

STATE OF MISSISSIPPI
COUNTY OF RANKIN

**PLAN OF CONDOMINIUM AND DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
LIBERTE CONDOMINIUMS**

This Plan is made on this the ___ day of _____ 2022, by XLI, LLC, a Mississippi limited liability company (the "Declarant").

W I T N E S S E T H:

PLAN OF CONDOMINIUM

The Declarant is the owner of that certain parcel of land more particularly described in Exhibit "A" (the "Land"), attached hereto and by reference made a part hereof, and is the owner of all of the buildings and improvements now located on the Land. The condominium project when complete will consist of twenty-four (24) fourplex buildings containing a total of ninety-six (96) units, clubhouse, swimming pool, private streets, and gated entrance (the "Improvements"), together with all rights, easements, privileges, and appurtenances belonging or in any way appertaining thereto. The Declarant desires to subject its fee simple interest in the Land and the Improvements, hereinafter sometimes referred to as the "Property", to this Plan of Condominium.

WHEREAS, a plat of the property, as described on Exhibit A, is depicted on the plat thereof filed in the office of the Chancery Clerk of Rankin County, Mississippi and on file and of record in said office in Plat Cabinet D at Slots ___ through ___, which shows the location of each condominium unit, constructed or to be constructed, its proximity to other units and each unit's dimensions, as well as all elements of common ownership, and by reference said plat is hereby made a part hereof for all purposes and is incorporated herein as if set out in words and figures in full herein.

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

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

ARTICLE I

DEFINITIONS AND DESCRIPTIONS

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

- (a) "Act" shall mean the Mississippi Condominium Law of the State of Mississippi, as found in Title 89, Chapter 9, Section 1, et seq. of the Wests Annotated Mississippi Code.
- (b) "Assessment" or "Assessments" shall mean the share allocated to a Unit and thereby the Unit Owners of such Unit of all Assessments levied by the Association pursuant to the provisions of Article VI hereof and any and all expenses, costs, charges and other amounts incurred with respect to either such Unit or the satisfaction, discharge or compliance with any obligations or duties of the Unit Owners of any Unit as specified in this Declaration.
- (c) "Association" shall mean Liberte Condominium Association, a Mississippi nonprofit corporation, its successors and assigns.
- (d) "Board of Governors" shall mean the Board of Governors of the Association.
- (e) "Buildings" shall mean the twenty-four (24) fourplex buildings depicted as a numbered building on the Plat. Each Building may house a combination of floor plans. The deed conveying a Unit will describe the Building by its Number, the Unit Number, the Name of the floor plan and the style of the plan, all as shown on the Plat.
- (f) "Bylaws" shall mean the bylaws of the Association as amended from time to time.
- (g) "Charter" means the Articles of Incorporation of the Association, as amended from time to time.
- (h) "Common Area" or "common area" or "Common Elements" or "common elements" shall mean and include all parts of the condominium property not located within the boundaries of a unit and those areas depicted on the Plat as Common Area or Common Elements. Pursuant to Section 89-9-13 of the Act, each unit is allocated an undivided percentage interest in the Common Area equal to each other unit, as further specified in Section 2 of this Article I.
- (i) "Common Expense" or "common expense" shall mean all expenditures lawfully made or incurred by, or on behalf of, the Association, together with all funds lawfully assessed for the creation and/or maintenance of reserves.

- (j) "Declarant" or "Developer" shall mean and refer to XLI, LLC, a Mississippi limited liability company, its successors and assigns if such successor or assign should acquire more than one undeveloped or partially undeveloped unit from the Declarant for the purpose of development.
- (k) "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for Liberte Condominiums, as supplemented from time to time.
- (l) "Eligible Mortgage Holder" shall mean those holders of a First Mortgage on a Unit (or an insurer or guarantor of a First Mortgage) who have requested, in writing, the Association to notify them on any proposed action that requires the consent of a specified percentage of eligible mortgage holders or of any Assessment or installment thereof, which shall become and remain delinquent for a period in excess of sixty (60) days.
- (m) "First Mortgage" shall mean a mortgage, deed of trust or similar encumbrance creating a lien or encumbrance against a Unit which has priority over all other mortgages, deeds of trusts or similar encumbrances creating liens or encumbrances against such Unit.
- (n) "Invitees" shall mean a Unit Owner's tenants, guests, patrons, employees or other guests or invitees.
- (o) "Limited Common Area" or "limited common area" shall mean and include the exclusive use of that portion or portions of the common area reserved for and granted to a specific unit or Unit Owner to the exclusion of the other Units and their respective Unit Owners. See Also "Special Limited Common Area" pertaining to driveways.
- (p) "Management Agent" means the Person, if any, employed or retained by the Board of Governors for the purpose of conducting and managing the daily operations of the Association.
- (q) "Member" shall mean each Person who holds or has any class of membership in the Association as provided by Article III.
- (r) "Mortgagee" shall mean any Person who owns, holds or is the beneficiary of a mortgage, deed of trust or similar encumbrance creating a lien or encumbrance against any Unit, including, but not limited, to (i) a bank, (ii) a savings and loan association, (iii) a trust company, (iv) an insurance company, (v) a mortgage company, (vi) a trust (vii) a mortgage insurance company (viii) a mutual savings bank, (ix) a real estate investment trust, (x) a credit union, (xi) a pension fund, (xii) the Federal National Mortgage Association, (xiii) the Federal Home Loan Mortgage Corporation (xiv) a recognized institutional type lender or loan correspondent, (xv) any agency or a department of The United States of America

or any state, county or municipal government, (xvi) a corporation, or (xvii) an individual.

- (s) "Plan" shall mean this Plan of Condominium for Liberte Condominiums.
- (t) "Person" shall mean an individual, a corporation, a general or limited partnership, an association, a trust, an estate or any other legal entity.
- (u) "Plat" shall mean the plat of the Property which has been or shall be filed for record in the office of the Chancery Clerk of Rankin County, Mississippi.
- (v) "Properties," "Condominium," "Project," or "Property" shall mean the entire parcel of real property divided or to be divided into condominiums, including the Land, all improvements and structures thereon and all easements, rights and appurtenances belonging thereto including any additions thereto as may hereafter be brought within the jurisdiction of the Association.
- (w) "Special Limited Common Area" shall mean that portion of the driveways, as depicted on the Plat, which is shared by more than one Unit Owner, which driveway will be used exclusively by the Owners of the Units for which the driveway was constructed and designed to serve, their heirs, assigns, guests, and invitees and shall not be used in common by other Unit Owners.
- (x) "Supplement" means any amendment, modification, change or restatement of or to this Declaration.
- (y) "Unit Owner" shall mean and refer to the record owner, whether one or more persons or entities, of any unit which is a part of the Condominium, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.
- (z) "Unit" or "unit" shall mean a portion of the Condominium within the boundaries hereinafter described which is not owned in common with all other owners of other units in the Project. The Condominium consists of twenty-four (24) fourplex buildings making a total of ninety-six (96) units. Each Building will be constructed in accordance with the floor plan selected for each Unit to be included within the Building. There are four (4) basic styles of floor plans. Each unit consists of a dwelling and its appurtenant percentage of undivided interest in the Common Area. Each unit's appurtenant percentage of undivided interest in the Common Area is equal to each other unit's interest. Each unit's undivided percentage interest in and to the Common Area and the number of votes for each such unit is as follows:

<u>Number of Units</u>	<u>Percentage Interest For Each Such Unit</u>	<u>Undivided Interest for Each Unit</u>	<u>Number of Votes Per Unit</u>
96	1.04	1/96	1

Each of the Buildings will consist of a combination of the four (4) separate diagrammatic floor plans selected by the Declarant for the units within each Building, as said plans are depicted on the Plat in accordance with Section 89-9-9 of the Act. All units will be one story and will be constructed according to the floor plan selected for such unit. Except as provided in Section 1(h) of this Article, which describes the Common Areas, each unit includes that part of the structure which lies within the following boundaries:

- (i) Horizontal (upper and lower): the horizontal boundaries being the interior surfaces of the unit are as follows:

The lower boundary is the top of the unfinished concrete floor and the upper boundary is the bottom surface of the unfinished ceiling and extended upward to include all space in the attic above the first floor ceiling, but does not include the sheetrock ceiling, the ceiling joist, the rafters, and all bracing and decking

- (ii) Vertical (perimetric): the vertical boundaries of each unit, and all portions of the units having exterior walls, is the inner unfinished surface of all such exterior walls, provided that where there are windows or doors, the boundary is the interior surface of such doors and windows when closed. As to the wall between a unit and the adjacent unit the boundary is the center line of such wall. Where a patio is shown on the attached plans as part of an individual unit, such patio shall be and constitute a part of the unit.
- (iii) All attachments to the exterior wall or unit which are a part thereof, which protrude beyond the boundaries of a unit as specified above, which shall specifically include the air conditioning unit(s) affixed to each Unit, and which were constructed in accordance with the original design of the unit, even though located beyond the boundaries thereof, shall be and are deemed to be included within the boundaries of the unit so served.
- (iv) Any and all conduits, pipes, ducts, plumbing, wiring and other facilities for the furnishing of utility services which serve only one unit or part of that unit, when located within the boundaries thereof, shall be and are deemed to be included within the boundaries of the unit so served.
- (v) The owner of each respective Unit shall not be deemed to own separately the basic structural and supporting portions of the perimeter walls, floors, and ceilings surrounding his respective Unit, nor shall the Unit Owner be deemed to own separately pipes, wire, conduits or other public utility lines, running through said respective Units which are utilized for or serve more than one Unit, but the same shall be owned as tenants in common as part of the Common Area; however, each Unit Owner shall have an easement in the interest of the other owners in and to the aforesaid Common Areas and

facilities as shall be necessary for the support, maintenance, use and enjoyment of his Unit; such Unit Owner shall also be deemed to own and have the exclusive right to use all air and airspace within such Unit including, but not limited to, the inner decorated and/or finished surfaces of the perimeter walls, floors, and ceilings and the facilities, fixtures and equipment built or placed in and outside said unit and used for the exclusive service and convenience of such Unit, however for insurance purposes all such fixtures and equipment shall be considered as a part of the Common Area.

Section 2. Description.

a. Description of Buildings and other improvements. The Project will be constructed in one phase consisting of ninety-six (96) units constructed of wood, brick and concrete. Each of the buildings shall have a brick and hardiplank siding exterior and each unit within a Building will contain at least 1,875 square feet of allowable, heated and cooled area. The inner partitions between units consist of wood studs faced with gypsum sheet rock. The interior ground floors are concrete. The floor coverings will be carpet, vinyl, hardwood, and/or ceramic tile. Each unit will be supplied with electricity, telephone, water, sewer, and garbage collection service at a designated area. Each unit will be equipped with individual heating and air conditioning equipment. The Buildings and units are more fully depicted in the condominium plat and floor plans as shown on the Plat. Other significant improvements in the Liberte Condominium project include the grounds, clubhouse, swimming pool, private streets, driveways, and gated entrance.

b. Description of units. The units are defined and described as set forth in Section 1(z) of this Article I and as set forth in the previous section. The undivided 1/96 interest in and to the Common Area and Common Elements granted as an appurtenance to each Unit is inclusive of all Common Area and Common Elements now or hereafter constructed and subjected to this Plan of Condominium as if and to the same extent that all Common Area and Common Elements were constructed and in place at the time the Plat and the Plan were filed for record in the office of the Chancery Clerk of Rankin County, Mississippi, consequently each Unit and the Owners thereof, including the Declarant, shall be obligated for 1/96 of the assessments levied against the Units as provided in Article VI hereof. Notwithstanding the previous sentence or anything elsewhere contained in this Declaration to the contrary, the undivided interest in the Common Area or Common Elements appurtenant to each Unit shall not attach or affix to any Building in any Phase until the Declarant or the Developer has executed, delivered and recorded a deed to a purchaser of each Unit in each such Building, so that no Unit Owner shall have any right, input or control in or to the construction and development of such Building or Buildings as all such matters are under the control and approval of the Architectural Review Committee. Each Unit shall have one vote for the election of all officers of the Association and other voting rights as provided in Article III hereof.

c. Description of common elements and facilities. Common elements are described as defined in Section 1(h) of this Article I and shall include but not be limited to, land, parking area, roofs, foundations, pipes, ducts, flues, floors, ceilings, conduits, wires and other utility installations to the outlets, bearing walls, bearing columns, perimeter walls, to the undecorated or

unfinished interior surfaces thereof regardless of location, courtyards, walkways, gardens, recreational areas, private streets, a clubhouse and fitness center, and all other facilities which are now or hereafter contained within the Property, including all furniture and equipment placed in the Common Area for the common use and benefit of all Unit Owners, all limited and special limited common elements as hereinafter described, all installations of power, light, water, sewer, gas and garbage pick-up at designated areas, existing for common use, and all parts of the Property necessary or convenient to its existence, maintenance, and safety or normally in common use, a fence of at least six feet (6') in height around the Property together with security lighting along the streets and driveways in the condominium.

ARTICLE II

PROPERTY RIGHTS

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

- (a) Each Unit shall be individually transferred, conveyed, and encumbered and shall be subject to ownership, possession, mortgage, or sale and all other acts common to the ownership of real property as if it were solely and entirely independent of the other units in the Project. Any conveyance, encumbrance, judicial sale, or other transfer (voluntary or involuntary) of an individual interest in the Common Area shall be void, unless the unit to which that interest is allocated also is transferred.
- (b) Every Unit Owner shall have an exclusive ownership of his unit and shall have a right and easement of enjoyment in and to the Common Area and the unrestricted right of ingress and egress to his unit which shall be appurtenant to and shall pass with the title to every unit, subject to the following provisions:
 - (i) the right of the Association, acting by and through its Board of Governors, to suspend the voting rights and right to use of the said facilities by a Unit Owner for any period during which any assessment against his unit remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;
 - (ii) the right of the Association, acting by and through its Board of Governors, to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility as provided in Article IV, Section 6 and for such other purposes and subject to such other conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by sixty-seven percent (67%) of the Members agreeing to such dedication or transfer has been recorded;

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

Section 2.Delegation of Use. Any Unit Owner may delegate, in conformance with the By-Laws of the Association, his right of enjoyment of the Common Area and facilities to the members of his family, tenants under a lease approved pursuant to the provisions of Section 3 of Article V, or contract purchasers who reside on the Property and not otherwise.

Section 3.Limited Common Area. The patio which is constructed as a part of each Unit and that portion of the concrete driveway extending out from the garage of each unit and the sidewalk for such Unit as depicted on the Plat, which driveway and sidewalk are constructed to serve such Unit will be considered as a part of the Unit and is hereby designated as Limited Common Area to which the Unit Owner is given the exclusive use and control thereof, as if said patio, portion of the driveway and sidewalk as depicted on the Plat were an extended part of such Unit.

Section 4.Special Limited Common Area. The remaining portion of the driveway not designated Limited Common Area in Section 3 above, which lies between the private street and the Limited Common Area driveway as shown on the Plat is hereby designated Special Limited Common Area for the exclusive use of the Owners of the Units for which such driveway was constructed to serve, their heirs, assigns, guests, and invitees and shall not be considered as Common Area to be used in common with all Unit Owners.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

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

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

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

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

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

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

(b) Class B Members. The Class B Member(s) shall be entitled to four (4) votes for each Unit in which Declarant holds the interest required for membership, provided however, the Class B Member shall have one vote, and only one, vote for the election of officers of the Association, for all other purposes, the Class B Member shall have four (4) votes for each unit owned by the Class B Member. When the total votes outstanding in the Class A membership equal the votes outstanding in the Class B membership, then the Class B membership shall cease and be converted into Class A membership.

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

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

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

ARTICLE IV

MANAGEMENT AND CONTROL OF COMMON AREAS

The Association shall have the exclusive right to control all of the Common Area and each Unit Owner's ownership of an undivided interest in the Common Area is expressly made subservient to the rights of the Association to manage and control the Common Area. It is the intention of this Declaration that the Association be free and uninhibited in the exercise of its rights

and duties hereunder, and to such end the words "management and control" shall be given their broadest possible meaning. In addition, the Association shall have the following powers and duties:

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

- (a) the cost of providing water, sewer, garbage and trash collection, electrical, gas and other necessary utility services for the common areas, and, to the extent that the same are not separately metered or billed to each condominium unit, for the condominium units;
- (b) the cost of the services of a person or firm to manage the Project to the extent deemed advisable by the Association, together with the services of such other personnel as the Board of Governors of the Association shall consider necessary for the operation of the Project;
- (c) the cost of providing such legal and accounting services as may be considered necessary to the operation of the Project;
- (d) the cost of painting, maintaining, replacing, repairing, and landscaping the Common Area and such furnishings and equipment for the Common Area as the Board of Governors shall determine are necessary and proper; including, but not limited to:
 - (i) all portions of a unit, except interior surfaces, contributing to the support of the building, which portions shall include but not be limited to the outside walls of the building and all fixtures on the exterior thereof; boundary walls of units, floor and ceiling slabs; and load-bearing columns and load-bearing walls, all exterior walls and doors of any storage or closet located on a terrace or patio forming a part of any unit; and
 - (ii) all conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services which are contained in the portions of a unit maintained by the Association; and all such facilities contained within a unit which service part or parts of the condominium other than the unit within which contained.

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

- (e) the cost of any and all other materials, supplies, labor, services, maintenance, repairs, taxes, assessments or the like, which the Association is required to secure or pay for by law, or otherwise, or which in the discretion of the Board of Governors shall be necessary or proper for the operation of the common areas; provided,

however, that if any of the aforementioned are provided or paid for the benefit of a particular condominium unit or units, the cost thereof shall be specially assessed to the owner or owners thereof in the manner provided for special assessments, except that no vote of Unit Owners shall be required;

- (f) the cost of the interior or exterior maintenance or repair of any condominium unit in the event such maintenance or repair is reasonable necessary in the discretion of the Board of Governors to protect the common areas or to preserve the appearance or value of the Project, or is otherwise in the interest of the general welfare of all owners of the condominium units; provided, however, that no such maintenance or repair shall be undertaken without a resolution by the Board of Governors and not without reasonable written notice to the owner of the condominium unit proposed to be so maintained and provided, further, that the cost thereof shall be assessed against the condominium unit on which such maintenance or repair is performed, and, when so assessed, a statement for the amount thereof shall be rendered promptly to the then owner of said condominium unit at which time the assessment shall become due and payable and a continuing lien and obligation of said owner in all respects as other liens provided for herein; and
- (g) any amount necessary to discharge any lien or encumbrance levied against the Project any portion thereof, which may, in the opinion of the Board of Governors, constitute a lien against any of the Common Area rather than the interest of the owner of any individual condominium unit. Payment of this expense is discretionary with the Board of Governors.

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

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

Section 4.Unit Owner's Duty to Maintain.

- (a) The Unit Owner shall, at such owner's expense, maintain the interior of such unit and any and all equipment, appliances or fixtures therein situated, and its other appurtenances (including, without limitation, any patio appurtenant to such unit and designated or reserved for exclusive use by the owner of a particular unit), in good order, condition and repair, provided however, that all redecorating, painting and the like which may at any time be necessary to maintain the good appearance of any patio appurtenant to such unit shall be performed by the Association and not the Unit Owner. In addition to the foregoing, the owner of any condominium unit shall, at such owner's expense, maintain, repair, replace any plumbing and electrical fixtures, water heaters, plenum, heating and air-conditioning equipment (including air-conditioning compressors located outside the unit, which shall be maintained at each owner's expense), lighting fixtures, refrigerators, freezers, trash compactors, dishwashers, clothes washers, clothes dryers, disposals, ranges, range hoods, and/or other equipment that may be in or appurtenant to such condominium unit.
- (b) Windows, Doors and Patios. The Unit Owner shall, at such owner's expense, clean and maintain the patio appurtenant to the condominium unit, the interior and exterior surface of all windows of the condominium unit, and both the interior and exterior glass surfaces of all glass entry doors of the condominium unit, including the interior and exterior surfaces of any door leading into such unit or to the patio appurtenant to the condominium unit. Maintenance of exterior surfaces required by this subsection (b) shall not include painting. All exterior painting shall be done under the supervision, control, and expense of the Association unless otherwise herein specifically provided.
- (c) In the event that the Unit Owner fails to maintain such owner's unit and all of the equipment, appliances, fixtures and equipment and its other appurtenances and such failure, in the opinion of the Board of Governors, might cause or result in damage to the Property or other units within the Property if not repaired or properly maintained as required by this Section 4, the Association, after approval by two-thirds vote of the Board of Governors, shall have the right through its agents and employees to enter upon said parcel and to repair, maintain and restore such unit. The cost of such repair and maintenance shall be assessed to such unit and its owner as provided in Section 5 of Article VI.

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

Section 6. Easements for Utilities and Related Purposes. The Association is authorized and empowered to grant (and shall from time to time grant) such licenses, easements and/or rights-of-way for sewer lines, water lines, electrical cables, telephone cables, gas lines, storm drains,

underground conduits and/or such other purposes related to the provision of public utilities to the Project as may be considered necessary and appropriate by the Board of Governors for the orderly maintenance, preservation and enjoyment of the Common Area or for the preservation of the health, safety, convenience and/or welfare of the owners of the condominium units, the Declarant.

Section 7.Limitation of Liability.

- (a) The Association shall not be liable for any failure of water supply or other services to be obtained by the Association or paid out of the common expense funds, or for injury or damage to person or property caused by the elements or by the owner of any condominium unit, or other person, or resulting from electricity, water, snow or ice which may leak or flow from any portion of the common areas, another Unit, or from any wire, pipe, drain, conduit, appliance, or equipment. The Association shall not be liable to the owner of any condominium unit for loss or damage, by theft or otherwise, of articles which may be stored in any Unit or upon any of the Common Area.
- (b) The Association shall not be liable nor shall the Association be bound either directly or indirectly to any contracts or leases (including a Management Contract) made by the Declarant prior to the termination of Class B Membership pertaining to maintenance, operation or control of the Project or common area or any function or responsibility delegated to the Association pursuant to this Declaration unless such contract or lease contains a right of termination, without cause, which is exercisable without penalty at any time after Class B Membership has been terminated upon not more than 90 days' notice to the other party thereto.

ARTICLE V

USE RESTRICTIONS

Section 1.Residential Use. All condominium units shall be used for private residential purposes exclusively, and as required by all applicable ordinances of the City of Flowood and/or Board of Supervisors of Rankin County, Mississippi. In addition, (i) the initial occupancy of each unit shall be only by owner occupants, (ii) after construction, no person or entity or related or closely affiliated person or entities, shall be allowed to own more than two (2) units except for persons and lenders taking title as a result of or in lieu of foreclosure or persons and entities taking title as a part of a company relocation assistance program and (iii) and all units, if rented, must be leased in accordance with the provisions of Section 3 of this Article V. Nothing in this Section, or in any other section in this Declaration, shall be construed to prohibit the Declarant from the use of any condominium units which the Declarant owns for promotional or display purposes as "model apartments" or from leasing any unit or units which Declarant owns except that Declarant shall nevertheless be bound by the provisions of Section 3 of this Article.

Section 2.Model Units and Sales Office. Declarant and Declarant's duly authorized agents, representatives, and employees shall have the right to maintain model units and a sales office on land within the Project, and to use the model units and sales office during the period that units

remain unsold. No more than four model units and one sales office will be maintained by Declarant.

Section 3. Leasing. The lease or rental of a Unit for residential purposes shall not violate Section 1 of this Article V, if (i) the entire Unit is leased, (ii) the term of the lease is at least six months and not more than twenty-four (24) consecutive months without an intervening one (1) year period of owner occupancy, (iii) the lease otherwise complies with the rules and regulations adopted and promulgated from time to time by the Board of Governors and (iv) the lease is subordinate and subject to this Declaration and is in writing. Prior to commencement of any lease term, the Unit Owner shall provide the Association and Management Agent, if any, with copies of the lease. The provisions of this Section 3 shall not be applicable to any lender in possession of a unit following a default in the first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure.

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

Section 5. Prohibited Uses and Nuisances.

- (a) No noxious or offensive trade or activity shall be carried on within the Project or within any condominium unit situated thereon, nor shall anything be done therein or thereon which may be or become an annoyance to the neighborhood or the other Unit Owners. No nuisances shall be permitted within the condominium Project, nor shall any use or practice be permitted which is or becomes a source of annoyance to the Members or which interferes with the peaceful use and possession thereof by the Members;
- (b) There shall be no obstruction of any Common Area or any Special Limited Common Areas serving only the Units for which such driveways were designated to serve. Nothing shall be stored upon any Common Area or Limited Common Area (excepting those areas designated for storage of personal property by the Unit Owners of the condominium units), or within or upon any parking space (except for motor vehicles), without the approval of the Board of Governors. Vehicular parking upon the Common Areas may be regulated by the Board of Governors;
- (c) Nothing shall be done or maintained in any condominium unit or upon the common area which will increase the rate of insurance on any condominium unit or common area, or result in the cancellation thereof, without the prior written approval of the Board of Governors. Nothing shall be done or maintained in any condominium unit or upon the Common Area which would be in violation of any law. No waste shall be committed upon the Common Area;
- (d) No structural alteration, construction, addition or removal of any portion of the common area or common elements shall be commenced or conducted except in strict compliance with the provisions of this Declaration and with the written approval of the Architectural Review Committee as required by Article XIV hereof;

- (e) No Owner shall keep more than a combined total of two (2) dogs and/or cats in their Unit. No pet shall be allowed outside their Unit Owner's unit under any circumstances unless accompanied by and under the control of the Unit Owner and shall at all times be leashed. The Unit Owner shall be responsible, at all times, for picking up after their pet; keeping or harboring pets in units may also be governed by such rules and regulations as may from time to time be adopted by the Board of Governors;
- (f) Except for such signs as may be posted by the Declarant for promotional or marketing purposes, no signs of any character, including "For Sale" signs, shall be erected, posted, or displayed upon, in, from or about any condominium unit, including any window of a Unit, or common areas. The Board of Governors, at its sole discretion, may place any such signage at such location it may determine. The provisions of this subsection shall not be applicable to the institutional holder;
- (g) Except as herein elsewhere provided, no junk vehicle or other vehicle on which current registration plates are not displayed, trailer, truck, camper, camper truck, house trailer, boat or the like shall be kept upon any of the common areas, nor shall the repair or extraordinary maintenance of boats, automobiles or other vehicles be carried out on any of the Common Areas or within or upon any parking area;
- (h) No part of the Common Areas shall be used for commercial activities of any character. This subsection shall not apply to the use of condominium units by the Declarant for display, marketing, promotional or sales purposes or as "model" condominium units;
- (i) No burning of any trash and no unreasonable or unsightly accumulation or storage of litter, new or used building materials, or trash of any other kind shall be permitted within any condominium unit or upon any Common Areas. Trash and garbage containers shall not be permitted to remain in public view, except in designated areas immediately before or after a scheduled trash pickup time. All refuse shall be placed in plastic bags and deposited with care in trash containers designated for such purpose at such locations as may from time to time be designated by the Board of Governors. All cardboard boxes must be disassembled and deposited in a trash container;
- (j) No structure of a temporary character, trailer, tent, shack, barn, or other outbuilding shall be maintained upon any common elements at any time, outdoor clothes dryers or clothes lines shall not be maintained upon any of the common areas at any time. No clothing, laundry or the like shall be hung from any part of any condominium unit or upon any of the Common Areas or from or upon any balcony, deck or terrace;
- (k) No outside television or radio aerial or antenna or other aerial or antenna, for reception or transmission, shall be maintained upon any condominium unit or upon

any of the common areas except for such antenna or dish that may be placed upon the Common Area by Developer or the Association for service to all units without the prior written consent of the Board of Governors;

- (l) Nothing shall be stored upon any of the Common Areas nor shall the cooking or preparation of food be permitted thereon or upon any other portion of the Common Areas of the Project, except for such cooking and food preparation by the Unit Owner of a Unit on the Limited Common Area patio for such Unit or areas designated for such purposes on the plat attached hereto and such other areas as may be designated by the Board of Governors from time to time;
- (m) No Member shall engage or direct any employee of the Association on any private business of the membership during the hours such employee is employed by the Association nor shall any Member direct, supervise or in any manner attempt to assert control over any employee of the Association;
- (n) There shall be no violation of any rules for the use of the common areas, or other "house rules", which may from time to time be adopted by the Board of Governors, pursuant to Article XV;
- (o) That portion of all window coverings and all covering used in connection with windows or glass enclosing any terrace, including but not limited to shades, curtains, sheers, drapes, blinds, etc., which are visible when looking at the exterior of the building, must be off-white in color; and
- (p) No childcare service or related activities shall be conducted or carried on within a Unit or on the Common Area.

ARTICLE VI

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant shall not be obligated to pay or be responsible for any annual assessments, special assessments, or any assessment whatsoever. Each purchaser of a unit, whether or not it shall be so expressed in such Unit Owner's deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments of charges on a per unit basis; (2) special assessments for capital improvements. Such assessments are to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the unit and shall be a continuing lien upon the unit against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the obligation of the Unit Owner of such unit at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the Unit Owner's successors in title unless expressly assumed by them, but the passing of title shall not affect the validity of the lien upon the unit. Moreover, whether or not it shall be so expressed in such Unit Owner's deed, each and every time a purchaser buys a unit, at any time in the chain of title for same, such Unit Owner shall pay

to the Association the sum of one thousand dollars (\$1,000.00) which shall be collected at closing and deposited in the Association's reserve account.

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

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

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

Section 5.Special Assessments. The Association may levy special assessments against units for reimbursement of repairs, corrections or other actions performed by the Association pursuant to this Declaration or the Bylaws together with interest and other reasonable charges thereon resulting from the following circumstances:

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

- (b) Unit Owners failure to Maintain Improvements. If any Unit Owner fails to perform the maintenance or make the repairs required by Section 4 of Article IV of this Declaration, and the Board of Governors causes such maintenance or repair to be performed in accordance with the provisions of this Declaration, all costs and expenses incurred in connection with such work, maintenance or repairs shall be immediately assessed and charged solely to and against such unit as a special assessment. Said special assessment shall be made by written notification by the Board of Governors to the Unit Owner and shall be payable in full to the Association within thirty (30) days following such notice.
- (c) Damaged Common Areas. If any damage or destruction to any portion of the Common Area or Limited Common Area (if any) is caused by any negligent or malicious act or omission of any Unit Owner or his Invitee, the Board of Governors shall cause the same to be repaired or replaced, and all costs and expense incurred in connection therewith (to the extent not covered or reduced by insurance proceeds paid to or received by the Association) shall be assessed and charged solely to and against said Unit Owner and his unit as a special assessment. Said special assessment shall be made by written notification from the Board of Governors to the Unit Owner and shall be payable in full to the Association within thirty (30) days following such notice.
- (d) Act Increasing Insurance Premiums. If any act or omission of any Unit Owner or any of his invitees shall increase the premiums for any insurance policy maintained by the Association for the benefit of the Property and the Unit Owners, the amount of such increase shall be assessed and charged solely to and against such Unit Owner and his unit as a special assessment. Said special assessment shall be made by written notification from the Board of Governors to the Unit Owner and shall be payable in full to the Association within (10) days in advance of the date or dates for the payment of such increased insurance premiums, or within ten (10) days following such notice, whichever is later. The making of such payment by said Unit Owner shall in no way violate, authorize, sanction, or permit the particular act or omission and shall not limit any of the right of the Association provided by law or granted herein, including without limitation the right to enjoin the particular activity.
- (e) Excessive Use Damaging Property. In the event any portion of the Property is damaged as a result of excessive usage by any Unit Owner or his Invitees, the cost of such maintenance and repairs shall be assessed against such Unit Owner as a special assessment. Such special assessment shall be made by written notification from the Board of Governors to the Unit Owner and shall be payable in full to the Association within thirty (30) days following such notice.
- (e) Other Special Assessments Authorized by this Declaration. In addition to the special assessments specifically authorized by the provisions of this section, whenever this Declaration provides that the Association shall have the right to assess a cost or expense against a Unit Owner and his unit as a special assessment, such special assessment shall be made by written notification from the Board of Governors to the Unit Owner and shall be payable in full to the Association within

thirty (30) days from such notice or within such extended period as the Association shall determine shall be applicable to any such special assessment.

- (f) Delinquent Payment. Any special assessment made in accordance with this Declaration shall be a separate debt of each Unit Owner against whom the same is specially assessed and against his unit and shall bear interest upon any unpaid portion thereof after the due date at the maximum rate permitted by law or at the rate of ten percent (10%) per annum, whichever is less.

Section 6. Notice and Quorum for any Action Authorized Under Section 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall not be necessary, and the assessment may be approved by the assent of sixty-seven percent (67%) of the votes of the Members who are voting in person or by proxy.

Section 7. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all units and may be collected on a monthly, quarterly, or annual basis, at the discretion of the Board of Governors.

Section 8. Date of Commencement of Annual Assessments, Due Dates. The annual assessments provided for herein shall commence as to all assessable units on the first day of the month following the conveyance of the first unit. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Governors shall fix the amount of the annual assessment against each unit at least thirty (30) days in advance of each annual assessment period. After the first year, or part thereof, the annual assessment period shall be January 1 thru December 31. Written notice of the annual assessment shall be sent to every Unit Owner subject thereto. The due dates shall be established by the Board of Governors, provided however, at Unit Owners request, said assessment may be paid quarterly.

Section 9. Effect of Nonpayment of Assessments, Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate allowable by law. The Association may bring an action at law against the Unit Owner, who is personally obligated to pay the same, or foreclose the lien against the property or both. No Unit Owner may waive or otherwise escape liability for the assessments provided for herein by nonuser of the Common Area or abandonment of his unit and no Unit Owner may voluntarily resign from membership.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage on the Property, or upon any individual unit; provided that such first mortgage was recorded before the delinquent assessment became due. Sale or transfer of any unit shall not affect the assessment lien; provided, the sale or transfer of any unit pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall only

extinguish the lien of such assessments as to payments which become due prior to such sale or transfer, and no such sale or transfer shall relieve such unit from liability for any assessments thereafter becoming due or from the lien thereof, and the grantee of any such unit shall become a Unit Owner thereof subject to this Declaration.

ARTICLE VII

RESTRICTIONS ON TRANSFER

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

ARTICLE VIII

CONSENT OF ELIGIBLE MORTGAGE HOLDERS

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

- A. voting rights;
- B. increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens;
- C. reductions in reserves for maintenance, repair, and replacement of common elements;
- D. responsibility for maintenance and repairs;
- E. reallocation of interests in the general or limited common elements, or rights to their use;
- F. redefinition of any unit boundaries;
- G. convertibility of units into common elements or vice versa;
- H. expansion or contraction of the Project, or the addition, annexation, or withdrawal of property to or from the Project;
- I. hazard or fidelity insurance requirements;
- J. imposition of any restrictions on the leasing of units;

- K. imposition of any restrictions on a Unit Owner's right to sell or transfer his or her unit;
- L. a decision by the Association to establish self-management;
- M. restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified in the documents;
- N. any provisions that expressly benefit mortgage holders, insurers, or guarantors; or
- O. partition or subdivide a condominium unit.

The legal status of the Project may be terminated by a vote of at least 67% of the Eligible Mortgage Holders for reasons other than substantial destruction or condemnation of the Property.

Any Eligible Mortgage Holder who fails to submit a response to any written proposal for an amendment to this Declaration within 30 days of written notice to the Eligible Mortgage Holder (provided such notice was delivered by certified or registered mail, with a return receipt requested), shall be deemed approved by the Eligible Mortgage Holder.

ARTICLE IX

ADDITIONAL RIGHTS OF MORTGAGEES

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

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

Section 3. Notice of Damage. In the event of substantial damage to or destruction of any unit or any part of the common area, then the holder of any first mortgage on a unit will be entitled

to timely written notice of any such damage or destruction and no provision of any document establishing the Project will entitle the Unit Owner or other party to priority over such institutional holder with respect to the distribution to such unit of any insurance proceeds.

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

Section 5. Insurance Notices. Eligible Mortgage Holders are entitled to notice of a lapse, cancellation, or material modification of any insurance policy maintained by the Association.

ARTICLE X

EASEMENTS

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

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

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

maintenance thereof shall exist. Every portion of a unit contributing to the support of an abutting unit shall be burdened with an easement of support for the benefit of such abutting unit.

Section 3.Utilities, Etc.

- (a) An easement in each Unit shall exist for the benefit of all units for pipes, wires, conduits, or utility lines which are utilized by or serve more than one unit as set forth in Article I, Section 1 (z)(v).
- (b) There is hereby granted a blanket easement upon, across, over and under all of the Property for ingress, egress, installation, replacing, repairing and maintaining a master television antenna system, television cable, and all utilities including, but not limited to, water, sewers, telephones and electricity. By virtue of this easement, it shall be expressly permissible for the Declarant, Developer and the providing utility company to erect and maintain the necessary poles and other necessary equipment on said Property and to affix and maintain utility wires, circuits and conduits on, above, across and under the roofs and exterior and interior walls of the units. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said Property except as initially programmed and approved by the Declarant or thereafter approved by the Declarant or the Association's Board of Governors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Declarant shall have the right to grant such easement on said Property without conflicting with the terms hereof. The easements provided for in this Article X shall in no way affect any other recorded easement on said Property.

Section 4.Developer's Easement. Declarant, and persons it may select, shall have the right of ingress and egress over, upon, and across the Common Area, Limited Common Area, Common Elements and Common Facilities and the right to store materials thereon and make such other use thereof as may be reasonably necessary incident to construction, development, and sales of the condominium and operation of the units and common elements in connection with Liberte Condominiums and the overall development, of which the Property is a part, including parking areas, streets and drives. Declarant, Developer and their respective agents shall retain the right to use the sales office and model units and the Common Area and Common Elements, in connection therewith, during the period of development and sale of Liberte Condominiums.

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

ARTICLE XI

INSURANCE AND CASUALTY LOSSES

Section 1. Insurance. The Association must obtain, maintain, and pay the premiums upon, as a Common Expense, the property insurance in an amount determined by the Board of Governors. The Association's Board of Governors shall have the authority to and shall obtain insurance for all of the improvements on the Property (with the exception of improvements and betterments made by the respective Unit Owners at their expense) against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief, in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The type of policy shall be a "master" or "blanket" type policy of property insurance covering all of the Common Elements (except land, foundation, excavation, and other items usually excluded from coverage) including fixtures, building service equipment and supplies, and other personal property belonging to the Association. All references herein to a "master" or "blanket" type of policy of property insurance are intended to denote single entity Condominium insurance coverage. In addition, the insurance obtained under this section shall include coverage of the Units themselves. Fixtures or equipment located within a Unit (regardless of whether or not such Property is a part of the Common Elements) must be covered by such "master" or "blanket" policy, but the coverage need not include improvements and betterments installed by Unit Owners. If reasonably available, the insurance policy shall include an "All In" endorsement which shall include coverage of appliances (including stoves, cooking ranges, microwave ovens, refrigerators, dishwashers, clothes-washers and dryers, hot water heaters, and all other appliances to the extent such appliances comprised a part of the Unit on the date such unit was completed and sold to a third party Unit Owner or were replacement items for such original appliances), air conditioners, and all fixtures contained within the Units. The policy shall be in an amount deemed appropriate by the Association but not less than the greater of eighty percent (80%) of the actual cash value of the insured Property at the time the insurance is purchased or such greater percentage of such actual cash value as may be necessary to prevent the applicability of any coinsurance provision at any renewal date, exclusive of land, excavation, foundation, and other items normally excluded from property policies. The policy shall include an "Agreed Amount Endorsement" or its equivalent and, if available, an "Inflation Guard Endorsement". If there shall be a construction code provision that requires changes to undamaged portions of the Condominium Property even when only part of the Project is destroyed by an insured hazard, the policies shall include construction code endorsements. The Board of Governors shall also obtain a public liability policy covering all common area and all damage or injury caused by the negligence of the Association or any of its agents, which public liability policy shall be at least \$1,000,000.00 single limit as respects bodily injury and property damage. Premiums for all such insurance coverage shall be common expenses. All such insurance coverage obtained by the Board of Governors shall be written in the name of the Association as Trustee for each of the Unit Owners in the percentages of undivided interest in and to the common area as provided for in Article IV hereof. Such insurance shall be governed by the provisions hereinafter set forth:

- (a) All policies shall be written with a company, admitted or non-admitted, holding a Best's Rating Classification of "A" or better and a Financial Size Category of "X" or better as reflected from time to time in the current edition of BEST'S KEY RATING GUIDE, PROPERTY-CASUALTY.
- (b) All policies shall be for the benefit of the Unit Owners and their mortgagees as their interests may appear.
- (c) Provision shall be made for the issuance of a certificate of insurance to each Unit Owner and his mortgagee, if any, which shall specify the proportionate amount of such insurance attributable to the particular Unit Owner's unit.
- (d) The original of all policies and endorsements thereto shall be deposited with the Insurance Trustee which shall hold them subject to the provisions of Section 3 of this Article.
- (e) Exclusive authority to adjust losses under policies hereafter in force on the Property shall be vested in the Association's Board of Governors; provided, however, that no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- (f) In no event shall the insurance coverage obtained and maintained by the Association's Board of Governors hereunder be brought into contribution with insurance purchased by individual Unit Owners or their mortgagees.
- (g) Each Unit Owner may obtain additional insurance at his own expense; provided, however, that no Unit Owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association, on behalf of all of the Unit Owners and their mortgagees, may realize under any insurance policy which the Association's Board of Governors may have in force on the Property at any particular time.
- (h) Any Unit Owner who obtains an individual insurance policy covering any portion of the Property, other than improvements and betterments made by such Unit Owner, shall be required to file a copy of each such individual policy with the Association's Board of Governors within 30 days after purchase of such insurance.
- (i) It shall be the individual responsibility of each Unit Owner at his own expense to provide, as he sees fit, Unit Owner's title insurance on his individual unit, Unit Owner's liability insurance, theft and other insurance covering improvements, betterments and personal property damage and losses.
- (j) The Association's Board of Governors shall conduct an annual insurance review which shall include a replacement cost appraisal, without respect to depreciation, of all improvements on the property, including the fixtures or equipment located within a Unit (regardless of whether or not such Property is a part of the Common

Elements) must be (with the exception of improvements and betterments made by the respective Unit Owners at their expense) by one or more qualified persons at least one of whom should be a qualified building cost estimator.

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

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

Section 3.Insurance Trustee.

- (a) All insurance policies purchased by and in the name of the Association shall provide that proceeds covering property losses shall be paid to the Association. The Board of Governors may serve as the Insurance Trustee or may, at its discretion, select another to serve as Insurance Trustee. Immediately upon the receipt by Association of such proceeds, the Association shall endorse the instrument by means of which such proceeds are paid and delivered or cause to be delivered such instrument to the Insurance Trustee. The Insurance Trustee shall not be liable for payment of premiums, for the renewal or the sufficiency of the policies or for the failure to collect any insurance proceeds. Nor shall the Insurance Trustee have any obligation to inspect the property to determine whether a loss has been sustained or to file any claim or claims against any insurer or any other person.
- (b) The duty of the Insurance Trustee shall be to receive such proceeds as are paid and delivered to it and to hold such proceeds in trust for the benefit of the Unit Owners and their mortgagees in the following shares, but which shares need not be set forth in the records of the Insurance Trustee. An undivided share of such proceeds on account of damage or destruction to the common area shall be held in trust for the Unit Owners in accordance with their respective percentages of undivided interest

in and to the common area as provided for in Article IV hereof. Proceeds on account of damage or destruction to units shall be held in trust for the Unit Owners of the damaged or destroyed units in proportion to the cost of repairing or reconstructing the damage or destruction suffered by each such Unit Owner. In the event that a mortgagee endorsement has been issued as to any particular unit, the share of each Unit Owner shall be held in trust for such Unit Owner and his mortgagee as their interests may appear.

- (c) Proceeds of insurance policies received by the Insurance Trustee shall be disbursed as follows:
 - (i) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying cost of repairs or reconstruction shall be disbursed to the beneficial Unit Owners, remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by such mortgagee.
 - (ii) If it is determined as provided for in Section 4 of this Article that the damage or destruction for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed to such persons as therein provided.
 - (iii) Any and all disbursements of funds, whether such funds consist of insurance proceeds, special assessments, sales proceeds or any combination thereof, to be made by the Insurance Trustee for any purpose whatsoever shall be made pursuant to and in accordance with a certificate of the Association signed by the President or Vice President and attested by the Secretary setting forth whether or not the damage or destruction is to be repaired or reconstructed and whether the damage or destruction was to the common area or one or more units or both. If the damage or destruction is not to be repaired or reconstructed, said certificate shall direct that disbursements be made by the Insurance Trustee as by law provided in accordance with the terms of Section 4(c) of this Article.

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

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

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

Section 4. Damage and Destruction.

- (a) Immediately after the damage or destruction by fire or other casualty to all or any part of the Property covered by insurance written in the name of the Association, the Board of Governors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition in which it existed prior to the fire or other casualty with each unit and the common area having the same vertical and horizontal boundaries as before.
- (b) In the event more than 75% of the Project has been destroyed or substantially damaged, any such damage or destruction shall be repaired or reconstructed unless at least 50% of the total vote of the Association shall decide within 60 days after the casualty, not to repair or reconstruct. If, for any reason the amount of the insurance proceeds to be paid as a result of such damage or destruction or reliable and detailed estimates of the cost of repair or reconstruction are not made available to the Association within said period of 60 days after the casualty, then such period shall be extended until such information shall be made available to the Association; provided, however, that said period of time shall in no event exceed 90 days after the casualty.
- (c) In the event that it should be determined by the Association in the manner prescribed above that the damage or destruction shall not be repaired or reconstructed, then and in that event (i) the Property shall be deemed to be owned in common by the Unit Owners, (ii) the undivided interest in the Property owned in common which shall appertain to each Unit Owner shall be the percentage of undivided interest previously owned by such Unit Owner in the common area, (iii) any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the percentage of undivided interest of the Unit Owner

in the Property and (iv) the Property shall be subject to an action for partition at the suit of any Unit Owner, in which event the net proceeds of sale shall be paid to the Insurance Trustee. Said net proceeds of sale, together with the net proceeds of the insurance on the Property, shall be considered as one fund which, after paying all expenses of the Insurance Trustee, shall be divided among all of the Unit Owners in a percentage equal to the percentage of undivided interest owned by each Unit Owner in the Property, after first paying out of the respective share of the Unit Owners, to the extent sufficient for the purpose, all liens of the undivided interest in the Property owned by each Unit Owner. Disbursements to such Unit Owners shall be made as provided for in Section 3 of this Article. The foregoing provisions of this Section 4(c) shall apply only as long as may be necessary to comply with the applicable provisions of the Act. The foregoing provisions of this Section 4(c) shall apply only as long as said provisions are not in conflict with Section 89-9-35 of the Miss. Code of 1972 or any other applicable laws of the State of Mississippi. In the event that the laws of the State of Mississippi should be hereafter amended so as to eliminate the right of action for partition upon determining that the damage or destruction shall not be repaired or reconstructed, then this Section 4 (c) , and such other provisions hereof as may be necessary to its implementation, shall be deemed amended accordingly.

- (d) In the event more than 75% of the Project has been destroyed or substantially damaged, the Members of the Association and the Eligible Mortgage Holders may vote to decide whether to terminate the legal status of the Project. If at least 67% of the total votes of the Association and at least 51% of the Eligible Mortgage Holders vote to terminate, the Project shall be so terminated.

Section 5.Repair and Reconstruction.

- (a) If the damage or destruction for which the insurance proceeds are paid to the Insurance Trustee is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Governors shall, subject to Article VI hereof and without a vote of the Members, levy a special assessment against all Unit Owners of the damaged units, and against all Unit Owners in the case of damage to the common area, in sufficient amounts to provide funds to pay such excess cost of repair or reconstruction. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. Such assessments on account of damage to the common area shall be in proportion to the Unit Owner's share in the common area.
- (b) Any and all sums paid to the Association under and by virtue of those special assessments provided for above to defray the estimated excess cost of repair or reconstruction shall be deposited by the Association with the Insurance Trustee. The proceeds from insurance and assessments, if any, received by the Insurance Trustee, when the damage or destruction is to be repaired or reconstructed, shall be disbursed as provided for in Section 3 of this Article.

Section 6.Minor Repairs.

- (a) Notwithstanding the foregoing provisions of this Article, in the event of damage by fire or other casualty to either the common area or a single unit covered by insurance written in the name of the Association and if the insurance proceeds initially offered or paid therefor are less than \$2,000.00 and the estimated cost of repairing such damage is less than twice the amount of such proceeds, then the instrument by means of which such proceeds are paid shall be endorsed by the Insurance Trustee and delivered to the Association and the damage shall be repaired in accordance with the following provisions.
- (b) If the damage is confined to the common area, such insurance proceeds shall be used by the Association to defray the cost of such repairs. If the cost of such repairs is less than the amount of such insurance proceeds, the excess shall be retained by the Association or its duly authorized agent and placed in the reserve maintenance fund or such other fund as may be established for the purpose of providing for the maintenance, repair and replacement of the common area. If the cost of such repairs exceed the amount of such insurance proceeds, such excess may be provided subject to Article VI hereof either by means of a special assessment levied by the Board of Governors, without a vote of the Members, against all Unit Owners in proportion to each Unit Owner's share in the common area or by means of an appropriation from the reserve maintenance fund or such other fund as may be established for the purpose of providing for the maintenance, repair and replacement of the common area as the Board of Governors in the exercise of its sole discretion may determine.
- (c) If the damage is confined to a single unit, such insurance proceeds shall be used by the Association to defray the cost of such repairs. If the cost of such repairs is less than the amount of such insurance proceeds, the excess shall be paid jointly, to the Unit Owner and his mortgagee, if any, who may use such proceeds as they alone may determine. If the cost of such repairs exceeds the amount of such insurance proceeds, such excess shall be provided by means of a special assessment levied by the Board of Governors, subject to Article VI hereof and without a vote of the Members, against the Unit Owner of the damaged unit. Payments for repairs provided for in this subparagraph (c) shall be made only after all such repairs have been completed and approved by the Association, the Unit Owner and his mortgagee, if any, which approval shall not be unreasonably withheld.

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

ARTICLE XII

CONDEMNATION

In the event of a taking in condemnation or by eminent domain of part or all of the Common Elements, the award made for such taking may be payable to the Board of Governors if such award amounts to \$50,000 or less, and to the Insurance Trustee if such award amount to more than \$50,000. If 75% or more of the Unit Owners duly and promptly approve the repair and restoration of such Common Elements, the Board of Governors shall arrange for the repair and restoration of such common elements, and the Board of Governors or the Insurance Trustee, as the case may be, shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. In the event that 75% or more of Unit Owners do not duly and promptly approve the repair and restoration of such common elements, the Board of Governors or the Insurance Trustee, as the case may be, shall disburse the net proceeds of such award in the same manner as they are required to distribute insurance proceeds where there is no repair or restoration of damages, as provided in Section 4 of Article XI of this Declaration. In addition, if 75% or more of the Unit Owners and 51% of the Eligible Mortgage Holders duly and promptly vote to terminate the legal status of the project after substantial condemnation occurs the Project shall be so terminated.

ARTICLE XIII

ADDITIONS TO PROPERTY SUBJECT TO THIS DECLARATION

No additional lands may be annexed to or become subject to this Declaration.

ARTICLE XIV

ARCHITECTURAL CONTROL

Section 1. Architectural Review.

- (a) Except for the original construction and except for the purposes of proper maintenance and repair or as otherwise provided in this Declaration, no change or alteration in any manner whatsoever shall be made to the exterior of any unit, including any terrace or patio, window or exterior door (including any alteration or change in color) until the proposed plans and specifications showing the nature, kind, shape, height, materials, exterior color or finish, shall have been submitted to and approved in writing by the Architectural Review Committee, which Committee shall be composed of five (5) or more representatives. So long as the Declarant owns any unit subject to this Declaration, three (3) of the representatives shall be appointed by the Declarant; the two (2) remaining representatives shall be appointed by the Board. No alteration in the exterior appearance of the Building shall be made without approval from the Architectural Review Committee.
- (b) Two (2) copies of all plans and related data shall be furnished the Architectural Review Committee. One (1) copy shall be retained by such committee and the other copy shall be returned to the Unit Owner marked approved or disapproved. Approval shall be dated and shall be effective for construction commenced more than six (6) months after such approval. Disapproved plans and related data shall be accompanied by a reasonable statement of items found unacceptable. In the

event the Architectural Review Committee fails to approve or disapprove such plans within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

- (c) Refusal of approval of the plans, specifications or related data may be based by the Architectural Review Committee upon any ground, including purely aesthetic considerations, so long as they are not arbitrary and capricious. Neither the Board of Governors nor the Architectural Review Committee shall be liable to a Unit Owner or to any other Person on account of any claim, liability or expense suffered or incurred by or threatened against a Unit Owner or such other Person arising out of or in any way relating to the subject matter or any reviews, acceptances, inspections, permissions, consents or required approvals which must be obtained from the Architectural Review Committee or public authorities whether given, granted or withheld.

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

ARTICLE XV

RULE MAKING

Section 1. Rules and Regulations. Subject to the provisions hereof, the Board of Governors may establish reasonable rules and regulations concerning the use of the common areas, common elements, limited common area and facilities as said Board, from time to time, may determine necessary or prudent for the protection, use and enjoyment of all of the Unit Owners.

ARTICLE XVI

GENERAL PROVISIONS

Section 1. A. Enforcement. The Association, or any Unit Owner, shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations,

liens and charges now or hereafter imposed by the provisions of this Declaration and the By-Laws and Articles of Incorporation of the Association. Failure by the Association or by any Unit Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event any Owner or their respective agents, contractors, occupants, lessees, or invitees violates any of the provisions of this Declaration or By-Laws, the Board of Governors of the Association shall also have the power to (i) impose reasonable monetary fines which shall constitute an equitable charge and a continuing lien upon such Owner's Unit and shall be a personal obligation of such Owner which is guilty of such violation, (ii) suspend an Owner's right to vote in the Association or (iii) suspend an Owner's or Occupant's right (and the right of such Owner's or Occupant's family members, guests and tenants) to use any of the recreational facilities located in or upon the Common Areas and the Board of Governors of the Association shall have the power to impose all or any combination of any of the foregoing sanctions. Any such suspension of rights may be for the duration of the infraction.

Section 1. B. Procedure for Enforcement. In the event any of the terms or provisions of this Declaration and/or By-Laws or any rules and regulations of the Association are violated by any Owner, or the respective agents, contractors, occupants, lessees, or invitees of any Owner, the Board of Governors of the Association shall not impose a fine, suspend voting rights, or infringe upon or suspend any other rights pursuant to Article XVI Section 1. A. Enforcement. above unless written demand to cease and desist from an alleged violation shall be served upon the Owner responsible for such violations which demand shall specify:

- (i) The alleged violation;
- (ii) The action required to abate such violation; and

(iii) A time period of not less than **ten (10)** days during which the violation may be abated without further sanction, if such violation is a continuing one or if the violation is not a continuing one, a statement that any further violation of the same provision of this Declaration and/or the By-Laws or any of the rules and regulations of the Association may result in the imposition of sanctions. The foregoing procedure shall only be applicable to the enforcement rights specified in Article XVI Section 1. A. Enforcement. above and shall not apply to the exercise of any of the rights and remedies specified in any other section or provision of this Declaration.

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

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

- (a) Notice. Notice of such matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.
- (b) Resolutions. Resolutions for the adoption of a proposed amendment may be proposed by either the Board of Governors of the Association or by the Members of the Association. Governors and Members not present in person or by proxy at

the meeting considering the amendment may express their approval in writing, provided such approval is delivered to the secretary at or prior to the meeting. Except as elsewhere provided, such approval must be either by:

- (i) not less than 67% of the entire membership of the Board of Governors and not less than 67% of the votes of the entire membership of the Association;
or
 - (ii) not less than 80% of the votes of the entire membership of the Association;
or
 - (iii) until the first election of governors, only by all of the governors, provided the amendment does not increase the number of units nor alter the boundaries of the common elements.
- (c) Restrictions. No amendment shall discriminate against any Unit Owner or against any unit or class or group of units unless the Unit Owners so effected shall consent. No amendment shall change any unit nor the share in the common elements appurtenant to it, nor increase the Unit Owner's share of common expenses, unless the record Unit Owner of the unit and all recorded Unit Owners of liens thereon shall join in the execution of the amendment. Neither shall an amendment make any change in Article XI entitled "Insurance and Casualty Losses" unless the record Unit Owners of all mortgages upon the condominium or any part thereof shall join in the execution of the amendment.
- (d) Amendments. Subject to the limitations set forth in Article VIII of this Declaration, this Declaration may be amended, modified and/or changed either (i) by the Declarant properly filing for record a Supplement and Amendment prior to December 31, 2028 or (ii) by a Supplement properly filed for record and executed by the Unit Owners of at least 75% of the Units if amended, modified and/or changed prior to January 1, 2029, and thereafter by the Unit Owners of at least 51% of the Units.
- (e) Execution recording. A copy of each amendment shall be certified by the president or secretary of the Association as having been duly adopted and shall be effective when recorded in the office of the Chancery Clerk of Rankin County at Brandon, Mississippi.

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

Section 5. Certificate of Consent by Secured Party. By executing this Plan of Condominium, PriorityOne Bank, being the holder of recorded security interests in the real property hereinabove described, hereby consent to the recordation of this Plan and the Declaration

of Restrictions pursuant to the provisions of Chapter 9, Section 89-9-1, et seq., Mississippi Code of 1972 as amended, except that the said, PriorityOne Bank, its trustees, officers, employees and agents shall have no liability whatsoever, expressed or implied, in connection with this Plan of Condominium, its terms, conditions, restrictions or provisions, which limitation of liability is hereby conclusively accepted by the Declarant.

Section 6.Rights and Duties. Every Unit Owner (and the Declarant so long as units remain unsold) shall be subject to all rights and duties assigned to Unit Owners herein, in the Association's bylaws and any other documents related to the Project.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal, on the day and year first above written.

DECLARANT:

XLI, LLC
a Mississippi limited liability company

By:

Cratin Capital, LLC, member

By: _____
R. Cratin Lockett, Jr.
Its: Manager

Kelli Foster, member

DeFord Walker, member

CONSENT BY SECURED PARTY:

PRIORITYONE BANK

By: _____

Name: _____

Title: _____

STATE OF MISSISSIPPI
COUNTY OF _____

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the said county and state, on this ____ day of _____ 2022, within my jurisdiction, the within named **R. Cratin Lockett, Jr.**, who acknowledged that he is the Manager of Cratin Capital, LLC, a Mississippi limited liability company which is a Member of XLI, LLC, a Mississippi limited liability company, and that for and on behalf of the said limited liability company, and as its act and deed, he executed the above and foregoing instrument, after first having been duly authorized by said limited liability company so to do.

Notary Public

My Commission Expires:

STATE OF MISSISSIPPI
COUNTY OF _____

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the said county and state, on this ____ day of _____ 2022, within my jurisdiction, the within named **Kelli Foster**, who acknowledged that he is a Member of XLI, LLC, a Mississippi limited liability company, and that for and on behalf of the said limited liability company, and as its act and deed, he executed the above and foregoing instrument, after first having been duly authorized by said limited liability company so to do.

Notary Public

My Commission Expires:

STATE OF MISSISSIPPI
COUNTY OF _____

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the said county and state, on this ____ day of _____ 2022, within my jurisdiction, the within named **DeFord Walker**, who acknowledged that he is a Member of XLI, LLC, a Mississippi limited liability company, and that for and on behalf of the said limited liability company, and as its act and deed, he executed the above and foregoing instrument, after first having been duly authorized by said limited liability company so to do.

Notary Public

My Commission Expires:

STATE OF MISSISSIPPI
COUNTY OF _____

PERSONALLY appeared before me, the undersigned authority in and for the _____, who acknowledged that he is _____ of PriorityOne Bank, and that for and on behalf of said bank, and as its act and deed, he executed the foregoing instrument, after first having been duly authorized by said bank so to do.

Notary Public

My Commission Expires:

EXHIBIT A
LEGAL DESCRIPTION