

1072272

STATE OF ALABAMA :
COUNTY OF BALDWIN :



**SUPPLEMENTAL DECLARATION OF
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF THE COMMUNITIES OF SUNSET BAY FOR SUNSET BAY, PHASE I**

**PHASE II OF SUNSET BAY AT BON SECOUR ISLAND VILLAS,
A CONDOMINIUM**

This **Supplemental Declaration of Covenants, Conditions and Restrictions of The Communities of Sunset Bay for Sunset Bay, Phase I** (this "**Supplemental Declaration - Phase II**") is made to be effective on the **Recording** of this **Supplemental Declaration - Phase II** in the records of the **Office of the Judge of Probate of Baldwin County, Alabama** (the "**Effective Date**") by **Bon Secour Development, L.L.C., an Alabama Limited Liability Company** (the "**Declarant**"), as the assignee of the interest of **Tugboat Properties, L.L.C.**, and for the successors, grantees and assigns of the **Declarant**.

RECITALS:

1. The **Declarant** did subdivide certain real property located in **Baldwin County, Alabama**, under the name **Sunset Bay at Bon Secour, a Planned Unit Development ("Sunset Bay")**, as per plat thereof recorded on **Slide 2128-E and Slide 2128-F** (the "**Phase I Plat**") and subjected the property described on the **Phase I Plat** to that certain **Declaration of Covenants, Conditions and Restrictions of The Communities of Sunset Bay for Sunset Bay, Phase I, a Planned Unit Development**, dated **September 23, 2003** and recorded **October 9, 2003** as **Instrument Number 764204, Pages 1 through 45** (the "**Master Declaration**").
2. An **Association of Owners** for the operation of **Sunset Bay** was formed under the laws of the **State of Alabama** known as **Sunset Bay Owners Association, an Alabama Nonprofit Corporation** (the "**Master Association**").
3. The **Master Declaration** was amended by the **Amendment to Declaration of Covenants, Conditions and Restrictions of the Communities of Sunset Bay for Sunset Bay, a Planned Unit Development**, dated **August 17, 2005**, and recorded **September 4, 2007**, as **Instrument Number 1072262, Pages 1 through 16** (the "**Amended Master Declaration**").
4. The **Declarant** proposes to develop a condominium known as **Sunset Bay at Bon Secour Island Villas, a Condominium** more particularly described in the **Declaration of Condominium of Sunset Bay at Bon Secour Island Villas, a Condominium** (the "**Declaration of Condominium**").
5. The **Declarant** did annex **Additional Property** known as **Phase I of Sunset Bay at Bon Secour Island Villas, a Condominium** into **Sunset Bay** pursuant to **Supplemental Declaration of Declaration of Covenants, Conditions and Restrictions of the Communities of Sunset Bay for Sunset Bay, Phase I - Phase I of Sunset Bay at Bon Secour Island Villas, a Condominium** (the "**Supplemental Declaration - Phase I**").
6. The **Declarant** did by **Incremental Certificate of Amendment to Declaration of Condominium of Sunset Bay at Bon Secour Island Villas, a Condominium** dated **August 23, 2007**, and recorded **September 4, 2007**, as **Instrument Number 1072271, Pages 1 through 38** amend the **Declaration of Condominium** to submit **Phase II** to **Sunset Bay at Bon Secour Island Villas, a Condominium**.

7. Subject to the provisions of this **Supplemental Declaration - Phase II**, the **Declarant** desires to annex **Additional Property** known as **Phase II of Sunset Bay at Bon Secour Island Villas, a Condominium to Sunset Bay**, all in accordance with Section 2.03, of the **Master Declaration**, as amended by the **Amended Master Declaration**.

8. This **Supplemental Declaration - Phase II** shall constitute a "**Supplement**" as defined in the **Master Declaration**.

The recording references referred to in this **Supplemental Declaration - Phase II** are to the **Office of the Judge of Probate, Baldwin County, Alabama**. The terms used in this **Supplemental Declaration - Phase II** shall have the same meaning as those contained in the **Master Declaration** and **Amended Master Declaration**, unless the context otherwise requires.

NOW, THEREFORE, pursuant to the powers reserved by the **Declarant** in the **Master Declaration**, as amended by the **Amended Master Declaration**, the **Declarant** makes the following **Supplemental Declaration**.

A. **Incorporation of Phase II of Sunset Bay at Bon Secour Island Villas, a Condominium**. Subject to the provisions of this **Supplemental Declaration - Phase II**, as provided in the **Master Declaration**, as amended by the **Amended Master Declaration** and the **Supplemental Declaration - Phase I**, the **Declarant** elects to incorporate the **Additional Property** known as **Phase II of Sunset Bay at Bon Secour Island Villas, a Condominium** into **Sunset Bay**. The **Additional Property** described as **Phase II of Sunset Bay at Bon Secour Island Villas, a Condominium** shall be held, sold or conveyed subject to the **Amended Master Declaration** and the **Declaration of Condominium** and shall run with the **Phase II** land described in the **Declaration of Condominium** and be binding on all parties having any right, title or interest in said land, together with their grantees, successors, heirs, executors, personal representatives, devisees or assigns.

B. **Use of Common Areas in Sunset Bay**. The use of **Sunset Bay** by the **Owners of Units** in **Phase II of Sunset Bay at Bon Secour Island Villas, a Condominium** shall be subject to the **Master Declaration**, as amended by the **Amended Master Declaration**, **Supplemental Declaration - Phase I** and this **Supplemental Declaration - Phase II**. The **Owners of Units** in **Phase II of Sunset Bay at Bon Secour Island Villas, a Condominium** are **Class Condominium Unit Members** as described in the **Amended Master Declaration**. **Class Condominium Unit Members** shall only be entitled to use that portion of **Sunset Bay** described as follows, to wit:

That portion of **D'Iberville Lane** which begins at the **East** line of the **County Road No. 6** main entrance of **Sunset Bay** and runs in a westwardly and southwardly direction past the **Clubhouse** and swimming pool and terminates at the southern end of the parking area which lies immediately southwest of the **Clubhouse** and swimming pool, together with the area of real property occupied by the **Clubhouse** and the swimming pool situated immediately west of the **Clubhouse**, all as shown on the **Plat of Sunset Bay**.

The **Class Condominium Unit Members** shall not be entitled to use any other parts of **Sunset Bay**.

The **Master Association** is specifically granted the authority to prohibit the use of **Sunset Bay** to tenants and invitees of **Class Condominium Unit Members**. Nothing in this paragraph shall be interpreted to mean that the **Master Association** may prohibit a **Member** or any other **Person** authorized by the **Master Declaration** to use the **Common Areas** of **Sunset Bay**.

C. **No Assurance of Right to Use Boat Slips in Sunset Bay.** The purchase of a **Unit** in **Phase II** of **Sunset Bay at Bon Secour Island Villas, a Condominium**, does not include the right to use a **Boat Slip** in **Sunset Bay**. The **Declarant** and a purchaser of a **Unit** in **Phase II** of **Sunset Bay at Bon Secour Island Villas, a Condominium** may or may not have entered into a separate agreement concerning the assignment from the **Declarant** to the purchaser of the right to use a **Boat Slip** in **Sunset Bay**. No assurances are made by the **Declarant** that the right to use a **Boat Slip** in **Sunset Bay** will or will not be assigned to any **Owner** of a **Unit** in **Sunset Bay at Bon Secour Island Villas, a Condominium**. If the purchaser acquires the right to use a **Boat Slip** in **Sunset Bay** by separate agreement, the use of the **Boat Slip** shall be subject to the terms, conditions and provisions of the **Master Declaration**, as amended by the **Amended Master Declaration**.

D. **Voting Rights in the Master Association.** The **Owner** of a **Unit** in **Phase II** of **Sunset Bay at Bon Secour Island Villas, a Condominium** is a **Class Condominium Unit Member** in the **Master Association** and shall be entitled to **one (1)** vote in the **Master Association**, which vote is not divisible, the numerical value of which shall be the numerical value which is assigned as set out in this **Paragraph D.** The vote of a **Class Condominium Unit Member** in the **Master Association** shall be cast by said **Class Condominium Unit Member** in the manner prescribed in the **Master Declaration**, as amended by the **Amended Master Declaration**, this **Supplemental Declaration - Phase II** and the **By-Laws**, as amended, of the **Master Association**. The vote of the **Class Condominium Unit Member** is limited and restricted so that the **Class Condominium Unit Member** shall not be entitled to vote on matters having to do with the use and occupancy of **Lots** in **Sunset Bay, Phase I** or **Lots** in any **Additional Property** annexed into **Sunset Bay**. The foregoing shall not prohibit the **Class Condominium Unit Member** from voting on other matters if the **Class Condominium Unit Member** is also a **Member** of another class of **Member** in the **Master Association** in which event said **Member** shall be entitled to the same vote as said other class.

The votes of all **Lots** and **Boat Slips** in **Sunset Bay** and **Units** in **Phase I** and **Phase II** of **Sunset Bay at Bon Secour Island Villas, a Condominium** in the **Master Association** are allocated as follows:

<u>Class of Membership</u>	<u>Numerical Value of Vote</u>
Class Lot Members	44.09506%
Class Boat Slip Members	37.55028%
Class Condominium Unit Members	18.35466%
Total Votes	100%

E. **Master Association Assessments and Liens for Assessments on Lots and Boat Slips in Sunset Bay and Units in Phase I and Phase II of Sunset Bay at Bon Secour Island Villas, a Condominium.**

1. Each **Owner** of a **Lot** and the **Owner** of a right to use a **Boat Slip** in **Sunset Bay** and each **Owner** of a **Unit** in **Phase I** and **Phase II** of **Sunset Bay at Bon Secour Island Villas, a Condominium**, shall be assessed, and is individually liable for the percentage share of the **Common Expenses** of the **Master Association** as set out in this **Paragraph E.1.** The **Assessments** due by **Owners** of **Units** in **Phase I** and **Phase II** of **Sunset Bay at Bon Secour Island Villas, a Condominium** to the **Master Association**, are in addition to the **Assessments** due **Sunset Bay at Bon Secour Island Villas Condominium Owners' Association, Inc.** as provided for in the **Declaration of Condominium**. Payment of **Common Expenses** to the **Master Association** shall be in such amounts and at such times as determined by the **Master Association** and by the **By-Laws**, as amended, of the **Master Association** all in accordance with the provisions of the **Master Declaration**, as amended by the **Amended Master Declaration**, the

Supplemental Declaration - Phase I and this **Supplemental Declaration - Phase II**. **Assessments** by the **Master Association** shall be collected by the **Master Association** as provided for in the **Master Declaration**, as amended by the **Amended Master Declaration**, and **By-Laws**, as amended, of the **Master Association**. No **Owner** of a **Lot** and/or **Boat Slip** in **Sunset Bay** or **Owner** of a **Unit** in **Phase II** of **Sunset Bay** at **Bon Secour Island Villas, a Condominium**, shall be exempt from payment of the share of the **Common Expenses** of the **Master Association** by waiver or nonuse or nonenjoyment of the **Common Areas** in **Sunset Bay** or by abandonment of the **Lot** and/or **Boat Slip** in **Sunset Bay** or the **Unit** in **Phase II** of **Sunset Bay** at **Bon Secour Island Villas, a Condominium** of said **Owner**. **Common Expenses** due the **Master Association** shall include all **Common Expenses** described in the **Master Declaration**, as amended by the **Amended Master Declaration**. All **Lots** and/or **Boat Slips** in **Sunset Bay** and all **Units** in **Phase I** and **Phase II** of **Sunset Bay** at **Bon Secour Island Villas, a Condominium** shall be assessed and are individually liable for the share of **Common Expenses** of the **Master Association** as follows:

<u>Class of Membership</u>	<u>Percent Share Common Expenses In the Master Association</u>
Class Lot Members	44.09506%
Class Boat Slip Members	37.55028%
Class Condominium Unit Members	18.35466%
Total Assessments	100%

2. The **Master Association** is granted a lien upon each **Unit** in **Phase I** and **Phase II** of **Sunset Bay** at **Bon Secour Island Villas, a Condominium** and the appurtenant undivided interest of the **Unit** in the **Common Elements** and **Limited Common Elements** and upon the goods, furniture and effects belonging to the **Owner** of said **Unit** and located in said **Unit**, which lien shall secure and does secure the moneys due for all assessments levied against the **Owner** and/or **Unit** which lien shall also secure such late charges, penalties and interest, if any, which may be due on the amount of any delinquent assessment owing to the **Master Association** and which lien shall also secure all costs and expenses, including a reasonable attorney's fee, which may be incurred by the **Master Association** in enforcing this lien upon said **Unit** and the appurtenant undivided interest of said **Unit** in the **Common Elements** or **Limited Common Elements**. The provisions of the **Master Declaration**, as amended by the **Amended Master Declaration**, pertaining to granting a lien to the **Master Association**, apply to **Units** in **Phase I** and **Phase II** of **Sunset Bay** at **Bon Secour Island Villas, a Condominium**. Reference is made to the **Declaration of Condominium of Sunset Bay at Bon Secour Island Villas, a Condominium** for the provisions pertaining to a lien upon each **Unit** for payment of **Assessments** to **Sunset Bay** at **Bon Secour Condominium Owners' Association, Inc.**.

F. **Additional Amendments to the Master Declaration.** The following **Articles** and **Sections** contained in the **Master Declaration** shall not apply to **Sunset Bay** at **Bon Secour Island Villas, a Condominium**.

1. "**Section 5.05** of the **Master Declaration** pertaining to **Dwelling** and lawn maintenance does not apply to **Sunset Bay** at **Bon Secour Island Villas, a Condominium**."

2. **Article X - Architectural Control** of the **Master Declaration** shall not apply to **Sunset Bay** at **Bon Secour Island Villas, a Condominium**.

3. **Article XI - Easements** of the **Master Declaration** shall not apply to **Sunset**

Bay at Bon Secour Island Villas, a Condominium.

4. **Article XII - Use and Other Restrictions and Requirements** of the **Master Declaration** shall not apply to **Sunset Bay at Bon Secour Island Villas, a Condominium**.

5. **Article XIII - Building and Construction Criteria and Requirements** of the **Master Declaration** shall not apply to **Sunset Bay at Bon Secour Island Villas, a Condominium**.

G. **Use of Condominium Property.** Units in Phase I and Phase II of **Sunset Bay at Bon Secour Island Villas, a Condominium** are subject to the **Declaration of Condominium of Sunset Bay at Bon Secour Island Villas, a Condominium**. Nothing in this **Supplemental Declaration - Phase II** shall be interpreted to mean that **Owners of Lots, or Lots and Boat Slips** have a right to use the **Condominium Property** in Phase I and Phase II of **Sunset Bay at Bon Secour Island Villas, a Condominium**. The **Owners of Lots, or Lots and Boat Slips**, unless they are also an **Owner of a Unit in Phase I or Phase II** of **Sunset Bay at Bon Secour Island Villas, a Condominium**, shall not have the right to use any of the **Condominium Property** in **Sunset Bay at Bon Secour Island Villas, a Condominium**.

H. **Binding on Master Association.** The provisions of this **Supplemental Declaration - Phase II** shall be binding upon the **Master Association**.

I. **Conflict.** If there is any conflict between the provisions of the **Master Declaration** and this **Supplemental Declaration - Phase II**, the provisions of this **Supplemental Declaration - Phase II** shall control.

J. **Adoption.** As altered and amended by this **Supplemental Declaration - Phase II**, the **Master Declaration** and every part and provision of the **Master Declaration** is in all respects ratified and confirmed and by reference adopted and incorporated in this **Supplemental Declaration - Phase II**, the same as if fully set out in this **Supplemental Declaration - Phase II**.

K. **Right to Amend.** The **Declarant** may unilaterally amend this **Supplemental Declaration - Phase II** in the same manner as provided for in the **Master Declaration**. Anything else contained in this **Supplemental Declaration - Phase II** to the contrary notwithstanding, the **Declarant** shall have the right, as provided for in the **Master Declaration**, as amended by the **Amended Master Declaration**, to amend this **Supplemental Declaration - Phase II** to revise and reallocate the votes and **Assessments** contained in the **Master Declaration**.

L. **Effective Date.** The **Effective Date** of this **Supplemental Declaration - Phase II** is the date of the **Recording** of this **Supplemental Declaration - Phase II** in the **Office of the Judge of Probate of Baldwin County, Alabama**.

IN WITNESS WHEREOF, the **Declarant** has caused this **Supplemental Declaration - Phase II** to be executed on the day and year first above referred to.

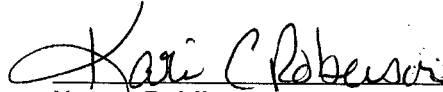
Bon Secour Development, L.L.C., an Alabama
Limited Liability Company
By: 
Steve H. Bryan
Its: Managing Member

STATE OF ALABAMA :

COUNTY OF BALDWIN :

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that **Steve H. Bryan**, whose name as **Managing Member of Bon Secour Development, L.L.C., an Alabama Limited Liability Company**, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such **Managing Member** and with full authority, executed the same voluntarily for and as the act of said **Company**.

Given under my hand and seal this **23rd** day of **August, 2007**.



Notary Public

My Commission Expires:

**NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Sept 28, 2010**



THIS INSTRUMENT PREPARED BY:

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