

**AMENDMENT TO DECLARATION OF CONDOMINIUM
OF
MOONRAKER, A CONDOMINIUM**

This **AMENDMENT** to the **DECLARATION OF CONDOMINIUM OF MOONRAKER**, a Condominium, dated the 4th day of September, 2004;

R E C I T A L S:

1. **MOONRAKER ASSOCIATES, INC.**, an Alabama corporation, (Original Declarant or Developer) did execute the Declaration of Condominium of Moonraker, a Condominium, which is dated September 7, 1994 and recorded September 9, 1994, in **MISCELLANEOUS BOOK 79, PAGE 1384**, et seq., of the records in the Office of the Judge of Probate of Baldwin County, Alabama ("Declaration").
2. The Declaration submitted to the condominium form of ownership and use certain real property located in Baldwin County, Alabama and described therein.
3. Moonraker Associates, Inc. pursuant to the ACT and Section 15.01 of the Declaration, did assign and set over to **SEACREST ASSOCIATES, INC.**, an Alabama corporation, among other rights, the rights and powers reserved to or exercisable by the Original Declarant for the purpose of removing the Phase II property (as described on Exhibit B to the Declaration) from the condominium form of ownership.
4. Seacrest Associates, Inc. pursuant to the ACT and Section 15.01 of the Declaration, did assign and set over to **B & R, L.L.C**, an Alabama limited liability company, (hereinafter referred to as "Declarant or Developer") among other rights, the rights and powers reserved to or exercisable by the Original Declarant for the purpose of removing the Phase II property (as described on Exhibit B to the Declaration) from the condominium form of ownership.
5. Original Declarant pursuant to Sections 2.02, 2.03, 4.03 and 15.01 of the Declaration reserved the right to remove from the condominium form of ownership and use all or any part of certain real property located in Baldwin County, Alabama and described in the Declaration on Exhibit "B" as Phase II, of Moonraker, a Condominium.
6. Original Declarant pursuant to Section 3.01(H), of the Declaration reserved, as an appurtenant to the property described on Exhibit "B" of the Declaration, an easement, as required by the local governmental authority, for the purposes of ingress, egress and place of utilities through the Common Elements of Phase I to gain access to West Beach Boulevard, Gulf Shores, Alabama, in the event the property described on Exhibit "B" to the Declaration is withdrawn or removed from the condominium form of ownership.

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7. Sections 2.02, 2.03, and 4.03 of the Declaration provided that Phase II, Need Not Be Built and may be removed from the condominium form of ownership and the Declaration by the execution by Declarant alone of an amendment to the Declaration as therein set forth.

8. Declarant desires by this instrument to so amend the Declaration and hereby remove the property together with an easement as described on Exhibit "A" to this Amendment (described on Exhibit "B" to the Declaration) from the condominium form of ownership and use as Phase II of Moonraker, a Condominium.

NOW, THEREFORE, pursuant to Sections 2.02, 2.03, 3.01, 4.03, and 15.01 of the Declaration and the ACT, the Declaration is hereby amended, in the following respects:

A. The real property described on Exhibit "A" attached hereto and by this reference made a part hereof together with the improvements thereon, is hereby REMOVED FROM the condominium form of ownership and use as Phase II of Moonraker, a Condominium.

B. The real property described on Exhibit "B" attached hereto and by this reference made a part hereof is hereby substituted into and for the real property described in Exhibit "A" to the Declaration (describes the condominium property without the inclusion of Phase II).

C. The plats and plans on Exhibit "C" attached hereto and by this reference made a part hereof is hereby substituted into and for the site plan set forth in Exhibit "C" to the Declaration and recorded in Apartment Book 14, page 232 (site plan after the removal of Phase II).

All terms used herein which are defined in the Declaration shall, unless otherwise indicated, have the meaning ascribed to them in the Declaration or the ACT.

As hereby amended, the Declaration is ratified and affirmed and remains in full force and effect.

In accordance with the Declaration and the ACT, upon the filing of this Amendment to the Declaration, fee simple title to the real property described on Exhibit "A" attached hereto shall vest in B & R, L.L.C., its successors or assigns, forever.

IN WITNESS WHEREOF, B & R, L.L.C., an Alabama limited liability company, as successor Declarant, has caused this instrument to be executed on its behalf by its duly authorized Member on the day and year first above written.

**B & R, L.L.C.,
an Alabama limited liability co.**

By: William D. Moody (SEAL)
William D. Moody, Member

**THIS IS THE SIGNATURE PAGE TO AN AMENDMENT TO THE DECLARATION OF
MOONRAKER, A CONDOMINIUM**

**STATE OF ALABAMA
COUNTY OF Baldwin**

I, the undersigned Notary Public in and for the said state and county, hereby certify that William D. Moody, whose name as Member of B & R, L.L.C., an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such Member and with full authority, executed the same voluntarily for and as the act of said Company on the day the same bears date.

GIVEN under my hand and seal this 4th day of September, 2004.

Sheila M. Dean (SEAL)
NOTARY PUBLIC

My commission expires: June 3, 2007

This instrument prepared by:

**Thomas W. Klyce, PC
Attorney at Law
PO Box 2301
Gulf Shores, Alabama 36547**

**EXHIBIT "A" TO AN AMENDMENT
TO THE
DECLARATION OF CONDOMINIUM OF MOONRAKER**

LEGAL DESCRIPTION OF PROPERTY REMOVED FROM CONDOMINIUM

COMMENCING at the Northeast corner of the West ½ of Lot 40, Block 2, Unit 2, Gulf Shores, Alabama, as per map or plat thereof recorded in Map Book 1, page 166, in the Office of the Judge of Probate, Baldwin County, Alabama; run thence South 08 degrees 30 minutes, 38 seconds East along the East line of said West ½ of Lot 40, 81.69 feet; thence run South 81 degrees 35 minutes 45 seconds West, 79.72 feet; thence run North 08 degrees 30 minutes 38 seconds West, 81.69 feet to a point on the North line of Lot 39, said Block 2, Unit 2, Gulf Shores; thence run North 81 degrees 35 minutes 45 seconds East along the North line of said Lot 39 and the West ½ of Lot 40, 79.72 feet to the Point of Beginning.

TOGETHER WITH a non-exclusive easement over, under and across the Common Elements of Moonraker, a condominium, recorded in Miscellaneous Book 79, page 1384, et seq. for the purpose of ingress, egress and placement of utilities from the property described above to West Beach Boulevard, Gulf Shores, Alabama.

**EXHIBIT "B" TO AN AMENDMENT
TO THE
DECLARATION OF CONDOMINIUM OF MOONRAKER**

AMENDED LEGAL DESCRIPTION OF CONDOMINIUM

East 75 feet of Lot 38, all of Lot 39 and the West ½ of Lot 40, Block 2, Unit 2, Gulf Shores, Alabama, as per map or plat thereof recorded in Map Book 1, page 166, in the Office of the Judge of Probate, Baldwin County, Alabama LESS AND EXCEPT: COMMENCING at the Northeast corner of the West ½ of Lot 40, Block 2, Unit 2, Gulf Shores, Alabama, as per map or plat thereof recorded in Map Book 1, page 166, in the Office of the Judge of Probate, Baldwin County, Alabama; run thence South 08 degrees 30 minutes, 38 seconds East along the East line of said West ½ of Lot 40, 81.69 feet; thence run South 81 degrees 35 minutes 45 seconds West, 79.72 feet; thence run North 08 degrees 30 minutes 38 seconds West, 81.69 feet to a point on the North line of Lot 39, said Block 2, Unit 2, Gulf Shores; thence run North 81 degrees 35 minutes 45 seconds East along the North line of said Lot 39 and the West ½ of Lot 40, 79.72 feet to the Point of Beginning.

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STREET

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CERTIFICATION

THE UNDERSIGNED, DAVID LINDSEY, A REGISTERED ARCHITECT IN THE STATE OF ALABAMA, REGISTRATION NUMBER 2537, PURSUANT TO REGISTRATION 35-54-2003, OF ALABAMA, 1975, HEREBY CERTIFIES THAT THE DRAWING HEREIN SHOWN AND MADE A PART OF THIS INSTRUMENT, CONTAINS ALL INFORMATION REQUIRED BY SAID CONDOMINIUM, TO FULLY AND ACCURATELY DEPICT THE LAYOUT AND LOCATIONS OF BUILDINGS IN SUFFICIENT DETAIL TO PROVIDE CONDOMINIUM ASSEMBLY WITH THE ELEMENTS COMPRISING

DAVID LINDSEY, ARCHITECT AL REG. NO. 2637 DATE

GRAPHIC SCALE

AMENDED SITE PLAN PHASE I

MOONRAKER CONDOMINIUM		DALLAS SHORES, AL		UNIT 107
APPROXIMATE DATE	1" = 20' MAY 1984	MORE SURVYING, INC.		
		34097 CANAL ROAD - ORANGE BEACH, AL 36561		
		SEC. 15, T-1-A, R-4-A, SALTPWY COMM'TY. AL 36562		

IT IS MY OPINION THAT THE ABOVE PROPERTY LIES IN ZONES A9 (BL 9) AND A9 (ELP) WITH BUILDINGS LYING IN BOTH ZONES. ACCORDING TO THE FLOOD INSURANCE RATE MAP (FIRM) COMMUNITY #. 816095, PANEL NO. 10004, SUPPLX #. MAP REVISED 9-17-92.

LEGEND

- I.F. - IRON POUND
- I.S. - IRON SET 1/2" REBAR & CAP
- L.S. - LANDSCAPE TIMBERS
- MTR. - OVERHEAD POWER
- D.M. - DOWN
- P.P. - POWER POLE
- TEL. MED. - TELEPHONE PEDESTAL

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State of Alabama, Baldwin County
I certify this instrument was filed
and taxes collected on

2004 September- 7 11:34

Instrument Number 839433 Pages 6
Recording 18.00 Mortgage
Deed Min Tax
Index DP 5.00
Archive 5.00
Adrian T. Johns, Judge of Probate