

# Sturbridge Plantation Pool & Fitness Center Membership Agreement

AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between STURBRIDGE HOMEOWNERS ASSOCIATION, INC., organized and existing under the laws of the State of Alabama (hereafter referred to as “*Association*”), and \_\_\_\_\_ residing at \_\_\_\_\_, Montgomery, Alabama 36116 (hereafter referred to as “*Member*”).

## BACKGROUND

*WHEREAS*, Member, a resident of Sturbridge Plantation this day makes application for a membership in the Sturbridge Plantation Park Pool and Fitness Center (the “*Pool & Fitness Center*” or sometimes the “*Center*” and its members sometimes referred to herein as “*Pool Member*”), a fee based amenity of the Association, having been approved for such membership by the Board of Directors (the “*Board*”) of Association as a member in good standing of the Association, and

*WHEREAS*, the Association and Member now wish to set forth the Member’s privileges and obligations for a membership in the Association’s Pool & Fitness Center, which Center shall be managed by the Board and its duly authorized officers and representatives.

## AGREEMENT

*NOW THEREFORE*, it is agreed as follows;

### 1. ELIGIBILITY.

The classes of membership in the Pool & Fitness Center are as follows: Lifetime Members; Elective Members and Tenant Members.

A. *Lifetime Membership.* Any new member to the Association who became a member on or after January 1, 1999 or who was not otherwise permitted to become an Elective Member by the Board.

B. *Elective Membership.* Any existing member of the Association prior to January 1, 1999 who elected to become a Pool Member under the terms and conditions as set forth herein during at any time during 1999 or thereafter during any of the Center’s Membership Drives. The number of Pool & Fitness Center Memberships offered at any given time shall be determined in the Board’s discretion, and may be limited or closed in the future.

C. *Tenant Membership.* Any tenant or lessee of an Association member (“*Tenant*”) currently residing in Sturbridge Plantation may also be eligible to become a member upon presentation of their lease agreement for their residence in Sturbridge Plantation and such other documents as may be required by the Board for approval by the Clubhouse Manager for Tenant to become a Pool Member. Members of the Association have a priority over Tenants for

Pool Membership if and when new membership is limited in the Pool & Fitness Center as determined necessary by the Board.

D. *Enrollment.* Each member of this Pool & Fitness Center shall pay to the Association a registration fee and annual dues in an amount to be fixed by the Board as more specifically set forth in Section 3 hereof. Any member of the Association, upon execution of this Membership Agreement and delivery to the Pool & Fitness Manager of the Association and upon payment of applicable fees and dues for the current year, shall be enrolled as a member of this Center. Thereafter, said dues shall be paid in advance each year beginning on January first next succeeding such enrollment. Members so enrolled and whose dues are current shall be subject to all rules and regulations made by the Board of Directors, its duly authorized representatives, and the officers or committees authorized by the Bylaws of the Association or this Agreement.

E. *Member in Good Standing.* All Pool Members to be in “Good Standing” must (i) pay all fees and dues as may be fixed by the Boar when due and payable; (ii) be in compliance with all plat restrictions; (iii) be in compliance with all Architectural Review Board rules and regulations; (iv) be in compliance with all Association bylaws, rules and regulations; and (v) have not been cited for any violations of such rules by the Clubhouse Manager, Architectural Review Board or Board of Directors.

F. *Memberships Are Non-Transferable.* All Pool & Fitness Center Memberships are nontransferable. Credits may be permitted for certain new membership applications in special situations, e.g. death of a spouse, Rental Memberships, as determined solely by the Clubhouse Manager under the direction of the Board.

## **2. REGISTRATION FEE; ANNUAL DUES.**

A. *Registration Fees and Annual Dues.* Each member of the Pool & Fitness Center shall pay to the Association a registration fee and annual dues in an amount to be fixed by the Board. The current Pool & Fitness Center Registration Fee and Annual Dues Schedule is attached hereto as Schedule 1. Pool Member hereby acknowledges that dues are set by the Board and are non-refundable and non-transferable except as specifically provided herein. Pool & Fitness Center reserves the right to adjust or waive the registration fees from time to time during promotional membership drives.

B. *Payment; Delinquencies; Priority of Payment.* Pool Member agrees to pay the annual dues in advance each year on or before January 1, unless otherwise specifically provided. Dues shall become delinquent on the first day of the succeeding month. The Pool & Fitness Center shall not be required to send a delinquent notice to any delinquent member before imposing any late charges, penalties or other charges as have been approved and prescribed by the Board for such delinquencies. Failure to pay dues, fees or assessments when due may result in membership privileges being suspended or revoked. All monies received from a Member shall first be applied toward unpaid Association dues, penalties, charges and fines before any such monies received shall be applied toward Pool & Fitness Center dues, assessments or other charges.

C. *Assessments.* Special assessments shall be made by resolution adopted by the Board at a special or annual meeting of the Board called for such purpose. The assessment for each class of membership need not be the same as for other classes.

**3. POOL MEMBERS' HOUSEHOLDS.**

The relatives of any Pool Member shall be entitled to the privileges of the Pool & Fitness Center under such rules and regulations as may be prescribed by the Board, provided the relative is living in the home of such Pool Member. The relatives of a Pool Member who qualify under this Section 3 are as follows:

- A. The spouse of the Pool Member.
- B. A parent of the Pool Member or Pool Member's spouse.
- C. Any child of a Pool Member, under the age of twenty-one (21) years.
- D. Any child of a Pool Member over the age of twenty-one (21) years who is a bona fide student attending any college or institution of higher learning, or who is a member of the armed services of the United States or National Guard, during such time as such child is attending college or is in military service.
- E. Grandchildren may use the pool without guest fees when accompanied by Pool Members that are grandparents.

**4. GUESTS.**

No person who is not a member of the Pool & Fitness Center shall be permitted to enter the Pool & Fitness Center facilities or grounds unless they are the guest of and accompanied by a member of the Pool & Fitness Center in good standing or under such other conditions and for such special occasions as the Board may designate. Guest fees will be fixed by the Board at its discretion.

**5. ADMISSION CARDS; KEY DEPOSITS.**

Access to the Pool & Fitness Center facilities will be restricted for safety reasons. Pool Members must access the pool area by using the key card issued them upon becoming a Pool Member. Additional or other admission cards or special access or other cards or devices giving Pool members privileges and/or access to the SPP Pool & Fitness Center and its grounds may also be issued by the Board. Additional security deposits for lost key cards, or other admission or access cards or devices will be prescribed and collected by the Clubhouse Manager. Initially the lost key deposit shall be \$35.00 per key until such time as prescribed otherwise by the Board.

Anyone seen jumping or climbing the gate or entering the pool by any means other than the proper use of their key card may have their membership privileges suspended that day by the lifeguard on duty or revoked by the Clubhouse Manager. It is the responsibility of all members to remind any other members or guests of the rules concerning access procedures and policies should a violation occur.

**6. STATEMENT OF ANTI-DISCRIMINATION.**

The STURBRIDGE PLANTATION PARK POOL AND FITNESS CENTER does not unfairly discriminate on the basis of ancestry, color or race; cultural or ethnic background; economic status; ideological, philosophical, or political belief or affiliation; marital or parental status; national or regional origin; physical disability; religion, or religious or denominational affiliation; or sex. The Pool & Fitness Center shall not encourage or condone discrimination, either implicitly or explicitly, on any above stated.

**7. DUTIES AND POWERS OF THE BOARD OF DIRECTORS OF THE ASSOCIATION WITH RESPECT TO THE CENTER.**

The Board shall have general supervision and control of the affairs of the Pool & Fitness Center subject to the provisions of the Articles and Bylaws of the Association and this Agreement.

**8. RULES AND REGULATIONS.**

The Board shall adopt and publish rules, including without limitation SPP Pool Rules and SPP Fitness Center Rules, as it deems necessary or desirable for the welfare of the Members. Members shall be bound by all of the Rules and Regulations of Association when so adopted. These rules and regulations may be changes, amended or supplemented at the sole discretion of Association and its Directors. The interpretation of the bylaws, rules and regulations of Association applicable to the Pool & Fitness Center shall rest with the Board of Directors of Association and its duly authorized officers and representatives. The Board shall have authority to levy fines and assessments or penalties for any violations of the rules of the Center, subject to the Bylaws of the Association and the other provisions of this Agreement.

**9. NOTICE.**

All notices, requests, demands or other communications authorized or required to be gives by any party pursuant to this Agreement shall be given in writing to all parties, and shall be deemed to have been sufficiently given on the date mailed (and postmarked) or delivered (i) if to the Member: at the undersigned address for such Member and (ii) if to the Association:

STURBRIDGE HOMEONWERS ASSOCIATION, INC.  
Attn: Clubhouse Manager  
9015 Sturbridge Place  
Montgomery, Alabama 36116

**10. TERM.**

A. *Lifetime Member.* The term of this Agreement for Lifetime Members shall be for one year (except for 1999 wherein term ends December 31, 1999) and will automatically renew each year on January 1, provided that the Lifetime Member has to had his or her membership revoked as provided herein.

The Clubhouse Manager shall notify each Lifetime Member of any increase or other change in the annual dues for the Pool & Fitness Center, as well as, any other fees or assessments approved and prescribed by the Board of the Association for the coming year. Revocation or suspension of a Lifetime Member's rights and privileges under this Agreement does not alleviate, waive, or otherwise reduce such member's obligation to any annual dues and assessments, if any, to the Association for the Pool & Fitness Center as approved and set by the Board for Lifetime Members. A Lifetime Member may not voluntarily terminate his or her membership.

B. *Elective and Tenant Members.* The term of this Agreement for Elective Members and Tenant Members shall be for one year (except for 1999 wherein the term ends December 31, 1999), and will automatically renew each year on January 1, provided that the undersigned Pool Member has timely paid all dues, fees, and assessments required by the Board, and provided such Pool Member has not resigned or had his or her membership revoked as

provided herein. The Clubhouse Manager shall notify each Pool Member of any increase or other change in the annual dues for the Pool & Fitness center, as well as, any other fees or assessments approved and prescribed by the Board of the Association for the coming year. If the Clubhouse Manager does not receive delivery on or before December 31 in writing of any Pool Member's resignation from the Center, then such Pool Member shall automatically be enrolled as a Pool Member for coming year and be required to pay the annual dues for such new year.

C. *Death, etc. of a Member.* Upon death, resignation or revocation of a Pool Member of any class, all his or her rights and interest in the Pool & Fitness Center shall cease and terminate. The spouse of a deceased Pool Member in good standing who resides in Sturbridge Plantation shall be enrolled in the Pool & Fitness Center records as a Pool Member and exempt from paying any registration fee currently required of new Pool Members, but shall pay such dues, fees and assessments to the same extent as that deceased Pool Member would have been required to pay at the time of the deceased Pool Member's death.

## **11. RESIGNATIONS, REVOCATIONS OR SUSPENSION OF MEMBERSHIP**

All resignations shall be in writing, addressed to the Clubhouse Manager.

Any Pool Member may have their membership privileges suspended or have their membership revoked by the Board or its duly authorized representatives, for any one or more of the following causes:

- (1) for failure to pay any dues or assessments or fines or any other duly authorized indebtedness of the Center, within the time prescribed by the Board; or
- (2) any infraction of:
  - (i) the Bylaws of the Association,
  - (ii) rules and regulations of the Center, Architectural Review Board or Association, or
  - (iii) the Protective Covenants or record applicable to such member, or
  - (iv) this Agreement.

However, no Pool Member shall be suspended or have his or her membership revoked for the first of the aforementioned causes before notice of such delinquency shall have been mailed to him or her, or for the second of such aforementioned causes without written notice of such infraction at least five days before any meeting of the Board of the Association at which action thereon is to be taken. The Board of the Association may, at its discretion before acting upon any charges of any infractions against a member, request his or her resignation. Pool Members shall not be entitled to a hearing prior to such suspension or revocation.

Failure of Pool Member to fulfill any requirement contained herein or commission of any act not becoming of a Pool Member may result in revocation of membership. Pool Member shall receive written notice of intent to revoke, by certified mail, return receipt requested. Pool Member shall have ten (10) days from receipt to respond in writing. The Board of Directors shall determine whether revocation is appropriate. This duty may not be delegated. The Pool Member will be advised of the determination in writing.

**12. HOLD HARMLESS; FAILURE OF SERVICES.**

Member hereby agrees to hold harmless, defend and release and forever discharge Association, Bell Road YMCA, Montgomery YMCA, Inc., Alfa Properties, Inc., any of its parent or subsidiary companies, and any of the aforementioned entities respective employees, and agents, directors, and officers from any and all claims and/or damages resulting from Member's license to use the Clubhouse, its equipment and facilities, including without limitation to the fitness center and swimming pool and the surrounding premises.

Association shall not be liable for any damage, loss, compensation or claim by reason of inconvenience to member or any of its guests if the same is due to circumstances beyond the control of the Association, including but not limited to (a) the failure of the Association to supply water, gas, electricity or other utility; (b) the breakdown in or mechanical failure of the air conditioning, or heating equipment or any kitchen or other equipment; (c) the necessity to repair any portion of the building's interior, exterior or surrounding grounds; (d) the interruption in the use of the Premises; or (e) destruction of the Premises. The sole liability of Association to Member for failure for any reason to perform its obligations hereunder, in whole or in part, shall be limited to return of monies paid in advance by Member where specifically provided for herein.

**13. ARBITRATION.**

All disputes, claims, or controversies arising from or relating to this Agreement or relationships which result from this Agreement, or the validity of this arbitration clause or the entire Agreement, shall be resolved by binding arbitration by one arbiter selected as follows unless the parties agree otherwise in writing. If an arbiter is required, the Association and Member, or their representatives, shall each within a thirty (30) day period appoint an American Arbitration Association ("AAA") arbiter. The two arbiters so appointed shall appoint a third arbiter. The third arbiter so appointed shall promptly cause this matter to be resolved under the rules of the AAA. If, for any reason, the two arbiters appointed by the parties are unable to agree as to a third arbiter within thirty (30) days after the need of such third arbiter, then the third arbiter shall be selected pursuant to the rules of the AAA. The undersigned parties shall each bear the cost of their appointed arbitrators while the cost of the third arbiter, if needed, shall be borne equally by the parties. The parties hereto agree that this arbitration Agreement shall be governed by the Federal Arbitration Act at 9 U.S.C. Section 1. Judgment upon the award rendered may be entered in any court having jurisdiction. Those parties agree to and understand that they chose arbitration instead of litigation to resolve disputes. The parties understand that they have a right or opportunity to litigate disputes through a court, but that they prefer to resolve their disputes through arbitration, except as provided herein. **THE PARTIES VOLUNTARILY AND KNOWINGLY WAIVE ANY RIGHT THEY HAVE TO A JURY TRIAL EITHER PURSUANT TO ARBITRATION UNDER THIS CLAUSE OR PURSUANT TO A COURT ACTION.** The parties agree and understand that all disputes arising under case law, statutory law, and all other laws including, but not limited to, all contract, tort and property disputes, will be subject to binding arbitration in accord with this Agreement. The parties agree and understand that the arbitrator shall have all powers provided by law and this Agreement. These powers shall include all legal and equitable remedies, including, but not limited to, money damages, declaratory relief, and injunctive relief. Notwithstanding anything hereunto the contrary, the Association retains an option to use judicial and non-judicial relief to enforce any collection, attachment or enforcement action, including actions required by state law to perfect and enforce any liens, relating to any and all monies owed to the Association pursuant to this Agreement by Member. Such judicial relief would take the form of a lawsuit. The instruction

and maintenance of an action of or judicial relief in a court to collect monies owed, or to obtain a monetary judgment, or to enforce the lien power of the Association shall not constitute a waiver of the right of any party to compel arbitration regarding any other dispute or remedy subject to arbitration under this Agreement, including the filing of a counterclaim in a suit brought by the Association pursuant to this provision.

#### **14. MISCELLANEOUS.**

A. *No Authority.* No member of the Pool & Fitness Center shall have the authority to incur any liability in the name of the Center.

B. *Matters not covered.* Any and all matters not covered or provided for in this Agreement, the Rules and Regulations or Bylaws of the Association shall be within the discretion of the Board of Directors and subject to its direction.

C. *Entire Agreement.* This Agreement and the Articles, Bylaws, Rules and Regulations of the Association contains all of the understandings, agreements and stipulations between the parties, and supersedes all prior agreements or understandings, written and oral. No amendment to this Agreement shall be binding unless dated and executed by both parties bound hereby except Member agrees that any amendments, supplements or revisions to the Bylaws, Rules and Regulations of the Association duly adopted and approved by the Board of Directors shall be binding upon Member.

D. *Waiver.* The waiver of any breach of any term or condition of this Agreement shall not be deemed a waiver of any subsequent breach whether of like or different nature. Each party shall have the right at all times to enforce the terms and conditions of this Agreement in strict accordance with the covenants hereof notwithstanding any conduct or custom on its part in refraining from doing so at any time or times.

E. *Binding Agreement.* This Agreement shall be legally binding upon and inure to the benefit of the parties hereto, their heirs, legal representatives and/or successors; provided, however, Member cannot assign or transfer this Membership, and any attempt to do so shall be deemed void and of no effect.

F. *Law and Interpretation.* The interpretation and construction of this Agreement shall be governed by the law of Alabama, without giving effect to the principles of conflicts of laws. Pronouns referring to any gender shall be deemed to refer to all genders, and the singular shall include the plural, and vice-versa, as the context may require. The headings of the various provisions of this Agreement are for ease of reference only, and shall be disregarded in interpreting the provisions hereof. The invalidity or unenforceability of any portion of this Agreement shall not affect the balance of the Agreement.

**[SIGNATURE PAGE TO FOLLOW]**

## Sturbridge Plantation Pool & Fitness Center Membership Agreement Addendum

Dear Pool & Fitness Center Member:

Welcome to the Sturbridge Plantation Pool & Fitness Center. Please read the Hold Harmless Agreement below and sign where indicated. This will be attached to and become part of your membership agreement. This addendum must be signed before the use of the pool and fitness center will be granted.

THE STURBRIDGE HOMEOWNERS ASSOCIATION, INC.

### ACKNOWLEDGMENT OF RULES HOLD HARMLESS AGREEMENT

I, \_\_\_\_\_, am a member of the Sturbridge Plantation Park Pool and Fitness Center which is managed and operated by the Sturbridge Homeowners Association, Inc. (“*Association*”), and am desirous of using the Sturbridge Plantation Park Clubhouse, its Fitness Center and/or Swimming Pool and related grounds and facilities. I have received and agreed to the Rules and Regulations for the Pool and Fitness Center, and the Bylaws and rules and regulations of the Association. I agree and understand that I am personally responsible and liable for the actions or omissions of my guests, employees, licensees, invitees or agents (“*Users*”) using these facilities. I further agree to indemnify and hold harmless the Association, its Directors, its Members, its employees, its agents; Bell Road YMCA, Montgomery YMCA, Inc., and Alfa Properties, Inc., its parent, subsidiaries, affiliates, and any of their respective agents and its employees from any and all claims, losses, suits, damages, judgments, expenses, costs and charges of every kind and nature, from any injury, damage to me or the Users resulting from any use of the Sturbridge Plantation Park Pool and Fitness Center, the Clubhouse and their premises by me or the Users. The undersigned assumes sole responsibility for adequate supervision of the Users in connection with the use of any and all facilities at Sturbridge Plantation Park.

\_\_\_\_\_  
Member Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Spouse Signature

\_\_\_\_\_  
Date

Address: \_\_\_\_\_  
                  Montgomery, Alabama 36116

Received By: \_\_\_\_\_ Date: \_\_\_\_\_

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed in counterparts as of the day and year first noted above. Members signature below also acknowledges receipt of a copy of this Agreement on the date beside his or her signature.

**STURBRIDGE HOMEOWNERS ASSOCIATION, INC.**  
An Alabama non-profit corporation

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

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

Lifetime          Elective          Tenant

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

**POOL MEMBER:** \_\_\_\_\_

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

Print Address: \_\_\_\_\_

\_\_\_\_\_

**REMINDER: FAILURE TO RETURN THE KEY UPON RESIGNATION OF YOUR MEMBERSHIP WILL RESULT IN FORFEITURE OF THE KEY DEPOSIT.**

*Addendum*          Acknowledgement of Rules/Hold Harmless Agreement

*Exhibit A*          Sturbridge Homeowners Association Rules and Regulations

*Revised July 18, 2006*

*For Accounting Department Use Only:*

Pool & Fitness Center Dues Received:	\$ _____	Check # _____
Pool & Fitness Registration Fees Received:	\$ _____	Check # _____
Key Deposit Received:	\$ _____	Check # _____
Other:	\$ _____	Check # _____

**TOTAL MONIES RECEIVED:**          \$ =====          Check # \_\_\_\_\_

*Revised July 18, 2006*