



*Declaration of Covenants,  
Conditions and Restrictions  
For*

*Woods & Water Development, LLC  
Mathews, Alabama  
(Montgomery County)*

3516/303

# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WOODS & WATER DEVELOPMENT, LLC

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**Declaration of Covenants, Conditions and Restrictions for  
Woods & Water Development, LLC  
Montgomery County, Alabama**

These Covenants, Conditions and Restrictions (the "Covenants") are made as of the 14<sup>th</sup> day of March 2007, by Woods & Water Development, LLC, an Alabama corporation ("Developer" or "Declarant") and are applicable to a proposed development to be known as "Woods & Water Development, LLC".

**RECITALS**

A. Developer is the owner of lands in Montgomery County, Alabama, as shown on Exhibit "1" and described in Exhibit "2" both attached hereto, made a part hereof and referred to herein as "Woods & Water."

B. The Developer proposes, but is not obligated, to develop all or part of Woods & Water in phases for multiple uses including single family residential, commercial development (resident storage,) parking facilities, open spaces, landscaping, recreation facilities, private roadways and other common areas, all to be known as Woods & Water.

D. A portion of the Woods & Water Development, LLC has been designated for private roadways known as Woods & Water Roadways.

E. Developer has caused to be formed a non-profit property owners association known as Woods & Water Association (the "Association") as defined herein, which Association will be conveyed a fee or leasehold interest in certain common areas and will receive an operating agreement for use and maintenance of Woods & Water Roadways.

F. Developer is developing a portion of the Woods & Water Development, LLC composed of approximately 97 acres as Woods & Water Phase I.

G. Developer desires to provide flexible and reasonable procedures for the development of Woods & Water in multiple phases and to establish a method for the administration, maintenance, preservation, use and enjoyment of such portion of the Property, which may be made subject to these Restrictions.

NOW, THEREFORE, subject to the conditions and limitations described below, Developer does hereby proclaim that Woods & Water Phase I shall be held, developed, improved, transferred, sold, conveyed, leased, occupied and used subject to these Covenants, which shall be binding upon and inure to the benefit of all parties acquiring or having any right, title or interest in the Property and any additional dedicated Woods & Water Development, LLC, as stated herein (but only to the extent Developer submits any portion of the Woods & Water Development, LLC to the provisions of the Covenants), and their respective heirs, executors, administrators, personal representatives, successors and assigns.

## **INTRODUCTION**

## **BACKGROUND**

Woods & Water Development, LLC ("W&W") is a planned community located in Mathews, Alabama. The homes and home sites within Woods & Water Development, LLC are subject to the Woods & Water Declaration of Covenants, Conditions and Restrictions for Woods & Water Development, LLC ("Covenants"), which provides for standards of architecture, maintenance, use and conduct in order to preserve and enhance the overall community. The Covenants established by Woods & Water Development, LLC sets forth the standards of maintenance, architecture, conduct, and use established by Developer.

## **PURPOSE**

Woods & Water Development, LLC, as the Developer of Woods & Water, has established Design Guidelines and Aesthetic Standards for Woods & Water Development, LLC ("Design Guidelines") to provide guidance to owners and their contractors in planning improvements and modifications to Homes, Units, structures, and landscaping in the Woods & Water Development, LLC. These Design Guidelines are intended to facilitate the review process, but are not the sole basis for decisions on architectural matters. **Compliance with these Design Guidelines does not guarantee approval.**

## **GOVERNMENTAL REQUIREMENTS**

To the extent that any local government ordinance, building code or regulation imposes a more restrictive standard than the standards set forth in the Covenants or these Design Guidelines, the local government standard shall control. To the extent that any local government standard is less restrictive, the Covenants and these Design Guidelines (in that order) shall control.

## **INTERPRETATION**

In the event of a conflict between these Design Guidelines and the Covenants, the Covenants shall control.

## **AMENDMENTS**

The Developer may amend these Design Guidelines as long as it has any reviewing authority under the Charter. Thereafter, the Design Review Committee appointed by the Association's Board of Directors ("DRC") may amend them. Amendments shall not apply retroactively so as to require modification or removal of work already approved and completed or in progress. It is the responsibility of owners to ensure that they have the most current edition of these Design Guidelines.



## **ARTICLE 1**

### **DEFINITIONS**

As used throughout these Covenants, the following terms shall have the meaning set forth below, which meanings shall be both the singular and plural forms and to all tenses of such terms:

**Section 1.1 Accessory Building** The term "Accessory Building" shall mean and refer to a subordinate building including but not limited to detached garages and storage buildings, the use of which is incidental to that lot and located thereon.

**Section 1.2 Alteration** The term "Alteration" shall mean or refer to change or rearrangement, as applied to a building or structure parts or enlargement, whether by extending on the side or increasing by height. It shall also refer to changes in color and materials.

**Section 1.3 Articles of Organization** The term "Articles of Organization" shall mean and refer to the Articles of Organization of Woods & Water Development, LLC and all amendments thereto.

**Section 1.4 Assessment** The term "Assessment or Maintenance Fees" shall mean the annual and special assessments and any other charges assessed against any lot by the Association as stated herein or Assessment by a future Phase Association.

**Section 1.5 Association** The term "Association" shall mean Woods & Water Association, an Alabama non-profit corporation, the members of which will be the owners of platted lots or condominium units (including the Developer) in the Dedicated Woods & Water Development, LLC.

**Section 1.6 Association Expenses** The term "Association Expenses" shall mean and refer to all expenditures made or incurred by or on behalf of the Association including without limit those expenditures described in Article 8 below.

**Section 1.7 Board** The term "Board" shall mean and refer to the members of the Board of Directors of the Association and their duly elected successor as may be provided for in the Articles of Incorporation and Bylaws, as the same may exist from time to time.

**Section 1.8 Building** The term "Building" shall refer to any structure, whether residential, commercial or recreations that may be developed on any of the lots or common areas of the property.

**Section 1.9 Bylaws** The term "Bylaws" shall mean and refer to the bylaws of the Association as the same may be amended from time to time.

**Section 1.10 Committee** The term or letters "DRC" shall mean the Design Review Committee of the Association appointed and controlled by Developer as stated herein with the rights and obligations conferred upon such Committee pursuant to these Covenants.

**Section 1.11 Common Areas** The term "Common Areas" shall mean and refer to all real and personal property or easements now and hereafter owned or operated by the Association for the nonexclusive, common use and enjoyment of the owners of lots, the Developer as owner of contiguous lands, their tenants, guests and invitees. The common areas shall include:

(a) All private roadways and easements located within the boundaries of the Development that provide ingress to and egress from any portion of the Development (other than any such private roadways or easements that are located solely within the boundary lines of any lot, dwelling or unit.)

(b) All signage, street lights, lighting, walkways, sidewalks (whether same be located within the Woods & Water Roadways or upon part of lots fronting Woods & Water Roadway), paths, bicycle and jogging paths and lanes, gates, walls, fences, limited access facilities, improvements, landscaped or other area immediately adjacent to any public or private roadways that may be adjacent to or in close proximity with the Development that provide ingress to and egress from any portion of the Development (other than any such areas located solely within the boundary lines of any lot, dwelling or unit).

(c) All maintenance areas and parking areas located on any portion of the Development (other than such areas located solely within the boundary lines of any lot, dwelling or unit).

(d) All utility lines, pipes, ducts, conduits, equipment, machinery and other apparatus and appurtenances that are located in or serve any portion of the common areas (except as such as may be owned by Developer, utility companies or other third parties).

(e) All recreational or similar facilities that may be developed by Developer and conveyed to the Association.

(f) All easements and easement areas within the Development (other than such areas located solely within the boundary lines of a lot), and any other areas or improvements on or within the Development that are designated as common areas by Developer. The designation of any land and/or improvements as common areas shall not mean or imply that the public at large acquires any easement of use or enjoyment thereof or any other rights, licenses or benefits therein. The lakes and the Developers adjoining private land are considered common areas for use by lot/home owners

**Section 1.12 Common Expenses** The term "Common Expenses" shall mean and refer to all expenditures made or incurred by or on behalf of the Association, including, without limitation, those expenses described herein and as to a Phase Association those expenses described herein below, all funds assessed for the creation or maintenance of reserves pursuant to the provisions of these Covenants, and a proportionate share of all association expenses.

**Section 1.13 Conditioned Space** The term "Conditioned Space" shall mean heated and cooled space for year round living.

**Section 1.14 Covenants** The term "Covenants or CC&R's" shall mean and refer to the Covenants, Conditions and Restrictions for Woods & Water as set forth herein, and all amendments thereto.

**Section 1.15 Dedicated Woods & Water Development, LLC** The term "Dedicated Woods & Water Development, LLC" shall refer to that part of Woods & Water, which have been subjected to these CC&R's by Developer pursuant to a Woods & Water Plat, Deed, Covenants, or other instruments recorded in the Probate Office.

**Section 1.16 Design Code** The term "Design Code" shall mean the standards prepared, issued and amended from time to time by the Design Review Committee as stated herein below for the purpose of reviewing and approving all exterior improvements, landscaping and other improvements that may be made to any lot, dwelling, common area, commercial buildings or multi-family buildings.

**Section 1.17 Developer's Contiguous Lands** The term "Developer's Contiguous Lands" shall refer to any part of the Woods & Water Development, LLC owned by Developer, its successors and assigns, which abut the Woods & Water Roadways, but which have not become part of the Dedicated Woods & Water Development, LLC.

**Section 1.18 Developer's Control** The term "Developer's Control" shall refer to the control by Developer until January 1, 2036, or until such sooner date as Developer, in its sole discretion, may determine the following: (i) the officers and board of directors of the Master Association; (ii) the Design Review Committee of the Master Association; (iii) the officers and directors of any future Associations that may be formed in future phases of Woods & Water; (iv) the right to amend these CC&R's or any restrictions recorded in any Woods & Water plat.

**Section 1.19 Development** The term "Development" shall mean and refer to that portion of Woods & Water Development, LLC, which Developer, in its sole discretion, shall deem necessary or desirable to develop and submit to these covenants. All other conditions notwithstanding, developer is committed to developing Phase I, and may develop or not develop any remaining portion of the overall property, and may or may not subject same to these Covenants.

**Section 1.20 Dwelling** The term "Dwelling" shall mean and refer to improved lot intended for use as single family detached residential housing. Wherever any of the phrases "lot, dwelling or unit", "lots or dwellings", "lot and dwelling" or "lots and dwellings" appear herein, the term "dwelling" or "dwellings" in those instances shall include the lot or lots upon which such dwelling or dwellings are constructed.

**Section 1.21 Family** The term "Family" shall mean one or more persons related by blood, marriage or adoption, occupying a lot and living as a single, non-profit housekeeping unit.

**Section 1.22 Floor Area** The term "Floor Area" shall mean the sum of the floor area for each of the several stories under one (1) floor measured from the interior limits of the structure.

**Section 1.23 Governmental Authority** The term "Governmental Authority" shall mean any and all city, county, state and federal governmental or quasi-governmental agencies, bureaus, departments, divisions or regulatory authorities having jurisdiction over any portion of the Development.

**Section 1.24 Improvement(s)** The term "Improvement" shall mean and refer to all dwellings and any building, structure, planting or device constructed, erected or placed upon the property that in any way affects the exterior appearance of any lot, building, dwelling or common area. Improvements shall include, by way of illustration and not limitation, buildings, foundations, covered patios, helipads, underground utilities, roads, driveways, walkways, paving, curbing, parking areas, docks, piers, shoreline, construction, trees, shrubbery, landscaping, fences, screening, walls, signs, satellite dishes, radio or television antennas, and any other artificial or manmade changes or alterations to the natural condition of any lot, dwelling or unit. "Improvements" shall also mean any grading and any excavation or fill, the volume of which exceeds eight (8) cubic yards, and any soil erosion controls, ponds, lakes, or drainage channels constructed on the property.

**Section 1.25 Institutional Mortgagee** The term "Institutional Mortgagee" shall mean and refer to (a) any federal or state chartered bank, trust company, life insurance company, federal or state savings and loan association, real estate investment or trust or other recognized lending institution that normally and customarily engages in the business of making mortgage loans, (b) any institutions or governmental purchaser of mortgage loans in the secondary market, such as Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, and (c) any pension or profit-sharing trust that makes mortgage loans or that purchases mortgage loans in the secondary market, that holds a first mortgage on any lot, dwelling or unit that has been duly and properly recorded in the Probate Office of Montgomery County, Alabama.

**Section 1.26 Limited Common Areas** The term "Limited Common Areas" shall refer to all real and personal property or easements hereafter owned by a Phase Association for the nonexclusive use and enjoyment of owners of lots in a particular phase to the exclusion of use or enjoyment by owners of lots outside said Phase.

**Section 1.27 Living Space** The term "Living Space" shall mean and refer to the enclosed and covered areas within a dwelling that are heated and cooled by heating, ventilating and air conditioning equipment, **exclusive** of garages, carports, porches, terraces, balconies, decks, patios, courtyards and bulk storage areas.

**Section 1.28 Mortgage** The term "Mortgage" shall mean and refer to any mortgage, deed of trust or other security device encumbering a lot, dwelling, commercial lot, apartment lot, condominium unit or any interest therein and which shall have been duly and properly recorded in the Office of the Judge of Probate of Montgomery County, Alabama.

**Section 1.29 Mortgagee** The term "Mortgagee" shall mean and refer to the holder of any mortgage and shall include any institutional mortgagee.

**Section 1.30 Occupant** The term "Occupant" shall mean and include any owner, the family members, guests, tenants, agents, employees and invitees of any owner and their respective family members, guests, tenants, agents, employees, invitees and any other person

who occupies or uses any lot or dwelling. All actions or omissions of any occupant are and shall be deemed the actions or omission of the owner of such dwelling.

**Section 1.31 Owner** The term "Owner" shall mean and refer to the record owner including Developer, of fee simple title to any lot or dwelling whether an association or other entity of any nature, including natural personas, but shall not include (i) any mortgagee unless and until such mortgagee has foreclosed on its mortgage and purchased such lot or dwelling at the foreclosure sale held with respect to the foreclosure of such mortgage or (ii) any purchaser, contract purchaser or vendor who has an interest in any lot or dwelling solely by virtue of a contract, installment contract or other agreement.

**Section 1.32 Phase Associations** The term "Phase Associations" shall refer to any future Association to be formed by Developer for the ownership and maintenance of limited common areas in such future phase.

**Section 1.33 Phase I** The term "Phase I" shall refer to the plat of the Woods & Water Phase One, to be recorded in the Office of the Judge of Probate of Montgomery County, Alabama, dedicating those lands being more particularly described in Exhibits "1" and "2" attached hereto and made a part hereof, composing approximately 97 acres, more or less, and containing 54 residential lots, Woods & Water Roadways and common areas. The lands contained in said Plat are subjected to the Covenants, Conditions and Restrictions. Phase I and the plat of Phase I are sometimes referred to as Phase "One".

**Section 1.34 Probate Office** The term "Probate Office" shall refer to the Probate Office of Montgomery County, Alabama.

**Section 1.35 Property** The term "Property" shall mean and refer to Phase I and any additional portion of the Woods & Water Development, LLC, which may become Dedicated Woods & Water Development, LLC as stated herein.

**Section 1.36 Woods & Water** The term "Woods & Water" shall refer to that portion of Woods & Water Development, LLC that Developer, in its sole discretion, shall deem necessary and desirable to submit to these Covenants.

**Section 1.37 Woods & Water Development, LLC or Overall Development** The term "Woods & Water Development, LLC" or "Overall Development" shall mean the approximate 336 acres of land located in Montgomery County, Alabama, now owned by Woods & Water Development, LLC.

**Section 1.38 Lots** The term "Lots" shall refer to any lot within the Woods & Water Development, LLC, which is subjected to the Woods & Water Covenants pursuant to a recorded Woods & Water plat or other instrument. All lots in Phase I are for residential use only.

**Section 1.39 Woods & Water Plat** The term "Woods & Water Plat" shall refer to Woods & Water Plat Number One and any subsequent plat or part of the Woods & Water Development, LLC, which is subjected to these CC&R's by Developer and becomes part of Dedicated Woods & Water Development, LLC.

**Section 1.40 Woods & Water Roadways** The term "Woods & Water Roadways" shall refer to the private roadways owned by Woods & Water Development, LLC and operated and maintained by the Association pursuant to the Woods & Water Operating Agreement.

**Section 1.41 Woods & Water Roadways Operating Agreement** The term "Woods & Water Roadways Operating Agreement" shall refer to that agreement between the Woods & Water Development, LLC and the Association providing for non-exclusive use and maintenance by the Association of the Woods & Water Roadways.

**Section 1.42 Woods & Water Development, LLC** The term "Woods & Water Development, LLC" shall refer to the Developer or Declarant.

## ARTICLE 2

### PROPERTY SUBJECT TO COVENANTS

**Section 2.1 General** Developer hereby proclaims that the property is and shall be subject to the easements, covenants, conditions, restrictions, charges, liens and regulations of these Covenants, and the Property, any part thereof and each lot and common area thereon shall be held, owned, sold, transferred, conveyed, encumbered, leased, occupied, built upon and otherwise used, improved and maintained, subject to the terms of these Covenants, which easements, covenants, conditions, restrictions, charges, liens and regulations shall run with the title to the property and shall be binding upon and inure to the benefit of Developer and all owners and occupants of the property and any lot whether unimproved or improved. Developer may, in its sole discretion, subject part of the Woods & Water Development, LLC to these Covenants to be utilized as lots.

**Section 2.2 Additional Dedicated Woods & Water Development, LLC**  
Developer reserves the right, in its sole and absolute discretion, at any time and from time to time during the pendency of these Covenants, to add and submit any additional property to these Covenants and, to the extent any of the additional property is specifically submitted to these Covenants by Developer, then any such additional property shall become dedicated Woods & Water Development, LLC and shall constitute part of the property. Additional property may be submitted to these Covenants by an instrument executed by Developer in the manner required for the execution of deeds and recorded in the Probate Office of Montgomery County, Alabama, which instrument shall be deemed an amendment to these Covenants (which need not be consented to or approved by any owner, occupant or mortgagee of any Woods & Water lot or condominium unit) and shall (a) refer to the Covenants, stating the book and page number in the Probate Office of Montgomery County, Alabama, where these Covenants are recorded, (b) contain a statement that such additional property is conveyed subject to the provisions of these Covenants or only specified portions thereof; (c) contain an exact description of such additional property and (d) state such other or different covenants, conditions and restrictions as the Developer, in its sole discretion, shall specify to regulate and control the use, occupancy and improvement of such additional property. From and after the date on which any amendment to these Covenants is recorded in the Probate Office of Montgomery County, Alabama submitting any additional property to the provisions of these Covenants, the number of votes in the Association shall be increased by

the number of lots contained in the additional Dedicated Wood& Water Development. In no event shall Developer be obligated to submit any additional property to the provisions of these Covenants upon any real property owned by Developer other than the property. Notwithstanding anything provided in these Covenants to the contrary, (1) the provisions of this Section may not be abrogated, modified, rescinded, supplemented or amended, in whole or in part, without the prior written consent of Developer, and (2) the rights reserved by Developer herein shall not be deemed to inure to the benefit of any transferee or purchaser of any Woods & Water Development, LLC, or any portion thereof, unless Developer, in its sole discretion, transfers and conveys to such transferee or purchaser the rights reserved herein these Covenants.

**Section 2.3 Mutuality of Benefit and Obligation** The provisions of these Covenants are made (a) for the mutual and reciprocal benefit of each lot within the property and are intended to create mutual, equitable servitudes upon and in favor of each lot, (b) to create reciprocal rights and obligations between the respective owners and all future and subsequent owners of any lot within the property and (c) to create a privity of contract and estate between the owners, their respective heirs, successors and assigns.

**Section 2.4 Development of Property** Subject to the approval of any Governmental Authority with appropriate jurisdiction, Developer shall have the right, but not the obligation, for so long as Developer owns any portion of the Development, until January 1, 2036, or until such earlier date as Developer elects in its sole discretion to relinquish such right, to make improvements and changes to all common areas and to all lots, including, without limitation, (a) installation and maintenance of any improvements in or to the common areas, (b) changes in the location of the boundaries of any lot, dwelling or unit owned by Developer or of the common areas, (c) installation of any water, sewer and any other utility systems and facilities within the common areas, and (d) installation of limited access and trash and refuse facilities.

**Section 2.5 Subdivision Plat** Developer reserves the right to record, modify, amend, revise and otherwise add to, at any time and from time to time, a subdivision plat setting forth such information as Developer may deem necessary with regard to the property, including, without limitation, the locations and dimensions of all lots, public or private roads, utility systems, drainage systems, utility easements, drainage easements, access easements, setback line restrictions, lakes, retention ponds and drainage basins. Any such subdivision plats or any amendments thereto shall be binding on the portions of the property indicated thereon as if such subdivision plat were specifically incorporated into these Covenants. Notwithstanding anything provided to the contrary in these Covenants, Developer may at any time or from time to time divide and redivide, combine and resubdivide any lots owned by Developer and change any easement description or relocate any roads affected: thereby, subject to approval of any governmental authority having jurisdiction thereof. No resubdivided lot shall be utilized as building lot unless such lot contains a minimum of 40,000 square feet in area.

## ARTICLE 3

### EASEMENTS

#### Section 3.1 Grant of Nonexclusive Easements to Owners

**Common Areas** Subject to the terms and conditions of these Covenants and the rules, regulations, fees and charges from time to time to be established, the Developer does hereby grant to each owner and occupant the nonexclusive right, privilege and easement of access to and the use and enjoyment of common areas in common with Developer, its successors and assigns, and all other owners and occupants. Subject to the provisions herein, the easement and rights granted herein are, and shall be permanent and perpetual, are nonexclusive, are appurtenant to and shall pass and run with title to each lot. The easement and rights granted are expressly subject to the rights reserved by Developer to restrict access to the Development as provided herein and to take any action necessary or desired.

**Private Roadways** Subject to the terms and conditions set forth in these Covenants, and subject also to the traffic rules and regulations described herein, Developer does hereby grant to each owner and occupant for ingress and egress to and from any lot, a nonexclusive easement over and upon, and the right to use for pedestrian or vehicular travel, as appropriate, the private roadways within the property, subject to and in common with Developer, its successors and assigns, and all other owners and occupants and the rights of all other parties having any interest or rights therein including, but not limited to, any other owner of any portion of the Development. The easement and right to use granted shall be permanent and perpetual, are nonexclusive, and are appurtenant to and shall pass and run with title to lots. The easement and right to use are also subject to all rights of Developer or the Association to upgrade and improve any intersection of the property and any other street or highway when, in Developer's judgment, such upgrading or improvement is necessary to maintain acceptable traffic flow within the Development. To the extent Developer is obligated to maintain or otherwise pay any portion of the costs of maintaining any portion of the property, its medians, drainage facilities, shoulders, and landscaping, or if Developer deems it necessary or desirable to upgrade or improve any intersection of the property and any other street as stated above, the Association shall assume all of Developer's obligations relating thereto, and such costs shall be included in the Association Expenses.

**Section 3.2 Grant of Easement to Governmental Authorities** Developer does hereby grant to each branch, bureau, department and agency of any Governmental Authority and its respective agents, employees and representatives, a permanent, perpetual and nonexclusive easement over, across, through and upon all of the private roadways within the Development forming a part of the common areas for the purposes of performing such duties and activities related to law enforcement, fire protection, trash and refuse collection, building inspection services, mail and package delivery, medical and emergency services and any other functions or duties to be performed by the governmental authorities as shall be required or appropriate from time to time.



### **Section 3.3 Reservation of Controlled Access Easement**

**Waiver Of Unlimited Access** Each owner, by acceptance of a deed or other instrument conveying any interest in any lot, does hereby waive all rights of uncontrolled and unlimited access, ingress to and egress from such lot, except as such access may be to a Woods & Water Roadway or to a dedicated street, and acknowledges and agrees that (i) in order to provide quiet enjoyment, access and ingress to and egress from the Development and/or the property may be controlled, restricted and limited to exclude the general public therefrom and (ii) access and ingress to and egress from such owner's lot may be limited to the roads, sidewalks, walkways, paths, boardwalks, trails and bicycle or jogging paths and lanes designated as common areas by developer; provided, however, that, subject to the provisions of these Covenants, vehicular and pedestrian access to and from all lots shall be provided at all times.

**Right To Install Limited Access Facilities** Developer does hereby establish and reserve for itself, the Association, and their respective successors and assigns, the right and privilege, but not the obligation, to maintain guarded or electronically monitored gates controlling, limiting and restricting vehicular and pedestrian access to and from any portion of the Development.

**Power Of Attorney** Notwithstanding anything provided to the contrary in these Covenants, Developer (i) does hereby establish and reserve the right, in its sole and absolute discretion and at any time and from time to time, to dedicate any of the private roadways within the Development or any portion thereof as public roadways to any governmental authority designated by Developer and Woods & Water Improvement District without requirement that the approval or consent of any owner, occupant, mortgagee or other beneficiary of these Covenants be obtained and (ii) shall be and hereby is authorized and entitled to execute any and all agreements, documents, instruments and subdivision plats pursuant to which any of the other private roadways within the Development are submitted for dedication as public roadways. Each owner, by acceptance of any deed to a Woods & Water lot or, and each mortgagee, by the acceptance of any mortgage on any Woods & Water lot, shall be deemed to, and each does hereby, irrevocably appoint the Developer as its respective agent and attorney-in-fact for the purpose of executing, signing, acknowledging, swearing to and rescinding any and all instruments, certificates, documents, agreements and subdivision plats relating to the dedication of any of the other private roadways within the Development for and in the name of any such owner and mortgagee in their name, place and stead. The power and authority granted herein is hereby declared to be irrevocable and a power coupled with an interest which shall survive the death or dissolution of any owner or mortgagee and be binding on all owners and mortgagees and their respective heirs, executors, administrators, personal representatives, successors and assigns and anyone having any interest in any lot or common area or in any of the easement rights created or granted in these Covenants. The rights reserved by Developer may be assigned to the Association. Upon such assignment, the Association shall have the same rights reserved herein to Developer.

**Benefit Of Easements** The easements, rights and privileges granted herein shall pass with each lot as an appurtenance thereto and may not be severed, transferred, assigned or otherwise alienated separate or apart from a lot.

**Section 3.4 Reservation of General Access Easement** Developer does hereby establish and reserve for itself, the Master Association, the DRC, the Association and their respective agents, employees, representatives, invitees, successors and assigns, a permanent and perpetual nonexclusive easement appurtenant over, across, through and upon each lot for the purpose of providing access and ingress to and egress from each lot for (a) the inspection of each lot and any improvements thereon to determine compliance with the provisions of these Covenants, and (b) the performance of the respective duties of Developer, the Association hereunder, including, without limitation, taking any action required or permitted to be taken by Developer, the Association, the DRC pursuant to any of the provisions of these Covenants or the Association Bylaws; provided, however, that upon completion and occupancy of any dwelling, then except in the event of emergencies, the foregoing easement shall be utilized only during normal business hours and then, whenever practicable, only upon advance notice to the owner or occupant of such lot directly affected thereby.

**Section 3.5 Reservation of Easements With Respect to Common Areas and Limited Common Areas**

Developer does hereby establish and reserve, for itself, the Association, the DRC, and their respective agents, employees, representatives, invitees, successors and assigns, a permanent and perpetual nonexclusive easement appurtenant over, across, under, through and upon all portions of the common areas and all lots that are reasonably necessary for the purpose of installing, erecting, replacing, relocating, maintaining and operating master television and/or cable systems, limited access facilities and similar systems and all utilities necessary or convenient for the use of any portion of the Development including, without limitation, publicly or privately owned and operated electrical, gas, telephone, water and sewer services, storm drains and sewers, irrigation systems, drainage systems, retention ponds, lakes, basins and facilities, lines, pipes, conduits, equipment, machinery and other apparatus and appurtenances necessary or otherwise reasonably required in order to provide any utility service to any portion of the Development. The easements established and reserved herein shall include the right to cut and remove trees, undergrowth and shrubbery, to grade, excavate or fill and to otherwise take all other action reasonably necessary to provide economical and safe installation, maintenance, repair operation and replacement of all such utility services and the systems, equipment and machinery used to provide the same. Notwithstanding anything provided herein to the contrary, (a) the utilization of any of the easements and rights established and reserved shall not unreasonably interfere with the use or occupancy of any dwelling situated on any lot, and (b) Developer shall use good faith efforts to attempt to cause any utility company or other supplier or provider of any utility service that may utilize any of the easements and rights reserved and established herein to take reasonable action to repair any damage to any lot caused by such utility company or other supplier or provider of such utility service during the exercise of any rights established and reserved herein.

**Section 3.6 Landscaping by Owners on Easement Areas** The Developer, the Association, any Phase Association, any governmental authority, any utility company, and each of their respective agents, employees, representatives, invitees, successors and assigns, shall not be liable to any owner, occupant or any other party for and on account of damage to any landscaping or plantings placed on any easement area or road right-of-way within the Development by any owner, occupant or any other party. This does not include or apply to builders, contractors or subcontractors who are building a home for another individual who cause damages to the person or property of another.

**Section 3.7 Other Easements** No owner shall enter into an easement arrangement with a utility company, another lot owner or any other company, personas or group without the written consent of the Developer. The Developer must approve and co-execute all written and/or recorded easements across Wood & Water Development.

## **ARTICLE 4**

### **WOODS & WATER MASTER ASSOCIATION**

**Section 4.1 Membership** As provided in the Articles of Incorporation and Bylaws of the Association, the owner of each lot contained in Woods & Water plats, shall be a member of the Association. Membership in the Association shall be appurtenant to and may not be separated from ownership of any lot; provided, however, that (a) Developer shall be deemed a member of the Association for so long as Developer owns any portion of the property, or (b) if any lot or unit is owned by more than one person, then the owner of such lot or unit shall, by written notice to the Board, designate only one representative to serve as member of the Association until such time, if at all, as the mortgagee thereof becomes an owner by virtue of foreclosure of its mortgage and title to such encumbered lot or unit is vested in the mortgagee pursuant to a duly recorded deed. The transfer or conveyance of fee title to any lot (other than by a mortgage as security for the payment of an obligation), shall automatically include the transfer of all membership rights of such owner in the Association with respect to the lot transferred and conveyed, notwithstanding any failure of the transferor to transfer to his transferee any certificates, assignments or other evidence of such membership. Membership or the rights and benefits in the Association may not be transferred, assigned, conveyed or otherwise alienated in any manner separately and apart from the ownership of a lot. Each member of the Association shall at all times comply with the provisions of these Covenants, the Articles of Incorporation, the Bylaws and all rules and regulations that may from time to time be adopted by the Board or the members of the Association.

**Section 4.2 Board** The Board of the Association shall have the rights and duties set forth in its Articles of Incorporation and the Bylaws. Developer hereby retains and shall have the right to appoint or remove, with or without cause, any member or members of the Board, any officer or officers of the Master Association and any members of the DRC until January 1, 2036, or until such earlier date as Developer elects, in Developer's sole discretion, to relinquish such right and further to appoint or designate those members of the Board of Directors of the Association. Each owner, by acceptance of a deed to or other conveyance of a lot, vests in Developer such authority to add and remove members of the Board and Officers of the Association and to designate the members of the Board of Directors of the Association to be elected by the Board of the Association and Members of the DRC until January 1, 2036, or such earlier date as Developer, in its sole discretion, so elects.

**Section 4.3 Voting Rights** Subject to the rights reserved for Developer in the Articles of Incorporation and Bylaws (which, among other things, provide that only Developer, until January 1, 2036, or until such earlier date as Developer may elect, in Developer's sole discretion, will be exclusively entitled to take various actions and vote on all matters to be voted on by the members of the Association) and the rights of the Association to suspend any owner's voting rights or privileges in the Association as stated herein, the voting rights of all

owners of lots within the property shall be as follows: (i) each owner, including the Developer, of a lot shall be entitled to one vote in any matter submitted to members of the Association of approval. No owner of a lot, whether one or more persons, shall have more than one vote. No owner, whether one or more persons, shall have more than one membership and one vote per lot. Such voting rights shall continue to apply to each lot upon the addition of any property to these Covenants. Each owner by acceptance of deed or other public conveyance to a lot consents and agrees to the dilution of his or her voting interest in the Association by virtue of the resubdivision of any lot by Developer as stated herein, and the submission of any additional property to the terms of these Covenants.

**Section 4.4 Duties and Powers of Master Association** In addition to the rights, duties, responsibilities and obligations of the Association otherwise set forth in these Covenants, the Association shall have the power to perform or cause to be performed any of the duties and powers set forth in the Articles of Incorporation and the Bylaws. The Association may exercise any other right or privilege granted to it expressly by its Board, these Covenants or Bylaws, together with every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided to the contrary herein, in its Articles of Incorporation or in the Bylaws, the powers and authority granted to the Association may be exercised by the Board, acting through the officers of the Association, without further consent or action on the part of the owners. Nothing herein shall be construed as a restriction of the rights, duties, responsibilities and obligations of the Association set forth in the Articles of Incorporation or the Bylaws.

**Section 4.5 Agreements** Subject to the conditions, restrictions and other provisions of these Covenants, all agreements, actions and determinations lawfully authorized by the Board with respect to the property shall be binding upon all owners, their heirs, executors, personal representatives, administrators, successors and assigns and all others having any interest in the property. In performing its responsibilities hereunder, the Association, through the Board, shall have the right and authority to delegate to persons of its choice such duties of the Association hereunder as may be determined by the Board. In furtherance of the foregoing and not in limitation thereof, the Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall deem necessary or desirable for the proper operation of any portion of the property, whether such personnel are furnished or employed directly by the Association or by independent contract with the Association. During the term of any such management agreement entered into by the Association with a third party, such manager may, if authorized by the Board, exercise all the powers or duties specifically and exclusively reserved to the Board or the officers of the Association by these Covenants, the Articles of Incorporation or the Bylaws. Such manager may be an individual, corporation or other legal entity and may be bonded in such manner as the Board may require, with the costs of such bond to be a common expense. In addition to the foregoing, the Association may pay for and the Board may hire and contract for such legal and accounting services as are necessary or desirable in connection with the operation of the property, or the enforcement of these Covenants, the Article of Incorporation, the Bylaws or any rules and regulations of the Association.

**Section 4.6 Management by Developer and Its Affiliates** In addition to the rights and authority granted to the Association, Developer or any affiliate thereof, can, but shall not

be obligated to, be employed as the manager of the Association and the property, until January 1, 2036, or until such earlier dates as the Developer elects, in Developer's sole discretion, to relinquish such right, at such compensation and on such terms as would be usual, customary and obtainable in an arms-length transaction with any third party providing comparable service for any real estate development in the southeastern United States of the size, quality and nature of the property. Each owner, by acceptance of a deed to or other conveyance of a lot shall be deemed to ratify the provisions herein and shall specifically be deemed to have approved any management agreement entered into by the Association and Developer or any affiliate thereof.

**Section 4.7 Rules and Regulations** The Board may establish and enforce reasonable rules and regulations governing the use of all lots and common areas, including the enforcement of all of the provisions of these Covenants. Each such rule and regulation shall be binding upon all owners and occupants until and unless any such rule or regulation is specifically overruled, canceled or modified by the Board or by the majority vote of the total votes of the Association at any regular or special meeting of the Association; provided, however, that no such rule or regulation may be overruled, canceled or modified unless such action is also approved by Developer until January 1, 2036, or such earlier date as Developer elects in Developer's sole discretion, to relinquish such right.

**Section 4.8 Indemnification** The Association shall and does hereby indemnify, defend and agree to hold each and every officer, agent, representative and member of the Board harmless from and against any and all expenses, including court costs and reasonable attorney's fees, suffered, paid or incurred with any action, suit or other proceedings (including the settlement of any suit or proceedings if approved by the Board) to which such persona may be made a party by reason of being or having been an officer, agent, representative or member of the Board. The officers, agents, representatives and members of the Board shall not be liable for any mistake in judgment, negligence or otherwise except for their own willful misconduct or reckless disregard of duty, as finally determined by a court of competent jurisdiction. The officers, agents, representatives, and members of the Board shall have not personal liability with respect to any contract or other commitment made hereby indemnify, defend and agree to forever hold each such officer, agent, representative and member of the Board harmless from any and all liability to others on account of any such contract or commitment. The indemnification, obligations and rights provided for herein shall not be exclusive of any other rights to which any officer, agent, representative or member for the Board may be entitled, including anything provided to the contrary contained in the Articles of Incorporation or the Bylaws. The Association shall (as long as such insurance is available and economically feasible) maintain adequate general liability and officers' and directors' liability insurance in order to fulfill its obligation and the costs of such insurance shall constitute a common expense.

**Section 4.9 Woods & Water Storage, LLC** Developer may, in its sole discretion, subject part of the Woods & Water Development, LLC outside of Phase I to be utilized as storage buildings, storage lots, or designated recreational vehicle parking for the nonexclusive use of residents.

## ARTICLE 5

### WOODS & WATER PHASE LANDOWNERS ASSOCIATIONS

**Section 5.1 Phase Associations** The Developer may cause to be formed associations of the owners of lots in any subsequent Woods & Water Plat, where such phase provides for limited common areas to be owned, maintained, and used by owners, their lessees, guests and invitees, of lots within such phase. Should Developer submit additional property to these covenants, Developer may, as part of such submission, organize phase owners associations to own, improve, manage, maintain, and assess any limited common areas in such additional phase. The Developer shall exercise control of any Phase owners Association until January 1, 2036, or such sooner date as Developer in its sole discretion may determine to relinquish control.

**Section 5.2 Membership** The owner of each lot or dwelling contained in a present or future Phase shall be a member of the Phase Association. Membership in the Phase Association shall be appurtenant to and may not be separated from ownership of any lot or dwelling in future Woods & Water Plats; provided, however, that (a) Developer shall be deemed a member of the Phase Association until January 1, 2036, or such earlier date as Developer elects, in Developer's sole discretion, to terminate Developer's membership in the Phase Association, (b) if any lot or dwelling is owned by more than one person, then the owner of such lot or dwelling shall, by written notice to the Board, designate only one representative to serve as a member of the Phase Association. Membership or the rights and benefits in the Phase Association may not be transferred, assigned, conveyed or otherwise alienated in any manner separately and apart from the ownership of a lot or dwelling. Each member of the Phase Association shall at all times comply with the provisions of these Covenants, the Articles of Incorporation, the Bylaws and all rules and regulations that may from time to time be adopted by the Board or the members of the Phase Association.

**Section 5.3 Board** The Board of the Phase Association shall have the rights and duties set forth in its articles of incorporation and the Bylaws. Developer hereby retains and shall have the right to appoint or remove, with or without cause, any member or members of the board and any officer or officers of the Phase I association until January 1, 2036, or until such earlier date as Developer elects, in Developer's sole discretion, to relinquish such right and further to appoint or designate those members of the Board of Directors of the Master Association to be elected by the Board of the Phase Association. Each owner, by acceptance of a deed to or other conveyance of a lot or dwelling, vests in Developer such authority to add and remove members of the Board and officers of the Phase Association and to designate the members of the Board of Directors of the Master Association to be elected by the Board of the Phase I association until January 1, 2036, or such earlier date as Developer, in its sole discretion, so elects.

**Section 5.4 Voting Rights** Subject to the rights reserved to Developer in the Articles of Incorporation and Bylaws of the Phase Association (which, among other things, provide that on Developer, until January 1, 2036, or until such earlier date as Developer may elect, in Developer's sole discretion, shall be exclusively entitled to take various actions and vote on all matters to be voted on by the members of the Phase Association) and the rights of the Master Association or the Phase Association, as the case may be, to suspend any owner's

voting rights or privileges in the Phase Association as stated herein, the owner of each lot or dwelling shall be entitled to one vote in any matters submitted to the members of the Phase Association for approval. No owner, whether one or more persons, shall have more than one membership and one vote per lot or dwelling. Each owner, by acceptance of a deed or other conveyance to a lot or dwelling, consents and agrees to the dilution of his or her voting interest in the Phase Association by virtue of the resubdivision of any lot by Developer pursuant to Article 2 above. In no event, whether as a result of there being multiple ownership interests in any lot or dwelling or otherwise, shall more than one vote be allowed for any one lot or dwelling. Fractional voting shall not be permitted. Developer shall be deemed to be the owner of and shall be entitled to all voting rights attributable to any lots or dwelling owned by Developer.

**Section 5.5 Duties and Powers of Phase Association** The Phase Association may own, improve, maintain, and make assessments pertaining to any limited common area that may be deeded, leased, or otherwise subjected to the control of the Phase Association by the Developer. In addition to the rights, duties, responsibilities and obligations of the Phase Association otherwise set forth in these Covenants, the Phase Association shall have the power to perform or cause to be performed any of the duties and powers set forth in the Articles of Incorporation and the Bylaws. The Phase Association may exercise any other right or privilege granted to it expressly by the Master Association Board, these Covenants or by law, together with every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided to the contrary herein, in the Article of Incorporation or in the Bylaws, the powers and authority granted to the Phase Association may be exercised by the Board, acting through the officers of the Phase Association, without further consent or action on the part of the owners. Nothing herein shall be construed as a restriction of the rights, duties, responsibilities and obligations of the Phase Association set forth in the Article of Incorporation or the Bylaws.

**Section 5.6 Agreements** Subject to the conditions, restrictions and other provisions of these Covenants, all agreements, actions and determinations lawfully authorized by the Board with respect to the property shall be binding upon all owners, their heirs, executors, personal representatives, administrators, successors and assigns and all others having any interest in the property. In performing its responsibilities hereunder, the Phase Association, through the Board, shall have the right and authority to delegate to persons of its choice such duties of the Phase Association hereunder as may be determined by the Board. In furtherance of the foregoing and not in limitation thereof, the Phase Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Phase Association shall deem necessary or desirable for the proper operation of any portion of the property, whether such personnel are furnished or employed directly by the Phase Association or by independent contract with the Phase Association. During the term of any such management agreement entered into by the Phase Association with a third party, such manager may, if authorized by the Board, exercise all the powers and shall be responsible for the performance of all the duties of the Phase Association hereunder, excepting any of such powers or duties specifically and exclusively reserved to the Board or the officers of the Phase Association by these Covenants, the Articles of Incorporation or the Bylaws. Such manager may be an individual, corporation or other legal entity and may be bonded in such manner as the Board may require, with the costs of such bond to be a common expense. In addition to the foregoing, the Phase Association may pay

for and the Board may hire and contract for such legal and accounting service as are necessary or desirable in connection with the operation of the property, or the enforcement of these Covenants, the Articles of Incorporation, the Bylaws or any rules and regulations of the Phase Association.

**Section 5.7 Management by Developer or Its Affiliates** In addition to the rights and authority granted to the Phase Association herein, Developer or any affiliate thereof may, but shall not be obligated to, be employed as the manager of the Phase Association and the property, until January 1, 2036, or until such earlier date as the Developer elects, in Developer's sole discretion, to relinquish such right, at such compensation and on such terms as would be usual, customary and obtainable in an arms-length transaction with any third party providing comparable services for any real estate development in the southeastern United States of the size, quality and nature of the property. Each owner, by acceptance of a deed to or other conveyance of a lot or dwelling, shall be deemed to have approved any management agreement entered into by the Phase Association and Developer or any affiliate thereof.

**Section 5.8 Rules and Regulations** Subject to the prior written approval of the Master Association Board, which may be withheld in the sole discretion of the Master Association Board, the Board may establish and enforce reasonable rules and regulations governing the use of all common areas owned or managed by the Phase Association. Each such rule and regulation shall be binding upon all owners and occupants until and unless any such rule or regulation is specifically overruled, canceled or modified by the Board or by the majority vote of the total votes of the Phase Association at any regulation may be overruled, canceled or modified unless such action is also approved by Developer until January 1, 2036, or such earlier date as Developer elects in Developer's sole discretion, to relinquish such right.

**Section 5.9 Assessments by a Phase Association** Any Phase Association that may be established from time to time by Developer shall have those rights of assessments, enforcement and insurance powers as to limited common areas granted to the Master Association as stated herein, or as is granted to such Phase Association by the Certificate of Incorporation or Bylaws of said Phase Association.

**Section 5.10 Security** Nothing herein shall constitute or be deemed to constitute a representation, warranty, assurance or promise that the Association, the DRC or Developer will either now or in the future provide any security force or device to provide protection for the owners of the lots platted by this plat or any other persons or property located within this plat. In no event shall the Association, the DRC or the Developer be obligated to or responsible for providing any security service or services, security devices, to provide protection for owners or any other persons or property located within this plat. The Association, the DRC and the Developer shall not be responsible or liable for any damages or losses caused by any failure to provide any security service or services within Woods & Water. Furthermore, the use of any other property, which could be used for security purposes, shall not constitute a promise or obligation on or of the Association or Developer to provide security services either now or in the future. In the event that any security service or device is provided by the Developer, Association, the DRC or the Developer, the Association, the DRC or Developer shall be entitled to discontinue any



such security service or services, or device or devices, at any time and from time to time, and neither the Association, the DRC nor Developer is responsible for any losses or damages caused by such discontinuation of service. In no event shall the Association, the DRC or the Developer be responsible for any damages caused by any loss of property or injury caused to a person located within Woods & Water caused by theft, criminal activity or other activity which could or might have been prevented by a security service or device.

## ARTICLE 6

### MAINTENANCE RESPONSIBILITIES

**Section 6.1 Responsibilities of Association** If the Developer, or the Board of the Association determines that (i) any owner has failed or refused to discharge properly his, her or its obligations with regard to the maintenance, cleaning, repair or replacement of items that he, she or it is responsible for hereunder or (ii) any maintenance, cleaning repair or replacement are not paid in full from insurance proceeds, if any, received by the Association, with respect thereto, then, in either event, the Association, in addition to the exercise of any of its rights and remedies set forth in these Covenants, may give such owner written notice of the Association's intent to provide such necessary maintenance, cleaning, repair or replacement, at the sole cost and expense of such owner and setting forth in reasonable detail what action is deemed necessary. Except in the event of emergency situations as determined by the Board, such owner shall have fifteen (15) days within which to complete the same in a good and workmanlike manner or, if the same is not capable of completion within such fifteen (15) day period, to commence such maintenance, cleaning, repair or replacement and to proceed diligently with the completion of the same in a good and workmanlike manner. In the event of emergency situations or the failure by any owner to comply with the provisions hereof after such notice, the Association may provide (but shall not be obligated to provide) any such maintenance, cleaning, repair or replacement at the sole cost and expense of such owner and said cost shall be a personal obligation of such owner, shall constitute an individual assessment to such owner, and shall be subject to the lien and foreclosure rights granted herein.

## ARTICLE 7

### DESIGN REVIEW COMMITTEE, DEVELOPMENT AND DESIGN CODE

**Section 7.1 Board Composition** The DRC shall consist of not less than three persons, but no more than seven persons, each of whom shall be appointed or elected as provided herein. The members of the DRC may, but shall not be required to be, members of the Association or owners of any lot. The term of office for each member of the DRC shall be three years (coinciding with the fiscal year of the Association), except as provided herein below. Any member appointed or elected may be removed with or without cause in the manner provided herein. Each owner, by acceptance of a deed to or other conveyance to a lot shall be deemed to ratify the provisions herein below.

## **Section 7.2 Appointment and Removal of DRC Members**

Until January 1, 2036, or until such earlier date as Developer may elect, in Developer's sole discretion, Developer shall have the sole and exclusive right to appoint and remove all of the members of the DRC.

After January 1, 2036, or upon Developer's written notice to the Association that it no longer desires to exercise the right to appoint and remove members of the DRC as stated hereinabove, then the members of the DRC shall be appointed by the Association Board.

Any member of the DRC may be removed, with or without cause, by (i) Developer, in its sole discretion, during the period of time that the provisions herein are in effect or (ii) the Association Board, in the event the provisions herein are in effect. In the event of death or resignation of a member of the DRC, then Developer, if the provisions herein are applicable; or the Association Board, if the provisions herein are applicable, as the case may be, shall appoint a substitute member of the DRC to fill the vacancy of such deceased or resigning member for the remainder of the term of such former member.

The Developer shall appoint the initial DRC for terms ranging from one to three years each, in Developer's sole discretion. At the expiration of the term of office of each respective member of the initial DRC, Developer, in the event the provisions herein are applicable, or the Association Board, in the event the provisions herein are applicable, shall appoint a successor of such member for a period of three years.

**Section 7.3 Procedure and Meetings** The DRC shall elect a chairman and he or she, or in his or her absence, the vice chairman, shall be the presiding officer at all meetings of the DRC. The DRC will meet as necessary as well as upon call of the chairman or vice chairman, and all such meetings shall be held at such places as may be designated by the chairman or vice chairman. A majority of the total number of members of the DRC shall constitute a quorum of the DRC for the transaction of business and the affirmative vote of a majority of those present in person or by proxy at a meeting of the DRC shall constitute the action of the DRC on any matter that comes before it. The DRC is authorized to retain the services of consulting architects, landscape architects, designers, engineers, inspectors and/or attorneys in order to advise and assist the DRC in performing its functions set forth herein. Each member of the DRC may be paid a stipend or honorarium as may from time to time be determined by the Developer, if the provisions herein are applicable, or the Association Board, if the provisions herein are applicable, and shall otherwise be entitled to a reimbursement of expenses incurred on behalf of the DRC, subject to the approval of such expenses by the Developer, if the provisions herein are applicable, or the Association Board, if the provisions herein are applicable. The DRC shall have the right from time to time to adopt and establish such rules and regulations as may be determined to be necessary concerning the procedure, notice of meetings and all other matters concerning the conduct of the business of the DRC.

**Section 7.4 Design Code** The DRC is hereby authorized to promulgate and amend or modify from time to time a written Design Code governing policies, guidelines and minimum requirements to be satisfied with respect to the site preparation, construction, location, landscaping and design of all dwellings and other Improvements on any lot or common areas of the Association, as well as additions, repairs, renovations or changes that may from time to time be made to such dwellings, improvements or common areas, the content and manner in which plans and specifications and other documentation and information concerning the

construction of any dwellings or other Improvements on a lot or common areas are to be submitted to and approved by the DRC shall be in addition to the provisions and requirements set forth in these Covenants and shall be binding upon and enforceable against all owners.

**Section 7.5 Architectural Review Process** The objective of the review process is to promote aesthetic harmony in the community by providing for compatibility of specific designs with surrounding buildings, the environment and the topography. The review process strives to maintain objectivity and sensitivity to the individual aspects of design.

**Section 7.6 Approval of Plans and Specification**

To preserve the architectural and aesthetic appearance and the natural setting and beauty of the development, to establish and preserve a harmonious design for the improvements thereon, no improvements of any nature shall be commenced, erected, installed, placed, moved onto, altered, replaced, relocated, permitted to remain on or maintained on any lot or common area by any owner, other than Developer, that affect its exterior appearance unless plans and specifications therefore have been submitted to and approved by the DRC in accordance with the provisions herein. Without limiting the foregoing, the construction and installation of any dwellings, sidewalks, drives, parking lots, mailboxes, decks, patios, courtyards, swimming pools, tennis courts, greenhouses, playhouses, awnings, walls, fences, exterior antennas, gazebos, garages or any other outbuildings shall not be undertaken, nor shall any exterior addition or change or alteration be made (including without limitation, painting or staining of any exterior surface) to any dwelling, lot or common area unless the plans and specifications for the same have been submitted to and approved by the DRC.

The DRC is hereby authorized and empowered to approve all plans and specifications and the construction of all dwellings and other Improvements on any part of the Property including common areas. Prior to the commencement of any dwelling or other Improvements on any lot, dwelling or common area, the owner thereof (including the Association for common areas) shall submit an application to the DRC requesting the DRC to review plans and specification and related data for all such Improvements.

The DRC shall, in its sole discretion, determine whether the plans and specifications and other data submitted by any owner for approval are acceptable. One copy of all plans, specifications and related data so submitted to the DRC shall be retained in the records of the DRC and the other copy shall be returned to the owner submitting the same marked "approved," "approved as noted" or "disapproved". The DRC's initial fee of \$300.00 will be charged to and paid by each owner (except the Association) who submits plans and specifications to the DRC for approval, which fee shall be sufficient to cover the expense of reviewing plans and related data and to compensate any consulting architects, landscape architects, designers, engineers, inspectors and/or attorneys retained to approve such plans and anything provided herein to the contrary, an owner may make interior improvements and alterations within his dwelling that do not affect exterior appearance and without the necessity or requirement that DRC approval or consent be obtained.

Unless otherwise specifically stated in the Charter or in these Design Guidelines, all plans and materials for new construction, landscaping or exterior modifications to homes or landscaping must have prior written approval of the DRC.

Plans submitted to the DRC must comply with all applicable building codes, zoning regulations, and the requirements of all agencies and municipalities having jurisdiction over the project. It is the responsibility of the applicant to obtain all necessary permits, inspections. Regulatory approvals do not substitute for review and approval hereunder, and vice versa.

The DRC shall have the right to disapprove any plans and specifications upon any ground that is consistent with the objectives and purposes of these Covenants, including purely aesthetic considerations, any failure to comply with any of the provisions of these Covenants or the Design Code, failure to provide requested information, objection to exterior design, appearance or materials, objection to the location of any proposed Improvements on any such lot, objection to the landscaping plan for such lot or common area, objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of any Improvement. The DRC shall have the right to approve any submitted plans and specifications with conditions or stipulations with which the owner of such lot or common area shall be obligated to comply and which must be incorporated into the plans and specifications. Approval of plans and specifications by the DRC for Improvements to one particular lot or common area shall not be deemed an approval or otherwise obligate the DRC to approve similar plans and specifications or any of the features or elements for the Improvements for any other lot or common area within the Development. Compliance with any and all Design guidelines does not guarantee approval. Said approval is within the sole discretion of the DRC.

The Developer has a proper and legitimate interest in requiring that all builders and contractors constructing and performing other work on the unit possess high qualifications and experience. To that end, until January 1, 2036, or such sooner date as Developer may, in its sole discretion determine, no site work, construction of Units or other improvements (the "Work") may be made on any unit until Developer has approved in writing the builder or contractor that intends to perform the Work.

**Section 7.7 Submittals** Requests for approval of proposed construction, landscaping, or exterior modifications must be made by submitting an application in the form available from the Developer or the DRC.

**Submittal Checklist**

Applications for approval of work other than color changes must be accompanied by:

- (1) A survey or site plan, drawn to scale, showing property lines, setbacks, and easements; a footprint of house and driveway, sidewalks, deck, patio, retaining walls, etc.; existing trees and landscaping; and all proposed improvements dimensioned to properly locate them from the house or property line;
- (2) A description of the materials and finishes proposed to be used;
- (3) Construction detail;
- (4) Drawings showing any changes in exterior building elevations; and
- (5) If applicable, a landscape plan showing placement, number, species, and size of proposed landscape additions or modifications.

Color samples and photographs assist the DRC in rendering its decision and expedite the review process. The DRC may require the submission of such additional information as may be reasonably necessary to consider any application.

#### **Timing**

An application must be received at least three business days prior to the DRC's committee meeting in order to be placed on the agenda.

The timing of review of applications and notification of applicants shall be conducted as described herein.

#### **Responsibility For Compliance**

An applicant is responsible for ensuring that all of the applicant's representatives, including the applicant's architect, engineer, contractors, subcontractors, and their agents and employees, are aware of these Design Guidelines and all requirements imposed by the DRC as a condition of approval.

### **Section 7.8 Compliance During Construction Period**

#### **Approved Contractors**

All improvements constructed on any lot located within Woods & Water shall be made by a contractor or builder approved by the Developer, the Association and/or the DRC. The Developer, the Association and/or the DRC may, at its sole discretion may establish criteria and requirements upon which a contractor or builder may or may not be approved to construct improvements on properties in Woods & Water. This covenant is not to be construed as an attempt to show prejudice, malice or favor toward any person or entity, but only to attempt to discourage unscrupulous and/or undesirous business in Woods & Water. By approving or disapproving any contractor neither the Developer, the Association, nor the DRC shall be deemed to pass upon the character or reputation of any contractor or to warrant or guarantee the performance or work of any such contractor in any manner whatsoever.

#### **Inspection**

The DRC or any agent, employee or representative thereof may at any reasonable time and from time to time enter upon and inspect any lot or common area or any improvements being constructed thereon in order to determine whether the approved plans and specifications therefore are being complied with. Any such entry shall not be deemed to be a trespass or any other wrongful act by the DRC.

Upon completion of all approved work, the owner is responsible for notifying the DRC and scheduling an inspection to verify conformance with the approved submittal.

#### **Variances**

The following variance restrictions shall apply to all units: the DRC, in its sole and absolute discretion, shall have the exclusive right to grant variances and exceptions with respect to the provisions of the Charter with respect to any unit. Any request for a variance or exception submitted to the DRC shall be in writing and, upon approval by the DRC, shall be

evidenced by a written document executed by either the chairman or vice chairman of the DRC.

## **Section 7.9 Site Development**

### **Clearing and Grading**

In order to preserve, to the extent practicable, the natural landscaping and plant life currently situated on the property and to enhance the aesthetic appearance of the Property, no landscaping (including the removal or planting of trees, lawns or shrubbery), grading, excavation or fill work of any nature shall be implemented or installed by any owner, other than Developer, on any lot unless and until landscaping plans therefore have been submitted to and approved by the DRC.

No tree measuring eight (8) inches or more in diameter at ground level may be removed without the prior written approval of the Developer, unless said tree is located within ten (10) feet of the main unit or unless the tree is located within the limits of an approved driveway.

### **Drainage**

No unit may be constructed within the boundaries of any platted easement. No construction activity shall alter or reroute the flow of drainage from any platted drainage easement. No drainage shall be constructed that discharges water into any area other than a platted drainage easement.

### **Underground Utilities**

All utility lines, pipes, conduits, and wiring for electrical, gas, telephone, water, sewer, cable television, security, and any other utility service for any portion of the unit shall be installed and maintained below ground.

Contractors are responsible for arranging for, and the cost of repairing, any damage to telephone, cable TV, electrical, water or other service lines resulting from the activities of themselves or their subcontractors

### **Water System**

The Developer has connected a water system in Woods & Water that is an extension of the general water supply system of Montgomery County, its successors and assigns. An owner must use the water system as the only source of potable water to the unit as directed by the requirements of the Alabama State Public Health Department. All required connection fees shall be paid by the owner to the applicable entity, its successors and assigns, and all charges for the use of water by owner shall be paid by the owner to the water authority. Water use and service lines shall be subject to the applicable regulations and easements of Montgomery County, its successors and assigns or appropriate governmental authorities.

### **Garbage Area**

Each owner will be required to provide a screened storage area for garbage cans or garbage receptacles. Every owner must place garbage in collection bins or facilities provided by the collection company. No burning of garbage is permitted.

### **Outside Receptacles**

Outside receptacle storage tanks, pumping facilities or similar storage receptacles, not installed within the unit are required to be buried underground or to be screened from view by screen planting or fencing, subject to the Charter. No private garbage services may be utilized by owners approved in advance in writing by the Developer.

### **Utility Easements**

The Developer reserves unto itself, its successors and assigns, a perpetual, alienable, and releasable easement right on the surface of, under and over the ground to erect, maintain and use electric and telephone poles, wire, cables, conduits, sewers, water mains, and other suitable equipment for conveyance and use of electricity, telephone equipment, gas, sewer, water or other public conveniences or utilities on, in, or over the rear ten (10) feet of each unit and five (5) feet along each side of each unit and such other areas as are shown on the applicable plat; provided, further, that the Developer may cut drainways for surface waters wherever or whenever such actions may appear to be necessary in order to maintain reasonable standards of health, safety and appearance. These easements and rights expressly include the right to cut any trees, bushes or shrubberies, make any gradings of the site, or to take any other similar actions reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, appearance, and safety. The establishment of these easements is in no way to imply that all of these utilities will be installed by the Developer.

### **Waste Tanks**

The location of all waste tanks and appurtenances must be approved by the Developer prior to installation. The waste tanks and accompanying facilities are to be installed and maintained according to the rules of the State of Alabama Public Health Department and the Montgomery County Public Health Department. Once the Developer grants approval of the preliminary plan for the residence, and prior to the initiation of construction of the Unit, the owner or his representative must meet with Developer or its agent to obtain approval of plans and the location of the tank. All units, lots and owners shall utilize the ADENUS waste treatment system and shall execute all appurtenant documents supplied by ADENUS Management Solutions, LLC.

### **Setbacks**

The house shall be sited in such a way as to provide a minimum sideyard setback of fifteen (15) feet from the farthest projection of the house, usually the roof overhang. A minimum setback line from the waterfront of twenty-five (25) feet from the farthest projection will be observed on some lots. Others will have a fifty (50) or seventy-five (75) depending upon the location relative to the lakes. The Developer reserves unto itself, its successors and assigns, the right to control absolutely and to decide solely on the precise site and location of any house or dwelling or other structure on every unit within the development; provided, however, that such location shall be determined only after reasonable opportunity is afforded the unit owner to recommend a specific site. All driveways shall have a maximum width of twelve (12) feet per opening at the intersection of any paved subdivision road.

## **Section 7.10 Design Criteria**

### **Architectural Style**

All plans for residential construction should be prepared by a qualified designer, preferably, a registered architect. Pre-designed "catalog" plans and "contractor designed" plans will be accepted for review provided they are complete and in sufficient detail to allow a full review by the DRC. No sketch plans or any incomplete plans will be accepted for review by the DRC. Submitted plans should include a full set of plans, color chip and material samples, site plans, and a completed Design Review Form. (Attached hereto as Exhibit "3") All revisions to the exterior of any plans, regardless of the state of construction, must be submitted to the DRC for review and approval prior to the implementation of such revisions. The DRC reserves the right to retain one (1) complete set of plans for each residence in its files.

### **Standard of Construction**

All construction will be done in conformance with the National Electrical Code, the Southern Standard Building Code, and the requirements of the Alabama State Public Health Department. Units in Woods & Water shall be sold with the intent that the Purchaser construct a dwelling thereon. There is no minimum period of time within which construction must commence. Once construction of the unit is begun, however, the unit must be completed within twelve (12) calendar months from the date of beginning.

### **Building Materials**

Building materials shall be of natural tones and colors to blend with the overall setting of the development. White, bright or shiny surfaces will be subjected to careful review by the DRC.

### **Roofs**

Roof lines shall be attractively designed to complement the character of the unit and the development in general. The use of common asphalt or flat shingles will not be allowed. Architectural shingles are recommended. The recommended color is "Weatherwood."

### **Building Size and Height**

No plans will be approved unless the proposed house has a minimum required floor area of the following:

Two thousand seven hundred (2,700) square feet of enclosed dwelling space, finished for year-round dwelling purposes. A minimum of two thousand (2,000) square feet of "living" space must be constructed on the main floor level.

The remaining "living" square footage may be constructed on an upper floor or basement level. The term enclosed dwelling areas as used in these minimum size requirements shall mean that total enclosed area within a dwelling; provided, however, that such term **does not** include garages, greenhouses, atria, terraces, decks, open porches, and like spaces; and provided further, expanded lean-to or dormer attic space and screened porches, even though attached to the house, are specifically excluded from the definition of the aforesaid term "enclosed dwelling area," regardless of whether the roof of such spaces forms an integral part of the roof line of the main dwelling or whether such spaces are located on the ground floor of a two-story dwelling. No shed-type porches will be approved.



### **Structure Orientation**

The DRC will indicate the building site for each unit and approve the location of any unit prior to construction.

### **Piers**

Owners of lots or Units fronting on a lake may erect piers on property located between the outer boundary of their Units and the High Water Mark upon complying with the following terms and conditions:

(1) No pier may be erected on a site that will interfere with the adjoining owner's access or view.

(2) Piers shall be stationary. Piers may neither exceed ten (10) feet in length nor six (6) feet in width. The tallest projection of any pier shall not exceed two (2) feet above the High Water Mark. Location and size of piers will be approved based on each individual site plan.

(3) Metal or plastic type drums for flotation purposes are not permitted. Styrofoam and manufactured flotation tanks are not permitted.

(4) Sketch plans and specifications, including siting and finish for piers must be approved by the DRC prior to beginning construction. Piers must be approved and constructed in accordance with DRC's approval. All owners who construct or cause to have constructed a pier agree to maintain such structures in good repair and keep same safe, clean, and orderly in appearance at all times, and further agree to properly maintain and treat with preservatives all wood located above the High Water Mark, exclusive of pilings. Details of the above will be submitted by unit owner to the Developer in order to insure that piers are placed in proper locations.

(5) All piers will observe a minimum sideyard distance of fifteen (15) feet from the structure to an adjoining unit property line and shall not cross for a reasonable distance an adjoining Unit's projected unit line.

(6) No pier shall provide any type of raised portion (railing) or a covered space of any type or kind.

### **HVAC and Other Equipment**

No HVAC and power distribution equipment shall be situated on any unit in a location that is not approved by the DRC. The DRC shall take into account such factors as views from neighboring Units, functionality requirements of the HVAC or power distribution equipment, noise and other considerations as the DRC may consider appropriate to determine the location and appearance of HVAC and power distribution equipment.

### **Exterior Lighting**

All exterior lighting, whether for security, dock, landscaping, general purpose or otherwise, must be approved in advance by the DRC prior to construction or installation.

### **Fences, Walls, and Hedges**

Fences shall be used only for screening unsightly areas such as storage receptacles, garbage cans, air conditioners, and the like. Such fences shall not exceed four (4) feet in height and shall be built of materials harmonious with those used in construction of the unit, but cannot be solid. The use of fencing is encouraged for purposes of pet control. (see also "Accessory Items") The design, color, material type, and location of any fencing or entrance gates must be approved by the DRC prior to its erection. No metallic finished fences will be allowed.

### **Driveways and Sidewalks**

Each owner shall provide space for off-street parking of four automobiles (minimum two hundred (200) square feet per space) prior to the occupancy of any dwelling constructed on the unit. Parking Area is to be clearly designated on the site plan when submitted for review by the Developer. On-street parking is not permitted.

### **Patios, Decks, and Porches**

All patios, decks, and porches must be constructed within the set back limitations for the units and approved in advance by the DRC prior to construction.

### **Swimming Pools and Equipment**

The following swimming pool and pool equipment restrictions shall apply to all units. Swimming pools, outdoor hot tubs, and whirlpools may be constructed, installed and maintained on a unit subject to the prior written approval of the plans for the same by the DRC and the restrictions contained herein. No pool equipment shall be visible from the lake or adjoining properties. It is strongly recommended that all pool owners have a DRC approved fence surrounding their pool area.

## **Section 7.11 Accessory Items**

### **Accessory Buildings**

The use of accessory buildings in general, is **discouraged**, and will be subject to careful review by the DRC. Detached garages are acceptable only if their design enhances the overall design of the unit. Greenhouses, storage spaces, and other such structures, if contemplated, should be incorporated into the design of the unit. Plans, specifications, and siting of any accessory building shall be submitted to and reviewed by the DRC. If approved in writing, the construction may begin. All accessory buildings will be required to meet all previously mentioned setback lines and building codes.

### **Animals**

No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, and other normal and common household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose, and provided that they do not create a nuisance and unreasonably disturb the neighbors or the neighborhood.

Not more than two (2) dogs or (2) cats (or one (1) dog and one (1) cat) may be kept and maintained on any unit without approval of the Developer, the Board or the Association.

Pet runs may not exceed five (5) feet in height and shall be built of materials harmonious with those used in construction of the unit, but cannot be solid. The design, color,

material type, and location of any fencing or entrance gates must be approved by the DRC prior to its erection.

Pet runs/fencing shall be located sufficiently far away from the lake, ponds/water to prevent run-off of animal waste into the lake. A side unit setback of thirty (30) feet will be required for all pet runs. Pet runs shall be limited to four hundred (400) square feet maximum and be located in an area approved by the DRC. No metallic finished fences will be allowed.

#### **Nuisance**

In general no owner shall maintain any plants, animals, devices or things of any sort, the normal activity or existence of which is in any way noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of other property owners in the neighborhood.

#### **Flagpoles and Flags**

Unit owners may display flags at a unit as long as such display is not offensive, obscene or otherwise objectionable. Any flagpole must be of design, color, material type, and location of approved by the DRC prior to its erection.

#### **Mailboxes**

Mailboxes shall be of a consistent style and appearance throughout the Development. Mailboxes will be erected at the unit upon unit owner's request and at the unit owner's expense.

#### **Play Structures / Sports Equipment**

All play structures and sports equipment must be submitted for approval and the same granted in writing by the DRC, prior to erection or construction. No plastic or metal structures will be approved.

### **Section 7.12 Prohibited Structures**

#### **Trailers**

No trailer of any kind or type, mobile home, recreational vehicle (RV) or other similar outbuilding or structure shall be placed on any unit either temporarily or permanently. Recreational vehicles are not permitted to be parked on-site once a house/unit is completed. At Developer's discretion, a storage facility or RV parking area may be created and space made available for such vehicles.

#### **Canvas Covers**

No canvas awnings or covers, whether temporary or permanent, shall be permitted on any unit or pier.

#### **Unsightly Conditions**

It shall be the responsibility of each unit owner to prevent the development of any unclean, unsightly or unkempt conditions of buildings or grounds on his respective unit which shall tend to decrease the beauty of the neighborhood as a whole or the specific area. This includes unkempt stacks of firewood, etc. No boats and boat trailers should be parked outside of one's garage or, on a lot, or outside where it can be seen. At Developer's discretion, a

storage facility or RV parking area may be created and space made available for such vehicles.

### **Permitted Devices**

No satellite dishes, antennas or similar devices designed for transmission or reception of radio, television or other broadcasts of any kind are permitted on any unit without prior approval, except that the following "Permitted Devices" may be installed on a unit without application or prior approval, provided they are installed in strict compliance with this section:

- antennas or satellite dishes designed to receive direct broadcast satellite service which measure one meter or less in diameter;
- antennas or satellite dishes designed to receive video programming services via multi-point distribution services which are one meter or less in diameter or diagonal measurement.

### **Location**

A permitted device may be installed solely on the owner's unit and shall not encroach upon any street, common area, or any other owner's unit

A permitted device shall be installed in that location on the unit from which an acceptable quality signal can be obtained which is least visible from the street, from other units, and from public view. In order of preference, the locations considered to be least visible are:

- In the backyard, on the ground or elevated no higher than twelve (12) feet off of the ground if necessary to obtain an acceptable quality signal, and screened from view of adjacent units and the street.
- In the side yard, on the ground or elevated no higher than twelve (12) feet off of the ground if necessary to obtain an acceptable quality signal, and screened from view of adjacent units and the street.
- Attached to the back of the house, with no part of the permitted device any higher than the lowest point of the roofline and screened from view of adjacent units and the street.
- Attached to the side of the house, with no part of the permitted device any higher than the lowest point of the roofline and screened from view of adjacent units and the street.

### **Mast Installation**

Mast height may be no higher than absolutely necessary to receive an acceptable quality signal. For safety reasons, the location of any mast that must extend more than twelve (12) feet above the ground is subject to application and prior approval of the DRC. Any such application must include a detailed description of the structure and anchorage of the antenna and the mast. If this installation will pose a safety hazard to residents of adjacent properties, then the Association may prohibit such installation. The notice of rejection shall specify these safety risks.

**A licensed and insured contractor must install masts.**

**Masts must be painted the appropriate color to match their surroundings.**

In order to minimize hazards to persons and property if the mast were to fall during a storm or from other causes, masts shall not be installed nearer to the unit line than the total height of the mast and antenna and any structure on which it is mounted.

### **Signs**

No commercial signs including "For Rent," "For Sale," Contractor, and other similar signs shall be erected or maintained on any unit except as may be approved in advance by the DRC. In the event signs are required by legal proceedings, the Developer reserves the right to restrict size, color, and content of such signs.

### **Section 7.13 Landscape Guidelines**

Full and complete landscape plans shall be submitted to the DRC within thirty (30) days of approval of plans by the DRC. In the event the DRC does not approve the landscape plans, it shall have the authority to suspend construction activities at the unit until such time as the landscape plan is approved. Subsequent to approval of the landscape plan, the DRC shall have the authority, in its sole and absolute discretion, to specify amendments and changes to the landscape plan to remedy specific deficiencies and shortcomings evidenced by construction activities.

The landscape plan shall be submitted in a drawing at one (1) inch equals twenty (20) feet scale and show all areas wherein soil will be disturbed, all areas of sod or grass, all areas of concrete or other hard surface, all retaining walls, all planted trees and shrubs, all areas to be cleared and left in a natural state and any other specification deemed necessary and appropriate by the DRC.

If the DRC fails to approve, or approve as noted, in writing any such proposed plans and specifications within sixty days after such plans and specifications have been submitted, then the plans and specifications so submitted will be deemed to have been disapproved.

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

If construction of the dwelling or the improvements has not substantially commenced (by clearing and grading, pouring of footings and otherwise commencing framing and other related construction work) within six months of approval by the DRC of the plans and specifications for such dwelling or other improvements, then no construction may be commenced (or continued) on such lot or common area, and the owner of such lot or common area shall be required to resubmit all plans and specifications for any dwelling or other Improvements to the DRC for approval in the same manner specified above.

### **Section 7.14 Construction Rules**

#### **Construction Site**

All construction sites shall be kept in a neat and orderly condition, free of debris, rubbish, or unused material. Each owner shall be responsible for the condition of his or her construction site and must check with local authorities concerning requirements for

construction fencing and other safety measures that may be applicable to the project. All modification projects expected to require more than two weeks of construction time must be screened from the street in order to prevent an unsightly neighborhood situation. All screening materials are subject to prior approval by the DRC. Each owner shall be responsible for his contractor's compliance with any and all ADEM rules, regulations and laws.

#### **Temporary Structures**

Installation of temporary structures such as construction trailers or storage buildings is not permitted without DRC written approval.

#### **Utilities**

If any telephone, cable television, electrical, water, gas, or other utility lines are cut, it shall be the responsibility of the owner or owner's builder to bear the cost of reinstallation or repair.

#### **Hours Of Construction**

Construction activity is permitted Monday through Saturday from 7:00 a.m. until 6:00 p.m. Advance permission from the DRC is needed for work or material deliveries at other times. Work may be prohibited on certain holidays.

#### **Contractor Advertising**

No signs advertising the business of contractors or subcontractors may be installed or displayed on any construction site. Such signs will be removed and may be disposed of by the Developer's or the Association's personnel.

#### **Sanitary Facilities**

The builder shall be responsible for providing adequate sanitary facilities for his construction workers. Portable toilets or similar temporary toilet facilities shall be located on the site only in areas approved by the Developer or later, the Association.

#### **Trash**

During the construction period, the owner and/or builder shall keep each construction site neat and orderly to prevent it from becoming an eyesore or affecting other Units and common areas. Builders shall clean up all trash and debris on their construction site at the end of each day. Trash and debris shall be removed from each construction site at least once a week to a dumping site located outside of the community. Lightweight material, packaging, and other items, shall be covered or weighted down to prevent wind from blowing such materials off the construction site. Builders are prohibited from dumping, burying, or burning trash anywhere within the community. Owners and/or builders shall supply at least one (1) trash dumpster per building site.

#### **ADEM Compliance**

Proper erosion control is the responsibility of the owner and his builder. Adequate silt fencing and gravel at the entry drive must be properly installed and maintained. All streets shall be kept free of mud, silt, and debris from erosion and construction traffic. Natural drainage channels should be maintained undisturbed, to the extent possible, and remain free of trash or debris. Each owner and/or his builder, contractor or sub-contractors shall at all times comply with all rules, promulgated by the Alabama Department of Environmental Management (ADEM).

### **Nuisance**

In general no owner shall maintain any plants, animals, devices or things of any sort, the normal activity or existence of which is in any way noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of other property owners in the neighborhood.

No noxious or offensive trade or activity shall be carried on or upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighbors or the neighborhood.

Loud radios or excessive noise from music or sound systems will not be allowed during construction. Normal radio levels are acceptable. Do not mount speakers, radios, portable sound equipment, etc., on vehicles or outside of homes under construction.

### **Streets**

Contractors shall keep all interior streets clean of material, refuse, sediment, mud, etc., from the unit upon which they are working.

Damage to streets, curbs, drainage, inlets, street lights, markers, mailboxes, walls, fences, and any other portions of the development will be repaired by Developer and the cost of the same shall be billed to the responsible owner or owner's builder.

### **Vehicles and Access**

Construction access shall be limited to those routes designated by the Developer.

Washing of trucks, vehicles, and other machinery and equipment on the streets is not permitted. The washing of concrete delivery trucks must be on the construction site. The established speed limit within the entire development is twenty-five (25) miles per hour for all vehicles unless posted otherwise and must be obeyed by all parties entering the development.

Construction crews shall not park on, or otherwise use, other units or common areas. All vehicles shall be parked so as not to inhibit traffic.

**Section 7.15 Construction Without Approval** If any improvements are initiated, installed, maintained, altered, replaced or relocated on any lot without DRC approval of the plans and specifications for the same, or the DRC shall determine that any approved plans and specifications for any Improvements or the approved landscaping plans for any lot are not being complied with, then, in either event, the owner of such lot shall be deemed to have violated these Covenants and the DRC shall have the right to exercise any of the rights and remedies set forth herein.

**Section 7.16 Inspection** The DRC or any agent, employee or representative thereof may at any reasonable time and from time to time enter upon and inspect any lot or common area or any improvements being constructed thereon in order to determine whether the approved plans and specifications therefore are being complied with. Any such entry shall not be deemed to be a trespass or any other wrongful act by the DRC.

**Section 7.17 Limitation of Liability** Notwithstanding anything provided herein to the contrary, neither Developer, the Association, the DRC, nor any agent, employee, representative, member, shareholder, partner, joint venturer, officer or director thereof, shall have any liability of any nature whatsoever for any damage, loss or prejudice suffered, claimed, paid or incurred by any owner on account of (a) any defects in any plans and specifications submitted, reviewed or approved in accordance with the provisions stated herein, (b) any defects, structural or otherwise, in any work done according to such plans and specification, (c) the failure of any plans, specification or construction to comply with the applicable federal, state or local laws and regulations including building codes and environment requirements, (d) the failure to approve or the disapproval of any plans, drawings, specifications or other data submitted by any owner for approval pursuant to the provisions stated herein (e) the construction or performance of any work related to such plans, drawings and specifications, (f) bodily injuries (including death) to any owner, occupant or the respective family members, guests, employees, agents, invitees or licensees of any such owner or occupant, or any damage to any dwellings or improvements or the personal property of any owner or occupant, or the respective family members, guests, employees, agents, invitees or licensees of such owner or occupant, that may be caused by, or arise as a result of any defect, structural or otherwise, in any dwellings or improvements or the plans and specifications therefore or any past, present or future soil or subsurface conditions, known or unknown (including, without limitation, geological formations or conditions on or under any lot), and (g) any other loss, claim, damage, liability or expense, including court costs and attorneys' fees, suffered, paid or incurred by any owner arising out of or in connection with the use and occupancy of any lot or any improvements situated thereon.

**Section 7.18 Penalties** If any of the provisions of this Article are breached or are not otherwise being complied with in all respects by any owner or occupant or the respective family members, guests, invitees, agents, employees or contractors of any owner or occupant, then the DRC and the Association shall each have the right, but not the obligation, at their option to (a) enjoin any further construction on any lot and require the removal or correction of any work in place that does not comply with the plans and specifications approved by the DRC for such improvements and/or (b) through their designated agents, employees, representatives and independent contractors, enter upon such lot and take all action necessary to extinguish such violation or breach and to minimize or remediate erosion cause by such violation or breach, including, but not limited to delays in construction or inadequate erosion control procedures. All costs and expenses incurred by the DRC or the Association in enforcing any of the provisions of this Article, including, without limitation, attorney's fees, court costs, costs and expenses of witnesses, engineers, architects, designers, land planners, and other persons involved in the correction of nonconforming work, the completion of uncompleted work or in any judicial proceeding, together with any other costs or expenses incurred by the DRC or the Association in causing any owner or such owner's contractors, agents, or invitees to comply with the terms and provisions of this Article, shall be paid by such owner, shall constitute an individual assessment to such owner as stated herein and be subject to foreclosure as provided for therein. Notwithstanding anything provided herein to the contrary, the right and remedies of the DRC and the Association set forth herein shall not be deeded exclusive of any other rights and remedies that the DRC or the Association may exercise at law or in equity or any of the enforcement rights specified herein.

**Section 7.19 Compliance Certification** The DRC or any authorized representative thereof shall, upon request and at such reasonable charges as may from time to time be



adopted by the Board, furnish to an owner a certificate in writing setting forth whether all necessary DRC approvals have been obtained and whether any dwelling or improvement has been constructed in accordance with the provisions of these Covenants. Any such approval shall not be construed in any respect as a representation or warranty of the DRC or Developer or the Association that all applicable rules, regulations and requirements of all governmental authorities with respect to any such lot have been fulfilled.

## ARTICLE 8

### USE AND DEVELOPMENT RESTRICTIONS

**Section 8.1 Use Restrictions** Use Restrictions shall be as provided herein and in individual plats executed by Developer and recorded in the Office of the Judge of Probate of Montgomery County, Alabama. The plat of Phase I will be for residential use only. It is contemplated that should Developer subject additional property to these Covenants, the Plats of the dedicated Woods & Water Development, LLC may contain, in addition to lots, common areas and/or storage lot. As to any lot, the use of a room in a dwelling as an office by an owner shall not be considered a violation of this covenant provided such use does not create regular customer, client or employee traffic, and further provided any such use is in compliance with all applicable rules, regulations and ordinances of any governmental authority having jurisdiction thereof.

#### Motor Vehicles

Only drivers licensed to operate motor vehicles may operate vehicles within the Development. Only state registered vehicles are allowed to be driven within the Development. All state registered vehicles that are operated on the streets in the Development shall be operated in a careful, prudent, safe and quiet manner.

No vehicle maintenance or repair shall be performed on any vehicles upon any portions of the subject property, unless performed in a garage, except in an emergency situation. Notwithstanding the foregoing exception for emergencies, all repairs to disabled vehicles within the property must be completed within twenty-four hours from its immobilization or the vehicle must be removed. The Association shall be allowed to maintain and store its maintenance vehicles, if applicable, on specific areas of the property as necessary for the operation and maintenance of the common areas of Woods & Water.

#### Off Road Vehicles

Off road vehicles such as dirt bikes, 4-wheeler ATVs, and golf cart type vehicles are prohibited for use in the Development. Said vehicles are also prohibited on all adjacent property belonging to the Developer.

**Section 8.2 Prohibited Uses** No person shall, without the written approval of the Association or the DRC, as the case may be, do any of the following on any part of the subject property or the common areas: (1) permit the running of animals except when on a leash; (2) interfere with any drainage, utility or access easement; (3) build or assemble any structures, recreation or common facilities, other than those approved by the DRC; (4) discharge any liquid or other materials other than natural water drainage into any lake, pond or water course;

(5) alter or obstruct any lakes, ponds or water courses; (6) interfere with any water control structures or apparatus; (7) light any fires except in designated areas or (8) No person shall violate any rules and regulations that may be established by the Association governing the use of the common areas or the rules or requirements that may be established by the DRC.

**Section 8.3 Hunting / Fishing Restrictions** Hunting within the Development is prohibited. Hunting on adjacent property owned by Developer is prohibited.

Discharging of firearms and/or weapons is prohibited within the Development.

**Section 8.4 Lake Restrictions** Lake access is restricted to lake lot owners only. There are no common areas or easement dedications adjoining the lake for recreational purposes or fishing.

No boats or personal watercraft of any type are permitted on/in the Development lakes.

The Developer, Development and/or the Association are not responsible for injuries or deaths that occur from use of the lakes.

**Section 8.5 Pipes and Clotheslines** No water pipes, gas pipes, sewer pipes, drainage pipes or clotheslines may be installed or maintained on the property so as to be visible from adjoining property or public view, except hoses and movable pipes used for temporary irrigation purposes.

**Section 8.6 Mining** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon, in or under any lot, nor shall oil wells, tunnels, tanks, mineral excavations or shafts be permitted on, upon, or under any lot.

**Section 8.7 Accumulation of Refuse** No lumber, metals, bulk materials, refuse or trash shall be kept, stored or allowed to accumulate on any part of the property, except building materials used during the course of original construction of any approved structure, or any approved renovation, repair or reconstruction. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers must only be placed in the open on any day that a normal pick up is to be made, at such place on the property to provide access to persons making such pick up. At all other times such containers shall be stored in such manner so that they cannot be seen from adjacent and surrounding property. The DRC, in its discretion, may adopt and promulgate reasonable rules and regulations relating to the size, shape, color and type of containers permitted and the manner of storage on the same on the property.

**Section 8.8 Sewer Connections and Use** All lots in the Woods & Water development shall be connected to the onsite ADENUS wastewater treatment system that has been engineered and installed. The Developer has gone to great lengths and expense to serve the development community with this sewage facility. The system has been accepted by the Alabama Department of Environmental Management (ADEM). Services and charges are regulated by the Alabama Public Service Commission (PSC). All homeowners shall pay

Woods & Water Development, LLC, a designated fee as stated in the purchase contract. This fee will pay for the following:

- (1) 1,500 gallon tank and Installation
- Riser with Lid and Installation
- Pump / Vault / Alarm Systems
- All Wiring
- Freight / Shipping
- All Miscellaneous Parts, Fittings & Installation
- 20 yards (approximately) of Sand for Backfill
- All Pipes and Grass Over-Seeding

Upon completion of connection to the ADENUS wastewater treatment system, all homeowners shall pay ADENUS of Alabama a state regulated charge each month for sewage services.

All homeowners will be provided an ADENUS "New Customer Packet" which explains the system and its uses. All septic tanks and/or other sewage systems are prohibited in the Woods & Water Development. All homeowners shall utilize Woods & Water Development, LLC to connect to the ADENUS sewage facility. The waste water treatment plant is designed to service the property, as well as other future properties.

**Section 8.9 Additional Regulations** In addition to the restrictions set forth in these Covenants, the DRC shall have the right in its sole discretion, from time to time and at any time to adopt, modify and amend the Design Code, which restrictions shall apply to all lots.

**Section 8.10 Enforcement and Remedies** The following enforcement and remedy restrictions shall apply to all lots: if any of the provisions are breached or are not otherwise being complied with in all aspects by any owner or occupant or the respective family members, guests, invitees, agents, employees or contractors of any owner or occupant, then the Developer, the Association or the DRC shall each have the right, but not the obligation, at its option, to (a) enjoin such violation or noncompliance or (b) through their designated agents, employees, representatives and independent contractors, enter upon such lot or dwelling and take all action necessary to extinguish or correct such violation or breach. All costs and expenses incurred by the Developer, the DRC or the Association in enforcing any of the provisions, including, without limitation, attorney's fees, court costs, costs and expenses of witnesses, engineers, architects, designers, land planners and any other persons involved in the correction of any noncompliance or the removal of such violation or in any judicial proceeding, together with any other costs or expenses incurred by the Developer, the DRC or the Association in connection therewith, shall be paid by such owner who has violated or breached any of the provisions and shall constitute an individual Assessment to such owner. If the same is not paid when due, owner shall be subject to the lien provided for in the Section below and be subject to foreclosure as provided for therein. Notwithstanding anything provided herein to the contrary. The rights and remedies of the Developer, the DRC and the Association set forth herein shall not be deemed exclusive of any other rights and remedies that the Developer, the DRC or the Association may exercise at law or in equity or any of the enforcement rights specified herein. The Association or the DRC, at their option and in their discretion, may delegate to the Association any of their respective enforcement rights set forth in these Covenants.

## ARTICLE 9

### ASSOCIATION COMMON AREA ASSESSMENTS

**Section 9.1 Lot Assessments and Creation of Lien** Each owner of a lot, by acceptance of a deed or other instrument conveying any interest therein, regardless of whether such deed or instrument contains a reference to these Covenants, is hereby deemed to covenant and agree to pay to the Master Association or Phase Association, as applicable: (a) annual assessments, as established and to be collected as provided herein, (b) special assessments, to be established and collected as provided herein, and (c) individual assessments against any particular lot that are established or assessed pursuant to the terms of these Covenants, including, but not limited to, any fines that may be levied or imposed against such lot in accordance with the provisions herein. All assessments, together with late charges and interest as provided herein, and all court costs and attorneys' fees incurred by the Association to enforce or collect such assessments, shall be an equitable charge and a continuing lien upon each lot for which the owner thereof is responsible for the payment of the same, which lien may be enforced in the manner provided herein. Each owner shall be personally liable for the payment of all Assessments coming due while he, she or it is the owner of any lot, and such owner's grantee shall take title to such lot subject to the equitable charge and continuing lien therefore, but without prejudice to the rights of such grantee to recover from his, her or its grantor any amounts paid by such grantee to the Association that were the legal obligations of such grantor. All assessments, together with late charges and interest at the applicable rate, as specified herein, court costs and attorneys' fees incurred with respect thereto by the Association, shall also be a personal obligation of the person who was the owner of the incurred. In the event of co-ownership of any lot, all of the co-owners shall be jointly and severally liable for the entire amount of such assessments. Assessments shall be paid in such manner and on such dates as may be fixed by the Association. All assessments shall be payable in all events without offset, diminution or abatement by reason of fire or other casualty or any taking as a result of, in lieu of or in anticipation of the exercise of the right of eminent domain, condemnations or by private purchase in lieu thereof with respect to any lot or common area or any other portion of the Development or any other cause or reason of any nature.

**Section 9.2 Purpose of Assessments** The annual and special assessments provided for herein shall be used for the payment of Common Expenses and for the general purposes of promoting the recreational, health, education, safety, welfare, common benefit and enjoyment of the owners and occupants of the Property, and otherwise for the general upkeep and maintenance of the Development, as maybe more specifically authorized from time to time by the Association.

#### **Section 9.3 Uniform Rate of Assessments for Lots**

Both annual and special assessments, as described herein and below, shall be assessed against each lot in the Property at a uniform rate, with the owner of each lot being required to pay his, her or its pro rata portion of such annual and/or special assessments. Each lot shall be subject to equal annual and special assessments, except that as to any lots owned by developer, the assessments shall commence one (1) year from the date of recordation of the applicable Covenants and Restrictions.

Notwithstanding anything provided to the contrary, if any additional property is added to the Development, the lots and/or dwellings within the additional property shall be subject to the same annual or special assessments then being paid by the owners of all lots and dwellings in the property, subject to proration as provided herein and below.

#### **Section 9.4 Computation of Annual Assessments**

Commencing with the fiscal year of the Association that begins on the date of incorporation through December 31, 2036, and annually thereafter, on January 1<sup>st</sup> or each subsequent fiscal year of the Association (i.e. from January 1<sup>st</sup> in each year through December 31<sup>st</sup> in each year) the Association, shall determine and adopt annually an annual budget covering the estimated Common Expenses for the property for the upcoming year, such budget to include a capital contribution or reserve account if necessary for the capital needs of the Association. The amount set forth in such budget shall constitute the aggregate amount of annual assessments to be levied against the lot for the following year shall be delivered by the Association for each owner.

##### **Formula for Computing Assessments**

The owner of each lot shall pay his or its pro rata portion of annual and special assessments, as determined by a fraction, the numerator of which shall be one and the denominator of which shall be the total number of lots in recorded Woods & Water plats, subject to annual computation by the Association as set out hereinabove, and further subject to the provisions herein relating to Developer-owned lots.

Notwithstanding anything provided herein to the contrary, if any additional property is added to the Development then the lots within the additional property shall be subject to the annual and special assessments being paid by the owners of all lots in the Development, pursuant to the formula contained hereinabove, as well as the prorations provided.

The common expenses to be funded by the annual and special assessments may include, but shall not be limited to, the following:

- (1) Salaries and other compensation paid and out-of-pocket expenses reimbursed by the Association for its employees, agents, officers and any third party contractors.
- (2) Management fees and expenses of administration, including legal and accounting fees, incurred by the Association.
- (3) The costs of any insurance policies purchased for the benefit of the Association as required or permitted by these Covenants, including, without limitation, public liability coverage and such other insurance coverage as the Board determines to be in the best interest of the Association, including errors and omissions insurance, directors and officers liability insurance coverage for the benefit of the Association, the members of the Board, any officers, employees, agents or representatives of the Association or for any of the members on the DRC.

(4) The expenses of maintaining, operating, repairing and replacing any sewer related item or any sanitary sewer disposal system installed by Developer or Developer's contractor, in Developer's sole discretion, servicing any portion of the property.

(5) The expenses of maintaining, operating and repairing any other amenities and facilities serving the property that the Association or the Board determines from time to time would be in the best interest of the owners and the property to maintain, operate or repair, including but not limited to, any limited access facilities, such as electrically monitored gates, entrance ways and any related improvements, and the expenses of a guard or guards for the property.

(6) All other fees, costs and expenses incurred by the Association in accordance with the provisions of these Covenants or that the Board, subject to the prior written approval of the Association, determines to be appropriate to be paid by the Association, including, without limitation, taxes and governmental charges not separately assessed against lots.

(7) The establishment and maintenance of a reasonable reserve fund or funds (a) to cover emergencies and repairs required as a result of casualties that are not funded by insurance proceeds, and (b) to cover unforeseen operating contingencies or deficiencies arising from unpaid assessments as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board, and approved by the Association.

(8) A proportionate share of the association expenses described herein and below, which proportionate share shall be determined by the Association, in its sole discretion.

(9) The utility charges for any utilities serving any of the common areas and charges for other common services for the Development, including, without limitation, trash collection for common areas and limited access services.

(10) The costs of any insurance policies purchased for the benefit of the Association as required or permitted by these Covenants.

(11) The expenses of maintaining, operating, repairing, upgrading, improving and replacing any portions of the common areas, including, without limitation, roads comprising common areas within the property, which maintenance, upgrade, improvement and repair obligation shall include mowing, landscaping, seeding, cleaning, rubbish pickup and removal, paving, repaving, striping and patching all such roadways comprising common areas, and any upgrade or improvement of any intersection of same and any other street or highway undertaken by Developer as stated herein.

(12) The expenses of maintaining, operating, repairing and replacing any sewer station serving any portion of the common areas.

(13) All ad valorem real and personal property taxes assessed and levied upon any of the common areas.

**Section 9.5 Special Assessments** In addition to the annual assessments authorized herein and the special assessments authorized herein and below, the Board of the Association, after January 1, 2036, or such earlier date as Developer, in its sole discretion, may determine, may levy in any year special assessments for common expenses or any extraordinary costs incurred by the Association; provided, however, that any such special Assessments (other than special levied pursuant to Sections herein and below) shall be approved by a majority of the votes of the owners who are voting in person or by proxy at the meeting called for the purpose of adopting special assessments payable in one lump sum or in installments over a period of time that may, in the Board's discretion, extend beyond the then fiscal year in which said special Assessments are levied and assessed. Special assessments shall be levied against and payable by each owner in accordance with the provisions herein.

**Section 9.6 Individual Assessments** Any expenses of the Association that, in the opinion of the Board of the Association, are occasioned by the conduct of less than all of the owners or by an owner or occupant, or the respective family members, agents, guest, employees, invitees or contractors of any owner or occupant, shall be specially assessed against such owners and their respective lot. The individual Assessments provided for in this section 9.6 shall be levied by the Association Board and the amount and due date of such Assessment shall be specified by the Association Board in a notice to such owner. The provisions herein shall apply, without limitation, to any individual Assessments levied pursuant to Sections herein.

**Section 9.7 Notice of Meetings and Quorum** No meeting of the membership of the Association shall be held until the Developer, in its sole discretion, may determine. Developer may, in its sole discretion, elect to call a meeting of the members of the Association for information purposes, but the calling of such meeting will not in any way waive the right of the Developer to control the membership of the Board of Directors of the Association, including the right to designate the members of the DRC. After January 1, 2036, or such sooner time as Developer, in its sole discretion, determines to relinquish control of the Board of Directors of the Association, meetings of the members of the Association will be held as follows:

Written notice of each annual meeting of the Association shall be sent to all owners not less than ten days in advance of such meeting. With respect to annual meetings, the presence in person or by proxy of owners entitled to cast over fifty percent of all the votes of the Association shall constitute a quorum. If not present, another meeting may be called subject to the same notice requirement, except as hereinafter provided, but the required quorum at the subsequent meeting shall be the presence in person or by proxy of owners entitled to cast at least one-third of the total votes of the Association. Any notice of any such subsequent meeting shall be the presence in person or by proxy of owners entitled to cast at least one-third of the total votes of the Association. Any notice of any such subsequent meeting shall state that the necessary quorum shall be one-third of the total votes of the Association present in person or by proxy. At such time as a quorum is obtained, the vote of a majority of the owners who are voting in person or by proxy at such meeting shall be required to approve any matter in which all of the members of the Association are entitled to vote.

Written notice of any meeting of the Association other than an annual meeting shall be sent to all owners not less than five days and not more than twenty days in advance of such meeting. With respect to any such other meeting of the Association, including, specifically, meetings pursuant to which special Assessments are to be levied upon each lot as stated herein, there shall be no specific requirement establishing a quorum and the vote of a majority of the owners who are voting in person or by proxy at the any such special meeting shall be binding on all of the members of the Association.

#### **Section 9.8 Effect of Non-Payment: Remedies of the Association**

Each owner of a lot is and shall be deemed to covenant and agree to pay to the Association all assessments provided for herein. If any assessments or any portion thereof are not paid when due, the same shall be subject to a late charge in an amount determined and uniformly applied by the Board from time to time, and the owner of such lot shall be deemed in default herewith. If any assessments or any portion thereof are not paid within thirty days after due date of the same, then the unpaid portion of the assessment shall accrue simple interest at the lesser of eighteen percent per annum of the highest rate that may be charged to said owner by law (the "applicable rate") from the thirtieth (30<sup>th</sup>) day from the due date until the same is paid in full. If the Association employs an attorney or otherwise take any legal action in attempting to collect any amounts due from any owner, such owner agrees to pay all attorneys' fees, court costs and all other expenses paid or incurred by the Association. The lien and equitable charge upon each lot for assessments as provided above shall also include all late charges, interest at the applicable rate and all attorneys' fees, court costs and all other expenses paid or incurred by the Association in attempting to collect any unpaid assessments.

In the event any assessments or other amounts due to the Association are not paid by any owner when the same becomes due, then in addition to all other rights and remedies provided at law or in equity, the Association, acting through its Board or through any of its officers or authorized representatives, may undertake any or all of the following remedies:

- (1) The Association may commence and maintain a suit at law against an owner to enforce such charges and obligations for assessments and any such judgment rendered in any such action shall include the late charge and interest at the applicable rate, as specified herein and above, together with attorneys' fees, court costs and all other expenses paid and incurred by the Association in collecting such unpaid assessments; and/or
- (2) The Association may enforce the lien created pursuant to the manner hereinafter provided.

There is hereby created a continuing lien on each lot, with power of sale that secures the payment to the Association of any and all assessments levied against or upon such lot, all late charges and interest at the applicable rate assessed as stated herein and all attorneys' fees, court costs and all other expenses paid or incurred by the Association in collecting any assessments. If any assessments remain unpaid for more than sixty days, then the association, through its Board or any officer or authorized representative thereof, may, but shall not be obligated to, make written demand on such defaulting owner, which demand shall state the date and amount of delinquency is not paid in full within ten days after the giving of such demand or, even without giving demand, the Association may file a claim of lien and perfect its lien against the lot of such delinquent owner, which claim shall be executed by any



member of the Board of the Association or any officer of the Association, contain the following information and be recorded in the Probate Office of Montgomery County, Alabama:

The name of the delinquent owner;

- (1) The legal description and street address of the lot upon which the lien claim is made;
- (2) the total amount claimed to be due including late charges, interest at the applicable rate, collection costs and attorneys' fees incurred to date and a statement, if applicable, that such charges and costs shall continue to accrue and be charged until full payment has been received; and
- (3) a statement that the claim of lien is made by the Association pursuant to these Covenants and is claimed against such lot in an amount equal to that stated therein.

The lien provided for herein shall be in favor of the Association, shall be for the benefit of all other owners (other than those owners in default) and may be foreclosed in the same manner as now provided by law in the case of past mortgages, and the Association shall be authorized, at its option, to sell the lot under the power of sale that is hereby given to the Association. The Association shall have the right and power to bid at any such foreclosure sale and to purchase, acquire, hold, lease, mortgage, convey and sell any such lot. Each owner, by acceptance of a deed to any lot, shall be deemed to (1) grant to and vest in the Association and/or its agents the right and power to exercise the power of sale granted herein and foreclose the lien created herein, (2) grant to and vest in the Association or its agents the right and power to bring all actions against such owner personally for the collection of all amounts due from such owner, (3) expressly waive any objection to the enforcement and foreclosure of the lien created herein and (4) expressly waive the defense of the statute of limitations that may be applicable to the commencement of any such suit or action for foreclosure.

**Section 9.9 Subordination of Lien** Notwithstanding anything provided herein to the contrary, the lien for Assessments and other charges authorized herein with respect to any lot in the Development is and shall be subordinate to the lien of any mortgage held by any such Institutional mortgagee is recorded in the Probate Office of Montgomery County, Alabama prior to the filing of a claim of lien by the Association as stated herein. When an Institutional Mortgagee exercises its foreclosure rights provided in its Mortgage and acquires title to or sells to a third party its interest in any lot, then such Institutional Mortgagee or its purchaser or transferee at such foreclosure sale shall (a) not be liable for any Assessments or other charges incurred prior to the date of transfer or acquisition of title by foreclosure so long as the Mortgage held by such Institutional Mortgagee was recorded in the Probate Office of Montgomery County, Alabama prior to the filing of a claim of lien by the Association as stated herein, but (b) be liable for all Assessments other charges levied, assessed or incurred with respect to such lot from and after the date of foreclosure sale. The foregoing shall not relieve any owner whose lot has been foreclosed from the personal obligation to pay all Assessments and any other charges levied, assessed or incurred by the Association shall have the right to pursue all rights and remedies against a defaulting owner notwithstanding the foreclosure of a Mortgage by an Institutional Mortgagee on such owner's lot.

**Section 9.10 Certificates** The Association or any officer or authorized representative thereof shall, upon request and at such reasonable times as may from time to time be adopted by the Board, furnish to any owner a certificate in writing setting forth whether the assessments for which such owner is responsible have been paid and, if not paid, the outstanding amount due and other costs and expenses due from such owner. Such certificate shall be conclusive evidence of payment of any Assessments stated therein.

## **ARTICLE 10**

### **CASUALTY, CONDEMNATION AND INSURANCE**

**Section 10.1 Damage or Destruction to Common Areas by Casualty** In the event of any damage or destruction to any of the common areas by fire or other casualty, then, subject to the provisions of this Article, the Association shall promptly repair, replace and restore the damaged portions of the common areas to the condition to which they existed immediately prior to such fire or other casualty.

A special assessment may be levied against each lot equally as hereinabove to make repairs. Notwithstanding anything provided herein above, if the amount of insurance proceeds, if any, recovered as a result of such damage or destruction is insufficient fully to repair, replace and restore the damaged portions of the common areas, and such efficiency cannot be appropriated from any reserve fund that may have been established for such purpose, then the Board of the Association, may levy a special Assessment against the applicable, subject to the prior written approval of the Association, may levy a special Assessment against the applicable owners, without the necessity of a vote of the owners approving or disapproving the same hereinabove, which such special Assessment shall be in an amount sufficient to provide funds to pay a proportionate share of the remaining costs necessary to repair, replace or restore the common areas to the condition as existed immediately prior to such fire or other casualty. Such special Assessment shall be levied against each lot equally. Further special Assessments may be made by the Board Association on a proportionate share basis, as described above, without the necessity of a vote of the owners approving or disapproving the same, at any time during or upon completion of any such repair, replacement or restoration of the common areas if funds are insufficient to cover the costs of such repair, replacement or restoration. Any and all insurance proceeds received by the Association on account of any damage to or destruction of any of the common areas or any sums paid to the Association by virtue of such special Assessments shall be held by and for the benefit of the Association and shall be disbursed by the Association in payment for the costs of such repair, replacement or restoration in such manner as may be determined by the Association. In no event shall the owner or Mortgagee of any lot be entitled to any portion of any special Assessments or proceeds of insurance payable as a result of the damage to or destruction of any portion of the common areas.

**Section 10.2 Damage or Destruction to Lots and Dwellings** In the event of any fire or other casualty that damages or destroys any portion of any lot or dwelling, then the owner of such damaged lot or dwelling shall promptly repair and otherwise restore such lot or dwelling to the condition to which the same existed immediately prior to such fire or other casualty; provided, however, that any such restoration or repair shall be subject to compliance with all of the provisions set forth herein above and all then applicable rules, regulations,

statutes and ordinances of governmental authorities. Any such restoration or repair shall be commenced within one hundred eighty days following the occurrence of such fire or other casualty. The owner of any such damaged lot or dwelling shall proceed diligently and complete all such restoration and repair no later than one year following the occurrence of such fire or other casualty. In the event the restoration or repair of such lot or dwelling is impracticable or would otherwise violate any of the provisions of these Covenants, then such owner shall promptly clear away any remaining Improvements damaged or destroyed by such fire or other casualty and shall leave such lot or dwelling and any remaining Improvements thereon in a clean, orderly, safe and sightly manner.

### **Section 10.3 Condemnation of Common Areas**

In the event of the taking of all or any portion of any of the common areas as a result of, in lieu of or in anticipation of the exercise of the right of eminent domain, condemnation or by private purchase in lieu thereof, the award from such taking or sale in lieu thereof shall be paid to the Association, as applicable, and shall be disbursed or held as follows:

(1) To the extent the common areas subject to such taking can either be restored or replaced, then, to the extent practicable, the Association shall take such action, including the utilization of any other common areas within the Development, to restore or replace, as the case may be, those portions of the common areas subject to such taking. If the award is insufficient to defray fully the cost of such restoration or replacement, and such deficiency cannot be appropriated from any reserve fund that may have been established for such purpose, then the Board of the Association may levy a special Assessment against all owners, without the necessity of a vote of the owners approving or disapproving the same. Such special Assessment shall be in an amount sufficient to provide funds to pay a proportionate share of the remaining costs of restoration or replacement. Such special Assessment shall be levied against each owner. Further special Assessments may be made by the Association Board on a proportionate share basis without the necessity of a vote of the owners approving or disapproving the same, at any time during or upon the completion of any such restoration or replacement of the common areas if the award received as a result of such taking is insufficient to pay the costs of such restoration or replacement.

(2) To the extent the common areas subject to such taking cannot be restored or replaced or if the Association shall determine that the portions of the common areas so taken should not be restored or replaced, then in any such event, the net award from such taking shall be retained by and for the benefit of the Association.

If any portion of the award from any taking remains after restoration or replacement of any of the common areas, the remainder of such award shall be retained by and for the benefit of the Association without any claim thereto any owner.

It is the intent of this Section that the Association shall restore its common areas and that the Association shall restore its common areas and each shall retain the applicable proceeds of condemnation not utilized in restoration.

**Section 10.4 Condemnation of Lots** If all or any portion of a lot is taken as a result of; in lieu of or in anticipation of the exercise of the right of eminent domain, condemnation or

by private purchase in lieu thereof; then, to the extent practicable, the owner of such lot shall promptly repair, reconstruct, rebuild and otherwise restore the remaining portions of the lot as nearly as practicable to the condition to which the same existed immediately prior to such taking; provided, however, that any restoration shall be subject to all of the terms and conditions set forth herein above and all then applicable rules, regulations, statutes and ordinances of the governmental authorities. If the restoration of such lot is impracticable or would otherwise violate any of the provisions of these Covenants, then such owner shall promptly clear away any remaining Improvements damaged or destroyed by such taking and shall leave such lot and any remaining Improvements thereon in a clean, safe and sightly condition.

#### **Section 10.5 Insurance**

The Association shall have the right and authority to obtain and maintain at all times adequate property and casualty insurance in such form as the Association deems appropriate for the benefit of the Association insuring all insurable Improvements in and to the common areas against loss or damage by fire or other hazards, including, without limitation, extended coverage, flood, vandalism and malicious mischief, which coverage shall be in an amount, with such insurance carriers, at such costs and with such deductibles as the Association, in its sole discretion, may determine.

The Association shall have the right and authority to obtain and maintain in effect at all times such public liability insurance coverage covering all of the common areas in such amounts, with such insurance carriers, at such costs and with such deductibles as the Association, in its sole discretion, may deem necessary or desirable.

The Board shall have the right and authority to obtain workman's compensation insurance, employer's liability insurance, public liability insurance, and all other types of insurance required by law, including, without limitation, errors and omissions and directors and officers liability insurance coverage, in such amounts, with such insurance carriers, at such costs and with such deductibles as the Board, in its sole discretion, may determine.

All insurance coverage authorized herein shall be written in the name of the Association and all costs thereof shall be a Common Expense. To the extent the same may be obtained at a nominal cost, all such policies shall contain a waiver of subrogation clause pursuant to which the insurer waives any claims against the Developer, the Association, the members of the Board and all officers, agents and employees, including the manager for the Development, the Association, the owners and the family members, agents, tenants and guests, of the owners and shall also name Developer as an additional insured.

All insurance coverage required above shall be written in the name of the Association and a proportionate share of all costs thereof shall be a common expense.

Each owner shall be solely responsible for obtaining and maintaining public liability, property damage, title and all other types of insurance with respect to his, her or its lot. Each owner, by acceptance of a deed or other instrument conveying any interest in any lot, does hereby waive and release Developer, the Association, the DRC, the manager of the Development, employees, representatives, partners, shareholders, members, officers and directors, from any and all liabilities or damage covered by (or that should be covered by) fire

and casualty (e.g., homeowner's and builder's risk) insurance and general liability insurance that any owner maintains, even if such loss or damage has been caused by the fault or negligence of any of the foregoing persons or parties.

**Section 10.6 Damage or Destruction of Common Areas by Owners** In the event any common area is damaged or destroyed by an owner of a lot, its guests, employees or invitees, then in that event said owner shall promptly cause said damage to be repaired at said owner's expense, and inspected by the DRC. In the event said owner does not promptly repair said damage, or does not repair same according to the requirements of the DRC, then in that event, the Association may promptly repair, replace and restore that damaged portion of the common area to the condition to which it existed prior to such damage and bill said owner for the costs of said repairs or replacements. Should the owner not promptly pay said costs of the repairs or replacements, then the costs of same shall constitute an individual assessment to such owner herein and if same is not paid when due it shall be subject to the lien provided for above and be subject to foreclosure as provided for therein.

## **ARTICLE 11**

### **TERM AND AMENDMENTS**

**Section 11.1 Term** Subject to all provisions herein or hereafter, the terms, covenants, conditions and restrictions set forth in these Covenants shall run with and bind all of the Property, shall inure to the benefit of all owners and mortgagees and their respective heirs, executors, personal representatives, administrators, successors and assigns, and shall be and remain in effect for a period of ninety-nine years from and after the date hereof, after which time these Covenants shall be automatically renewed and extended for successive and continuous period of ten years each, unless, at any time after twenty years from the date hereof, an agreement executed by the owners of at least two-thirds or more of the lots within the Property agreeing to terminate or modify these Covenants has been recorded in the Probate Office of Montgomery County, Alabama; provided, however, that the rights of way and easements established, granted and reserved hereof shall continue and remain in full force and effect for the time periods and duration specified therein.

**Section 11.2 Amendment by Developer** Until January 1, 2036, or until such earlier date as Developer elects, in its sole discretion, Developer may amend these Covenants by a written instrument filed and recorded in the Probate Office of Montgomery County, Alabama, without obtaining the approval of any owner or Mortgagee; provided, however, that except as otherwise provided herein, (a) if any amendment proposed by Developer materially and adversely alters or changes any owner's rights to the use and enjoyment of his, her or its lot or materially and adversely affects the title to any lot, then such amendment shall be valid only upon the written consent of the affected owner or, alternatively, by fifty percent of all of the owners (including Developer who shall have the voting rights attributable to any lot owned by Developer) or (b) Any amendment made pursuant to this Section shall be effective when it is recorded in the Probate Office of Montgomery County, Alabama. Each owner, by acceptance of a deed or other conveyance to a lot and each Mortgagee, by acceptance of a mortgage on any lot, agrees to be bound by all amendments permitted herein and further agrees that, if requested to do so by Developer, such owner and mortgagee will consent to the amendment

of these Covenants or any other instrument relating to the Property or the Association if such amendment is (i) necessary to bring any provision hereof into compliance or conformity with the provisions of any law; ordinance, statute, rule or regulation of any applicable governmental authority or the judicial decision of any state or federal court, (ii) necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any lot, (iii) required by any institutional mortgagee to enable such Institutional mortgagee to make a Mortgage loan on any lot or (iv) necessary to enable any governmental agency or reputable private insurance company to insure mortgages on any lot within the property.

### **Section 11.3 Amendments by Association after Relinquishment of Control by Developer**

After January 1, 2036, or such sooner date as Developer in its sole discretion determines, amendments to these Covenants shall be proposed and adopted by the Association in the following manner:

At any annual or special meeting of the Members of the Association, an amendment to these Covenants may be proposed by either the Board of the Association or by any owners provided written notice of same is provided to all owners at least ten days before such meeting. Any such proposed amendment must be approved by the owners holding at least two-thirds of the total votes in the Association. Any such amendment shall be effective upon recording of the same in the Probate Office of Montgomery County, Alabama.

**Section 11.4 Restrictions on Amendment** Notwithstanding anything provided in these Covenants to the contrary, in no event may any amendment of these Covenants that require Developer's or the Association's consent or approval be effective unless Developer or the Association, as the case may be, consents in writing to any such amendment requiring its consent. The consent of Developer or the Association to any such proposed amendment may be withheld in the sole discretion of Developer or the Association, respectively, with or without any reason.

## **ARTICLE 12**

### **ENFORCEMENT**

**Section 12.1 Authority and Enforcement** In addition to the provisions herein above, if any owner or occupant or their respective agents, contractors or invitees, violates any of the provisions of these Covenants, the Articles of Incorporation, the Bylaws or any rules and regulations adopted by the Board of the Association from time to time, the Board shall have the power to (i) impose reasonable monetary fines that shall constitute an equitable charge and continuing lien upon the lot and shall be a personal obligation of such owner that is guilty of such violation, (ii) suspend an owner's right to vote in the Association or (iii) the Board 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 12.2 Procedure** In the event any of the terms or provisions of these Covenants, the Articles of Incorporation, the Bylaws or any rules and regulations of the Association are violated by an owner or occupant, or the respective agents, contractors or

invitees of any owner or occupant, the Board shall not impose a fine, suspend voting rights or infringe upon or suspend any other rights 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:

- (a) The alleged violation;
- (b) The action required to abate such violation; and
- (c) 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 these Covenants, the Design Code, the Articles of Incorporation, the Bylaws or any of the rules and regulations of the Association may result in the imposition of sanctions.

**Section 12.3 Nonexclusive Remedies** Notwithstanding anything provided to the contrary in these Covenants, the authority, enforcement and procedural rights set forth are in addition to and shall not be deemed to limit the other rights and remedies set forth in these Covenants or that the Association, acting through the Board, would have the right to exercise at law or in equity.

## ARTICLE 13

### MISCELLANEOUS PROVISIONS

**Section 13.1 Control by Developer** Notwithstanding anything provided to the contrary in these Covenants, the Articles of Organization, the Bylaws or in any other document or instrumental relating to the property, until January 1, 2036, or such earlier date as Developer, in its sole discretion, elects, Developer hereby retains the right to (i) appoint and remove any member or members of the board of the association and any officer or officers of the association; (ii) appoint and remove any member or members of the design review board; and (iii) designate those member of the board of directors of the association, to be elected by the board of directors of the association. Each owner, by acceptance of a deed or other conveyance of any interest in a lot, agrees that Developer shall have the authority to appoint and removed members of the Board and Officers of the Association in accordance with the foregoing provisions of this Section and herein above, until January 1, 2036, or at such earlier date as Developer determines, in its sole discretion. After January 1, 2036, or such sooner date as Developer may relinquish control, a special meeting of the Association shall be called within a reasonable time thereafter at which time the owners shall elect a new Board of each association that shall undertake the responsibilities of the Board of the Association and Developer shall deliver all books, accounts and records of the Association, if any, that Developer has in its possession.

**Section 13.2 Legal Expenses** In addition to the rights and remedies set forth herein above if the Association, its agents or representatives, the DRC, its agents or representatives, or the Board, its agents and representatives, undertake any legal or equitable action that any of them deem necessary to abate, enjoin, remove or extinguish any violation or breach of these Covenants, then all costs and expense incurred by any of them, including, without limitation, attorney's fees and court costs, in enforcing any of the terms, provisions,

covenants or conditions in these Covenants shall be paid for by the owner against whom such action was initiated. The Association, its agents and representatives, the DRC, its agents and representatives, and the Board, its agents and representatives, are each hereby authorized to take any and all legal or equitable action as may be necessary under the circumstance to restrain or enjoin any such violation or breach or to otherwise seek monetary damages as a result of any expenses incurred by either the DRC, the Association to cure such violation or breach.

**Section 13.3 Severability** If any provision of these Covenants or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of these covenants or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each provision shall be valid and enforceable to the fullest extent permitted by law.

**Section 13.4 Captions and Headings** The captions and headings contained in these Covenants are for convenience of reference only and shall not be used in the construction or interpretation of any provisions of these Covenants. The table of contents, cover page and any index to these Covenants are for convenience of reference only and shall not define or limit any of the provisions hereof.

**Section 13.5 Pronouns and Plurals** All personal pronouns used in these Covenants, whether used in the masculine, feminine or neuter gender, shall include all other genders. The use of the singular tense shall include the plural and the use of the plural shall include the singular.

**Section 13.6 Binding Effect** The provisions of these Covenants shall be binding upon each owner, occupant and mortgagee and the perspective heirs, executors, administrators, personal representatives, successors and assigns of each owner, occupant and the mortgagee and shall inure to the benefit of Developer, the Association, the DRC, all of the owners and their respective mortgagee and their respective heirs, executors, administrators, personal representatives, successors and assigns.

**Section 13.7 Conflict or Ambiguity** In the event of any conflict or ambiguity in the provisions of these Covenants, the general rules of construction against one party as a result of that party having drafted these Covenants are hereby waived by each owner and, to the fullest extent allowed by law, no conflicts or ambiguity shall be resolved in favor or to the advantage of one party as opposed to another in interpreting any ambiguity or conflict contained herein.

**Section 13.8 No Reverter** No restrictor or provision hereof is intended to be or shall be construed as a condition subsequent or a possibility of reverter in favor of Developer nor shall any provision be deemed to vest any reversionary interest in Developer.

**Section 13.9 Interpretation** In all cases, the provisions in these Covenants shall be construed together and given that interpretation or construction that, in the opinion of Developer, the Board of the Association will best effectuate the intent of the general plan of development for the property. The provisions hereof shall be liberally interpreted and, if



effective. The provisions of these Covenants shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes that are less restrictive. The effective date of these Covenants shall be the date hereof. These Covenants shall be construed under and in accordance with the laws of the State of Alabama.

**Section 13.10 Right of Third Parties** These Covenants shall be recorded for the benefit of Developer, the Association, the owners and their respective Mortgagees and by such recording, no adjoining property owner or other third party shall have any right, title or interest whatsoever in the Property or the Development, or in the operation and continuation of either, or in the enforcement of any of the provisions of these Covenants nor shall any of them have the right to consent to or approve any amendment or modification to these Covenants.

**Section 13.11 No Trespass** Whenever the Association, Developer, the DRC and their respective agents, employees, representatives, invitees, successors and assigns, are permitted by these Covenants to enter upon or correct, repair, clean, maintain or preserve or do any other action within any portion of a lot, the entering thereon and the taking of such action shall not be deemed a trespass.

**Section 13.12 No Partition** Each owner hereby waives any right to see or obtain judicial partition, of any portion of the Property or the Development.

**Section 13.13 Alabama Fair Housing Law and Federal Fair Housing Act** Nothing in these Covenants shall conflict with the provision of the Alabama Fair Housing Law or the Federal Housing Act, as may be amended from time to time.

**Section 13.14 Reservation of Rights** Notwithstanding anything provided herein to the contrary, no sale, transfer, conveyance, lease, pledge, encumbrance or other hypothecation of any lot by Developer to a third party shall constitute or be deemed a transfer of any of the rights reserved herein to Developer unless reference is made in such instrument of conveyance to the specific rights created in these Covenants that Developer is transferring to any such third party.

**Section 13.15 Standards for Review** Whenever in these Covenants Developer, the Association, or the DRC has the right to approve, consent to, or require any action be taken pursuant to the terms hereof, such approval, consent or required action shall, except as otherwise specifically provided herein to the contrary, be given or withheld in the sole and absolute discretion of Developer, the Association or the DRC, as the case may be.

**Section 13.16 Oral Statements** Oral statements or representations by Developer, the Association, the DRC, the manager of the Development, or any of their respective employees, agents, representatives, successors or assigns, shall not be binding on Developer, the Association or the DRC or the manager of the Development.

**Section 13.17 Notices** Notices required hereunder shall be in writing and shall be delivered by hand, by overnight courier, telecopied, or sent by registered or certified United States Mail, postage prepaid return receipt requested. Any notice so addressed and mailed shall be deemed to be given seven (7) days after deposit in the United States Mail, and if delivered by hand, shall be deemed to be given when delivered, and if telecopied or

delivered by overnight courier, shall be deemed to be given on the business day immediately following the day that it was sent or delivered. All notices to owners shall be delivered or sent to such addresses as have been designated in writing to the Association or, if no such address has been so designated, at the address of such owner's respective lot within the property. All notice to the Association or the DRC shall be delivered or sent in care of David Chancellor for the Developer to the following address:

***Woods & Water Development, LLC  
Post Office Box 241888  
Montgomery, Alabama 36124***

or to such other address as the Association or the DRC may from time to time specify in a notice to the owners. All notices to Developer shall be sent or delivered to Developer at the above address or to such other addresses as Developer may notify the Association.

**Section 13.18 Assignment** Subject to the provisions hereinabove, Developer, the Association and the DRC shall each have the right to assign any and all of the rights, powers, reservations and duties contained herein to any person or entity who shall thereupon have the same rights, power, reservations and duties as Developer, the Association and the DRC, respectively.

**Section 13.19 Further Assurances** Each owner covenants and agrees to execute, sign and deliver, or cause to be executed, signed and delivered and to otherwise do or make or cause to be done and made, any and all agreements, instruments, papers, deeds, acts or things, supplemental, conformity or otherwise, that may be reasonably requested by Developer, the Association or the DRC for the purpose of clarifying, amending or other consummating any of the transactions and matters herein.

**Section 13.20 No Wavier** All rights, remedies and privileges granted to Developer, the Association and the DRC pursuant to the provision of these Covenants shall be deemed to be cumulative, and the exercise of any one or more of such rights, remedies or privileges shall not be deemed to constitute an election of remedies nor shall it preclude the party exercising the same, or any other party, from pursuing such other and additional rights, remedies or privileges as may be available to such party at law or in equity. The failure at any time to enforce any covenant or restriction set forth herein shall not be deemed a waiver of the right thereafter to enforce such covenant or restriction.

IN WITNESS WHEREOF, Developer, Woods & Water Development, LLC has caused these Covenants to be duly executed as of the day and year first above written.

WOODS & WATER DEVELOPMENT, LLC,  
An Alabama Corporation

BY: Kenneth R. Hayes  
KENNETH R. HAYES  
Its: Member

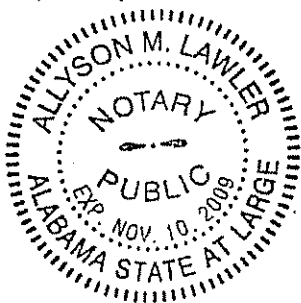
STATE OF ALABAMA       )  
COUNTY OF MONTGOMERY    )

I, the undersigned authority, a Notary Public in and for said County is said State, hereby certify that Kenneth R. Hayes, whose name as Member of Woods & Water Development, LLC, an Alabama corporation, is signed to the foregoing instrument, and who is known to me, he, as such Member and with full authority, executed the same voluntarily for and as the act of said corporation.

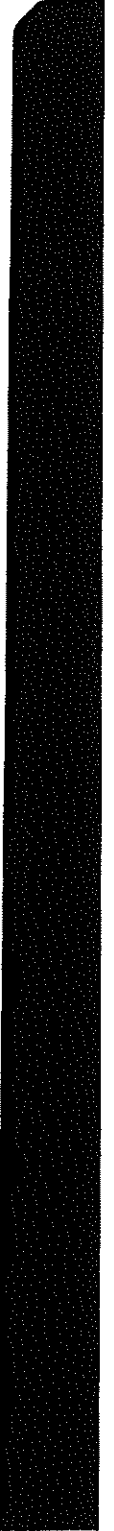
Given under my hand and official seal, this the 14<sup>th</sup> day of March 2007.

Allyson M. Lawler  
NOTARY PUBLIC  
My Commission Expires: 11/16/2009

(SEAL)





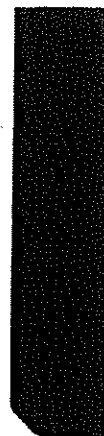


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EXHIBIT '2'





STATE OF ALABAMA  
MONTGOMERY COUNTY

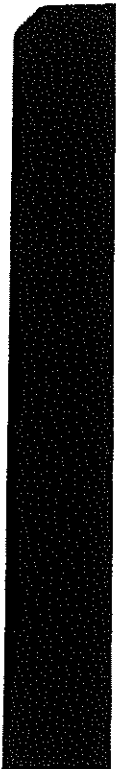
Commence at the Northwest Corner of the SE 1/4 of Section 18, T-14-N, R-20-E, Montgomery County, Alabama; thence East 2630.66' to a point; thence S 03°35'24" E 0.80' to an iron pin and the POINT OF BEGINNING for the herein described parcel of land; thence S 03°35'24" E 1260.40' to an iron pin located on the East Right-of-Way (60') of Edge Wood Court; thence along said Right-of-Way S 03°35'24" E 1121.23' to an iron pin located on the North Right-of-Way (80') of Old Hayneville Road; thence leaving said East side and along said North side S 85°25'54" W 119.25' to an iron pin located on the West Right-of-Way (60') of Edge Wood Court; thence leaving said North side and along said West side the following five (5) courses: (1) N 47°11'33" E 39.27'; (2) Chord Bearing N 14°40'01" E, Chord Distance 8.88', Radius 170.00'; (3) N 16°09'50" E 45.65'; (4) Chord Bearing N 06°17'13" E, Chord Distance 61.75', Radius 180.00'; (5) N 03°35'24" W 89.73' to an iron pin; thence leaving said Right-of-Way S 85°46'59" W 366.19' to an iron pin; thence S 75°21'38" W 331.25' to an iron pin; thence N 33°45'29" W 166.35' to an iron pin; thence Chord Distance S 79°32'04" W, Chord Distance 57.68', Radius 60.00' to an iron pin; thence S 18°42'30" W 131.22' to an iron pin; thence S 84°40'17" W 231.33' to an iron pin; thence S 86°04'50" W 247.51' to an iron pin; thence N 86°29'42" W 212.83' to an iron pin; thence N 80°43'42" W 220.52' to an iron pin; thence S 21°12'55" W 108.50' to an iron pin; thence N 68°47'05" W 250.00' to an iron pin located on the East Right-of-Way (60') of Woods n' Water Lane; thence along said Right-of-Way the following three (3) courses: (1) S 21°12'55" W 227.34'; (2) Chord Bearing S 13°18'10" W, Chord Distance 55.35', Radius 201.06'; (3) S 46°22'14" E 33.33' to an iron pin located on the North Right-of-Way (80') of Old Hayneville Road; thence along said Right-of-Way S 85°25'54" W 110.06' to an iron pin located on the West Right-of-Way (60') of Woods n' Water Lane; thence along said Right-of-Way the following three (3) courses: (1) N 42°53'37" E 36.84'; (2) Chord Bearing N 12°09'27" E, Chord Distance 82.20', Radius 261.06'; (3) N 21°12'55" E 116.60' to an iron pin located at the Intersection of Woods n' Water Lane and Hunters Cove; thence leaving Woods n' Water Lane N 23°47'05" W 35.36' to an iron pin located on the South Right-of-Way (60') of Hunters Cove; thence along said Right-of-Way N 68°47'05" W 336.86' to an iron pin; thence leaving said Right-of-Way S 15°43'42" W 186.88' to an iron pin; thence N 79°37'18" W 261.10' to an iron pin; thence N 89°26'02" W 209.04' to an iron pin; thence N 04°24'20" W 395.71' to an iron pin; thence N 85°25'54" E 216.61' to an iron pin located on the West Right-of-Way (60') of Hunters Cove; thence along said Right-of-Way N 01°13'47" W 654.42' to an iron pin; thence leaving said Right-of-Way N 01°13'47" W 614.91' to a point; thence N 58°53'35" E 299.46' to a point; thence S 45°02'33" E 205.77' to a point; thence S 04°46'11" E 212.93' to a point; thence S 04°46'11" E 174.75' to a point; thence S 04°46'11" E 161.88' to a point; thence S 86°02'08" E 563.99' to an iron pin located on the West Right-of-Way (60') of Woods n' Water Lane; thence along said Right-of-Way N 89°15'04" E 60.00' to an iron pin located on the East Right-of-Way (60') of Woods n' Water Lane; thence along said Right-of-Way Chord Bearing S 01°11'00" E, Chord Distance 30.90', Radius 2037.73' an iron pin; thence leaving said Right-of-Way N 89°15'43" E 253.84' to an iron pin; thence S 63°27'56" E 437.73' to a point; thence N 87°49'27" E 542.60' to a point; thence N 17°05'14" E 585.53' to an iron pin; thence N 13°44'36" E 190.25' to an iron pin; thence N 29°54'57" E 222.57' to an iron pin; thence N 19°22'36" E 246.73' to an iron pin; thence N 13°07'32" E 148.82' to an iron pin; thence N 32°29'03" E 100.64' to an iron pin; thence N 19°51'04" E 21.71' to the point of beginning. Containing 80.84 acres, more or less.

STATE OF ALABAMA  
MONTGOMERY COUNTY

Commence at an iron pin known as the Northwest Corner of the SE 1/4 of Section 18, T-14-N, R-20-E, Montgomery County, Alabama; thence East 2630.66' to a point; thence S 03°35'24" E 2382.43' to an iron pin; thence S 85°25'54" W 119.25' to an iron pin and POINT OF BEGINNING for the herein described parcel of land (said point also located on the North Right-of-Way (80') of Old Hayneville Road; thence along said Right-of-Way the following two (2) courses: (1) S 85°25'54" W 2882.44'; (2) Chord Bearing S 84°53'37" W, Chord Distance 56.40', Radius 2331.89' to an iron pin; thence leaving said Right-of-Way N 04°24'20" W 299.82' to an iron pin; thence S 89°26'02" E 209.04' to an iron pin; thence S 79°37'18" E 261.10' to an iron pin; thence N 15°43'42" E 186.88' to an iron pin; thence S 68°47'05" E 336.85' to an iron pin; thence S 23°47'05" E 35.36' to an iron pin; thence S 21°12'55" W 116.60' to an iron pin; thence Chord Bearing S 12°09'27" W, Chord Distance 8 2.20', Radius 261.06' to an iron pin; thence S 42°53'37" W 36.84' to an iron pin located on the North Right-of-Way (80') of Old Hayneville Road; thence along said Right-of-Way N 85°25'54" E 110.06' to an iron pin; thence leaving said Right-of-Way N 46°22'14" W 33.33' to an iron pin; thence Chord Bearing N 13°18'10" E, Chord Distance 55.35', Radius 201.06' to an iron pin; thence N 21°12'55" E 227.34' to an iron pin; thence S 68°47'05" E 250.00' to an iron pin; thence N 21°12'55" E 108.50' to an iron pin; thence S 80°43'42" E 220.52' to an iron pin; thence S 86°29'42" E 212.83' to an iron pin; thence N 86°04'50" E 247.51' to an iron pin; thence N 84°40'17" E 231.33' to an iron pin; thence N 18°42'30" E 131.22' to an iron pin; thence Chord Bearing N 79°32'04" E, Chord Distance 57.68', Radius 60.00' to an iron pin; thence S 33°45'29" E 166.35' to an iron pin; thence N 75°21'38" E 331.25' to an iron pin; thence N 85°46'59" E 366.19' to an iron pin; thence S 03°35'24" E 89.73' to an iron pin; thence Chord Bearing S 06°17'13" W, Chord Distance 61.75, Radius 180.00' to an iron pin; thence S 16°09'50" W 45.65' to an iron pin; thence Chord Bearing S 14°40'01" W, Chord Distance 8.88', Radius 170.00' to an iron pin; thence S 47°11'33" W 39.27' to the point of beginning. Containing 15.87 acres, more or less.



EXHIBIT '3'



## New Construction Review Application

Development: \_\_\_\_\_

Lot: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Number of Bedrooms: \_\_\_\_\_ Number of Bathrooms: \_\_\_\_\_

1<sup>st</sup> Floor Sq. Ft \_\_\_\_\_

2<sup>nd</sup> Floor Sq. Ft \_\_\_\_\_

Other \_\_\_\_\_

TOTAL LIVING SQ. FT. \_\_\_\_\_

Covered Porches / Deck \_\_\_\_\_

Garage Carport \_\_\_\_\_

Other \_\_\_\_\_

TOTAL SQ. FT. \_\_\_\_\_

### EXTERIOR WALLS (Attach samples of exterior materials and colors)

Exterior walls will be:	Type	Color	Manufacturer
_____ Brick	_____	_____	_____
_____ Mortar	_____	_____	_____
_____ Stone	_____	_____	_____
_____ Siding	_____	_____	_____

Trim color: \_\_\_\_\_

Front Door color: \_\_\_\_\_

Garage door type: \_\_\_\_\_ Metal \_\_\_\_\_ Wood \_\_\_\_\_ Fiberglass \_\_\_\_\_ Vinyl \_\_\_\_\_ Other

**Please submit this form along with 1 set of plans to:**

**Woods & Water Development, LLC**

**P.O. Box 241888, Montgomery, Alabama 36124**

**Your application will be reviewed according to the current Covenants and Restrictions and DRC Guidelines. You will be notified the status of your request.**

APPROVED BY: \_\_\_\_\_

DESIGN REVIEW COMMITTEE

DATE \_\_\_\_\_

## Design Review Committee

### APPLICATION FOR PRE-APPROVAL OF EXTERIOR IMPROVEMENTS

DEVELOPMENT: \_\_\_\_\_ LOT NUMBER: \_\_\_\_\_

HOMEOWNER'S NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: Home: \_\_\_\_\_ Work: \_\_\_\_\_ Cell: \_\_\_\_\_

#### TYPE OF EXTERIOR IMPROVEMENT:

- \_\_\_\_\_ Decks, Sidewalk, Patio, etc.
- \_\_\_\_\_ Landscaping (*Plantings, Retaining Walls, etc.*)
- \_\_\_\_\_ Fence – *Wood privacy fences will have to be turned with smooth side out, and all bracing on the inside of the fence, unless the new fence backs up to an existing fence.*  
*We strongly recommend a professional survey be done PRIOR to erecting any fencing.*  
*Approval of your fence type by the DRC is not verification of the fence location relative to the lot lines. Staying within the lot lines is the homeowners' responsibility.*
- \_\_\_\_\_ Sport/Play (*Basketball Goals, Trampolines, Pools, etc.*)
- \_\_\_\_\_ Other: \_\_\_\_\_

#### DESCRIPTION OF PROJECT:

DIMENSIONS: Length: \_\_\_\_\_ Width: \_\_\_\_\_ Height: \_\_\_\_\_

CONSTRUCTION MATERIALS TO BE USED: \_\_\_\_\_

LOCATION OF PROJECT: \_\_\_\_\_

#### MATERIAL OF PROJECT:

- \_\_\_\_\_ Aluminum, Steel, Vinyl, or Plastic Siding
- \_\_\_\_\_ Metal or Wood Roofing Material
- \_\_\_\_\_ Asphalt or Non-Concrete Surfacing Material
- \_\_\_\_\_ Any areas marked as an easement on the plat

#### PLEASE ATTACH THE FOLLOWING ITEMS TO THIS APPLICATION:

- \_\_\_\_\_ Elevation diagram showing dimensions
- \_\_\_\_\_ Lot site plan showing location of structures/landscaping
- \_\_\_\_\_ A picture of the location and of the addition or renovation you are requesting.

SIGNATURE OF HOMEOWNER \_\_\_\_\_

DATE SUBMITTED \_\_\_\_\_

*Please submit this form and all applicable attachments at least  
five (5) business days prior to starting any additions to:*

**Woods & Water Development, LLC, P.O. Box 241888, Montgomery, Alabama 36124**

*Your application will be reviewed according to the current Covenants  
and Restrictions and DRC Guidelines. You will be notified the status of your request.*

APPROVED BY: \_\_\_\_\_

DESIGN REVIEW COMMITTEE

DATE \_\_\_\_\_

