of any person or entity caused in whole or in part by any act, inaction or occurrence (i) by

the Unit owner, or their guest, invitee, or agent wherever the same may occur; and (ii) within the Unit owned by owner.

**24. MISCELLANEOUS.**

**24.1 Severability.** The invalidity in whole or in part of any covenant or restriction, or any Article, sub-article, sentence, clause, phrase or word, or other provision of this Declaration of Condominium and the Articles of Incorporation, Bylaws and regulations of the Association shall not affect the validity of the remaining portions thereof.

**24.2 Applicability of Declaration of Condominium.** All present or future owners, tenants, or any other person who might use the facilities of the Condominium in any manner, are subject to the provisions of this Declaration, and the mere acquisition or rental of any Unit, or the mere act of occupancy of any Unit, shall signify that the provisions of this Declaration of Condominium are accepted and ratified in all respects.

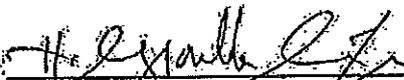
**24.3 Construction.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of condominium ownership.

**24.4 Parties Bound.** The restrictions and burdens imposed by this Declaration of Condominium are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Unit and its appurtenant undivided interest in Common Elements and this Declaration shall be binding upon Declarant, its successors and assigns, and upon all parties who may subsequently become owners of Units in the Condominium, and their respective heirs, legal representatives, successors and assigns.

**24.5 Declarant's Rights.** Any rights vested in the Declarant shall pass to the Association when the Declarant has sold all Residential Units in the Condominium, with the exception of the lease described in Section 21.3.

**IN WITNESS WHEREOF,** Declarant has caused the foregoing Declaration of Condominium to be executed, and its corporate seal to be affixed, by its undersigned, duly authorized officers on the date first set forth above.

GUYTON PLACE, LLC

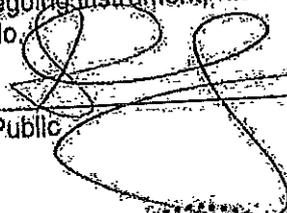
By: 

H. GRANVILLE SMITH,  
a/k/a GRANVILLE SMITH

Its: *Manager*

STATE OF MISSISSIPPI  
COUNTY OF HARRISON

Personally appeared before me, the undersigned authority in and for the said county and state, on this 12 day of December 2008 within my jurisdiction, the within named H. GRANVILLE SMITH a/k/a GRANVILLE SMITH, who acknowledged to me that he is the Manager of GUYTON PLACE, LLC, a Mississippi limited liability company, and that for and on behalf of GUYTON PLACE, LLC, and as the act and deed of said limited liability companies in the capacity set forth above, he executed the above and foregoing instrument, after first having been duly authorized by said limited liability company so to do.

  
\_\_\_\_\_  
Notary Public

(Seal)  
My Commission Expires: \_\_\_\_\_



JOINER AND CONSENT TO  
DECLARATION OF CONDOMINIUM

The undersigned, being the owner and holder of a mortgage recorded in Official Records Book \_\_\_\_\_, Page \_\_\_\_\_, of the Public Records of Jackson County, Mississippi, which mortgage encumbers the land described in the foregoing Declaration of Condominium for GUYTON PLACE, a Condominium Facility, hereby joins in and consents to the said Declaration.

Executed this 10th day of December, 2008.

Signed, sealed and delivered  
in our presence

(Corporate Seal)  
STATE BANK & TRUST CO., a  
MISSISSIPPI banking corporation

Witness #1 (print name below)  
\_\_\_\_\_  
\_\_\_\_\_

By:   
DAVID ROUSSEL, as  
CITY PRESIDENT

Witness #2 (print name below)  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF MISSISSIPPI  
COUNTY OF JACKSON

The foregoing instrument was acknowledged before me this 11th day of December, 2008, by DAVID ROUSSEL as CITY PRESIDENT of STATE BANK & TRUST CO., a banking corporation, on behalf of the corporation. He is personally known to me or has produced \_\_\_\_\_ as identification.

(Affix Seal)

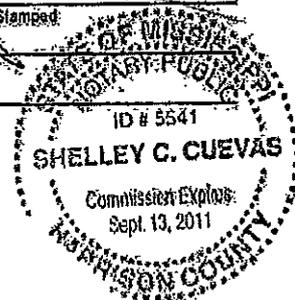
Signature of Person Taking Acknowledgment  
SHELLEY C. CUEVAS

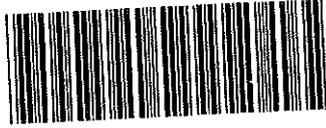
Name of Acknowledger (Typed, Printed or Stamped)

Title or Rank

Serial Number, if any

My commission expires:





201608836 11 PGS

OFFICIAL RECORDS JACKSON COUNTY  
Josh Eldridge  
CHANCERY CLERK  
RECORDING FEE: \$45.00  
#201608836 BK: 1819 PG: 441-451  
06/13/2016 09:51:16 AM 11 PGS  
DLONNEMAN, DC Rept#10299

Prepared by and after recording return to:  
Robert T. Schwartz, Esq.  
Schwartz, Orgler & Jordan, PLLC  
2355 Pass Road  
Biloxi, MS 39531  
(228) 388-7441  
MSB # 10482  
[robert@sojlaw.net](mailto:robert@sojlaw.net)

Grantors:  
Coastal Equities & Development, LLC, etal.  
1836 Beach Blvd.  
Biloxi, MS 39531  
(228) 435-7200

Venture III, LLC  
922 Porter Avenue  
Ocean Springs, MS 39534  
(228) 701-1960

Index in: Units 101-112 (inclusive) and 201-222 (inclusive) in Guyton Place Condominiums

Referenced documents: Declaration of Condominium, Restrictive Covenants and Easements,  
recorded in Book 1563 at Page 379-438.

Name of Document: Amendment to Declaration of Condominium, Restrictive Covenants, and  
Easements for Guyton Place, A Condominium Facility

STATE OF MISSISSIPPI  
COUNTY OF JACKSON

**Amendment to Declaration of Condominium, Restrictive Covenants, and Easements for  
Guyton Place, A Condominium Facility Place**

2

This Amendment to Declaration of Condominium, Restrictive Covenants, and Easements for Guyton Place, A Condominium Facility Place, is made on March 1, 2016, by and between Coastal Equities & Development, LLC, a Mississippi Limited Liability Company, successor by Assignment to Guyton Place, LLC, ("Declarant"), joined by Venture III, LLC, a Mississippi Limited Liability Company ("Venture").

Whereas Guyton Place, LLC, ("Guyton") was the Original Declarant pertaining to the Guyton Place Condominiums ("Development"), as defined in that Declaration of Condominium, Restrictive Covenants, and Easements for Guyton Place, dated December 12, 2008, recorded in the Office of the Chancery Clerk of Jackson County, Mississippi, in Book 1563, Pages 379-438 (the "Declaration"); and

Whereas, Assignor is the successor Declarant by virtue of a Warranty Bill of Sale and Assignment from Guyton, a copy of which is attached hereto and marked as Exhibit "A"; and

Whereas Assignor is the owner of the following residential units in the Development, which have never been sold following construction:

Units 201, 202, 203, 204, 209, 210, 211, 212, 215, 216, 217, 219, 220, 221, 222 of GUYTON PLACE, A CONDOMINIUM FACILITY, a condominium according to the official map or plat thereof; on file and of record in the office of the Chancery Clerk of Jackson County, Mississippi in Plat Book 23 at Page 77 thereof; together with an undivided interest in and to the common elements thereof for each unit conveyed. And also non-exclusive use of storage units and an interest in parking spaces P4, P5, P6, P7, P11, P12, P14, & P15, and appurtenances thereof, as set forth in the Declaration of Condominium, Restrictive Covenants and Easements and therefore subject to that certain Declaration of Condominium, Restrictive Covenants and Easements dated December 12, 2008, and recorded in Book 1563 at Page 379 and all amendments thereto; ("Developer Units") and

Whereas Venture is the owner of the following commercial units in the Development:

Units 101, 102, 103, 104, 105, 106, 107 and 108, of GUYTON PLACE, A CONDOMINIUM FACILITY, a condominium according to the official map or plat thereof; on file and of record in the office of the Chancery Clerk of Jackson County, Mississippi in Plat Book 23 at Page 77 thereof; together with an undivided interest in and

to the common elements thereof for each unit conveyed, and appurtenances thereof, as set forth in the Declaration of Condominium, Restrictive Covenants and Easements and therefore subject to that certain Declaration of Condominium, Restrictive Covenants and Easements dated December 12, 2008, and recorded in Book 1563 at Page 379 and all amendments thereto; and

Whereas, Guyton Place Owners Association, Inc., a Mississippi Non-Profit Corporation ("Company"), and

Whereas, Declarant and Venture which in the aggregate constitute 2/3rds of the owners of the Residential Units and Commercial Units in the Development, desire to amend certain terms and conditions of the Declaration, by consent pursuant *inter alia* to Article 11.3 of the Declaration.

Whereas, the Company executes this Agreement to acknowledge the Amendments made by the Owners described herein.

Now therefore, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby amend the Declaration as follows:

1. Voting Rights. Section 8 of the Declaration is hereby amended to reflect that the Residential Unit Owners and Commercial Unit Owners shall each be entitled to one vote per unit, regardless of the type or size of the Unit, and the prior references in the Declaration to Residential Units having fifty percent (50%) of the voting rights in the Association and the Commercial Units having fifty percent (50%) of the voting rights in the Association, are hereby deleted.
2. Quorum. Section 3.07 of the Bylaws attached to the Declaration is hereby amended to reflect that the Residential Unit Owners and Commercial Unit Owners shall each be entitled to one vote per unit, regardless of the type or size of the Unit, and the prior reference in the Declaration to Residential Units having fifty percent (50%) of the voting rights in the Association and the Commercial Units having fifty percent (50%) of the voting rights in the Association, is hereby deleted. A quorum shall continue to consist of fifty-one percent (51%) of the votes for all Units entitled to be cast at any meeting.
3. Votes. Section 4.01 of the Bylaws attached to the Declaration is hereby amended to reflect that the Residential Unit Owners and Commercial Unit Owners shall each be entitled to one vote per unit, regardless of the type or size of the Unit, and the prior references in the Declaration to Residential Units having fifty percent (50%) of the voting rights in the Association and the Commercial Units having fifty percent (50%) of the voting rights in the Association, are hereby deleted.

- 4
4. Capital Expense Reserve Fund. Section 17.4 of the Declaration, and Section 9.05 of the Bylaws are amended to clarify that the Capital Reserve payments shall only be made upon sale of a Unit to a party other than the Declarant and Declarant's designated successors and/or assigns. Additionally, any Units sold in the Development prior to the date of this Amendment are exempted from making the Capital Reserve payment described in said Sections.
  5. General Operating Reserve Fund. Section 17.5 of the Declaration, and Section 9.05 of the Bylaws are amended to clarify that the General Operating Reserve payments shall only be made upon sale of a Unit to a party other than the Declarant and Declarant's designated successors and/or assigns. Additionally, any Units sold in the Development prior to the date of this Amendment are exempted from making the General Operating Reserve payment described in said Sections.
  6. Exemption of Developer Units from Monthly Dues and Assessments. The Declaration and Bylaws are hereby amended to provide for an exemption of Developer Units from monthly dues and assessments by the Association. Until such time as the Developer Units are individually sold to third parties (and specifically excluding a sale of all Developer Units to a designated Successor or Assignee of the Developer, which shall allow the units to retain their current status as Developer Units), the Declarant may elect by written notice to the Association not to subject the Developer Units to monthly assessments by the Association. In the event Declarant makes such an election, the Declarant shall pay all costs attributed to the Developer Units during such time periods for which monthly assessments are not made to the Developer Units, so that the other Unit Owners in the Development will not bear additional costs related to the Developer Units.
  7. Remaining Terms and Provisions. Except as amended herein the remaining terms and Provisions of the Declaration and exhibits shall remain unaffected and in full force.
  8. Multiple Counterparts. This document may be executed in multiple counterparts, each of which when assembled shall constitute one original document.

SIGNATURE PAGES TO FOLLOW

Coastal Equities & Development, LLC

BY: Raymond A. Wooldridge  
Raymond A. Wooldridge, Manager

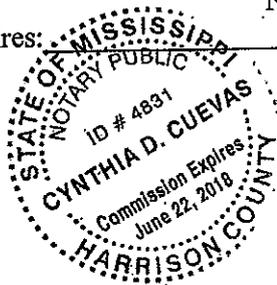
STATE OF MISSISSIPPI  
COUNTY OF HARRISON

Personally appeared before me, the undersigned authority in and for the said county and state, on this March 11, 2016, within my jurisdiction, the within named Raymond A. Wooldridge, who acknowledged that he is the Manager of Coastal Equities & Development, LLC, and that he executed the above and foregoing instrument for and on behalf of said entity, being first duly authorized so to do.

Cynthia D. Cuevas  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

(SEAL)



Guyton Place Owners Association, Inc.

BY: *Raymond A. Wooldridge*  
Raymond A. Wooldridge, President

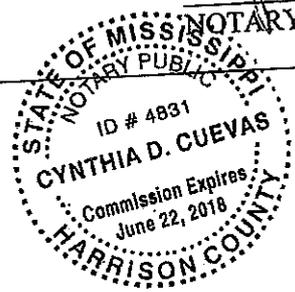
STATE OF MISSISSIPPI  
COUNTY OF HARRISON

Personally appeared before me, the undersigned authority in and for the said county and state, on this March 11, 2016, within my jurisdiction, the within named Raymond A. Wooldridge, who acknowledged that he is the President of Guyton Place Owners Association, Inc., and that he executed the above and foregoing instrument for and on behalf of said entity, being first duly authorized so to do.

*Cynthia D. Cuevas*

My Commission Expires: \_\_\_\_\_ NOTARY PUBLIC

(SEAL)



Venture III, LLC

BY: Mickey Anderson  
Mickey Anderson, Manager

STATE OF MISSISSIPPI  
COUNTY OF HARRISON

Personally appeared before me, the undersigned authority in and for the said county and state, on this March 2<sup>nd</sup>, 2016, within my jurisdiction, the within named Mickey Anderson, who acknowledged that he is the Manager of Venture III, LLC, and that he executed the above and foregoing instrument for and on behalf of said entity, being first duly authorized so to do.

Rachel E. Sharp  
NOTARY PUBLIC

(SEAL)

My Commission Expires: 7/5/19



Exhibit "A"  
Assignment of Declarant's Rights by Warranty Bill of Sale

8

Prepared By:  
Robert T. Schwartz, Esq.  
Schwartz Orgler & Jordan, PLLC  
2355-B Pass Road  
Biloxi, MS 39531  
(228)388-7441  
MSB # 10482  
File No. B100596

**STATE OF MISSISSIPPI  
COUNTY OF JACKSON**

**WARRANTY  
BILL OF SALE**

FOR AND IN CONSIDERATION OF the sum of Ten and 00/100s Dollars (\$10.00), in hand paid, together with other good and valuable consideration, the receipt of all of which is hereby acknowledged, **Guyton Place, LLC, a Mississippi Limited Liability Company,** ("Grantor") does hereby sell, convey, transfer and warrant to **Coastal Equities & Development, LLC, a Mississippi Limited Liability Company,** ("Grantee") the following:

1. All plans, specifications, licenses, permits, manufacturers warranties, implied warranties and express warranties related to the Guyton Place Condominiums;
2. Easements appurtenant and improvements on the Guyton Place Condominiums property described below;
3. Fixtures, personal property, gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, and motors, plumbing, cooling and heating fixtures, carpeting and other floor coverings, wall coverings, water heaters, awnings and storm sashes, including any cleaning apparatus on the Guyton Place Condominiums property described below;
4. All rights of the "Developer" as defined in that Declaration of Condominium, Restrictive Covenants and Easements dated December 12, 2008, and recorded in Book 1563 at

Page 379 ("Declaration"). Excluded from said transfer are any obligations of the Developer which occurred or accrued under the Declaration prior to the date hereof. 10

5. All rights of membership in the Guyton Place Owners Association, Inc., a Mississippi Corporation ("HOA").

6. All other furnishings, furniture, machinery, equipment, appliances, vehicles and personal property of every kind and nature located in, on or about, or used or intended to be used with or in connection with the construction, use, operation or enjoyment of the Guyton Place Condominiums, including all extensions, additions, improvements, betterments, renewals and replacements, substitutions, thereof, and all building materials and supplies of every kind now located upon the following-described real property being located in Jackson County,

Mississippi:

Units 111, 112, 201, 202, 203, 204, 206, 207, 209, 210, 211, 212, 213, 214, 215, 216, 217, 219, 220, 221 and 222 of GUYTON PLACE, A CONDOMINIUM FACILITY, a condominium according to the official map or plat thereof; on file and of record in the office of the Chancery Clerk of Jackson County, Mississippi in Plat Book 23 at Page 77 thereof; together with an undivided interest in and to the common elements thereof for each unit conveyed. And also non-exclusive use of storage units and parking spaces and appurtenances thereof, as set forth in the Declaration of Condominium, Restrictive Covenants and Easements and therefore subject to that certain Declaration of Condominium, Restrictive Covenants and Easements dated December 12, 2008, and recorded in Book 1563 at Page 379 and all amendments thereto.

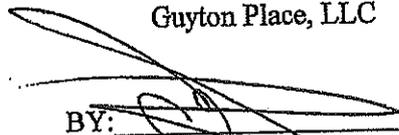
Being all of the Grantor's interest of any and every type in all units and common areas in the Guyton Place Condominiums.

7. All rights to the trade name "Guyton Place" and "Guyton Place Condominiums", including any derivative thereof.

And, for the consideration hereinbefore stated, Grantor does hereby guarantee that the above described personal property conveyed is free and clear of any and all liens and encumbrances.

WITNESS THE SIGNATURE of the undersigned, this the 12 day of August, 2010. .

Guyton Place, LLC



BY: \_\_\_\_\_  
Gregory Stewart, Manager

STATE OF MISSISSIPPI  
COUNTY OF JACKSON

THIS DAY PERSONALLY CAME AND APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, Gregory Stewart, who acknowledged that he is a Manager of Guyton Place, LLC, and as its act and deed, he signed, sealed and delivered the above and foregoing instrument of writing on the day and in the year therein mentioned after having been first duly authorized to do so.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, this the 12 day of August, 2010.

\_\_\_\_\_  
NOTARY PUBLIC



My Commission Expires:

\_\_\_\_\_

**Guyton Place Home Owner's Association**  
3586 Sangani Blvd L-311 D'Iberville, MS 39540

May 29, 2020

To whom it may concern,

Guyton Place Home Owner's Association is not involved in any litigation as of today, May 29, 2020.

Sincerely,

A handwritten signature in black ink, appearing to read 'Al Bienvenu', with a stylized flourish at the end.

Al Bienvenu  
President  
Guyton Place Home Owner's Association