

**DECLARATION OF RESTRICTIVE COVENANTS**  
**OF**  
**WINDANCE SUBDIVISION UNIT ONE**  
**WITNESSETH**

WHEREAS, the Developer and Owner of Windance Subdivision Unit One, a real estate development in the First Judicial District of Harrison County, Mississippi, more particularly described in Exhibit "A," wishes to restrict the use of property in said development through the filing and recording of Restrictive Covenants applicable to the development.

NOW, THEREFORE, the Declaration is hereby stated so as to read in its entirety as follows and the Property shall be held, sold and conveyed subject to the following covenants, conditions and restrictions which shall run with the title to the Property, and the grantee of any deed conveying any portion of the Property shall be deemed by the acceptance of such deed to have agreed to all such covenants, conditions and restrictions and to have covenanted to observe, comply with and be bound by all such covenants, conditions and restrictions as follows:

1. DEFINITIONS. As used in this Declaration, the terms below shall have the following meanings:

- A. "Association" means the entity known as Windance Property Owners Association, Inc., a Mississippi nonprofit corporation. Unless otherwise specified herein, any actions required of the Association herein may be taken by its Board of Directors, defined hereinafter.
- B. "Board" means the Board of Directors of the Association. which has been duly elected and qualified in

accordance with the Articles of Incorporation and By-Laws of the Association.

C. "Committee" means a committee composed of three or more Owners, appointed by the Board to exercise the functions delegated to it by the Board in connection with review and approval of architectural plans for improvements on the Lots.

D. "Declaration" means this Declaration of Restrictive Covenants and all exhibits attached hereto, as the same may be amended from time to time.

E. "Developer" means Lakewood Estates, Inc., its successor or assigns.

F. "Dwelling Unit" means any improved property located within the property and intended for use as a housing unit. A parcel of land shall be deemed unimproved until all improvements being constructed thereon are substantially complete.

G. "Owner" means the record owner of a Residential Lot or a Dwelling Unit.

H. "Plat" means the plat of Windance Subdivision, Unit One, recorded in Plat Book 35, page 17, of the Land Deed Records in the Chancery Clerk's Office in the First Judicial District of Harrison County, Mississippi. If additional property is submitted to the terms and provisions of this Declaration by appropriate amendment, and if *any* of such property is platted, the term "Plat" shall also refer to the plat of such additional property.

I. "Development" means the overall development constructed or planned to be constructed on the Property and

includes, without limitation, all residential, business and recreational projects and improvements located, or to be located on such property.

## 2. USE AND CONSTRUCTION RESTRICTIONS AND REQUIREMENTS

A. Residential Purposes. Each Lot shall be used exclusively for single-family residential purposes only, and no structure shall be erected on any Lot other than one detached single-family residence, and appurtenant buildings. No building or part thereof on any Lot shall be rented separately from the rental of an entire Dwelling Unit. However, the Developer shall have the right to maintain facilities on the Property for sales and promotional activity, maintenance and recreation, and shall have the right to sell or lease improved or unimproved Lots.

B. Approval of All Plans and Specifications. In order to insure the development of the Property as a residential community of the highest quality in which all improvements are harmonious in architectural design and aesthetic appearance, the Developer reserves to the Association the exclusive power and discretion to control and approve all improvements placed on any Lot. No paved area, fence, wall, shrubbery, building, or *any* other structure or thing shall be placed or maintained upon any Lot, nor shall any exterior addition, change (including change in exterior colors) or alteration be made to existing improvements thereon until detailed plans and specifications of the same, prepared by a duly licensed architect, engineer, landscape architect or other similarly qualified professional, are submitted to and approved in writing by the Association as to harmony of external design, compliance with the terms of this Declaration and location in relation to surrounding structures and topography.

Notwithstanding the foregoing or anything herein otherwise provided, the Association shall have the right and a perpetual

easement to locate, construct and maintain a fence around the perimeter of the Property or any portion thereof. The Association shall have the absolute right to refuse approval of any plans which in its opinion are not suitable or desirable or do not comply with this Declaration.

Prior to approval, the Association may require submission of all or any of the following documents, as are applicable to the proposed improvements:

(i) Site plan showing all property lines, setbacks, easements, existing trees having a diameter of six (6) inches or more, drives, fences and underground trench locations, and existing and proposed surface contours and elevations of the Lot:

(ii) Floor plan or plans;

(iii) Elevations of all sides of the contemplated structure;

(iv) A summary specification list of proposed Materials and samples of exterior materials and colors which cannot be adequately described;

(v) Landscaping plans;

(vi) Such additional information and materials which, in the opinion of the Association may reasonably be required for its review.

The Association shall preliminarily approve or disapprove the proposed improvements within thirty (30) days from its receipt of all items required for its review. Failure of the Association to act within the thirty (30) day period shall

constitute preliminary approval. Upon preliminary approval, final construction documents or plans shall be submitted to the Association, which shall approve or disapprove such final plans within thirty (30) days after receipt. Failure of the Association to act within that thirty (30) day period shall constitute final approval. Upon approval of the final documents all approvals required shall be deemed to have been given and the work may begin.

The Association may delegate to the Committee all rights of approval granted to the Association pursuant to this paragraph 2.

C. Maximum Height; Minimum Square Footage. No residence or other permitted structure located on a Lot shall be in excess of two and one half stories in height unless written approval of the Association is first secured, which approval may be arbitrarily withheld, or shall contain less than 1800 square feet of heated and air-conditioned enclosed living space; provided, however, there may be less than 1800 square feet but not less than 1600 square feet of heated and air-conditioned enclosed living space, if written approval of the Association is first secured, which approval may be arbitrarily withheld.

D. Setback Lines. Except where setback lines are otherwise shown on the Plat, the following setback lines are hereby established for buildings, structures, additions or accessories located on any Residential Lot: 25 feet from the Front lot line; 15 feet from the rear lot line; 5 feet from interior side lot lines; and 15 feet from street side lot lines. The Association shall have the right to increase, decrease or otherwise modify any of the above requirements in the process of approval pursuant to paragraph 2B, so long as such changes shall preserve the general harmony of the Development and shall not materially impair the value or use of the Lot for which such

approval is sought or of any other Lot

For the purpose of this paragraph 2E, fences, walls and unroofed and unscreened patios shall not be considered part of a building and may be erected outside of setback lines, subject to the prior written approval pursuant to paragraph 2B and subject to the provisions regarding easements in paragraph 4D.

E. Detached Structures and Objects. None of the following buildings, structures or objects shall be placed on any Lot unless contained wholly within the residence or are otherwise obscured from view from any Roadway, any adjacent Lot or any other Dwelling Unit: pens, yards and houses for pets, hothouses, greenhouses, above ground storage of construction materials, wood, coal, oil and other fuels, clothes racks and clothes lines, clothes washing and drying equipment, laundry rooms, appliances, tool shops and workshops, servants' quarters, guest houses, play houses, summer houses, tree houses, outdoor fireplaces, barbecue pits, swimming pools, dressing rooms, garbage and trash cans and receptacles, detached garage and carports, and above ground exterior air conditioning and heating equipment and other mechanical equipment and any other structures or objects determined by the Association to be of any unsightly nature or appearance.

F. Temporary, Movable Structures. Other than temporary construction sheds and sanitary toilet facilities used during actual construction of the main residence and other buildings permitted on any Lot, no shed, shack, trailer, tent or other temporary or movable building or structure of any kind shall be erected or permitted to remain on any Lot.

G. Grading. No Lot or part thereof or any portion of the Property shall be graded, and no changes in elevation of any

portion of the Property shall be made which would adversely affect any adjacent property, without the prior written consent of the Association.

### 3. GENERAL COVENANTS AND RESTRICTIONS

A. Nuisances. No noxious or offensive activities shall be carried on upon any portion of the Property; nor shall anything be done thereon which is or may become a nuisance or annoyance.

B. Trash. Burning of trash, rubbish, garbage, leaves or other materials in the open, by an incinerator or otherwise, is prohibited. All garbage and trash must be stored in closed containers and in such location so as to be hidden from view from any adjacent Dwelling Unit, Lot or Roadway.

C. Window Air Conditioner. No window air conditioner unit shall be installed in any building without the prior written consent of the Association.

D. Antennas. No radio or television aerial or antenna or any other exterior electronic or electric device of any kind shall be installed or maintained on or as a part of any Dwelling Unit until the Association shall have approved the location, size and design thereof and the necessity therefore. Such approval *may* be for a limited period of time or until the occurrence of an event specified in such approval.

E. Mail Boxes. There shall be no mail boxes or newspaper boxes or receptacles unless approval therefore is given by the Association as to the initial and continued location, size and design of such boxes or receptacles.

F. Signs. A sign denoting the street address of the residence; located and designed in accordance with approved standards, shall be required on each Dwelling Unit. In addition, one small sign may be used to denote the name of the resident, subject to the prior written approval of the Association with regard to size, shape, design, color and location of such sign. No other signs of any kind shall be displayed to the public view on any Lot, Dwelling Unit, or any vehicle parked on any part of the Property; provided, however, that nothing herein shall be construed to restrict in any manner the Developer from placing signs and advertising on the Property or any portion thereof.

G. Parking; Storage; Repairs No vehicles or boats (including but not limited to boats, boat trailers, travel trailers, camp trailers, motor homes, mobile homes) or any similar property shall be kept on any Roadway, or stored on any front yard forward of the extensions of the plane of the front of the residence except that private passenger automobiles of the occupant of a Dwelling Unit and guests, having no commercial signs, may be temporarily parked in the driveway or parking area of the Dwelling Unit and except that other vehicles may be parked in such driveway or parking area during the time necessary for delivery and pickup service and solely for the purpose of such service. It is the intention of these covenants to permit the storing of vehicles or boats only in side yards or back yards of lots. No repairing or overhauling of any vehicle is allowed on any part of a Dwelling Unit, a Lot, or any roadway.

H. Condition of Dwelling Units and Lots. Each Owner shall maintain in good condition his entire Dwelling Unit or Lot (*and* the improvements thereon) at all times, but no Owner shall plant any living tree having a trunk diameter greater than six (6) inches



without the prior approval of the Association. No trash, garbage, rubbish, debris or refuse or unsightly object shall be allowed to be placed, accumulated or suffered to remain anywhere on the Property, unless stored as provided in paragraph 3B. Nothing herein shall be construed as requiring the Association to clear or maintain property owned by it so long as such property is unimproved.

I. Animals. Not more than two (2) domesticated dogs, not more than two (2) domesticated cats and not more than two domesticated birds may be kept in any Dwelling Unit or on any Lot, provided such pets are kept for the pleasure and use of the Owner, and not for commercial purposes, and are not permitted to run free. No other animals, livestock or poultry of any kind shall be kept on any Lot or other portion of the property.

If the Association, in its sole discretion, determines that any pet is dangerous or an annoyance or nuisance to the other residents of the Property, or surrounding areas, or destructive of wildlife or property, that pet may not thereafter be kept on the Property and shall promptly be removed by the Owner.

J. Resubdividing; Replatting; Access Restrictions. Without the prior written approval of the Association, no Lot shall be resubdivided or replatted. In the event of such approved replatting or resubdividing, all of the provisions of this Declaration shall apply to the portion of the Property so resubdivided or replatted and no such resubdividing or replatting shall affect any easement shown on the Plat or reserved in this Declaration except easements reserved along the side lot lines, as provided in paragraph 4D, shall only apply to the resubdivided or unplatted Lot. The Association shall have the right to approve the use of one or more contiguous Lots, all or part of any Lot, all of one Lot and part of a contiguous Lot or Lots or any combination of contiguous parts of Lots which will form an integral unit of land suitable for use as a residential building site.

K. Additional Covenants and Restrictions. Other than the Developer, no Owner of any part of the Property shall without prior written approval of the Association, impose any additional covenants or restrictions on any part of the Property.

#### 4. UTILITY SERVICES

A. Easements. The Developer, for itself and its successors and assigns, hereby reserves perpetual, alienable easements,

privileges and rights for the installation, maintenance, transmission and use of wires, conduits, mains, utility, cable and lines, drainage ditches and facilities on, under and across the roadways as well as the rear lot lines and side lot lines as designated on the official plat of Windance Subdivision Unit One for drainage purposes and for the use of electric, telephone, cable TV, sewerage, water, gas and other public and private utilities. Additional easements may be reserved or granted by the Developer at any time prior to the time a Lot affected by such easements is conveyed by the Developer. Within the easement areas on the Lots, no structure or other improvements or landscaping shall be placed or permitted to remain which may damage or unreasonably interfere with the installation and maintenance of utilities and drainage facilities and the Owners of the Lots shall bear the risk of loss of any such structure, improvement or landscaping except as otherwise provided in paragraph 2B. Within the boundaries of any Lot, all easement areas, areas within any setback line and all improvements therein, shall be maintained continuously by the Owner. All utility lines serving the Lot only from the point where such line connects to the main line shall be maintained by the Owners.

5. MEMBERS AND VOTING RIGHTS

A. Memberships. Every Owner shall be a member of the Association. In addition, the owner of the Golf Course shall be a member and the Developer shall be a member as provided below.

B. Classes. Membership shall be divided into three (3) classes as follows:

(i) The Class a members shall be all Owners, other than the Developer, as long as Class C membership shall exist, owning Lots or Dwelling Units located thereon.

(ii) The Class B member shall be the owner of the Golf Course.

(iii) The Class C member shall be the Developer, or its successors and assigns.

Class A and Class B memberships shall be appurtenant to ownership of a Lot, a Dwelling Unit, or the Golf Course within Development and shall not be separated from such ownership.

C. Voting Rights. Until such time as the Developer has conveyed to third parties 60% of the Lots, the Class C member shall have sole voting rights in the Association and the Class A and Class B members shall have no voting rights. After conveyance of 60% of the lots by the Developer, Each Class A member shall have one vote on all matters to come before the Association. The Class B and Class C members shall not have voting rights on any other matter before the Association except or altering or amending the Articles of

Incorporation or Bylaws of the Association, which rights shall be as provided in the Articles of Incorporation.

## 6. RIGHTS OF DEVELOPER

In addition to rights elsewhere reserved, Developer hereby reserves to itself, its successors and assigns, the following rights and privileges:

A. Rights Regarding Temporary Structures, Etc. Developer hereby reserves the right to erect or maintain such dwellings, model houses, sales offices or other structures, and commercial and display signs as Developer, in its sole discretion, may deem advisable for development and marketing purposes. Nothing contained in this Declaration shall be construed to restrict the foregoing rights of Developer.

B. Enforcement. Developer reserves the right, but shall have no obligation, to enter upon any Dwelling Unit or Lot to remove rubbish, signs, structures, plants or other things or to take such other action, all at the expense of the Owner, as Developer deems necessary in order to enforce this Declaration. Such entry, enforcement and removal shall not be deemed a trespass or make Developer liable in any respect for any damages on account thereof. The Owner of such Dwelling Unit or Lot shall pay Developer on demand the actual cost of such enforcement plus ten (10%) per cent of the cost in performing such service as a service fee. In the event that such charges shall not be paid on demand, such charges shall bear interest at the maximum legal rate of interest From the date of demand. All Dwelling Units and Lots shall be subject to a lien in favor of the Developer for all such costs and fees and Developer may, at its option, bring an action at law against the Owner personally

obligated to pay the same, or upon giving the Owner ten (10) days notice of an intention to file a claim of lien against a Dwelling Unit or Lot, may file and thereafter foreclose such lien.

In addition, Developer, any Owner or the Association shall be entitled to bring action at law for damages or in equity for injunctions against those so violating or attempting to violate this Declaration, for the purpose of curing, correcting, preventing or enjoining any violation or attempted violation of the terms of this Declaration. All costs and expenses, including but not limited to reasonable attorney's fees, incurred by Developer, any Owner or the Association to cure, correct, prevent, or enjoin any violation of the terms of this Declaration shall be recoverable against the Owner occasioning such violation. All remedies herein shall be cumulative to any and all other remedies provided elsewhere herein or at law or equity. The failure to bring any action to enforce this Declaration or to correct any violation of this Declaration shall not be deemed a waiver of the right to do so thereafter as to the same breach or as to one occurring prior or subsequent thereto, nor shall such failure give rise to any claim or cause of action by any Owner of any other party against the Developer or the Association.

## 7. MISCELLANEOUS

A. Rights of Mortgagees. Notwithstanding anything in this Declaration to the contrary, the lien of the Developer or the Association for charges incurred in enforcing this Declaration shall be subordinate and inferior to the lien of any institutional mortgage. on any Dwelling Unit or Lot recorded prior to the recording of such claim of lien. In addition, any institutional mortgagee who acquired title thereto as a result of foreclosure or by deed in lieu of foreclosure or any party who purchased same at a foreclosure sale

shall not be liable for the charges pertaining to such Dwelling Unit or Lot which are chargeable to the Former Owner and which became due prior to such acquisition title.

B. Term. The terms and provisions of this Declaration shall run with the title to the Property and any part thereof and shall bind all persons in interest, all Owners and their heirs, legal representatives, successors and assigns until December 31, 2015, at which time this Declaration and Restrictions shall be automatically extended for successive periods of ten years. This Declaration may not be amended in any respect except by the execution of an instrument signed by owners having not less than 75% of the votes as provided herein. After December 31, 2015 this Declaration may be amended or terminated by an instrument signed by owners having 552 of the votes provided herein.

C. Disclaimer. Neither the Developer nor the Association shall be liable to any Owner or other person for any loss or damage arising from any cause whatsoever, including without limitation the provision of, failure to provide, or negligence in provision of security, maintenance, repairs or other services by the Developer or the Association or either of them.

D. Invalidity of Part. The invalidation of any one of the terms or provisions of this Declaration shall in no wise affect any other provisions, which provisions shall remain in full force and effect.

E. Headings. The paragraph headings herein have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

F. Assignment of Developer. The Developer shall have the sole and exclusive right at any time to transfer and assign any or all rights, powers, privileges, authorities and reservations it may have under any paragraph of this Declaration to such other person or entity as it shall elect. No such assignment shall require the consent of any Owner and in the event any such right is assigned, the Assignee shall assume all obligations of the Developer so assigned and the Developer, its officers, directors and stockholders shall thereupon be relieved of any and all obligation or liability with respect thereto.

G. Jointer of Mortgagee. First Guaranty Bank for Savings, being a creditor of Lakewood Estates, Inc. and holding a deed of trust on the Development, hereby joins in the recording of this Declaration of Restrictive Covenants in all respects.

IN WITNESS WHEREOF, the Developer and Owner has executed this Declaration of Restrictive Covenants on this the 18th day of February, 1986.

LAKWOOD ESTATES, INC.  
Developer and Owner

FIRST GUARANTY BANK FOR SAVINGS

STATE OF MISSISSIPPI  
COUNTY OF HARRISON

BOOK 1034 PAGE 510

THIS DAY Personally appeared before me, the undersigned authority in and for said State and County, the within named Frank R. Halbert, President of Lakewood Estates, Inc., who acknowledged that he signed and delivered the above and foregoing instrument on the day and year therein mentioned.

GIVEN under my hand and seal of office, this 18<sup>th</sup> day of February, 1986.

Notary Public  
Notary Public



My Commission Expires:  
1-7-89

STATE OF MISSISSIPPI  
COUNTY OF HARRISON

PERSONALLY appeared before me, the undersigned authority in and for the above county and state, James P. Achee, Ac. President of First Guaranty Bank For Savings, a Mississippi corporation, who acknowledged to me that he signed, sealed and delivered the above and foregoing instrument on the day and in the year therein stated, as and for the act and deed of said corporation being duly authorized so to act.

WITNESS my hand and official seal on this the 25<sup>th</sup> day of February, 1986.

Notary Public  
Notary Public



My Commission Expires:  
My Commission Expires Sept. 11, 1989

STATEMENT OF FEES

First Page \$2.00  
Add. Page at \$1.00 15.00  
Abstracting/Section at \$1.00 1.00  
Marginal Entry at .50  
Other  
Total Fees \$18.00

STATE OF MISSISSIPPI, COUNTY OF HARRISON, FIRST JUDICIAL DISTRICT

I hereby certify that this instrument was received and filed for record at \_\_\_\_\_ o'clock and 15 minutes 4 M. on 27<sup>th</sup> day of Feb., A.D. 1986 and recorded FEB 28, 1986 In Records of Deeds Book 1034 Pages 495-510

G.N. CREEK, Chancery Clerk  
By Rhonda Peterson D.C.