

STATE OF ALABAMA  
LEE COUNTY

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
CHARLESTON PLACE SUBDIVISION**

**WHEREAS**, Knights Bridge, L.L.C. (hereinafter referred to as the "Owner"), is the owner of certain lots in the Charleston Place Subdivision (hereinafter referred to as "Subdivision") located in Auburn, Lee County, Alabama and shown by the Plat of Charleston Place Subdivision as recorded in Plat Book 21 at Page 98 in the Office of the Judge of Probate of Lee County, Alabama; and

**WHEREAS**, Charleston Place, L.L.C. (hereinafter referred to as the "Developer") is the developer of certain lots in the Subdivision, herein referenced above; and

**WHEREAS**, the Owner desires to subject said property, and each lot located in said Subdivision, and to impose upon said lots mutual and beneficial restrictions, covenants, terms, conditions and limitations (herein for convenience sometimes referred to as "Restrictions") for the benefit of all lots in the Subdivision and the future owners of said lots.

**NOW THEREFORE**, Knights Bridge, L.L.C. , and Charleston Place, L.L.C. do hereby proclaim, publish and declare that all of said lots are subject to, held and shall be held, conveyed, hypothecated or encumbered, rented, used, occupied, and improved subject to the following restrictions which shall run with the land and shall be binding upon Knights Bridge, L.L.C., and Charleston Place, L.L.C., and upon all parties having or acquiring and right, title or interest in and to the real property or any part or parts thereof subject to such restrictions. The restrictions contained herein shall apply only to the lots in Charleston Place Subdivision and shall not apply to any other land developed, or that may become developed by Knights Bridge, L.L.C., and /or Charleston Place, L.L.C., even though such land may be contiguous with the land described above and known as Charleston Place Subdivision unless the herein owners shall specifically apply these Declarations of Covenants, Conditions and Restrictions to the additional property,

**ARTICLE I  
PROPERTY SUBJECT TO DECLARATION**

**SECTION 1.1 General Declaration.** Developer hereby declares that the Property is and shall be subject to the easements, covenants, conditions, restrictions, charges, liens, and regulations of this Declaration and the Property, any part thereof and each Lot, Dwelling, and Common Area thereof shall be held, owned, sold, transferred, conveyed, hypothecated, encumbered, leased, occupied, built upon, and otherwise used, improved, and maintained subject to the terms of this Declaration, which easements, covenants, conditions, restrictions, charges, liens, and regulations shall run with the title to the Property and shall be binding upon and inure to the benefit of Developer and upon all Owners and Occupants of the Property and any Lot, Dwelling, and Common Area thereof.

**SECTION 1.2 Additional Property.** Owner and Developer reserve the right, in their sole and absolute discretion, at any time and from time to time the pendency of this Declaration, to add and submit any Additional property to the provisions of this Declaration and, to the extent of any of the Additional Property is specifically submitted to the terms and provisions of this Declaration by Developer, 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 Developer 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 (which

need not be consented to or approved by any Owner, Occupant, or Mortgagee of any lot or Dwelling) and shall (a) refer to this Declaration stating the book and page number in the Probate Office of Lee County, Alabama where this Declaration is recorded, (b) contain a statement that such Additional Property is conveyed subject to the provisions of this Declaration or only specified portions thereof, (c) contain an exact description of such Additional Property, and (d) state such other or different covenants, conditions, and restrictions as the Developer, in its sole discretion, shall specify to regulate and control the use, occupancy, and improvement of such Additional Property. From and after the date on which an amendment to this Declaration is recorded in the Probate Office Lee County, Alabama submitting any Additional Property to the terms and provisions of this Declaration, the number of votes in the Association shall be increased by the number of Lots or Dwellings within the Additional Property which are added and submitted to the Declaration so that there shall continue to be one vote in the Association per Lot or Dwelling within the Development. In no event shall Developer be obligated to submit any Additional property to the provisions of this Declaration or to impose any of the covenants, conditions, or restrictions set forth in this Declaration upon any real property owned by Developer situated adjacent to or in close proximity with the Development. Notwithstanding anything provided in this Declaration to the contrary, (1) the provisions of this Section 1.2 may not be abrogated, modified, rescinded, supplemented, or amended, in whole or in part, without the prior written consent of Developer, and (2) the rights reserved by Developer pursuant to this Section 1.2 shall not be deemed to inure to the benefit of any transferee or purchaser of the Additional Property or any portion thereof, unless Developer, in its sole discretion, transfers and conveys to such transferee or purchaser the rights reserved herein by express reference to Section 1.2 of this Declaration.

**SECTION 1.3 Mutuality of Benefit and Obligation.** The restrictions and agreements sets forth herein are made for the mutual and reciprocal benefit of each and every lot in the Subdivision and are intended to create mutual, equitable servitudes upon each of said lots in favor of each and all the other lots therein, to create reciprocal rights between the respective owners of said lots; and to create a privity of contract and estate between the grantees of said lots, their heirs, legal representatives, successors and assigns.

**SECTION 1.4 Development of Property.** Developer shall have the right, but not the obligation, for so long as Developer owns any Lot or Dwelling in the Development, to make improvements and changes to all Common Areas and to all Lots or Dwellings owned by Developer, including without limitation, (i) installation and maintenance of any Improvements in or to the Common Areas, (ii) changes in the location of the boundaries of any Lots or Dwellings owned by Developer or of the Common Areas, (iii) installation and maintenance of any water, sewer, and any other utility systems and facilities within the Common Areas, and (iv) installation of security and trash and refuse facilities.

**SECTION 1.5 Subdivision Plat.** Developer reserves the right to record, modify, amend, revise, and otherwise add to, at any time and from time to time, a subdivision plat setting forth such information as Developer may deem necessary with regard to the Development, including, without limitation, the locations and dimensions of all Lots, Dwellings, Common Areas, Additional Property, public or private roads, utility systems, drainage systems, utility easements, drainage easements, access easements, set-back line restrictions, lakes, retention ponds, and drainage basins. Any such subdivision plat or any amendments thereto shall be binding on the portions of the Property indicated thereon as if such subdivision plat were specifically incorporated into this Declaration. Notwithstanding anything provided to the contrary in this Declaration, Developer may at any time, or from time to time, divide and re-divide, combine and re-subdivide any Lots owned by Developer.

## ARTICLE II ASSOCIATION

**SECTION 2.1 Membership.** The Owner of each Lot or Dwelling shall be a member of the



this Declaration, the Articles of Incorporation, the Bylaws, or any rules and regulations adopted by the Association, then the provisions of the Code of Alabama, this Declaration, the Articles of Incorporation, the Bylaws, and any rules and regulations adopted by the Association, in that order, shall prevail and each Owner, by acceptance of a deed or other conveyance to a Lot or Dwelling, covenants and agrees to vote in favor of and execute any amendments as may be necessary to remove or alleviate any such conflict, ambiguity, or inconsistency. The powers of the Association shall include, but not be limited to: (i) the power to purchase one or more Lots and/or Dwellings and any other real or personal property, whether tangible or intangible, and to hold, lease, mortgage, sell, and otherwise convey the same, (ii) subject to the provisions of this Section 2.4, the right to borrow money for the purpose of acquiring additional Common Areas, for constructing, repairing, maintaining, or improving the Common Areas or any portion thereof or for providing any of the services authorized herein, (iii) subject to the provisions of this Section 2.4, the right to give Mortgages or other security instruments encumbering all or any part of the Common Areas as security for any loan obtained by the Association; provided, however, that the lien and encumbrance of any such Mortgage shall be subject and subordinate to all of the rights, interests, Developer, the ACC, the Association, and all owners and Occupants, (iv) the right to grant and accept easements, (v) the right to dedicate or transfer fee simple title to all or any portion of the Common Areas to any Governmental Authority; provided, however, that except as provided herein in this Declaration the dedication or transfer of title to any of the Common Areas must be approved by a majority of those Owners present in person or by proxy at a duly held meeting of the Association called for such purposes, and (vi) the right to arrange with any of the Governmental Authorities or any public or private utilities or others, for the furnishing of trash collection, water, sewer, and/or security services for the Common Areas and/or the Lots and Dwellings. For so long as Developer shall own any Lot or Dwelling, the Association shall not, without the consent of Developer, borrow money or pledge, mortgage, encumber, sell, or otherwise convey an interest it may have in the Common Areas. Except as otherwise specifically provided to the contrary herein in the Articles of Incorporation or in the Bylaws, the powers and authority granted to the Association may be exercised by the Board, acting through the officers of the Association, without further consent or action on the part of the Owners.

**SECTION 2.5 Agreements.** Subject to the conditions, restrictions, and other provisions of this Declaration, all agreements, actions, and determinations lawfully authorized by the Board shall be binding upon all Owners, their heirs, executors, personal representatives, administrators, successors, and assigns, and all others having any interest in the Development. In performing its responsibilities hereunder, the Association, through the Board, shall have the right and authority to delegate to such persons of its choice such duties of the Association as may be determined by the Board. In furtherance of the foregoing and not in limitation thereof, the Association may obtain and pay for the services of any person or entity to manage its affairs or any part hereof, to the extent it deems advisable, as well as such other personnel as the Association shall deem necessary or desirable for the proper operation of any portion of the Development, whether such personnel are furnished or employed directly by the Association or by independent contract with the Association. All costs and expenses incurred incident to the employment of a manager of the Development or any of the Common Areas shall be a Common Expense. During the term of any such management agreement entered into by the Association with a third party, such manager may, if authorized by the Board, exercise all the powers and shall be responsible for the performance of all of the duties of the Association, excepting any of such powers or duties specifically and exclusively reserved to the Board or the officers of the Association by the Declaration, the Articles of Incorporation, or the Bylaws. Such manager may be an individual, corporation, or other legal entity and may be bonded in such manner as the Board may require with the costs of such bond to be a Common Expense. In addition to the foregoing, the Association may pay for and the Board may hire and contract for such legal and accounting services as are necessary or desirable in connection with the operation of the Development, or the enforcement of this Declaration, the Articles of Incorporation, the Bylaws, or any rules and regulations of the Association.

**SECTION 2.6 Management by Developer or its Affiliates.** Developer or any affiliate

thereof may be employed by the manager of the Association and the Developer for so long as Developer owns any Lot or Dwelling within the Development, at such compensation on such terms as would be usual, customary, and obtainable in an arms-length transaction with any third party providing comparable services for any real estate development in the southeastern United States of the size, quality, and nature of the Development. Each Owner, by acceptance of a deed to or other conveyance of a Lot or Dwelling, shall be deemed to ratify the provisions of this Section 2.6 and specifically be deemed to have approved any such management agreement entered into by the Association and Developer or any affiliate thereof.

**SECTION 2.7 Development Phase.** It is the intent of the Developer to maintain the Development pursuant to the terms set forth herein said Declaration by supplementation of the annual budget, special assessments or individual assessments for so long as Developer owns eighty (80%) percent of the lots or dwellings within the development, such that the Developer is not assessed for Association Dues on a per lot basis until eighty (80%) of the lots or dwellings are sold, at which time Developer will pay Association Dues on a per lot basis for the remaining twenty (20%) of the lots or dwellings. Each Owner, by acceptance of a deed to or other conveyance of a Lot or Dwelling, shall specifically be deemed to have approved Developer's supplemental funding of maintenance, insurance, fees and other costs of said Development until eighty (80%) of the lots or dwellings have been sold.

**SECTION 2.8 Rules and Regulations.** The Board may establish and enforce reasonable rules and regulations governing the use of all Lots, Dwellings, and Common Areas. Without limiting the foregoing, the Board may adopt rules and regulations which shall govern the use of any of the Common Areas (including specifically, the use of any of the recreational facilities, if any, situated within the Common Areas), the enforcement of all of the terms and provisions of this Declaration, and any rules and regulations adopted by the Board and such other matters. Copies of such rules and regulations shall be binding upon all Owners and Occupants until and unless such rule or regulation is specifically overruled, canceled, or modified by the Board or by the majority vote of the total votes of the Association at any regular or special meeting of the Association; provided, however, that no such rules or regulations may be overruled, canceled, or modified unless such action is also approved by Developer for as long as Developer owns any Lot or Dwelling in the Development.

**SECTION 2.9 Indemnification.** The Association shall and does hereby indemnify, defend, and agree to hold each and every officer, agent, representative, and member of the Board of the Association harmless from and against any and all expenses, including court costs and reasonable attorneys' fees, suffered, paid or incurred by an such officer, agent, representative, or member of the Board in connection with any action, suit, or other proceedings (including the settlement or any suit or proceedings if approved by the Board) to which such person may be made a part by reason of being or having been an officer, agent, representative, or member of the Board of the Association. The officers, agents, representatives, and members of the Board of the Association shall not be liable for any mistake in judgment, negligence, or otherwise except for their own willful misconduct or reckless disregard of duty, as finally determined by a court of competent jurisdiction. The officers, agents, representatives, and members of the Board of the Association shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association, and the Association shall and does hereby indemnify, defend, and agree to forever hold each such officer, agent, representative, and member of the Board harmless from any and all liability to others on account of any such contract or commitment. The indemnification obligations and rights provided for herein shall not be exclusive of any other rights to which any officer, agent, representative, or member of the Board of the Association may be entitled, including anything provided to the contrary contained in the Articles of Incorporation or the Bylaws. The Association shall maintain adequate general liability and officers and directors liability insurance in order to fulfill its obligations under this Section 2.8 and the costs of such insurance shall constitute a Common Expense.

**ARTICLE III  
ARCHITECTURAL CONTROL COMMITTEE AND  
REQUIREMENTS OF CONSTRUCTION**

**SECTION 3.1. Concept.** It is intended that the Subdivision development will be residential community of high esteem and of first class quality in homes in a neighborhood environment reflecting architectural themes of Charleston, South Carolina.

**SECTION 3.2 Architectural Control Committee.** The Architectural Control Committee (herein referred to as the "Committee" or "ACC") shall be composed of not less than three (3) nor more than three (3) members at all times. Regardless of the number on the Committee, at least a majority of the membership of the Committee shall be composed of owners of lots in the Subdivision, provided, however, that Hope Shannon, Lynne Snell, and Cheryl Nichols or any other representative appointed by the developer shall constitute the original members of the Committee and continue to act as the Architectural Control Committee until one of them resigns subject to, (a) for so long as Developer is the Owner of any Lot or Dwelling within the Development, Developer shall have the sole and exclusive right to appoint and remove all of the members of the ACC, (b) at such time as Developer is no longer the Owner of any Lot or Dwelling within the Development or, upon Developer's written notice to the Association that it no longer desires to exercise the right to appoint and remove members of the ACC as provided in Section 3.2(a) above, then the members of the ACC shall be appointed by the Board of the Association, (c) any member of the ACC may be removed, with or without cause, by (i) Developer in its sole discretion, during the period of time that the provisions of Section 3.2(a) above are in effect or (ii) the Board, in the event the provisions of Section 3.2(a) above are in effect. In the event of death or resignation of a member of the ACC, then Developer, in the event the provisions of Section 3.2(a) above are applicable, or the Board, in the event the provisions of Section 3.2(b) above are applicable, as the case may be, shall appoint a substitute member of the ACC to fill the vacancy of such deceased or resigning member for the remainder of the term of such former member. Neither the members of the Committee, nor its designated representatives, shall be entitled to any compensation for services performed pursuant to this covenant. A majority of the Committee may designate one or more representatives to act for it.

The primary duty of the Committee shall be to examine and approve or disapprove all plans, including site plans, landscape plans, and plans for construction of improvements on lots within this subdivision in accordance with the provisions of these covenants. The Committee shall have such other responsibilities, duties and authority as provided for, but the Committee shall not have any responsibility, duty or power not expressly provided for herein.

**SECTION 3.3 Plan Approval.** All plans and specifications for any structure or improvement whatsoever to be erected on or moved upon or to any lot and the proposed location thereof on any lot or lots, the construction material, the roofs, any later changes or additions after initial approval thereof and any exterior remodeling, reconstruction, alterations or additions thereto on any lot shall be subject to and shall require approval in writing of the Committee before any work is commenced. Construction may not be started before receipt of a Letter of Approval of the Committee, a copy of which must be signed by the Builder, or Owner, and returned to the Committee for retention.

**SECTION 3.4 Review Documents.** One set of prints of the drawings and specifications (hereinafter referred to as "plans") for each house or other structure proposed to be constructed on each lot shall be submitted for review and approval or disapproval by the Committee. The plans submitted to the Committee shall be retained by the Committee. Said plans should be delivered to the general office of Knights Bridge, L.L.C. or the Chairman of the Committee at least thirty (30) days prior to commencement of construction. Each such plan must include the following:

**SECTION 3.4.1** All plans for structures shall be not less than 1/8 inch equals 1 foot scale.



the back of the residence.

**SECTION 3.5.7** Swimming pools will be permitted for installation and maintenance on single family residence lots only. However, fencing of swimming pool areas must be in accordance with the restrictions on fencing established herein, and must be approved by the Architectural Control Committee. Above ground pools shall not be permitted.

**SECTION 3.5.8** Dust abatement and erosion control measures shall be provided by the contractor or owner in all stages of construction.

**SECTION 3.5.9** Right of ways, driveways and walkways must be concrete, brick or stone curved walkways are required. Both walkways and driveways must be approved by the Architectural Control Committee.

**SECTION 3.5.10** All mailboxes shall be designed and located in accordance with the overall architectural scheme of the residency, and must meet requirements of the United States Postal Service.

**SECTION 3.5.11** During the construction, all vehicles, including those delivering supplies, must enter the building site only on driveways and roading approved by the Committee and such vehicles must be parked on the building lot where the construction is under way so as to not unnecessarily damage trees.

**SECTION 3.5.12** All building debris, stumps, trees, etc., must be removed from each lot by builder as often as necessary to keep the house and lot attractive. Such debris shall not be dumped in any area of Charleston Place Subdivision.

**SECTION 3.5.13** During construction, builder must keep homes and garages clean and yards cut.

**SECTION 3.5.14** All plans for landscaping and irrigation must be submitted to the Committee for approval and be designed by a company or licensed landscape architect which has prior approval of the Architectural Control Committee.

**SECTION 3.5.15** No chain link fences may be used. All fences, as to their location and type must be approved by the Architectural Control Committee prior to construction.

**SECTION 3.5.16** There shall be no signs nailed to trees at any time. All builders' and contractors' signs are to be removed from the lot after the building is completed. All builders' and contractors' signs shall be no larger than three feet by five feet (3' x 5'). Notwithstanding the foregoing (a) the restrictions set forth in this Section 3.5.15 shall not be applicable to Developer, and (b) Developer and the Association shall have the right, but not the obligation, to erect and maintain reasonable and appropriate signs on any portions of the Common Areas and within established easement areas.

**SECTION 3.5.17** Drainage of surface water, storm water, and/or foundation drains may not be connected to sanitary sewers or drain into the lake.

**SECTION 3.5.18** No outside clothes lines shall be permitted.

**SECTION 3.5.19** No exterior above ground liquified fuel storage containers any kind shall be permitted.

**SECTION 3.5.20** No lot corner stakes may be removed and in the event that such are removed or destroyed either during construction of a dwelling or at any other time, it shall be the



responsibility of the owner of the lot to have such restored by a licensed surveyor at the lot owner's expense. The failure of a lot owner to restore or replace such lot stakes in accordance with the final subdivision plat, shall authorize by the Architectural Control Committee to have such work performed and to charge the expense thereof to the owner.

**SECTION 3.5.21** Proper erosion control plans shall be submitted to the Architectural Control Committee for approval prior to the construction phase beginning. These plans should set out in detail the planned utilized and any builder or subcontractor that will be responsible for the implementation of the plan.

**SECTION 3.5.22** The Architectural Control Committee requires the prior approval of all builders and subcontractors that will work on any structure or improvement on the lots in Charleston Place, provided, however, that only the specified plans available for structures built in Charleston Place, and/or the facades for said structures, will be used by the builder and subcontractors. A list of said builders and subcontractors shall be submitted for approval prior to closing of the lot.

The Architectural Control Committee reserves the right to add to the above regulations from time to time at its discretion.

**SECTION 3.6 Plans or Specifications Defects.** Neither the Committee nor any architect nor agent thereof, nor Charleston Place, L.L.C. shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications.

**SECTION 3.7 Architectural Standards.** The ACC is hereby authorized to promulgate and amend or modify from time to time written Architectural Standards governing policies, guidelines, and minimum requirements to be satisfied with respect to the construction, location, landscaping, and design of all Dwellings and other Improvements on any Lot, the content and manner in which plans and specifications and other documentation and information concerning the construction of any Dwelling or other Improvements on a Lot are to be submitted to and approved by the ACC, and any other matters affecting the construction, repair, or maintenance of any Dwelling or other Improvements on any Lot. The Architectural Standard's adopted by the ACC shall be in addition to the provisions and requirements set forth in this Declaration and shall be binding upon and enforceable against all Owners.

#### **ARTICLE IV EXCLUSIVE RESIDENTIAL USE AND IMPROVEMENTS**

**SECTION 4.1** All lots in the subdivision shall be known and described as residential lots and shall be used for single family residential purposes exclusively and no lot shall be subdivided without the consent of the Architectural Control Committee.

**SECTION 4.2** No structure, including utility buildings or separate buildings from the dwelling structure, except as otherwise provided, shall be erected, altered, placed or permitted to remain on any residential building lot other than the dwelling for which the lot has been designated, whether a town house, row house, or detached single family residence.

#### **SECTION 4.3. Square Footage Minimums**

**SECTION 4.3.1. Town houses and cottages:** Each dwelling building on those lots designated for town houses or cottages, shall each have not less than 800 square feet of floor space under the roof, with a ceiling height of not less than nine (9) feet in all enclosed, heated, habitable areas.

**SECTION 4.3.2. Row houses:** Every dwelling building on those lots designated for row

houses, exclusive of one story open porches, garages, and carports, shall each have not less than 900 square feet of floor space on the main floor and not less than 1500 square feet of total floor space for all floors, with a ceiling height of not less than nine (9) feet in all enclosed, heated, habitable areas.

**SECTION 4.3.3. Single family residences:** Every dwelling building on those lots designated for single family residences, exclusive of one story open porches, garages, carports, shall each have not less than 1,600 square feet of floor space on the main floor, or total of all floors if split level, with a ceiling height of not less than nine (9) feet in all enclosed, heated, habitable areas.

**SECTION 4.4** No more than a single family unit and one unrelated person shall occupy any dwelling house.

## **ARTICLE V GENERAL PROHIBITIONS AND REQUIREMENTS**

**SECTION 5.1** It shall be the responsibility of each lot owner to prevent the development of any unclean, unsightly or unkept conditions of buildings or grounds on such lot which shall tend to decrease the beauty of the specific area or of the neighborhood as a whole.

**SECTION 5.2** All lots, whether occupied or unoccupied, and any improvements placed thereon, shall at all time be maintained in a neat and attractive condition and in such manner as to prevent their becoming unsightly by reason of unattractive growth on such lot or the accumulation of rubbish or debris thereon. In order to implement effective control of this item, Charleston Place, L.L.C. reserves for itself and its agents and the Board of Directors, the right, after ten (10) days notice to any lot owner to:

- (2) Assess a Fifty (\$50.00) Dollar per day fine after such notification until the condition specified in said notice is remedied or rectified; and
- (3) Enter upon any residential lot with such equipment and devices as may be necessary for the purpose of mowing, removing, clearing or cutting underbrush, weeds or other unsightly growth and trash which in the opinion of Charleston Place, L.L.C. or the Board of Directors detracts from the overall appearance and safety of the Subdivision. Such entrance upon such property for such purposes shall be only between the hours of 7:00 a.m. and 6:00 p.m. on any day except Sunday and shall not be a trespass. Charleston Place, L.L.C. or the Board of Directors may charge the owner a reasonable cost for such services, which charge shall constitute a lien upon such lot enforceable by appropriate proceedings at law or equity. The provisions of this paragraph shall not be construed as an obligation on the part of Charleston Place, L.L.C. or the Board of Directors to mow, clear, cut or prune any lot nor to provide garbage or trash removal services.

**SECTION 5.3** No animals, livestock or poultry of any kind or description, except the usual household pets (limit of two), shall be kept on any lot, provided that no household pet may be kept on any lot for breeding or commercial purposes.

**SECTION 5.4** No noxious, offensive or illegal activities shall be carried on upon any lot nor shall anything be done on any lot which may be or may become an annoyance or nuisance to the development.

**SECTION 5.5** No oil, natural gas drilling, refining, quarrying or mining operations of any kind shall be permitted upon any lot and natural gas shall be erected, maintained or permitted on any lot; nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on any lot. No water pipe shall be installed or maintained on any lot above the surface of the ground except hoses

and movable pipes used to irrigation purposes.

**SECTION 5.6** No trash, garbage or other refuse shall be dumped, stored or accumulated on any lot or on or near the lake. Trash, garbage or other waste shall not be kept on any lot except in sanitary containers or garbage compactor units. Garbage containers, if any, shall be kept in clean and sanitary condition and shall be so placed, buried or screened by shrubbery or other appropriate material approved in writing by the Committee so as not to be visible from any street within sight distance of the lot at any time except during periods of refuse collection. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted except during construction phase without prior approval of the Architectural Control Committee and the City of Auburn. Violation of this subsection of these covenants shall subject the owner of the lot to the penalty of a stipulated liquidated damage sum of \$50.00 for each day during which such violation continues. The recovery of such damages shall be available to Charleston Place, L.L.C. or to any owner of other lots subject to these covenants except that the violator shall not be required to pay damages to more than one person or entity for such violation.

**SECTION 5.7** All signs, billboards or advertising structures of any kind are prohibited except builder and subcontractor signs during construction periods as authorized in Section 3.5.15 above and except one professional sign of not more than two (2) square feet to advertise the property during sale period. No sign shall be permitted to be nailed or attached to trees.

**SECTION 5.8** No structure of a temporary character, mobile home, recreational vehicle, trailer, basement, tent or shack shall be used at any time as a residence either temporarily or permanently. There shall be no occupancy of any dwelling until the interior or exterior of the dwelling are completed and a certificate, or other satisfactory evidence of completion is received by the Owner or contractor from the Building Official of the City of Auburn.

**SECTION 5.9** Any dwelling or other structure on any lot in the Subdivision which may be destroyed in whole or in part for any reason must be rebuilt in one (1) year. All debris must be removed and the lot restored to a slightly condition with reasonable promptness, provided that in no event shall such debris remain on any lot longer than sixty (60) days.

**SECTION 5.10** No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above any roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines or in case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply to any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. Except as herein provided, no trees shall be permitted to remain within such distance of such intersections unless the foliage is maintained at sufficient height to prevent obstruction of such sight-lines. Any such tree of a rare or unusual species may be permitted to remain in place upon application to and written permission from the Committee and approved by the appropriate city official or department.

**SECTION 5.11** No boat, boat trailer, house trailer, mobile home, camper, motor home, recreational vehicle or similar equipment or vehicle shall be parked or stored on any road, street, driveway, yard or lot located in the Subdivision for any period of time in excess of twenty-four (24) hours except in enclosed garages. No trucks larger than three-fourths (3/4) ton GVW and no tractors or other excavating machinery shall be parked or stored on any road, street, driveway, yard or lot located in the subdivision for any period of time in excess of twenty-four (24) hours except during the period of construction on lot.

**SECTION 5.12** No professional, business, home industry, religion, school, kindergarten or educational enterprises shall be conducted on any lot. No owner or occupant of any dwelling erected on any lot shall ever rent or lease rooms, but such shall not be construed to prevent the rental of an

entire residence to a family unit nor the employment of live-in-domestic employees.

**SECTION 5.13** Prior to occupancy of any residence constructed on any lot, all yard areas which are visible from any street or adjoining lot must be planted with grass or have other suitable ground cover, and driveways must be paved or otherwise approved by the Committee.

**SECTION 5.14** No building shall be located nearer to the street line than as indicated by the building set-back lines shown on the recorded subdivision plat. Where these set-back lines are less than those required by the zoning ordinance of the municipality where the lot is located, the higher requirement shall control. For the purposes of this paragraph, eaves, steps and open porches not covered by a roof structure shall not be considered as a part of building, provided however, that this shall not be construed to permit any portion of the building or construction on any lot to encroach upon another lot or upon easements reserved in Article V hereof.

**SECTION 5.15** No structure or other permanent fixture, excluding landscaping plantings meeting and requirements of Section 4.10 hereof, and mail boxes meeting the requirements of Section 2.5.9 hereof, shall be erected, placed or altered on any lot between the street and the building set-back line unless the same be a retaining wall of masonry construction which does not in any event rise above the finished grade elevation of the earth embankment so retained, reinforced or stabilized. The exposed part of such retaining walls shall be made of brick, natural stone or concrete block veneered with brick, natural stone or other material approved by the Committee.

## **ARTICLE VI COMMON AREA ASSESSMENTS**

**SECTION 6.1 Assessments and Creation of Lien.** Each Owner of a Lot or Dwelling, by acceptance of a deed or other instrument conveying any interest therein, regardless of whether such deed or instrument contains a reference to this Declaration, is hereby deemed to covenant and agree to pay to the Association beginning at the time of acceptance of a deed or other instrument conveying an interest therein: (a) annual Assessments, as established and to be collected as provided in section 6.4 below, (b) special Assessments, to be established and collected as provided in Section 6.5 below, (c) lawn maintenance assessments as established and to be collected as provided in section 6.6, and (e) individual Assessments against any particular Lot or Dwelling which are established or assessed pursuant to the terms of this Declaration, including, but not limited to, any fines as may be levied or imposed against such Lot or Dwelling in accordance with the provisions herein. All Assessments, together with late charges and interest as provided in Section 6.8(a) below, and all court costs and attorneys' fees incurred by the Association to enforce or collect such Assessments, shall be an equitable charge and a continuing lien upon each Lot or Dwelling for which the Owner thereof is responsible for the payment of the same, which lien may be enforced in the manner provided in Section 6.10.3 below. Each Owner shall be personally liable for the payment of all Assessments coming due while he is the Owner of a Lot or Dwelling and his grantee shall take title to such Lot or Dwelling subject to the equitable charge and continuing lien therefor, but without prejudice to the rights of such grantee to recover from his grantor any amounts paid by such grantee to the Association which were the legal obligations of the grantor. All Assessments, together with late charges and interest at the Applicable Rate, as specified in Section 6.11.1 below, court costs, and attorneys' fees incurred with respect thereto by the Association, shall also be a personal obligation of the person who was the Owner of the Lot or Dwelling at the time such Assessments and other costs and charges were assessed or incurred. In the event of co-ownership of any Lot or Dwelling, all of the co-Owners shall be jointly and severally liable for the entire amount of such Assessments. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of the Association. All Assessments shall be payable in all events without offset, diminution, or abatement by reason of fire or other casualty or any taking as a result of, in lieu of or in anticipation of the exercise of the right to eminent domain, condemnation, or by private purchase in lieu thereof with respect to any Lot, Dwelling, Common Areas, or any other portion of the Development of any other

cause or reason of any nature.

**SECTION 6.2 Purpose of Assessments.** The annual and special Assessments provided for herein shall be used for the general purposes of promoting the recreational, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of the Development and otherwise for the general upkeep and maintenance of the Development, including, specifically, the Common Areas and any Improvements thereto, all as may be more specifically authorized from time to time by the Board of the Association.

**SECTION 6.3 Uniform Rate of Assessments.**

**SECTION 6.3.1** Both annual and special Assessments, as described in Section 6.4 and 6.5 below, as well as Lawn Maintenance Assessments as set forth herein at Section 6.6 when applicable to a Lot or Dwelling, shall be assessed against each Lot or Dwelling in the Development at a uniform rate, with the Owner of each Lot or Dwelling being required to pay his prorata portion of such annual and /or special Assessments, as determined by a fraction, the numerator of which shall be the total of Lots or Dwellings owned by such Owner and the denominator of which shall be the total Lots or Dwellings in the Development at the time such annual or special Assessments is levied. Each Lot and Dwelling shall be subject to equal annual and special Assessments.

**SECTION 6.3.2** Notwithstanding anything provided in Section 6.3.1 above to the contrary, in the event any Additional Property is added to the Development, then the Lots and /or Dwellings within the Additional Property shall be subject to the same annual or special Assessments then being paid by the Owners of all other Lots and Dwellings in the Development, subject to proration as provided in Section 6.9 below.

**SECTION 6.4 Computation of Annual Assessments.**

**SECTION 6.4.1** Notwithstanding anything provided to the contrary in this Declaration, the annual Assessment for each Lot and Dwelling in the Development for the approximate one (1) year period commencing on the date hereof shall be One Hundred Twelve and 14/100's (\$112.14.00) Dollars per annum per Lot or Dwelling in the Development. The foregoing shall not limit or restrict any of the special Assessments levied pursuant to Section 6.5 below (with the approval of the majority of the Owners as provided therein), Lawn maintenance Assessments levied in accordance with the provisions of Section 6.6 below for townhouse owners, or any Individual Assessments levied in accordance with the provisions of Section 6.7 below.

**SECTION 6.4.2** Commencing with the fiscal year of the Association which begins September 1, 2000 (which period is hereinafter referred to as the "Base Year"), and annually thereafter, the Board of the Association shall determine and approve annually an annual budget covering the estimated Common Expenses for the Development for the upcoming year, such budget to include a capital contribution or reserve account if necessary for the capital needs of the Association. The amount set forth in such budget shall constitute the aggregate amount of annual Assessments for the then applicable year and each Owner shall pay his prorata share of the same as provided in Section 6.3 above. A copy of the budget setting forth the amount of annual Assessments to be levied against the Lots and Dwellings for the following year shall be delivered to each Owner. The provisions of Section 6.4.1 above shall not apply to the Base Year of any subsequent year thereafter.

**SECTION 6.4.3** In the event the budget for any year after the Base Year results in the Owners being liable for the payment of annual Assessments the increase of which exceed (without regard to proration or adjustment as provided in Section 6.9 below) the greater of either (i) ten percent (10%) of the annual Assessments payable for the entire immediately preceding calendar year or (ii) the percentage increase in the United States Consumer Price Index or any successor index thereto for January of the current year over the index for January of the Base Year, then the budget

and the amount of the annual Assessments shall be presented for approval of the Owners at the annual meeting of the Association and must be approved by the vote of a majority of the Owners who are voting in person or by proxy at such meeting. In the event the amount of the annual Assessments does not exceed the limitations set forth above or until such time as a majority of the Owners have approved such increase in the amount of the annual Assessments, then the budget approved by the Board for the then current fiscal year shall be implemented, subject to the restrictions and limitations set forth above on the amount of increase in annual Assessments.

The limitations on increases in the amount of annual assessments provided in this Section 6.4.3 shall not be applicable to the Base Year; accordingly, the actual annual Assessments for each Lot and Dwelling for the Base Year may exceed \$ 100.00 per annum.

**SECTION 6.4.4** If any budget or the amount of annual Assessments collected by the Association at any time proves to be inadequate or insufficient for any reason to fully pay all costs and expenses of the Association and all Common Expenses, then the Board may call a meeting of the Association for the purpose of approving special Assessments as provided in Section 6.5 below. If the amount of annual Assessments collected in any one year exceeds the actual costs incurred for Common Expenses for such year, the excess shall be retained by the Association as a reserve for subsequent years' Common Expenses.

**SECTION 6.4.5** The Common Expenses to be funded by the annual Assessments may include, but shall not be limited to, the following:

- (i) Salaries, fringe benefits, and other compensation paid and out-of-pocket expenses reimbursed by the Association for its employees, agents, officers, members of the Board, and any third party contractors;
- (ii) Management fees and expenses of administration, including legal and accounting fees, incurred by the Association;
- (ii) Utility charges for any utilities serving any of the Common Areas and charges for other common services for the Development, including, without limitation, trash collection and security services;
- (iv) The costs of any insurance policies purchased for the benefit of the Association as required or permitted by this Declaration, including, without limitation, fire, flood, and other hazardous coverage, public liability coverage and such other insurance coverage as the Board determines to be in the best interest of the Association, including errors and omissions insurance, directors and officers liability insurance, and any other liability insurance coverage for the benefit of the Association, the members of the Board, any officers, employees, agents, or representatives of the Association or for any of the members of the ARC;
- (v) Maintenance and other expenses associated with the Development.
- (vi) The expenses of maintaining, operating, repairing, and replacing any portions of the Common Areas for which the Association is responsible, including, without limitation, roads comprising Common Areas within the Development, which maintenance and repair obligations shall include mowing, landscaping, seeding, cleaning, trash pick-up and removal, paving, repaving, striping, and patching all such roadways comprising Common Areas;
- (vii) Expenses of maintaining, operating, and repairing any other amenities and facilities serving the Development which the Board determines from time to time would be in the best interest of the Association to so maintain, operate, and/or repair;

- (viii) The expenses of the ARC which are not defrayed by plan review charges;
- (ix) Ad valorem real and personal property taxes assessed and levied upon any of the Common Areas;
- (x) The costs and expenses for conducting recreational, cultural, or other related programs for the benefit of the Owners and Occupants;
- (xi) All other fees, costs, and expenses incurred by the Association in accordance with the terms and provisions of this Declaration or which the Board, in its sole discretion, determines to be appropriate to be paid by the Association, including, without limitation, taxes and governmental charges not separately assessed against Lots or Dwellings; and
- (xii) The establishment and maintenance of a reasonable reserve fund or funds (1) for inspections, maintenance, repair, and replacement of any portions of the Common Areas for which the Association is responsible to inspect, maintain, repair, or replace on a periodic basis, (2) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds, and (3) to cover unforeseen operating contingencies or deficiencies arising from unpaid Assessments as well as from Emergency expenditures and other matters, all as may be authorized from time to time by the Board.

**SECTION 6.5 Special Assessments.** In addition to the annual Assessments authorized in Section 6.4 above and any special Assessments authorized herein, including but not limited to special assessments for casualty (including but not limited to damage or destruction to Common Areas, Lots and/or Dwellings), condemnation, or insurance, the Board of the Association may levy in any year special Assessments for Common Expenses or any extraordinary costs incurred by the Association; provided, however, that any such special Assessments (other than special Assessments levied for casualty, condemnation or insurance) shall be approved by a majority of the votes of the Owners who are voting in person or by proxy at the meeting called for the purpose of adopting special Assessments pursuant to the provisions of Section 6.8 below. The Board may make such special Assessments payable in one lump sum or in installments over a period of time which may, in the Board's discretion, extend beyond the then fiscal year in which said special Assessments are levied and assessed. Special Assessments shall be levied against and payable by each Owner in accordance with the provisions of Section 6.3 above.

**SECTION 6.6 Individual Assessments.** Any expenses of the Association occasioned by the conduct of less than all the Owners or by any Owner or Occupant, or the respective family members, agents, guests, servants, employees, invitees, or contractors of any Owner or Occupant, shall be specially assessed against such Owners and their respective Lots or Dwellings. The individual Assessments provided for in this Section 6.7 shall be levied by the Board and the amount and due date of such Assessment shall be specified by the Board in a notice to such Owner. The provisions of this Section 6.7 shall apply, without limitation, to any individual Assessments levied pursuant to any other provision hereof.

**SECTION 6.7 Notice of Meetings and Quorum**

**SECTION 6.7.1** Written notice of the annual meeting of the Association, as well as any other meeting called for the purpose of taking any action authorized in this Article V shall be sent to all Owners not less than ten (10) days and not more than fifty (50) days in advance of such meetings. With respect to annual meetings, the presence in person or by proxy of Owners entitled to cast over 50% of all the votes of the Association shall constitute a Quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement but the required quorum at the subsequent meeting shall be the presence in person or by proxy of Owners entitled to

cast at least one-third (1/3) of the total votes of the Association. At such time as a quorum is obtained, the vote of a majority of the Owners who are voting in person or by proxy at such meeting shall be required to approve any matter in which all of the members of the Association are entitled to vote, including any increase in the amount of annual Assessments in excess of the notations specified in Section 6.4.3 above.

**SECTION 6.7.2** With respect to all other meetings of the members of the Association, including, specifically, meetings pursuant to which special Assessments are to be levied upon each Lot or Dwelling pursuant to Section 6.5 above, there shall be no specific requirement establishing a quorum and the vote of a majority of the Owners who are voting in person or by proxy at any such special meeting shall be binding on all of the members of the Association.

**SECTION 6.8** **Date of Commencement of Assessments.** The annual Assessments provided for herein shall commence as to each Lot or Dwelling on the Day on which such Lot or Dwelling is conveyed to a person other than Developer and shall be due and payable in such manner and on such schedule as may be established from time to time by the Board of the Association. Annual Assessments and any outstanding special Assessments shall be adjusted for each Lot and Dwelling according to the number of months then remaining in the then fiscal year of the Association and the number of days then remaining in the month in which such Lot or Dwelling is conveyed. Annual and special assessments for Lots and Dwellings within any portion of the Additional Property hereafter submitted to the terms of this Declaration shall commence with respect to each such Lot or Dwelling on the date on which such Lot or Dwelling is conveyed to a person other than Developer, subject to proration and adjustment according to the number of months then remaining in the fiscal year of the Association and number of days then remaining in the month in which such Assessments commence. Notwithstanding anything provided herein to the contrary, Developer shall not be responsible for the payments of annual or special assessments on any Lots or Dwellings which it owns in Development. Furthermore, for so long as Developer is the Owner of any Lot or Dwelling within the Development, Developer shall have the option to either pay annual Assessments on Lots or Dwellings owned by Developer or fund any deficits which may exist between the total amount of annual Assessments assessed to all other Owners and the actual costs incurred by the Association for Common Expenses for the Development. At such time as Developer no longer has any interest in any Lot or Dwelling within the Development, except for a Dwelling used for a personal residence, Developer shall have no further obligation of any nature to pay any Assessments or otherwise fund any deficits relating to the Common Expenses or the Common Areas.

**SECTION 6.9** **Effect of Non-payment; Remedies of the Association.**

**SECTION 6.9.1** Each Owner of a Lot or Dwelling is and shall be deemed to covenant and agree to pay to the Association all Assessments provided for herein. In the event any Assessments or any portion thereof are not paid when due the same shall be subject to a late charge in an amount determined and uniformly applied by the Board from time to time and the Owner of such Lot or Dwelling shall be deemed in default herewith. In the event any Assessments or any portion thereof are not paid within thirty (30) days after the due date of same, then the unpaid portion of the Assessment shall accrue simple interest at the lesser of eighteen percent (18%) per annum or the highest rate which may be charged to said Owner by law (the "Applicable Rate") from and after the thirtieth (30<sup>th</sup>) day from the due date until the same is paid in full. In the event the Association employs an attorney or otherwise takes any legal action in attempting to collect any amounts due from any Owner, such Owner agrees to pay all attorneys' fees, court costs, and all other expenses paid or incurred by the Association. The lien and equitable charge upon each Lot or Dwelling for Assessments as provided above shall also include all late charges, interest at the Applicable Rate and all attorneys' fees, court cost, and all other expenses paid or incurred by the Association in attempt to collect any unpaid Assessments.

**SECTION 6.9.2** In the event any Assessments or other amounts due to the Association are not paid by any Owner when the same comes due, then, in addition to all other rights and remedies



provided at law or equity, the Association, acting through its Board or through any of its officers or authorized representatives, may undertake any or all of the following remedies:

- (i) The Association may commence and maintain a suit at law against an Owner to enforce such charges and obligations for Assessments, and any such judgment rendered in any such action shall include the late charge and interest at the Applicable Rate, as specified in Section 6.10.1 above, together with attorneys' fees, court costs, and all other expenses paid and incurred by the Association in collecting such unpaid Assessments; and/or
- (ii) The Association may enforce the lien created pursuant to Section 6.1 above in the manner hereinafter provided.

**SECTION 6.9.3** There is hereby created a continuing lien on each Lot and Dwelling, with power of sale, which secures the payment to the Association of any and all Assessments levied against or upon such Lot or Dwelling, all late charges and interest at the Applicable Rate assessed pursuant to Section 6.10.1 above and all attorneys' fees, court costs, and all other expenses paid or incurred by the Association in collecting any Assessments. If any Assessments remain unpaid for more than sixty (60) days, then the Association, through its Board or any officer or authorized representative thereof, may, but shall not be obligated to, make written demand on such defaulting Owner, which demand shall state the date and amount of delinquency. Each default shall constitute a separate basis for a demand and claim of lien, but any number of defaults may be included in a single demand. If such delinquency is not paid in full within ten (10) days after the giving of such demand or, even without giving demand, the Association may file a claim of lien against the Lot or Dwelling of such delinquent Owner, which claim shall be executed by any member of the Board of the Association or any officer of the Association, contain the following information, and be recorded in the Probate Office of Lee County, Alabama:

- (vi) The name of the delinquent Owner,
- (ii) The legal description and street address of the Lot or Dwelling upon which the lien is made,
- (iii) The total amount claimed to be due including late charges, interest at the Applicable Rate, collection costs, and attorneys' fees incurred to date and a statement, if applicable, that such charges and costs shall continue to accrue and be charged until full payment has been received, and
- (iv) A statement that the claim of lien is made by the Association pursuant to this Declaration and is claimed against such Lot or Dwelling in an amount equal to that stated therein.

The lien provided for herein shall be in favor of the Association, shall be for the benefit of all other Owners (other than those Owners in default), and may be foreclosed in the same manner as a foreclosure of a mortgage on real property under the laws of the State of Alabama, as the same may be modified or amended from time to time. The Association shall have the right and power to bid at any such foreclosure sale and to purchase, acquire, hold, lease, mortgage, convey, and sell any such Lot or Dwelling. Each Owner, by acceptance of a deed to any Lot or Dwelling, shall be deemed to (1) grant to and vest in the Association and/or its agents the right and power to exercise the power of sale granted herein and foreclose the lien created herein, (2) grant to and vest in the Association and/or its agents the right and power to bring all actions against such Owner personally for the collection of all amounts due from such Owner, (3) expressly waive any objection to the enforcement and foreclosure of the lien created herein, and (4) expressly waive the defense of the statute of limitations which may be applicable to the commencement of any such suit or action for foreclosure.

**SECTION 6.10 Subordination of Lien.** Notwithstanding anything provided herein to the contrary, the lien for Assessments and other charges authorized herein with respect to any Lot or Dwelling in the Development is and shall be subordinate to the lien of any Mortgage held by an Institutional Mortgagee, but only to the extent that the Mortgage held by any such Institutional Mortgagee is recorded in the Probate Office of Lee County, Alabama, prior to the filing of a claim of lien by the Association pursuant to Section 6.10.3 above. When an Institutional Mortgagee exercises its foreclosure rights provided in its Mortgage and acquires title to or sells to a third party its interest in any Lot or Dwelling, then such Institutional Mortgagee or its purchaser or transferee at such foreclosure sale shall (a) not be liable for any Assessments or other Charges incurred prior to the date of transfer or acquisition of title by foreclosure so long as the Mortgage held by such Institutional Mortgagee was recorded in the Probate Office of Lee County, Alabama, prior to the filing of a claim of lien by the Association pursuant to Section 6.10.3 above, but (b) be liable for all Assessments and other charges levied, assessed, or incurred with respect to such Lot or Dwelling from and after the date of such foreclosure sale. The foregoing shall not relieve any Owner whose Lot or Dwelling has been foreclosed from the personal obligation to pay all Assessments and any other charges levied, assessed, or incurred by the Association, and the Association shall have the right to pursue all rights and remedies against a defaulting Owner notwithstanding the foreclosure of a Mortgage by an Institutional Mortgagee on such Owner's Lot or Dwelling.

**SECTION 6.11 Certificates.** The Association or any officer or authorized representative thereof shall, upon request and at such reasonable charges as may from time to time be adopted by the Board, furnish to any Owner a certificate in writing setting forth whether the Assessments for which such Owner is responsible have been paid, and if not paid, the outstanding amount due and other costs and expenses due from such Owner. Such certificate shall be conclusive evidence of payment of any Assessments stated therein.

## **ARTICLE VII ENFORCEMENT**

**SECTION 7.1** In the event of a violation or breach of any of these restrictions by any property owner, or family of owner(s) of lot(s), Knights Bridge, L.L.C. or any party to whose benefit these restrictions shall inure, shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof, to prevent the violation or breach of said restrictions, to sue for and recover damages, reasonable attorney's fees, cost of court, or other charges or to take all such courses of action at the same time, or such other legal remedy it may deem appropriate. Any delay or failure on the part of an aggrieved party to invoke an available remedy set forth herein shall be held to be waiver of that party or an estoppel of that party or of any party to assert any right available to that party upon the recurrence or continuation of said violation or the occurrence of a different violation.

**SECTION 7.2** In the event any Owner or Occupant or their respective agents, contractors, or invitees violates any of the provisions of this Declaration, the Articles of Incorporation, the Bylaws, or any rules and regulations adopted by the Board of the Association from time to time, the Board shall have the power to (a) impose reasonable monetary fines which shall constitute an equitable charge and a continuing lien upon the Lot and Dwelling and shall be a personal obligation of such Owner which is guilty of such violation, (b) suspend an Owner's right to vote in the Association, or (c) suspend an Owner's or Occupant's right (and the right of such Owner's or Occupant's family members, guests, and tenants) to use any of the recreational facilities located in or upon the Common Areas, and the Board shall have the power to impose all or any combination of any of the foregoing sanctions. Any such suspension of rights may be for the duration of the infraction.

**SECTION 7.3** The Board shall not impose a fine, suspend voting rights, or infringe upon or suspend any other rights pursuant to Section 7.2 above unless written demand to cease and desist from an alleged violation shall be served upon the Owner for such violation, which demand shall

specify:

- (i) The alleged violation;
- (ii) The action required to abate such violation; and
- (iii) A time period of not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one or if the violation is not a continuing one, a statement that any further violation of the same provision may result in the imposition of sanctions. The foregoing procedure shall only be applicable to the enforcement rights specified in Section 7.2 above and shall not apply to the exercise of any of the rights and remedies specified in any other Section or provision of this Declaration.

**SECTION 7.4** Each and every lot owner and future lot owners, in accepting a deed or contract for any lot or lots in the Charleston Place Development agrees to adhere to these Protective Covenants governing the Charleston Place Development. If said lot owner(s) does not adhere to said covenants and legal action is taken against the party in violation of said covenants, then the lot owner(s) in violation agrees to pay all attorney's fees and other associated costs incurred by other parties in pursuing legal action to remedy violation of these covenants.

#### **ARTICLE VIII CONSIDERATION, ACCEPTANCE AND INDEMNIFICATION AGREEMENT**

**SECTION 8.1** The grantee(s) of any lot subject to the coverage of these Restrictions and the owner(s) of such lot from time to time, by the acceptance of the conveyance or other instrument conveying an interest in or title to, or the execution of a contract for the purchase thereof, whether from Knights Bridge, L.L.C. or a subsequent owner of such lot, shall accept such deed or other contract upon the subject of each and all of these restrictions and the agreements herein contained, whether or not such restrictions are recited in the instrument of conveyance.

**SECTION 8.2** Each and every lot owner and future lot owner, in accepting a deed or contract for any lot or lots in the Charleston Place Development, whether from Knights Bridge, L.L.C. or a subsequent owner of such lot, agrees to indemnify and reimburse Knights Bridge, L.L.C. or Charleston Place Homeowner's Association, Inc. for any damage caused by such lot owner or the contractor, agent or employees of such lot owner, to roads, streets, gutters, walkways or other aspects of public ways, including all surfacing thereon, or to water, drainage or storm sewer line or sanitary sewer lines owned by Knights Bridge, L.L.C., the City of Auburn or Lee County or for which either has the responsibility, at the time of such damage.

**SECTION 8.3** Each and every lot owner and future lot owner, in accepting a deed or contract for any lot or lots in the Charleston Place Development, whether from Knights Bridge, L.L.C. or a subsequent owner of such lot, agree and covenants to release, indemnify, protect and hold harmless Knights Bridge, L.L.C., its successors and assigns and its agents, directors and employees (from and against any and all claims and demands by such owner, any member of his or her family, their employees, agents, guests, invitees, licensees, contractors and employees or for damages to property and injury or death including, but not limited to Knights Bridge, L.L.C. contributory negligence) which may arise out of or be caused directly or indirectly by such owner(s) lot or lots and/or the use of or construction on said lot or lots by said owner, any member of his or her family, their guests, agents, invitees, licensees, contractors, or employees or subcontractors or such contractors or by any other person whomsoever. The indemnification by such other is set forth above shall cover any and all expenses of Knights Bridge, L.L.C. its successors and assigns, including attorney's fees resulting from any claims or demands.

**SECTION 8.4** Each and every lot owner and future lot owner, in accepting a deed or contract

for any lot or lots in Charleston Place Development, whether from Knights Bridge, L.L.C. or a subsequent owner of such lot, agrees, in connection with the construction of any improvements on such lot or lots, to exercise due care, and to assure that any contractors of such owner, or employees of subcontractors or such contractors will exercise due care and will comply with any and all governmental rules, regulations, codes and ordinances relating to safety, so as to protect the safety and health of the public, and the safety and health of such owner, his or her family and such contractor and its employees and subcontractors.

## **ARTICLE IX TERMS AND MODIFICATION**

**SECTION 9.1** These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of 20 years from the date these covenants are recorded, after which time said covenants shall expire unless extended. One or more extensions of the term of these covenants may be made by recording, prior to the expiration of the original terms or any extension thereof, an instrument signed by the majority of the then owners of the lots extending the term of said covenants. No extension shall be for a term longer than ten years.

**SECTION 9.2** For so long as Developer owns any Lot or Dwelling within the Development, Developer may amend this Declaration may amend this Declaration by a written instrument filed and recorded in the Probate Office of Lee County, Alabama, without obtaining the approval of any Owner or Mortgagee; provided, however, that except as otherwise provided in section 9.4 below, (a) in the event any amendment proposed by Developer materially and adversely alters or changes any Owner's rights to the use and enjoyment of his Lot or Dwelling or materially and adversely affects the title to any lot or dwelling, then such amendment shall be valid only upon the written consent thereto by fifty percent (50%) of all of the Owners (including Developer who shall have the voting rights attributable to any Lots or Dwellings owned by Developer) or (b) in the event any such proposed amendment by Developer would materially and adversely affect the title and interest of any Institutional Mortgagee, such amendment shall be valid only upon the written consent thereto of all such Institutional Mortgagees affected thereby. Any amendment made pursuant to this Section 9.2 shall be certified by Developer and shall be effective upon recording of the same in the Probate Office of Lee County, Alabama. Each Owner, by acceptance of a deed or other conveyance to a Lot or Dwelling, and each Mortgagee, by acceptance of a Mortgage on any Lot or Dwelling, agrees to be bound by all amendments permitted by this Section 9.2 and further agrees that, if requested to do so by Developer, such Owner and Mortgagee will consent to the amendment of this Declaration or any other instrument relating to the Development if such amendment is (i) necessary to bring any provision hereof into compliance or conformity with the provisions of any law, ordinance, statute, rule, or regulation of any applicable Governmental Authority or the judicial decision of any state or federal court, (ii) necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lots or Dwellings, (iii) required by any Institutional Mortgagee in order to enable such Institutional Mortgagee to make a Mortgage loan on any Lot or Dwelling, or (iv) necessary to enable any governmental agency or reputable private insurance company to insure Mortgages on any Lots or Dwellings within the Development.

**SECTION 9.3** Amendments in this Declaration, other than those authorized by Section 9.2 above, shall be proposed and adopted by the Association in the following manner:

- (i) At any annual or special meeting of the members of the Association, an amendment to this Declaration may be proposed by either the Board of the Association or by any Owners present in person at such meeting. Any such proposed amendment must be approved by the Owners holding at least two-thirds (2/3) of the total votes in the Association; provided, however, that (i) any amendment which materially and adversely affects the security, title, or interest of any Institutional Mortgagee must be approved by such Institutional Mortgagee, (ii) during any period in which Developer owns a Lot or Dwelling in the Development, then Developer must approve such

proposed amendment, and (iii) to the extent the proposed amendment affects any of the matters described in Section 9.4 below, then the provisions of Section 9.4 below shall be applicable to such proposed Amendment.

- (ii) Any and all amendments which have been approved in accordance with the provisions of Section 8.3 (i) above shall be executed by all parties whose consent to the same is required, including the Owners holding at least two-thirds (2/3) of the total votes in the Association; provided, however, that in the alternative, sworn statement to the President of the Association or by the Chairman of the Board stating unequivocally that the agreement of the requisite number of Owners was lawfully obtained may be attached to and incorporated into such amendment without joinder of any Owners. Any such amendment shall be effective upon recording of the same in the Probate Office of Lee County, Alabama.

**SECTION 9.4** Notwithstanding anything provided in the Declaration to the contrary, in no event may any amendment to Sections 1.2, 1.4, 1.5, 2.2, 3.5.15, 6.3, 6.4, 9.2, 9.3, 9.4, and 11.1 hereof or any other provisions of this Declaration which require Developer's consent or approval to be effective unless the same is consented within writing by Developer. The consent of Developer to any such proposed amendment may be withheld in the sole discretion of the Developer, with or without any reason.

**SECTION 9.5** Each and every lot owner and future lot owner, in accepting a deed or contract for any lot or lots in the Charleston Place Development, whether from Knights Bridge, L.L.C. or a subsequent owner of such lot, agrees to indemnify and reimburse Knights Bridge, L.L.C. or Charleston Place Homeowner's Association, Inc. for any damage caused by such lot owner or the contractor, agent or employees of such lot owner, to roads, streets, gutters, walkways or other aspects of public ways, including all surfacing thereon, or to water, drainage or storm sewer line or sanitary sewer lines owned by Knights Bridge, L.L.C., the City of Auburn or Lee County or for which either has the responsibility, at the time of such damage.

**SECTION 9.6** Each and every lot owner and future lot owner, in accepting a deed or contract for any lot or lots in the Charleston Place Development, whether from Knights Bridge, L.L.C. or a subsequent owner of such lot, agree and covenants to release, subsequent owner of such lot, agree and covenant to release, indemnify, protect and hold harmless Knights Bridge, L.L.C. its successors and assigns and its agents, directors and employees (from and against any and all claims and demands by such owner, any member of his or her family, their employees, agents, guests, invitees, licensees, contractors and employees or for damages to property and injury or death including, but not limited to Knights Bridge, L.L.C. contributory negligence) which may arise out of or be caused directly or indirectly by such owner(s) lot or lots and/or the use of or construction on said lot or lots by said owner, any member of his or her family, their guests, agents, invitees, licensees, contractors, or employees or subcontractors or such contractors or by any other person whomsoever. The indemnification by such other is set forth above shall cover any and all expenses of Knights Bridge, L.L.C. its successors and assigns, including attorney's fees resulting from any claims or demands.

## **ARTICLE X SEVERABILITY**

**SECTION 10.1** Every one of the Restrictions is hereby declared to be independent of, and severable from the rest of the restrictions and of and from every other one of the restrictions and of and from every combination of the restrictions. Invalidation by any Court of any restrictions in this instrument shall in no way affect any of the other restrictions which shall remain in full force and effect.

**SECTION 10.2** Knights Bridge, L.L.C. may include in any contract or deed hereinafter made or entered into, such modifications and/or additions to these protective covenants and restrictions,

which will by their nature raise the standards of the Subdivision.

## **ARTICLE XI MISCELLANEOUS PROVISIONS**

**SECTION 11.1 Developer.** NOTWITHSTANDING ANYTHING PROVIDED TO THE CONTRARY IN THIS DECLARATION, THE ARTICLES OF INCORPORATION, THE BYLAWS OR IN ANY OTHER DOCUMENT OR INSTRUMENT RELATING TO THE DEVELOPMENT, DEVELOPER HEREBY RETAINS THE RIGHT TO APPOINT AND REMOVE ANY MEMBER OR MEMBERS OF THE BOARD OF THE ASSOCIATION AND ANY OFFICER OR OFFICERS OF THE ASSOCIATION AS PROVIDED BY AND FOR THE PERIOD OF TIME SET FORTH IN SECTION 2.2 ABOVE. Each Owner, by acceptance of a deed or other conveyance of any interest in a Lot or Dwelling, agrees that Developer shall have the authority to appoint and remove members of the Board and officers of the Association in accordance with the foregoing provisions of this Section 11.1 and the provisions of Section 2.2 above. At such time as Developer no longer owns any interest in any Lot or Dwelling within the Development, except a Dwelling used as a personal residence, a special meeting of the Association shall be called within a reasonable time thereafter at which time the Owners shall elect a new Board which shall undertake the responsibilities of the Board, and Developer shall deliver all books, accounts, and records of the Association, if any, which Developer has in its possession.

**SECTION 11.2 Legal Expenses.** In addition to all other rights and remedies set forth herein, in the event either the ACC, its agents or representatives, or the Board, its agents and representatives, undertake any legal or equitable action which either of them deem necessary to abate, enjoin, remove, or extinguish any violation or breach of this Declaration, then all costs and expenses incurred by either of them, including, without limitation, attorneys' fees and court costs, in enforcing any of the terms, provisions, covenants, or conditions of this Declaration shall be paid for by the Owner against whom such action was initiated. The ACC, its agents and representatives, and the Board, its agents and representatives, are each hereby authorized to take any and all legal or equitable action as may be necessary under the circumstances to restrain or enjoin any such violation or breach or to otherwise seek monetary damages as a result of any expenses incurred by either the ACC or the Association to cure such violation or breach.

**SECTION 11.3 Captions and Headings.** The captions and headings contained in this Declaration are for convenience of reference only and shall not be used in the construction or interpretation of any provisions of this Declaration.

**SECTION 11.4 Pronouns and Plurals.** All personal pronouns used in this Declaration, whether used in the masculine, feminine, or neuter gender, shall include all other genders. The use of the singular tense shall include the plural and the use of the plural shall include the singular.

**SECTION 11.5 Binding Effects.** The terms and provisions of this Declaration shall be binding upon each owner, Occupant, and Mortgagee and the respective heirs, executors, administrators, personal representatives, successors, and assigns of each Owner, Occupant, and Mortgagee, and shall inure to the benefit of Developer, the ACC, the Association, all of the Owners, and their respective Mortgagees and their respective heirs, executors, administrators, personal representatives, successors and assigns.

**SECTION 11.6 Conflict or Ambiguity.** In the event of any conflict or ambiguity in the terms and provisions of this Declaration, the general rules of construction against one party as a result of that party having drafted this Declaration are hereby waived by each Owner and to the fullest extent allowed by law, no conflicts or ambiguity shall be resolved in favor or to the advantage of one part as opposed to another in interpreting any ambiguity or conflict herein.

**SECTION 11.7 No Reverter.** No restriction or provision hereof is intended to be or shall

be constructed as a condition subsequent to or a possibility of reverter in favor of Developer nor shall any provision be deemed to vest any reversionary interest in Developer.

**SECTION 11.8 Interpretation.** In all cases, the provisions set forth and provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Developer or the Board, will best effect the intent of the general plan of development for the Property. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication so as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Declaration shall be the date hereof. This Declaration shall be construed under and in accordance with the laws of the State of Alabama.

**SECTION 11.9 Rights of Third Parties.** This Declaration shall be recorded for the benefit of Developer, the Association, the Owners, and their respective Mortgagees, and by such recording, no other adjoining property owner or third party shall have any rights, title, or interest whatsoever in the development of its operation and continuation, in the enforcement of any of the provisions of this Declaration, or the right to consent to or approve any amendment or modification to this Declaration.

**SECTION 11.10 No Trespass.** Whenever the Association, Developer, the ACC, and their respective agents, employees, representatives, successors, and assigns are permitted by this Declaration to enter upon or correct, repair, clean, maintain, or preserve or do any other action within any portion of a Lot or Dwelling, the entering thereon and the taking of such action shall not be deemed a trespass.

**SECTION 11.11 No Partition.** Each Owner hereby waives any right to seek or obtain judicial partition of any portion of the Development.

**SECTION 11.12 Reservation of Rights.** Notwithstanding anything provided herein to the contrary, no sale, transfer, conveyance, lease, pledge, encumbrance, or other hypothecation of any Lot or Dwelling by Developer to a third party shall constitute or be deemed a transfer of any of the rights reserved herein to Developer unless express reference is made in such instrument of conveyance to the specific rights created in this Declaration which Developer is transferring to any such third party.

**SECTION 11.13 Standards for Review.** Whenever in this Declaration, Developer, the Association, or the ACC has the right to approve, consent to, or require any action be taken pursuant to the terms hereof, such approval, consent or required action shall, except as otherwise specifically provided herein to the contrary, be given or withheld in the sole and absolute discretion of Developer, the Association, or the ACC, as the case may be.

**SECTION 11.14 Oral Statements.** Oral statements or representations by Developer, the Association, the ACC, or any of their respective employees, agents, representatives, successors, or assigns, shall not be binding on Developer, the Association, or the ACC.

**SECTION 11.15 Notices.** Notices required hereunder shall be in writing and shall be delivered by hand or sent by United States Mail, postage prepaid. All notices to Owners shall be delivered or sent to such addresses as have been designated in writing to the Association or, if no such address has been so designated, at the address of such owner's respective Lot or Dwelling within the Development. All notices to the Association or to the ACC shall be delivered or sent in care of Developer at the following address:

POST OFFICE BOX 709  
AUBURN, ALABAMA 36831

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

**SECTION 11.16 Assignment.** Subject to the provisions of Section 11.12 above, Developer and the ACC shall each have the right to assign any and all of the rights, powers, reservations and duties contained herein to any person or entity who shall thereupon have the same rights, power, reservations, and duties as Developer and the ACC, respectively.

**SECTION 11.17 Further Assurance.** Each owner covenants and agrees to execute, sign, and deliver, or cause to be executed, signed, and delivered and to otherwise do or make, or cause to be done and made, any and all agreements, instruments, papers, deeds, acts, or things, supplemental, conformity, or otherwise, which may be reasonably requested by Developer, the Association, or the ACC for the purpose of or in connection with clarifying, amending, or otherwise consummating any of the transactions and matters herein.

**SECTION 11.18 No Waiver.** All rights, remedies, and privileges granted to Developer, the Association, and the ACC pursuant to the terms and provisions of this Declaration shall be deemed to be cumulative, and the exercise of any one or more of such rights, remedies, or privileges shall not be deemed to constitute an election of remedies nor shall it preclude the party exercising the same, or any other party, from pursuing such other and/or additional rights, remedies, or privileges as may be available to such part at law or in equity. The failure at any time to enforce any covenant or restriction set forth herein shall in no event be deemed a waiver of the right thereafter to enforce such covenant or restriction.

**SECTION 11.19** Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or the neuter.

**IN WITNESS WHEREOF**, Knights Bridge, L.L.C. have caused these Restrictions to be properly executed, and have executed these Restrictions on this the 23<sup>rd</sup> day of August, 2000.

**KNIGHTS BRIDGE, L.L.C.**

By: Michael Shannon  
**MICHAEL V. SHANNON, Managing Member**

**CHARLESTON PLACE, L.L.C.**

By: Hope Shannon  
**HOPE SHANNON, Managing Member**

**STATE OF ALABAMA  
LEE COUNTY**

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Michael V. Shannon, whose name is signed to the foregoing instrument, and is known



to me, acknowledged before me on this day that, being informed of the contents of this instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 23<sup>rd</sup> day of August, 2000.

Dorothy W. Larentin

NOTARY PUBLIC

My Commission Expires: 12/2/01

STATE OF ALABAMA  
LEE COUNTY

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Hope Shannon, whose name is signed to the foregoing instrument, and is known to me, acknowledged before me on this day that, being informed of the contents of this instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 23<sup>rd</sup> day of August, 2000.

Dorothy W. Larentin

NOTARY PUBLIC

My Commission Expires: 12/2/01