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SECOND AMENDED DECLARATION OF CONDOMINIUM

OF

PHOENIX V, A CONDOMINIUM

KNOW ALL MEN BY THESE PRESENTS: That, WHEREAS Phoenix V, a condominium was created pursuant to that certain Declaration Of Condominium of Phoenix V, a condominium, (hereinafter sometimes referred to as the "Declaration") dated April 19, 1996, and recorded in Miscellaneous Book 87, page 1625, et seq., and amended by instrument dated January 25, 1997 and recorded in Miscellaneous Book 92, page 665, et seq., all being in the Office of the Judge of Probate of Baldwin County, Alabama; and,

WHEREAS, Phoenix V Association, Inc., a nonprofit corporation (the "Association"), was formed pursuant to Articles of Incorporation dated April 19, 1996, and recorded at Miscellaneous Book 87, page 1622 in the Office of the Judge of Probate of Baldwin County, Alabama for the purpose of operating and maintaining the Phoenix V condominium as required by the Declaration; and,

WHEREAS, By-Laws of Phoenix V Association, Inc. (the "By-Laws") were adopted and recorded as Exhibit D to the original Declaration, and were corrected by articles therefor dated June 4, 1996, recorded at Miscellaneous Book 88, page 1642 in the Office of the Judge of Probate of Baldwin County, Alabama; and

WHEREAS, Section 19 of the Declaration provides for the means and procedure to amend said Declaration and By-Laws; and,

WHEREAS, the Board of Directors of the Association resolved unanimously that the Declaration and By-Laws be amended as set forth herein and called a meeting of the Association to consider and vote upon the proposed amendments; and,

WHEREAS, due notice of said meeting was given in accordance with the By-Laws; and,

WHEREAS, at said meeting of the Association held on the 31st day of March, 2021, the proposed amendments were approved by the affirmative vote of not less than two-thirds (2/3) of the unit owner members of the Association and that said amendments were further approved in writing by any mortgagee then holding a mortgage on an approving unit;

WHEREAS, based upon the foregoing, all of the requirements of amending the Declaration have been met.

NOW, THEREFORE, in consideration of the premises, the Declaration of Condominium of Phoenix V, a condominium, is hereby amended and restated to read as follows, to-wit:

1. Purpose.

The purpose of this Declaration is to submit the lands hereinafter described and the improvements constructed thereon to the condominium form of ownership and use in the manner provided by the Alabama Uniform Condominium Act of 1991, Section 35-8A-101 et seq., Code of Alabama, as amended (the "Act").

2. Name.

The name by which this condominium is identified is Phoenix V, a condominium.

3. The Land.

The lands which are herewith submitted to the condominium form of ownership, are the following described lands, lying and being in the County of Baldwin, State of Alabama, to-wit:

THE LANDS DESCRIBED IN EXHIBIT A ATTACHED.

4. Definitions.

The terms used herein and in the By-Laws shall have the meanings stated in the Alabama Uniform Condominium Act of 1991, as amended, and as follows:

(a) "Unit" means an apartment, and includes the private elements thereof, together with the undivided interests in the common elements which are assigned thereto.

(b) "Unit owner" means the owner of an apartment, whether singly or jointly, partnership, corporation, or other legal entity, or the successors, heirs, administrators, executors or assigns, or the heirs or assigns of the survivor, as the case may be.

(c) "Association" means the PHOENIX V ASSOCIATION, INC., and its successors, and is the association of Unit Owners referred to in said Act.

(d) "Common Elements" means common areas and facilities including but not limited to all parts of the condominium property not included within the unit boundaries as described in Section 6.5 hereafter and shall include the utility spaces and the tangible personal property required for the maintenance and the operation of the condominium as well as the items stated in the Act.

(e) "Common Expenses" means and includes the actual and estimated expenses of operating the property, and any reasonable reserve for such purposes as may be found and determined necessary or useful by the Board of Directors, and all sums designated as common expenses by or pursuant to the condominium documents.

(f) "Utility Services" shall include but not be limited to electrical power, water, garbage and sewage disposal.

(g) "Substantial Destruction, Deterioration or Obsolescence" shall mean such destruction or deterioration or obsolescence that the condominium has lost its character as a residential development, and restoration thereof would be the practical equivalent of a newly constructed development.

(h) "Development" comprehends the land, and all buildings, improvements and property which are a part of the condominium.

(i) "Common Interests" means the proportionate undivided interest in the fee simple absolute in the common elements appurtenant to each unit as expressed in the Declaration.

(j) "Common surplus" means the excess of all receipts of the Association, including but not limited to the assessments, rents, profits and revenues on account of the common elements, over the amount of common expenses.

(k) "Operation of the Property" means and includes the administration of the project, the operation, maintenance, repair or replacement of, and the making of any additions or improvements in the common elements.

(l) "Person" means a natural person, a corporation, a partnership, the Association herein referred to, a trustee, or other legal entity.

(m) "Declaration" means this declaration and all amendments thereto hereafter made.

(n) "Surfacing Materials" means the materials, including but not limited to mats, carpeting, sheetrock, decking, boards, panels and the like, which are laid upon or attached to foundation slabs, and/or to the under surfaces of ceiling rafters, and/or the upper surfaces of floor rafters.

(o) "Misconduct" means disregard or failure to comply with the requirements of any applicable law, this Declaration, Association By-Laws or Rules and Regulations, or any other regulations concerning use, operation or maintenance of the condominium property adopted by the Board of Directors of the Association by a unit owner, or any member of his family or his guest, invitee, employee, agent or lessee. This definition is not intended to identify all circumstances that might satisfy those standards, and those determinations will ultimately be left to the determination of the Board of Directors of the Association after notice and an opportunity to be heard as is more specifically set forth herein.

##### 5. Development Plan.

.1. Plans. The improvements shown on the attached Plans are substantially complete in accordance with said Plans, as evidenced by the Certificate of Completion executed by an independent registered architect or registered engineer. The Plans are recorded as set out, as amended, in the Office of the Probate Judge, Baldwin County, Alabama and said Plans, which are referenced as Exhibits B, C and C-1 to this Second Amended Declaration of Condominium, are expressly made a part hereof as though fully set out herein.

.2. Deleted.

.3. Deleted.

.4. Easements. Easements are reserved throughout the condominium property as may be required for utility services in order to adequately serve the condominium; provided, however, such easements to a unit shall be only in accordance with the plans and specifications for the buildings or as the buildings are constructed, unless approved in writing by the unit owner. Each unit owner shall have an easement in common with the owners of all other units to use all pipes, wires, ducts, cables, conduits, public utility lines and other common elements located in any of the other units and serving his unit. Each unit shall be subject to an easement in favor of the owners of all other units and located in such unit. The Association shall have a right of access to each unit for the Association, its delegates, agents or employees at all reasonable times, upon not less than seventy-two (72) hours advance notice in non-emergency situations and as soon as practicable after an emergency event occurs, to enter into his unit or limited common element for the purpose of maintaining, inspecting, repairing or replacing common elements or limited common elements or for repairing, maintaining or replacing any plumbing, heating, ventilation or air conditioning system located within such unit but serving other parts of the condominium property; or to determine, in case of emergency, the circumstances threatening the condominium property and to correct the same; or, to determine compliance with the provisions of any applicable law, this Declaration, the By-Laws, or the Rules and Regulations. Notice of entry into a unit may be provided to the subject unit owner either in writing, verbally or by electronic communication.

.5. Access. Each unit has a right of access to a

public street or highway upon and over common elements, providing such access. The immediate common elements by which each unit has access to such public street or highway are (i) the concrete walkways running along the face of the buildings and the grounds, and (ii) the parking area, driveways and streets all as shown upon the site plan.

6. Descriptions.

.1. The Buildings. The condominium will include access areas, parking areas, parking garages, lawn areas, swimming pools, tennis courts, and gazebos.

.2. Private Elements. The description of the private elements and the appurtenances thereto are determined with the aid of the plans therefore, attached hereto, and as follows:

(a) Units Numbered. Each unit is assigned a number which is indicated on the plans attached hereto and on Exhibit C to this Declaration.

(b) Deleted.

(c) Type A. Three bedrooms, two baths, living and dining room combination with 1,385 sq. ft. of heated and cooled area not including the open balcony. The unit comes complete with carpet, vinyl flooring, wallpaper in designated areas, blinds on windows, range, dishwasher, refrigerator, clothes washer and dryer.

(d) Type B. Two bedrooms, two baths, living and dining room combination with 1,052 sq. ft. of heated and cooled areas not including the open balcony. The unit comes complete with carpet, vinyl flooring, wallpaper in designated areas, blinds on windows, range, dishwasher, refrigerator, clothes washer and dryer.

(e) Type C. One bedroom, one bath, kitchen and dining room combination with 793 sq. ft. of heated and cooled area not including the open balcony. The unit comes complete with carpet, vinyl flooring, wallpaper in designated areas, blinds on windows, range, dishwasher, refrigerator, clothes washer and dryer.

(f) Type D. Three bedrooms, two baths, living and dining room combination with 1,382 sq. ft. of heated and cooled area not including the open balcony. The unit comes complete with carpet, vinyl flooring, wallpaper in designated areas, blinds on windows, range, dishwasher, refrigerator, clothes washer and dryer.

(g) Type E. Two bedrooms, two baths, living and dining room combination with 1,052 sq. ft. of heated and cooled area not including the open balcony. The unit comes complete with carpet, vinyl flooring, wallpaper in designated areas, blinds on windows, range, dishwasher, refrigerator, clothes washer and dryer.

(h) Type F. Three bedrooms, two baths, living and dining room combination with 1,395 sq. ft. of heated and cooled area not including the open balcony. The unit comes complete with carpet, vinyl flooring, wallpaper in designated areas, blinds on windows, range, dishwasher, refrigerator, clothes washer and dryer.

(i) Unit 01. Approximately 320 sq. ft. of heated and cooled office, complete with carpet, vinyl flooring, blinds.

(j) Unit 02. Approximately 552 sq. ft. of space in main lobby, two offices, check-in counter, carpeted flooring.

(k) Parking Spaces. One hundred thirteen (113) private parking spaces on the basement level as shown on the drawings attached hereto as Exhibit C. These units are numbered P-1 through P-113. The ownership of a parking unit (type "P" unit) is restricted to owners of other units in the condominium.

(l) Unit 1H9. Approximately 1166 sq. ft. One bedroom, two bath, living and dining room combination. The unit comes complete with carpet, vinyl flooring, wallpaper in designated areas, blinds on windows, range, dishwasher, refrigerator, clothes washer and dryer.

(m) Unit M-1. Approximately 700 sq. ft., unfinished floors and painted concrete walls.

(n) Unit M-2. Approximately 387 sq. ft., unfinished floors and painted concrete walls.

(o) Notwithstanding any other information, the square footage for each type unit is approximate only and in no event is to be taken as a warranty or a representation as to the exact square footage of each unit.

.3. Common Elements. The common elements of the condominium include all parts of the condominium property not located within the perimeter boundaries of the apartment units, as hereinafter described, being the facilities located substantially as shown upon the plans hereto attached, and include but are not limited to the following:

(a) The land described in Exhibit A attached.

(b) All central and appurtenant installations for services such as power, light, telephone, storm drains, sewer, and water, TV cables, heat and air conditioning, including all pipes, ducts, wires, cables, and conduits, used in connection therewith, whether located in common areas or in units, and all utility and mechanical equipment, buildings and spaces, which are not used or reserved for the exclusive use of certain units.

(c) Parking spaces except those on the basement level numbered P-1 through P-113 and shown on Exhibit C attached hereto.

(d) All outdoor and exterior lights.

(e) Deleted.

(f) All attics, foundations, columns, girders, beams, and supports of buildings, and such component parts of walls, roofs, floors and ceilings as are not located within the units.

(g) Lawn areas and facilities, including but not limited to the swimming pool, sun deck, whirlpools, saunas, racquetball courts, tennis courts, meeting rooms, public restrooms, lobby and reception area, gazebos, guard house and locker room area.

(h) Skipped.

(i) Exterior steps, ramps, handrails, stair and stairwells.



(j) All tanks, pump houses, wells, motors, fans, compressors and control equipment, fire fighting equipment, and garbage equipment, elevator and equipment which are not reserved for the use of certain units.

(k) All retaining walls, seawalls, bulkheads and jetties, and all areas for refuse collection or disposal.

(l) All other parts of the development existing for the common use or necessary to the existence, maintenance and safety of the development.

(m) All other items listed as such in the Act, and located on the property.

.4. Limited Common Elements. Storage room areas and equipment room areas are located as follows:

(a) Deleted.

(b) Deleted.

(c) Deleted.

(d) Deleted.

(e) The equipment rooms on floors 1, 3, 5, 6, 8, 9, 11, 12 and 15 were claimed by the original developer for the use of the owner(s) of Unit 02.

(f) All balconies adjacent to the individual units are limited common elements and are for the use of the owner of the unit adjacent to said balconies.

.5. Unit Boundaries. Each unit consist of that part of the building containing the unit which lies within the boundaries of the unit, exclusive of interior load-bearing walls and pillars and any pipes, wires, conduits, ducts, vents and other servicing utility lines which are utilized for or serve more than one (1) condominium unit. The vertical boundaries of each unit shall be the plane of the inside surfaces of the studs which are the component parts of the exterior walls and of interior walls separating a unit from another unit, and are as shown on the drawings (Exhibits B, C and C-1 attached hereto).

Where the unit is bounded by an exterior wall, the walls shall be considered to include any door, window or other closure therein in the closed position, and the boundary shall be the plane of the inside surfaces of the studs which are the component parts of such walls to the effect that the private elements of the boundary walls shall include the surfacing materials. The upper horizontal boundary of each unit shall be the plane of the under surfaces of the ceiling slabs. The lower horizontal boundary of floors of the units shall be the upper surfaces of the floor slab.

.6. Surfaces. An owner shall not be deemed to own the studs and structural components of the perimeter walls and/or of load-bearing walls, nor the windows and doors bounding the unit, nor balconies, nor balcony railings enclosing a balcony area assigned to the exclusive use of the unit. An owner, however, shall be deemed to own and shall have the exclusive right and duty to repair, maintain, replace, paint, repaint, tile, wax, paper or otherwise finish and decorate the surfacing materials on the interior of the exterior walls and on the interior walls separating a unit from other units, and, the surfacing materials of the floors of his unit, and all appurtenant installations, including all pipes, ducts, wires, cables and conduits used in connection therewith for services such as power, light, telephone, sewer, water, heat and air conditioning, and TV, whether located in the boundaries of the unit or in the common areas, which are the exclusive use of the unit, and all ceilings and partition walls. An owner shall have the exclusive right and duty to wash and keep clean the interior and accessible exterior surfaces of windows and doors bounding his unit.

.7. Deleted.

7. Determination of Percentages of ownership in Common Elements, Common Surplus and Voting.

With the exception of the Type "P" units, the percentage of undivided interest in the common elements is determined by dividing the approximate number of square feet of interior area of each unit as shown on Exhibit D attached hereto by the total number of square feet of interior area in all units (with the exception that Type "P" units are not included) shown on Exhibit C attached hereto.

The percentage of common expenses and percentage used in voting on all matters requiring action by the owners for each unit (with the exception of Type "P" units) is determined as follows:

All Type "A"	units:	3900	751,604	.518890%
All Type "B"	units:	2736	751,604	.364021%
All Type "C"	units:	2184	751,604	.290579%
All Type "D"	units:	4008	751,604	.533260%
All Type "E"	units:	2736	751,604	.364021%
All Type "F"	units:	4008	751,604	.533260%
All Type "H"	units:	2496	751,604	.332090%
All Type "P"	units:	120	751,604	.015966%
	Unit 01:	876	751,604	.116551%
	Unit 02:	1488	751,604	.197977%
	Unit M1:	1896	751,604	.252260%
	Unit M2:	1044	751,604	.138903%

#### 8. Encroachments.

If any portion of the common elements now encroaches upon any unit, or if any unit now encroaches upon any other unit or upon any portion of the common elements, as a result of the construction of any building, or if any such encroachment shall occur hereafter as a result of settling or shifting of any building, a valid easement for the encroachment and for the maintenance of the same so long as such building stands shall exist. In the event any building, any unit, any adjoining unit, or any adjoining common element shall be partially or totally destroyed as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachments of parts of the common elements upon any unit or of any unit upon any other unit or upon any portion of the common elements, due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as such building shall stand.

#### 9. Ownership Rights and Restrictions.

.1. Units Subject to Act Declaration, By-Laws and Rules and Regulations. All present and future owners, tenants and occupants of units shall be subject to, and shall comply with the provisions of the Act, this Declaration, the By-Laws and the Rules and Regulations, as they may be amended from time to time. The acceptance of a deed or conveyance or the entering

into of a lease or the entering into occupancy of any unit shall constitute an agreement that the provisions of the Act, this Declaration, the By-Laws and the Rules and Regulations, as may be amended from time to time, are accepted and ratified by such owner, tenant, and 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 or conveyance or lease thereof. In the event of a conflict in any of the provisions of any such documents, the documents shall govern or control in the following order of the preference: (1) the Act, (2) the Declaration, (3) the Articles of Incorporation of the Association, (4) the By-Laws of the Association, and (5) the Rules and Regulations of the Association.

.2. Exclusive ownership. Each owner shall be entitled to exclusive ownership and possession of his unit. Each owner shall be entitled to an undivided interest in the common elements in the percentages expressed in this Declaration, which percentages of undivided interest of each owner shall have a permanent character and shall not be altered without the consent of all owners and lien holder of record of units affected by such alterations expressed in an amended Declaration, duly recorded. The percentage of the undivided interest in the common elements shall not be separated from the unit to which it appertains and shall be deemed to be conveyed or encumbered or released from liens with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. Each owner may use the common elements in accordance with the purposes for which the same are intended, without hindering or encroaching upon the lawful rights of the other owners.

.3. Deleted.

10. Maintenance.

The responsibility for the maintenance of the condominium property shall be as follows:

.1. Units.

(a) By the Association. The responsibility of the Association shall be as follows:

(i) To maintain, repair and replace all portions of a unit, except interior surfaces and surfacing materials, contributing to the support of the building, which portions shall include but not be limited to the outside walls of the building and all fixtures thereon, and boundary walls of units, floors, load-bearing columns and load-bearing walls.

(ii) To maintain, repair and replace all conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services which are contained in the portions of a unit maintained by the Association, and all such facilities contained within a unit which service part or parts of the condominium other than the unit within which contained.

(iii) To maintain and replace all balconies and balcony railings.

(iv) To repair all incidental damage caused to a unit in the performance of any of the foregoing work.

(b) By the Unit Owner. The responsibility of the unit owner shall be as follows:

(i) To maintain, repair and replace all portions of his unit except the portions to be maintained, repaired and replaced by the Association. Such shall be done without disturbing the rights of other unit owners. Provided, however, the Association, by a vote of two-thirds (2/3) of the Board of Directors, may designate component(s) that are otherwise the responsibility of the owner(s) to repair or replace that would affect the condominium in its entirety or in a part belonging to other owners, and establish a program for when and under what other circumstances such component(s) should be repaired, replaced, or upgraded. Upon notice as the Board, by the vote required hereunder, determines is appropriate, but, except in case of an emergency, on not less than thirty (30) days written notice, the Board may require the owner(s) of such component(s) to repair, replace, or upgrade such component(s) to the Board's satisfaction, or the Association, after the expiration of such period, is authorized to make said repair, replacement, or upgrade of such component(s) and recover the costs thereof plus interest from such owner(s) by assessment or such other method as the Board, by the vote required hereunder,

deems appropriate. The Association's rights hereunder are subject to the provisions of Section 4.7 of the By-Laws, but are without prejudice to its rights otherwise provided in this Declaration.

(ii) Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the building and/or the exterior of the balconies assigned to the exclusive use of the unit owner, and/or the exterior of the balcony area assigned to the exclusive use of the unit owner.

(iii) To maintain the surfacing materials within the unit.

(iv) To maintain, repair and replace the heating, air conditioning, utility and mechanical equipment, and all sewer and water lines including all pipes, ducts, wires, cables and conduits used in connection therewith, which are for the exclusive use of his unit, whether or not located within the boundaries of his unit.

(v) To maintain, repair and replace the interior appurtenances of his unit, including but not limited to the floor coverings, wall coverings, window shades and screens, draperies, furniture, furnishing light fixtures, and all appliances located therein.

(vi) To promptly report in writing to the Association any defect or need for repairs, the responsibility for the remedying of which is that of the Association.

(vii) To be responsible for the cost of all incidental damage caused to the condominium property in the performance of the foregoing work or his misconduct.

(viii) To allow the Association, its delegates, agents or employees at all reasonable times, upon not less than seventy-two (72) hours advance notice in non-emergency situations and as soon as practicable after an emergency event occurs, to enter into his unit or limited common element for the purpose of maintaining, inspecting, repairing or replacing common elements or limited common elements or for repairing,

maintaining or replacing any plumbing, heating, ventilation or air conditioning system located within such unit but serving other parts of the condominium property; or to determine, in case of emergency, the circumstances threatening the condominium property and to correct the same; or, to determine compliance with the provisions of any applicable law, this Declaration, the By-Laws, or the Rules and Regulations.

(c) Alteration and Improvement. Neither a unit owner nor the Association shall make any alterations in the portions of a unit or building which are to be maintained by the Association, or remove any portion thereof, or make any additions thereto, or do any work which would jeopardize the safety or soundness of the building, or impair any easement, without first obtaining approval in writing of the owners of all other units in the building concerned and the approval of the Board of Directors of the Association.

.2. Common Elements.

(a) By the Association. The maintenance and operation of the common elements shall be the responsibility and the expense of the Association.

(b) Additions, Alterations and Improvements. There shall be no further additions or alterations to common elements without the prior approval of seventy-five (75%) percent of votes of the unit owners and further that said changes do not prejudice the rights of any owners not consenting and any owners who do not approve, are relieved from the initial cost thereof. There shall be no change in any unit boundary or the share and rights and obligations of a unit owner in the common elements absent an amendment to this Declaration in accord with Section 19 hereof. Any such alteration or addition shall be done in accordance with complete plans and specifications therefor first approved in writing by the Board; and promptly upon completion of such additional building or structural alteration or addition to any structure, the Association shall duly record or file of record in the Office of the Judge of Probate of Baldwin County, Alabama, such amendment, together with a complete set of plans of the condominium, as so altered, certified "as built" by a licensed or registered engineer or architect.

## 11. Assessments.

The making and collection of assessments against unit owners for common expenses and other charges shall be pursuant to the By-Laws and subject to the following provisions:

.1. Share of Common Expenses and Other Charges. Each unit owner shall be liable for a proportionate share of the common expenses and other charges, and shall share in the common surplus, such share being the same as his percentage of ownership in the common elements.

.2. Interest, Application of Payments. Assessments, and installments thereon, paid on or before ten (10) days after the date when due shall not bear interest, but to all sums not paid on or before ten (10) days after the date when due shall be added a \$15.00 penalty and interest at ten percent (10%) per annum after date due, until paid.

.3. Liens for Assessments. The Association shall have a lien upon each unit for unpaid assessments and other charges as set out in the Act.

.4. Deleted.

.5. No Exemption from Assessments. No owner of a unit may exempt himself from liability for contribution toward the common expenses and other charges by waiver of the use or enjoyment of any of the common elements or by the abandonment of his unit, or by any other means.

.6. Statement of unpaid Assessments. Any unit owner, mortgagee of a unit, person having executed a contract for the purchase of a condominium unit, or lender considering the loan of funds to be secured by a unit shall be entitled upon request to a statement from the Association or its management agent setting forth the amount of assessments levied against the unit, including information regarding whether such assessments are past due and the amount past due together with late charges and interest applicable thereto against that condominium unit. Such request shall be in writing, shall be delivered to the registered office of the Association, and shall state an address to which the statement is to be directed. Failure on the part of



the Association to mail or otherwise furnish such statement regarding amounts due and payable if specified in the written request therefor within ten (10) business days from the receipt of such request releases the Association's lien against the unit for the amount of the assessment as of that date, but does not discharge the unit owner's debt to the Association. The information specified in such statement shall be binding upon the Association and upon every unit owner. Payment of a reasonable fee not exceeding twenty-five dollars (\$25) may be required by the Association as a prerequisite to the issuance of such a statement.

12. Association.

The operation and administration of the condominium shall be by the Association of the unit owners, pursuant to the provision of the Act, which said Association is incorporated by the Articles of Incorporation recorded in the Office of the Judge of Probate of Baldwin County, Alabama. The Association shall be an entity which shall have the capability of bringing suit and being sued with respect to the exercise or non-exercise of its powers. It shall have authority and the power to maintain a class action and to settle a cause of action on behalf of unit owners of the condominium with reference to the common elements, the roof and structural components of a building or other improvements, and mechanical, electrical and plumbing elements serving an improvement or a building as distinguished from mechanical elements serving only a unit, and with reference to any and all other matters in which the unit owners of the condominium have a common interest. The Association shall be further organized and shall fulfill its functions pursuant to the following provisions:

.1. Name. The name of the Association shall be PHOENIX V ASSOCIATION, INC.

.2. Powers. The powers and duties of the Association shall include those set forth in the Act, the Alabama Nonprofit Corporation Act, the By-Laws attached hereto as Exhibit E and made a part hereof, and those set forth in its Articles of Incorporation, and shall have the power to purchase a unit of the condominium. The powers of the Association shall include, but not be limited to, the powers necessary for the maintenance, management and operation of the condominium property.

.3. Members.

(a) Qualification. The members of the Association shall consist of all of the record owners of units.

(b) Change of Membership. Change of membership in the Association shall be established by the recording in the public records of Baldwin County, Alabama, of a deed or other instrument establishing a record title to a unit in the condominium, and the delivery to the Association of a certified copy of such instrument, the owner designated by such instrument thereby becoming a member of the Association. The membership of the prior owner shall be thereby terminated.

(c) Voting Rights. Each unit shall be entitled to one (1) vote, which vote shall be the percentage assigned to the unit as stated in Exhibit D, hereto attached. The vote for a unit shall be cast by the owner thereof or the owner of a possessory interest therein, or in the case of a corporate owner, by the officer or employee thereof designated as the voting representative of such unit, as hereinafter provided, owners of more than one (1) unit shall be entitled to a vote for each unit owned. However, should the Association be a unit owner, it shall not have the voting rights for that unit.

Type "P" units percentage of common expenses and percentage used in voting in all matters requiring action by the owners shall be determined by multiplying the highest annual owners association assessment (not including any special assessments) by three percent (3%) and rounding the product to the next lowest even dollar. The rounded product is then divided by the total annual budget amount. [Example: Highest annual owners association assessment \$4,008 x 3% = \$120.24. Rounded to the next lowest even dollar figure = \$120.00.  $120 \div 751,604 = .015966\%$ .]

The common surplus shall be a trust fund for the unit owners according to the respective units interest in the common expenses or applied against the following year's assessment, unless otherwise determined by the Board of Directors of the Association, which shall not in any event use such surplus or any part thereof in any way other than to furnish services, insurance, goods or other items of value to the unit owners.

(d) Designation of Voting Representative. In the event a unit is owned by one (1) person, his right to vote shall be established by the record title to his unit. If a unit is owned by more than one (1) person, the person entitled to cast the vote for the unit shall be designated by a certificate signed by all of the record owners of the unit and filed with the Secretary of the Association. If a unit is owned by an entity such as a corporation, the officer or employee thereof entitled to cast the vote for the unit shall be designated by a certificate of appointment signed by the duly authorized officer or agent thereof. If such a certificate is not on file with the Secretary of the Association for a unit owned by more than one (1) person or by an entity, the membership or vote of the unit concerned shall not be considered in determining the requirement for a quorum nor for any purpose requiring the approval of the person entitled to cast the vote for the unit. Such certificate shall be valid until revoked or until superseded by a subsequent certificate or unto a change in the ownership of the unit concerned is affected. A certificate designating the person entitled to cast the vote of a unit may be revoked by any owner thereof.

(e) Approval or Disapproval by Unit Owners. Whenever the approval or disapproval of a unit owner is required upon any matter, whether or not the subject of an Association meeting, such approval or disapproval shall be expressed by the same person who would cast the vote of such owner if in an Association meeting, unless the joinder of all record owners is specifically required by this Declaration.

(f) Restraint Upon Assignment of Shares in Assets. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his unit.

.4. Board of Directors. The affairs of the Association shall be conducted by a Board of Directors which shall consist of such number not less than three (3) nor more than eight (8) unit owners as shall from time to time, be determined and fixed by a vote of a majority of the voting rights present in any annual meeting of the members.

.5. Indemnification. Every Director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, or any settlement thereof, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a Director or officer of the Association, whether or not he is a Director or officer of the Association at the time such expenses are incurred, except in such cases wherein the Director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such Director or officer may be entitled.

.6. Limitation of Liability. Notwithstanding the Liability of the Association to maintain and repair parts of the condominium property, the Association shall not be liable for injury or damage caused by a latent condition of the property to be maintained and repaired by the Association, nor for the injury or damage caused by the elements, or other owners or persons.

.7. By-Laws. By-Laws of the Association shall be in the form attached as Exhibit E hereto.

13. Insurance.

Insurance (other than title insurance) which shall be carried upon the condominium property and the property of the unit owners shall be governed by the following provisions:

.1. Authority to Purchase. All insurance policies upon the condominium property purchased by the Association shall be in the name of the Association as trustee for each of the unit owners in the percentages of ownership set forth in the Declaration, and their mortgagees as their interest may appear, and provision shall be made for the issuance of certificates of mortgage endorsements to the mortgagees of unit owners. Such policies shall be deposited with the Association. A unit owner

may, at his own expense, additionally insure his own unit for his own benefit. A unit owner may obtain at his own expense insurance coverage upon his own personal property, and such other coverage, including personal liability, as he may desire.

.2. Coverage.

(a) Casualty. All buildings and improvements upon the land and all personal property comprising the condominium property shall be insured with a single insurance agent in an amount sufficient to avoid application of a co-insurance clause, but not without deduction for depreciation, as determined annually by the Board of Directors of the Association. If reasonably available, the policy or policies shall contain a stipulated amount clause, or determinable cash adjustment clause, or similar clause to permit a cash settlement covering specified value in the event of destruction and a decision not to rebuild.

(i) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement; and

(ii) Such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the land, including but not limited to water damage, vandalism, and malicious mischief, and flood insurance.

(b) Public Liability in such amounts and with such coverage as shall be required by the Board of Directors of the Association.

(c) Workmen's Compensation Policy, if needed to meet the requirements of the law.

(d) Other Insurance. The Board may purchase and maintain in force debris removal insurance, fidelity bonds, and other insurance and/or bonds as it may deem necessary.

(e) Revision. Insurance coverages will be analyzed by the Board, or its representative, at least every five (5) years from the date hereof, and the insurance program revised accordingly.

.3. Provisions. Every such policy of insurance shall in substance and effect:

(a) Provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right of set-off, counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for any apparent owner.

(b) Contain no provision relieving the insurer from liability for a loss occurring while the hazard to such building is increased, whether or not within the knowledge or control of the Association, or because of any breach of warranty or condition or any other act or neglect by the Association or any unit owner or any other person under either of them.

(c) Provide that such policy may not be cancelled (whether or not requested by the Association) except by the insurer giving at least thirty (30) days prior written notice thereof to the Association, the fee owner, and every other person in interest who shall have requested such notice of the insurer.

(d) Contain a waiver by the insurer of any right of subrogation to any right of the Association or either against the owner or lessee of any unit; and

(e) Contain a standard mortgage clause which shall:

(i) Provide that any reference to a Mortgagee in such policy shall mean and include all holders of mortgages of any unit, whether or not named therein; and

(ii) Provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Association or unit owners or any persons under any of them; and

(iii) Waive any provision invalidating such mortgagee clause by reason of the failure of the mortgagee to notify the insurer of any hazardous use or vacancy, any requirement that the mortgagee pay any premium thereon, and any contribution clause.

.4. Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense.

.5. Insurance Trustee; Share of Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the unit owners and their mortgagees as the interests may appear, and shall provide that all proceeds covering casualty losses shall be paid to the Association, as Trustee for each of the unit owners in the percentages established by the Declaration, which said Association, for the purpose of these provisions, is herein referred to as the Insurance Trustee. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated herein and for the benefit of the unit owners and their mortgagees, as follows:

(a) Common Areas and Facilities. Proceeds on account of damage to common areas and facilities -- an undivided share for each unit owner, such share being the same as his undivided share in the common areas and facilities appurtenant to his unit.

(b) Units. Proceeds on account of units shall be held for the owners of damaged units in proportion to the cost of repairing the damage suffered by each unit owner, which cost shall be determined by the Association.

(c) Mortgages. In the event a mortgagee endorsement has been issued as to a unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interest may appear.

.6. Distribution of Proceeds. If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be used to defray the cost thereof as elsewhere

provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to unit owners and their mortgagees, being payable jointly to them. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by him.

.7. Association as Agent. The Association is hereby irrevocably appointed as agent for each unit owner to adjust all claims arising under insurance policies purchased by the Association, and to execute and deliver releases upon the payment of claims.

14. Reconstruction or Repair After Casualty. Any portion of the condominium for which insurance is required under this Declaration which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

(a) The condominium is terminated in accordance with the Act;

(b) Repair or replacement would be illegal under any state or local statute or ordinance covering health or safety, or under any state or local building or zoning statute or ordinance; or

(c) Eighty percent (80%) of the unit owners, including every owner of a unit or assigned limited common element which will not be rebuilt, vote not to rebuild.

.1. Plans and Specifications. Any such reconstruction or repair must be substantially in accordance with the plans and specifications for the original building, or as the building was last constructed, or according to plans approved by the Board of

Directors of the Association, which approval shall not be unreasonably withheld.

.2. Responsibility. If the damage is only to those parts of a unit for which the responsibility of maintenance and repair is that of a unit owner, then the unit owner shall be responsible for the reconstruction and repair after casualty. In all other instances, the responsibility for reconstruction and repair after casualty shall be that of the Association.



.3. Estimates of Costs. Immediately after a casualty causing damage to property for which the Association has the responsibility of maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair so as to place the damaged property in condition as good as that before the casualty.

.4. Deleted.

.5. Construction Funds. The funds for payment of costs of reconstruction and repair after casualty for which the Association is responsible which shall consist of proceeds of insurance held by the Insurance Trustee and funds collected by the Association from assessment against unit owners, shall be disbursed in payment of such costs in the following manner:

(a) Association. The proceeds of insurance collected on account of a casualty, and the sums deposited with the Association from collections of assessments against the unit owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

(i) Unit Owner. The portion of insurance proceeds representing damage for which responsibility of reconstruction and repair lies with the unit owner shall be paid by the Insurance Trustee to the unit owner, or if there is a mortgagee endorsement, then to the unit owner and the mortgagee jointly.

(ii) Association - Lesser Damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is less than the total of the annual assessments for recurring expense to be made during the year in which the casualty occurs, then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided, however, that upon request to the Insurance Trustee by a mortgagee which is a beneficiary of an insurance policy the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereinafter provided for the reconstruction and repair of major damage.

(iii) Association - Major Damage. If the amount of estimated costs of reconstruction and repair which is the responsibility of the Association is more than the total of the annual assessments for recurring expenses to be made during the year in which the casualty occurs, then the construction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors of the Association and upon approval of an architect qualified to practice in Alabama and employed by the Association to supervise the work.

(iv) Surplus. It shall be presumed that the first moneys disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds; and if there is a balance in the construction fund after payment of all costs of reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere herein provided.

15. Use Restrictions.

The use of the property of the condominium shall be in accordance with the following provisions:

.1. Single Family Residences. The condominium property shall be used only for single family residences, and for the furnishing of services and facilities herein provided for the enjoyment of such residences. Each of the units shall be occupied only by a single family and its guests as a residence and for no other purpose.

.2. Nuisances. No nuisances shall be allowed upon the condominium property nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents. All parts of the property shall be kept in a clean and sanitary condition and no rubbish, refuse or garbage allowed to accumulate nor any fire hazard allowed to exist.

.3. Lawful use. No immoral, improper, offensive or unlawful use shall be made of the condominium property nor any part thereof; and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance,

modification or repair of the condominium property shall be the same as the responsibility for the maintenance and repair of the property concerned. No commercial use, except as set forth in Section .4 below.

.4. Leasing. Entire units may be rented provided the occupancy is only by the lessee and his family and guests. No individual rooms may be rented and no transient tenants may be accommodated.

.5. Rules and Regulations. Reasonable Rules and Regulations concerning the use of the condominium property are attached hereto as Exhibit F and may be amended from time to time by the Board of Directors of the Association, provided, however, that all such amendments thereto shall be approved by not less than a majority of the votes of the Association before such shall become effective. Members not present at meetings considering such Rules and Regulations or amendments thereto may express their approval or disapproval in writing. Copies of such Rules and Regulations or amendments thereto shall be furnished by the Association to all unit owners and residents of the condominium upon request.

.6. Deleted.

.7. Sex Offenders. Unit owners shall not allow convicted sex offenders to rent, occupy, visit or use an owner's unit. Owners who rent their unit through any rental agency or who allow any third person to provide access to a unit shall instruct such persons of this restriction and require them to be bound thereby. In the event that an owner is notified by the police, sheriff's department, the Association's agent or by the Board of Directors that a sex offender is occupying or otherwise using an owner's unit, such owner shall, at owner's expense, cause such person to be evicted from the owner's unit. In the event that the owner fails to do so, the Association may undertake any and all necessary legal action to cause the removal of such convicted sex offender from the owner's unit and the owner shall reimburse the Association for all attorney's fees, costs and related expenses of the legal proceedings.

16. Notice of Lien or Suit.

(a) Notice of Lien. A unit owner shall give notice to the Association of every lien upon his unit other than for permitted mortgages, taxes and special assessments, within five (5) days after the owner's receipt of notice thereof.

(b) Notice of Suit. A unit owner shall give notice to the Association of every suit or other proceeding which may affect the title to his unit, such notice to be given within five (5) days after the unit owner receives knowledge thereof.

(c) Failure to Comply with this subsection concerning liens will not affect the validity of any judicial sale.

17. Compliance and Default.

Each unit owner shall be governed by and shall comply with the terms of the condominium documents and regulations as they may be amended from time to time. Failure of any unit owner or a unit owner's family member or guest, invitee, employee, agent or lessee to comply strictly with the provisions of this Declaration, the By-Laws, and the Rules and Regulations shall be grounds for an action to recover sums due, or damages, or injunctive relief, or any or all of them. Such actions may be maintained by the Association on its own behalf or on behalf of the unit owners aggrieved. In any case of flagrant or repeated violation by a unit owner, he may be required by the Association to give sufficient surety or sureties for his future compliance with the provisions of this Declaration, the By-Laws, and the Rules and Regulations. Nothing herein contained shall prevent, in a proper case, an independent action by an aggrieved unit owner for such relief.

.1. Misconduct. Whether there has been misconduct shall be determined by a majority vote of the Board of the Directors of the Association only after the said unit owner has received notice and had an opportunity to be heard as provided by resolution of the Board adopting procedures therefor. The Association may assess expenses arising from or related to misconduct by a unit owner or any member of his family or his guest, invitee, employee, agent or lessee

exclusively against said owner unit, even if the Association maintains insurance with respect to that damage or common expense. Liability for misconduct shall include any increase in insurance rates occasioned by said misconduct.

.2. Costs and Attorneys' Fees. In any proceeding arising because of an alleged default or misconduct of a unit owner, the Association shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the Court.

.3. No Waiver of Rights. The failure of the Association or any unit owner to enforce any covenant, restriction, or other provision of the Act, this Declaration, the By-Laws or the Rules and Regulations shall not constitute a waiver of the rights to do so thereafter.

18. Covenant Against Partition.

There shall be no judicial or other partition of the condominium unless the project has been removed from the provisions of the Act.

19. Amendment.

This Declaration of Condominium and the By-Laws of Phoenix V Association, Inc., may be amended in the following manner:

.1. Notice. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

.2. Resolution. A resolution adopting a proposed Amendment may be proposed by either the Board of Directors of the Association or by members having not less than ten percent (10%) of the total percentage values of those votes entitled to be cast at a meeting, and after being so proposed and thereafter approved by one (1) of such bodies, it must then be approved by the other to become effective. Directors and members not present at the meeting considering the amendment may express their approval or disapproval in writing provided such approval or disapproval is delivered to the Secretary at or prior to the meeting. Such approvals must be by not less than a majority of the Directors and by not less than two-thirds (2/3) of the votes

of the Association, and provided, further, that every amendment that alters the percentage of undivided interest of an owner in the common elements or any easement or hereditament shall require the unanimous approval of all such owners and all mortgagees who are holders of the mortgages upon any unit. A mortgagee will be deemed to have approved if a response to any request for approval is not received by the Association within sixty (60) days after the Association delivers notice of the proposed amendment to the mortgagee at the address in the security instrument of record in the office of the Judge of Probate of Baldwin County, Alabama by certified mail, return receipt requested.

.3. Recording. A copy of each amendment shall be certified by the President and Secretary of the Association as having been duly adopted and shall be effective when recorded in the office of the Judge of Probate of Baldwin County, Alabama.

.4. Agreement. In the alternative, an amendment may be made by an agreement signed and acknowledged by all of the record owners, including first mortgagees, of units in the condominium in the manner required for the execution of a deed, and such amendment shall be effective when recorded in the office of the Judge of Probate of Baldwin County, Alabama.

.5. Proviso. Provided, however, that no amendment shall discriminate against any unit owner nor against any unit or class or group of units, nor change any condominium unit nor increase the owner's liability for common expenses unless the record owner thereof and all record owners of liens thereon shall join in the execution of the amendment.

.6. Deleted.

20. Proportionate Changes in Common Expenses, Common Surplus and Voting Rights.

In the event of any one or more of the units are not rebuilt by reason of the loss of lands as a result of destruction, condemnation or otherwise, and therefore the number of units is reduced, or in the event the number of units is reduced because of its lien as heretofore provided, and entity has acquired title to a unit as a result of owning a mortgage upon the unit concerned, whether by deed from the mortgagor or through foreclosure proceedings, then the proportionate share of

the common expenses and of the common surplus and the voting rights of each unit shall be increased by adding to each remaining unit their proportionate percentages of ownership out of the percentages of ownership of the units so reduced.

21. Termination.

The condominium may be terminated in the manner provided by the Act; provided, however, that in the event of termination, each unit shall be subject to the payment of a share of the common expenses as heretofore defined, subject to increase as provided in Section 20 hereof.

22. Eminent Domain.

.1. Partial Taking Without Direct Effect on Units. If part of the condominium shall be taken or condemned by any authority having the power of eminent domain in such manner that no unit is taken, compensation and damages for and on account of the taking of the common elements, exclusive of compensation for consequential damages to affected units shall be payable to the Association as Trustee for all unit owners and mortgagees of record according to the loss or damages to their respective interests in the common elements. The Association, acting through its Board of Directors, shall have the right to act on behalf of the unit owners with respect to the taking and compensation affecting the common elements, without limitation of the right of the unit owners to represent their own interests. Such proceeds shall be paid to the Association and shall be used promptly to the extent necessary for restoring or replacing improvements so taken on the remaining property in a substantial compliance with the original plans and elevations of the improvements as soon as possible and so as to restore the general value of the condominium. In the event such restoration or reconstruction is impossible or impractical, or in the event there is an award in excess of the amount necessary to so substantially restore or reconstruct the common elements, the amount of such award or the excess, as the case may be, shall be distributed by the Association to the unit owners in proportion to their share of undivided interest in the common elements. Nothing herein shall be deemed to prevent unit owners whose units are affected by the taking or condemnation from joining in the condemnation proceedings and petitioning on their behalf for damages relating to loss of value of the affected units, or personal improvements therein, exclusive of damages related to

the taking of common elements. In the event the condemnation award does not allocate damages to specific units, but includes an award for reduction in value of the units without such allocation, the award shall be distributed to the affected unit owners and mortgagees of record in proportion to each unit owner's undivided interest in the common elements.

.2. Partial or Total Taking Directly Affecting Units.

If part or all of the condominium shall be taken or condemned by any authority having the power of eminent domain in such manner that any unit or part thereof is taken, the Association shall have the right to act on behalf of the unit owners with respect to common areas as in subsection .1. of this Section 22, and the proceeds shall be used or distributed as outlined therein. The Association, acting through its Board of Directors, shall have the right to act on behalf of the unit owners affected with respect to the negotiation and litigation of the issues with respect to the taking and compensation affecting the taken area, without limitation on the right of the unit owners to represent their own interests. The awards so made shall be used by the Association first to restore the units and improvements on the remaining common elements in the same manner as provided for restoration or reconstruction under Section 14 of this Declaration, to the extent possible attempting to rebuild buildings containing new units of the same number, size, and basic plan as the units taken, and with any excess award distributed as provided in subsection .1. of this Section 22. In the event that the Board of Directors determines that such a taking so removed land and buildings containing units that they cannot effectively restore or replace substantially in compliance with the building plans, and unless seventy-five percent (75%) of the units vote to accept an alternative plan, the award shall be distributed as provided in subsection .1. of this Section 22.

.3. Deleted.

23. Headings and Gender.

The headings used in this Declaration have been inserted for convenience and do not constitute matter to be construed in interpretation. Whenever used herein, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.



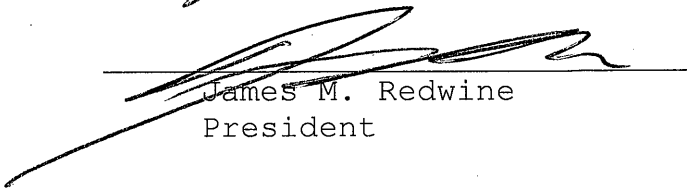
24. Severability.

The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration of condominium and the By-Laws of the Association shall not affect the validity of the remaining portions thereof.

SIGNATURE AND CERTIFICATION

I certify that the foregoing is the true and correct Second Amended Declaration of Condominium of Phoenix V Association, Inc., duly adopted by Phoenix V Association, Inc.

DATED this 9<sup>th</sup> day of August, 2021.

  
James M. Redwine  
President

Approved:

\_\_\_\_\_  
Lauren Bethancourt,  
Secretary

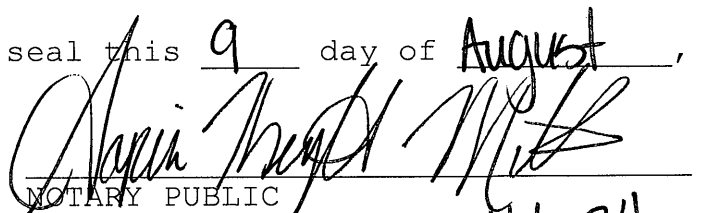
STATE OF TN

COUNTY OF Davidson

I, Saprina Kenyotta Milton, a Notary Public, in and for said County in said State, hereby certify that JAMES M. REDWINE, whose name as President of PHOENIX V ASSOCIATION, INC., a corporation, 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 officer and with full authority, executed the same voluntarily on the day the same bears date for and as the act of said corporation.

Given under my hand and seal this 9 day of August, 2021.



  
NOTARY PUBLIC  
My Commission Expires: 11-6-24

24. Severability.

The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration of condominium and the By-Laws of the Association shall not affect the validity of the remaining portions thereof.

SIGNATURE AND CERTIFICATION

I certify that the foregoing is the true and correct Second Amended Declaration of Condominium of Phoenix V Association, Inc., duly adopted by Phoenix V Association, Inc.

DATED this 8 day of August, 2021.

\_\_\_\_\_  
James M. Redwine  
President

Approved:

Lauren Bethancourt  
Lauren Bethancourt,  
Secretary

STATE OF Louisiana

COUNTY OF St. Tammany

I, Robert Henderson, a Notary Public, in and for said County in said State, hereby certify that JAMES M. REDWINE, whose name as President of PHOENIX V ASSOCIATION, INC., a corporation, 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 officer and with full authority, executed the same voluntarily on the day the same bears date for and as the act of said corporation.

Given under my hand and seal this 8 day of August, 2021.

Robert Henderson 06779  
NOTARY PUBLIC  
My Commission Expires: At death

STATE OF Louisiana

COUNTY OF St. Tammany

I, Robert Henderson, a Notary Public, in and for said County in said State, hereby certify that LAUREN BETHANCOURT, whose name as Secretary of PHOENIX V ASSOCIATION, INC., a corporation, 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, she, as such officer and with full authority, executed the same voluntarily on the day the same bears date for and as the act of said corporation.

Given under my hand and seal this 8 day of August, 2021.

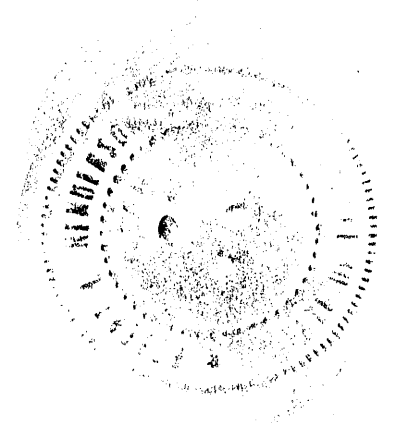
Robert Henderson 06779  
NOTARY PUBLIC  
My Commission Expires: st death

This instrument prepared by:

JESSICA M. MCDILL

of the firm of CHASON & CHASON, P.C.  
P. O. Box 100  
Bay Minette, Alabama 36507  
(251) 937-2191

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**EXHIBIT "A"**

**PARCEL 1:**

Lots 16, 17 and 18, Block B, of the Subdivision 2, of Fractional Section 18, Township 9 South, Range 5 East, as recorded in Map Book 5, Page 133 of the records of the Judge of Probate, Baldwin County, Alabama.

**PARCEL 2:**

Beginning at the Northeast corner of Lot 18, Block B, of the Subdivision 2, of Fractional Section 18, Township 9 South, Range 5 East, as recorded in Map Book 5, Page 133 of the records of the Judge of Probate, Baldwin County, Alabama; thence run North 69 degrees 10 minutes 11 seconds East along the south line of the State of Alabama Highway No. 182 (120 feet right of way) a distance of 119.28 feet to a point; thence run South 00 degrees 08 minutes 59 seconds East a distance of 810.7 feet to a point on the North margin of the Gulf of Mexico; thence run Southwestwardly along the North margin of the Gulf of Mexico a distance of 122.7 feet to a point which is South 00 degrees 19 minutes 09 seconds West a distance of 802.0 feet from the Point of Beginning; then run North 00 degrees 19 minutes 09 seconds East a distance of 802.0 feet to the Point of Beginning.

THE SUBJECT PROPERTY IS NOT NOR HAS IT EVER BEEN THE HOMESTEAD OF MORTGAGORS.

MS0087 PM 1652

**EXHIBIT "B"**  
**TO**  
**AMENDMENT TO DECLARATION OF**  
**CONDOMINIUM OF**  
**PHOENIX V, A CONDOMINIUM**

**FOR EXHIBIT B SEE** *Appt. Book 16 pg. 215-391*

REC-0092 REC 0669

EXHIBIT B

TO  
AMENDMENT TO DECLARATION OF CONDOMINIUM  
OF  
PHOENIX V, A CONDOMINIUM

**CERTIFICATION**

The undersigned, John M. Senkarik Jr., a Registered Architect in the State of Alabama, Registration Number 1912, pursuant to Section 35-8A-209, Code of Alabama (as amended), hereby certifies that all structural components and mechanical systems of all buildings containing or compromising any units of Phoenix V, a condominium, as described in the Declaration of Condominium recorded in Miscellaneous Book 0087, Page 1625, Et seq, are substantially completed in accordance with the plans as recorded in Apartment Book 15 Page 279 et seq. except as revised by plans attached to this amendment to declaration as Exhibit B and further do certify that said plans together with the survey and drawings by Mikell D. Speaks attached to this amendment to declaration as Exhibit C, contain all information required by Section 35-8A-209, Code of Alabama 1975 (as amended).

  
John M. Senkarik Jr.

REC-0092 REC-0664

**EXHIBIT "C"**  
**TO**  
**AMENDMENT TO DECLARATION OF**  
**CONDOMINIUM OF**  
**PHOENIX V, A CONDOMINIUM**

**FOR EXHIBIT C SEE** *Apt. Book 16 pg. 392-422*

**EXHIBIT "C-1" TO AMENDMENT TO DECLARATION OF CONDOMINIUM OF PHOENIX V  
ELEVATIONS ON PHOENIX V CONDOMINIUMS AT ORANGE BEACH, ALABAMA**

LEVEL	UNIT NUMBER	FLOOR ELEV.	CEILING ELEV.	LEVEL	UNIT NUMBER	FLOOR ELEV.	CEILING ELEV.	LEVEL	UNIT NUMBER	FLOOR ELEV.	CEILING ELEV.
Basement Floor	M2	13.03	21.03 - 22.36	Third Floor	3A1	43.55	51.45	Sixth Floor	6A1	69.35	77.30
	GA1	13.03	23.25		3C2	43.55	51.45		6C2	69.35	77.30
	GC2	13.03	23.25		3D3	43.55	51.45		6D3	69.35	77.30
	GD3	13.03	23.25		3E4	43.55	51.45		6E4	69.35	77.30
	GE4	13.03	23.25		3F5	43.55	51.45		6F5	69.35	77.30
	GC11	13.03	23.25		3E6	43.55	51.45		6E6	69.35	77.30
	GD12	13.03	23.25		3C7	43.55	51.45		6C7	69.35	77.30
	GE13	13.03	23.25		3D8	43.55	51.45		6D8	69.35	77.30
	GC14	13.03	23.25		3E9	43.55	51.45		6E9	69.35	77.30
	GB15	13.03	23.25		3E10	43.55	51.45		6E10	69.35	77.30
First Floor	GA17	13.03	23.25		3C11	43.55	51.45		6C11	69.35	77.30
	O1	23.88	34.10	Fourth Floor	3D12	43.55	51.45	Seventh Floor	6D12	69.35	77.30
	O2	23.88	34.10		3E13	43.55	51.45		6E13	69.35	77.30
	M1	23.79	31.79		3C14	43.55	51.45		6C14	69.35	77.30
	1A1	23.88	34.10		3B15	43.55	51.45		6B15	69.35	77.30
	1C2	23.88	34.10		3E16	43.55	51.45		6E16	69.35	77.30
	1D3	23.88	34.10		3A17	43.55	51.45		6A17	69.35	77.30
	1E4	23.88	34.10		4A1	52.15	60.10		7A1	77.95	85.85
	1F5	23.88	34.10		4C2	52.15	60.10		7C2	77.95	85.85
	1E6	23.88	34.10		4D3	52.15	60.10		7D3	77.95	85.85
	1H9	23.88	34.10		4E4	52.15	60.10		7E4	77.95	85.85
Second Floor	1E10	23.88	34.10		4F5	52.15	60.10		7F5	77.95	85.85
	1C11	23.88	34.10		4E6	52.15	60.10		7E6	77.95	85.85
	1D12	23.88	34.10		4C7	52.15	60.10		7C7	77.95	85.85
	1E13	23.88	34.10		4D8	52.15	60.10		7D8	77.95	85.85
	1C14	23.88	34.10		4E9	52.15	60.10		7E9	77.95	85.85
	1B15	23.88	34.10		4E10	52.15	60.10		7E10	77.95	85.85
	1E16	23.88	34.10		4C11	52.15	60.10		7C11	77.95	85.85
	1A17	23.88	34.10		4D12	52.15	60.10		7D12	77.95	85.85
	2A1	34.80	42.70		4E13	52.15	60.10		7E13	77.95	85.85
	2C2	34.80	42.70		4C14	52.15	60.10		7C14	77.95	85.85
	2D3	34.80	42.70	Fifth Floor	4B15	52.15	60.10		7B15	77.95	85.85
	2E4	34.80	42.70		4E16	52.15	60.10		7E16	77.95	85.85
	2F5	34.80	42.70		4A17	52.15	60.10		7A17	77.95	85.85
	2E6	34.80	42.70		5A1	60.75	68.70	Eighth Floor	8A1	86.50	94.40
	2C7	34.80	42.70		5C2	60.75	68.70		8C2	86.50	94.40
	2D8	34.80	42.70		5D3	60.75	68.70		8D3	86.50	94.40
	2E9	34.80	42.70		5E4	60.75	68.70		8E4	86.50	94.40
	2E10	34.80	42.70		5F5	60.75	68.70		8F5	86.50	94.40
	2C11	34.80	42.70		5E6	60.75	68.70		8E6	86.50	94.40
	2D12	34.80	42.70		5C7	60.75	68.70		8C7	86.50	94.40
	2E13	34.80	42.70		5D8	60.75	68.70		8D8	86.50	94.40
	2C14	34.80	42.70		5E9	60.75	68.70		8E9	86.50	94.40
	2B15	34.80	42.70		5E10	60.75	68.70		8E10	86.50	94.40
	2E16	34.80	42.70		5C11	60.75	68.70		8C11	86.50	94.40
	2A17	34.80	42.70		5D12	60.75	68.70		8D12	86.50	94.40
					5E13	60.75	68.70		8E13	86.50	94.40
					5C14	60.75	68.70		8C14	86.50	94.40
					5B15	60.75	68.70		8B15	86.50	94.40
					5E16	60.75	68.70		8E16	86.50	94.40
					5A17	60.75	68.70		8A17	86.50	94.40

ENCLOSURE 0092 PAGE 0671

*Michael D. Spink*  
11/5/97



LEVEL	UNIT NUMBER	FLOOR ELEV.	CEILING ELEV.	LEVEL	UNIT NUMBER	FLOOR ELEV.	CEILING ELEV.	LEVEL	UNIT NUMBER	FLOOR ELEV.	CEILING ELEV.
Ninth Floor	9A1	95.05	103.05	Eleventh Floor	11A1	112.25	121.30	Fourteenth Floor	14A1	131.65	140.75
	9C2	95.05	103.05		11C2	112.25	121.30		14C2	131.65	140.75
	9D3	95.05	103.05		11D3	112.25	121.30		14D3	131.65	140.75
	9E4	95.05	103.05		11E4	112.25	121.30		14E4	131.65	140.75
	9F5	95.05	103.05		11F5	112.25	121.30		14F5	131.65	140.75
	9E6	95.05	103.05		11E6	112.25	121.30		14E6	131.65	140.75
	9C7	95.05	103.05		11C7	112.25	121.30		14C7	131.65	140.75
	9D8	95.05	103.05		11D8	112.25	121.30		14D8	131.65	140.75
	9E9	95.05	103.05		11E9	112.25	121.30		14E9	131.65	140.75
	9E10	95.05	103.05		11E10	112.25	121.30		14E10	131.65	140.75
	9C11	95.05	103.05		11C11	112.25	121.30		14C11	131.65	140.75
	9D12	95.05	103.05		11D12	112.25	121.30		14D12	131.65	140.75
	9E13	95.05	103.05		11E13	112.25	121.30		14E13	131.65	140.75
	9C14	95.05	103.05		11C14	112.25	121.30		14C14	131.65	140.75
	9B15	95.05	103.05		11B15	112.25	121.30		14B15	131.65	140.75
	9E16	95.05	103.05		11E16	112.25	121.30		14E16	131.65	140.75
	9A17	95.05	103.05		11A17	112.25	121.30		14A17	131.65	140.75
Tenth Floor	10A1	103.65	111.65	Twelfth Floor	12A1	121.95	131.05	Fifteenth Floor	15A1	141.30	150.45
	10C2	103.65	111.65		12C2	121.95	131.05		15C2	141.30	150.45
	10D3	103.65	111.65		12D3	121.95	131.05		15D3	141.30	150.45
	10E4	103.65	111.65		12E4	121.95	131.05		15E4	141.30	150.45
	10F5	103.65	111.65		12F5	121.95	131.05		15F5	141.30	150.45
	10E6	103.65	111.65		12E6	121.95	131.05		15E6	141.30	150.45
	10C7	103.65	111.65		12C7	121.95	131.05		15C7	141.30	150.45
	10D8	103.65	111.65		12D8	121.95	131.05		15D8	141.30	150.45
	10E9	103.65	111.65		12E9	121.95	131.05		15E9	141.30	150.45
	10E10	103.65	111.65		12E10	121.95	131.05		15E10	141.30	150.45
	10C11	103.65	111.65		12C11	121.95	131.05		15C11	141.30	150.45
	10D12	103.65	111.65		12D12	121.95	131.05		15D12	141.30	150.45
	10E13	103.65	111.65		12E13	121.95	131.05		15E13	141.30	150.45
	10C14	103.65	111.65		12C14	121.95	131.05		15C14	141.30	150.45
	10B15	103.65	111.65		12B15	121.95	131.05		15B15	141.30	150.45
	10E16	103.65	111.65		12E16	121.95	131.05		15E16	141.30	150.45
	10A17	103.65	111.65		12A17	121.95	131.05		15A17	141.30	150.45

I, MIKELL D. SPEAKS, A REGISTERED LAND SURVEYOR IN THE STATE OF ALABAMA, HEREBY CERTIFY THAT THE FOLLOWING ELEVATIONS FOR THE UNITS IN PHOENIX V CONDOMINIUMS ARE TRUE AND CORRECT.

  
ALABAMA REGISTRATION NO. 9127

JANUARY 15, 1997

**Phoenix V****% of Ownership Calculations by Square Footage**

Condo Unit #	Square Footage	% of Ownership
G A 1	1385	0.497%
G C 2	793	0.285%
G D 3	1382	0.496%
G E 4	1052	0.378%
G C 11	793	0.285%
G D 12	1382	0.496%
G E 13	1052	0.378%
G C 14	793	0.285%
G B 15	1052	0.378%
G E 16	1052	0.378%
G A 17	1411	0.507%

MISC0092.PMT 0673

# Phoenix V

## % of Ownership Calculations by Square Footage

Condo Unit #			Square Footage	% of Ownership
1	A	1	1394	0.500%
1	C	2	801	0.288%
1	D	3	1392	0.500%
1	E	4	1064	0.382%
1	F	5	1395	0.501%
1	E	6	1064	0.382%
1	H	9	1166	0.419%
1	E	10	1064	0.382%
1	C	11	801	0.288%
1	D	12	1392	0.500%
1	E	13	1064	0.382%
1	C	14	801	0.288%
1	B	15	1064	0.382%
1	E	16	1064	0.382%
1	A	17	1420	0.510%

PHCF0092 P&L 06/74

# Phoenix V

## % of Ownership Calculations by Square Footage

Condo Unit #	Square Footage	% of Ownership
2 A 1	1394	0.500%
2 C 2	801	0.288%
2 D 3	1392	0.500%
2 E 4	1064	0.382%
2 F 5	1395	0.501%
2 E 6	1064	0.382%
2 C 7	801	0.288%
2 D 8	1392	0.500%
2 E 9	1064	0.382%
2 E 10	1064	0.382%
2 C 11	801	0.288%
2 D 12	1392	0.500%
2 E 13	1064	0.382%
2 C 14	801	0.288%
2 B 15	1064	0.382%
2 E 16	1064	0.382%
2 A 17	1420	0.510%

MISC0092 PAGE 0675

# Phoenix V

## % of Ownership Calculations by Square Footage

Condo Unit #			Square Footage	% of Ownership
3	A	1	1394	0.500%
3	C	2	801	0.288%
3	D	3	1392	0.500%
3	E	4	1064	0.382%
3	F	5	1395	0.501%
3	E	6	1064	0.382%
3	C	7	801	0.288%
3	D	8	1392	0.500%
3	E	9	1064	0.382%
3	E	10	1064	0.382%
3	C	11	801	0.288%
3	D	12	1392	0.500%
3	E	13	1064	0.382%
3	C	14	801	0.288%
3	B	15	1064	0.382%
3	E	16	1064	0.382%
3	A	17	1420	0.510%

WFO0092 PAGE 0676

# Phoenix V

## % of Ownership Calculations by Square Footage

Condo Unit #			Square Footage	% of Ownership
4	A	1	1394	0.500%
4	C	2	801	0.288%
4	D	3	1392	0.500%
4	E	4	1064	0.382%
4	F	5	1395	0.501%
4	E	6	1064	0.382%
4	C	7	801	0.288%
4	D	8	1392	0.500%
4	E	9	1064	0.382%
4	E	10	1064	0.382%
4	C	11	801	0.288%
4	D	12	1392	0.500%
4	E	13	1064	0.382%
4	C	14	801	0.288%
4	B	15	1064	0.382%
4	E	16	1064	0.382%
4	A	17	1420	0.510%

MFC 0092 Pkt 0677

# Phoenix V

## % of Ownership Calculations by Square Footage

Condo Unit #			Square Footage	% of Ownership
5	A	1	1394	0.500%
5	C	2	801	0.288%
5	D	3	1392	0.500%
5	E	4	1064	0.382%
5	F	5	1395	0.501%
5	E	6	1064	0.382%
5	C	7	801	0.288%
5	D	8	1392	0.500%
5	E	9	1064	0.382%
5	E	10	1064	0.382%
5	C	11	801	0.288%
5	D	12	1392	0.500%
5	E	13	1064	0.382%
5	C	14	801	0.288%
5	B	15	1064	0.382%
5	E	16	1064	0.382%
5	A	17	1420	0.510%

MISC 0092 PAGE 0674

# Phoenix V

## % of Ownership Calculations by Square Footage

Condo Unit #	Square Footage	% of Ownership
6 A 1	1394	0.500%
6 C 2	801	0.288%
6 D 3	1392	0.500%
6 E 4	1064	0.382%
6 F 5	1395	0.501%
6 E 6	1064	0.382%
6 C 7	801	0.288%
6 D 8	1392	0.500%
6 E 9	1064	0.382%
6 E 10	1064	0.382%
6 C 11	801	0.288%
6 D 12	1392	0.500%
6 E 13	1064	0.382%
6 C 14	801	0.288%
6 B 15	1064	0.382%
6 E 16	1064	0.382%
6 A 17	1420	0.510%

MIST0092.PMT 06/79



# Phoenix V

## % of Ownership Calculations by Square Footage

Condo Unit #			Square Footage	% of Ownership
7	A	1	1394	0.500%
7	C	2	801	0.288%
7	D	3	1392	0.500%
7	E	4	1064	0.382%
7	F	5	1395	0.501%
7	E	6	1064	0.382%
7	C	7	801	0.288%
7	D	8	1392	0.500%
7	E	9	1064	0.382%
7	E	10	1064	0.382%
7	C	11	801	0.288%
7	D	12	1392	0.500%
7	E	13	1064	0.382%
7	C	14	801	0.288%
7	B	15	1064	0.382%
7	E	16	1064	0.382%
7	A	17	1420	0.510%

MCP0092 PAF 0680

# Phoenix V

## % of Ownership Calculations by Square Footage

Condo Unit #			Square Footage	% of Ownership
8	A	1	1394	0.500%
8	C	2	801	0.288%
8	D	3	1392	0.500%
8	E	4	1064	0.382%
8	F	5	1395	0.501%
8	E	6	1064	0.382%
8	C	7	801	0.288%
8	D	8	1392	0.500%
8	E	9	1064	0.382%
8	E	10	1064	0.382%
8	C	11	801	0.288%
8	D	12	1392	0.500%
8	E	13	1064	0.382%
8	C	14	801	0.288%
8	B	15	1064	0.382%
8	E	16	1064	0.382%
8	A	17	1420	0.510%

W:\0092\PHI 0681

# Phoenix V

## % of Ownership Calculations by Square Footage

Condo Unit #	Square Footage	% of Ownership
9 A 1	1394	0.500%
9 C 2	801	0.288%
9 D 3	1392	0.500%
9 E 4	1064	0.382%
9 F 5	1395	0.501%
9 E 6	1064	0.382%
9 C 7	801	0.288%
9 D 8	1392	0.500%
9 E 9	1064	0.382%
9 E 10	1064	0.382%
9 C 11	801	0.288%
9 D 12	1392	0.500%
9 E 13	1064	0.382%
9 C 14	801	0.288%
9 B 15	1064	0.382%
9 E 16	1064	0.382%
9 A 17	1420	0.510%

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# Phoenix V

## % of Ownership Calculations by Square Footage

Condo Unit #	Square Footage	% of Ownership
10 A 1	1394	0.500%
10 C 2	801	0.288%
10 D 3	1392	0.500%
10 E 4	1064	0.382%
10 F 5	1395	0.501%
10 E 6	1064	0.382%
10 C 7	801	0.288%
10 D 8	1392	0.500%
10 E 9	1064	0.382%
10 E 10	1064	0.382%
10 C 11	801	0.288%
10 D 12	1392	0.500%
10 E 13	1064	0.382%
10 C 14	801	0.288%
10 B 15	1064	0.382%
10 E 16	1064	0.382%
10 A 17	1420	0.510%

MFC0092 P&E 0683

# Phoenix V

## % of Ownership Calculations by Square Footage

Condo Unit #	Square Footage	% of Ownership
11 A 1	1394	0.500%
11 C 2	801	0.288%
11 D 3	1392	0.500%
11 E 4	1064	0.382%
11 F 5	1395	0.501%
11 E 6	1064	0.382%
11 C 7	801	0.288%
11 D 8	1392	0.500%
11 E 9	1064	0.382%
11 E 10	1064	0.382%
11 C 11	801	0.288%
11 D 12	1392	0.500%
11 E 13	1064	0.382%
11 C 14	801	0.288%
11 B 15	1064	0.382%
11 E 16	1064	0.382%
11 A 17	1420	0.510%

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## Phoenix V

### % of Ownership Calculations by Square Footage

Condo Unit #	Square Footage	% of Ownership
12 A 1	1394	0.500%
12 C 2	801	0.288%
12 D 3	1392	0.500%
12 E 4	1064	0.382%
12 F 5	1395	0.501%
12 E 6	1064	0.382%
12 C 7	801	0.288%
12 D 8	1392	0.500%
12 E 9	1064	0.382%
12 E 10	1064	0.382%
12 C 11	801	0.288%
12 D 12	1392	0.500%
12 E 13	1064	0.382%
12 C 14	801	0.288%
12 B 15	1064	0.382%
12 E 16	1064	0.382%
12 A 17	1420	0.510%

WCT0092.P61 0685

# Phoenix V

## % of Ownership Calculations by Square Footage

Condo Unit #	Square Footage	% of Ownership
14 A 1	1394	0.500%
14 C 2	801	0.288%
14 D 3	1392	0.500%
14 E 4	1064	0.382%
14 F 5	1395	0.501%
14 E 6	1064	0.382%
14 C 7	801	0.288%
14 D 8	1392	0.500%
14 E 9	1064	0.382%
14 E 10	1064	0.382%
14 C 11	801	0.288%
14 D 12	1392	0.500%
14 E 13	1064	0.382%
14 C 14	801	0.288%
14 B 15	1064	0.382%
14 E 16	1064	0.382%
14 A 17	1420	0.510%

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# Phoenix V

## % of Ownership Calculations by Square Footage

Condo Unit #	Square Footage	% of Ownership
15 A 1	1394	0.500%
15 C 2	801	0.288%
15 D 3	1392	0.500%
15 E 4	1064	0.382%
15 F 5	1395	0.501%
15 E 6	1064	0.382%
15 C 7	801	0.288%
15 D 8	1392	0.500%
15 E 9	1064	0.382%
15 E 10	1064	0.382%
15 C 11	801	0.288%
15 D 12	1392	0.500%
15 E 13	1064	0.382%
15 C 14	801	0.288%
15 B 15	1064	0.382%
15 E 16	1064	0.382%
15 A 17	1420	0.510%

O1 offices	320	0.115%
O2 check-in	552	0.198%
M1 maint.	700	0.251%
M2 maint.	387	0.139%

Bldg. Tots	278533	100.000%
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MFC 0092 PAGE 0687



EXHIBIT E

BALDWIN COUNTY, ALABAMA  
HARRY D'OLIVE, JR. PROBATE JUDGE  
Filed/cert. 8/11/2021 2:12 PM  
TOTAL \$ 70.00  
20 Pages

1935810

SECOND AMENDED BY-LAWS  
OF  
PHOENIX V ASSOCIATION, INC.



1. IDENTITY.

These are the By-Laws of Phoenix V Association, Inc., a nonprofit corporation organized pursuant to the Alabama Nonprofit Corporation Act and the Uniform Condominium Act of 1991, Code of Alabama, §§ 10A-3-1, et seq. and 35-8A-101 et seq., respectively, as amended (collectively the "Acts"), for the purpose of administering Phoenix V, a condominium, located in Baldwin County, Alabama, created by that certain Declaration of Condominium of Phoenix V, A Condominium, recorded in the Office of the Judge of Probate for Baldwin County, Alabama (the "Declaration")<sup>1</sup>.

.1. The Office of the Association shall be at 24400 Perdido Beach Boulevard, Orange Beach, Alabama 36561.

.2. The fiscal year of the Association shall be such as may from time to time be established by the Association.

2. MEMBERS' MEETINGS.

.1. Deleted.

.2. Date. The annual meeting of the unit owners shall be held at 9:00 A.M., local time, on the third Saturday of October of each year for the purpose of electing Directors and transacting any other business authorized to be transacted by the members; provided, however, if that day is a legal holiday, the meeting shall be held at the same hour on the next day following that is not a legal holiday.

.3. Change of Date. The time of holding the annual meeting of members may be changed at any time prior to fifteen (15) days before the regular day for holding such meeting by a resolution duly adopted by the Board of Directors or by the members, provided that such notice of such change be mailed to each member of record at such address as appears upon the records of the Association not less than ten (10) days before

<sup>1</sup> Any undefined capitalized term used herein have shall have the meaning ascribed thereto as set forth in the Declaration.

the holding of such meeting; and further provided that each annual meeting of members shall be held within one (1) month of the date on which it should regularly have been held but for such change.

.4. Special Member Meetings. Special members' meetings shall be held whenever called by the President or Vice President or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from members entitled to cast twenty (20%) percent of the votes in the Association.

.5. Notice. Notice of all members' meetings stating the time and place and the objects for which a meeting is called shall be given by the President or Vice President or Secretary unless waived. Such notice shall be to each member at his U. S. postal service address or electronic mail address as it appears on the books of the Association and shall be issued not less than ten (10) days nor more than sixty (60) days prior to the date of the meeting. Proof of such issuance of notice shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived before or after meetings.

.6. Voting. Voting shall be on a percentage basis and the percentage of the vote to which a member is entitled is the percentage assigned to the unit of which the member is the owner, as stated in the Declaration of Condominium.

Votes may be cast by written or electronically recorded ballot or a combination of written and electronic balloting. In the event that the Board of Directors determines that electronic ballots are to be used, the Association shall procure a secure ballot delivery system, which shall, at least, provide each member a unique method of logging into the voting platform such that only members may cast votes; a means to track who has cast a vote and not permit any member to cast more than one vote; allow voters to choose among multiple candidates for any position; allow voting to start and end at specific times; and provide a report of the results. In any event, appropriate provisions shall be made to accommodate members who wish to cast their vote by paper ballot. An Election Certification Committee ("Certification Committee") composed of at least two Directors appointed by the President and the Secretary, or their designee, shall certify the results of the balloting as soon as practicable.

.7. Quorum. A quorum at members' meetings shall consist of persons entitled to cast a majority of the votes of the entire membership. As used in these By-Laws, the term "majority" means fifty-one (51%) percent of the votes in accordance with the percentages assigned in the Declaration of Condominium.

.8. Proxies. Votes may be cast by proxy in such written form as may be determined by the Board of Directors, may be made by any person entitled to vote and shall be valid only for the particular meeting designated therein and must be filed with the Secretary before the appointed time of the meeting.

(a) With respect to any candidate for director, or any proposal, question, or other matter, neither the Association, the Board of Directors, nor any officer acting in his capacity as such, or any other person, shall solicit, file, or vote any proxy which does not state in writing the name of the person for whom the proxy holder will vote and otherwise how the proxy holder intends to vote. The Board of Directors may, in its discretion, provide one or more options for members to vote on with respect to a particular matter, and the option receiving the most votes, but at least a majority of those voting at the meeting, or a higher vote as required by these By-Laws, will be deemed adopted and approved by the Association. In the event an option is not approved on the first ballot, one or more additional ballots will be taken and the option receiving the least votes will be eliminated at each successive round, until a single option receives (or ultimately fails to receive) the required vote.

(b) With respect to any election or other matter to which more than one (1) ballot is required to obtain the vote required under the Declaration of Condominium or the By-Laws, the proxy holder may vote in his discretion on the second or any subsequent ballots in the event the required vote is not obtained on the first ballot. The proxy holder further may vote in his discretion with respect to all other matters, including on any proposed amendment to a previously disclosed matter.

(c) All tabulations (both orally at a meeting and otherwise in writing) of election results shall state the number and proportion of any proxies voted for or against any candidate or matter.

(d) No proxy or vote cast shall be recognized or count as validly solicited, filed, or voted that does not comply with the provisions of this Section 2.8, and no election, or decision on a proposal, relying on any proxy or vote that does not comply with the provisions of this Section 2.8, shall be recognized as valid.

.9. Vote required to transact business. When a quorum is present at any meeting, the holders of a majority of the voting rights present in person or represented by written proxy shall decide on any questions brought before the meeting, unless the question is one upon which, by express provision of the statutes, the Declaration or the By-Laws, a different number is required, in which case the express provision shall govern and control the decision in question.

.10. Meeting Place and Adjournment. Member meetings may be held entirely in person, entirely virtually, or a hybrid involving both remote participants and in person attendance simultaneously as provided herein as determined by the Board of Directors. Participation in a meeting by remote communication shall constitute presence in person at the meeting for all purposes, including quorum and voting. Notice of a members meeting must state whether the meeting is to be held virtually, entirely in person or a hybrid format and said notice shall provide instructions for participation and voting for any meeting which may be attended remotely. Any member meeting conducted entirely virtually or in a hybrid format is subject to the following provisions:

(a) The technology used for the electronic meeting shall allow members full access to and full participation in all meeting transactions either continuously or intermittently throughout the specified time of the meeting.

(b) The Board of Directors shall implement reasonable measures to authenticate the attendance and vote of each member.

(c) Participation in a remote meeting shall constitute presence for all purposes, including quorum and voting.

(d) Any action that could be taken at an in person meeting may also be taken at a remote meeting held pursuant to this provision.

(e) Procedural rules related to the conduct of electronic meetings shall be established and promulgated by the Board of Directors.

Any meeting of the Association may be adjourned from time to time to such date and time as may be determined by the majority vote of the members present, whether a quorum be present or not, without notice other than the announcement at the meeting. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted by a quorum at the meeting as originally called.

.11. Order of Business. The order of business at annual members' meetings and, as far as practical, at all other members' meetings, shall be:

- (a) Call to Order,
- (b) Calling of the roll and certifying of proxies,
- (c) Proof of notice of meeting or waiver of notice,
- (d) Reading and disposal of any unapproved minutes,
- (e) Report of Officers,
- (f) Reports of Committees,
- (g) Election of Directors,
- (h) Unfinished Business,
- (i) New Business
- (j) Adjournment.

.12. Cumulative Voting shall not be permitted at any meeting of the owners.

.13. Deleted.

### 3. BOARD OF DIRECTORS.

.1. Membership. The affairs of the Association shall be conducted by the Board of Directors which shall consist of such number not less than three (3) nor more than eight (8) members with staggered terms, as shall, from time to time, be determined and affixed by a vote of a majority of the voting rights present at any annual meeting of the members. Each Director shall be an owner of a Phoenix V unit.

.2. Election. Election of Directors shall be conducted in the following manner:

(a) Directors shall be elected at the annual meeting of the members of the Association.

(b) Except as to vacancies created by removal of Directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining Directors.

(c) Any Director may be removed, with or without cause, by a two-thirds (2/3) vote of the members of the Association present in person at a special meeting of the members called for that purpose. The vacancy thus created shall be filled at the same meeting by the members of the Association in the same manner as was provided for the election of the removed Director.

(d) Deleted.

.3. Term. The term of each Director's services shall extend until the next annual meeting of the members and thereafter until his successor is duly elected and qualified or until he is removed in the manner elsewhere provided.

.4. Organizational Meeting. The organization meeting of a newly elected Board of Directors shall be held within ten (10) days of their election at such place and time as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of organization meeting shall be necessary, provided a quorum shall be present.

.5. Regular Meetings. Meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or electronic mail, at least three (3) days prior to the day named for such meeting.

.6. Special Meetings. Special Meetings of the Directors may be called by the President, and must be called by the Secretary at the written request of one-third (1/3) of the votes of the Board. Not less than three (3) days' notice of the meeting shall be given personally or by mail, telephone, or

electronic mail, which notice shall state the time, place and purpose of the meeting.

.7. Waiver of notice. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice.

.8. Quorum. A quorum at Directors' meetings shall consist of the Directors entitled to cast a majority of the votes of the entire Board of Directors present. The acts of the Board approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except where approval by a greater number of Directors is required by the Declaration or by these By-Laws. If at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting from any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.

.9. Presiding Officer. Directors' meetings shall be presided over by the President. In the absence of the President, the Directors present shall designate one of their members to preside.

.10. Compensation. Directors shall serve without compensation, and a Director may not be an employee of the Association.

.11. Any or all Directors may participate in any meeting of the Board, or a committee of the Board, by means of a telephone or video conference or by any means of communication by which all persons participating in the meeting are able to communicate with one another, and such participation shall constitute presence at the meeting.

#### 4. POWERS AND DUTIES OF THE BOARD OF DIRECTORS.

The Board of Directors, for the benefit of the owners, shall have the following powers and duties:

.1. To exercise all of the powers of the Association with respect to the operation and regulation of the condominium which are conferred upon the Board by the Acts, the Declaration, and by its Articles of Incorporation, as amended from time to time, the terms of which are incorporated herein by reference.

.2. To make contracts and incur liabilities in connection with the exercise of any of the powers and duties of the Board.

.3. To provide or cause to be provided all goods and services required by the By-Laws or by law, or which the Board, at its discretion, deems necessary for the proper operation of the condominium project, or which are used in common or jointly by the common elements and condominium units, in each case to the extent such goods and services shall not be otherwise provided.

.4. To collect monthly assessments from the owners, and to render or cause to be rendered statements, when required or useful, of any assessments which remain unpaid by any owner.

.5. To maintain a class action, and to settle a cause of action, on behalf of owners with reference to the common elements, the roof and structural components of a building or other improvement, and mechanical, electrical and plumbing elements serving an improvement or a building as distinguished from mechanical elements serving only a unit; and to bring an action, and to settle the same, on behalf of two (2) or more of the owners, as their respective interests may appear, with respect to any cause of action relating to the common elements or more than one (1) condominium unit; all as the Board deems advisable.

.6. To elect the officers of the Association and otherwise exercise the powers regarding officers of the Association as set forth in these By-Laws.

.7. To determine who shall be authorized to make and sign all instruments on behalf of the Association and the Board. Notwithstanding any other provision of these By-Laws, neither the President, nor any other officer of the Association, shall be authorized to make or sign any instrument on behalf of the Association or the Board, except upon vote of the Board of



Directors in each specific instance complying with Section 3.8 of the By-Laws:

(a) To expend more than Three Thousand Dollars (\$3,000.00);

(b) To expend any sum for capital improvements or from capital reserves;

(c) To order or demand, in compliance with Section 7.2(a) hereof, that any unit owner or group of unit owners take or refrain from any action with respect to any maintenance or repair obligation of such unit owner(s), or to recoup from such unit owner(s) any sum expended by the Association in the event of such unit owner(s) default or misconduct with respect thereto;

(d) To settle any legal obligation owing to or from the Association involving more than Three Thousand Dollars (\$3,000.00); or

(e) To enter into any contract or agreement for any period exceeding one (1) year or more than five percent (5%) in excess of the monthly anticipated cash flow for any approved budgetary item. Provided, further, that no contract, agreement or other arrangement (such as "on-call" provision of goods or services) for any expenditure greater than Three Thousand Dollars (\$3,000.00) or for the use of a particular contractor more than twice (2x) in any calendar year shall be entered into or performed unless there has been solicited through ordinary and customary procedures, and received, at least three (3) bids or proposals for the services or goods sought to be procured, unless the affirmative vote of two-thirds (2/3) of the entire Board shall excuse the failure to receive (after solicitation thereof) the requisite number of bids or proposals in advance of any entering into any contract or agreement therefor.

(f) Excluded from the foregoing provisions and conditions are emergency situations (e.g., a substantial water leak, a fire, or a "named storm") with respect to which a special meeting of the Board of Directors cannot be called and a quorum obtained therefor. In such emergency situations, the President shall be authorized to expend (and expend without the competition otherwise required in these By-Laws) only such sums as are directly and immediately necessary to respond to the

emergency, and only during the period during which notice of a special meeting of the Board cannot be given and a quorum obtained, and in no case shall the President or any other officer obligate the Association for any sum or for any period beyond which notice of a special meeting of the Board cannot be given and such quorum obtained. Any expenditure not in compliance with this Section 4.7 of the By-Laws shall become an authorized expenditure of the Association upon ratification of said expenditure by the affirmative vote of two-thirds (2/3) of the entire Board.

.8. To employ a management agent or manager, at a compensation established by the Board, to perform such duties and services as the Board shall authorize, including, but not limited to, the duties listed in this Section, and any such duties so conferred upon the managing agent or manager by the Board of Directors may at any moment be revoked, modified or amplified by the majority of the votes in a duly constituted meeting.

.9. To designate and remove personnel necessary for the maintenance, repair and replacement of the elements.

.10. To procure such property and other insurance of all kinds and such fidelity bonds as the Board deems advisable covering officers and employees of the Association handling and responsible for the Association's funds and personal property, and to procure Directors and officers liability insurance if the Board deems it advisable; and the premium of such bonds and insurance shall be paid by the Association as common expense.

.11. To determine policies and to adopt administrative rules and regulations governing the details of the operation and use of the condominium, including the common elements, and to amend such administrative rules and regulations from time to time as the Board deems advisable.

.12. To designate, by resolution passed by a majority of the whole Board, one (1) or more committees to consist of two (2) or more of the Directors. Any such committee, to the extent provided in such resolution, shall have and may exercise all of the authority of the Board of Directors in the management of the business and affairs of the corporation, except where action of the full Board of Directors is required by law, the Articles of Incorporation, the Declaration or these By-Laws.

.13. To designate, by resolution adopted by a majority of the Directors present at a meeting at which a quorum is present, or by the President thereto duly authorized by a like resolution of the Board of Directors, or other committees not having and exercising the authority of the Board of Directors in the management of the affairs of the corporation. Membership on such committees may, but need not be limited to Directors or members of the Association.

.14. All committees so appointed shall keep regular minutes of the transactions of their meetings, and shall cause them to be recorded in books kept for that purpose in the office of the Association, and shall report the same to the Board of Directors at the next meeting of such Board.

## 5. OFFICERS.

.1. The executive officers of the Association shall be a President, who shall be a Director; a Vice-President, who shall be a Director; a Treasurer and a Secretary, all of whom shall be elected annually by the Board of Directors and who may be peremptorily removed by vote of the Directors at any meeting. Any person may hold two (2) or more offices except that the President shall not also be Secretary. The Board of Directors shall from time to time elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

.2. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of president of an association.

.3. The Vice-President shall, in the absence of or disability of the President, exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

.4. The Secretary shall keep the minutes of all proceedings of the Directors and the members. He shall attend to the giving and serving of all notices to the members and Directors and other notices required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep the

records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an association as may be required by the Directors or the President.

.5. The Treasurer shall have custody of all property of the Association, including funds, securities, and evidence of indebtedness. He shall keep the financial records and books of account of the Association in accordance with good accounting practices; shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the common areas and facilities, specifying and itemizing the maintenance and repair expenses of the common area and facilities and any other expenses incurred; and he shall perform all other duties incident to the office of Treasurer. The records, books of account and the vouchers authorizing payments, shall be available for examination by a member of the Association at convenient hours of weekdays at a reasonable charge.

#### 6. FISCAL MANAGEMENT.

.1. Budget. The Board of Directors shall determine the common expenses of the Association and adopt a budget for each calendar year of such estimated common expenses, including a reasonable allowance for contingencies and reserves, less the unneeded fund balances on hand.

Within thirty (30) days after adoption of a proposed budget for the condominium, the Board shall provide a copy of the budget and proposed assessments to all the unit owners, and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after delivery or mailing of the budget to the unit owners. Unless at that meeting a majority of all the unit owners present in person or by proxy or any larger vote specified in the Declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the unit owners shall be continued until such time as the unit owners ratify a subsequent budget proposed by the Board.

.2. Assessments for Recurring Expenses. Assessments for recurring common expenses shall be made for the calendar year annually in advance and transmitted to each member as

provided supra. The Board may include a Maintenance Fund Reserve for contingencies in such assessments, and such Maintenance Fund Reserve may from time to time be increased or reduced at the discretion of the Board. The proportionate interest of each unit owner in said Fund cannot be withdrawn or separately assigned but shall be deemed to be transferred with such unit even though not expressly mentioned or described in the conveyance thereof. In case the condominium regime hereby created shall be terminated and the property removed from the Alabama Uniform Condominium Act of 1991, as amended, any part of the said Fund remaining after full payment of all common expenses of the Association shall be distributed to all unit owners in their respective proportionate shares. Such assessments shall be due in monthly installments of the first day of the month of the year for which the assessments are made. If such annual assessment is not made as required, an installment in the amount required by the last prior assessment shall be due upon each installment payment date until changed by a new assessment. The total of the assessments for recurring common expenses shall be not more than one hundred twenty percent (120%) of the assessments for this purpose for the prior year unless approved in writing by unit owners entitled to cast a majority of the votes in the Association. In the event such an annual assessment proves to be insufficient, it may be amended at any time after approval in writing by unit owners entitled to cast a majority of the votes in the Association, and the amended assessment for the remaining portion of the calendar year shall be due at the time the next monthly installment is due. The first assessment shall be determined by the Board of Directors of the Association.

.3. Assessments for Capital Improvements. Upon written notice to all the unit owners and upon approval by unit owners entitled to cast a majority of the votes of the Association, the Board may establish and maintain one (1) or more capital reserve accounts, but the assessment of and payment by all the unit owners in equal monthly installments of their respective proportion shares of such reasonable annual amount, for such term of years as the Board may estimate as needed to cover each unit owner's obligation to provide for specified capital improvements, such as, by way of illustration and not limitation, the purchase of additional property, the paving or repaving of streets and areas, the construction or reconstruction of common elements, and the like. Each such capital reserve account shall not be commingled with the general

assessment funds of the Association, but shall be deposited in a special account, shall be earmarked and designated. The proportionate interest of each unit owner in each such capital reserve account cannot be withdrawn or separately assigned, but shall be deemed to be transferred with such unit even though not expressly mentioned or described in the conveyance thereof. In case the condominium regime hereby created shall be terminated and the property removed from the Alabama Uniform Condominium Act of 1991, as amended, any part of each such capital reserve account remaining after full payment of all common expenses of the Association shall be distributed to all unit owners in their respective proportionate shares.

.4. Assessments for Emergencies. Assessments for common expenses for emergencies which cannot be paid from the assessment for recurring expenses shall be made only after notice of the need therefor to the unit owners concerned. After such notice and upon approval of more than one-half (1/2) of such unit owners concerned, the assessment shall become effective, and it shall be due after thirty (30) days' notice thereof in such manner as the Board of Directors may require.

.5. Acceleration of Assessment Installments Upon Default. If a unit owner shall be in default in the payments of an installment upon any assessment, the Board of Directors may accelerate the remaining installments of such assessment upon notice thereof to the unit owner, and there upon the unpaid balance of the assessment shall come due upon the date stated in the notice, but not less than ten (10) days after delivery thereof to the unit owner, or not less than twenty (20) days after the mailing of such notice to him by registered or certified mail, whichever shall first occur.

.6. Default.

(a) In the event an owner of a unit does not pay any sums, charges or assessments required to be paid to the Association within thirty (30) days from due date, the Association may foreclose the lien encumbering the unit created by non-payment of the required moneys in the same fashion as mortgage liens are foreclosed; provided that thirty (30) days prior to the foreclosure, notice of such intention shall be mailed, postage prepaid, to the unit owner and to all persons having a mortgage lien or other interest of record in such unit as shown in the Association's record of ownership. The

Association shall be entitled to the appointment of a Receiver, if it so requests. The Association shall have the right to bid on the unit at a foreclosure sale and to acquire, hold, mortgage and convey the same. In lieu of foreclosing its lien, the Association may bring suit to recover a money judgment for any sums, charges or assessments required to be paid to the Association without waiving its lien securing the same. In any action either to foreclose its lien or to recover a money judgment brought by or on behalf of the Association against a unit owner, the losing defendant shall pay the cost thereof together with a reasonable attorney's fee.

(b) If the Association becomes the owner of a unit by reason of foreclosure, it shall offer said unit for sale and at such time as a sale is consummated it shall deduct from such proceeds all sums of money due it for monthly assessments and charges, all costs incurred in the bringing of the foreclosure suit, including reasonable attorney's fees, and any and all expenses incurred in the resale of the unit, which shall include but not be limited to advertising expenses, real estate brokerage fees, abstract or title insurance costs, and expenses necessary for the repairing and refurbishing of the unit in question. All moneys remaining after deducting the foregoing items of expense shall be returned to the former owner of the unit in question.

.7. Banking. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which moneys of the Association shall be deposited. Withdrawal of moneys from such accounts shall be only by check signed by such persons as are authorized by the Directors.

.8. Audit. An audit of the accounts of the Association, inclusive of its internal controls, shall be made annually by a certified public accountant, not a member of the Association, and a copy of the report shall be furnished to each member not later than April 1st of the year following the year for which the report is made.

## 7. OBLIGATIONS OF THE OWNERS.

.1. Assessments. Every owner of any unit in the

condominium shall contribute pro rata toward the expense of administration of the condominium as provided in the Declaration and in these By-Laws.

.2. Maintenance and Repair.

(a) Every owner must perform promptly all maintenance and repair work within his unit, which, if omitted, would affect the condominium in its entirety or in a part belonging to other owners, and is expressly responsible for the damages and liabilities that his failure to do so may endanger. Further, every owner must comply with any duly adopted program for repair, replacement or upgrade implemented pursuant to Section 10.1(b)(i) of the Declaration.

(b) All the repairs of internal or appurtenant installations of the unit, such as water, lights, power, air conditioning, heat, sewage, telephones, sanitary installations, doors, windows, lamps and all other accessories belonging to the unit area, shall be maintained at the owner's expense.

(c) An owner shall reimburse the Association for any expenditures incurred in repairing or replacing any portion of the condominium damaged through his misconduct.

.3. Right of Entry. The Association shall have a right of entry to each unit for the Association, its delegates, agents or employees at all reasonable times to enter into his unit or limited common element as set forth more particularly in the Declaration.

.4. Use of Units. Every owner shall comply strictly with the provisions of the Act, the Declaration, the By-Laws and the Rules. Compliance or default therewith shall be remedied pursuant to Section 17 of the Declaration and any applicable law.

.5. Title. Every unit owner shall promptly cause to be duly recorded in the Office of the Judge of Probate of Baldwin County, Alabama, the deed or other conveyance to him of his unit or other evidence of his title thereto and file such evidence of his title with the Association, and the Secretary shall maintain such information in the record of ownership of the Association.



.6. Mortgages.

(a) Any mortgagee of a unit may file a copy of its mortgage with the Association, and the Secretary shall maintain such information in the record of ownership of the Association. After the filing of the mortgage, the Association shall be required to notify the mortgagee of any unit owner who is in default in the expenses for the administration of the condominium and the mortgagee at its option may pay the delinquent expenses, and the holder of every such mortgage requesting the same shall be entitled to written notification from the Association of any default by mortgagor of such unit in the performance of such mortgagor's obligations under the condominium documents which is not cured within thirty (30) days.

(b) Unless all holders of first mortgage liens on units have given their prior written approval the Association shall not be entitled to:

(i) Change of pro rata interest or obligations of any unit for the purposes of levying assessments and charges, and determining shares of undivided interest in the common elements and proceeds of the project;

(ii) Partition or subdivide any unit or the common elements of the project; nor

(iii) By act of omission seek to abandon the condominium status of the project except as provided by statute in case of substantial destruction, deterioration or obsolescence to the units and condominium project.

8. AGENT TO RECEIVE SERVICE OF PROCESS.

The following person, who is a resident of the State of Alabama, is designated as agent to receive service of process upon the Association:

NAME: \_\_\_\_\_

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

9. PARLIAMENTARY RULES.

Roberts Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Condominium Ownership Act of 1991, as amended, Declaration, or these By-Laws.

10. AMENDMENTS.

These By-Laws may be amended by following the provisions of Section 19 of the Declaration of Condominium.

11. HEADINGS AND GENDER.

The headings used in these By-laws have been inserted for convenience and do not constitute matter to be construed in interpretation. Whenever used herein, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

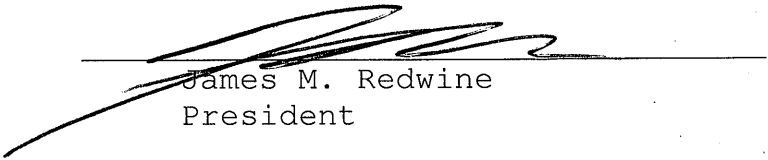
12. SEVERABILITY.

The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of these By-Laws shall not affect the validity of the remaining portions thereof.

SIGNATURE AND CERTIFICATION

I certify that the foregoing is the true and correct Second Amended By-Laws of Phoenix V Association, Inc., an Alabama non-profit corporation, duly adopted by Phoenix V Association, Inc.

DATED this 9<sup>th</sup> day of August, 2021.

  
James M. Redwine  
President

Approved:

\_\_\_\_\_  
Lauren Bethancourt,  
Secretary

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SIGNATURE AND CERTIFICATION

I certify that the foregoing is the true and correct Second Amended By-Laws of Phoenix V Association, Inc., an Alabama non-profit corporation, duly adopted by Phoenix V Association, Inc.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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James M. Redwine  
President

Approved:

  
\_\_\_\_\_  
Lauren Bethancourt,  
Secretary

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## **EXHIBIT F**

# **PHOENIX V**

## **RULES AND REGULATIONS**

### **I. PARKING**

#### **A. General**

1. All vehicles on premises must display a current, authorized pass.
2. Absence of a pass for identification may result in vehicle being towed from parking lot at vehicle owner's expense.
3. If identifiable, vehicle owner will be notified if pass is improper. The vehicle owner will have four (4) hours to obtain proper pass or remove vehicle before it may be towed at vehicle owner's expense.

#### **B. Condo Owners**

1. Owners will be allotted two passes. Owners with underground parking spaces will be allotted one private parking pass for each parking space owned. The authorized owners permit is physically transferrable from one vehicle to another. Permanent non-renting residents (year-round residents) will be permitted two additional passes.
2. Owners who have misplaced passes must purchase new ones at a cost of \$50.00 each and only two passes can be purchased in any one-year period.
3. Owners may leave passes at the front desk for use by family members (sons, daughters, brothers, sisters, parents, as well as significant others). However, Brett/Robinson will not be responsible for ensuring the passes are returned nor for lost or stolen passes.
4. When a unit is sold, the previous owner should provide the new owner all condo owner vehicle passes.
5. Owners' Parking Areas
  - a. Owners may not leave their vehicle in general parking area while not occupying their unit.
6. Condo owners are prohibited from giving owners passes to rental guest. If discovered, the owner's passes will be confiscated and guest will be required to purchase an authorized pass. Non-compliance will result in the offending condo owner being assessed a fine as follows: First violation \$100.00 fine, second violation \$200.00 fine, and third violation \$300.00 fine. After the third violation, any subsequent violation will result in owner's pass being confiscated and owner must purchase a guest pass.

#### **C. Renters**

1. All rental guests must pay the Association a parking service fee, which is in effect year-round, plus tax.
  - a. During periods when ample parking is available, additional passes can be purchased.
  - b. The service fee/pass is valid for the entire visit (Reservation).

2. During non-peak periods and on a space available basis, guest visitors may receive a “no charge” day pass valid for one day only, expiring at 8:00 p.m. Visitors wishing to stay after 8:00 p.m. must purchase a guest visitor parking pass.
3. All renters’ vehicle passes will be available at the check-in desk, and must be displayed immediately.
4. The parking service fee is not a guarantee of a parking space.
5. Neither the Association nor the agent assumes responsibility for any damage by storm, theft, accident, nor for loss of articles left in vehicles.

**D. RVs, Boats, Trailers, etc. (Parking will be allowed if space is available)**

1. No long-term storage is allowed.
2. Each parking space occupied requires a vehicle pass per above rules.

**E. Handicapped Parking**

1. A handicapped parking placard does not guarantee a handicapped parking space.
2. Owners, renters, and visitors may use available handicapped parking space if their vehicle displays a valid handicapped placard, in addition to the required owner or guest parking pass.

**II. PETS**

- A. Absolutely no pets are allowed by renters or their guests. A pet, or evidence of a pet, found on the premises will result in the boarding of the pet or forfeiture of all rents and deposits and immediate eviction.
- B. Owners’ pets must be on a leash at all times when not in unit. The authorized walking area is the grass area located in the north area of parking lots. Owners must pick up after their pets.
- C. Pets are not permitted on the beach by city ordinance.
- D. Owners are required to have an Association Pet Identification Tag attached to the pet while on property. Tags are available at the front desk. Non-compliance will result in a \$50.00 fine.
- E. Pets must be on a leash and under control and not be a nuisance to guests or other owners.

**III. BEACH**

- A. Walking or playing on dunes and habitat area is prohibited. If toys or equipment inadvertently lands there, retrieve with least disturbance.

- B. Parties after 10:00 p.m. must be quiet.
- C. No jet ski type water craft will be permitted to operate from the Phoenix beach. In order to park jet skis in the parking lot (provided space is available), the owner must sign a statement agreeing not to operate it at the Phoenix beach.
- D. Please do not bring buggies onto the beach.

E. **Fires**

Open fires are prohibited on the beach by City of Orange Beach ordinance.

E. **Leave Only Footprints**

This building complies with the Leave only Footprints Campaign per City of Orange Beach ordinance.

#### IV. **BALCONIES/DECKS**

- A. Hanging towels, swimsuits, etc. from the balcony railings is prohibited.
- B. Displaying the U.S. flag is permitted on the following nationally recognized holidays only:
  - 1. Armed Forces Day, 3<sup>rd</sup> Saturday in May
  - 2. Memorial Day (half-staff until noon), the last Monday in May
  - 3. Flag Day, June 14
  - 4. Independence Day, July 4
  - 5. Anniversary of 9-11
  - 6. Veterans Day, November 11
  - 7. Pearl Harbor, December 7
- C. The use of grills on balconies or decks is strictly prohibited.
- D. Feeding birds from the balconies is prohibited.
- E. Noises, music, instruments, etc. loud enough to disturb neighbors is prohibited.
- F. The throwing or dropping of any item from balconies is prohibited.
- G. **Smoking and vaping are prohibited on balconies and decks.**

## V. WRISTBANDS

- A. Wristbands are required to be worn at all times from March 15 through October 31 anywhere on the property.
- B. Use of amenities requires a wristband to be worn from March 15 through October 31.
- C. Use of amenities is at your own risk.

## VI. POOL, SPA AND SPLASH PAD

All swimming pools and hot tubs will be closed from 11:00 p.m. to 7:00 a.m. All posted rules apply.

### A. Swimming Pool –

1. No lifeguard on duty. Swim at your own risk.
2. No diving!
3. Children under the age of 13 must be accompanied by an adult.
4. Pool use limited to owners and guests.
5. No running or rough play in pool area.
6. No glass containers allowed in or around pool.
7. No pets allowed in pool area.
8. Appropriate swimwear is required.
9. Pool may be closed for cleaning and water treatment when necessary.
10. Pool side furniture cannot be reserved.
11. Babies must wear protective swimwear.
12. Swim diapers must be worn by non-toilet trained children at all times.
13. ***Smoking and vaping are prohibited in and around the pool areas.***

### B. Hot Tub –

1. Caution - floor and steps may be wet!
2. Maximum 4 adults in tub at one time.
3. Children must be 14 years or older and be accompanied by an adult.
4. Glass containers are not allowed in tubs.
5. No food allowed in or around tubs.
6. Twenty (20) minute time limit when others are waiting.
7. Remove suntan oil before entering tubs.
8. No pets allowed.
9. Dry off - Do not leave tub area dripping wet.
10. Tubs will automatically drain if occupants violate these rules.
11. ***Smoking and vaping are prohibited in and around the hot tub area.***



**C. Splash Pad –**

Posted rules must be obeyed at all times.

**VII. OTHER PROPERTY**

**A. Racquetball Court –**

Must be 12 years old or accompanied by an adult, eye protection must be worn while playing racquetball. A reserved thirty-minute (30) time limit can be requested to be extended if no other players are waiting. Tennis shoes are required at all times in the racquetball court. No wet clothing, e.g. wet bathing suits, is allowed on the racquetball courts. Racquetball court is open from 7:00 a.m. and closed at 11:00 p.m. Absolutely no black marking shoes. Reservations and key-access codes for racquetball court entry must be obtained from the Front Desk. Users are requested to keep racquetball court door closed while in use.

**B. Fitness Room –**

With the exception of water, no food or drink is permitted in the fitness room. Children under 16 years of age are not allowed unless accompanied by a parent. Use is at your own risk. Reservations and key-passes or codes for fitness center entry must be obtained from the Front Desk. Please keep door closed and locked.

**C. Sauna –**

Key Code is available at the Front Desk. No children under 16 years of age are allowed in the sauna.

**D. Rollerblading, skateboarding and hoverboarding are prohibited on the property.**

**E. Bicycling is allowed only to cross parking lot to and from street.**

**F. Use of fireworks on beach and property is prohibited.**

**G. Obey all posted rules and signs.**

**H. Property belonging to one Association may not be taken to another building.**

***I. Smoking and vaping are prohibited in all Common and Limited Common areas which include, but not limited to unit balconies, hallways, fitness center, meeting rooms, lobbies, storage areas, parking garage, pool and spa areas and stairwells. The only designated***

**smoking area is in the southwest corner of the upper parking deck.**

**J. Restrictions for Decorations –**

All owners and guests are not allowed to hang anything from their balconies or attach anything to the outside of the entry door in the way of decorations including, but not limited to, Christmas, Valentine's Day, Mardi Gras and St. Patrick's Day as per the Condo Documents (location and description below). Association-provided entry doormats may not be removed and/or replaced by personal doormats. These areas are common elements belonging to the Association. Security will ask for them to be removed and they will be removed for you if it continues to be a problem.

Declaration of Condominium – Phoenix V Association, Inc.	
4. <u>Definitions</u> :	
(d) “Common Elements” means common areas and facilities including but not limited to all parts of the condominium property not included within the unit boundaries.	
6. <u>Surfaces</u> : “An owner shall not be deemed to own the studs and structural components of the perimeter walls and/or of load-bearing walls nor windows and doors bounding the unit, nor balconies, not balcony railings enclosing a balcony area”.	
10. <u>Maintenance</u>	
(b) By the Unit Owner: The responsibility of the unit owner shall be as follows:	
ii. Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the building and/or the exterior of the balconies assigned to the exclusive use of the unit owner, and/or the exterior of the balcony area assigned to the use of the unit owner.	

**VIII. ENFORCEMENT OF RULES**

**A. Owners –**

Violation of those rules for which penalty is not so above stated will be referred to respective Association board for assessment of penalty.

**B. Renters –**

1. Violation of those rules for which penalty is not so above stated will be referred to Brett/Robinson Gulf Corp. Property Manager for penalty.
2. Failure to comply can lead to removal and forfeiture of rents and deposits.

**C. Enforcer –**

All Brett/Robinson Gulf Corp. employees and subcontracted security personnel shall have the authority and responsibility to enforce all of the above Rules and Regulations.