

\_\_\_\_\_ **THE FUTURE VALUE OF REAL ESTATE IS VERY**  
**UNCERTAIN**  
\_\_\_\_\_ **THIS REAL ESTATE IS NOT BEING SOLD FOR INVESTMENT**  
**[Please initial above blanks]**

**ESCAPES! TO THE SHORES**

**A CONDOMINIUM**

**PURCHASE AND ESCROW AGREEMENT**

**WHEREAS**, Escapes!, Inc. (“Developer”), an Arkansas corporation doing business in Alabama, or its successors and assigns, has constructed a condominium at 24060 Perdido Beach Boulevard, Orange Beach, Baldwin County, Alabama, 36561 (the “Condominium”), as more particularly described in the Declaration of Covenants and Restrictions for Escapes! to the Shores, a Condominium, dated July 17, 2007, and recorded on August 26, 2008 as Instrument 1134438 in the Office of the Judge of Probate of Baldwin County, Alabama, and in the Supplemental Declaration of Covenants and Restrictions for Escapes! to the Shores, a Condominium Certificates of Substantial Completion, dated June 5, 2008 and recorded on August 26, 2008 as Instrument 1134439 in the Office of the Judge of Probate of Baldwin County, Alabama, and in the First Amendment to Declaration of Covenants and Restrictions for Escapes! to the Shores, a Condominium, dated February 4, 2009 and recorded on February 9, 2009 as Instrument 1161612 in the Office of the Judge of Probate of Baldwin County and in the Supplemental Declaration of Covenants and Restrictions for Escapes! to the Shores, a Condominium Establishing Interval Ownership, dated June 5, 2008, and recorded August 26, 2008 as Instrument 1134440, in the Office of the Judge of Probate of Baldwin County, Alabama, and in the First Amendment to Supplemental Declaration of Covenants and Restrictions for Escapes! to the Shores, a Condominium, Establishing Interval Ownership, dated September 7, 2008, and recorded on September 10, 2008 as Instrument 1137378, in the Office of the Judge of Probate of Baldwin County, Alabama (hereinafter Instruments 1134438, 1134439, 1161612 1134440, and 1137378 shall be collectively referred to as the “Declaration”), in accordance with the Alabama Uniform Condominium Act of 1991, as amended (the “Act”); and

**WHEREAS**, the proposed Condominium consists of approximately Eighty Eight (88) Residential Units and One (1) Commercial Unit, along with a parking deck and amenities; and the Condominium is located on the Gulf of Mexico, at 24060 Perdido Beach Boulevard, Orange Beach, Alabama 36561 (“the Real Property”); the legal description of which is:

[purchase & escrow agreement 1 7/16/2009

**ESCAPES! TO THE SHORES  
A CONDOMINIUM**

**LEGAL DESCRIPTION OF CONDOMINIUM PROPERTY**

PARCEL A: COMMENCE AT THE NORTHEAST CORNER OF LOT 3, BLOCK "B" OF SUBDIVISION 2 OF FRACTIONAL SECTION 18, TOWNSHIP 9 SOUTH, RANGE 5 EAST AS RECORDED IN MAP BOOK 5, PAGE 133 OF THE BALDWIN COUNTY PROBATE RECORDS (SAID POINT BEING ON THE SOUTH RIGHT-OF-WAY OF ALABAMA HIGHWAY NO. 182); RUN THENCE SOUTH 00°15'49" WEST ALONG THE EAST BOUNDARY LINE OF SAID LOT 3 BLOCK "B" OF SUBDIVISION 2 FOR 123.07 FEET TO THE POINT OF BEGINNING; RUN THENCE SOUTH 00°18'05" WEST ALONG THE EAST LINE OF SAID LOT 3, BLOCK "B" OF SUBDIVISION 2 FOR 328.87 FEET; RUN THENCE NORTH 89°41'55" WEST FOR 45.42 FEET; RUN THENCE NORTH 00°18'05" EAST AND PARALLEL WITH THE EAST LINE OF SAID LOT 3, BLOCK "B" OF SUBDIVISION 2 FOR 328.87 FEET; RUN THENCE SOUTH 89°41'55" EAST FOR 45.42 FEET TO THE POINT OF BEGINNING. SAID PARCEL BEING A PORTION OF LOT 3, BLOCK "B" OF SUBDIVISION 2 OF FRACTIONAL SECTION 18, TOWNSHIP 9 SOUTH, RANGE 5 EAST AS RECORDED IN MAP BOOK 5 PAGE 133 OF THE BALDWIN COUNTY, ALABAMA, PROBATE RECORDS.

AND

PARCEL B: LOT 4, BLOCK "B" OF SUBDIVISION 2 OF FRACTIONAL SECTION 18, TOWNSHIP 9 SOUTH, RANGE 5 EAST AS RECORDED IN MAP BOOK 5, PAGE 133 OF THE BALDWIN COUNTY, ALABAMA, PROBATE RECORDS.

EXCEPT, HOWEVER, SUCH OF THE OIL, GAS AND OTHER MINERALS IN, ON AND UNDER SAID GROUND, WHICH ARE NOT OWNED BY THE DEVELOPER HAVING BEEN HERETOFORE CONVEYED BY OR LEASED TO OTHERS.

The Real Property is subject to the following:

See Exhibit "A" attached hereto and made a part hereof.

**NOW, THEREFORE**, in return for the consideration as hereinafter set forth, the parties agree:

[purchase & escrow agreement 1 7/16/2009

**CONTRACT PURCHASE TERMS**

1. The undersigned \_\_\_\_\_ (collectively, "Purchaser"), in consideration of the mutual promises set forth herein and other good and valuable consideration, hereby agrees to purchase, and Developer agrees to sell, the following Unit located in the Condominium:

Unit No. \_\_\_\_\_ (the "Unit").

The foregoing Unit, together with an undivided fractional interest in the Common Elements and Limited Common Elements, if applicable, of the Condominium, shall hereinafter be referred to as the "Property".

The total Purchase Price for the Unit shall be \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), consisting of and payable as follows:

**TOTAL PURCHASE PRICE**

\$ \_\_\_\_\_ TOTAL PURCHASE PRICE OF UNIT

**ESCROWED EARNEST MONEY DEPOSIT**

An Escrowed Earnest Money Deposit totaling at least 10% of the full Purchase Price is required. The Escrowed Earnest Money Deposit:

\$ \_\_\_\_\_ Escrowed Earnest Money Deposit in cash (Made payable to Gulf Shores Title Company Escrow Account).

\$ \_\_\_\_\_ Total equaling at least 10% of the full Purchase Price for the Unit as noted above.

**BALANCE:**

\$ \_\_\_\_\_ Balance due at closing for the Purchase Price

showing credit for cash Escrow Earnest Money Deposit to be applied at Closing. Note: this total does not include additional sums that may be due for applicable Closing Costs or other charges to be determined at Closing.

**OWNER FINANCING AVAILABLE** Buyer  accepts  does not accept owner financing. Terms are as follows: Twenty Percent (20%) down on auction day with principal and interest due and payable monthly for twelve (12) months at Eight Percent (8%) interest of the unpaid principal balance based on a 25 year amortization. The principal balance shall be due and payable twelve (12) months from date of closing. Principal amount due auction day will be \_\_\_\_\_. Principal amount financed will be \_\_\_\_\_. If the Buyer accepts owner financing, the Financed Portion shall be evidenced by a Promissory Note and secured by a first lien Mortgage covering the Property, each to be executed by Buyer at Closing.

2. The Escrowed Earnest Money Deposit, to the extent paid in cash, shall be held in escrow by Gulf Shores Title Company, 100 Cove Avenue, Gulf Shores, Alabama 36542 ("Escrow Agent") in an interest bearing Escrow Account, subject to the terms and conditions of this Agreement. The cash Escrowed Earnest Money Deposit, and all accrued interest if applicable, shall be applied to the Total Purchase Price at Closing. If Purchaser cancels this Agreement under the Cancellation provisions set forth under Paragraph Eight (8) hereof, the Earnest Money and all accrued interest actually earned in the Escrow Account and attributable to Purchaser's Earnest Money Deposit shall be returned to Purchaser.

3. If, on the Closing Date, Purchaser fails to pay such sums as are required to be paid on the Closing date or to execute the instruments required of Purchaser hereunder, then Developer shall be entitled to retain the Escrowed Earnest Money Deposit, and all interest accrued thereon as liquidated damages and shall further be entitled to declare this Purchase and Escrow Agreement to be terminated. Alternatively, Developer may seek any other remedies provided at law or in equity to enforce this Agreement, including a claim for specific performance. The parties acknowledge that by reason of Developer binding itself to the sale of the Unit and thereby withdrawing the Unit from the market, Developer will have sustained damages if Purchaser defaults hereunder which will be substantial but not readily capable of determination with sufficient precision so that the provision for liquidated damages is beneficial to all the parties hereto. The parties agree that such provision is a *bona fide* method for calculating some of Developer's damages, and that such provision is not a penalty even if other remedies are also sought. Purchaser agrees that if Purchaser defaults under this

Agreement, Purchaser shall not file an action or counterclaim against Developer seeking the return of any portion of the Escrowed Earnest Money Deposit, or seeking any challenge to, or reduction in the amounts of, the liquidated damages agreed upon herein. In the event that Purchaser should become entitled to a return of the funds held in the Escrow Account, such recovery shall be limited to the funds to which he or she is lawfully entitled, plus interest actually earned by the Escrowed Earnest Money Deposit.

4. If a dispute or controversy arises involving the disbursement of the Escrowed Earnest Money Deposit, or if the Escrow Agent is made a party to or is threatened with litigation involving the Escrowed Earnest Money Deposit, then the Escrow Agent shall have the right to retain an attorney and cause the Escrowed Earnest Money Deposit to be interplead into a court of competent jurisdiction for the purpose of adjudicating any such dispute. The Escrow Agent, in addition to all other remedies available at law or in equity, shall be entitled to its reasonable attorneys' fees and court costs to be paid from the interplead funds upon judgment. In the event that Purchaser should become lawfully entitled to a return of any Escrowed Earnest Money Deposit funds, Purchaser may recover only funds to which he or she is lawfully entitled, plus any interest to which he or she may be lawfully entitled which was actually earned in the Escrow Account.

5. Purchaser and Developer acknowledge that property and / or improvements may be added, altered, or substituted in the Condominium as provided in the Declaration at the sole option of Developer at any time prior to Closing. Developer has received a Certificate of Occupancy and Certificates of Substantial Completion for the Condominium. Developer has constructed means for ingress and egress, water, sewer, gas and electric service and amenities in accordance with the Offering Statement and the Declaration.

6. Purchaser acknowledges that Purchaser has received a copy of the Offering Statement to Escapes! to the Shores, a Condominium. (\_\_\_\_\_ *initials*).

7. Reserved.

8. Purchaser confirms that Purchaser has read and understands Section 22 of the Offering Statement, which sets forth certain circumstances in which Purchaser may cancel this Purchase Agreement according to Alabama law as follows:

## CANCELLATION.

- a. Within Seven (7) days after receipt of an Offering Statement, a Purchaser, before conveyance, may cancel any contract for purchase of a Unit from Declarant.
- b. If Declarant fails to provide an Offering Statement to a Purchaser before conveying a Unit, that Purchaser may rescind the conveyance within Seven (7) days after first receiving the Offering Statement.
- c. If a Purchaser receives the Offering Statement more than Seven (7) days before signing a Unit purchase contract, he cannot cancel such contract.

Purchaser shall deliver the above notice of cancellation to Developer at the address set forth herein for notice.

9. Purchaser acknowledges that all Unit dimensions are approximate and that in the course of construction of the Condominium and of the Unit that certain changes, deviations or omissions may be required by governmental authorities, job conditions, or that certain design changes may be deemed necessary by the architect or required by governmental authorities. Purchaser agrees that any such changes, as well as such other changes as are provided for in the Declaration, are hereby authorized. Purchaser understands that certain items, fixtures and improvements to the Condominium and the Unit, such as color of paint, carpeting, cabinets, and appliances to be furnished by Developer for the Unit, are subject to design changes by the manufacturer or architect and subject to shadings in color and gradations, and may vary from any samples that may be shown to Purchaser by Developer. Purchaser agrees that Developer reserves the right to make changes and substitutions of materials or equipment of equal or greater quality than that shown or specified on the plans and specifications. The trim, doors, and walls in the Unit will be finished, and the Unit will contain appliances in accordance with the plans and specifications which are identified in the Offering Statement delivered to Purchaser. All furniture within the Unit shall become the property of Purchaser upon closing of the sale of the Unit. Except Units 1701, 1702, 1703, 1704, 1802, 1803, and 1804 WILL NOT be sold furnished.

10. The Closing shall take place at Gulf Shores Title Co., Inc., located at 100 Cove Avenue, Gulf Shores, AL 36542, Phone Number: (251) 968-6185, on or before August 24, 2009.

11. Developer will deliver marketable or insurable title at the Closing subject to the following:

- (a) taxes for the year in which the transaction is closed, which taxes shall be prorated as of the Closing Date;
- (b) restrictions, conditions, reservations, limitations and easements now of record or hereafter granted by Developer;
- (c) zoning ordinances;
- (d) COA Assessments specified by the Association for such Unit, and Purchaser agrees to pay the COA Assessment in monthly installments in advance on the first day of each month of each year. The COA Assessment payment made at Closing by Purchaser will be for the ratable portion of the remainder of the month in which the Closing occurs.
- (e) Developer will provide an owner's title insurance policy to Purchaser issued by Gulf Shores Title Company, Inc., designated by Developer as the "Closing Agent", in the amount of the purchase price and in the form of and containing the standard exceptions found in an ALTA standard owners policy.
- (f) the Condominium Documents referred to herein; and
- (g) The only warranties provided by Developer are those required under the laws of the state of Alabama plus any manufacturer's warranty applicable to installed appliances in the Unit.

12. Notwithstanding the foregoing, Developer may unilaterally assign this contract to its parent company, Cooper Communities, Inc., or to any wholly owned subsidiary thereof, and to the assigns of the aforementioned parties, and to any third party. Purchaser may not assign this Agreement or Purchaser's rights hereunder without the prior written consent of Developer

13. This Agreement is subject to all the terms, conditions, and stipulations of the Condominium Documents and the Alabama Condominium Act of 1991.

14. Purchaser acknowledges that Purchaser has seen the Unit, or waives the right to do so. (\_\_\_\_\_ *initials*).

15. Any notice required to be given pursuant to the terms of this Agreement will be deemed given upon the earlier of the actual receipt by the recipient or the placing of said notice in the United States mail, properly addressed for certified or registered delivery, postage prepaid, and addressed as follows:

To Developer:

Escapes!, Inc.  
Attn: Contract Administration  
903 North 47<sup>th</sup> Street  
Rogers, Arkansas 72756

or, as provided in the Act, by hand delivery to Developer.

To Purchaser:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Either party may change the address to which notice is to be sent by giving notice of such change in writing to the other party.

16. This Agreement shall not be effective until executed by each Purchaser and by an authorized representative of Developer.

17. Neither Developer nor Purchaser shall be bound by any agreement, promise, or representation, except those set forth herein and in the Condominium Documents.

18. Purchaser consents that SmartResort Co., LLC may contact purchaser by telephone, mail, electronic mail and other means to discuss the provision of various voice, data, cable television and other services which SmartResort may provide to Purchaser's Unit. Purchaser acknowledges that Base Services for internet, telephone and cable television will be provided by SmartResort to Purchaser's Unit, and that the Association will charge Purchaser's Unit accordingly, but that any premium services requested by Purchaser will subject Purchaser's Unit to additional charges.



assessment for Common Expenses is non-refundable and will not be credited against Purchaser's future COA Assessment payments. Instead, such payments shall be provided to the COA for the COA to apply same toward the funding of Common Expenses.

- v. Any utility deposits apportioned to the Unit.
  - vi. One year's ratable hazard / casualty insurance premium for the Unit. This premium payment is non-refundable and will not be credited against Purchaser's future COA Assessment payments. Instead, this premium payment shall be provided to the COA for the COA to apply same toward the funding of any insurance premiums affecting the Condominium.
  - vii. Payment for any additional improvements, if any, as agreed between Purchaser and Seller.
  - viii. Any fees associated with the issuance of the title insurance policy delivered to Purchaser's lender.
  - ix. Any loan fees associated with the issuance of financing to Purchaser.
  - x. Transaction/Processing Fee in the amount of \$200.00.
- c. Developer shall prepare, execute and deliver to Purchaser a statutory warranty deed conveying the Unit to Purchaser, subject to the matters and things hereinabove set forth, and Purchaser shall be given possession of the Unit. Except for those obligations of Developer that survive by operation of law or are herein specifically stated to survive the delivery of the deed, the acceptance of the warranty deed by Purchaser will be deemed to be full performance by Developer and a discharge of Developer's obligations under the terms of this Agreement.
  - d. Unless there is a failure to Close due to the fault of Developer, Purchaser will pay to the Association the assessment for Common Expenses prorated as of the Closing Date even if the Closing is delayed beyond the set Closing Date.

20. Under the Declaration, Purchaser shall become a member of Escapes! to the Shores Condominium Owners Association, Inc., an Alabama not for profit corporation, referred to herein as the "Association" or the "COA", and Purchaser shall enjoy all the

rights and responsibilities incidental to such membership. As such, Purchaser is obligated to pay monthly assessments (currently estimated by the Developer at \$ \_\_\_\_\_), which shall be remitted directly to the Association or its designated agent, beginning as of the Closing Date. Purchaser acknowledges that the COA Assessments are to be used for administration, capital improvements, loan repayment, maintenance and preservation of Common Elements and Common Properties, and that the payment of the COA Assessments does not add to Purchaser's equity in the Purchaser's Unit, nor are such payments refundable under the terms of this Agreement or the Declaration.

**21. NO WARRANTIES OR REPRESENTATIONS HAVE BEEN MADE TO PURCHASER BY DEVELOPER OR ITS AGENTS OR REPRESENTATIVES WHICH ARE NOT HEREIN EXPRESSLY PROVIDED.**

**22. NO PURCHASER SHOULD RELY UPON REPRESENTATIONS OTHER THAN THOSE INCLUDED UNDER THIS AGREEMENT.**

23. Purchaser, by execution hereof, acknowledges receipt of a copy of this Agreement, and the Offering Statement dated July 15, 2009. Purchaser hereby represents that there has been no representation made by Developer or its agents concerning rental, resale, marketability, tax advantages, possible refinance, depreciation, nor investment potential, nor other monetary or financial advantages concerning this transaction and the Unit purchased hereunder. Anticipated tax benefits or the expectation of any particular kind of tax treatment should not be a consideration in the decision to purchase a Unit. No assurances have been made as to the federal nor state income tax treatment of the purchase, use, sale or exchange of a Unit, nor as to the deductibility of related expenses such as interest, taxes and depreciation. A Purchaser should consult his or her tax advisor concerning the tax consequences of this transaction.

24. Developer reserves the right to amend the Declaration for the purpose of correcting errors in the preparation and recording of all documents related to the Condominium. In the event that it becomes necessary to amend any recorded or unrecorded plat or plan for the Condominium for the purpose of correcting errors, Purchaser hereby agrees to such amendment and authorizes Developer to act for and on behalf of Purchaser as Purchaser's attorney in fact for the purpose of executing or approving same as may be required.

25. Purchaser acknowledges that the Declaration for the Condominium plus the Exhibits to the Declaration identify the square footage attributable to the Unit and to the Limited Common Elements appurtenant to the Unit. Purchaser acknowledges that

Purchaser has been provided an opportunity to review all such Exhibits and to ask Developer any questions concerning same.

26. Purchaser acknowledges that certain Units denominated as "B" Units and all Units denominated as "D" Units share a foyer with one another of 86 square feet of space and containing a Washer and Dryer. This particular foyer space and the Washer and Dryer are Limited Common Elements. The "B" Units sharing such Limited Common Elements with "D" Units include the "B" Units numbered 103, 203, 303, 403, 503, 603, 703, 803, 903, 1003, 1103, 1203, 1303, 1403, 1503, and 1603. The respective "D" Units sharing these Limited Common Elements are 102, 202, 302, 402, 502, 602, 702, 802, 902, 1002, 1102, 1202, 1302, 1402, 1502, and 1602. By way of example, Unit 102 and 103 share a Foyer and Washer and Dryer. Likewise, Unit 202 and 203 share a Foyer and Washer and Dryer, etc.

27. **BROKERAGE:** Each party represents and warrants that no real estate broker or salesman has been involved in this transaction except The National Auction Group, Inc. ("Auction Company") and \_\_\_\_\_ ("Participating Broker"). (Insert NONE, if there is no participating broker). If Purchaser has a sales agent or broker assisting him in any manner in connection with this transaction (hereinafter "Participating Broker"), Purchaser agrees that it is Purchaser's duty to cause the Participating Broker to be properly registered with The National Auction Group, Inc., ("Auction Company") and to have such agreement as to commissions between the two set forth in writing on forms provided by the Auction Company. Each party hereto agrees that if any person or entity makes a claim for brokerage commissions or finder's fees related to the sale of the Property by Developer to Purchaser, other than as set forth herein, and such claim is made by, through or on account of any acts or alleged acts of said party or its representatives, said party will protect, indemnify, defend and hold the other party free and harmless from and against any and all loss, liability, cost, damage and expense (including reasonable attorneys' fees) in connection therewith. The provisions of this paragraph shall survive Closing or any termination of this Agreement.

28. Purchaser acknowledges that short term rental guests may have rented the Unit, and that the Unit may therefore be occupied on the date of Closing. Thus, Purchaser may not occupy the Unit until 24 hours after such guests check out of the Unit. (The latest date on which Unit occupancy will be made available is August 24, 2009.) Developer will advise Purchaser as to the specific date on which Purchaser may occupy the Unit. Any rental income generated from the rental guests occupying the Unit that would have accrued to Developer but for the sale of the Unit. shall accrue to Purchaser starting on the date of Closing until the rental guests check out of the Unit. During the 24 hours following check out, the Unit will be cleaned and prepared for Purchaser's

occupancy thereof, and Purchaser will not be entitled to any rental income attributable to such 24 hour clean up period.

**IN WITNESS WHEREOF**, Purchaser has executed this Agreement on this the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**PURCHASER**

If an individual or individuals:

Print Name \_\_\_\_\_

Print Name \_\_\_\_\_

Print Name \_\_\_\_\_

Print Name \_\_\_\_\_

Purchaser's E-mail Address(es):

Date: \_\_\_\_\_

Purchaser's Telephone No(s):

If an organization:

\_\_\_\_\_

Print entity's name \_\_\_\_\_

Purchaser's Social Security No(s)  
Or Taxpayer ID. No:

By: \_\_\_\_\_

\_\_\_\_\_

Print Name \_\_\_\_\_

Print Title \_\_\_\_\_

Date: \_\_\_\_\_

Purchaser's Date(s) of Birth

\_\_\_\_\_

Purchaser's Driver's License No(s).

**ACCEPTED BY DEVELOPER:**

\_\_\_\_\_

ESCAPES!, INC.

By: \_\_\_\_\_

As its: \_\_\_\_\_

Dated: \_\_\_\_\_

## **Exhibit “A”**

- 1) Zoning, planning and other restrictions or regulations upon the use of the Real Property as may be imposed by the City of Orange Beach, County of Baldwin or State of Alabama, or any other governmental authorities having jurisdiction over the Real Property.
- 2) Development Rights and Special Declarant Rights granted Developer by the Condominium Documents and by the Act.
- 3) All ad valorem taxes and assessments.
- 4) Rights of eminent domain and other governmental rights of police power.
- 5) Easements or claims of easements not shown by the public records.
- 6) Encroachments, overlaps, boundary line disputes, and any other matter which would be disclosed by an accurate survey and inspection of the Real Property.
- 7) Terms and conditions of all permits and licenses of federal, state, and local government, including applicable agencies and departments and private and quasi governmental agencies having jurisdiction over the Real Property.
- 8) Rights of other parties, the United States of America or State of Alabama, in and to the bed, shore, littoral or riparian rights to the property described above lying adjacent to the Gulf of Mexico.
- 9) Rights, if any, of the public to use as a public beach or recreation area any part of the described property lying between the Gulf of Mexico and the natural line of vegetation, dunes, extreme high water line or other apparent boundary lines separating the publicly used area from the upland private area.
- 10) Subdivision regulations by the City of Orange Beach, Alabama, as recorded in Miscellaneous Book 71, Page 829, et seq., Miscellaneous Book 84, Page 768, et seq.; Miscellaneous Book 90, Page 92, et seq., Miscellaneous Book 92, Page 1288, et seq.; Miscellaneous Book 93, Page 132, et seq., Miscellaneous Book 96, Page 875, et seq.; and Miscellaneous Book 97, Page 639, and as Instrument Number 474555, and at Instrument 767415. Additionally, the Subdivision Regulations of the City of Orange Beach, Alabama, as recorded at Instrument 1028536, and any amendments thereto.

- 11) Adverse claim, if any, based upon the assertion that some portion of the land described herein is tidal or submerged land, or has been created by artificial means or has accreted to such portion so created.
- 12) Mineral reservations, rights of way of record, easements of record, including:
  - i. Reservation of all interest in and to all oil, gas and minerals and rights in connection therewith as contained in deed from Mary Belle Scott Franklin to Ralph E. McClain and Mary L. McClain, dated May 15, 1972, and recorded in Deed Book 432 page 457.
  - ii. Reservation of all interest in and to all oil, gas, and minerals and rights in connection therewith as contained in deed from John Watts Scott and Martha H. Scott, to Ralph E. McClain and Mary L. McClain, dated April 20, 1977, and recorded in Deed Book 515, page 205.
  - iii. Reservation of all oil, gas and minerals and rights in connection therewith, as contained in the deed from Ralph E. McClain and Mary L. McClain to The Shores, Ltd., dated October 5, 1981 and recorded in Real Property Book 100, page 1716.
- 13) Easements and licenses reserved by Developer.
- 14) Easement for Placement, Construction, Maintenance, and use of Sand and Associated Sand Stabilization Structures, Vegetation, Vegetation Irrigation Systems, and Access Structures granted The City of Orange Beach, Alabama, and the State of Alabama, by and through the Commissioner of the Department of Conservation and Natural Resources, dated July 7, 2004, and recorded at Instrument 833988.
- 15) Covenants and restrictions contained in the Declaration, and / or prescribed by the Alabama Condominium Act of 1991, as amended, and the survey attached to the Declaration of Covenants and Restrictions for Escapes! to the Shores, a Condominium, dated July 17, 2007, and recorded on August 26, 2008 as Instrument 1134438 in the Office of the Judge of Probate of Baldwin County, Alabama and the proscriptions contained in the survey.
- 16) Any and all prior and/or future conveyances or reservations of mineral rights or minerals of any kind.

- 17) Any and all licenses and rights of way which SmartResort Co., LLC may possess or obtain to install and maintain cabling, fiber optic cabling, antennae, and other equipment necessary to provide cable television, telephone, data transmission and other services to the Condominium.
- 18) The Easement granted Baldwin County Electric Membership Corporation by Escapes!, Inc. dated October 23, 2006, and recorded as Instrument 1045264.
- 19) Subdivision regulations of the City of Orange Beach, Alabama as recorded at Instrument 1028536 and any amendments thereto.
- 20) Any dispute as to the boundaries of the Condominium caused by a change in the location of any water body within or adjacent to the Condominium, and any adverse claim to all or part of the Condominium that is, or was previously, under water.
- 21) Any rights, interests, or claims of parties in possession of the land not shown by the public records.
- 22) Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
- 23) Taxes or special assessments which are not shown as existing liens by the public records.
- 24) Any loss, claim, damage or expense, including additional taxes due, if any, if ad valorem taxes for the subject property have been paid under a current use assessment (See 1975 Code of Alabama, Section 40-7-25.3).
- 25) Loss or damage arising as a result of variation in the legal description to that portion of the survey as shown on plat of survey by Jefferson Marshall Smith, Sr., dated May 11, 2006, Job No. 400731.50, 600909.50, along the east boundary line of Lot 4, and the southwest corner of that portion of Lot 3 conveyed hereunder, Block B, Subdivision 2 of Fractional Section 18, Township 9 South, Range 5 East, Map Book 5 page 133.
- 26) Any loss or damage due to discrepancies in actual and record distances and bearings as shown on the plat of survey Jefferson Marshall Smith, Sr., dated May 11, 2006, Job No. 400731.50, 600909.50.
- 27) Terms and conditions of the Articles of Incorporation of Escapes! to the Shores Condominium Owners Association, Inc. recorded as Instrument 953150.

- 28) Terms and conditions of the Articles of Incorporation of Escapes! to the Shores Vacation Owners Association, Inc. recorded as Instrument 953149.
- 29) Any license for pedestrian access to traverse the Common Elements of the Condominium which the Developer may deliver to any person at any time.