

SCANNED



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Declaration of Covenants Conditions and Restrictions

for

Pointe Breeze Subdivision, Phase 1

dated

October 9, 2022

executed by

Elliott Homes, LLC
1402 Pass Road
Gulfport, MS 39501
(228) 257-9914

Indexing:

Lots 1 through 22, inclusive, Pointe Breeze Subdivision, Phase 1
Harrison County, MS

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR POINTE BREEZE SUBDIVISION, Phase 1**

THIS DECLARATION is made this the 9th day of October, 2022, by Elliott Homes, LLC a Mississippi Limited Liability companies, for itself, its successors, grantees and assigns, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property in Harrison County, Mississippi, which is more particularly described as follows, to-wit:

Lots 1 through 22, inclusive, POINTE BREEZE SUBDIVISION, PHASE 1, Harrison County, Mississippi, according to a plat thereof recorded in Plat Book 34 at page 33 of the Land Deed Records of Harrison County, Mississippi.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, covenants, conditions and restrictions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

- Section 1. "Association" shall mean and refer to POINTE BREEZE SUBDIVISION HOMEOWNERS ASSOCIATION, INC., a Mississippi non-profit corporation, its successors and assigns.
- Section 2. "Board" or "Board of Directors" shall mean the Board of Directors of the POINTE BREEZE SUBDIVISION Homeowners Association, Inc.
- Section 3. "Builder" shall mean any Person or legal entity that purchases one or more Lots for the purpose of constructing improvements for later sale to consumers.
- Section 4. "Building Site" shall mean those fractional parts of adjacent lots or one or more lots and all or a portion of an adjacent lot within the subdivision, which are more particularly described and defined in Section 2 of Article VI of this Declaration.
- Section 5. "Common Area" shall mean all real property (including improvements thereto) owned by the Association and/or which the Association members have the right to use and enjoy and also all rights of easement and license and shall include any and all other property shown on the recorded plat of POINTE BREEZE SUBDIVISION, PHASE 1, but with the exception of and excluding the platted lots and parcels, and with the exception of and excluding the drainage and utility easements and the streets and/or roads.

- Section 6. "Declarant" shall mean and refers to Elliott Homes, LLC, a Mississippi limited liability companies, and its successors and assigns.
- Section 7. "Director" shall mean a member of the Board of Directors of the Association.
- Section 8. "Home" or "Dwelling" shall mean and refer to any building situated upon a Lot or Building Site which is designated and intended for use and occupancy as a residence by a single family.
- Section 10. "Living Unit" shall mean and refer to a Lot and the Home constructed thereon.
- Section 11. "Lot" shall mean and refer to any numbered lot as illustrated and shown on the plat of POINTE BREEZE SUBDIVISION, PHASE 1 as recorded in the public records of Harrison County, Mississippi.
- Section 12. "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article II, Section 1 hereof.
- Section 13. "Owner" shall mean and refer to the owner of record, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- Section 14. "Properties" or "Property" shall mean and refer to that certain real property hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

ARTICLE II

MEMBERSHIP, VOTING RIGHTS, AND GOVERNANCE OF THE ASSOCIATION

- Section 1. Every Owner of a Lot in Phase 1 and all future phases of POINTE BREEZE Subdivision shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.
- Section 2. The Association shall have two classes of voting membership and one class of non-voting membership, as follows:
- CLASS A. Class A members shall be all owners, except for the Declarant, and shall be entitled to one vote for each Lot or Building Site owned in any Phase of POINTE BREEZE Subdivision. When more than one person owns an interest in any Lot of Building Site, all such persons shall be members. The vote for such Lot of Building Site shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot or Building Site.
- CLASS B. The Class B member(s) shall include the Declarant, and shall be entitled to four votes for each Lot owned in POINTE BREEZE SUBDIVISION, PHASE 1.
- Section 3. Governing Body: Composition:

The affairs of the Association shall be governed by a Board of Directors, the members of which must own property in POINTE BREEZE SUBDIVISION, PHASE 1; provided, however, no

Person and his or her spouse may serve on the Board at the same time. The number of Directors shall be either three or five. The Board members shall also serve as the officers of the Association.

ARTICLE III
COVENANT FOR ASSESSMENTS

Section I. Creation of the Lien and Personal Obligation of Assessments.

The Declarant, for each Building Site and/or Lot owned within the subdivision, hereby covenants, and each Owner of any Building Site and/or Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements; such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments.

The assessments levied by the Association shall be used for the improvement, landscaping, replacement, maintenance, repair, enhancement, enlargement, and operation of the Common Area, if any, and improvements thereon, including but not limited to, drainage swales, drainage ditches and 8' wood privacy fence on the west property line of Pointe Breeze Subdivision, maintaining and lighting the entranceways and fence ways attached to entranceways and appurtenant landscaping, and for maintaining and lighting entranceway signs.

The Edgewater Park Homeowner's Association will have the authority to enforce those provisions relative to fence and drainage.

Section 3. Maximum Annual Assessments.

Notwithstanding the recording date of these covenants, the annual assessment for Class A and Class B members owing property in Phase 1 shall be first set concurrent with the assessment by the Association for the next fiscal year beginning on January 1, 2023, payable in advance.

(a) The maximum annual assessment shall be determined by the Board of Directors of the Association and may not be increased more than 10% above the maximum assessment for the previous year without a vote of the membership as provided in Section 3(b) below.

(b) The maximum annual assessment may be increased by more than 10% above the maximum annual assessment for the previous year by a vote of two-thirds of the members present and voting who are voting in person or by proxy at a meeting duly called for this purpose.

(c) If the Board of Directors of the Association, by a majority vote, determines that the important and essential functions of the Association may be properly funded by annual assessments less than those set out above, it may levy such lesser assessments. The levy of annual assessments less than the maximum annual assessments in one year shall not affect the Board's right to levy the maximum annual assessments in

subsequent years. If the Board of Directors shall levy less than the maximum annual assessments for any assessment year and if thereafter, during such assessment year, the Board of Directors shall determine that the important and essential functions of the Association cannot be funded by such lesser assessments, the Board may levy supplemental annual assessments.

Section 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the costs of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, if any, or in the subdivision, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3(b) and 4 of This Article.

Written notice of any meeting called for the purpose of taking any action authorized under Sections 3(b) and 4 of this Article shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members and/or proxies entitled to cast fifty percent plus one vote (50%+1) of all votes shall constitute a quorum. If the required quorum is not present at any such meeting, one (1) or more subsequent meetings may be called for the same purpose, subject to not less than ten (10) days written notice of each such subsequent meeting being provided to all Members, and the required quorum at any subsequent meeting shall be one-half of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment.

Both annual and special assessments must be fixed at a uniform rate for all Lots and Building Sites.

Section 7. Date of Commencement of Annual Assessments: Due Dates.

The annual assessments provided for herein shall commence as to all lots or building sites in Phase ___ once a Board of Directors is elected. Declarant and/or Assignees shall not be responsible for annual or special assessments on any Lot while owned by the Declarant or its Assignees until such Lot first contains an occupied residence and the assessment shall then be prorated for the months and days of the fiscal year remaining. The Board of Directors shall fix the amount of the annual assessment against each Lot at least 30 days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The billing cycles and due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been

paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association.

Any assessment not paid within 30 days after the due date shall bear interest from the due date at the rate of 10% per annum. The Board may bring action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non- use of the Common Area, if any, or abandonment of his Lot. The Board may suspend the rights of a Member to vote and to use Common Areas in three situations: (1) failure for 30 days after mailing of written notice to remedy a violation of the Covenants; (2) failure to pay an assessment within 30 days after the due date of such assessment; and (3) violation of the Association's rules regarding the use of the Common Areas. Suspension shall be for the period during which the violation occurs except that suspension can be for a period not to exceed 60 days after cure of a violation.

Section 9. Subordination of the Lien to Mortgages.

The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage encumbering any Lot, parcel or Building Site within the subdivision. Sale or transfer of any Lot or Building Site shall not affect the assessment lien. However, the sale or transfer of any Lot or Building Site pursuant to foreclosure of a first mortgage or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot or Building Site from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE IV
ARCHITECTURAL CONTROL

Section 1. Architectural Control Committee.

The Architectural Control Committee (hereinafter referred to as ACC) shall consist of three or five members, appointed by the Board of Directors for one year terms coinciding with the fiscal year of the Association. The Association pays the cost of operating the ACC. The Board can remove a member of the ACC at any time. The Board can fill any vacancy whether caused by removal, resignation, or any other reason. The members of the Committee need not be Members of the Association or representatives of Members. Members of the Committee shall not be entitled to any compensation for services performed pursuant to this Article unless compensation is hereafter authorized by the Board. Notwithstanding the aforesaid, Elliott Homes, LLC shall be the sole member of the ACC so long as Elliott Homes, LLC or Elliott Land Development, LLC owns a lot within said subdivision.

Section 2. Architectural Approval.

No building, conversion of garage area to living area, change in exterior color, driveway, fence, wall, mailbox, satellite dish, decorative objects placed in yards, or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or

change or alteration therein be made until two (2) copies of the plans and specifications for the proposed project shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by, the Architectural Control Committee. The plans shall include, as a minimum: a site plan; a floor plan; exterior elevations of all structures to be constructed or altered; plans for materials, color schemes, exterior lighting schemes and other details that affect the exterior appearance of the structure; and plans for landscaping and grading. Approval of plans is final and cannot be revoked, provided the plans are actually adhered to. Approval of a set of plans does not require the Architectural Control Committee to approve the same set of plans in the future. In the event said committee fails to approve or disapprove such design or changes and location within twenty-one (21) business days after submission of all information and materials reasonably requested, approval will not be required and this Article will be deemed to have been fully complied with. The Architectural Control Committee, or their agents, have the right, after reasonable notice, to enter upon any Lot and structure to ascertain whether the construction, alteration, or maintenance of a structure or use of a Lot or structure complies with the Covenants and/or plans submitted to the Architectural Control Committee.

Section 3. Granting of Variances.

When a building or other structure has been erected or its construction substantially advanced and the building is located on any lot or building site in a manner that constitutes a violation of these covenants, conditions and restrictions or the building setback lines shown on the recorded plat, or if the committee in its sole discretion determines that, a variance is desirable in order to best accommodate the location of a planned building on a particular lot, the committee may release the lot or building site, or parts of it, from any part of the covenants, conditions and restrictions, or setback lines, that are violated. The committee shall not give such a release except for a violation that it determines to be a minor or insubstantial violation in its sole discretion. The Committee shall have no authority to grant a variance of a Harrison County subdivision or zoning regulation, including, but not limited to, those that may be contained in these covenants, conditions and restrictions. However, in the event of a violation of these covenants; or the commencement of construction of a plan that had been rejected by the committee or a plan or change not submitted to the committee, the Board shall be empowered to bring any legal action in law or in equity, to seek injunction preventing such violation, or seeking its removal entirely, or both, at the expense of the Owner. In the event of any successful injunction and/or removal order, whether in whole or in part, the Owner shall pay all legal fees, court costs and expenses of the committee in enforcing these covenants, which costs shall become a lien against the property as provided for elsewhere herein.

Section 4. Limitation of Liability.

Review and approval of any plans pursuant to this Article is made on the basis of aesthetic considerations only and the Architectural Control Committee shall bear no responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board, any committee, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Lot or improvements thereon.

ARTICLE V
DUTY TO CLEAR A LOT IF OWNER
ELECTS NOT TO REBUILD AFTER DESTRUCTION

In the event of substantial damage to or destruction of any Home on the Properties by fire, windstorm, water, or other cause whatsoever, then the owner shall, within six months after the date of substantial damage to or destruction of the home, be required to either: (1) begin reconstruction, repair and restoration of the home, such work to be completed in a timely manner; or (2) clear the lot and begin construction of a new home, such construction to be completed in a timely manner; or (3) clear the Lot, such clearing to be completed in a timely manner. If the Owner elects to clear the lot and not rebuild, the Owner shall be required to maintain the Lot in a clean and presentable manner, free from all trash and rubble, and to maintain the Lot so that it is in harmony with the surrounding property.

ARTICLE VI
RESTRICTIONS AS TO USE,
OCCUPANCY AND APPEARANCE

Section 1. General.

All of the Lots shall be used and occupied as single family residences and no dwelling shall be erected, altered, placed or permitted to remain other than one single family dwelling with a private garage for at least one (1) but not more than three (3) vehicles. No building, conversion of garage area to living area, change in exterior color, driveway, fence, wall, mailbox, decorative objects placed in yards, or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until two (2) copies of the plans and specifications for the proposed project shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee. Each Owner shall be responsible for his/her home's own exterior maintenance, landscaping, and maintenance of the landscaping, so long as it does not interfere with the adjoining Lot Owners, and is consistent with these Covenants, Conditions and Restrictions, and harmonious with the surrounding improvements.

Section 2. Adjoining Lots.

If one or more lots, or one lot and all or a portion of an adjacent lot, or two or more fractional parts of adjoining lots, within the subdivision, are utilized for one single family residential purposes, the setback requirements herein shall be measured from the boundary line of the entire building site or plot being then and there utilized and devoted to the single family residence. Two fractional parts of adjacent lots may be utilized as a single family residential building site or plot, provided that no such building site or plot shall contain fewer square feet than the smallest

platted lot within the subdivision nor have a width, at the building setback line, of less than the width, at the building setback line, of the smallest platted lot within the subdivision.

Section 3. Animals.

No livestock, animals, chickens or fowl of any kind shall be permitted on the Properties except for dogs and cats owned as personal pets which shall not be kept in such number as to be an annoyance to other Owners of Lots. In addition, no dogs or cats shall be permitted on the Properties except inside a Home or fenced-in area, without being on a leash and under the immediate control of a responsible individual. All such pets must be walked in appropriate areas, and owners of such pets must clean up after their pets. If any such pet owner fails to properly clean up after his pet, the Association may perform such service and shall bill the pet owner accordingly. The Board shall have the right to adopt and enforce such additional pet regulations as are reasonably necessary to insure that such pets are not and do not become a nuisance. Pets shall be registered, licensed, and inoculated as required by law. No pets other than service dogs accompanied by a handicapped person are allowed on the premises of recreational areas maintained by the Association.

Section 4. Basketball Goals and Other Recreational Equipment.

Basketball goals, posts or backboards shall not be erected, altered or permitted on any lot or building site in the subdivision or on any street right-of-way, unless the same is adjacent to the driveway and is placed more than thirty (30) feet to the rear of the front sill line of the dwelling and is of standard size, height, and appearance. On corner lots placement of basketball goals must be approved by the Architectural Control Committee. Recreational and play equipment, other than basketball goals, must be placed in the rear yard and screened from view to the satisfaction of the Architectural Control Committee.

Section 5. Building Condition, General Appearance, Nuisance, and Health Regulations.

All premises shall be maintained in good repair, shall be clean and sanitary at all times, and free of unsightly debris and clutter. All porches, patios, stoops, terraces, etc. that are not screened from the view of surrounding Lots shall be kept clean and uncluttered, and any furnishings placed on such area must be designed for exterior use and be in harmony with the homes in the subdivision. No nuisances and no violation of the rules and regulations of the State Board of Health or any governmental agency shall be permitted.

Section 6. Building Setback Requirements.

All buildings shall comply with the building setback requirements of the Harrison County zoning regulations for the respective Lot or Building Site. Determination of the location of the rear and side yard setbacks for corner lots shall be based on the orientation of the residential building to be built on the lot. For the purpose of these covenants, conditions and restrictions, eaves, steps and open patios shall not be considered a part of the building.

Section 7. Clothes Lines, Garbage Receptacles, Yard Equipment and Screening of Storage Areas.

No outside clothes lines or other items detrimental to the appearance of the Properties shall be permitted on any Lot. All personal garbage and trash receptacles which are to be furnished by the Owners or garbage collection agencies must be hidden from view. Similarly, all yard equipment, and storage areas must be screened so as to conceal them from the view of neighboring lots, streets, or other property.

Section 8. Driveways.

Deleted

Section 9. Dwelling Size.

Deleted

Section 10. Fences.

No fence shall be located nearer the front property line than the front sill line of the dwelling. However, on dwellings with a side-entrance garage, the fence on the garage side of the dwelling shall be located between the rear-edge of the garage door and the rear sill line of the dwelling. All fences to be constructed on any lot or building site shall be six (6) feet in height, and constructed with unpainted treated lumber or a four feet in height black aluminum fence, unless a variance is granted by the Architectural Control Committee. Chain-link or other galvanized metal fencing is strictly prohibited. Notwithstanding the aforesaid, certain Lots may be required to construct different type fences depending on their surroundings. No fence shall be located within utility easements, drainage easements and drainage swales: as such fences would obstruct the natural water flow and cause a flooding hazard. Notwithstanding the aforesaid, the Declarant may construct a fence along the southwestern boundary line of Pointe Breeze Subdivision Phase 1 and also along the West boundary line of Pointe Breeze Subdivision Phase 2. Due to the fact a Utility Easement is located between Lot 9 and Lot 10, no fence shall be erected in this area.

Section 11. Firearms.

No hunting by any means or the discharge of firearms of any type shall be allowed on the Property.

Section 12. Flagpoles, Antennas, and Satellite Dishes.

No flagpoles, ham radio antennas, citizen band radio antennas, television antennas, or any other type of antenna shall be allowed or permitted to be erected or located or to remain on any lot or building site at any time. Television satellite dishes shall be erected and properly located on a lot or building site in the subdivision and shall not exceed thirty-six (36) inches in diameter. Satellite dishes shall be mounted on the rear side of homes unless otherwise approved in writing by the Architectural Control Committee.

Section 13. Garages.

All homes must include a garage designed for at least one but not more than three cars. Garages must have garage doors and in all cases electric automatic door openers/closers shall be installed and used. Any garage visible from the street must be kept closed except when vehicles are entering or exiting garage. Conversion of garage area to living area shall require the approval of the Architectural Control Committee and shall require the construction of a new garage.

Section 14. Landscaping.

The front yard and side yard areas shall be landscaped before any residence is occupied. Landscaping requirements shall include: (1) grass areas in the front and side yard areas. (2) No trees or shrubs shall be planted in drainage swales, Utility or ingress/egress easements and road right-of-ways.

Section 15. Landscaping Maintenance.

Each Owner shall maintain the appearance of his or her lot or building site, including easement areas, in high quality condition, and shall provide and maintain landscaping on the lot or building site. Grass, flowers and shrubbery must be kept in an orderly fashion. Grass shall be mowed and edged at least bi-weekly during the growing season. Each Owner is responsible for maintaining the area between his/her front and side property line and the street pavement, including mowing of such area and edging along the pavement. Corner Lot Owners are responsible for maintaining the area between their front and side property lines and the street pavement, including mowing of such area and edging along the pavement.

Section 16. Lawful Use.

No immoral, improper, offensive or unlawful use shall be made of the Properties or any part thereof; and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies for maintenance, modification or repair of the Properties shall be the same as the responsibility for the maintenance and repair of the property concerned

Section 17. Leasing.

Entire Living Units may be rented provided that the Living Unit is used only as a residence; that the Living unit is occupied by only one family having no more members than the Living Unit is designed to accommodate; and provided that such use by the tenant or tenants does not create a nuisance. An Owner may lease or rent his own Living Unit himself to any lessee if he furnishes the Association with the names of all the tenants. All lessees are subject to the provisions of the Declaration and the By-Laws and failure to comply with said provisions shall be a default under any lease of any Living Unit whether so stated in said lease. All of the foregoing may be enforced by the Board.

Section 18. Mailboxes.

Deleted

Section 19. Maintenance of Vacant Lots or Building Sites.

If construction of a residential dwelling is not commenced forthwith on any lot or building site, then the Owner shall remove all underbrush and mow and maintain the lot on a quarterly basis. If any unimproved lot or building site is not so maintained the Declarant, the Board, or the Association shall be empowered to maintain the lot or building site and file a lien against the property for any and all expenditures in connection with said maintenance.

Section 20. Noxious and Offensive Trade.

No noxious or offensive trade or activity shall be carried out upon the Properties nor shall anything be done thereon which may be or become an annoyance to the other Owners. Floodlights, bells, telephones, music, number or noise level of pets, air pollutants, etc. shall not be such as to constitute a nuisance to or impair the enjoyment of neighboring lots or building sites.

Section 21. Nuisances.

No nuisance shall be allowed upon the Properties, nor any use or practice that is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Properties by Its residents. All parts of the Properties 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. No Owner shall permit clothes, towels, or other items of personal property to be hung, draped, or otherwise displayed on the patio, porch, etc. or on fences for the purpose of drying or for any other purpose in a manner which would allow said clothing, towels or other personal property to be viewed by any other person occupying or using the Properties. No Owner shall permit any noise to originate from his Home that would be an annoyance or nuisance to occupants of nearby Lots, including, but not limited to radios, record players, stereos, musical instruments, singing, barking of dogs, and meowing of cats.

Section 22. Parking.

No boat, other watercraft, trailer, mobile home, truck, tractor or commercial vehicle of any kind, or any other vehicle, machine, equipment or apparatus other than operating passenger automobiles, pickups and operating passenger vans (vans are limited to those with a passenger capacity of not more than eight people) shall be parked or stored in any driveway or on any Lot in the subdivision or on the street or road right-of-way in front of or beside any such Lot so as to be visible from the street or be visible to the other residences in the subdivision. Any such vehicles, watercraft, trailers, machines, equipment and apparatus must be parked or stored on the rear of the property behind the dwelling, and screened from view to the satisfaction of the Architectural Control Committee. All vehicles belonging to Owners or tenants occupying any dwelling, building site or lot in the subdivision must be operable and not in storage. Any vehicle in a state of repair must be parked in the garage. No automobile shall be parked in the front

building setback area of any Lot except for temporary parking on circular driveways located within the front building setback area. No trailer/tractor, bus, or other commercial vehicle shall be parked on any lot, building site, or adjoining street right-of-way overnight. No other vehicle(s) whatsoever shall be parked on street right-of-way overnight. Any vehicles, boats, equipment or other apparatus under repair must be kept in the garage, all repairs must be made in the garage, and the garage door shall be closed at all times during such repairs. Repairs may only be made to vehicles, boats, equipment or apparatus directly owned by the Owner. All other repairs to any other vehicles, boats, equipment or apparatus must be made at a suitable repair facility not located in the subdivision.

Section 23. Regulations.

Reasonable regulations concerning the use of the Properties may be made and amended from time to time by the Association in the manner provided by its Articles of Incorporation and By-Laws. Copies of such regulations and amendments shall be furnished by the Association to all Owners and residents on the Properties upon request.

Section 24. Reservation of Easement.

DELETED

Section 25. Roofs.

All fiberglass shingle roofs shall be architectural thick, butted shingles. However, this shall not preclude other types of roofs which may be approved by the Architectural Control Committee.

Section 26. Sewage and Drainage Control.

No activities shall be permitted that discharge pollutants into the surface drainage system.

Section 27. Siding.

Deleted.

Section 28. Signs.

No professional, commercial, or other signs of any kind shall be erected or maintained on any Lot or Home by any Owner except with the written permission and direction of the Association, or except as may be required by legal proceedings, it being understood that the Association will not grant permission unless reasonably necessary to avert serious hardship to an Owner. However, an Owner may place a professionally made "For Rent" or "For Sale" sign no larger than three (3) square feet in size on the Lot. This restriction is not applicable to the Declarant or a Builder during any such period of time that Declarant or Builder owns any Lot and is offering any said Lot, Home, or Living Unit for sale.

Section 29. Storage or Outbuildings.

Only one storage or outbuilding shall be placed, permitted, or allowed on each Lot or Building Site. A playhouse that is limited in size, is not constructed on a slab, is movable and is not used for storage or for any purpose other than children's play shall not be considered to be a storage building or outbuilding. The size and design of any such playhouse, storage building or outbuilding must be approved in writing by the Architectural Control Committee and must conform to all building setback requirements of the Harrison County zoning regulations and any other applicable governmental entity.

Section 30. Swimming Pools.

Swimming pools on Lots shall be allowed only in rear yard areas, no less than ten feet from any easements of any kind and must be screened from the view of the street and nearby lots. Swimming pools must be constructed, equipped, and screened/fenced in accordance with governmental regulations. It shall be the responsibility of the Lot owner to comply with all governmental regulations.

Section 31. Temporary Structures.

No structure of a temporary nature (trailer, shack, tent or other building) shall be moved to, placed upon or used on any Lot at any time either temporarily or permanently, excepting, however, that during periods of Construction, contractors shall be permitted a single storage structure on each separate construction site.

Section 32. Trade or Business.

No lot shall at any time be used for the purpose of any trade, business, manufacture, or public amusement.

Section 33. Trespass.

Whenever the Declarant or the Association is permitted by this Declaration to correct, repair, clean, preserve, clear-out, or do any action on any of the Properties or on the easement areas adjacent thereto or included therein, entering such Property and taking such action shall not be deemed a trespass.

Section 34. Visual Obstruction at the Intersection of Public Streets.

Deleted

Section 35. Water and Sewer Utilities.

Deleted

Section 36. Water Wells.

Deleted

Section 37. Wetlands.

Designated wetland areas are not allowed to be cleared, excavated, filled, built upon, sodded, or disturbed in any other way not approved by the U.S. Army Corps of Engineers.

Section 38. Proviso.

Provided, however, that until Declarant has completed all of the contemplated improvements and closed the sale of all of the Lots in Phase 1 and all future phases of POINTE BREEZE SUBDIVISION, neither the Owners nor the Association nor the use of the Properties shall interfere with the completion of the contemplated improvements and the sale of the Lots by Declarant. Declarant may make such use of the unsold Lots and Common Areas, if any, as may facilitate such completion and sale, including but not limited to maintenance of a sales office, the showing of the Properties and the display of signs.

Section 39. Construction Completion.

From the date of issuance of a building permit to construct a home on a given lot, the Owner will have no more than 18 months to obtain a certificate of occupancy from the applicable governmental building inspection department. If such 18 months period elapses, the Board may charge a reasonable daily fine against such Owner from the day after the period elapses until the certificate of occupancy is obtained. A neat construction site must be maintained at all times during the period of construction. Construction materials, trash and equipment must be confined to the site and not allowed to become a nuisance to neighboring property. Construction materials, dumpsters and equipment shall not be stored on a lot that has not received a building permit; and the construction site must be reasonably clean from all trash and debris at all times. If an Owner fails to adhere to these rules and regulations, then the Board, after 30 days notice to the Owner, may charge the Owner a reasonable daily fine until such failures are rectified.

ARTICLE VII
GENERAL PROVISIONS

Section 1. Enforcement.

The Association, the Board, the Declarant or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association, the Board, the Declarant, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event that a Court of competent jurisdiction shall determine that any lot owner shall have violated or have attempted to violate any of the covenants herein, the owner of the lot or lots causing the violation upon which the violation occurs shall pay all attorneys' fees, court costs, and other necessary expenses incurred by the Person instituting such legal proceedings to maintain and enforce the aforesaid covenants. Said attorneys' fees, court costs and other expenses allowed and assigned by the Court shall become a lien upon the lot and improvements.

Section 2. Severability.

Invalidation of any one of these covenants or restrictions by judgment or Court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. No Liability.

Declarant has, using best efforts and all due diligence, prepared and recorded this Declaration so that each and every Owner shall have the right and the power to enforce the terms and provisions of this Declaration against every other Owner. However, in the event that this Declaration, or any part thereof, is, for any reason whatsoever, unenforceable by an Owner (or any other person) in a court of law or otherwise, Declarant shall have no liability of any kind as a result of such unenforceability, and each and every Owner, by acceptance of a deed conveying a Lot, acknowledges that Declarant shall have no such liability.

Section 4. Indemnification.

The Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and Mississippi law. The officers, directors, and committee members shall not be liable for any mistake of judgement, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers, directors, and committee members shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association. The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

All officers and board members having direct control and access to funds of the association shall be bonded, in an amount not less than twice the total amount of all funds of the association. Such amount may be estimated and set by the Board. Any bond fees shall be paid by the Association.

Section 5. Amendment.

- (a) The covenants, conditions and restrictions of this Declaration shall run with and bind the land, for a term of fifteen (15) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of five (5) years.
- (b) This Declaration may be amended anytime during the initial fifteen (15) year period or any extensions thereof by Declarant or its nominees, provided they own at least fifty-one percent (51%) of the numbered lots in Phase 1. Beginning three (3) years from the date of recordation of the Declaration and for the remainder of the initial fifteen (15) year period or any extensions, the

Covenants may also be amended by the written consent of at least seventy-five percent (75%) of the Lot Owners within Phase 1, exclusive of their mortgagees. Any amendment must be recorded in the land Deed Records of Harrison County, Mississippi, and shall be supplementary to this Declaration. Notwithstanding any provision herein to the contrary, no amendment to the Declaration, Bylaws, or Articles of Incorporation shall be effective without the written consent of the Class B Member or its successors and assigns, so long as there is a Class B member of the Association.

- (c) Notwithstanding anything herein contained to the contrary, the Declarant reserves and shall have the right for a period of three (3) years from the date of the recording of these Covenants, Conditions and Restrictions to unilaterally amend this Declaration in whole or in part in order to (1) conform this Declaration to the requirements of any governmental agency, federal, state or local, (2) to conform to the requirements of any mortgage lender, or (3) to insure the reasonable development of the property.

WITNESS ITS SIGNATURE on this the 9th day of October, 2022.

ELLIOTT HOMES, LLC.

BY: [Signature]

STATE OF MISSISSIPPI
COUNTY OF HARRISON

PERSONALLY came and appeared before me, the undersigned authority in and for the jurisdiction aforesaid, on this 9th day of OCT, 2022, the within named JOSH FLEMING, as REPRESENTATIVE of Elliott Homes, LLC, a Mississippi LLC, who signed, executed and delivered for and on behalf of said LLC, and as its own act and deed, the above and foregoing instrument of writing on the date first above written, he having been first duly authorized so to do.

[Signature]
NOTARY PUBLIC
NOTARY PUBLIC
ID No. 290704
Commission Expires
12/26/2025
My Commission Expires 4/26/2025
STATE OF MISSISSIPPI
HARRISON COUNTY

EXHIBIT "A"

Lot One (1), Lot Two (2), Lot Three (3), Lot Four (4), Lot Five (5), Lot Six (6), Lot Seven (7), Lot Eight (8), Lot Nine (9), Lot Ten (10), Lot Eleven (11), Lot Twelve (12), Lot Thirteen (13), Lot Fourteen (14), Lot Fifteen (15), Lot Sixteen (16), Lot Seventeen (17), Lot Eighteen (18), Lot Nineteen (19), Lot Twenty (20), Lot Twenty One (21), Lot Twenty Two (22), Pointe Breeze Subdivision Phase 1, a subdivision according to the official map or plat thereof on file and of record in the Office of the Chancery Clerk of Harrison County, Mississippi, in Plat Book 34 at Page 33 thereof, reference to which is hereby made in aid of and as a part of this description.