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STATE OF ALA. MADISON CO.
I CERTIFY THIS INSTRUMENT
WAS FILED ON

DECLARATION OF CONDOMINIUM . . . '85 JUN -6 P4:30

OF

04499A

LOT ONE, BLOCK TWO OF WILLOW SPRINGS

RECORDED IN THE PUBLIC TAX
CO. ON THE 17TH DAY OF JUNE
1985
JUDGE OF PROBATE

THIS DECLARATION made and entered into by CLOWERS
CONSTRUCTION COMPANY, INC., hereinafter referred to as
"Developer."

W I T N E S S E T H

WHEREAS, Developer is the legal title holder of certain
real property located in Madison County, Alabama, and more
particularly described as Lot One, Block Two, according to the
Plat of Willow Springs, Plat Book 13, page 64; and

WHEREAS, Developer desires to submit the above described
Property with all buildings, structures, improvements and other
permanent fixtures of whatsoever kind thereon, and rights and
privileges belonging or in any wise pertaining thereto to the
provisions of the Condominium Ownership Act of the State of
Alabama; and

WHEREAS, Developer further desires to establish for its own
benefit and for the mutual benefit of all future owners or
occupants of the property or any part thereof, certain rights,
easements, and privileges in, over and upon the said Premises,
and certain mutually beneficial restrictions and obligations
with respect to the proper use, conduct and maintenance thereof,
for the purpose of enhancing and perfecting the value,
desirability and attractiveness of the Property.

NOW, THEREFORE, Developer declares as follows:

1. Definitions. As used herein, unless the context
otherwise requires:

(a) "Act" means the Condominium Ownership Act of the
State of Alabama."

(b) "Association" means Willow Pointe Condominium
Corporation.

(c) "Board" means the Board of Directors of Willow
Pointe Condominium Corporation.

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THIS INSTRUMENT PREPARED BY

Joe Turner, Atty.
HUNTSVILLE, ALABAMA

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(d) "Buildings" mean the buildings located on the above described real estate and forming part of the Property and containing the Units.

(e) "By-Laws" means the By-Laws of Willow Pointe Condominium Corporation, attached hereto as Exhibit A and made a part hereof, as amended from time to time for purposes of the Act. All provisions contained in the body of this Declaration dealing with the administration and maintenance of the Property shall be deemed to be part of the By-Laws.

(f) "Common Elements" means all of the Property except for the Units, and, without limiting the generality of the foregoing, shall include those items defined as "General Common Elements" in the Act, including the following:

1. All the land in Lot One, Block Two, Willow Springs, the parcel;
2. The swimming pool, exterior hot tub, tennis court, and club house;
3. All streets, roadways, automobile parking spaces, easements, entrances and exits or communication ways to, through and from the Parcel, medians or dividers within roadways, and all buffer strips and screening, as shown on the Plat; or located on "Common Space" or "Common Open Space," on Plat.
4. All foundations, bearing walls, columns and roofs;
5. All roofs and yards, except as otherwise herein provided or stipulated;
6. Pipes, ducts, electrical wiring and conduits (except pipes, ducts, electrical wiring and conduits situated entirely within a Unit and serving only such Unit); and
7. All other elements of the Buildings desirable or rationally of common use or necessary to the existence, upkeep, and safety of the condominium regime established by this Declaration.

(g) "Developer" means Clowers Construction Company, Inc., its successors and assigns as designated in writing by Developer as a successor or assign of the rights of Developer set forth herein.

(h) "Private Elements" means parts of the condominium contiguous to and serving exclusively a single unit as an inseparable appurtenance thereto, the enjoyments, benefits, or use of which is reserved to the lawful occupants of such Unit, and shall include, but shall not be limited to, a separate furnace, air conditioner, water heater, and interior finish of windows and doors. The occupants of a Unit shall have the exclusive right to use any contiguous balcony, deck or patio.

(i) "Majority" or "Majority of the Unit Owners" means the owners of more than fifty percent (50%) of the Units.

(j) "Declaration" means this instrument, by which the Property is submitted to the provisions of the Act, as hereinafter provided, and such Declaration as amended from time to time.

(k) "Occupant" means a person or persons in possession of a Unit, regardless of whether said person is a Unit Owner.

(l) "Parcel" means the parcel or tract of real estate, described herein and submitted hereby to the provisions of the Act.

(m) "Person" means a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

(n) "Plat" means the plat of survey of the Parcel submitted to the provisions of the Act showing the number of each Unit, expressing its area, location and other data necessary for identification, said Plat to be recorded in the Probate Office of Madison County, Alabama.

(o) "Property" means all the land, property and space comprising the Parcel, and all improvements and structures erected, constructed or contained therein or thereon, including the Buildings and all easements, rights and appurtenances belonging thereto, and all furniture, furnishings, fixtures and equipment intended for the mutual use, benefit or enjoyment of Unit Owners, submitted to the provisions of the Act.

(p) "Record or Recording" refers to the record of recording in the Probate Office of Madison County, Alabama.

(q) "Rules and Regulations" refer to rules and regulations concerning the use of the Units and the Common Elements as adopted from time to time by the Board in accordance with the Declaration and By-Laws.

(r) "Unit" means an enclosed space consisting of one or more rooms occupying all or part of a floor or floors in the Buildings, which enclosed space is not owned in common with Unit Owners of other Units. Each Unit is numbered as shown on the Plat. The Boundaries of each Unit shall be and are the unfinished interior surfaces of its perimeter walls, floors and ceilings, and a Unit includes both the portion of the Buildings so described and the air space so encompassed, excepting Common Elements.

(s) "Unit Owner" means the person or persons whose estates or interests, individually or collectively, aggregate ownership of a Unit and of the undivided interest in the Common Elements appurtenant thereto. No person or persons who hold an interest in a Unit solely for the purpose of securing an obligation shall be deemed to be a Unit Owner hereunder. Unless specifically provided otherwise herein, Developer shall be deemed a Unit Owner so long as it is the legal title holder of any Unit.

2. Submission of Property to the Act. Developer does hereby submit and subject the Parcel and the Property to the provisions of the Condominium Ownership Act of the State of Alabama, Section 35-801 et seq. of the 1975 Code of Alabama, and does hereby establish a horizontal and vertical property regime to be known as Willow Pointe Condominiums.

3. Plat. The Plat will set forth the number and location of each Unit and other data as required by the Act.

4. Units. The legal description of each Unit shall consist of the identifying number of each Unit as shown on the Plat. Every deed, estate, lease, mortgage, deed of trust, or other instrument shall legally describe a Unit by its identifying number as shown on the Plat and every description shall be deemed good and sufficient for all purposes, as provided in the Act. Except as provided in the Act, no Unit Owner shall, by deed, plat, court decree or otherwise, subdivide or in any other manner cause his Unit to be separated unto any tracts or parcels different from the whole Unit as shown on the Plat.

5. (a) Association of Unit Owners and Administration and Operation of the Property. There has been or will be formed an Association having the name Willow Pointe Condominium Corporation, an Alabama not-for-profit corporation, which Association shall be the governing body for all Unit Owners, and shall be operated to provide for the maintenance, repair, replacement, administration and operation of the Property, as provided in the Act, this Declaration and the By-Laws for the Association attached to this Declaration as Exhibit A and made a part hereof. The Board of Directors of the Association shall be elected and serve in accordance with the provisions of the By-Laws. The fiscal year of the Association shall be determined by the Board, and may be changed from time to time as the Board deems advisable. The Association shall not be deemed to be conducting a business of any kind. All activities undertaken by the Association shall be for the sole benefit of the Unit Owners, and all funds received by the Association shall be held and applied by it for use and benefit of Unit Owners, in accordance with the provisions of this Declaration and By-Laws. A Unit Owner's membership shall automatically terminate when he ceases to be a Unit Owner. Upon the conveyance or transfer of a Unit Owner's ownership interest to a new Unit Owner, the new Unit Owner shall simultaneously succeed to the former Unit Owner's membership in the Association. After the number of Class I Units reaches eighty (80) or, in any event, on March 1, 1991, the aggregate number of votes for all members of the Association shall be one hundred twenty (120) and shall be divided and allocated among the respective Unit Owners as follows: One vote for each Unit.

Prior to such time there shall be two classes of Units with respect to voting rights:

Class I. Class I Units shall be all Units except Class II Units as the same are hereinafter defined, and the Owner(s) of each such Class I Unit shall be entitled to one (1) vote.

When two or more persons hold an interest (other than a leasehold or security interest) in any Unit, all such persons shall be Members. The vote for such Unit shall be exercised by one of such persons as proxy and nominee for all persons holding an interest in a Unit and in no event shall more than one (1) vote be cast with respect to any Unit.

Class II. Class II Units shall be all Units owned by Developer which have not been converted to Class I Units as provided below. Developer shall be entitled to three (3) votes for each Class II Unit which it retains. The Class II Units shall cease to exist and shall be converted to Class I Units when there are eighty (80) Class I Units or, in any event, on March 1, 1991.

(b) Management of Property. The Board shall have the authority to engage the services of an agent (herein sometimes referred to as the "Managing Agent") to maintain, repair, replace, administer and operate the Property, or any part thereof, to the extent deemed advisable by the Board; provided, however, that such contract shall not exceed a period of three (3) years, and shall provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice. The Board shall require that such Managing Agent have fidelity bond coverage on its employees handling Association funds. The cost of such services shall be a common expense, as defined in paragraph 10 hereof.

(c) Initial Management Contract. Prior to the appointment of the First Board as provided herein, the Developer, on behalf of the Association, may employ a management corporation to act as Managing Agent for the Property; provided, however, that such contract shall not exceed a period of three (3) years and shall provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice.

(d) Use by Developer. During the period of sale by Developer of any Units, Developer, and Developer's agents, employees, contractors and subcontractors, and their respective agents and employees shall be entitled to access, ingress to and egress from the Buildings and Property as may be required for purposes of sale of Units. While developer owns any of the Units and until each Unit sold by it is occupied by the Purchasers, Developer and its employees may use and show one or more of such unsold or unoccupied Units as a model Unit or Units and may use one or more of such unsold or unoccupied Units as a sales office, and may maintain customary signs in connection therewith.

(e) Non-Liability of Directors and Officers. To the extent permitted by law, neither the directors nor officers of the Association shall be personally liable to Unit Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such directors or officers, except for any acts or omissions found by a court to constitute gross negligence or fraud. Unit Owners shall indemnify and hold harmless each of the directors or officers and their respective heirs, executors, administrators, successors and assigns in accordance with the provisions of this Declaration and by the By-Laws.

6. Boards Determination Binding. In the event of any dispute or disagreement between any Unit Owners relating to the Property, or any questions of interpretation or application of the provisions of this Declaration or By-Laws, the determination thereof by the Board shall be final and binding on all Unit Owners.

7. Ownership of the Common Elements. Each Unit is hereby allocated an undivided interest in the Common Elements. The assigned percentage of interest shall remain constant unless hereafter changed by recorded amendment to this Declaration consented to in writing by Unit Owners, in accordance with paragraph 21 hereof. The ownership of a Unit shall not be conveyed separate from the undivided ownership in the Common Elements appurtenant to such Unit. The undivided interest in the Common Elements appurtenant to any Unit shall be deemed conveyed or encumbered with that Unit, even though the legal description in the instrument conveying or encumbering such Unit may refer to the fee title to that Unit. The percentage of undivided interest of each Unit in the common areas shall be determined by using the square footage of each unit as the numerator and the total interior square footage of the entire complex as the denominator.

8. Use of the Common Elements. Each Unit Owner shall have the right to use the Common Elements in common with all other Unit Owners, as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of the respective Unit owned by such Unit Owner. Such right to use the Common Elements shall extend not only to each Unit Owner, but also to his agent, servants, tenants, family members, customers, invitees and licensees. Such rights to use the Common Elements shall be subject to and governed by the provisions of the Act, Declaration, By-Laws, and rules and regulations of the Association. In addition, 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 this Declaration and By-Laws. All income derived by the Association from leases, concessions or other sources shall be held and used for the benefit of the members of the Association, pursuant to such rules, resolutions and regulations as the Board may adopt or prescribe.

9. Parking Space. Parking spaces on the Property shall be part of the Common Elements. All boats, vans, campers, and recreational vehicles, shall be parked in an area as shall be prescribed by the Board.

10. (a) Common Expenses. Each Unit Owner shall pay his proportionate share of the expenses of the administration and operation of the Common Elements and of any other expenses incurred in conformance with this Declaration and By-Laws (which expenses are herein sometimes referred to as "common expenses"), including, but not limited to, the maintenance and repair of the Property and any and all replacements and additions thereto. Except for its responsibilities as a Unit Owner as provided herein, Developer shall not have any responsibility for the maintenance, repair or replacement of any part of the Common Elements after the date this Declaration is recorded; provided, however, in the event Developer expends any of its own funds for the repair, replacement or maintenance of any of the Common Elements, Developer shall be entitled to a credit for such sums against any common expenses Developer might be required to pay by virtue of being a Unit Owner. Each Unit Owner shall be responsible for paying common expenses in the same proportion as his percentage of ownership in the Common Elements. Assessments shall occur upon the conveyance by Developer of the first Unit. No Unit Owner shall be exempt from payment of his proportionate share of the common expenses by waiver of enjoyment or non-use of the Common or by abandonment of his Unit. If any Unit Owner shall fail to make such payment of assessments for common expenses when due, the amount thereof, together with any reasonable rate of late charges established by the Board, and together with interest at the highest lawful rate permitted when the assessment is due and payable, shall constitute a continuing lien on the Unit against which the assessment is made, as provided in the Act. Each Unit Owner shall be personally liable for his portion of each assessment made while he is the owner of a Unit. The sale or conveyance of a Unit shall in all cases be subject to all unpaid assessments against the Unit Owners, and if not paid prior to sale or conveyance, shall be a lien against the Unit and shall be paid by the new Owner.

Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment shall be _____ dollars (\$ 576.40) per Unit.

(a) From and after January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment may be increased each year not more than ten percent (10%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment may be increased above ten percent (10%) by a vote of two-thirds (2/3) of each class

of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

(d) Written notice of any meeting called for the purpose of taking any action authorized under paragraph (b) above shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

(e) Both annual and special assessments must be fixed at a uniform rate for all Units and may be collected on a monthly basis.

(b) Mortgage Protection. The lien for assessments payable by a Unit Owner shall be subordinate to the lien of a recorded first Mortgage on the interest of such Unit Owner, except for the amount of the proportionate share of common expenses which become due and payable from and after the date on which the Mortgagee or Beneficiary thereunder either takes possession of the Unit encumbered thereby, accepts a conveyance of any interest therein (other than as security) and forecloses its Mortgage. This subparagraph (b) shall not be amended, changed, modified or rescinded without the prior written consent of all Mortgagees of record.

(c) Working Capital Fund. A Working Capital Fund shall be established containing an amount equal to two (2) months estimated common expense charges to each Unit. Each Unit's share of the Working Capital Fund shall be collected at the time of closing of the sale of each Unit, transferred to the Association, and maintained in a segregated account for the use and benefit of the Association. The contribution to the Working Capital Fund for each unsold Unit shall be paid to the Association within sixty (60) days after the date of the conveyance by Developer of the first Unit, and Developer shall be reimbursed by buyers of Units for such contribution made by Developer in connection with unsold Units. Amounts paid in the Working Capital Fund by any person are not to be considered as advance payments of any regular assessments for common expenses.

11. Mortgages. Each Unit Owner shall have the right, subject to the provisions herein, to mortgage his unit together with his respective ownership interest in the Common Elements. No Unit Owner shall have the right or authority to mortgage or place a lien on the Property or any part thereof, except to the extent of his own Unit and its appurtenant interest in the Common Elements.

12. Separate Real Estate Taxes. Real estate taxes shall be separately taxed to each Unit Owner for his Unit and its appurtenant interest in the Common Elements, as provided in the Act. In the event that such taxes for any year are not separately taxed to each Unit Owner, but rather are taxed on the Property as a whole, then each unit Owner shall pay his proportionate share thereof in accordance with his respective percentage of ownership in the Common Elements, and, in said event, such taxes shall be a common expense.

13. Insurance. The Board shall obtain insurance for the Property, exclusive of the additions within, improvements to and decorating of the Units by Unit Owners, against loss or damage by fire, vandalism, malicious mischief and such other hazards as are covered under standard extended coverage provisions, for the full insurable replacement cost of the Common Elements and the Units, and against such other hazards and for such amounts as the Board may deem advisable. Insurable replacement cost shall be deemed the cost of restoring the Common Elements, Units, or any part thereof, to substantially the same condition in which they existed prior to damage or destruction. Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Board, as the trustee for the Unit Owners, in proportion to the Unit Owners' respective percentages of ownership in the Common Elements, as set forth in this Declaration and for the holders of mortgages on the Units, if any. The policy of insurance should also contain, if possible, a waiver of subrogation rights by the insurer against the Unit Owners. The premiums for such insurance shall be a common expense. However, at the option of the Board, and upon written notice to all Unit Owners, premiums for such insurance shall be separately billed to Unit Owners based upon their respective percentages of ownership in the Common Elements.

In the event of damage to or destruction of any Buildings or Common Elements as a result of fire or other casualty covered by insurance proceeds (unless more than 2/3 of all Buildings require reconstruction), the Board shall, in its sole and absolute discretion, determine and without intervention of any Unit Owner arrange for the prompt repair and restoration of the damaged portions of all Units, Buildings and Common Elements

substantially in accordance with the original plans and specifications therefor. Where the insurance indemnity is sufficient to cover the cost of such repairs and restoration, the deficit shall be paid by all Unit Owners with each Unit Owner to bear a proportion thereof based upon his percentage of ownership in the Common Elements. The Board shall not be responsible for the repair, replacement or restoration of any wall, ceiling or floor decorations or covering, or any other part of a Unit for which the responsibility of maintenance and repair is that of a Unit Owner, or for furniture, furnishings, fixtures, appliance or equipment installed in the Unit by a Unit Owner or Occupant unless insurance therefor is specifically provided for in the insurance policy obtained by the Board.

The Board shall also obtain comprehensive public liability insurance, in such amounts as it deems desirable, and workmen's compensation insurance and other liability insurance in such amounts as it deems desirable, insuring each Unit Owner, mortgagee of record, the Association, its officers, directors and employees, Developer, and the Managing Agent, if any, from liability in connection with the Property. The premiums for such insurance shall be a common expense. However, at the option of the Board, and upon written notice to all Unit Owners, premiums for such insurance shall be separately billed to each Unit Owner with each Unit Owner to bear a proportion thereof based upon his percentage of ownership in the Common Elements. The Board shall retain in safekeeping any such public liability policy for six (6) years after the expiration date of the policy.

The Board shall also obtain Fidelity coverage covering officers, directors, and employees who handle or are responsible for handling Association funds. Such bonds shall be in such amount as the Board may determine, but in no event less than three months aggregate assessments on all Units plus reserve funds, and shall contain waivers of any defense based upon the exclusion of persons serving without compensation.

All insurance policies obtained by the Board shall provide that they may not be cancelled or substantially modified without at least ten (10) days prior written notice to the Association and to each holder of a first mortgage on a Unit.

The Board shall also obtain such other insurance as it deems desirable, in such amounts, from such sources and in such forms as it deems desirable, insuring the Property and each member of the Board and officer of the Association, and each member of any committee appointed pursuant to the By-Laws of the Association, from liability arising from the fact that said person is or was a director or officer of the Association, or a

member of such a committee. The Board shall require such fidelity bond coverage as necessary for any person or Board member handling Association funds. The premiums for such insurance and bonds shall be a common expense.

Each Unit Owner shall be responsible for obtaining his own insurance on the contents of his Unit, as well as his additions and improvements thereto, and those parts of the Unit for which the responsibility of maintenance and repair is that of the Unit Owner, and for decorations, furnishings, and personal property therein, and personal property stored elsewhere on the Property, if any. In addition, in the event a Unit Owner desires to insure against his personal liability and loss or damage by fire or other hazards above and beyond the extent that his liability, loss or damage is covered by the liability insurance and insurance against loss of damage by fire and other such hazards obtained by the Board for all of the Unit Owners as part of the common expenses, as above provided, said Unit Owner may, at his option and expense, obtain additional insurance.

14. Maintenance, Repairs and Replacements. Each Unit Owner at his own expense, shall furnish and be responsible for all maintenance of, repairs to and replacements within his Unit. Except to the extent hereinafter set forth, maintenance of, repairs to and replacements within the Common Elements shall be the responsibility of and shall be furnished by the Association, and the cost thereof shall be part of the common expense, subject to the By-Laws, and rules and regulations of the Association. The expenses for the maintenance, repair or replacement of a Unit's water heater, furnace, air conditioner, heating and air-conditioning ducts, and plumbing and electrical wiring serving only such Unit, shall be borne by the owner of the Unit to which such Private Elements are appurtenant; provided, however, that if, in order to maintain, repair, or replace the electrical wiring, plumbing, or other utilities of a Unit, it shall become necessary to gain entry to another Unit, it shall be the responsibility of the Association to provide such maintenance, repair or replacement, but the cost of such maintenance, repair, or replacement may be assessed to the Unit Owners benefited thereby, as hereinabove provided.

If, due to the act or neglect of a Unit Owner, or his agent, servant, tenant, family member, invitee, licensee or household pet, damage shall be caused to the Common Elements or to a Unit or Units owned by others, or maintenance, repairs or replacements are required which would otherwise be a common expense, then such Unit Owner shall pay for such damage or such maintenance, repairs and replacements, as may be determined by the Board, to the extent not covered by the Association's insurance.

The Authorized representatives of the Association, Board, or of the Managing Agent with approval of the Board, shall be entitled to, reasonable access to the individual Units as may be required in connection with the preservation of any individual Unit in the event of an emergency, or in connection with maintenance of, repairs to, or replacements within the Common Elements or any equipment, facilities or fixtures affecting or serving other Units and Common Elements, or to make any alteration required by any governmental authority.

15. Alterations, Additions or Improvements. Except as provided in paragraph 16 herein, no alteration of any Common Elements, or any additions or improvements thereto, shall be made by any Unit Owner without the prior written approval of the Board. The Board may authorize and charge as common expenses alterations, additions, and improvements of the Common Elements as provided in the By-Laws. Any Unit Owner may make alterations, additions or improvements within his Unit without the prior written approval of the Board, but such Unit Owner shall be responsible for any damage to other units, the Common Elements, the Property, or any part thereof, resulting from such alterations, additions or improvements.

16. Decorating. Each Unit Owner, at his own expense, shall furnish and be responsible for all decorating within his Unit, as may be required from time to time, including painting, wallpapering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lighting, and other furnishings and decorating. Each Unit Owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floors and ceilings of his Unit, and such Unit Owner shall maintain said interior surfaces in good condition at his sole expense, as may be required from time to time. Said maintenance and use of interior surfaces shall be subject to the rules and regulations of the Association, but each Unit Owner shall have the right to decorate such interior surfaces from time to time as he may see fit and at his sole expense. Decorating of the Common Elements (other than interior surfaces within the Units as above provided) and any redecorating of Units, to the extent such redecorating of Units is made necessary by damage to Units caused by maintenance, repair or replacement of the Common Elements by the Association, shall be furnished by the Association as part of the common expenses. All windows and screens forming part of a perimeter wall of a Unit shall be cleaned and washed, and any damage thereto repaired, at the expense of the Unit Owner of that Unit.

17. Encroachments. If any portion of the Common Elements shall actually encroach upon any Unit, or if any Unit shall actually encroach upon any portions of the Common Elements, or if any Unit shall actually encroach upon another Unit, as the Common Elements and Units are shown on the Plat, there shall be deemed to be mutual easements in favor of the owners of the Common Elements and the respective Unit Owners involved, to the extent of such encroachments, so long as the same shall exist.

18. Lease of Unit. All leases or rental agreements for Units shall be in writing and shall be subject specifically to the requirements of this Declaration and By-Laws. No Unit may be leased or rented for a period of less than six (6) months. A copy of every lease for a Unit, as and when executed, shall be furnished to the Board. The Lessee under every such lease shall be bound by and subject to all of the obligations under this Declaration and the By-Laws of the Unit Owner making such lease and the lease shall expressly so provide. The Unit Owner making such lease shall not be released thereby from any of said obligations.

19. Use and Occupancy Restrictions. Subject to the provisions of the By-Laws, no part of the Property may be used for purposes other than housing and the related common purposes for which the property was designed and as allowed by municipal zoning laws. Each Unit, or any two or more adjoining Units used together, shall be used as a residence or such other use permitted by this Declaration, and for no other purpose, except that professional and quasi-professional people may use their residence (not in violation of municipal zoning laws) as an ancillary or secondary facility to an office established elsewhere. The foregoing restrictions as to residence shall not, however, be construed in such manner as to prohibit a Unit Owner from: (a) maintaining his personal professional library; (b) keeping his personal business or professional records or accounts; or (c) handling his personal business or professional telephone calls or correspondence. Such uses are expressly declared customarily incident to the principal residential use and not in violation of said restrictions.

No Unit may be partitioned or subdivided without amendment hereof, the prior written approval of the holder of any deed of trust, or mortgage lien on such Unit, and the prior written approval of sixty-seven (67%) percent of all first mortgages (based on one vote for each first mortgage owned).

The Common Elements shall be used only by Unit Owners and their agents, servants, tenants, family members, customers, invitees and licensees for access, ingress to and egress from the respective Units and for such other purposes incidental to use of the Units; provided, however, the laundry rooms, party rooms, receiving rooms, storage areas and other areas designed for a specific use shall be used for the purposes approved by the Board. The use, maintenance and operation of the Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Unit Owner, and shall be subject to any lease, concession or easement, presently in existence or entered into by the Board at some future time, affecting any part or all of said Common Elements.

20. Remedies. In the event of any violation of the provisions of the Act, this Declaration, By-Laws, or rules and regulations of the Association by any Unit Owner (either by his own conduct or by the conduct of any Occupant of his Unit), the Association, or its successors or assigns, and any aggrieved Unit Owner, shall have each and all of the rights and remedies which may be provided for in the Act, this Declaration, By-Laws, or said rules and regulations, or which may be available at law and may prosecute an action or other proceedings against such defaulting Unit Owner and/or others for enforcement of any lien and the appointment of a receiver for the Unit and ownership interest of such Unit Owner, or for damages or injunction or specific performance, or for judgment for payment or money and collection thereof, or the right to take possession of the Unit and to sell the same as provided hereinafter in this paragraph 20, or for any combination of remedies, or for any other relief. All expenses of the Board in connection with any such actions or proceedings, including court costs and attorney's fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the maximum lawful interest rate or such other uniform lawful rate as the Board shall determine, shall be charged to and assessed against such defaulting Unit Owner, and shall be added to and deemed part of his respective share of the common expenses, and the Board shall have a lien for all of the same, as well as for nonpayment of common expenses, upon the Unit, and its appurtenant interest in the Common Elements, of such defaulting Unit Owner and upon all of his additions and improvements thereto and upon all of his personal property in his Unit or the Board shall have the power to record in the Probate Office of Madison County, Alabama, a claim of lien stating the description of the Unit, the name of the record owner, the amount due and date when due. The Board shall have the further power, as authorized by said Act to

foreclose any lien for unpaid assessments by an action brought in the name of the Association in the same manner as a foreclosure of a mortgage or real property. The Association shall have the power to bid in the Unit at the foreclosure sale and to acquire, hold, lease, mortgage and convey the same. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorney's fees and all other expenses of the proceeding and sale, and all such items shall be taxed against said defaulting Unit Owner in said decree. Any balance of the proceeds, after satisfaction of such charges and any unpaid assessments hereunder, or any liens, shall be paid to said defaulting Unit Owner. Upon the confirmation of such sale, the purchaser shall thereupon be entitled to a deed of the Unit and the Unit Owner's corresponding percentage of ownership in the Common Elements, and to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the interest in the Unit Ownership sold subject to this Declaration.

21. Amendment. Unless otherwise provided in this Declaration, the provisions of this Declaration may be amended by an instrument in writing, setting forth such amendment, signed by Unit Owners owning not less than percent of the Units; provided, however, that all lien holders of record have been notified by certified mail of such amendment, and an affidavit by the Secretary of the Association certifying to such mailing is made a part of such instrument.

However, if the Act, this Declaration or the By-Laws require the consent or agreement of all Unit Owners or of all lien holders for any action specified in the Act or in this Declaration, then any instrument amending any provision of this Declaration with respect to such action shall be signed by all Unit Owners or all lien holders or both as required by the Act or this Declaration. Further, without the prior written approval of sixty-seven (67%) percent of the first mortgagees (based upon one vote for each first mortgage owned), there shall not be, by act or omission of the Association, any abandonment or termination of the horizontal and vertical property regime, or any abandonment, partition, subdivision, encumbrance, sale, or transfer of the Common Elements (other than the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements). Any amendment shall be effective upon the recording of such

instrument in the Office of the Probate Judge of Madison County, Alabama; provided, however, that no provisions in this Declaration may be amended so as to conflict with the provisions of the Act.

22. Rights and Obligations. Each Grantee of Developer, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. All further Unit Owners and Occupants shall be subject to and shall comply with the provisions of this Declaration. Any restrictions or rules in the By-Laws which are more than administrative in nature such as, but not limited to, reservations and future rights of Developer are hereby incorporated into and made a part of this Declaration by reference. All rights, benefits and privileges hereby imposed shall be deemed to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

All present and future Unit Owners and Occupants of a Unit shall be subject to, and shall comply with, the provisions of the By-Laws appended hereto and recorded herewith, pursuant to Code of Alabama 1975, Section 35-8-10, as they may be amended from time to time. The acceptance of a deed of conveyance, devise, or lease to a Unit, or the entering into occupancy of any Unit shall constitute an agreement that the provisions of the By-Laws and any Rules and Regulations promulgated thereunder, as they may be amended from time to time, are assumed, accepted and ratified by such Unit Owner or Occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed, conveyance or lease thereof.

The terms and conditions of the Declaration, By-Laws, and Rules and Regulations of the Association may be incorporated by reference in, and become part of, the agreement between any first mortgagee and any present or future Unit Owner who enters into such an agreement with a first mortgagee. When so incorporated, any default in the terms and conditions of this Declaration, By-Laws, and Rules and Regulations may be considered by the first mortgagee as a default, whereupon said first mortgagee, after exercising its option to declare a default, shall then have all of the rights and privileges arising as a result of a default under its agreement with said Unit Owner.

23. Condemnation. In the event of a taking of part of the Common Elements in condemnation or by eminent domain, the award made for such taking shall be payable to the Association. If a majority of the Board in their sole and absolute discretion approve the repair and restoration of such Common Elements, the Board shall arrange for the repair and restoration of such Common Elements, and the Board shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. In the event the Board does not approve the repair and commence restoration of such Common Elements within one hundred twenty (120) days after taking by the public or private authority, the Board shall disburse the net proceeds of such award on the basis of such Unit's percentage of ownership in the Common Elements. The Board shall represent the Association and the Unit Owner in any condemnation proceedings or in negotiations, settlement, and agreements with the condemning authority for acquisition of the common areas, or a part thereof.

24. Rights Reserved. Unit Owner's rights of enjoyment in the Common Elements shall be subject to:

(a) The right of the Association, as provided in its By-Laws or Rules and Regulations to suspend the enjoyment of any member for any period during which any assessment remains unpaid, and for such period, not to exceed sixty (60) days, as it considers appropriate for any infraction of its published Rules and Regulations, except that there may be no restrictions on any Unit Owner's right of ingress and egress to and from his or her Unit;

(b) The right of the Association to charge reasonable fees for the use of any part or parts of the Common Elements;

(c) The right of the Association to diminish in any way or to dedicate or transfer all or any part of the Common Elements to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the members entitled to vote thereon, provided that no such diminution or dedication or transfer or determination as to the purposes or as to the conditions thereof, shall be effective unless members of the Association entitled to cast ninety (90%) percent of the total votes of the Association have agreed to such dedication, transfer, purpose or condition;

(d) The right of Developer, at its sole expense, to relocate, expand, modify, reduce, or extend existing driveways, parking areas and yard, and to construct, expand, enlarge or relocate sewers, utility lines or service connections, in order to serve the existing buildings; and

(e) The right of the Association to grant such easements and rights-of-way to such utility companies or public agencies or authorities as it shall deem necessary for the proper servicing and maintenance of the Common Elements and the Units.

25. Federal Home Loan Mortgage Corporation, Federal National Mortgage Association Regulations and Veterans Administration Regulations. Notwithstanding anything to the contrary contained in this Declaration or in the By-Laws of the Association, all terms, conditions, regulations, and requirements which are now existing or which may be amended from time to time by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Veterans Administration, the Federal Home Loan Bank Board, or the Federal Savings and Loan Insurance Corporation pertaining to condominiums, are hereby incorporated as terms and conditions of this Declaration and By-Laws and such shall be governing upon the Property, Developer, and the Association, so long as such terms or conditions are not inconsistent with the laws of the State of Alabama as found in Code of Alabama 1975, Section 35-8-1, et seq., as amended.

Specifically, without limitation upon the foregoing, the following declarations shall be controlling over any terms of this Declaration or By-Laws which are in conflict therewith. Any portions of this Declaration or By-Laws which are in conflict with this paragraph, or any portion of the regulations of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Veterans Administration, the Federal Home Loan Bank Board, or the Federal Savings and Loan Insurance Corporation pertaining to condominiums, are hereby deleted and the following rights of mortgagees and others are itemized as follows:

(a) Any mortgagee of a Unit and any insurer or guarantor thereof, at his or its request, is entitled to written notification from the Association of (1) any default by the mortgagor of such Unit in the performance of such mortgagor's obligations under this Declaration, By-Laws or any of the condominium documents, which is not cured within thirty (30) days, (2) any condemnation loss or any casualty loss which affects a material portion of the property or any Unit as to which such mortgage applies, (3) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, (4) any proposed action which would require the consent of a specified percentage of mortgagees as set forth in Sections (d) and (3) below.

(b) Any first mortgagee of a Unit who comes into possession of the Unit pursuant to the remedies provided in the mortgage, or Deed of Trust, or by foreclosure, shall take the property free of any claims or unpaid assessments or charges against the mortgaged Unit which accrue prior to the time such holder comes into possession of the Unit (except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessment or charges to all Units including the mortgaged Unit).

(c) Unless at least seventy-five (75%) percent of the first mortgagees (based upon one vote for each mortgage owned) of Units have given their prior written approval, the Association shall not be entitled to:

(i) Change the pro rata interest or obligations of any Unit for:

(a) Purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, and for

(b) Determining the pro rata share of each Unit in appurtenant real estate and any improvements thereon, which are owned by Unit Owners in undivided pro rata interest ("Common Elements");

(ii) Use hazard insurance proceeds for loss to the property (whether to Units or Common Elements) for other than the repair, replacement, or reconstruction of such improvements, in case of substantial loss to the Units and/or Common Elements.

(d) First mortgagees shall have the following rights:

(i) Any restoration or repair of the property, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the Declaration and the Plat, unless other action is approved by first mortgagees holding mortgages on Units which have at least fifty-one (51%) percent of the votes of Units subject to such mortgages;

(ii) Any election to terminate the legal status of the property after substantial destruction or a substantial taking in condemnation of the property must require the approval of first mortgagees holding mortgages on Units which have at least fifty-one (51%) percent of the votes of Units subject to first mortgages;

(iii) No reallocation of interest in the Common Elements resulting from a partial condemnation or partial destruction may be effected without the prior approval of first mortgagees holding mortgages on Units which have at least fifty-one (51%) percent of the votes of Units subject to such first mortgages;

(iv) When professional management has been previously required by any first mortgagee or the insurer or guarantor of such mortgage, whether such entity became a first mortgagee or the insurer or guarantor of such mortgage at that time or later, any decision to establish self-management by the Association shall require the prior consent of Owners of Units to which at least sixty-seven (67%) percent of the votes of the Association are allocated and the approval of first mortgagees holding mortgages on Units which have at least fifty-one (51%) percent of the votes of Units subject to first mortgages.

(e) Except for amendments, or termination of the condominium made as a result of destruction, damage, or condemnation, (i) the approval of first mortgagees holding mortgages on Units which have at least seventy-five (75%) percent of the votes of the Units subject to first mortgages, shall be required to terminate the legal status of the property as a condominium, (ii) and the approval of first mortgagees holding mortgages on Units which have at least fifty-one (51%) percent of the votes of Units subject to first mortgages shall be required to add or amend any provisions of this Declaration which provide for, govern, or regulate any of the following:

- (1) Voting;
- (2) Assessments, assessment liens or subordination of such liens;
- (3) Reserves for maintenance, repair, and replacement of the common areas, (or Units, if applicable);
- (4) Insurance or fidelity bonds;
- (5) Rights to use of the common areas;
- (6) Responsibility for maintenance and repair of the property;
- (7) Expansion or contraction of the property, or the addition, annexation, or withdrawal of any real property to or from the property;

- (8) Boundaries of any Unit;
- (9) The interest in the general or limited common areas;
- (10) Convertibility of Units into common areas or common areas into Units;
- (11) Leasing of Units;
- (12) Imposition of any right of first refusal or similar restriction of the right of a Unit Owner to sell, transfer or otherwise convey his Unit;
- (13) Any provisions which are for the express benefit of mortgage holders or the guarantors or insurers of such mortgages.

(iii) Any first mortgagee which receives a written request to approve additions or amendments as set forth in this Section 25(e) which does not deliver to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

(f) Any first mortgagee, and the insurer or guarantor of such first mortgage, shall be entitled, upon written request, within a reasonable time following such request, to a financial statement for the immediately preceding fiscal year without charge to the party so requesting.

(g) The Board shall make available for inspection, on request during normal business hours, to Unit Owners, the holders of mortgages on Units, and the insurers and guarantors of any first mortgage, copies of the Declaration, By-Laws, Rules and Regulations of the property, and the books, records and financial statements of the Association.

(h) An adequate reserve fund for the replacement of Common Elements will be established and funded by regular monthly payments rather than by special assessments.

(i) All leases or rental agreements for Units shall be in writing and shall be subject specifically to the requirements of this Declaration and By-Laws.

(j) The authorized representatives of the Association, the Board, or its agent with approval of the Board, shall be entitled to reasonable access to the Units as may be required in connection with the preservation of any individual Unit or

Common Elements in the event of an emergency, or in connection with maintenance of, repairs to, or replacement within the Common Elements, or any equipment, facilities, or fixtures affecting or serving other Units or any Common Elements, or to make any alterations required by the governmental authority.

(k) The Association, at all times, shall maintain all property, flood, liability, and fidelity insurance and bonds as required from time to time, by the Federal Home Loan Mortgage Corporation, the Veterans Administration and by the Federal National Mortgage Association, which insurance shall be a common expense.

(l) First mortgages of Units may, jointly or separately, pay taxes or other charges which are in default and which may or have become a charge against any Common Elements and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, or such Common Elements, and first mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

(m) As set forth in Code of Alabama 1975, Section 35-8-15, all taxes, assessments, and charges which may become liens prior to the first mortgage under the laws of the State of Alabama shall relate only to the Unit and not to the property as a whole.

(n) No Unit Owner, or any other party, shall have priority over any rights of the first mortgagees of Units in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or for a taking of Units and/or Common Elements.

(o) Any agreement for professional management of the property, whether it be by developer, its successors and assigns or any other person or entity, may be terminated on ninety (90) days written notice, and the terms of any such contract shall so provide and shall not be of a duration in excess of three (3) years.

(p) The Association shall give to the Federal Home Loan Mortgage Corporation or any lending institution servicing such mortgages as are acquired by the Federal Home Loan Mortgage Corporation, notice in writing of any loss to or the taking of Common Elements if such loss or taking exceeds Ten Thousand Dollars (\$10,000.00). The Association may rely upon the information contained in the book entitled Mortgages of Units, as must be established pursuant to the By-Laws, for a list of mortgagees to be notified hereby.

(g) The interest of a first mortgagee in a mortgaged Unit shall be superior to the interests of any other person, group, partnership, corporation, or entity of any kind, including any interest the Association, the Developer, or any Unit Owner may have in any portion of the property, regardless of the nature of the interest or the manner in which it is acquired.

(r) Notwithstanding the above, any first mortgagee shall have all of the rights granted to a first mortgagee herein, and in addition shall have all of the rights granted to an institutional first mortgagee under its deed of trust, and under the Laws of the State of Alabama.

(s) For so long as the Association is subject to the Developer's control as set forth in the By-Laws, the Association shall not be bound, either directly or indirectly to contracts or leases unless there is a right to termination of any such contract or lease, without cause, which is exercisable without penalty at any time after transfer of control, upon not more than ninety (90) days notice to the other party thereto.

26. Trustee as Unit Owner. In the event title to any Unit is conveyed to a land title-holding trust, under the terms of which all powers of management, operation and control of the Unit remain vested in the trust beneficiaries, then the beneficiaries thereunder shall be considered Unit Owners for all purposes and they shall be responsible for payment of all obligations, liens, or indebtedness and for the performance of all agreements, covenants, and undertakings chargeable or created under this Declaration against such Unit. No claim shall be made against any such title-holding trustee personally for payment of any lien or obligation thereunder created, and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of any such lien or obligation shall continue to be a charge or lien upon the Unit and the beneficiaries of such trust, notwithstanding any transfers of the beneficial interest of any such trust or any transfer of title to such Unit.

27. Notices. Notices provided for in the Act, Declaration or By-Laws shall be in writing, and shall be addressed to the Association or any Unit Owner, as the case may be at:
6630 Willow Pointe Drive
Huntsville, Alabama 35810

or at such other address as hereinafter provided. The Association may designate a different address or addresses for

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notices to it by giving written notice of such change of address to all Unit Owners. Any Unit Owner may designate a different address for notices to him by giving written notice to the Association. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail, or when delivered in person with written acknowledgement of the receipt thereof.

Upon written request to the Board, the holder of any recorded mortgage or trust deed encumbering any Unit shall be given a copy of all notices permitted or required by this Declaration to be given to the Owner or Owners whose Unit is subject to such mortgage or trust deed.

28. Severability. If any provision of this Declaration or By-Laws, or any section, sentence, clause, phrase, word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration and the By-Laws and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby, and the remainder of this Declaration or the By-Laws shall be construed as if such invalid part was never included therein.

29. Captions. The captions herein are inserted only as a matter of convenience, and in no way define, limit, or describe the scope of these provisions or the intent of any provision hereof.

30. Gender. The use of the masculine gender in this Declaration and in the By-Laws shall be deemed to include the feminine gender, and the use of the singular shall be deemed to include the plural whenever the context so requires.

31. FHA/VA Approval. As long as there is a Class II membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

CLOWERS CONSTRUCTION COMPANY,
INC.

By:

Its

Dennis E. Clowers
PRES.

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STATE OF ALABAMA)

COUNTY OF MADISON)

I, JEAN GRAHAM, a Notary Public in and for said County and State, hereby certify that DENNIS CLARK whose name as PRESIDENT of Clowers Construction Company, Inc., is signed to the foregoing Declaration, and who is known to me, acknowledged before me on this day that, being informed of the contents of said Declaration, he was such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand, this 10th day of May, 1985.

Jean Graham
NOTARY PUBLIC