

include said additional units and/or property as Phases to this development and, as such, the same shall be treated as a part hereof as if originally so included and each Unit Owner of such phased unit shall have the same rights, privileges, burdens and duties as an original Owner. Each Owner shall also acquire Common Interest in the Common Elements included in each new Phase, as if originally included herein.

## ARTICLE II DESCRIPTION OF PROPERTY

All that certain parcel, piece or plat of land, including the Units as defined in Article IX herein and further described in Article X situated thereon in the County of Lee, State of Alabama, and being more particularly described, on Exhibit "A" attached hereto and specifically made a part hereof (the "Property").

## ARTICLE III INITIAL CONVERSION AND DEVELOPMENT RIGHTS

There are constructed on the Property three (3) buildings containing a total of eighty-four (84) units, which have heretofore been leased as apartments. The Property has outside parking spaces, landscaped areas, and other usual appurtenances and facilities. Declarant reserves the right to submit additional property to the provisions of this Declaration and, to the extent any additional property is specifically submitted to the terms and provisions of this Declaration by Declarant, then any such additional property shall constitute part of the Property. Additional property may be submitted to the provisions of this Declaration by an instrument executed by Declarant in the manner required for the execution of deeds and recorded in the Probate Office of Lee County, Alabama, which instrument shall be deemed an amendment to this Declaration and need not be consented to or approved by any Owner, Occupant, or Mortgagee of any Unit.

Pursuant to the Code of Alabama § 35-8A-205 (a)(8), to exercise any development right reserved under said section, the Declarant shall prepare, execute, and record an amendment to the Declaration as specified in Code of Alabama § 35-8A-217 and comply with Code of Alabama § 35-8A-209. All additional Units must be converted to the condominium form of ownership, if at all, within ten (10) years from the date of recording of this Declaration of Auburn Crossing Condominium.

## ARTICLE IV UNIT DESIGNATIONS

The Unit Designation of each Unit, its location, dimensions, approximate area, Common Elements to which it has immediate access, and other data concerning its proper identification, are set forth in the site and floor plans marked Exhibit "B" attached hereto and made a part hereof. The improvements have been substantially completed as evidenced by the certificate of

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**DECLARATION OF  
AUBURN CROSSING CONDOMINIUM**

This declaration made this 3<sup>rd</sup> day of May, 2005, by War Eagle Crossing, LLC, a Florida limited liability company, hereinafter called the "Declarant".

**WITNESSETH:**

**WHEREAS**, the Declarant is the Owner in fee simple of all of the property hereinafter described on which is located an apartment complex known as Auburn Crossing, and by this Declaration, the Declarant intends to convert certain of the apartment units situated thereon to the condominium form of ownership, thereby establishing a Condominium under the provisions of Code of Alabama, 1975, Title 35-8-1, et seq. (Condominium Ownership), as amended, hereinafter called the Condominium Act; and

**WHEREAS**, the Condominium shall initially be comprised of three (3) buildings containing a total of eighty-four (84) Units as shown on Exhibit "B" attached hereto and made a part hereof. The Condominium is located in Lee County, Alabama.

**WHEREAS**, the Condominium contains conversion buildings containing Units that may be occupied for residential use. Accordingly, the Declarant makes the following representations:

- (a) To the best of Declarant's knowledge, the structural components and mechanical and electrical installations which are material to the use and enjoyment of the Building are approximately fifteen (15) years old; and
- (b) There are no outstanding notices of incurred violations of any building code or other municipal regulations and, accordingly, no costs are to be expended or reserved to cure such violations.

**NOW THEREFORE**, the Declarant, pursuant to the Condominium Act, does hereby declare and state on behalf of itself, its successors and assigns, and on behalf of all persons having or seeking to acquire any interest of any nature whatsoever in the said property, as follows:

**ARTICLE I**

The Declarant states that it is the Owner in fee simple of and hereby submits the property hereinafter described, together with all improvements, buildings, structures and all permanent fixtures thereon, and all rights and privileges belonging or in anyway pertaining thereto, to the provisions of the Condominium Act referenced above. In addition, Declarant, its successors and assigns may subsequently hereto convert additional units and/or submit additional property to the provisions of this Declaration and the condominium form of ownership and may specifically

**SECTION 1.** The Units are intended to be residential dwelling units.

**SECTION 2.** The Common Elements shall be used for the benefit of the Owners, their agents, guests, tenants and invitees, the furnishing of services and facilities for which the same are reasonably intended, and for the enjoyment to be derived from such proper and reasonable use.

**ARTICLE VII**  
**SERVICE OF PROCESS**

The name of the person designated to receive process in any action which may be instituted in relation to this Condominium or any parts thereof, together with her residence or place of business is Rita Underwood, TEJ Property Management, 626 Shug Jordan Parkway, Auburn, Alabama 36830 until the date of the first meeting of the Association and thereafter said person shall be the duly appointed President of the Association.

**ARTICLE VIII**  
**EFFECTIVE DATE OF THE CONDOMINIUM**

The effective date of the Condominium is the date when this Declaration is recorded and the other Condominium Documents are filed in the Office of the Judge of Probate of Lee County, Alabama. From and after the date of the recording of this Declaration, the Property hereinafter described shall be and shall continue to be subject to each and all the terms thereof until this Declaration and this Condominium is terminated or abandoned in accordance with the provisions of the Condominium Act and of this Declaration.

**ARTICLE IX**  
**DEFINITION AND TERMS**

The following terms, when used in this Declaration and in the other instruments constituting the Condominium Documents, are intended to be consistent with the meaning subscribed to them by the Condominium Act and are defined herein as follows:

“Articles” means the Articles of Incorporation of the Auburn Crossing Condominium Owners Association, Inc. recorded in the Office of the Judge of Probate of Lee County, Alabama.

“Assessment” means a proportionate share of the funds required for the payment of the Common Expenses, which from time to time may be levied against each Unit Owner.

“Association” means the corporation known as Auburn Crossing Condominium Owners Association, Inc., or a successor organization organized pursuant to the Condominium

occupancy issued by the Codes Enforcement Division of the City of Auburn Public Safety Department, a copy of which is attached hereto as part of Exhibit "B".

**ARTICLE V**  
**DESCRIPTION OF COMMON ELEMENTS**  
**COMMON INTEREST AND LIMITED COMMON AREAS**

**SECTION 1.** The Common Elements and the undivided interest of each Unit Owner in such Common Elements are set forth in Exhibit "C", and attached hereto.

The Common Elements consist of all parts of the Condominium Property other than the Units as defined in Article IX herein with their adjoining and abutting utility, heating and air-conditioning units and as further defined in Section 5, Article X. In addition, but not in limitation thereof, the Common Elements include the following:

- (a) Land, parking, certain walkways and driveway areas.
- (b) Equipment, apparatus and all other central and appurtenant installations, including all pipes, ducts, shafts, wires and cables used in connection therewith, required to provide power, light, telephone, gas, and water and heat, other than those located solely within a Unit or solely servicing a Unit.
- (c) Easements for access, maintenance, repair, reconstruction or replacement of the foregoing equipment, installations and appurtenances, and for all other services necessary or convenient to the existence, maintenance, safety and use of the Property.

"Private Elements" are those areas adjacent and within certain Units, which are for the use of only those designated Units and further described in Article X, Section 2. No additional consideration is to be paid to Declarant or its successors or assigns for use of Private Elements; however, such usage must comply with the rules and regulations of the Association.

**SECTION 2.** "Reserved" are those Units and areas not included in this Declaration but which may be converted to the condominium form of ownership in the future and added hereto in a Phase or Phases.

**SECTION 3.** "Limited Common Elements" are those areas that every Unit Owner shall have a perpetual and exclusive easement for possession and use of that portion of the area contiguous to the Unit which is designated as a "Limited Common Element" and further provided in Exhibit "C".

**ARTICLE VI**  
**CHARACTER AND USE**

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**EXHIBIT "C":** Undivided interest in Common Elements of each Unit and interest in Limited Common Elements.

**EXHIBIT "D":** The Articles of Incorporation and the Bylaws of Auburn Crossing Condominium Owners Association, Inc.

"Condominium Parcel" means a Unit together with an undivided share in the benefits and burdens of the Common Elements.

"Condominium Property" means and includes the land in the Condominium, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto for use or benefit in connection with the Condominium.

"Conversion Building" means a building that before creation of the Condominium was occupied by persons other than the Unit Owner and persons who occupy with the consent of the Unit Owner.

"Declarant" means War Eagle Crossing, LLC, a Florida limited liability company, its successors and assigns, as the maker of the Declaration, the Sponsor of the Condominium, the respective Seller and the Grantor in deeds conveying the Units.

"Declaration" means this instrument, by which the property is submitted to the provisions of the Condominium Act, and such instruments as from time to time amend the same in accordance with said Act, the Bylaws of this Condominium and this Declaration.

"Institutional Mortgagee" means a bank, a savings and loan association, an insurance company, an FHA-approved mortgage lender, a pension fund, a credit union, a real estate or mortgage investment trust, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a mortgage banker or any other lender generally recognized in the Community as a institutional type of lender or its loan correspondent, or the Declarant, holding a Mortgage on one or more individual Units.

"Limited Common Elements" shall mean that every Unit Owner shall have a perpetual and exclusive easement for possession and use of that portion of the area contiguous to the Unit which is designated "Limited Common Elements" and further defined on Exhibit "C".

"Majority" mean Unit Owners who in the aggregate own more than fifty percent (50%) of the Units.

"Management of the Property" means and includes the administration of the Property, the operation, maintenance, repair or replacement of and the making of any additions or improvements in the Common Elements, and the receipt and disbursement of all funds relating to the management of the Property.

Ownership Act, of which all Unit Owners shall be members, and which shall manage the Condominium.

“Board” means the Board of Directors of the Association.

“Building” means each of the buildings designated as such on the plat attached hereto as Exhibit B and forming part of the Condominium.

“Bylaws” means the duly adopted Bylaws of the Association.

“Common Elements” means all that part of the Condominium Property which is not a part of the Units shown on the plans, shown in Exhibit B and as more particularly set forth in Article X, Section 5, and is the part or parts of the Condominium Property as set forth in the Declaration in which all of the Unit Owners have an undivided interest.

“Common Expenses” means and includes the actual and estimated expenses of operating the property including, but not limited to, the maintenance, administration, improvement and repair of the Common Elements, and any reasonable reserve for such purposes for which the Unit Owners are liable to the Association in accordance with the Declaration and the Bylaws.

“Common Interest” means the proportionate undivided interest in the fee simple of the Common Elements appertaining to each Unit as expressed in this Declaration.

“Common Shares” means each Unit’s share of the Common Expenses in accordance with its Common Interest in relation to the entire project, as determined by the Association.

“Common Surplus” means the excess of all receipts of the Association including but not limited to rents, dues, Assessments, profits and revenues from the Common Elements or other assets of the Condominium organization remaining after the deduction of the Common Expenses and allowing for the retention of a reasonable reserve for future expenditures, all as fixed by the Association.

“Condominium” means Auburn Crossing Condominium, and consists of the Property submitted to the condominium form of ownership by this Declaration.

“Condominium Documents” means and includes this Declaration, as the same may be amended from time to time, and the Exhibits attached hereto and incorporated herein by reference and identified as follows:

EXHIBIT “A”: Description of the Property.

EXHIBIT “B”: Surveys, including site and basic floor plans, and all attachments.

"Share" means the percentages in and to the Common Elements attributed to each Unit as set forth on Exhibit "C".

"Special Assessments" means the costs and expenses, other than Common Expenses, for which the Unit Owners are liable to the Association.

"Supplemental Assessments" means costs and expenses, other than Common Expenses and Special Assessments for which the Unit Owners are liable to the Association. Said costs and expenses will be approved by the Board and a supplemental budget prepared to meet the needs of the insufficient or inadequate annual budget.

"Unit" means a part of the Property designed and intended for independent residential use so specified as a Unit on the Plans and Specifications.

- (a) Horizontal Boundaries. The horizontal boundaries extended to their planar intersections with the vertical boundaries, including paint and floor coverings of the Unit as follows:

Upper Boundary. The horizontal plane of the ceiling of the Unit.

Lower Boundary. The horizontal plane of the floor of the Unit.

- (b) Vertical Boundaries. The vertical boundaries of each Unit shall be the vertical planes of the interior surfaces of exterior windows, and the interior surfaces of the entry doors bounding a Unit, and the inner studs within the walls of the Unit perimeter, including paint, wall paper and like coverings, sheetrock and paneling, and extended to their planar intersections with each other and with the upper and lower boundaries.

Each Unit shall include all improvements contained within such area, including any plumbing and electrical fixtures; provided, however, that no pipes, wires, conduits, ducts, flues, shafts, and public utility lines situated within such Unit and forming part of any system serving one or more other Units, the Common Elements, or the Limited Common Elements if applicable, shall be deemed to be a part of the Unit.

When a Unit is conveyed, the following shall pass with it as appurtenances thereto: (a) an undivided share in the Common Elements, Limited Common Elements, if applicable, and Common Surplus; (b) the exclusive right to use such portion of the Common and Limited Common Elements as may be provided by this Declaration and as may not be separately conveyed in accordance with this Declaration; (c) an exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, provided that an easement in a space that is vacated shall be terminated automatically; and (d) other appurtenances as may be provided in this Declaration.

**"Member"** means a member of the Association, membership in which is confined to persons holding fee ownership in a Unit.

**"Occupant"** means a person or persons in possession of a Unit, regardless of whether that person is the Unit Owner.

**"Officers"** means the officers of the Association.

**"Parking Area"** means the improvement located in the Property and used to park personal automobiles and similar sized vehicles.

**"Person"** means a natural person, a corporation, partnership, an association, trustee, fiduciary or other legal entity and their successors in interest.

**"Phase"** means property and units located thereon, which Declarant or its successors or assigns owns and which are converted to condominium use subsequent to the date hereof and which by declaration become subject to all the terms of this Declaration, including the use of Common Elements and which shares in the common and other expenses as set forth herein; and in addition acquires a share of the Common Elements hereof.

**"Plans and Specifications"** means the site plan, building plans, floor plans, square footage set forth thereon, and survey prepared by Fuller Land Surveying, LLC, which depict the location, layout, identifying number, and dimensions of the Units and the Limited Common Elements and the Common Elements, identified as Auburn Crossing Condominium, that are attached hereto as Exhibit B, and by this reference made a part hereof.

**"Private Elements"** means a part or parts of the Condominium Property as set forth in this Declaration and intended for exclusive ownership or possession of a Unit Owner as set forth herein.

**"Property"** or **"Premises"** means and includes the land, the buildings comprised of Units, and all other improvements thereon as set forth in the Declaration and the easement rights and appurtenances thereunto belonging, and all other property, real, personal or mixed, intended for use in connection with the Condominium.

**"Real Property"** means the land lying and situated in Lee County, Alabama on which the Condominium is located.

**"Recording Officer"** means the Judge of Probate of Lee County, Alabama, and **"recording"** or **"recorded"** means the filing for that purpose with the said Judge of Probate of Lee County, Alabama, and the payment of the proper fees therefore.



conditioning, and specifically including the a/c unit servicing the Unit and all ducts, pipes, vents, and wiring relating thereto, some or all of which may be located outside of the Unit.

**SECTION 3. Surfaces.** A Unit Owner shall not be deemed to own the structural components of the exterior or adjoining walls. A Unit Owner, however shall be deemed to own and shall have the exclusive right and duty to repair and maintain the sheetrock, paint, tile, paper or otherwise finish and decorate the surfacing materials on the interiors of exterior and adjoining walls. In addition the Unit Owner shall have the exclusive right and duty to wash and keep clean the interior surfaces of windows and doors bounding his Unit.

**SECTION 4. Changes.** The Declarant reserves the right to change the interior design and arrangement of any and all Units owned by it. The Declarant further reserves the right to alter the boundaries between Units, which said change shall be reflected by an amendment of the Declaration and shall be known as a Special Declarant Right, which may be executed by the Declarant alone, notwithstanding the procedures for amendment described herein. However, no such change of boundaries shall increase or decrease the number of Units, nor alter the boundaries of the Common Elements without amendment of this Declaration in the manner described herein. If the boundaries of more than one (1) Unit are altered, the Declarant shall appropriately reapportion the shares of the Common Elements which are allocated to the altered Units; provided, however, the Special Declarant Right granted by this section must be exercised on or before ten (10) years from the date of recording of the Declaration in the Office of the Judge of Probate of Lee County, Alabama or in the case of Declarant's exercise of the right to add subsequent phases of the Project, ten (10) years from the date of such submission of a subsequent phase to the terms and conditions of this Declaration. No assurance is made concerning whether or not any Unit will be or will not be changed by the Declarant nor is any assurance made concerning the nature, character, or quality of said change. The exercise by the Declarant of the Special Declarant Right to change a Unit or number of Units does not obligate the Declarant to exercise said right in any one or all of any other Unit in the Condominium. Declarant reserves the right as a Special Declarant Right to add additional property to the Development as such right is allowed as Special Declarant Right pursuant to the Act, in which case the Common Elements and Common Expenses shall be adjusted accordingly.

**SECTION 5. Common Elements.** Any right, title or interest in a Unit shall automatically carry with it as an appurtenance and without the necessity of specific reference thereto its respective undivided share of the Common Elements and a right to use the Common Element in conjunction with the other Owners. The Common Elements of the Condominium are all portions of the Property, other than the Units, and will include the common areas and facilities located substantially as shown on the Plans and Specifications. Such common areas and facilities will include the following:

- A. All improvements and parts of the Property which are not a Unit or a Private Element.

"Unit Designations" means the number, letter or combination thereof or other official designations as shown on the Plans and Specifications.

"Unit Owner" means the person or persons, firms, corporations, partnerships, associations, trusts, estates or other legal entities, or any combination thereof, individually or collectively, vested in aggregate fee simple title to one or more Unit(s) and of the attached undivided interest in the Common Elements.

Whenever the context permits hereunder, use of the plural shall include the singular, use of the singular shall include the plural, and the use of any gender shall be deemed to include all genders.

## ARTICLE X CONDOMINIUM UNITS

**SECTION 1. Description of the Condominium.** The Condominium is located at 626 Shug Jordan Parkway, Auburn, Alabama and contains three (3) residential unit buildings containing a total of eighty-four (84) Units, which are currently operated as an apartment complex known as "Auburn Crossings." Said buildings, which are hereby converted to the condominium form of ownership, contain thirty-eight (38) Units which are approximately 745 square feet and contain two bedrooms and one bath, and forty-six (46) Units, which are approximately 1,215 square feet and contain four bedrooms and two baths. The current floor plans are attached hereto as Exhibit "B" and incorporated herein by reference. Declarant reserves the right to remodel and upgrade the Units which are being converted to the condominium form of ownership, which could alter among other things, the number of bedrooms in certain Units.

**SECTION 2. Unit Ownership- Private Elements.** Each Unit owner shall be entitled to the exclusive ownership, use and possession of his Unit and the Private Elements, which include the following:

- A: The air space of the area of the Building lying within the Unit boundaries.
- B. The surfacing materials on the interior of the exterior wall, all interior walls, floors and ceilings located within the boundaries of the Unit; and, with respect to ground floor Units, the sub-flooring. All interior trim and finishing materials within the confines of the Unit.
- C. Any toilets, sinks or other appliances installed within a Unit by a Unit Owner, lighting fixtures and all hardware and interior and exterior wall fixtures except those exterior lighting fixtures assigned to the common use of the Condominium.
- D. All pipes, ducts, vents, wires, cables and conduits within the Unit and forming part of any system servicing such Unit with power, light, telephone, sewer, water, heat and air

**SECTION 2.** The Common Interest appurtenant to each Unit shall be of the same character but will be altered without the consent of the Unit Owners upon conversion of additional Units in subsequent Phases and dedicated as a condominium subject to the conditions thereto.

**SECTION 3. (a)** At the time of dedication of future phases; the Common Elements and Limited Common Elements contained in each future phase will be merged with the existing Common Elements and Limited Common Elements and at that point, each Unit Owner shall be entitled to his proportionate share in all Common Elements and Limited Common Elements.

(b) Future phases will be added to and made subject to this Declaration by the execution, by the Declarant, its successors and assigns, of an Amendment or Amendments to this Declaration, which shall be recorded in the Probate Office of Lee County, Alabama. Such Amendments shall have attached to it Exhibits similar to those attached to this Declaration, describing the property so submitted to Condominium ownership setting out the percentage of ownership of Common Elements appurtenant to each Unit, and containing such other information concerning said property and the improvements constructed, or to be constructed, thereon as is required by law.

(c) Any person or entity who shall acquire any Unit in the original dedication before any phases, or any interest in or lien upon any such Unit regardless of whether said Unit shall be located in the original project or future phases, agrees to be bound by the terms and provisions hereof and any amendment to this Declaration executed as above set forth shall be binding and effective as written, notwithstanding the fact that the undivided interest of the Unit Owners in the Common Elements will be changed thereby.

**SECTION 4. (a)** Each Unit Owner may use the Common Elements (except any portions of the property subject to leases made by or assigned to the Board) in accordance with the purposes for which they are intended without hindering the exercise of or encroaching upon the rights of other Unit Owners. The Unit Owner shall have the right to the Limited Common Elements serving his Unit. The rights to use the Common Elements and Limited Common Elements shall be subject to and governed by the provisions of the Act, Declaration, Bylaws, and the rules and regulations of the Association.

(b) The Association shall have the authority to lease, grant concessions, or grant easements with respect to parts of the Common Elements, subject to the provisions of the Declaration and Bylaws.

**SECTION 5.** The Association, or its designee, shall have the irrevocable right, to have access to each Unit for the purpose of inspecting and making repairs, replacements or improvements to any Common Elements and to the Unit itself where the responsibility therefor is upon the Association, or to prevent damage to the Common Elements or other Units, or to abate any violations of law, orders, rules or regulations of any Governmental authorities having

- B. Reserved parking area, walkways and other means of ingress and egress to the Property.
- C. Electrical power units, gas, water lines, sanitary and storm sewer facilities, and including all lines, pipes, ducts, flues, chutes, conduits, cables, wires and all other apparatus and installations in connection therewith, located in the Common Elements, except when situated entirely within a Unit for service only of that Unit.
- D. All foundations, slabs, columns, beams and supports of the Building and such component parts of exterior walls and walls separating Units, roofs, floors and ceilings as are not described herein as Private Elements.
- E. Lawn areas, landscaping, walkways, breezeways, sidewalks, curbs and steps forming part of the Property.
- F. Exterior steps, ramps, handrails, stairs, stairwells and stoops.
- G. The unit entry ways and stoops affixed to each Unit, even though designated as Limited Common Element.
- H. All other parts of the Condominium Property existing for the common use or necessity of the existence, maintenance and safety of the Condominium.
- I. All other items listed as such in the Act.

**SECTION 6. Limited Common Elements.** The Limited Common Elements located on the Property and the Unit to which they are assigned are as follows: front door steps, stoops and entry ways providing access to Units.

**ARTICLE XI**  
**COMMON ELEMENTS AND COMMON INTEREST**

**SECTION 1.** Each Unit has an undivided interest in the Common Elements and Limited Common Elements as set forth in Exhibit "C" hereto annexed, and as expressed in this Declaration. The amount of the undivided interest in the Common Elements and Limited Common Elements has been determined on a per square foot basis, so that each Unit Owner has a proportionate share in said elements. No Unit shall have the right to bring any action for partition or division of the Common Elements or Limited Common Elements. The ownership interest in the Common Elements and Limited Common Elements shall not be conveyed, transferred, encumbered, or otherwise affected separate from the ownership of the Unit, and any agreement to the contrary shall be void.

**SECTION 9.** (a) The Declarant or the Association shall have the right to make or cause to be made such alterations and improvements to the Common Elements as in its opinion may be beneficial and necessary or which are requested in writing by a Unit Owner or Owners and the holders of mortgages thereon, before undertaking such work. The Association may require the consent in writing of such Unit Owners and the holders of mortgages thereon, whose rights, in the sole opinion of the Association, may be prejudiced by such alteration or improvement.

(b) If, in the sole opinion of the Board, an alteration or improvement is general in character, the costs therefor shall be assessed as Common Expenses.

(c) If, in the sole opinion of the Board, an alteration or improvement is exclusively, or substantially exclusively, for the benefit of one or more requesting Unit Owner(s), the cost shall be assessed against such Owner or Owners in such proportion as the Association shall determine is fair and equitable. Nothing herein shall prevent the Unit Owners affected by such alteration or improvements from agreeing in writing, either before or after the Assessment is made, to be assessed in different proportions.

**SECTION 10.** No Unit Owner shall do any work which would affect or alter any of the Common Elements, other than a Private Element for such Unit, or impair any easement or hereditament therein. No Unit Owner shall remodel the exterior, change the appearance of the exterior or paint the exterior of any Unit.

**SECTION 11.** While the property remains subject to this Declaration and the Condominium Act, no liens of any nature shall arise or be created against the Common Elements except with the unanimous consent in writing of all the Unit Owners and the holders of first liens thereon, except such liens as may arise or be created against the several Units and their respective Common Interests under the provisions of the Condominium Act. Every agreement for the performance of labor or the furnishing of materials to the Common Elements, limited or otherwise, whether oral or in writing, must provide that it is subject to the provisions of this Declaration and the Condominium Act and the right to file a mechanic's lien by reason of labor performed or materials furnished is waived.

**SECTION 12.** All Assessments received or to be received by the Association and the right to receive such funds shall constitute trust funds for the purpose of paying the cost of labor and materials furnished to the Common Elements at the express request or with the consent of their Association and the same shall be expended first for such purpose before expending any part of the same for any other purpose. Nothing herein contained shall require the Association to keep such funds in a separate bank account and no violation of said trust shall arise by reason of the commingling of the funds held by the Association in one bank account.

**SECTION 13.** Every Unit Owner, his assignee, grantee, lessee, sub-lessee, or successor in interest, shall comply strictly with the terms of this Declaration, the Bylaws, rules,

jurisdiction thereof, or to correct any condition which violates the provisions of any mortgage covering another Unit.

**SECTION 6.** The Board of Directors shall, if any question arises, determine the purpose for which a Common Element is intended to be used. They shall have the right to promulgate rules and regulations limiting the use of the Common Elements to Unit Owners, their agents, guests and invitees.

**SECTION 7. (a)** The Association shall be responsible for the maintenance, repair, and replacement of the Common Elements, except as otherwise provided for herein; provided, that if any repairs or replacements are made necessary because of abuse or negligent use thereof by a Unit Owner, the cost of such repair or replacement may be assessed against such Unit Owner.

(b) The maintenance, repair, replacement, management, operation and use of the Private Elements, are the responsibility of the Unit Owners (i.e. all conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services that are contained within a Unit), except for those that service part or parts of the Condominium other than the Unit within which such is contained.

(c) The Association may enter into a contract with any firm, person, or corporation, or may join with other entities in contracting for the maintenance and repair of the Condominium Property and other type properties, and may delegate to such agent all or any portion of the powers and duties of the Association, except such as are specifically required by the Condominium Documents to have the approval of the Members of the Association.

**SECTION 8. (a)** Each Unit Owner shall be liable for a proportionate share of the Common Expenses, and the proportionate share of Common Expenses shall be the same ratio as his percentage of Ownership in the Common Elements. Payment of Common Expenses shall be in such amounts and at such times as determined in the Bylaws. No Unit Owner shall be exempt from payment of his or her proportionate share of the Common Expenses by waiver or non-use or non-enjoyment of the Common Elements, or by abandonment of his Unit.

(b) Expenses incurred or to be incurred for the maintenance, repair, replacement, management, operation and use of the Common Elements shall be collected from the Unit Owners and assessed as Common Expenses by the Association.

(c) If any Unit Owner shall fail or refuse to make any payment of the Common Expenses when due, the amount due, together with interest thereon at the rate of twelve (12%) percent per annum or such greater percentage as may then be permitted under the laws of the State of Alabama, from and after the date said Common Expenses become due and payable, shall constitute a lien on the interest of the Unit Owner in the Property.

- (f) The Association may enter into a contract with any firm, person, or corporation, in contracting for the maintenance and repair of the Condominium Property, and may delegate to such agent all or any portions of the powers and duties of the Association, except as required by the Condominium Act to have the approval of Members of the Association.

**SECTION 3.** It shall be the sole responsibility of the Unit Owner to maintain, repair or replace, at his own expense, if necessary, the following:

- (a) The fixtures and equipment in his Unit, including the refrigerator, stove, fans, dishwasher, and all other appliances, drains, plumbing fixtures and connections, sinks, and plumbing within the Unit; electric panels, wiring, outlets, and electric fixtures within the Unit; interior doors, windows, screening and glass, including glass between the Unit and any patio or balcony adjacent to such Unit; and all wall coverings and carpeting within a Unit.
- (b) The plumbing, heating, ventilation, air conditions, and electrical systems serving only that Unit, whether located within or without the boundary of that Unit, including the heater and air conditioning compressor, hot water heaters, fuse boxes, wiring, fireplace flues, and all other plumbing, electrical, gas or mechanical systems. In the event any such system or a portion thereof is within another Unit, or requires access to another Unit, the repair, maintenance, or replacement thereof shall be performed by the Association, and the cost thereof shall constitute an Assessment against the Unit Owner responsible therefor.
- (c) To paint, wall paper, decorate and maintain the interior surface of all walls, ceilings and floors of each Unit with required approval when applicable.
- (d) To perform all responsibilities in such a manner and at such reasonable hours so as not to unreasonably disturb other Unit Owners.
- (e) To promptly report to the Association, or their agent, all work that he intends to perform for repair of any kind, the responsibility for the remedying of which lies with the Association. Any consent by the Association to the performance of such work by the Unit Owner shall not constitute an assumption by the Association to pay therefor. Also, the failure of the Association to take action on the notice shall not be deemed a waiver by it of its rights and shall also not constitute a consent by the Association of any assumption by it to pay for any work performed by the Unit Owner. Any consent given by the Association may set forth the terms of such consent and the Unit Owner shall be required to abide thereby.

regulations, resolutions and decisions adopted by the association pursuant thereto to the Units or the Common Elements. Failure to comply with any of the same shall be grounds for an action to recover sums due for damage or injunctive relief or any or all of them. Such action may be maintained by the Association on its own behalf or on behalf of the Unit Owners aggrieved. In any case of flagrant or repeated violation, a violator may be required by the Association to give sufficient surety or sureties for future compliance with the Declaration, the Bylaws, rules, regulations, resolutions, and decisions adopted by the Association. Nothing herein contained shall prevent, in proper case, an independent action by an aggrieved Unit Owner for such relief.

**ARTICLE XII**  
**MAINTENANCE AND REPAIR**

**SECTION 1.** No Unit Owner shall do or cause to be done any work affecting his Unit which would jeopardize the soundness or safety of the Building, reduce the value of the Property, or impair any easement or hereditament therein. No structural alteration may be made to a Unit without the written consent of the Association. The Unit Owner shall cause any work being performed on the Unit, which in the sole opinion of the Association violates this section, to be immediately stopped and he shall refrain from recommencing or continuing the same without the consent in writing of the Association, and the Unit Owner shall then immediately repair the Unit to its original condition at his sole expense, and upon his failure to do so, the Association may enter upon said Unit and repair the same at the Unit Owner's expense and charge the cost to the Unit Owner as an Assessment.

**SECTION 2.** It shall only be the responsibility of the Association, as a Common Expense, to maintain, repair or replace if necessary:

- (a) All original Landscaping materials, including original plantings, mulch and lawns.
- (b) Improvements on all Common Elements, including drives, walkways, lighting and parking areas;
- (c) All patios and balconies, exterior doors, surfaces, roofs and soffits;
- (d) All incidental damage caused by work done at the direction of the Association;
- (e) In the performance of any labor or in the furnishing or any material to a Unit under the direction of the Association, no lien shall be established or give rise to the basis for filing a mechanic's lien against the Unit Owner except such work performed for emergency repair. Nothing herein contained shall prevent such mechanic's lien being filed against a Unit Owner who expressly consents and requests in writing that the work be done.



exclusive ownership and possession of his Unit subject only to the covenants, restrictions, easements, the Declaration and the Bylaws and the rules, regulations, resolutions and decisions adopted by the Association pursuant thereto or as may from time to time be duly adopted in accordance with this Declaration and the Bylaws.

**SECTION 2.** A deed conveying a Unit shall contain the following information:

- (a) The name of the Condominium Property as set forth in the Declaration.
- (b) The name of the county in which the property is located.
- (c) A distinctive Unit identified by letter, number, or other means, which unit identification has been reflected on Exhibit "B" attached to the Declaration and giving the reference to the recording office and the book and page where the Declaration and the Bylaws and amendments thereto are recorded.
- (d) A statement of the proportionate undivided interest in the Common Elements and the Limited Common Elements, if any, assigned to such Unit or the method for determining such interests.
- (e) It shall recite that the conveyance is made together with the benefits, rights and privileges and is subject to the duties, obligations and burdens all as stated in the Declaration and Bylaws, as now existing or hereafter amended, and to the rules, regulations, resolutions and decisions of the Association adopted pursuant thereto in relation to the Units or the Common Elements.

**SECTION 3.** Every conveyance or lien using the Unit Designation assigned to it, as shown on Exhibit "B" hereto attached, shall be deemed to include its initial proportionate undivided interest in the Common Elements and shall include, without requiring specific reference thereto or enumerating them, all the appurtenances and easements in favor of the Unit and similarly be subject to all easements in favor of others including the Association.

**SECTION 4.** Each Person who shall acquire a Unit or interest in or lien upon any Unit shall be deemed by accepting a conveyance of or otherwise acquiring such Unit, interest or lien, to have agreed and consented to be bound by the terms and provisions hereof and to further have agreed and consented that any amendments to the Declaration executed by the Declarant shall be binding and effective, notwithstanding the fact that the undivided interests of the Unit Owners in the Common Elements will be changed thereby.

**ARTICLE XIV**  
**ASSOCIATION**

- (f) The foregoing obligations of the Unit Owner to maintain, repair or replace shall be irrespective of the cause of the damage or reason for needed repair or maintenance.

**SECTION 4.** Each Unit Owner agrees as follows:

- (a) To perform all maintenance, repairs, and replacements that are his obligation under this Declaration, and maintain his Unit and interior thereof in good tenable condition.
- (b) To pay for all of his utilities, including electricity, water, gas, and telephone used within the Unit and all taxes levied against his Unit.
- (c) To make no alterations, additions, improvements, decoration, repair, replacement, or change to the Common Elements or Limited Common Elements, or to any outside or exterior portion of the building, specifically including, but not limited to, screening or enclosing private balconies.
- (d) To allow the Association, its delegates, agents, or employees at all reasonable times to enter into any Unit for the purpose of maintaining, inspecting, repairing, or replacing Common Elements; or for repairing, maintaining or replacing any plumbing, heating, ventilation or air conditioning system located within such Unit but serving other parts of the Condominium Property; or to determine, in case of emergency, the circumstances threatening the Units' Common Elements and to correct the same; or, to determine compliance with the provisions of the Condominium Documents.
- (e) To promptly report to the Association any defects or needed repairs for which the Association is responsible.

**SECTION 5.** Nothing in this Article shall be construed so as to impose a personal liability upon any of the members of the Board of Directors for the maintenance, repair or replacement of any Unit or Common Element or give rise to a cause of action against them. The Board of Directors, as such, shall not be liable for damages of any kind except for willful misconduct or bad faith.

**ARTICLE XIII**  
**UNITS: HOW CONSTITUTED AND DESCRIBED**

**SECTION 1.** Every Unit, together with its Private Elements and its undivided Common Interest in the Common Elements, shall for all purposes be and it is hereby declared to be and to constitute a separate parcel of real property and the Unit Owner thereof shall be entitled to the

Association shall have no liability to the Unit Owners for error of judgment or other omissions for willful misconduct or bad faith. It is discretionary with the Board of Directors whether its members shall be bonded for this purpose, unless otherwise directed by the Unit Owners.

**SECTION 4.** True copies of the site and floor plans, this Declaration, the Bylaws, the rules and regulations, resolutions and decisions shall be kept on file in the Office of the Association and shall be available for inspection at convenient hours of week days by persons having an interest therein.

**SECTION 5.** The Association, or a managing agent which it employs, as the case may be, shall keep detailed accurate records, in chronological order, of the receipts and disbursements arising from the operation of the Condominium Property. It shall also keep an Assessment roll as more fully set forth in Article XV, Section 10, hereof. Such records and the vouchers authorizing the payments shall be available for examination by the Unit Owners at convenient hours of week days. A written report summarizing such receipts and disbursements shall be given by the Association to all Unit Owners at least once annually.

**SECTION 6.** Each Unit Owner shall be a member of the Association so long as he is a Unit Owner. A Unit Owner's membership shall automatically terminate when he ceases to be a Unit Owner. The membership of a Unit Owner cannot be assigned or transferred in any manner except as an appurtenance to his Unit. If a Unit Owner who is serving as an officer or director of the Association at the time he/she sell his/her Unit, the sale thereof shall result in the immediate resignation of the Unit owner from such position.

**SECTION 7.** Each Unit is entitled to one vote, which vote is not divisible. Where the Unit Owner is more than one person, if only one person is present at a meeting of the Association, that person shall be entitled to cast the vote pertaining to that Unit. If more than one such person is present at a meeting, the vote pertaining to that Unit shall be cast in accordance with the provisions set forth in the Bylaws.

**SECTION 8.** An organizational meeting of the Association shall be held as set forth in the Bylaws of Auburn Crossing Condominium Owners Association, Inc. at which time the Bylaws will be adopted. Declarant will maintain control of said Association from the time of the filing of said Declaration, until the earliest of (a) sixty (60) days after conveyance of seventy five percent (75%) of the Units, (b) two years after Declarant ceases to offer units for sale in the ordinary course of business or (c) two years after any development right to add new units was last exercised. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board prior to the aforesaid time periods. Except as provided for in the Act, not later than termination of any period of Declarant control, the Unit Owners shall elect a Board of at least three (3) members, a majority of whom must be Owners other than the Declarant. So long as Declarant has the exclusive right to appoint, remove, and designate the officers and

**SECTION 1.** The Declarant does hereby declare that the affairs of the Condominium shall be governed and controlled by the Association, which will be a non-profit corporation known as Auburn Crossing Condominium Owners Association, Inc., the form of the Articles of Incorporation and Bylaws of which are attached hereto as Exhibit "D." All Unit Owners shall be members of the Association, and which shall operate and manage the Condominium by and through its duly elected officers and Board of Directors. There shall not be less than three (3) and no more than five (5) members of the Board of Directors of the Association, all of whom shall be elected for a term of one (1) year, and there shall be as officers of the Association, not less than a President, Secretary and Treasurer, all of whom shall be elected for a term of one (1) year. Any person may hold one or more offices, except that the offices of President and Secretary may not be held by the same person.

**SECTION 2.** The Association shall have charge of and be responsible for and is authorized to manage the affairs of the Condominium, the Common Elements and other assets held by it on behalf of the Unit Owners except as herein otherwise limited. It shall have the powers, rights, duties and obligations wherever set forth in this Declaration or in the Condominium Documents. It shall adopt and execute all measure of proceedings necessary to promote the interests of the Condominium. It shall fix charges, Assessments, fees and rents, and shall collect and hold all of the foregoing funds or other assets of the Condominium and administer them for the benefit of the Unit Owners. It shall keep accurate records and audit and collect bills. It shall contract for all loans, mortgages, leases and purchase or sale of Units in the Condominium acquired by it or its designee on behalf of all of the Unit Owners, where applicable. It shall approve or disapprove of sales or leases of such Units as herein specified. It shall direct all expenditures, select, appoint, remove and establish the salaries of employees and fix the amount of bonds for officers and employees. It shall license or lease any concessions and installation of vending machines. It may in its discretion and on behalf of the Condominium, lease additional land for parking facilities. It shall maintain the Common Elements as herein specified paying for services and supervising repairs and alterations. It shall pass upon recommendations of all committees and adopt rules and regulations as in its judgment may be necessary for the management, control and orderly use of the Common Elements, and in general, it shall manage the Condominium Property as provided herein and in the Bylaws, but nothing herein shall prevent the Association from employing and delegating such powers as it deems advisable.

**SECTION 3.** In order to limit the liability of the Unit Owners, the Association, its officers, Directors or its designee, of any contract or other commitment made by the Association, or a designee in its behalf, the contract shall contain the following statement: "The Association, by and through its Officers, Directors, its managing agent, manager or other designee, as the case may be, in executing this instrument, is acting only as agent for the Unit Owners, and shall have no personal liability on any contract or commitment (except as Unit Owners), and that the liability of any Unit Owner on any such contract or commitment shall be limited to such proportionate share of the total liability as the Common Interest of each Unit Owner bears to the aggregate Common Interest of all Unit Owners." The Board of Directors, or Officers of the

whole before separate Assessments for each Unit are made as provided by the Condominium Act, shall be paid by the Association and shall be included in the budget and paid by the Unit Owners as a Common Expense.

**SECTION 8.** All liens against the Common Elements of any nature including taxes and Special Assessments levied by governmental authority may be paid by the Association and shall be assessed by it against the Unit or Units in accordance with their respective interest, or to the Common Expense account, whichever in the judgment of the Association is appropriate.

**SECTION 9.** All Special Assessments, being those Assessments not otherwise provided for in this Article which are necessary to meet the requirement of the Association and the Condominium, including, but not limited to, capital improvements, may be made by the Association at any time and from time to time, provided that such Special Assessment shall not be levied without the prior approval of Unit Owners representing, in the aggregate, sixty-six and two-thirds (66-2/3%) percent of the Units.

**SECTION 10.** The Assessments against all Unit Owners shall be set forth upon a roll of the Units which shall be available in the Office of the Association for inspection at all reasonable times by Unit Owners or their duly authorized representatives. Such roll shall indicate for each Unit the name and address of the owner or owners, the Assessments for all purposes and the amounts of all Assessments paid and unpaid. A certificate made by the Association as to the status of a Unit Owner's Assessment account shall limit the liability of any person acquiring the Unit Owner's interest. The Association, or its agents, shall issue to the first mortgagee upon its written demand a certificate showing the status on the Assessments due from the person as a Unit Owner.

**SECTION 11.** The Owners of a Unit and his grantee shall be jointly and severally liable for all unpaid Assessments due and payable at the time of conveyance. A purchaser of a Unit at a judicial sale shall be liable for such unpaid Assessments.

**SECTION 12.** If any Assessment or Common Expenses shall remain due and unpaid for more than fifteen (15) days, the Association may impose such late charges, penalties, interest and other costs and expenses, at a rate set by the Board, but not to exceed the maximum legal rate, together with all expenses, including attorneys' fees incurred by the Association in any undertaking to collect such unpaid Assessments and expenses. All payment upon account shall be first applied to such late charges, penalties, interests and other costs and expenses, including attorneys' fee, and then to the Assessment payment due. The Association is empowered to file or record a lien therefor and to enforce the same pursuant to the Condominium Act. In the event any Unit Owner fails to timely pay any Assessment, the Association shall, if the funds are required in order to enable the Association to discharge its obligations, levy a Special Assessment against all the remaining Unit Owners on a prorated basis according to their respective Common Interest. If the delinquent unpaid Assessments are subsequently secured

members of the Board of Directors, the Declarant may increase or reduce the number of members of the Board.

**ARTICLE XV**  
**CHARGES, ASSESSMENTS AND PROFITS**

**SECTION 1.** No Unit Owner may exempt himself from the liability for payment of his Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his Unit; however, where a Unit Owner has transferred his entire interest in the Unit in accordance with the terms of the Condominium Documents, he shall not be liable for Common Expenses incurred subsequent to the date of transfer.

**SECTION 2.** The Common Expenses shall be charged by the Association to the Unit Owners proportionately based upon the square footage of each Unit. Unless otherwise determined by the Board, any Common Surplus funds held by the Association shall be held as a fund to be credited against future Assessments charged to the Unit Owners.

**SECTION 3.** If during the course of any fiscal year, it shall appear to the Board that the monthly Assessments, as determined in the annual budget, are insufficient or inadequate to cover the estimated Common Expenses for the remainder of such year, then the Board shall prepare and approve a supplemental budget covering the estimated deficiency. Copies of the supplemental budget shall be delivered to each Unit Owner, and thereupon a Supplemental Assessment shall be made to each Unit Owner for his or her proportionate share of the supplemental budget.

**SECTION 4.** Insurance shall be obtained upon the Common Elements and improvements thereon and the cost therefor shall be borne as common charges and paid as Common Expenses as hereinafter more fully set forth.

**SECTION 5.** Assessments against the Unit Owners shall be made and approved by the Association and shall be paid by the Unit Owners and each owner shall be liable for his share of the Common Expenses.

**SECTION 6.** Assessments for Common Expenses shall be made for each fiscal year by the Association. Such annual Assessments shall be due and payable on the dates established by the Board of Directors, who may review and reconsider the Assessments made and may increase or decrease the same. If an increase is required for the proper management, maintenance and operation of the Common Elements and/or the Limited Common Elements, the Unit Owners shall pay any such increase on the first day of the month following notice of the increase, or from time to time as may be established by the Association.

**SECTION 7.** Taxes, Assessments, insurance, water rates to the property owned by the Association and other charges which may be levied against the Condominium Property as a

Element or Common Element. Each Unit Owner, his family, tenants, guests and invitees, shall refrain from any act or use of his Unit, or the Limited Common Elements assigned to his Unit (if any), or any portion of the Common Elements, which could reasonably cause embarrassment, discomfort, annoyance, or nuisance to any other resident or residents of the Property.

(d) NUISANCES: No rubbish or debris of any kind shall be dumped, placed, or permitted to accumulate upon any portion of the Property so as to render the same unsanitary, unsightly or offensive. No nuisance shall be permitted to exist upon any portion of the Property. Without limiting the generality of any of the foregoing, no exterior speakers, horns, whistles, bells, or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on the Property, or any portion thereof.

(e) MOTOR VEHICLES: Go-carts, trail bikes, and similar vehicles are prohibited from use on any part of the Property.

(f) PARKING: Except as the Association may otherwise determine through the adoption of differing rules and regulations, as herein below provided, only passenger automobiles and trucks having a load-bearing capacity of no more than three-quarters (3/4) of a ton, and being in operating condition with their current and effective license tags affixed thereto, shall be parked upon the Common Elements, and non-automobiles, specifically including, but not limited to, boats, trailers, horse trailers, tractors, motor homes, campers and other recreational vehicles, shall not be stored or parked upon the Common Elements or upon any Unit so that they are visible from the Common Elements or from any other Unit. Vehicles permitted to be parked on the Property shall be parked only upon such areas of the Property as the Association shall designate but in no event shall there be parking on the grass. It shall be permissible to park permitted vehicles on those areas of Common Elements striped-off for parking, and reserved for Unit Owners, said areas as shown on the plat attached hereto as Exhibit "B".

Notwithstanding the foregoing provisions of this Section, the Association may, but shall be under no obligation to, adopt rules and regulations which may permit to be parked upon the Common Elements vehicles which are prohibited from being parked upon the Common Elements under the foregoing provisions of this Section, provided that any such rules or regulations shall impose restrictions and limitations upon the parking of such otherwise prohibited vehicles which the Association shall determine will prevent the parking of the same from being an eyesore to the residents of the Property.

(g) ANIMALS:

from the defaulting Unit Owner, then in that event the Special Assessment shall be assessed to the contributing Unit Owners.

**SECTION 13.** Any Unit Owner, by complying with the terms and conditions specified in the Bylaws, may convey his Unit and from and after such conveyance he shall be exempt from liability to the Association or to the Condominium for Common Expenses thereafter accruing.

**ARTICLE XVI**  
**RESTRICTIONS**

**SECTION 1.** The Declarant, and every Unit Owner, by the acceptance of a deed or leasehold interest, and their heirs, successors and assigns, covenant that they will faithfully observe all of the terms and restrictions on sale or use of Units, covenants and conditions wherever imposed in this Declaration or other Condominium documents, including the Bylaws, Rules and Regulations, as set forth below in Section 3, resolutions and decisions adopted by the Association pursuant thereto.

**SECTION 2.** Each Unit Owner, his heirs, successors and assigns, further covenants:

(a) **SUBDIVISION:** That he will not use, cause or permit the Unit to be used other than as provided in this Declaration, nor will he use, cause or permit the Unit to be subdivided, changed or altered without first having obtained the approval of the Association. Subdivision of said Units, if approved by the Association, shall be evidenced by filing in the Probate Judge's Office of Lee County, Alabama, by the Unit Owner, a Declaration and site and floor plan of said subdivided Units. Once so subdivided, each Owner shall be subject to the terms, conditions, and obligations of this Declaration and each owner shall own his proportionate part of Common Elements and be chargeable with his proportionate part of Common Expenses.

(b) **RESIDENTIAL USE:** All Units shall be restricted exclusively to residential use. No Unit or any Common Element, or any portion thereof, shall at any time be used for any commercial, business or professional purpose. Nothing set forth in this Section XVI(2) (b) shall prohibit the Declarant from conducting such sales and promotional activities on the Property as it shall determine or using any Unit owned by it in connection therewith, nor shall anything set forth in this Section XVI (2)(b) be construed as prohibiting the use of condominium Units for residential rental purposes. Notwithstanding the foregoing, Declarant reserves the right to add additional property to this Declaration, which may include property intended for commercial use.

(c) **PROHIBITED ACTIVITIES:** No noxious or offensive activity shall be carried on within the boundaries of any Unit, or upon any Limited Common



the boundaries of any Unit or on any limited Common Elements or Common Elements which will increase the rate of insurance for the Property. No Unit Owner shall permit the storage of unusual or unnecessary amounts of flammable liquids, explosives, corrosives, poisons or other lethal chemicals, or any substance within the boundaries of his Unit or upon any Limited Common Elements appurtenant to his Unit or on the Common Elements, which would result in the cancellation of insurance on any Unit or any part of the Limited Common Elements (if any) or Common Elements or which would be in violation of any law.

- (j) **TEMPORARY STRUCTURES:** Subject to the right of the Declarant to promote the sale of Units within the Condominium, no structure of a temporary character, including, without limitation, any trailer, tent, shack, garage or other out-building, shall be permitted on the Property at any time, whether temporary or permanently, except with the prior written consent of the Association; provided, however, that temporary structures may be erected for use in connection with the repair or rebuilding of the Property or any portion thereof, or in connection with the initial sales of Units within the Condominium.
- (k) **ANTENNAS:** No exterior antennas, aerials or satellite dishes shall be constructed or installed on the Property without the prior written consent of the Association.
- (l) **CLOTHESLINES:** No outside clotheslines or other facilities for drying or airing clothes shall be erected, placed or maintained on any portion of the Property, nor shall any clothing, rugs or any other item be hung on any railing located on the Property.
- (m) **IMPROVEMENTS:** No structure or other improvement shall be constructed on such Unit, nor shall any fixture be attached to any part of any Unit, nor shall any equipment, materials or other personal property be stored, placed or maintained on any portion of any Unit so that such fixture, equipment, material or other personal property shall be visible from the street, from the Common Elements or from any other Unit, without the prior written consent of the Association.
- (n) **PATIOS AND BALCONIES:** All patios and balconies shall be kept neat and clean. Owner shall not allow garbage or other debris to accumulate on the patio or balcony. Chairs, tables, and other outdoor furniture and/or items may be kept on the patios or balcony, but grills and barbecue pits are prohibited.

(1) Except as otherwise provided herein below, each Owner shall have the right to keep a reasonable number of animals, not to exceed 2, of a type generally recognized as household pets, specifically excluding pot bellied pigs, snakes and pit-bull dogs (or other aggressive breeds), provided, further, that no one of such animals shall exceed twenty (20) pounds in weight.

(2) All animals which shall be kept upon the Property shall be kept and maintained as household pets (and not for any commercial purpose), and may not be kept and maintained upon the Property, if they shall create an unreasonable amount of noise, or create a nuisance or danger to any residents of the Property. All such household pets shall be on a leash when outside the Unit. No pet shall be permitted to leave its droppings on the streets or any portion of the Common Elements, and the Owner of such pet shall promptly remove the same.

(3) The Board of Directors shall determine whether a particular animal and its keeping is in conformity to the foregoing requirements; and any such determination shall be conclusive. If it shall be so determined that such animal is not of a type generally recognized as a household pet, or is being kept in a manner which does not conform to the foregoing requirements, or is creating an unreasonable amount of noise or constituting a nuisance or danger to any resident of the Property, then the owner of the Unit on which such animal is being kept shall remove such animal from the Property promptly upon being ordered to do so by the Association.

(h) **SIGNS/FLAGS:** No sign/flag of any kind or character shall be mounted, erected or displayed upon any portion of the Property without the express written permission of the Association. The restriction herein stated shall include the prohibition of the placement of any sign/flag on any Limited Common Element or Common Element, the placement of any sign/flag within a Unit or on the Unit at a location from which the same shall be visible from the outside, and the placement of any sign/flag in or upon any motor vehicle while the same is upon the Property. Notwithstanding anything to the contrary contained in this Section, the Declarant shall have the ability, but not the obligation, to place one "For Sale" sign and/or one "For Rent" sign upon the Common Elements or Limited Common elements at the entrance to the Property.

(i) **STORAGE:** No portion of any Unit or of any Limited Common Element or Common Elements open to general view shall be used for storage of any kind. Furthermore, nothing shall be done or kept within

**SECTION 1.** Upon the happening of a default under the terms of a mortgage which would permit the holder to declare the entire principal sum due, notice of the intention of the holder to do so shall be given to the Association.

**SECTION 2.** The Association shall be entitled to bid at any sale, whether or not the action be in its name or it be a defendant therein, and to purchase any Unit at a foreclosure sale for such amount as shall be approved by a majority of the Board of Directors of the Association, taking into consideration the amount due the holder, the costs and disbursements, and all other charges affecting the unit. The Association shall not, however, be limited in its bidding to such amount or total, but may bid any higher sum that it finds necessary in order to protect the interests of the other Unit Owners.

### **ARTICLE XVIII** **COMPLIANCE AND DEFAULT**

Each Unit Owner shall be governed by and shall comply with the terms of the Declaration, the Condominium Documents, the Bylaws and the rules, regulations, resolutions and decisions adopted by the Association pursuant thereto as they now exist or as they may be amended from time to time. A default shall entitle the Association or other Unit Owners to the following relief:

**SECTION 1.** Failure to comply with any of the same shall be grounds for an action to recover the sums due, for damages or injunctive relief, or both, maintainable by the Association on behalf of the Unit Owners, or in a proper case, by an aggrieved Unit Owner. In any case of flagrant or repeated violation by a Unit Owner, he may be required by the Association to give sufficient surety or sureties for his future compliance with the Declaration, Condominium Documents, the Bylaws, and the rules, regulations, resolutions and decisions adopted by the Association pursuant thereto.

**SECTION 2.** Each Unit Owner shall be liable for the expenses of any maintenance, repair or replacement rendered necessary by act, neglect or carelessness, to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

**SECTION 3.** In any proceeding arising because of an alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorney's fees.

**SECTION 4.** The failure of the Association or of a Unit Owner to enforce any rights, provisions, covenant or condition which may be granted by the Condominium Documents and the rules, regulations, resolutions and decisions adopted by the Association pursuant thereto,

- (o) **ANNOYANCE**: The Unit Owner will not use, permit or allow the Unit or any part thereof to be used for an immoral, improper, offensive or unlawful purpose, nor will he use, permit or allow the Unit to be used in a manner which will be a source of annoyance or which in any way interferes with the peaceful possession, enjoyment and proper use of the property by the other Owners.
- (p) **AIR CONDITIONERS**: No window air conditioner shall be installed in any Unit.
- (q) **UNDERGROUND WIRING**: Underground services to the individual Units for electrical distribution is the intent of this development and no overhead electrical wiring shall be permitted unless approved by the Association.
- (r) **LANDSCAPING**: All landscaping within the Property will be provided and maintained by the Association. All sod, shrubs, trees, and pine straw beds included in the original landscaping shall be properly maintained, mulched, and kept free of weeds by the Association. Dead or decaying plants shall be removed and replaced promptly so as to not cause an unsightly view.
- (s) **WINDOW TREATMENTS**: All blinds visible from the exterior must show white or off-white so as to give a generally uniform appearance to the community. No Unit Owner may use foil, sheets, or other unsightly materials to cover the windows, and no Unit Owner may display neon or other flashing signs in the window.

**SECTION 3. RULES AND REGULATIONS**: The Board of Directors may from time to time adopt, modify, amend, or add to rules and regulations concerning the use of the Condominium Property; provided, however, that a majority of the Members may overrule the Board with respect to any such rules and regulations or modifications thereof or any amendments or additions thereof by presenting the Board with a written opposition and upon resolution concerning the same. Copies of such rules and regulations, or any amendments, additions or modifications, shall be delivered to each owner not less than fourteen (14) days prior to the effective date thereof. No rule or regulation that is in conflict with the Condominium Documents shall be adopted.

**ARTICLE XVII**  
**DEFAULT OF MORTGAGES OR OTHER LIENS ON UNITS**

insurance shall be purchased from recognized insurance companies duly licensed to do business in the State of Alabama.

**SECTION 2.** The Association shall obtain policies of insurance which shall provide that the loss thereunder shall be paid to the Association as insurance trustees under this Declaration. A certificate of insurance with proper mortgagee endorsements shall be issued to the owner of each Unit and the original thereof shall be delivered to the mortgagee, if there be one, or retained by the Unit Owner if there is no mortgagee. The certificate of insurance shall show the relative amount of insurance covering the Unit's interest in the Common Elements and Limited Common Elements of the Condominium Property. Such master insurance policies and certificates shall contain provisions that the insurer waives its right to subrogation as to any claim against the Association, its agents and employees, Unit Owners, their respective employees, agent and guests, and of any defense based on the invalidity arising from the acts of the insured, and providing further that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Unit Owners as hereinafter permitted. The Association must acknowledge that the insurance policies and any proceeds thereof will be held in accordance with the terms hereof. The Association shall pay, for the benefit of the Unit Owners and each Unit mortgagee, the premiums for the insurance hereinafter required to be carried at least thirty (30) days prior to the expiration date of any such policies and will notify each Unit mortgagee of such payment within ten (10) days after the making thereof.

**SECTION 3.** The Association shall insure against the following risks:

(a) Casualty or physical damage insurance in an amount equal to the full replacement value of the Common Elements of the Condominium Project on not less than an eighty (80%) percent co-insurance basis, with waiver of depreciation and waiver of subrogation endorsements as determined annually by the Association with the assistance of the insurance company affording such coverage. Such coverage shall afford protection against the following:

1. Loss or damage by fire and other hazards covered by the standard extended coverage endorsement.

2. Such other risks as from time to time customarily shall be covered with respect to such improvements, including but not limited to vandalism, malicious mischief, windstorm, and water damage, and such other insurance as the Association may determine. The policies providing such coverage shall provide that, notwithstanding any provisions thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the approval of the Association except where in conflict with the terms of this Declaration, and shall further provide that the coverage thereof shall not be terminated for nonpayment of premiums without thirty (30) days notice to all of the insured, including each Unit mortgagee.

shall not constitute a waiver of the right of the Association or Unit Owner to enforce this provision, covenant or condition in the future.

**SECTION 5.** All rights, remedies and privileges granted to the Association, its designated agent, or a Unit Owner, pursuant to any terms, provisions, covenants or conditions of the Condominium Documents and the rules, regulations, resolutions and decisions adopted by the Association pursuant thereto, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such party by the Condominium Documents and the rules, regulations, resolutions and decisions adopted by the Association pursuant thereto, or at law or in equity.

### ARTICLE XIX AMENDMENT

Except as otherwise set out in this Declaration, the Condominium Documents may be amended in the following manner:

**SECTION 1.** Notice of the subject matter of any proposed amendment in reasonably detailed form shall be included in the notice of any meeting of the Association at which a proposed amendment is considered.

**SECTION 2.** A resolution adopting an amendment may be proposed by either the Board of Directors of the Association or by the Unit Owners, and must be approved by the Unit Owners at a meeting called for this purpose. Unit Owners not present at the meeting considering such amendment may exercise their approval in writing or by proxy. Such approval must be by Unit Owners who in the aggregate own not less than sixty-six and two-thirds (66-2/3%) percent of the Units.

**SECTION 3.** A copy of each amendment shall be certified by the Chairman of the meeting and the Secretary of the Association, as having been duly adopted and shall be effective when recorded in the Office of the Judge of Probate of Lee County, Alabama. Copies of the same shall be sent to each Unit Owner in the manner elsewhere provided for the giving of notice and the same shall not constitute a condition precedent to the effectiveness of such amendment.

### ARTICLE XX INSURANCE

**SECTION 1.** The Association shall obtain and maintain, to the extent available, insurance on only the Common Element improvements, together with machinery and equipment and all other personal property as may be held and administered by the Association for the benefit of the Unit Owners covering the interest of the Condominium organization, the Association and all Unit Owners and their mortgagees as their interest may appear. The

Association and each Unit Owner or any other holder of an insured interest in the property under such insurance policies.

**SECTION 8.** In no event shall any distribution of proceeds be made by the Association directly to a Unit Owner where there is a mortgage endorsement on the certificate of insurance. In such event any remittances shall be to the Unit Owner and his mortgagee jointly. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by him.

**ARTICLE XXI**  
**RECONSTRUCTION OR REPAIR**

Except as hereinafter provided, damage to or destruction of a Unit shall be promptly repaired and reconstructed by the Unit Owner, using the proceeds of insurance, if any, on the Unit for that purpose and any deficiency shall be paid for by the Unit Owner; provided, however, that if seventy-five (75%) percent or more of a Building is destroyed or substantially damaged and the Unit Owners who in the aggregate represent seventy-five (75%) percent or more of the Units' interest do not duly and promptly resolve to proceed with repair or restoration, then and in that event the Property, or so much therefor as shall remain, shall be subject to an action for partition at the suit of any Unit Owner or lienor as if the Units and the Condominium Property were owned in common. The net proceeds of the sale, shall be considered as one fund and shall be divided among all the Unit Owners in proportion to their respective Common Interest. All insurance proceeds paid for the Association, if any, shall be considered one fund and shall be applied for the benefit of each Unit Owner as his interest may appear, or, if applicable, divided among all the Unit Owners in proportion to insurance premiums charged to the Unit Owners, directly or indirectly, under the provisions of this Declaration of Condominium.

No payment shall be made to a Unit Owner until there has first been paid off out of his share of such sale and insurance proceeds all liens on his Unit.

(a) Any such reconstruction or repair shall be substantially in accordance with the original plans and specifications. In the alternative, reconstruction may be according to plans and specifications approved by the Board.

(b) Immediately after a casualty causing damage to property for which the Association has the responsibility of maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Association desires. If insurance proceeds are not sufficient to cover such estimated costs, then an Assessment shall be made against Unit Owners, except that each Unit Owner shall be responsible for the cost, not otherwise covered by insurance carried by the Association, of any reconstruction, repair or replacement costs which are necessitated by his negligence or misuse or the negligence or misuse by his agents, guests or employees.

3. All policies of casualty or physical damage insurance should provide that such policies may not be canceled or substantially modified without at least ten (10) days prior written notice to all of the insureds, including all mortgagees of the Units.

(b) Public liability insurance in such amounts and in such forms as shall be required by the Association, including but not limiting the same to water damage, legal liability, hired automobile, non-owned automobile bodily injury and off-premises employee coverages.

(c) Workmen's Compensation insurance to meet the requirements of law.

(d) Fidelity Insurance covering those employees of the Association and those agents and employees hired by the Association who handle Condominium funds, in amounts as determined by the Association.

(e) Officers and Directors liability insurance.

**SECTION 4.** It shall be the responsibility of each Unit Owner to obtain insurance at his own expense affording coverage upon his personal property therein and personal property stored elsewhere on the Property, improvements, Limited Common Elements serving his Unit, and personal liability and casualty insurance on his Unit but all such insurance shall contain the same waiver of subrogation as that referred to in the preceding Section 2 of this Article. A Unit Owner shall be liable for any claim, damage or judgment entered as a result of the use or operation of his Unit caused by his own conduct.

**SECTION 5.** Premiums upon insurance policies purchased by the Association shall be paid by it and charged as Common Expenses. Unit Owners shall pay their proportionate part of the premiums due in accordance with the percentages of ownership and as may further be determined by the Association.

**SECTION 6.** All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Association hereinabove set forth shall be paid to it. The Association shall act as the insurance trustee. The sole duty of the insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Unit Owners and their respective mortgagees, except that no mortgagee shall have any right to determine or participate in the determination whether or not damaged property shall be reconstructed or repaired except as may be specifically provided to the contrary herein.

**SECTION 7.** Each Unit Owner shall be deemed to have delegated to the Association his right to adjust with the insurance companies all losses under policies purchased by the Association. The Association shall also have the power to bring suit thereon in its name and/or in the name of other insureds; to deliver releases on payments of claims; to compromise and settle such claims; and otherwise to exercise all of the rights, powers, and privileges of the



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**ARTICLE XXII**  
**TERMINATION**

**SECTION 1.** Declarant reserves the right to terminate this Declaration and to discharge same of record provided that no titles have been conveyed or assigned to independent owners. It is distinctly understood and agreed by all persons having any interest in this Condominium that a declaration by the Declarant herein to the effect shall be sufficient to discharge same of record.

**SECTION 2.** The Condominium may be terminated in accordance with Volume 19, Code of Alabama 1975, Title 35-8A-101 et seq. (Condominium Ownership), as now existing or hereafter amended, in which event the Property shall be subject to an action for partition by any Unit Owner or lienor as if owned in common, in which event the net proceeds of sale shall be divided among all the Unit Owners as provided in said statute, provided, however, that no payment shall be made to a Unit Owner until there has first been paid off, out of his share of such net proceeds, all liens on his Unit. Such withdrawals of the property from the Condominium Act shall not bar it subsequent admission to the provision thereof in accordance with the terms of the Condominium Act.

**SECTION 3.** The Condominium shall be terminated by the agreement of Unit Owners of Units to which not less than eighty (80%) percent of the votes in the Association appertain, and the unanimous consent of all the mortgagees on such Units. The determination to terminate shall be evidenced by a certificate of the Association signed by the President or Vice President and by the Secretary certifying as to the facts effecting the termination, which certification shall become effective upon being recorded in the Office of the Judge of Probate of Lee County, Alabama.

**SECTION 4.** After termination of the Condominium, the Unit Owners shall own the Property as tenants in common in undivided shares and the holders of mortgages and liens against the Unit or Units formerly owned by such Unit Owners shall have mortgages and liens upon the respective undivided Common Interest of the Unit Owners. Such undivided Common Interest of the Unit Owners shall be as set forth in Exhibit "C" and as subsequently changed as Phases are dedicated to this use. All funds, held by the Association and insurance proceeds, if any, shall be and continue to be held for the Unit Owners in proportion to the amount of their Common Interest. The cost incurred by the Association in connection with a termination shall be a Common Expense.

(c) The proceeds of insurance collected by the Association on account of ~~casualty~~ and the sums received by the Association from collections of Assessments against Unit Owners on account of such casualty, shall constitute a construction fund and all insurance proceeds shall be applied to the payment of the actual Common Elements and Limited Common Elements costs.

(d) Each Unit Owner shall be responsible for the costs of reconstruction, repair, or replacement of his Unit.

(e) If the proceeds of insurance are not sufficient to defray completely the estimated costs of reconstruction and repair of the Common Elements and /or the Limited Common Elements by the Association, Assessments shall be made against all Unit Owners in sufficient amounts to provide funds for the payment of such costs in proportion to the Unit Owner's share in the Common Elements.

(f) In the event of any taking of any Unit in the Condominium Project by eminent domain, the Unit Owner and the mortgagee of such Unit shall be entitled to receive the award for such taking, and after acceptance thereof, he and the mortgagee shall be divested of all interest in the Condominium Project if such Unit Owner shall vacate his Unit by virtue of such taking. If any repair or rebuilding of the remaining portions of the Condominium Project is required as a result of such taking, a majority of Unit Owners in percentage of Ownership of the remaining Unit Owners, shall determine by vote or written consent whether to rebuild or repair the Condominium Project or take such other action as such remaining Unit Owners deem appropriate. If no repair or rebuilding shall be required or shall be undertaken, the remaining portion of the Condominium Project shall be re-surveyed and the Condominium Documents thereto shall be amended to reflect such taking and to proportionately readjust the percentages of Ownership of the remaining Unit Owners based upon a continuing total Ownership of the Condominium project of one hundred (100%) percent.

(g) Encroachments upon or in favor of Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis of a proceeding or action by the Unit Owners upon whose property such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Building was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the Buildings stand.

(h) In the event that there is any surplus of monies in the construction fund after the reconstruction or repair of the casualty damage has been fully completed and all costs paid, such sums may be retained by the Association as a reserve of may be used in the maintenance and operation of the Condominium Property, or, in the discretion of the Association, it may be distributed to the owners and their mortgagees who are the beneficial owners of the fund. The action of the Association in proceeding to repair or reconstruct damage shall not constitute a waiver of any rights against a Unit Owner for committing willful or malicious damage.

**ARTICLE XXV**  
**CAPTIONS**

Captions used in the Condominium Documents are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text of the Condominium Documents.

**ARTICLE XXVI**  
**GENDER, SINGULAR, PLURAL**

Whenever the context so permits, the use of the plural shall include the singular and the plural, and any gender shall be deemed to include all genders.

**ARTICLE XXVII**  
**SEVERABILITY**

If any provision of this Declaration, the Articles, the Bylaws, any rules and regulations of the Association promulgated thereto, and any exhibits attached hereto, as the same may be amended from time to time, or any section, sentence, clause, phrase or word, or the application thereof in any circumstances be judicially held in conflict with the laws of the State of Alabama, then the said laws shall be deemed controlling and the validity of the remainder of this Declaration and application of any such provision, section, sentence, clause, phrase or word in other circumstances shall not be affected thereby.

**ARTICLE XXVIII**  
**GOVERNING LAW**

Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by the Condominium Documents or any rules and regulations adopted pursuant to such documents, such dispute or litigation shall be governed by the laws of the State of Alabama.

**SECTION 5.** The members of the Board of Directors of the Association, acting as agent for all Unit Owners, at the time of termination, shall continue to have such power as in this Article are granted, notwithstanding the fact that the Association and/or the Condominium organization itself may be dissolved upon a termination.

**ARTICLE XXIII**  
**COVENANTS WITH THE LAND**

All provisions of the Condominium Documents, as now existing, or hereafter duly amended, shall be construed to be covenants running with the land and with every part thereof and interest therein, including but not limited to every Unit and the appurtenances thereto; and every Unit Owner and claimant of the Property or any part thereof of interest therein, and his heirs, executors, administrators, successors and assigns shall be bound by all of the provisions of the Condominium Documents and the rules, regulations, resolutions and decisions adopted by the Association pursuant thereto.

**ARTICLE XXIV**  
**LIENS AND SUITS**

**SECTION 1.** All liens against a Unit other than those permitted for mortgages, taxes or Special Assessments shall be satisfied or otherwise removed within thirty (30) days from the date the lien attaches. All taxes and Special Assessments upon a Unit shall be paid before becoming delinquent.

**SECTION 2.** A Unit Owner shall give notice to the Association of every lien upon his Unit or any other part of the Property other than for mortgages, taxes and Special Assessments within five (5) days after the attaching of the lien.

**SECTION 3.** Unit Owners shall give notice to the Association of every suit or other proceeding which will or may affect the title to his Unit or any other part of the Property, such notice to be given within five (5) days after the Unit Owner received notice thereof.

**SECTION 4.** Failure to comply with this Article concerning liens will not affect the validity of any judicial sale.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed for it and in its name as of the date first written above.

War Eagle Crossing, LLC, Declarant  
By: Conprop of Tampa, Inc., sole manager

By: *Thomas E. Johnson*  
Thomas E. Johnson, President

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PROBATE JUDGE  
LEE COUNTY

STATE OF Alabama  
COUNTY OF Lee

I, the undersigned, a Notary Public, in and for said County, in said State, hereby certify that Thomas E. Johnson, whose name as President of Conprop of Tampa, Inc., the sole manager of War Eagle Crossing, LLC is signed to the foregoing declaration, and who is known to me, acknowledged before me on this day that, being informed of the contents thereof, he, as such officer and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand and seal, this the 3<sup>rd</sup> day of May, 2005.

*Rene E. Richard*  
NOTARY PUBLIC  
My Commission Expires: 3-29-08

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**ARTICLE XXIX**  
**RATIFICATION**

Each Unit Owner, by reason of having acquired ownership of a Unit, whether by purchase, gift, operation of law, or otherwise, shall be deemed to have acknowledged and agreed that all the provisions of the Condominium Documents and any rules and regulations promulgated thereunder are fair and reasonable in all material respects.

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LEE COUNTY

**Exhibit A**  
**Legal Description**

**PHASE ONE AUBURN CROSSING CONDOMINIUM**  
**LEGAL DESCRIPTION**

COMMENCE AT THE NORTHWEST CORNER OF SECTION 36, TOWNSHIP 19 NORTH, RANGE 25 EAST, AUBURN LEE COUNTY ALABAMA, THENCE SOUTH 03°43'00"EAST FOR A DISTANCE OF 199.0 FEET TO AN IRON PIN; THENCE NORTH 86°04'00"EAST FOR A DISTANCE OF 721.6 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN TO BE DESCRIBED; FROM THIS POINT OF BEGINNING; THENCE NORTH 86°04'00"EAST FOR A DISTANCE OF 364.27 FEET TO AN IRON PIN OR A POINT; THENCE NORTH 86°04'00"EAST FOR A DISTANCE OF 234.55 FEET TO AN IRON PIN OR A CORNER; THENCE SOUTH 04°08'08"EAST FOR A DISTANCE OF 499.50 FEET TO AN IRON PIN FOR A CORNER; THENCE SOUTH 76°24'02" WEST, 237.82 FEET TO AN IRON PIN FOR A CORNER; THENCE SOUTH 63°34'52" WEST FOR A DISTANCE OF 257.38 FEET TO AN IRON PIN FOR A CORNER; THENCE NORTH 15°18'34" WEST FOR A DISTANCE OF 650.64 FEET TO AN IRON PIN AND THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 6.94 ACRES, MORE OR LESS.

N WITNESS WHEREOF, the Mortgagee has caused this instrument to be executed for it and its name as of the date first written above.

Colonial Bank

By: [Signature]  
AS: President

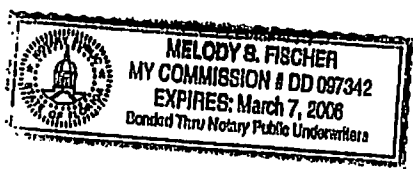
STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

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PROBATE JUDGE  
LEE COUNTY

I, the undersigned, a Notary Public, in and for said County, in said State, hereby certify that Alfred Rogers, whose name as PRESIDENT of Colonial Bank is signed on the foregoing declaration, and who is known to me, acknowledged before me on this day that, being informed of the contents thereof, he, as such officer and with full authority, executed the same voluntarily for and as the act of said bank.

Given under my hand and seal, this the 3<sup>RD</sup> day of May, 2005.

[Signature]  
NOTARY PUBLIC  
My Commission Expires:





# AUBURN CROSSING CONDOMINIUMS PHASE ONE

SEC. 36 T 10 N R 25 E  
AUBURN LEE COUNTY ALABAMA  
SCALE 1"=40' NOVEMBER 9, 2004  
GLENN H. GAYLOR P.L.S. AL REG. 20890

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SCALE 1"=40'

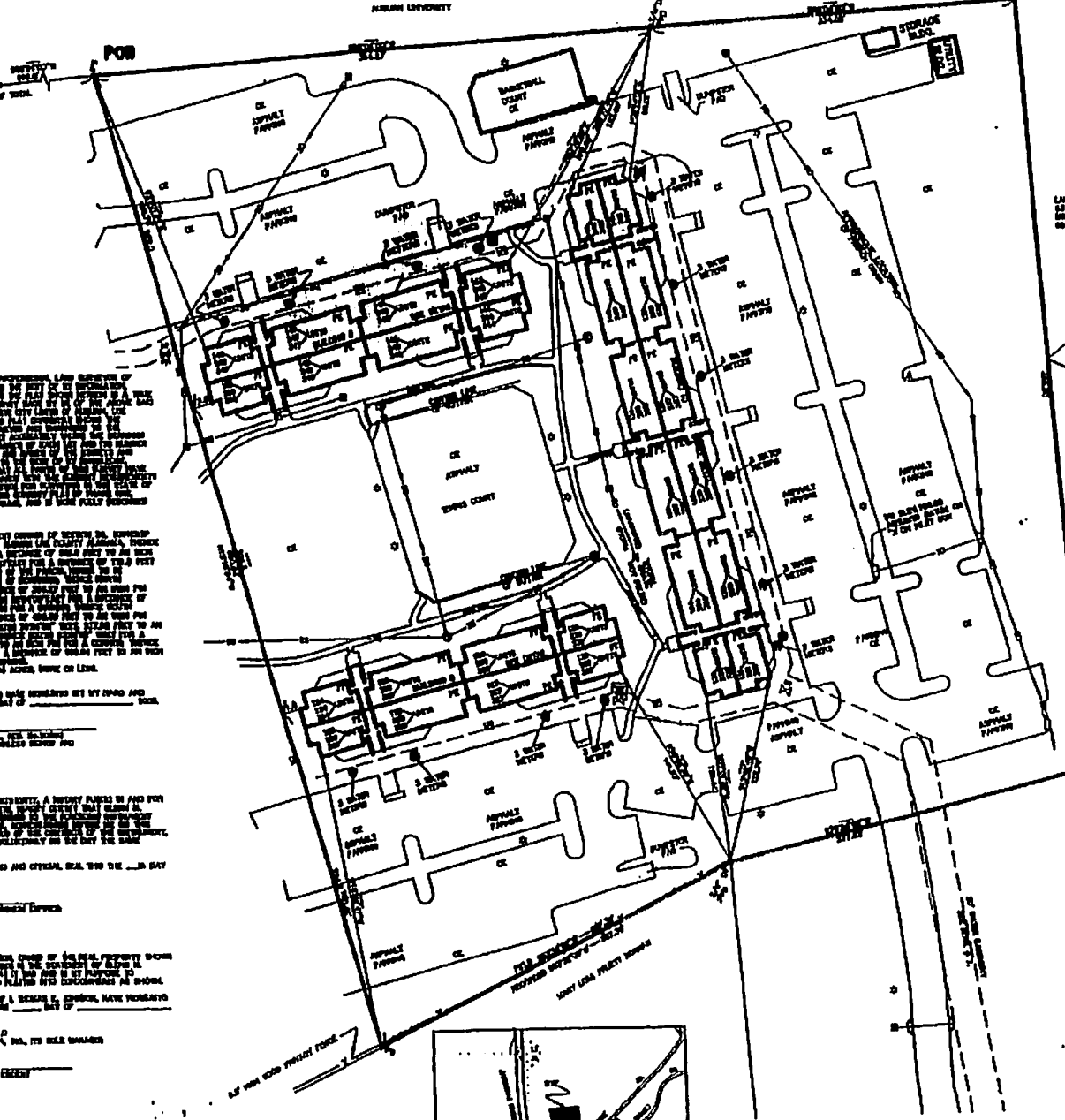


LIFE ENGINEER  
100 UNIVERSITY AVE.  
MOBILE ALABAMA  
36688-2200

AUBURN UNIVERSITY

S. B. S. SURVEYOR  
CORPORATION  
100 UNIVERSITY AVE.  
MOBILE ALABAMA  
36688-2200

THE STATE  
OF ALABAMA



PROFESSIONAL LAND SURVEYOR OF THE STATE OF ALABAMA, HEREBY CERTIFY THAT I AM THE SURVEYOR OF THE ABOVE DESCRIBED PROPERTY AND THAT THE SAME IS ACCORDING TO THE RECORDS OF THE OFFICE OF THE SURVEYOR GENERAL OF THE STATE OF ALABAMA, MOBILE, ALABAMA.

BY ORDER OF THE SURVEYOR, I HEREBY CERTIFY THAT THE ABOVE DESCRIBED PROPERTY IS ACCORDING TO THE RECORDS OF THE OFFICE OF THE SURVEYOR GENERAL OF THE STATE OF ALABAMA, MOBILE, ALABAMA.

DATE SURVEYED BY: 11/09/04

THIS SURVEY WAS MADE BY ME

HEREBY, A RETURN MADE IN AND FOR THE RECORD OFFICE THAT I AM THE SURVEYOR OF THE ABOVE DESCRIBED PROPERTY AND THAT THE SAME IS ACCORDING TO THE RECORDS OF THE OFFICE OF THE SURVEYOR GENERAL OF THE STATE OF ALABAMA, MOBILE, ALABAMA.

AND OFFICIAL SEAL THIS DATE

AGREED TO AND FOR THE SURVEYOR

THE STATE OF ALABAMA, HEREBY CERTIFY THAT THE ABOVE DESCRIBED PROPERTY IS ACCORDING TO THE RECORDS OF THE OFFICE OF THE SURVEYOR GENERAL OF THE STATE OF ALABAMA, MOBILE, ALABAMA.

DATE, ITS SEAL AND SIGNATURE

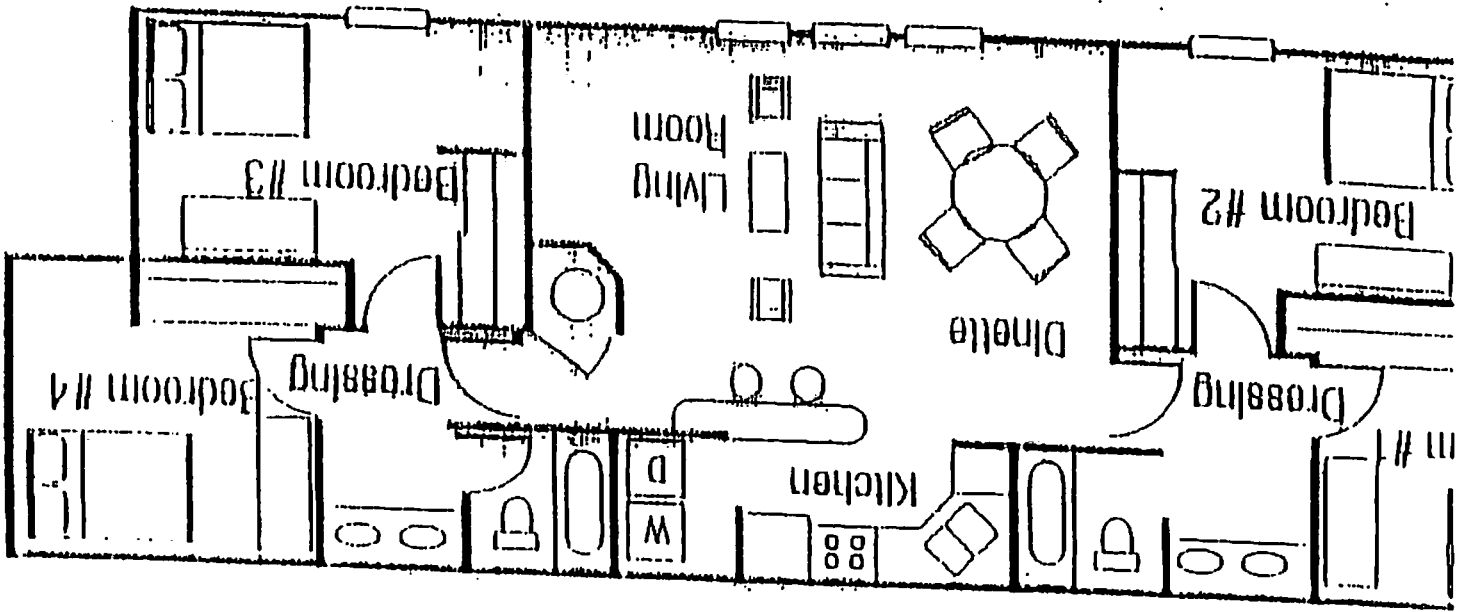
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HEREBY, A RETURN MADE IN AND FOR THE RECORD OFFICE THAT I AM THE SURVEYOR OF THE ABOVE DESCRIBED PROPERTY AND THAT THE SAME IS ACCORDING TO THE RECORDS OF THE OFFICE OF THE SURVEYOR GENERAL OF THE STATE OF ALABAMA, MOBILE, ALABAMA.

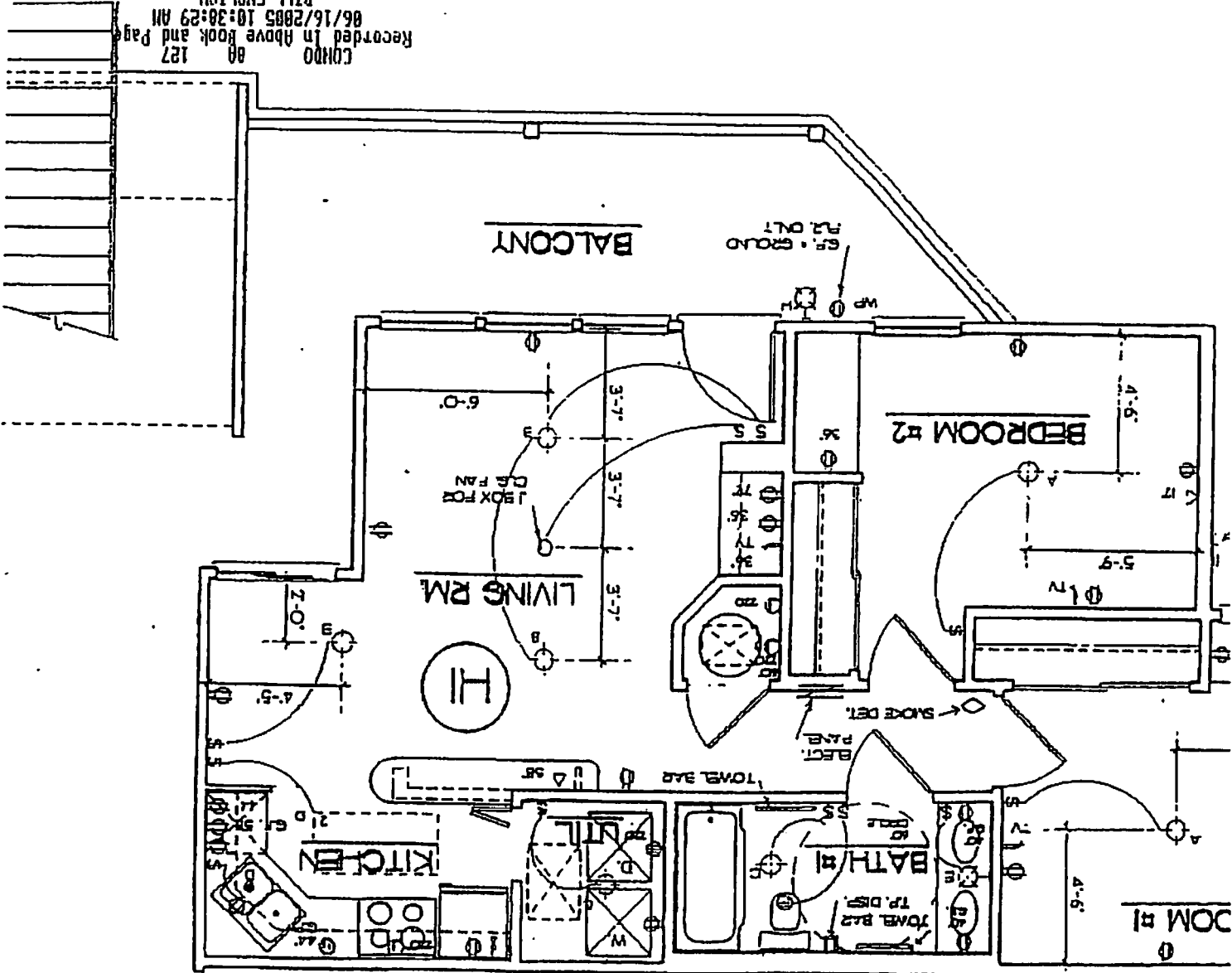
**EXHIBIT B**

See attached survey and floor plans.

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LEE COUNTY

**EXHIBIT C**

**Undivided Interest in Common Elements of Each Unit Owner  
and Interest in Limited Common Elements**

Each Unit Owner owns an undivided interest in Common Elements and Interest in Limited Common Elements Attributable the Unit equal to 1.19%.

**\*Resident must provide Driver's License in order to check out any and all billiard equipment from the leasing office. This is available on a first come, first serve basis and is accessible from opening of the office to closing.**

### **Computer Lab**

- For Resident Use Only.
- Documents are to be saved on resident's own floppy disk and not on hard drive.
- Documents saved on hard drive will be deleted.
- Complimentary copy and local fax services are available for residents at a minimum charge. Long distance fax service is available for an additional charge.
- Resident will be held responsible for any damage to equipment during his/her computer time.
- No food, drink or smoking allowed in computer center.
- All equipment in this room is electronically monitored. Removed set equipment will engage alarm system.
- Screen savers are not to be tampered with at any time
- No obscene information or material is allowed on the computer at any time or for any reason.
- Resident must provide paper.
- Changing form one computer to another with the same floppy disk could spread a virus; therefore, Auburn Crossing is not responsible for any virus infections.
- Computer Lab hours are 1 pm to 10 pm Sunday; 8:30 am to 10 pm Monday through Thursday; 8:30 am to midnight Saturday.
- Violation of any or all of the above stated rules would be cause for termination of computer lab use and not limited to eviction.

### **Tanning Bed**

- For Resident Use Only.
- Appointments can be schedule during office hours in the management office.
- Tanning Bed Consumer Warning and Release must be signed before use of the tanning bed will be permitted.

### **AMMENITIES**

- Clubhouse
- Computer Lab
- Weight Room
- Hot tub/Pool Area
- Volleyball Court
- Tennis Court
- Basket Ball Court

***\*ALL CLOSE: Sunday through Thursday 10:00 pm; Friday and Saturday Midnight\****