

STATE OF ALABAMA
COUNTY OF BALDWIN

DECLARATION OF CONDOMINIUM
OF
SEA GLASS, PHASE 1, A CONDOMINIUM

The Declaration of Condominium (the "Declaration") of Sea Glass, Phase 1, a Condominium (the "Condominium") is made this ____ day of _____, 2019 by DRG DEVELOPMENT, LLC, an Alabama limited liability company (the "Declarant"), pursuant to the provisions of the Alabama Uniform Condominium Act of 1991, Code of Alabama (1975), Section 35-8A-101, et seq. (the "ACT"), for the purpose of forming a condominium and establishing certain easements, covenants and restrictions to run with the land.

ARTICLE I
SUBMISSION OF PROPERTY AND DEFINED TERMS

1.01 Submission of Property. The Declarant is the owner of certain real property located in Baldwin County, Alabama, more particularly described in Exhibit "A" attached hereto, incorporated herein by reference and expressly made a part hereof (the "Property" or "Condominium Property"). The Declarant proposes to develop a total of fifty-one (51) residential units in two (2) phases. Phase 1 consists of twenty-one (21) residential units in one (1) four (4) story building, with parking on the 1st floor and residential units on the 2nd, 3rd and 4th floors, and Common Areas as more specifically set forth on the Plats and Plans. The residential units vary in size and layout as more specifically set forth on the Plats and Plans. The Phase 1 improvements are substantially completed in accordance with the Plats and Plans as evidenced by a Certificate of Substantial Completion executed by an independent registered architect or engineer and a Certificate of Occupancy issued by the proper governmental agency. The first floor (ground level) contains an outdoor swimming pool, beach access and parking. Floors 2 through 4 each contain seven (7) residential units.

It is the desire and intention of the Declarant, by recording the Declaration, to submit the Property set forth in EXHIBIT "A" hereto, together with all improvements, easements, rights and appurtenances thereto belonging, to the ACT and create with respect to the Property a condominium to be known as SEA GLASS, PHASE 1, A CONDOMINIUM and to impose upon the Property mutually beneficial restrictions under a general plan for the benefit of all of the Condominium Units and Owners as hereinafter provided. The Declaration may be amended by the Declarant without the consent of any Unit Owner, Mortgagee, or other person or entity in order to exercise any Development Rights or Special Declarant Rights, so long as said amendment complies with the requirements of the ACT and the Declaration. The Declarant shall have the unilateral right, privilege and option, subject to the Declaration and the ACT, to add the property described in Exhibit "G" to the Declaration as Phase 2.

The Declarant, upon recording the Declaration, does submit the Property described in Exhibit "A" as the Condominium, together with the improvements thereon, owned by the Declarant, in fee

simple absolute, to the provisions of the ACT to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, improved and in any other manner utilized subject to the provisions thereof and subject to the covenants, conditions, restrictions, uses, limitations and affirmative obligations set forth in the Declaration, all of which are declared and agreed to be in furtherance of a plan for the improvement of the Property and the division thereof into condominium ownership, and all of which shall run with the land and shall be binding on all parties (including Owners and Mortgagees as hereinafter defined) having or acquiring any right, title or interest in the Property, or any part thereof, and shall be for the benefit of each Owner and Mortgagee of any portion of said Property or any interest therein, and shall inure to the benefit of and be binding upon each successor-in-interest to the Owners and Mortgagees thereof.

1.02 Definitions. Certain terms as used in the Declaration shall be defined as follows, unless the context indicates a different meaning therefor, and shall be consistent with the meanings stated in the ACT:

(A) "ACT" shall mean the Alabama Uniform Condominium Act of 1991, Code of Alabama (1975), Section 35-8A-101, et seq., as the same may be amended from time to time.

(B) "Association" shall mean Sea Glass Condominium Association, Inc., a nonprofit corporation organized pursuant to the Alabama Nonprofit Corporation Law, Code of Alabama (1975), Section 10A-3-1.01, et seq.

(C) "Board of Directors" or "Board" shall mean the Board of Directors of the Association, elected pursuant to the By-Laws of the Association.

(D) "By-Laws" shall mean the By-Laws of the Association, a copy of which is attached hereto as Exhibit "B", incorporated herein by reference and expressly made a part hereof for all purposes, providing for the self-government of the Condominium and Property by the Association.

(E) "Common Elements" or "Common Areas" shall mean all portions of the Condominium Property, other than the Private Elements, which are held or designed for the use and enjoyment of the Owners and shall include, but not be limited to, the following:

(a) the Land;

(b) the foundations and footings, load bearing walls, perimetrical walls, structural slabs, columns, beams and supports;

(c) the roofs, lobbies, mechanical equipment and storage areas designed as common areas, ramps, handrails, sidewalks, stairways, entrances and exits or communication ways;

(d) the compartments or installations of central services such as central air conditioning, ventilation, cooling tower, heating, power, light, electricity, telephone and telecommunications cable, fire protection, security, cold and hot water, plumbing, reservoirs, water tanks and pumps, storm

drains, sewer lines, flues, trash chutes, incinerators and the like, and all similar devices and installations existing for common use, but excluding all compartments or installations of utilities, telephone and telecommunications cable and services which exist for private use in the Private Elements or installed in connection with the easement reserved under Section 3.01(c) of the Declaration;

(e) the premises and facilities, if any, used for the maintenance or repair of the Property;

(f) all common recreational facilities such as the swimming pool and grounds, sun decks, yards and walkways;

(g) sidewalks, boardwalks, lawn areas, landscaping, beach areas, trees, curbs, roads, walkways, lobbies, elevators, streets and parking areas;

(h) all easements, rights or appurtenances affecting or relating to the use of the Condominium Property unless specifically included in any Unit;

(i) all other elements (other than Private Elements) desirable or rationally of common use or necessary to the existence, upkeep and safety of the Condominium Property;

(j) furniture, appliances, equipment and any other personal property transferred or assigned by the Declarant to the Association or from time to time owned or leased by the Association and held for use in common by the Owners.

(F) "Common Expenses" shall mean the expenses arising out of the operations and ownership of the Common Elements, and shall include, but not be limited to, expenses of administration of the Common Elements; expenses of insurance; expenses of maintenance, operation, repair, replacement, rehabilitation, restoration, renovation and betterment of the Common Elements, and any portion of a Unit maintained by the Association; any valid charge against the Condominium Property as a whole; any expenses declared to be Common Expenses by the provisions of the Condominium Documents, as the same may be amended from time to time in accordance with the provisions thereof.

(G) "Common Surplus" shall mean the excess of all the receipts of the Association including, but not limited to, assessments, rents, profits and revenues over the amount of the Common Expenses.

(H) "Condominium Documents" shall mean the Declaration and all exhibits thereto, the Offering Statement and all exhibits thereto, the Plats and Plans, the Rules and Regulations, the By-laws and the Articles of Incorporation of the Association, all as may be amended from time to time.

(I) "Covenants" shall mean and refer to the Declaration, and all amendments thereto.

(J) "Declaration of Condominium" or "Declaration" shall mean the Declaration of Condominium of Sea Glass, Phase 1, a Condominium, as the same may be amended from time to time.

(K) “Declarant” shall mean DRG Development, LLC, an Alabama limited liability company, and its successors and assigns, other than an Owner, who receives by assignment from the Declarant all, or a portion of, its rights hereunder as the Declarant, by an instrument expressly assigning such rights of the Declarant as assignor to such assignee.

(L) “Development Rights” shall have the same meaning as is defined in the ACT and as set forth in the Declaration.

(M) “Governmental Authority” shall mean any and all city, county, state and federal governmental or quasi-governmental agencies, bureaus, departments, divisions or regulatory authorities having jurisdiction over any portion of the Property.

(N) “Institutional Mortgagee” shall mean and refer to (a) any federal or state chartered bank, trust company, life insurance company, federal or state savings and loan association, real estate investment trust or other recognized lending institution that normally and customarily engages in the business of making Mortgage loans, (b) any institutional or governmental purchaser of Mortgage loans in the secondary market, such as Federal National Mortgage Association (“Fannie Mae”) or Federal Home Loan Mortgage Corporation (“Freddie Mac”), and (c) any pension or profit-sharing trust that makes Mortgage loans, or that purchases Mortgage loans in the secondary market, and holds a first Mortgage on any Unit that has been duly and properly recorded in the Office of the Judge of Probate of Baldwin County, Alabama.

(O) “Land” shall mean the parcel or tract of real estate described in Exhibit “A” to the Declaration submitted to the provisions of the ACT and the Declaration, as amended.

(P) “Limited Common Elements” or “Limited Common Areas” shall mean and include any area designated by the Declaration, including the Plats and Plans, as amended, as Limited Common Elements or Limited Common Areas, and any areas defined in the ACT as Limited Common Elements or Limited Common Areas for the exclusive use of one or more but fewer than all of the Units and Owners. The Limited Common Elements or Limited Common Areas shall include, among any other property so designated, Unit balconies, Private Storage Units, designated chutes, wires, conduits, bearing walls, bearing columns or any other fixture serving only a specific Unit or declared to be Limited Common Elements or Limited Common Areas in the Condominium Documents, as the same may be amended from time to time in accordance with the provisions thereof and the ACT. Should any Limited Common Element or Limited Common Area ever be determined not to be a Limited Common Element or Limited Common Area under the ACT, the same shall be part of the Common Elements or Common Areas with an exclusive easement of use appurtenant to the Private Elements to which it was assigned, allocated or re-allocated as a Limited Common Element or Limited Common Area.

(Q) “Limited Common Expenses” shall mean the expenses arising out of the ownership of the Limited Common Elements or Limited Common Areas and shall include, but not be limited to, the expenses of maintenance, operation, repair, replacement, rehabilitation, restoration, renovation and betterment of the Limited Common Elements or Limited Common Areas; and expenses declared

to be Limited Common Expenses by the provisions of the Condominium Documents, as the same may be amended from time to time in accordance with the provisions thereof and the ACT.

(R) "Members" shall mean and refer to the Association's members.

(S) "Mortgage" shall mean a first lien mortgage on one (1) or more Units.

(T) "Mortgagee" shall mean a holder of a Mortgage who has given notice to the Association that the Mortgagee is the holder of a Mortgage affecting all or any part of the Condominium Property as hereinafter provided.

(U) "Occupant" shall mean and include any Owner, the family members, guests, tenants, agents, servants, employees and invitees of any Owner and their respective family members, guests, tenants, agents, servants, employees, invitees and any other person who occupies or uses any Unit within the Property. All actions or omissions of any Occupant are and shall be deemed the actions or omissions of the Owner of such Unit.

(V) "Owner" or "Unit Owner" shall mean and refer to the record owner, including Declarant, of fee simple title to any Unit, whether a corporation, partnership, proprietorship, association or other entity of any nature, including natural persons, but shall not include (i) any Mortgagee unless and until such Mortgagee has foreclosed on its Mortgage and purchased such Unit at the foreclosure sale held with respect to the foreclosure of such Mortgage or (ii) any lessee, purchaser, contract purchaser or vendor who has an interest in any Unit solely by virtue of a lease, contract, installment contract or other agreement.

(W) "Plat" or "Plan" shall mean the as-built Plat or Plan showing the Private Elements, the Common Elements and the Limited Common Elements of the Condominium Property attached hereto as Exhibit "C", incorporated herein by reference and expressly made a part hereof, as such Plat or Plan may from time to time be amended in accordance with the Declaration and the ACT.

(X) "Private Element" or "Unit" shall mean each part of the Condominium Property as set forth in the Plats and Plans intended for the exclusive ownership, use and possession by a Unit Owner. The Private Elements or Units in Phase 1 are identified by number as 201, 202, 203, 204, 205, 206, 207, 301, 302, 303, 304, 305, 306, 307, 401, 402, 403, 404, 405, 406, 407.

Each Private Element or Unit is identified in a diagrammatic floor plan of the floor on which it is situated as shown on the Plats and Plans and shall consist of the volumes or cubicles of space which lie between the lower, upper and lateral or perimetrical boundaries described as follows:

(1) Upper and lower boundaries of Units: The upper and lower boundaries extended to their planer intersections with the perimetrical boundaries as follows:

(a) the upper boundary shall be the plane of the lower unfinished surface of the ceiling;

(b) the lower boundary shall be the plane of the upper surface of the concrete floor slab or subflooring, which serves as the Unit's floor, excluding any floor covering such as carpeting, vinyl, hardwood or ceramic tile which are all deemed to be part of the Private Elements.

(2) The perimetrical boundaries shall be the vertical planes of the exterior surfaces of the exterior windows, glass doors and entry doors, and the unfinished interior surfaces of the exterior walls and party walls (excluding gypsum board, paint, wallpaper and light fixtures) extended to their planer intersection with each other and with the upper and lower boundaries which are all deemed to be part of the private Elements.

Private Elements or Units shall include all non-structural interior partition walls located within the boundaries of the Private Elements or Units except such part as may comprise part of the Common Elements; the decorated surfaces of all boundary walls, ceilings and floors, including wallpaper, paint, interior brick surface, gypsum board, lathe, wallboard, plaster, carpeting, flooring and other finishing materials; all immediately visible fixtures, appliances, kitchen cabinets, and water and sewage pipes located within the boundaries of the Private Elements or Units and serving only the Private Element or Unit; and the mechanical systems and installations providing electrical power, water, heating and air conditioning service to the Private Element or Unit, providing that no pipes, wires, conduits, ducts, flues, shafts and other facilities situated within such Private Element or Unit, and forming a part of any system serving one or more other Private Elements or Units or the Common Elements shall be deemed to be a part of such Private Element or Unit; and, provided further, that no bearing wall providing structural support and located within the boundaries of the Private Elements or Units shall be deemed part of the Private Elements or Units.

(Y) "Property" or "Condominium Property" shall mean the Land and all improvements and structures erected, constructed or contained therein or thereon, including all buildings and all easements, rights and appurtenances belonging thereto, and all furniture, furnishings, fixtures and equipment intended for the mutual use, benefit or enjoyment of the Owners, submitted to the provisions of the ACT under the Declaration, as amended from time to time.

(Z) "Rules and Regulations" shall mean the Rules and Regulations concerning the use of Sea Glass, Phase 1, a Condominium adopted from time to time by the Board of Directors that are deemed necessary for the enjoyment of the Condominium Property, provided they are not in conflict with the ACT or the Condominium Documents, as amended.

(AA) "Special Declarant Rights" shall have the same meaning as is defined in the ACT and as set forth in the Declaration.

(BB) "Unit" or "Condominium Unit" shall mean a Private Element as shown on the Plats and Plans and described in the Declaration and includes a Unit together with the undivided interest in the Common Elements and Limited Common Elements assigned, allocated or appurtenant to each Unit as herein provided. A Unit or Condominium Unit is to be used as a single family residence as provided for in the Declaration. The Units shall be identified by a three (3) digit number (floors 2 through 4); the first digit indicating the floor of the Unit on floors 2 through 4 and the last two (2) digits indicating the location of the Unit on that floor; the last digit of "1" being the Easternmost Unit and "7" being the Westernmost Unit. Unit numbering starts with the Easternmost Unit on each floor and goes in a Westerly direction. There are seven (7) Units each on floors 2 through 4. The definitions of the Units enumerated above and other matters pertaining to the Units will be further

defined and set out in the Declaration and in the Plats and Plans.

ARTICLE II DESCRIPTION OF IMPROVEMENTS AND DEVELOPMENT PLANS

2.01 Submission of Property – Phase 1. The Declarant is the owner of certain real property located in Baldwin County, Alabama, more particularly described in Exhibit “A” attached hereto, incorporated herein by reference and expressly made a part hereof (the “Property” or “Condominium Property”). The Declarant proposes to develop a total of fifty-one (51) residential units in two (2) phases. Phase 1 consists of twenty-one (21) residential units in one (1) four (4) story building, with parking on the 1st floor and residential units on the 2nd, 3rd and 4th floors, and Common Areas as more specifically set forth on the Plats and Plans. The residential units vary in size and layout as more specifically set forth on the Plats and Plans. The Phase 1 improvements are substantially completed in accordance with the Plats and Plans as evidenced by a Certificate of Substantial Completion executed by an independent registered architect or engineer and a Certificate of Occupancy issued by the proper governmental agency. The first floor (ground level) contains an outdoor swimming pool, beach access and parking. Floors 2 through 4 each contain seven (7) residential units.

It is the desire and intention of the Declarant, by recording the Declaration, to submit the Property set forth in EXHIBIT “A” hereto, together with all improvements, easements, rights and appurtenances thereto belonging, to the ACT and create with respect to the Property a condominium to be known as SEA GLASS, PHASE 1, A CONDOMINIUM and to impose upon the Property mutually beneficial restrictions under a general plan for the benefit of all of the Condominium Units and Owners as hereinafter provided. The Declaration may be amended by the Declarant without the consent of any Unit Owner, Mortgagee, or other person or entity in order to exercise any Development Rights or Special Declarant Rights, so long as said amendment complies with the requirements of the ACT and the Declaration. The Declarant shall have the unilateral right, privilege and option, subject to the Declaration and the ACT, to add the property described in Exhibit “G” to the Declaration as Phase 2.

The Declarant, upon recording the Declaration, does submit the Property described in Exhibit “A” as the Condominium, together with the improvements thereon, owned by the Declarant, in fee simple absolute, to the provisions of the ACT to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, improved and in any other manner utilized subject to the provisions thereof and subject to the covenants, conditions, restrictions, uses, limitations and affirmative obligations set forth in the Declaration, all of which are declared and agreed to be in furtherance of a plan for the improvement of the Property and the division thereof into condominium ownership, and all of which shall run with the land and shall be binding on all parties (including Owners and Mortgagees as hereinafter defined) having or acquiring any right, title or interest in the Property, or any part thereof, and shall be for the benefit of each Owner and Mortgagee of any portion of said Property or any interest therein, and shall inure to the benefit of and be binding upon each successor-in-interest to the Owners and Mortgagees thereof.

2.02 Identification of Units – Phase 1. All Phase 1 improvements are substantially complete, and Plats and Plans of the Land and improvements thereon, and a graphic description of the improvements in which the Units are located identifying each Unit by a number so that no Unit bears the same designation as any other Unit, all in sufficient detail to identify the Private Elements,

Common Elements and Limited Common Elements, and their relative locations and approximate dimensions, are set forth in the Plats and Plans attached hereto as Exhibit "C", incorporated herein by reference and expressly made a part hereof. There are fifteen (15) Type "A" Units which consist of one (1) bedroom, one and one-half (1.5) bathrooms, living/family room, media room, laundry room, owner's storage room, kitchen/dining area altogether containing approximately 954 square feet of living area and a balcony facing south containing approximately 147 square feet of total area. The eastern most "A" units also have a balcony facing east containing approximately 197 square feet of total area. There are three (3) Type "B" Units which consist of one (1) bedroom, one and one-half (1.5) bathrooms, living/family room, media room, laundry room, owner's storage room, kitchen/dining area altogether containing approximately 884 square feet of living area and a balcony containing approximately 147 square feet of total area. There are three (3) Type "C" Units which consist of two (2) bedrooms, two (2) bathrooms, living/family room, media room, laundry room, owner's storage room, kitchen/dining area altogether containing approximately 1,113 square feet of living area and a balcony containing approximately 265 square feet of total area. Unit square feet are measured "paint-to-paint". The Units are located in one (1) building on three (3) living levels and are numbered and identified as 201, 202, 203, 204, 205, 206, 207, 301, 302, 303, 304, 305, 306, 307, 401, 402, 403, 404, 405, 406, 407.

2.03 Development Plans – Phases 1 and 2. The Phase 1 improvements to the Property have been substantially completed as set forth on the Plats and Plans attached as Exhibit "C" hereto, incorporated herein by reference and expressly made a part hereof. The Phase 1 improvements consist of twenty-one (21) residential Units in one (1) four (4) story building, with parking on the 1st floor and residential units on the 2nd, 3rd and 4th floors, and Common Areas constructed of materials as more specifically set forth on the Plats and Plans. The amenities located in the Common Elements of Phase 1 of the Condominium include swimming pool, parking and other common areas. The balconies adjacent to the Units are Limited Common Elements for the exclusive use and possession of the Owner of the Unit to which they are appurtenant as more specifically set forth on the Plats and Plans. The Declaration may be amended by the Declarant without the consent of any Unit Owner, Mortgagee or other person or entity to exercise Development Rights or Special Declarant Rights in accordance with the Declaration and the ACT. The Declarant proposes to develop a total of fifty-one (51) residential units in two (2) phases. The maximum number of units the Declarant reserves the right to build is fifty-one (51) on approximately 1.86 acres. The maximum number of units in Phase 1 is twenty-one (21). The maximum number of units in Phase 2 is thirty (30). All Units shall be restricted exclusively to residential use. Phase 2 "NEED NOT BE BUILT".

2.04 Subsequent Phase – Phase 2. The Declarant may or may not submit the property described in Exhibit "G" to the condominium form of ownership at a future date as Phase 2 of the Condominium. However, subject to the terms and provisions of the Declaration, said property may be submitted to the condominium form of ownership by amendment to the Declaration. No assurances are made concerning whether or not Phase 2 will be or will not be submitted to the condominium form of ownership and the Declaration or the ACT, nor are any assurances made concerning the boundaries of Phase 2, or the number of Units located in Phase 2 or whether Phase 2 may be or may not be subject to the exercise of Development Rights. Nothing in this section is to be interpreted as requiring the Declarant to submit the property described in Exhibit "G" to the condominium form of ownership or exercise any reserved Development Rights. The maximum number of Units which the Declarant reserves the right to create in the Condominium is fifty-one (51).

2.05 Phase 2 Amendment. Any additional Phase, either adding the property described in Exhibit "G" and the improvements located thereon or exercising any other Development Right reserved by the Declarant in connection with the Condominium Property described in Exhibit "A" or Exhibit "G", may be added, and made subject to, the Declaration by the execution, of the Declarant alone, of an incremental amendment to the Declaration, which said amendment shall comply with the Declaration and the ACT, and shall become effective upon recordation in the Office of the Judge of Probate of Baldwin County, Alabama. Such amendment shall have Exhibits attached thereto similar in nature to the Exhibits attached to the Declaration and containing such other information as required by the Declaration and the ACT, including but not limited to Plats and Plans, and a reallocation of the Common Elements and Common Expenses. The right of the Declarant to add Phase 2 to the Condominium shall cease and terminate fifteen (15) years from the date of recordation of the Declaration. Except as provided in the preceding sentence, no other time limitations shall be imposed on the right of the Declarant to add Phase 2 or exercise Development Rights or Special Declarant Rights. If and when Phase 2 is submitted to the Declaration, it shall comprise a portion of the Condominium to be governed in accordance with the Condominium Documents. Each purchaser of a Unit, or any interest in a Unit, is prohibited from objecting to an incremental phase amendment and has agreed and consented that any amendment to the Declaration executed by the Declarant alone shall be binding and effective as written notwithstanding that the undivided interest of the Unit in the Common Elements may be changed thereby.

The Declaration may be amended by the Declarant without the consent of any Unit Owner, Mortgagee, or other person or entity in order to exercise any Development Rights or Special Declarant Rights, so long as said amendment complies with the requirements of the ACT and the Declaration. The Declarant shall have the unilateral right, privilege and option, subject to the Declaration and the ACT, to add the property described in Exhibit "G" to the Declaration as Phase 2.

2.06 No Assurances. The Declarant makes no assurances regarding: (1) whether any buildings or other improvements that may be erected pursuant to any development right in any part of the condominium will be compatible with existing buildings and improvements in the condominium in terms of architectural style, quality of construction, and size; (2) general descriptions of all other improvements that may be made and limited common elements that may be created within any part of the condominium pursuant to any development right reserved by the Declarant; (3) any limitations as to the locations of any building or other improvement that may be made within any part of the condominium pursuant to any development right reserved by the Declarant; (4) whether any limited common elements created pursuant to any development right reserved by the Declarant will be of the same general types and sizes as the limited common elements within other parts of the condominium, or the types and sizes planned; (5) whether the proportion of limited common elements to units created pursuant to any development right reserved by the Declarant will be approximately equal to the proportion existing within other parts of the condominium; (6) whether all restrictions in the declaration affecting use, occupancy and sale or lease of units will apply to any units created pursuant to any development right reserved by the Declarant, or any differentiations that may be made as to those units; and (7) whether any assurances apply or do not apply in the event that any development right is not exercised by the Declarant.

2.07 Exterior Balconies. Exterior balconies, which service only an individual Unit, are Limited Common Areas as designated by the Plats and Plans and the Declaration. Exterior balconies shall be deemed to be a Limited Common Element appurtenant to the Unit from which it is directly

accessible. Each Unit Owner shall be entitled to an exclusive easement for the use of any exterior balcony directly accessible from such Owner's Unit, but such right shall not entitle an Owner to construct anything thereon nor to change any structural part thereof.

ARTICLE III EASEMENTS, RESTRICTIONS AND ENCUMBRANCES

3.01 Easements, Restrictions and Encumbrances. The Private Elements, Common Elements and Limited Common Elements shall be, and the same are hereby declared to be, subject to the restrictions, easements, conditions and covenants prescribed and established in the Condominium Documents governing the use of said Private Elements, Common Elements and Limited Common Elements in setting forth the obligations and responsibilities incident to ownership of each Unit and its appurtenant interest in the Common Elements and Limited Common Elements. Said Private Elements, Common Elements and Limited Common Elements are further declared to be subject to the restrictions, easements, conditions and limitations now of record affecting the Condominium Property which easements and restrictions are described in Exhibit "D" attached hereto, incorporated herein by reference and expressly made a part hereof.

(A) Utility Easements. Utility easements are reserved throughout the whole of the Property, including Units, as may be required for utility services (including, without limitation, water, sewer, electricity, telephone, telecommunications and cable television) in order to adequately serve the Condominium Property, including Units.

(B) Utility Equipment. There may be utility equipment located on the Common Elements appurtenant to some Units. An easement is hereby reserved in favor of each Unit for the purpose of placement, maintenance, repair and replacement of said utility equipment by the Declarant and Declarant's agents, successors and assigns, including the Association, and the Owners of the appurtenant Unit; provided that no utility equipment shall be placed in any part of the Common Elements or Limited Common Elements other than its present location unless the written approval of the Association shall have first been obtained.

(C) Telecommunications Easements. Telecommunications easements are reserved throughout the whole of the Property, including Units, as may be required for telecommunications services and equipment (including, without limitation, telephone, television, cable service, satellite dishes, tower antennas, connection equipment and lines, transmission lines and similar type equipment) in order to adequately serve the Condominium Property and the Units located therein. An easement is hereby reserved throughout the whole of the Property, including Units, for the purpose of operation, placement, maintenance, repair and replacement of said telecommunications equipment by the Declarant and Declarant's agents, successors and assigns. Said Easement will include, but not be limited to, the right to place, service, repair, replace and remove transmission lines which provide the telecommunications services to the individual Units located within the Property. All equipment, transmission lines, satellite dishes, tower antennas or other fixtures and equipment installed by the Declarant or Declarant's agents, successors or assigns and located in the Common Elements shall remain the property of the Declarant or Declarant's agents, successors or assigns.

(D) Easements for Ingress and Egress. The Common Elements shall be, and the same are hereby declared to be, subject to a perpetual nonexclusive easement of way over all roads, parking

areas, walkways, halls, stairways, elevators and other Common Areas, in favor of all Owners, the Declarant and the Association for all proper and normal purposes and for the furnishing of services and facilities for which the same are reasonably intended for the enjoyment of said Owners, the Declarant and the Association, subject to all restrictions in the Condominium Documents. The Limited Common Elements shall be subject to a nonexclusive easement in favor of the Association for repair, service and other uses reasonably intended or required by the Declaration or the Association.

(E) Easement for Use of Leased or Acquired Property. Each Unit Owner shall have a nonexclusive easement for use of any property hereafter acquired by the Association for the common benefit of the Owners by purchase, lease or otherwise, for all normal and proper purposes for which the same are reasonably intended, subject to all restrictions in the Condominium Documents.

(F) Easements for Encroachments. To the extent that any Private Element, Common Element or Limited Common Element encroaches on any other Private Element, Common Element, or Limited Common Element, whether by reason of any deviation from the Plats and Plans in the original construction, repair, renovation, restoration or replacement of any improvement, or by reason of the settling or shifting of any land or improvement, a valid easement shall exist for the encroachment and/or the maintenance of the same, so long as the encroaching Private Element, Common Element or Limited Common Element stands. A valid easement shall not relieve an Owner of liability of such Owner's or such Owner's agent's negligence or intentional acts in case of willful and intentional misconduct by an Owner or an Owner's agents. In the event any Unit, an adjoining Unit, or any adjoining Common Elements or Limited Common Elements shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then constructed, reconstructed or repaired, encroachment of parts of the Common Elements or Limited Common Elements upon any Unit or of any Unit upon any of the other Private Elements, Common Elements or Limited Common Elements resulting from such construction, reconstruction or repair shall be permitted, and valid easements for such encroachment and the maintenance thereof shall exist so long as the encroaching improvements shall stand.

(G) Easement of Support. Each Private Element, Common Element and Limited Common Element shall have an easement of support from every other Private Element, Common Element, and Limited Common Element which provide such support.

(H) Easements Appurtenant to Units. The easements and other rights created herein for the Unit Owners shall be appurtenant to the Unit of that Owner and all conveyances of title to the Unit shall include a conveyance of the easements and rights as herein provided although no specific reference to such easements and rights appear in such instrument. The Owners do hereby designate the Association as their lawful attorney-in-fact to execute any and all instruments on their behalf for the purpose of creating all such easements as are contemplated by the provisions hereof.

(I) Easement for Access to Other Property Owned by Declarant. Declarant hereby reserves unto itself, its successors and assigns, a non-exclusive easement over, under and across Common Elements and Areas (above and below ground) for the purpose of ingress, egress, parking and the placement of utilities to other lands owned by Declarant, which are described in Exhibit "G". Declarant further reserves an easement over the Common Elements and Areas for the purpose of constructing improvements that will join together improvements in Phases 1 and 2, if constructed.

3.02 Ownership of Common Elements and Limited Common Elements. Each Owner shall own an undivided interest in the Common Elements and Limited Common Elements with all other Owners, and except as otherwise limited in the Declaration, shall have the right to use the Common Elements and Limited Common Elements for all purposes incident to the use and occupancy of the Owner's Unit as herein provided, without hindering or encroaching upon the lawful rights of the other Owners, which rights shall be appurtenant to and run with the Unit. The extent or amount of such ownership shall be expressed by a percentage relating to each Unit as set forth in Exhibit "E" attached hereto, incorporated herein by reference and expressly made a part hereof, and shall remain constant, unless changed in accordance with the provisions in the Declaration and the ACT, including without limitation the recording of an Amendment to the Declaration executed by the Declarant adding Phase 2 to the Condominium pursuant to Development Rights or Special Declarant Rights. For purposes of percentage of ownership in the Common Elements, percentage of Common Expenses and percentage of Common Surplus, and voting on all matters requiring action by the Owners, the percentage as set forth in Exhibit "E" shall govern. The Owners of Units with Limited Common Elements which are appurtenant to such Unit as designated or described on the Plats and Plans attached hereto shall have the exclusive right to use such Limited Common Elements so designated or described. Each Owner of a Unit to which a Limited Common Element is designated, assigned and allocated shall have the right to use the Limited Common Element for all purposes incident to the use and occupancy of such Owner's Unit as herein provided without hindering or encroaching upon the lawful rights of the other Owners, which rights shall be appurtenant to and run with the Units to which the Limited Common Elements are appurtenant or to which they have been reallocated as provided in the Declaration and the ACT.

3.03 Common Elements and Limited Common Elements in Phase 2. Phase 2, if constructed and dedicated as set forth herein, shall contain Common Elements and Limited Common Elements, which will be depicted on the Plat and Plans for Phase 2. Declarant makes no assurances the Common Elements and Limited Common Elements in Phase 2 will be identical to, or complimentary with those existing in Phase 1. The Declarant shall have the unilateral right, privilege and option at any time to exercise any Development Rights or Special Declarant Rights or to submit the property described in Exhibit "G" to the Declaration by the filing of an incremental amendment. The Declarant shall have the right to file said amendment without the consent of any Unit Owner, Mortgagee or other person or entity provided the incremental amendment complies with the Declaration and the Act.

ARTICLE IV SPECIAL DECLARANT RIGHTS AND DEVELOPMENT RIGHTS

4.01 Amendment of Condominium Plan. The Declarant reserves a Special Declarant Right or Development Right in accordance with the Act to change the interior design and arrangement of all Units, to alter the boundaries between Units, to create Units, Common Elements or Limited Common Elements within the Condominium, and to increase or decrease the number of Units so long as the Developer owns the Units so altered and to add additional real property to the Condominium, all by the filing of incremental amendments to the Declaration. Changes in the boundaries between Private Elements shall be reflected by an amendment to the Plans and Declaration as necessary and required by the Declaration and the ACT. If two (2) adjoining Units are combined by the Declarant to make one (1) Unit, the Association's assessments and the ownership interest in the Common Elements attributable to the combined Unit shall remain as though there are two (2)

separate Units. An incremental amendment to the Plan or the Declaration reflecting an alteration of the boundaries of the Units owned by the Developer must be signed and acknowledged only by the Declarant and need not be approved by the Owners or Mortgagees; provided, however, that any change, other than an incremental amendment, which shall result in a change in the undivided interest in the Common Elements or Limited Common Elements, or a change in the share of the Common Expenses or Limited Common Expenses with respect to Owners of Units other than the Developer at the time of such change, or which shall result in the alteration of boundaries of Units (other than the common walls separating the Units owned by the Declarant), may not be made without an amendment of the Declaration approved by the Owners and Mortgagees in the manner elsewhere required herein. The Special Declarant Rights and Development Rights set forth in this section must be exercised within fifteen (15) years from the anniversary of the filing of the Declaration.

4.02 Right to Convert Units into Common Elements. The Developer expressly reserves the right until the fifteenth (15th) anniversary of the recordation of the Declaration to convert any Unit into Common Elements or Limited Common Elements. This Right may be exercised with respect to all or any portion of the Property in any order and at any time. There is no limitation on this Right except as set forth herein.

4.03 Use for Sales Purposes. All Units and the Common Elements shall be subject to the statutory right concerning sales and management offices and models in Units and the Common Elements in favor of the Declarant provided in Section 35-8A-215 of the ACT. The Declarant otherwise expressly reserves the right to use one (1) or more Units owned by the Declarant as models, and any portion of the Common Elements for management offices and/or sales offices. The Declarant reserves the right to relocate offices and/or models from time to time within the Property. Upon relocation or sale of a model, the management office or sales office and the furnishings thereof may be removed by the Declarant. The Declarant further reserves the right to maintain on the Common Elements advertising signs in any location or locations and from time to time to relocate and/or remove the same, all in the sole discretion of the Declarant.

4.04 Use by Declarant. Subject to the rights of the Mortgagees hereunder, neither the Owners nor the Board of Directors nor their use of the Condominium Property or application of the Declaration shall interfere with the completion of the contemplated improvements and sales of the Units in the Condominium until the Declarant has completed all of the Declarant's contemplated improvements and closed the sales of all of such Units. Subject to the rights of the Mortgagees hereunder, the Declarant may make such use of the unsold Units and of the Common Elements as may facilitate such completion and sale, including, but not limited to, maintenance of a sales office, management office and model units, the showing of the Condominium Property and the Units therein, the display of signs thereon and therein, the exercise of Development Rights or Special Declarant Rights reserved by the Declarant. These Special Declarant Rights exist so long as the Declarant holds any Unit in the Condominium for sale in the ordinary course of business or leases any Unit which it owns, but in no event to exceed fifteen (15) years from the date of filing the Declaration. The Declarant expressly reserves the right to lease any Unit which it owns on such terms as it may deem proper and desirable and may transfer Units subject to such lease.

4.05 Amendment to Include Phase 2. The Declarant, its successors or assigns, expressly reserves the right until the fifteenth (15th) anniversary of the recordation of the Declaration to exercise any Development Right or Special Declarant Right and submit it to this Declaration, or submit the

real property described in Exhibit “G” to the Declaration and the Condominium form of ownership, by filing an incremental amendment to the Declaration in the Office of the Judge of Probate of Baldwin County, Alabama in accordance with the Declaration and the Act.

4.06 Residential Use. All Units shall be restricted to residential use only, and the Common Elements, or any portion thereof, may not be used for commercial activities, other than as provided in the Declaration. Provided, however, the Association, through its Board of Directors, shall have the right to lease or rent, on terms and conditions satisfactory to the Board, portions of the Common Elements to Unit Owners to recoup, in whole or part, the costs for their use thereof pursuant to such lease or rental. Except as otherwise provided by the Declaration, the Common Elements are not to be used for gain or profit by the Association or Unit Owners.

ARTICLE V ORGANIZATION AND MANAGEMENT

5.01 Management of the Condominium Property. The operation and administration of the Common Elements and the Condominium Property shall be performed by the Association.

A. The Association shall have all the common law and statutory powers of a nonprofit corporation, including without limitation, under the Alabama Nonprofit Corporation Law, Code of Alabama (1975), Section 10A-3-1.01, et seq., the ACT and the Code of Alabama (1975), as amended, which are not inconsistent with the Declaration, or the ACT, including without limitation, the following (with the terms capitalized herein having the meanings set forth in the Declaration or the ACT):

1. To acquire, hold, lease, mortgage or convey real, personal or mixed property wherever situated, including, without limit, Units in the Condominium;
2. To make and collect assessments against the members as provided in the Declaration to defray the costs, expenses and losses of the Condominium or any other business enterprise, venture or property interest of the Association, and to use the proceeds of the assessments in the exercise of the powers and duties herein provided;
3. To borrow funds to pay for such expenditures as may be authorized by the provisions of the Declaration;
4. To maintain, repair, replace, clean, sanitize and operate the property of the Condominium or the property of the Association;
5. To lease or grant easements or licenses for use of the Common Elements of the Condominium in a manner not inconsistent with the rights of Owners of the Units in the Condominium or the Declaration;
6. To enforce by legal means the provisions of the ACT, the Declaration, the Articles and By-Laws of the Association, and the Rules and Regulations for the use of the property of the Condominium or the Association;

7. To contract for the management of the Condominium and to delegate to such contractor all powers and duties of the Association, except such as are specifically required to be performed by the Association;

8. The objects and purposes set forth herein shall be construed as powers, as well as objects and purposes, and the Association shall have and may exercise such powers as if such powers were set forth in full herein; and

9. The Association shall have and may exercise all powers as shall enable it to do each and every act necessary, suitable, convenient, expedient or proper for the accomplishment of any or all purposes and the attainment of any or all objects set forth herein.

B. The Association shall have all the powers of a unit owners' association as expressed in Section 35-8A-302 of the ACT, as amended, including without limitation:

1. Adopt and amend By-Laws, Rules and Regulations, except that the Association may not adopt a By-Law or enforce an existing By-Law to restrict an Owner from renovating or decorating the interior walls, ceiling or floor of his Unit in a manner that does not substantially alter the exterior appearance of the Condominium;

2. Adopt and amend budgets for revenues, expenditures and reserves, and impose and collect assessments for Common Expenses from Unit Owners;

3. Hire and discharge managing agents and other employees, agents and independent contractors;

4. Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two (2) or more Unit Owners on matters affecting the Condominium;

5. Make contracts and incur liabilities;

6. Regulate the use, maintenance, repair, replacement and modification of Common Elements;

7. Cause additional improvements to be made as a part of the Common Elements;

8. Acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property, but Common Elements may be conveyed or subjected to a security interest only pursuant to Section 35-8A-312 of the ACT;

9. Grant easements, encroachments, leases, licenses and concessions through or over the Common Elements;

10. Impose and receive any payments, fees or charges for the use, rental or operation of the Common Elements, other than Limited Common Elements described in Section 35-8A-202(2) and (4) of the ACT, and for services provided to Unit Owners;

11. Impose against Unit Owners charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, By-Laws, Rules and Regulations of the Association;

12. Impose reasonable charges for the preparation and recordation of amendments to the Declaration, resale certificates required by Section 35-8A-409 of the ACT, or statements of unpaid assessments;

13. Provide for the indemnification of its officers and Board and maintain directors' and officers' liability insurance;

14. Assign its right to future income, including the right to receive Common Expense assessments (this power is expressly so provided herein this Declaration);

15. Exercise any other powers conferred by the Declaration or By-Laws;

16. Exercise all other powers that may be exercised in Alabama by legal entities of the same type as the Association; and

17. Exercise any other powers necessary and proper for the governance and operation of the Association.

C. All funds and title to properties acquired by the Association and the proceeds therefrom shall be held in trust for the members in accordance with the provisions of the ACT, the Declaration and the By-Laws of the Association.

5.02 Members. The Members of the Association shall constitute all record Owners of the Units. Change of membership in the Association shall be established by recording in the Probate records of Baldwin County, Alabama the deed or other instrument establishing record title to a Unit of the Condominium Property. Membership of the prior Owner shall thereby be terminated. All Owners and Occupants of the Units shall be subject to and shall comply with the provisions of the Declaration, the By-Laws and the Rules and Regulations, as the same may be amended from time to time. The votes shall be cast in the manner provided in the Articles and By-Laws of the Association. Each Unit shall be allocated one (1) vote, which vote is not divisible, the numerical value of which shall be the percentage of undivided interest in the Common Elements assigned to the Unit of which the Member is the Owner, and as set forth in Exhibit "E" attached hereto.

5.03 By-Laws. The By-Laws of the Association shall be in the form attached as Exhibit "B" to the Declaration, incorporated herein by reference and expressly made a part thereof for all purposes, and may be amended from time to time as set forth therein.

ARTICLE VI ASSESSMENTS

6.01 Liability, Lien and Enforcement. The Association is given the authority to administer the operation and the management of the Common Elements and the Condominium Property, it being recognized that the delegation of such duties to one entity is in the best interest of the Owners

of all Units. To provide the funds necessary for such proper operation, the Association is hereby granted the right to make, levy and collect assessments against the Owners of all Units to pay Common Expenses and such other expenses which the Association is authorized to incur under the terms and conditions of the Declaration and the ACT. In furtherance of said grant of authority to the Association to make, levy and collect assessments to pay the costs and expenses for the operation and management of the Condominium Property, the following provisions shall be effective and binding upon the Owners of all Units.

6.02 Assessments. All assessments for the payment of Common Expenses shall be levied annually and paid monthly by the Owners of all Units, and unless specifically otherwise provided for in the Declaration, each Owner of a Unit and each Owner's Unit shall bear the same fractional share of such assessment as the fractional share of ownership for the undivided interest in the Common Elements appurtenant to said Unit. The assessments for Common Expenses and Limited Common Expenses shall be payable over the course of the year in advance in monthly installments commencing on the date of the purchase of a Unit or in such other installments and at such times as may be determined by the Board of Directors in accordance with the Association's By-Laws. Nothing to the contrary withstanding, the Association may individually assess Units and their Owners for payment of Common Expenses, Limited Common Expenses or other expenses associated with or incurred in connection with any damage to the Common Elements, Limited Common Elements or Private Elements caused by the Unit Owner, the Unit Owner's family members, guests, invitees, Occupants, employees, lessees or licensees as a consequence of the negligence, recklessness or willful misconduct of such person.

6.03 Annual Budget. At least sixty (60) days prior to the beginning of each fiscal year of the Association, the Board of Directors shall adopt a proposed annual budget for the next fiscal year, and such budget shall project the amount of funds for the forthcoming year which may be required for the proper operation, management, maintenance, repair and insurance of the Condominium Property, including reasonable allowances for contingencies and reserves, in accordance with the ACT and the Declaration. Said budget shall take into account any projected anticipated income which is to be applied in reduction of the amounts required to be collected as an assessment each year. The Board of Directors shall, to the extent reasonably practicable, propose a budget which meets or exceeds Fannie Mae condominium eligibility requirements. Said budget shall provide for the allocation of at least ten percent (10%) of the Association's common expense assessment income from Unit Owners to fund an account of replacement reserves for capital expenditures and deferred maintenance. Said budget shall not project more than fifteen percent (15%) of income from non-incidental sources such as from the rental or lease of portions of the Common Elements to Unit Owners or from the rental or lease of Units acquired by the Association via foreclosure. Within thirty (30) days after adoption of such annual budget by the Board of Directors, copies of said budget shall be made available to each Member. The Board of Directors shall set a date for a meeting of the Members to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after mailing or delivering the budget to the Members. Unless at such meeting a majority vote of the Members present in person or by proxy reject the budget, the budget is ratified. In the event the proposed budget is rejected, the budget for the prior year shall continue in effect until such time as a new budget is ratified. If the budget is ratified, the assessments for said year shall be established based upon such budget.

Should the Board of Directors at any time determine in its sole discretion that the assessments levied are or may prove to be insufficient for any reason including emergencies and nonpayment of any Owner's assessment, the Board of Directors shall have the authority to levy such additional assessment as it shall deem necessary in accordance with the applicable provisions of the Condominium Documents and the ACT. The initial projected and estimated annual maintenance budget for the first year of the Association and the Condominium Property is attached to the Declaration as Exhibit "F", incorporated herein by reference and expressly made a part hereof.

6.04 Omission of Assessments. The omission by the Association, before the expiration of any year, to fix the assessments for that or the next year shall not be deemed a waiver or modification in any respect of the provisions of the Declaration or a release of any Owner from the obligation to pay assessments or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed.

6.05 Detailed Records. The Association shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Common Elements and the Limited Common Elements, specifying and itemizing the maintenance and repair expenses of the Common Elements, Limited Common Elements and any other expenses incurred. Records and vouchers authorizing the payments involved shall be available for examination by any Member or Member's representative at convenient hours on weekdays in a location designated by the Board of Directors in Baldwin County, Alabama.

6.06 Payment of Common Expenses and Limited Common Expenses by Unit Owners. All Unit Owners shall be obligated to pay the assessment for Common Expenses and/or Limited Common Expenses adopted by the Board of Directors pursuant to the terms of the Declaration. No Unit Owner may be exempted from liability for such Unit Owner's contribution toward Common Expenses or Limited Common Expenses by waiver of the use or enjoyment of any of the Common Elements, Limited Common Elements or by abandonment of an Owner's Unit. No Unit Owner shall be liable for the payment of any part of the Common Expenses or Limited Common Expenses assessed against such Owner's Unit subsequent to a sale or other conveyance by the Owner of such Unit. The purchaser of a Unit shall be jointly and severally liable with the selling Unit Owner for all unpaid assessments against such Unit up to the time of conveyance without prejudice to the purchaser's right to recover from the selling Unit Owner the amounts paid by the purchaser thereof. Whenever any Unit may be sold or mortgaged by the Owner thereof, which sale shall be concluded only upon compliance with the other provisions of the Declaration, the Association, upon written request of the Owner or purchaser of such Unit, shall furnish to the Owner, the purchaser or any proposed Mortgagee (within the time period prescribed by the ACT) a statement verifying the status of the payment of any assessment which shall be due and payable to the Association by the Owner of such Unit and the other information required by the ACT. Any purchaser or proposed Mortgagee may rely upon such statement in concluding the proposed purchase or mortgage transaction, and the Association shall be bound by such statement. In the event that a Unit is to be sold or mortgaged when any assessment is outstanding against the Owner of such Unit and such assessment due the Association is in default, the purchase or mortgage proceeds shall first be applied by the Purchaser or Mortgagee to the payment of any delinquent assessment or installment due the Association before application of the payment to the selling Unit Owner.

6.07 Default in Payment of Assessments. The payment of any assessment or installment thereof due the Association shall be in default if such Assessment or any installment thereof is not paid to the Association on or before the due date for such payment. When in default, the delinquent assessment or delinquent installment due the Association shall bear interest at the rate of eighteen percent (18%) per annum, or such other rate as established by the Board of Directors not exceeding eighteen percent (18%) per annum, until such delinquent assessment or installment and all interest due thereon has been paid in full. The Association shall have a lien against Units for delinquent assessments. Said lien shall secure and does secure the monies due for all assessments then or thereafter levied against the Owner of each Unit, and such lien shall also secure interest, if any, which may be due on the amount of any delinquent assessment owing the Association. Said lien shall also secure all costs and expenses, including late penalties and reasonable attorneys' fees and court costs incurred by the Association in collecting delinquent assessments and enforcing the same upon said Unit and its appurtenant undivided interest in the Common Elements and/or Limited Common Elements. The lien granted to the Association may be foreclosed in the same manner as real estate mortgages in the State of Alabama, which contain a power of sale. The lien granted to the Association shall further secure such advances for taxes and payment on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to protect and preserve its lien, and the Association shall further be entitled to interest at the maximum legal rate on judgments on any such advance made for such purpose. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any Unit or who may be given or acquire a mortgage, lien or other encumbrance thereon are hereby placed on notice of the lien rights granted to the Association and shall acquire such interest in any Unit expressly subject to the Association's lien.

The lien herein granted to the Association shall be effective from and after the time of the recording of the Declaration in the Office of the Judge of Probate of Baldwin County, Alabama. No further recordation of any claim of lien for assessment under this section is required. Such lien shall include assessments due and payable at and after the time that the action to enforce the lien is commenced, plus late charges and penalties imposed by the Association for Rules and Regulations violations, interest, costs, reasonable attorneys' fees, advances to pay taxes and prior encumbrances, and interest thereon, all as above provided.

6.08 Election of Remedies. Institution of a suit at law to collect payment of any delinquent assessments shall not be deemed to be an election by the Association which shall prevent its thereafter seeking enforcement of the collection by foreclosure of any sums remaining owing to it, nor shall proceeding by foreclosure to effect such collection be deemed to be an election precluding the institution of a suit at law to collect any sum then remaining owing to the Association. The Association shall be entitled to bid at any sale held in connection with the foreclosure of the assessment lien and may apply as a cash credit against its bid all sums secured by the lien enforced.

ARTICLE VII MAINTENANCE AND OPERATION OF THE CONDOMINIUM PROPERTY

7.01 Association's Obligation to Maintain and Repair. The Association acting through the Board of Directors shall be responsible for the maintenance, repair, up-keep and replacement of the following, the costs of which shall be charged to all Unit Owners as a Common Expense:

(A) the Common Elements which by definition exclude the surfaces of all interior walls, floors, ceilings, entrance doors and windows (except the exterior faces of the exterior doors and windows which shall be the responsibility of the Association);

(B) incidental damage caused to a Unit by any work done by the Association;

(C) portions of all Units contributing to the support of the building, the outside walls and load bearing columns, excluding, however, interior wall and floor surfaces;

(D) the Limited Common Elements; and

(E) as required by the ACT, including without limitation, the insurance requirements set forth in Section 35-8A-313, Code of Alabama (1975).

This section shall not relieve a Unit Owner of liability for damage to the Common Elements or Limited Common Elements caused by the Unit Owner, the Unit Owner's family members, guests, invitees, Occupants, employees, lessees or licensees as a consequence of the negligence, recklessness or willful misconduct of such person. The cost of repair for any damage so caused by the Unit Owner, the Unit Owner's family, members, guests, invitees, Occupants, employees, lessees or licensees shall be a special assessment against the Unit Owner responsible therefor.

7.02 Each Owner's Obligation to Maintain and Repair.

(A) Except for those portions of the Condominium Property which the Association is required to maintain and repair, each Owner shall, at such Owner's expense, maintain and repair the Private Elements attributable to such Owner's Unit in good tenantable condition and repair, and shall be responsible for the repair, maintenance and replacement, if necessary, of the following items in such Owner's Unit:

(1) fixtures and equipment in such Owner's Unit, including the refrigerator, stove and all other appliances within the Unit; drains, sinks, plumbing and plumbing fixtures, and connections within the Unit; electrical panels, wiring, outlets and electrical fixtures within the Unit; interior doors, window frames, screening and window glass; all exterior doors and windows (except the exterior faces of the exterior doors and exterior windows which shall be the responsibility of the Association); all wall coverings including paint, wallpaper and light fixtures; and all flooring including carpeting, vinyl and tile within a Unit. In the event an exterior door or exterior window, or a portion thereof, requires repair, maintenance or replacement and the same is not promptly done by the Unit Owner, the Association may perform the same, and the cost thereof shall constitute an assessment against the Unit Owner responsible therefor;

(2) plumbing, heating, air conditioning and electrical systems serving only that Unit, including the fuse boxes, wiring, flues and all other plumbing, electrical or mechanical systems. In the event any such system or a portion thereof is within another Unit or requires access to another Unit, the repair, maintenance or replacement thereof shall be performed by the Association, and the cost thereof shall constitute an assessment against the Unit Owner responsible therefor.

(B) Each Unit Owner agrees as follows:

(1) to perform all maintenance, repairs and replacements which are the Unit Owner's obligations under subparagraph (A) of this Section;

(2) to pay all utilities as herein provided and all taxes levied against the Owner's Unit;

(3) not to make or cause to be made repairs to any plumbing, heating, ventilation or air conditioning system located outside the Owner's Unit, but required to be maintained by such Unit Owner elsewhere herein, except by licensed plumbers or electricians authorized to do such work by the Association or its delegate;

(4) not to make any addition or alteration to such Owner's Unit or to the Common Elements or Limited Common Elements or to do any act that would impair the structural soundness, safety or overall design scheme of any part of the Condominium Property or that would impair any easement or right of a Unit Owner, the Declarant or the Association without the prior written consent of the Declarant or the Association and all Unit Owners affected thereby;

(5) not to make any alteration, addition, improvement, decoration, repair, replacement or change to the Common Elements, Limited Common Elements or to any outside or exterior portion of the Unit, excluding any alteration or addition made pursuant to the procedure described in subparagraph (4) above and including, but not limited to, altering in any way exterior doors, windows or the exterior faces of the exterior doors or windows, affixing outside shutters to windows or painting any part of the exterior of an Owner's Unit, without the prior written consent of the Association; provided that if such consent is granted, the Unit Owner shall use only a contractor approved by the Association, which approval will not be unreasonably withheld, who shall comply with all Rules and Regulations with respect to the work which may be adopted by the Association, and the Unit Owner shall be liable for all damages to another Unit or to the Common Elements or Limited Common Elements caused by any contractor employed by such Unit Owner or by the subcontractors or employees of such contractor, whether said damages are caused by negligence, accident or otherwise;

(6) to promptly report, in writing, to the Association any defects or needed repairs for which the Association is responsible. In the event the Unit Owner fails to promptly notify the Association of any such known defects which need to be repaired, the Unit Owner shall be responsible for the cost of any subsequent repairs which are created due to the initial repairs not being reported;

(7) to maintain a controlled climate in the Unit at all times which will prohibit or deter the development or infestation of mold or other types of fungus in the Unit or Common Elements or Limited Common Elements and to promptly report, in writing, to the Association any water leakage or infestation of mold or other types of fungus. In the event the Unit Owner fails to promptly notify the Association of any such known defects which need to be repaired, the Unit Owner shall be responsible for the cost of any subsequent repairs which are created due to the initial repairs not being reported. In addition to the foregoing, each Unit Owner shall keep his or her Unit clean, and take necessary measures to retard and prevent mold from accumulating in the Unit. Each Purchaser or Occupant shall be required to clean and dust the Unit on a regular basis and to remove visible moisture accumulation on windows, window sills, walls, floors, ceilings and other surfaces as soon as reasonably possible and must not block or cover any heating, ventilation or air-conditioning ducts. Unit owners

will report immediately in writing to the Association: (i) any evidence of water leak or water infiltration or excessive moisture in the Unit, common hallways and any other Common Elements, including Limited Common Elements; (ii) any evidence of mold that cannot be removed with a common household cleaner; (iii) any failure or malfunction in heating, ventilation or air conditioning, and (iv) any inoperable doors or windows, and each Unit Owner shall be responsible for damage to the Unit, Common Elements, Limited Common Elements and personal property, as well as any injury to the Occupants of the Unit, resulting from the Unit Owner's failure to comply with these terms. Each Unit Owner is fully responsible and liable for the entire amount of all cleaning expenses and remediation costs incurred by the Association to remove mold from the Unit if the Unit Owner fails to remedy same, and each Unit Owner shall be responsible for the repair and remediation of all damages to the Unit or Common Elements or Limited Common Elements caused by mold or fungus.

(C) The Association shall be obligated to answer any request by a Unit Owner for any required approval of a proposed addition, alteration or improvement (by painting or otherwise) within forty-five (45) days after such request, but its failure to do so within the stipulated time shall not constitute a consent of the Association to the proposed addition, alteration or improvement. Any application to any governmental authority for a permit to make an addition, alteration or improvement in or to a Unit shall be executed by the Association, without, however, its incurring any liability on the part of the Board of Directors or any one of them or the Association to any contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any person having any claim of injury to a person or damage to property arising therefrom. The review by the Association under this section shall in no way make the Association liable for any alterations, additions or improvements by any Unit Owner. Rather, such review is for purposes of aesthetics and control only. The provisions of this section shall not apply to Units owned by the Declarant until a deed for such Unit has been delivered to a purchaser other than the Declarant.

7.03 Alterations, Additions and Improvements by the Association. Except in the case of loss or damage to the Common Elements or Limited Common Elements as contemplated by Article X or Article XII of the Declaration, the Association shall not make any material structural alterations, capital additions or capital improvements to the Common Elements or Limited Common Elements (other than for the purpose of replacing, restoring or rehabilitating portions of the Common Elements or Limited Common Elements which is in accordance with the Declaration and which does not require an expenditure of more than One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00), exclusive of any funds applied from the reserves maintained hereunder) unless the same is authorized by the Board of Directors and ratified by the affirmative vote of the voting members casting not less than sixty percent (60%) of the total votes of the Members of the Association present at any regular or special meeting of the Members called for that purpose at which a quorum is present and approved by a majority of the Mortgagees eligible to vote therefor. The cost of the foregoing shall be assessed against the Owners of Units as provided herein except as otherwise provided in this section. Where any alterations or additions as aforesaid are exclusively or substantially exclusively for the benefit of the Unit Owners requesting the same, then the cost of such alterations or additions shall be assessed against and collected solely from the Unit Owners exclusively, or substantially exclusively, benefitting therefrom, and the assessment shall be levied in such proportions as may be determined to be fair and equitable by the Board of Directors. Alterations, improvements or repairs of an emergency nature may be made upon authorization by a vote of the majority of the Directors available for consultation if the same is necessary and in the best interests of the Condominium Property, the Association and its Members.

7.04 Utilities. Each Unit Owner shall be required to pay his share of all charges for utilities, including, but not limited to, power, water, sewer, television, internet and telecommunications used or consumed in an Owner's Unit. The utilities serving the Common Elements only shall be separately metered and paid by the Association as a Common Expense. The Association shall be responsible for the payment of Common Expenses, including, but not limited to, power, water, sewer, television, internet and telecommunications serving the Common Elements. The Association shall have authority to pay the cost of the utilities used or consumed in the Units and have the costs thereof apportioned among the Units based upon use of the utility or any other formula the Board of Directors may deem appropriate.

ARTICLE VIII RESTRICTIONS ON USE OF UNITS, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

8.01 Rules and Regulations of the Association. The Association is authorized to promulgate, amend and enforce the Rules and Regulations concerning the operation and use of the Condominium provided that such Rules and Regulations are not contrary to or inconsistent with the ACT and the Condominium Documents. A copy of the Rules and Regulations shall be furnished by the Board of Directors to each Unit Owner prior to the time they become effective. All Unit Owners, tenants, Occupants and any person who uses any part of the Condominium Property in any manner are subject to and shall comply with the provisions of the Condominium Documents and the Rules and Regulations. The acquisition, rental or occupancy of a Unit or the use of any part of the Condominium Property by any one (1) person shall constitute such person's agreement to be subject to and bound by the provisions of the Condominium Documents and the Rules and Regulations, and such provisions shall be deemed to be enforceable as equitable servitudes and covenants running with the Land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated in full in each and every deed of conveyance or lease thereof. The Association may promulgate enforcement provisions for violation of any Rule or Regulation by an Owner, Occupant or an Owner's family members, guests, invitees, lessees or renters, including the payment of penalties for such violations.

8.02 Restrictions on Use.

(A) Each Unit is restricted to residential use, and the Common Elements and Limited Common Elements shall be used in accordance with the Rules and Regulations of the Association. The restriction that a Unit can only be used for residential usage shall not preclude a Unit Owner or Occupant from maintaining a personal professional library in his Unit, nor preclude him from keeping his personal business records or handling his personal business telephone calls or correspondence, or from renting or leasing his Unit.

(B) There shall be no obstruction of the Common Elements or Limited Common Elements, nor shall anything be kept or stored in the Common Elements or Limited Common Elements except in approved storage areas, nor shall anything be constructed on or planted in or removed from the Common Elements or Limited Common Elements, nor shall the Common Elements or Limited Common Elements in any other way be altered without the prior written consent of the Association. Neither the Common Elements nor Limited Common Elements can be used for commercial purposes

except as otherwise set forth in the Declaration.

(C) No immoral, improper, offensive or unlawful use shall be made of any Unit or the Common Areas, or any part thereof, including Limited Common Areas, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction over the Condominium Property shall be observed. No boisterous or rough play shall be permitted in the hallways, elevators, corridors, lobbies, parking areas, pool areas, or other Common Areas or Limited Common Areas.

(D) No Unit Owner or Occupant shall permit anything to be done or kept in a Unit or in the Common Areas or Limited Common Areas which will result in any increase of fire, liability or hazard insurance premiums or the cancellation of insurance on any part of the Condominium Property, or which would be in violation of any law. No waste shall be committed to the Common Elements or Limited Common Elements.

(E) No Sign, including without limitation, "For Sale" or "For Rent", or similar type sign of any kind, shall be displayed to the public view on or from any part of the Condominium Property. All signs must have the prior written consent of the Board of Directors EXCEPT signs used by the Declarant in the selling or leasing of Units or signs used in accordance with the Declaration.

(F) No one shall make or permit any noxious or offensive activities to be carried on, nor shall any outside lighting or sound speakers or other sound producing devices be used, nor shall anything be done which will interfere with the rights of others, nor shall anything be done on any part of the Condominium Property which, in the judgment of the Board of Directors, may be or become an unreasonable annoyance or nuisance to the other Unit Owners or Occupants.

(G) No Owner shall cause or permit anything to be placed on the outside walls of any Owner's Unit and no sign, awning, canopy, window air conditioning unit, shutter, TV antenna, satellite dish or other fixture shall be affixed to or placed upon the exterior walls, balconies or roof of any building, or any part thereof, without the prior written consent of the Board of Directors. This restriction is not intended to prohibit the Declarant or the Association from placing, erecting or affixing telecommunications equipment and fixtures on the roof of any building, or any part thereof, within the areas designated for that purpose.

(H) No clothes, sheets, towels, blankets, laundry of any kind or other articles shall be hung out, shaken or exposed on or from doors, windows or railings, or any part of the Common Areas or Limited Common Areas, including without limitation balconies, terraces and decks. Under no circumstances shall laundry or other articles be placed or hung on the exterior portions of a Unit. The Common Areas and Limited Common Areas shall be kept clear of rubbish, debris and other unsightly materials.

(I) No animals or pets shall be kept for commercial purposes nor be allowed to create or cause any disturbance or nuisance of any kind, and if an animal or pet does cause or create a nuisance or an unreasonable disturbance, said animal or pet shall be permanently removed from the Condominium Property within seven (7) days from the day the Owner receives written notice from the Association to remove the animal or pet. The Owner of any pet or animal shall be liable for any and all damage caused by such pet or animal to any part of the Condominium Property or injury to any other Owner, Occupant, guest, tenant, invitee or other person on the Condominium Property. The pet or animal

Owner is responsible for the proper disposal and/or removal of pet or animal feces and other excrement. Pets and animals must be under the control of the Owner and kept on a leash at all times. No pets or animals shall be allowed in the pool areas at any time. Loud barking, singing, meowing or emitting other noise of or by a pet or animal in a Unit or Common Area or Limited Common Area is prohibited and shall be considered and treated as a public nuisance.

(J) Designated walkways and paved areas shall be used at all times and shortcuts shall be avoided, both to prevent accidents and to preserve the appearance of planted areas. No motorized vehicle shall be operated on any walkway or other area except upon the driveways and parking areas designated for vehicular use. Motorcycles, motor bikes, motor scooters, recreational vehicles or other similar vehicles shall not be operated within the Property except for the purpose of ingress or egress or transportation, it being intended that said vehicles shall not be operated so as to annoy or disturb persons or endanger persons or property.

(K) All persons using the swimming pool do so at their own risk, and the Association is not responsible for any accident or injury in connection with use of the pool or for any loss or damage to personal property. Persons using the pool areas agree not to hold the Association, its officers, employees or agents liable for any actions of whatever nature occurring within the pool areas or surrounding decks. The pool areas shall be used in accordance with such rules and regulations as shall from time to time be promulgated by the City of Gulf Shores, Alabama or Baldwin County, Alabama or by the Board of Directors.

(L) The Association shall have the right to promulgate reasonable rules and regulations concerning the use and enjoyment of the Common Areas and Limited Common Areas and assess fines and penalties for the violation thereof.

(M) Units may be leased or rented by the Unit Owners; and the rights of any tenant are hereby made subject to the power of the Association to prescribe reasonable rules and regulations relating to the leasing or rental of a Unit and to enforce the same directly against a tenant or other occupant by the exercise of such remedies as the Board of Directors deems appropriate, including eviction. Each Unit Owner who shall lease or rent his Unit irrevocably empowers the Association or its managing agent to enforce the Rules and Regulations and to terminate the lease and evict any tenant or occupant who fails to comply with the Rules and Regulations. The Association, the Board of Directors or any agent thereof shall not become liable to any Unit Owner or any person who sublets a Unit, or other party, for any loss of rents or other damages resulting from the reasonable exercise of the provisions of this paragraph. Nothing to the contrary withstanding, a Unit Owner is primarily responsible for the acts or omissions of his family, tenants, guests, invitees or Occupants. Individual rooms located within a Unit shall not be leased or rented. The minimum rental or leasing period is three (3) days. There shall be no on-site rental office on the Condominium Property. There shall be no mandatory rental pooling agreements that require Unit Owners to rent their Units or give a management firm control over Unit Owners' occupancy of Units. There shall be no restrictions on Unit Owners' occupancy of Units. The Association shall not provide rental services to Unit Owners, and the Association shall not profit or participate in the rental of Owners' Units.

(N) The sidewalks, driveways and parking areas must not be obstructed or encumbered or used for any purpose other than ingress or egress, and for parking. Automobile parking spaces have been provided. No vehicle shall be parked in such a manner as to impede or prevent ready access to

other parking areas. No parking space, driveway or other area shall be used for the storage or parking of any boat, boat trailer, house trailer, camper trailer or any other sort of towed vehicle or object. The Owners, their employees, servants, agents, visitors, Occupants and families shall obey the parking regulations posted on the private streets, parking areas and drives, and any other traffic regulations promulgated for the safety, comfort or convenience of the Owners. Washing of cars, boats and vehicles of any kind is prohibited.

UNIT OWNERS OR OCCUPANTS ARE PROHIBITED FROM CONSTRUCTING OR PLACING ANY TYPE STORAGE CLOSET, STORAGE BIN OR SIMILAR TYPE ITEM IN PARKING AREAS, WHICH ARE FOR PARKING MOTOR VEHICLES ONLY.

(O) No one shall use or permit to be brought into any Unit or upon any of the Common Areas or Limited Common Areas and facilities any flammable oils or fluids such as gasoline, kerosene, naphtha, propane or benzene, or other explosives or articles hazardous to life, limb or property.

(P) No wood-burning, charcoal, propane, gas or other non-electric outdoor grills or cooking equipment are allowed or permitted on balconies, terraces, decks or other Common Areas or Limited Common Areas or Private Elements, except as provided by Declarant or the Association in Common Areas.

(Q) In order for a Unit to maintain a climate which will prohibit or deter the development or infestation of mold or other types of fungus, the heating and air conditioning systems must be operating on a continuous basis with the proper or correct temperature being maintained within the Unit. The heating and air conditioning system should not be turned off or disconnected for any extended periods of time. The Owner and/or Occupant is responsible for maintaining a proper or correct temperature at all times including periods when the Unit is vacant, unfurnished or not being occupied.

In addition to the foregoing, each Owner/Occupant shall maintain appropriate climate control, keep his or her Unit clean, and take necessary measures to retard and prevent mold from accumulating in the Unit. Each Owner or Occupant shall be required to clean and dust the Unit on a regular basis and to remove visible moisture accumulation on windows, window sills, walls, floors, ceilings and other surfaces as soon as reasonably possible and must not block or cover any heating, ventilation or air-conditioning ducts. Unit Owners or Occupants shall report immediately in writing to the Association: (i) any evidence of water leaks or water infiltration or excessive moisture in the Unit, common hallways and any other Common Elements or Limited Common Elements; (ii) any evidence of mold that cannot be removed with a common household cleaner; (iii) any failure or malfunction in heating, ventilation or air conditioning; and (iv) any inoperable doors or windows, and each Owner shall be responsible for damage to the Unit and personal property as well as any injury to the Occupants of the Unit resulting from an Owner's failure to comply with these terms. Each Owner is fully responsible and liable for the entire amount of all cleaning expenses and remediation costs incurred by the Association to remove mold from the Unit if the Owner or Occupant fails to remedy same, and each Owner shall be responsible for the repair and remediation of all damages to the Unit caused by mold.

(R) For the purpose of aesthetics and uniformity, all drapes or window treatments or the lining thereof which face the exterior of a window or other type of transparent opening, doorway or window and/or which can be seen or viewed from the exterior of the building shall be white and cannot contain a pattern or design. Any color other than white or any pattern must be approved in writing by the Board of Directors.

(S) Each Owner shall keep such Owner's Unit in good state of preservation and cleanliness, and shall not sweep or throw or permit to be swept or thrown therefrom, or from the doors or windows or balconies thereof, any dirt or other substance. All garbage, trash and other refuse shall be securely bagged and properly disposed of by placing it into receptacles or containers designated for such purpose only at such times and in such manner as the Board of Directors of the Association may direct. No trash or other articles shall be burned, and all disposals shall be in accordance with such further rules and regulations as shall, from time to time, be promulgated by the Board of Directors of the Association.

(T) Water closets or other water apparatus in the buildings shall not be used for any purposes other than those for which they were designed, nor shall any sweepings, rubbish, rags or other articles be placed in the same. Any damage resulting from misuse of water closets, tubs or other apparatus in the Units shall be repaired and paid for by the Owner of such Unit. Water shall not be left running for any unreasonable or unnecessary length of time. The wet bar ice maker should be turned off when the Unit is expected to be unoccupied for an extended period of time. Owners and Occupants shall report any leaking or running water to the Association.

(U) The Association, its workers, employees, contractors or agents shall have the right of access to any Unit at any reasonable hour of the day upon adequate notice in advance (and at any time without notice for emergencies) for the purpose of making inspections, repairs, replacements or improvements, or to remedy any conditions which might result in damage to any portion of the building or Common Areas, or for any purpose permitted under the Code of Alabama, the Declaration, the Articles of Incorporation or the By-Laws of the Association. If the Association finds there are vermin, insects or other pests within any Unit, it may take such measures as it deems necessary to control or exterminate the same.

(V) Persons using the facilities located in the Common Areas and Limited Common Areas do so at their own risk. The Association is not responsible for any accident or injury in connection with the use of the Common Areas or Limited Common Areas or for any loss or damage to personal property. Persons using the Common Areas and Limited Common Areas agree not to hold the Association, its directors, officers, employees or agents liable for any actions or injury of whatever nature occurring in or around the Common Areas or Limited Common Areas.

(W) All persons using the private balcony of each Unit do so at their own risk. The Association is not responsible for any accident or injury in connection with use of the private balcony or for any loss or damage to personal property. Persons using the private balcony agree not to hold the Association, its directors, officers, employees or agents liable for any actions of whatever nature occurring within the private balcony.

(X) The Declaration does not provide for the ownership or occupancy of any Condominium Units in timeshare, fractional, segmented or any similar type of ownership.

(Y) Common Elements, or any portion thereof, including Limited Common Elements, may not be used for commercial activities or purposes other than as provided in the Declaration. Provided, however, the Association, through its Board of Directors, shall have the right to lease or rent, on terms and conditions satisfactory to the Board, portions of the Common Elements to Unit Owners to recoup, in whole or part, the costs for their use thereof. Except as otherwise provided by the Declaration, the Common Elements are not to be used for gain or profit by the Association or Unit Owners.

(Z) The Association shall not have a right of first refusal to purchase a Unit from a Unit Owner.

8.03 Right of Access. Each Unit Owner grants a right of access to such Owner's Unit to the Association, and to any other person authorized by the Association, for the purpose of making inspections and for the purpose of correcting any condition originating in an Owner's Unit and threatening other Units, Common Elements or Limited Common Elements, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other Common Elements within an Owner's Unit, or to correct any conditions which violate the provisions of any Mortgage covering another Unit or to enforce any provisions of the Condominium Documents, provided that requests for entry are made in advance and that such entry is at a time reasonably convenient to the Unit Owner. In case of an emergency, such right of entry shall be immediate whether the Unit Owner is present at the time or not. Each Unit Owner further grants a right of access to such Owner's Unit to the Declarant and/or the Declarant's agent for the purpose of making all repairs required by any warranty delivered to the Unit Owner at the closing of an Owner's Unit. To the extent that damages are inflicted on the Common Elements, Limited Common Elements or any Unit through which access is taken, the Unit Owner or the Association, if it causes the same, shall be liable for the prompt repair thereof.

8.04 Limitation of Liability. The Association shall not be liable for any failure of water, sewer, power, television, internet, telecommunications, security, fire protection or other service to be obtained by the Association or paid for out of the Common Expense funds or problems resulting from the operation, or the lack thereof, of lines servicing the Condominium Property, or for injury or damage to a person or property caused by the natural elements, or resulting from electricity, water, hurricane debris or ice which may leak, airborne or flow from any portion of the Common Elements, Limited Common Elements or from any wire, pipe, drain, conduit, appliance or equipment. The Association shall not be liable to the Owner of any Unit for the loss or damage, by theft or otherwise, of articles which may be stored upon any of the Common Elements or Limited Common Elements. No diminution or abatement of the Common Expense assessments, as herein elsewhere provided, shall be claimed or allowed for any reason, except by action taken by the Board of Directors in accordance with the By-Laws.

8.05 Abatement of Violations. The violation of any Rule or Regulation adopted by the Board of Directors or breach of the provisions of the Condominium Documents shall give the Declarant, the Association or any Unit Owner the right, in addition to any other right or remedy elsewhere available, to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the

continuance of any such breach. All expenses of such actions or proceedings against a defaulting Unit Owner, including court costs, attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the highest lawful rate on judgments until paid, shall be charged to and assessed against such defaulting Owner, and the Association shall have a lien for all of the same upon the Unit of such defaulting Owner, upon all of such defaulting Owner's additions and improvements thereto and a security interest under the Alabama Uniform Commercial Code upon all of such defaulting Owner's personal property in such defaulting Owner's Unit or located elsewhere on the Condominium Property. Nothing herein contained shall prevent an Owner from maintaining such an action or proceeding against the Association, and the expense of any action to remedy a default of the Association shall be a Common Expense if a court of competent jurisdiction finds the Association to be in default as alleged in such action or proceeding.

8.06 Failure of the Association to Insist on Strict Performance; No Waiver. Failure of the Association to insist in any one or more instances upon the strict performance of any of the terms, covenants, conditions or restrictions of the Declaration or to exercise any right or option therein contained, or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment from the future performance of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Association of any assessment from an Owner with knowledge of the breach of any covenant hereof shall not be deemed to be a waiver of such breach, and no waiver by the Association of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board of Directors.

ARTICLE IX RIGHTS OF MORTGAGEES

9.01 Notification of Mortgagees Required. Any Mortgagee shall have the right to be given written notification by the Association of (a) any sixty (60) day default by the Owner of the Unit covered by the Mortgage in the payment of assessments or in any other provision of the Condominium Documents; (b) any loss to or taking of the Common Elements or Limited Common Elements if such loss or taking exceeds One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00); (c) damage to a Unit covered by the Mortgage if the amount of such damage exceeds Fifty Thousand and No/100 Dollars (\$50,000.00); (d) any condemnation or casualty loss of all or a material portion of the Condominium Property; (e) a lapse or cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and (f) any proposed action that requires the consent of a specified percentage of Mortgagees.

9.02 Right of Inspection. Mortgagees shall have the right to examine the books and records of the Association or the Condominium Property and to receive annual reports, other financial data, and, upon request, an annual audited statement, within ninety (90) days following the end of any fiscal year of the Association. Any cost associated with providing a Mortgagee with requested information shall be paid by the Mortgagee requesting the information.

9.03 Required Reserve Funds and Working Capital Fund. Assessments levied by the Board of Directors shall include an adequate reserve fund for maintenance, repair and replacement of those Common Elements and Limited Common Elements that must be replaced or repaired on a periodic basis, and may be payable in regular installments rather than by special assessments. A working

capital fund shall be established for each unit Owner purchasing a Unit from the Declarant and will be payable at the time of closing the sale from the Declarant to be used by the Association as working capital.

9.04 Priority of Mortgagees.

(A) Any lien which is or may be created hereunder upon any Unit, including but not limited to, the lien created for assessments herein, and the right to foreclose the same, is and shall be subject and subordinate to and shall not affect the rights of the holder of the indebtedness secured by any Mortgage upon such interest made in good faith and for value and recorded prior to the creation of the lien hereunder, provided that after the foreclosure of any such mortgage there may be a lien created pursuant to the Declaration on the interest of the purchaser as an Owner after the date of such foreclosure sale to secure all assessments hereunder. After the date of such foreclosure sale, said lien, if any, shall be claimed and shall have the same effect and be enforced in the same manner provided herein. Notwithstanding the above, and in accordance with the ACT, the lien created pursuant to the Declaration is prior to any Mortgage to the extent of the Common Expense assessments based on the annual budget which would have become due in absence of acceleration during the six (6) months immediately preceding institution of an action to enforce the lien.

(B) No provision of the Declaration, the Articles, the By-Laws or the Rules and Regulations shall be construed to grant to any Unit Owner, or to any other party, any priority over any rights of the Mortgagees of the Units pursuant to their Mortgages in the case of distribution to Unit Owners of the insurance proceeds or condemnation awards for losses or a taking of Units or the Common or Limited Common Elements or any portion thereof.

(C) As provided in the ACT, all assessments, property taxes and other charges imposed by any taxing authority which may become liens prior to a Mortgage shall be separately assessed against and collected on each Unit as a single parcel and not on the Condominium as a whole.

(D) No breach of the covenants, conditions or restrictions herein contained shall defeat or render invalid the lien of any Mortgage made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or otherwise.

9.05 Request for Protection by Mortgagees. Whenever any Mortgagee desires the benefit of the provisions of this Article to be applicable to such Mortgagee, the Mortgagee shall serve written notice of such fact upon the Association, by registered or certified mail, addressed to the Association, and actually mailed to the Association's address, identifying the Unit upon which it holds a Mortgage or identifying any Units owned by it, together with sufficient pertinent facts to identify any Mortgage which may be held by the Mortgagee. Said notice shall designate the place to which the notices are to be delivered by the Association to such Mortgagee.

ARTICLE X CASUALTY LOSS AND INSURANCE

10.01 Responsibility of Owners; Separate Insurance Coverage.

(A) The Owner of each Unit may, at the Unit Owner's expense, obtain insurance coverage for loss of or damage to the Private Elements, any furniture, furnishings, personal effects and other property belonging to such Owner, and may, at the Unit Owner's expense, obtain insurance coverage against personal liability for injury to the person or property of another while within such Owner's Unit or upon the Common Elements or Limited Common Elements. Risk of loss of or damage to any furniture, furnishings and personal property belonging to or carried on the person of the Owner, or which may be stored in any Unit, or in or upon Common Elements or Limited Common Elements, shall be borne by the owner of each Unit. All furniture, furnishings and personal property constituting a portion of the Common Elements and held for the joint use and benefit of all Owners of Units shall be covered by such insurance as the same shall be maintained in force and effect by the Association as hereinafter provided. All insurance obtained by the Owner of each Unit shall, whenever such provisions shall be available, provide that the insurer waives its right of subrogation as to any claims against other Owners, the Association or the Declarant, and their respective servants, agents, employees and guests. The Association shall not be responsible for providing insurance coverage on any Private Elements, except as required by the ACT.

(B) Any Owner who obtains an individual insurance policy covering any portion of the Condominium Property other than property belonging to such Owner shall be required to file a copy of such individual policy or policies with the Association within thirty (30) days after the purchase of such insurance. In the event casualty insurance maintained by an Owner causes a decrease in the amount of the insurance coverage maintained by the Association for the benefit of all Owners on a casualty loss to the Condominium Property by reason of proration or otherwise, the Owner so maintaining such insurance shall be deemed to have assigned to the Association the proceeds collected on such policy for loss or damage to the Condominium Property and such proceeds shall be paid directly to the Association, or the Insurance Trustee (hereinafter defined), by the insurer. Any such insurance proceeds shall be applied and distributed by the Association in accordance with this Article.

10.02 Insurance to be Maintained by the Association.

The Association shall, to the extent reasonably practicable, obtain insurance coverages which meet or exceed Fannie Mae's condominium eligibility requirements and those of the ACT. Any policy shall include severability of interest/separation of insureds in its terms or, in the alternative, preclude the insurer's denial of a Unit Owner's claim because of negligent acts of the Association or other Unit Owners. No insurance shall be prejudiced by any acts or omissions of Unit Owners that are not under the control of the Association. The Association's insurance shall be primary over any Unit Owner's.

(A) Hazard Insurance. The Association shall obtain and maintain at all times a policy or policies of multi-peril type hazard insurance, including insurance for such other risks of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other condominium projects similar in construction, design, location and use, insuring the Condominium Property against loss or damage by the perils of fire, lightning, water, wind and those perils contained in extended coverage, vandalism or malicious mischief. If the Condominium Property is located in an area which is governed by construction, zoning or other governmental codes or regulations that would limit or restrict reconstruction after damage to all or a portion of the Condominium Property, the Board may, to the extent reasonably obtainable, include construction code endorsement or building ordinance endorsement to the insurance policies. If the Condominium Property is located in an area identified

by the Secretary of Housing and Urban Development as having special flood hazards, the Board shall, to the extent obtainable, insure the insurable property included in the Condominium Property against the perils of flood under the National Flood Insurance Act of 1968. The amount of insurance coverage shall be determined on a replacement cost basis in an amount not less than one hundred percent (100%) of the then current replacement cost of the improvements, including fixtures and equipment on the Condominium Property (but excluding land, foundations, excavations and other items usually excluded from such insurance coverage) or such greater percentage of such value as may be necessary to prevent the applicability of any co-insurance provision. Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Association or the Insurance Trustee (hereinafter defined), as trustee for the use and benefit of the individual Owners (without naming them), in the proportionate shares equal to their respective percentage ownership interests in the Common Elements and their Limited Common Elements, and Mortgagees (without naming them), as their respective interests may appear. Periodically, but not less than once every three (3) years, the Association will obtain an opinion or an appraisal from a qualified appraiser for the purpose of determining the full replacement cost of the Common Elements, the Limited Common Elements and the Units for the amount of insurance to be obtained pursuant thereto. The cost of any such opinion or appraisal shall be a Common Expense. All such policies of insurance shall comply with the provisions of this Article and the ACT, and shall (i) contain standard mortgagee loss payable clause endorsement in favor of the Mortgagee or Mortgagees of each Unit, if any, as their respective interests may appear; and (ii) provide that the insurance shall not be invalidated by any act or neglect of any Owner.

(B) Public Liability and Property Damage Insurance. The Association shall obtain and maintain at all times a comprehensive policy or policies of public liability and property damage insurance in such amount, but not less than Two Million Dollars (\$2,000,000.00), and in such form as shall be required by the Association to protect said Association and the Owners of all Units, which provide coverage for bodily injury and property damage resulting from the operation, maintenance or use of the Common Elements and Limited Common Elements and for legal liability resulting from employment contracts to which the Association is a party, and for claims against the officers and members of the Board of Directors for claims arising out of the negligent performance of their duties.

(C) Worker's Compensation Insurance. The Association shall obtain and maintain at all times a policy or policies of worker's compensation insurance to meet the requirements of the laws of the State of Alabama.

(D) Fidelity Bonds. The Association shall obtain and maintain, if available, fidelity bonds for any person who either handles or is responsible for funds held or administered by the Association naming the Association as the obligee. The amount of the fidelity bond should cover the maximum funds that will be in the custody of the Association, but not less than the sum of three (3) months' assessments on all Units plus the reserve funds of the Association.

(E) Other Insurance. The Association shall obtain and maintain such other insurance coverage as required by the ACT or as the Board of Directors, in its sole discretion, may determine from time to time to be in the best interest of the Association and the Owners of all Units.

(F) Endorsements. To the extent reasonably obtainable, the Association's insurance coverage should include an (1) Inflation Guard Endorsement, (2) Building Ordinance or Law Endorsement and

(3) Boiler and Machinery/Equipment Breakdown Endorsement.

10.03 Governing Provisions. All insurance obtained and maintained by the Association as provided above shall be governed by the following provisions:

(A) All policies shall be written with a company licensed to do business in the State of Alabama and holding a financial rating of “A” or better by Best’s Insurance Reports or other then comparable rating.

(B) Exclusive authority to adjust all claims under the policies hereafter in force on the Condominium Property shall be vested in the Association or its authorized representatives.

(C) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with the insurance purchased by the individual Owners or their Mortgagees.

(D) The Association shall be required to make every effort to secure insurance policies that will provide for the following:

(1) A waiver of subrogation by the insurer as to any claims against the Association, the Board of Directors, the Declarant or the Owners;

(2) An agreement by the insurer that the insurance coverage cannot be terminated or materially changed without thirty (30) days prior written notice to the Association, or Insurance Trustee, and the Mortgagee of each Unit;

(3) The insurance coverage will be primary, even in the event a Unit Owner has other insurance that covers the same loss;

(4) No act or omission by any Unit Owner, unless acting within the scope of the Unit Owner’s authority on behalf of the Association, will void the policy or be a condition to recovery under the policy;

(5) The insurance coverage will comply with the hazard and casualty insurance requirements of Fannie Mae and Freddie Mac as they apply to condominiums; and

(6) Any insurance trust agreement is recognized.

10.04 Premiums and Deductibles. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense; except that the amount of increase over the usual premium occasioned by the use, misuse, occupancy or abandonment of a Unit or its appurtenances or of the Common Elements by an Owner shall be assessed against that Owner. In the event of an insurance claim by the Association or Insurance Trustee, the deductible attributable to said claim shall be paid by the Association as a Common Expense out of its reserve or replacement fund and if the amount in such reserve or replacement fund is not sufficient, or if the Board of Directors determines not to use such fund for said purpose, then the Association shall levy and collect an assessment against the Owners of all Units in an amount which shall provide the funds required to

pay for said deductible. The maximum deductible amount must be no greater than five percent (5%) of the face amount of the policy of insurance.

10.05 Insurance Trustee. The Association may engage the services of a bank or trust company authorized to do trust business in the State of Alabama to act on its behalf as an insurance trustee ("Insurance Trustee") and to receive and disburse the insurance proceeds in accordance with the provisions of the Declaration. In the event the lowest of two (2) bids from reputable contractors for making all repairs required by any such loss shall exceed Three Hundred Thousand and No/100 Dollars (\$300,000.00), the Association upon written demand of the Mortgagee of any Unit shall engage the services of a bank or trust company to act as Insurance Trustee as aforesaid. The Association, as a Common Expense, shall pay a reasonable fee to said Insurance Trustee for its services rendered hereunder, and shall pay such costs and expenses as said Insurance Trustee may incur in the performance of any duties and obligations imposed upon it hereunder. Said Insurance Trustee shall be liable only for its willful misconduct, bad faith or gross negligence, and then for only such money which comes into the possession of said Insurance Trustee. Whenever the Insurance Trustee may be required to make distributions of insurance proceeds to Owners of Units and their Mortgagees, as their respective interests may appear, or to any other party for repair, replacement or reconstruction of the Property, the Insurance Trustee may rely upon a certificate of the President and Secretary of the Association, executed under oath, which certificate will be provided to said Insurance Trustee upon request made to the Association. Such certificate is to certify unto said Insurance Trustee the name of the Owner of each Unit, the name of the Mortgagee who may hold a Mortgage encumbering each Unit and the respective percentages of any distribution which may be required to be made to the Owner of any Unit, and the Unit Owner's respective Mortgagee, as their respective interests may appear, or to certify the name of the party to whom payments are to be made for the repair, replacement or reconstruction of all or a portion of the Condominium Property. The rights of the Mortgagee of any Unit shall, notwithstanding anything to the contrary herein, or contained in any Mortgage, at all times be subject to the provision hereof with respect to the application of insurance proceeds to reconstruction of the damaged Condominium Property; provided, however, that if the Association or the Insurance Trustee fails to perform all the conditions precedent required by the policy or policies of insurance, and fails to collect the amount of the loss within the time required by law, and the Mortgagee or Mortgagees are required to avail themselves of their rights under the standard mortgagee clause to collect the proceeds of the policy or policies of insurance, any amount so collected through the efforts of said Mortgagee or Mortgagees shall be applied as directed by said Mortgagee or Mortgagees. No provision hereof shall entitle an Owner or any other party to any priority over a Mortgagee with respect to the distribution of any insurance proceeds with respect to such Unit.

10.06 Loss to Common Elements or Limited Common Elements Only. In the event of the loss of or damage to only Common Elements and/or Limited Common Elements by reason of fire or other casualties, which loss or damage is covered by fire and casualty insurance, the proceeds paid to the Association or the Insurance Trustee, as the case may be, to cover such loss or damage shall be applied to the repair, replacement or reconstruction of such loss or damage. If the insurance proceeds are in excess of the cost of the repair, replacement or reconstruction of such Common Elements, then such excess insurance proceeds shall be paid by the Association or Insurance Trustee, as the case may be, to the Owners of all Units, the distribution to be separately made to the Owner of each Unit and Unit Owner's respective Mortgagee, as their interests may appear, in such proportion that the share of such excess insurance proceeds paid to the Owner of each Unit and Unit Owner's Mortgagee shall

bear the same ratio to the total excess insurance proceeds as the undivided interest in the Common Elements appurtenant to each Unit bears to the total undivided interest in the Common Elements appurtenant to all Units. If there is no insurance coverage for such loss or damage, or if it appears that the insurance proceeds covering the fire and casualty loss or damage payable to the Association or the Insurance Trustee are not sufficient to pay for the repair, replacement or reconstruction of the loss or damage, or that the insurance proceeds when collected will not be so sufficient, then the Association shall pay, or shall deposit sufficient funds with the Insurance Trustee, to completely pay for the repair, replacement or reconstruction of any loss or damage, as the case may be. The monies to be so paid or deposited by the Association with the Insurance Trustee may be paid by the Association out of its reserve or replacement fund and if the amount in such reserve or replacement fund is not sufficient, or if the Board of Directors determines not to use such fund for said purpose, then the Association shall levy and collect an assessment against the Owners of all Units in an amount which shall provide the funds required to pay for said repair, replacement or reconstruction.

10.07 Loss to Common Elements, Limited Common Elements and/or Private Elements. In the event of loss of or damage to Common Elements, Limited Common Elements and/or any Private Element of any Unit by reason of fire, storm, governmental regulation or other casualty, which loss or damage is covered by fire, hazard and casualty insurance, the proceeds paid to the Association or Insurance Trustee, as the case may be, to cover such loss or damage, shall be first applied to the repair, replacement or reconstruction of the Common Elements, then to the repair, replacement or reconstruction of the Limited Common Elements, then to the repair, replacement or reconstruction of the Private Elements sustaining any loss or damage, then such excess insurance proceeds shall be paid and distributed by the Association or the Insurance Trustee to the Owners of all Units, and to their Mortgagees, as their respective interests may appear. Such distributions are to be made in the manner and in the proportions as are provided for the distribution of insurance proceeds under this Article. If there is no insurance coverage for such loss or damage, or if it appears that the insurance proceeds covering the fire and casualty loss or damage payable to the Association or the Insurance Trustee, as the case may be, are not sufficient to pay for the repair, replacement or reconstruction of the loss or damage, or that the insurance proceeds when collected will not be sufficient, then the Board of Directors shall, based on reliable and detailed estimates obtained by it from competent and qualified parties, determine and allocate the cost of repair, replacement or reconstruction among the Common Elements, the Limited Common Elements and the Private Elements or Units sustaining any loss or damage. If the proceeds of said fire and casualty insurance, if any, are sufficient to pay for the repair, replacement or reconstruction of any loss of or damage to the Common Elements and Limited Common Elements, but are not sufficient to repair, replace or reconstruct any loss of or damage to the Private Elements or Units sustaining damage, then the Association shall levy and collect an assessment from the respective Owners of the Private Elements which sustained any loss or damage, and the assessment so collected from said Owner shall be deposited with the Insurance Trustee, if any, so that the sum shall be on deposit for the repair, replacement or reconstruction of all Common Elements, Limited Common Elements, if any, and Private Elements or Units. In said latter event, the assessment to be levied and collected from the Owner of each Private Element sustaining loss or damage shall be apportioned among such Owners in such manner that the assessment levied against each Owner of a Private Element shall bear the same proportion to the total assessment levied against all of said Owners of Units sustaining loss or damage as the cost of repair, replacement or reconstruction of each Owner's Private Element bears to the cost applicable to all of said Private Elements sustaining loss or damage. If the fire and casualty insurance proceeds, if any, payable to the Association or the Insurance Trustee in the event of the loss of or damage to Common Elements,

the Limited Common Elements and the Private Elements or Units are not an amount which will pay for the complete repair, replacement or reconstruction of the Common Elements, it being recognized that such insurance proceeds are to be first applied to the payment for repair, replacement or reconstruction of said Common Elements before being applied to the repair, replacement or reconstruction of any Private Elements of a Unit sustaining loss or damage, then the cost to repair, replace or reconstruct said Common Elements in excess of available fire and casualty insurance proceeds shall be levied and collected as an assessment from the Owners of all Units in the same manner as would be levied and collected had the loss or damage sustained been solely to the Common Elements and the fire and casualty insurance proceeds been insufficient to cover the cost of repair, replacement or reconstruction. The cost of repair, replacement or reconstruction of the Private Elements of each Unit sustaining loss or damage, which is not required to be replaced in accordance with the insurance provisions of Section 35-8A-313 of the ACT, shall then be levied and collected by assessment of the Owners of the Private Elements sustaining the loss or damage in the same manner as is above provided for the apportionment of such assessment among Owners of Private Elements sustaining Loss or damage. Nothing to the contrary withstanding, damage or destruction of a portion of a Unit or Private Element, the Common Elements or the Limited Common Elements which cannot be rebuilt, repaired or reconstructed due to the enforcement of ordinances or laws regulating construction or repair shall be treated as if it was a condemnation and deemed to be an insurance casualty loss, and shall be applied and distributed by the Association in accordance with the provisions of the Declaration and the ACT.

10.08 Estimates of Repair; Plans and Specifications; Payment of Assessments. In the event of loss or damage to Condominium Property, the Association shall, within sixty (60) days after any such occurrence, obtain reliable and detailed estimates of the cost of restoring damaged property to a condition as good as that which prevailed before such loss or damage. The estimates of repair shall be based upon the plans and specifications of the original buildings, portions of which are attached as Exhibit "C" to the Declaration as the same may from time to time be amended, or such other plans and specifications as may be approved by the Board of Directors, by all of the Owners of the damaged Units and by not less than sixty percent (60%) of the Members of the Association including the Owners of damaged Units. The Association shall be appointed as attorney-in-fact for each Unit Owner for the purpose of representing the Unit Owners in any proceeding, negotiation, settlement or agreement arising from any loss or damage to the Condominium Property. Such estimates are to contain and include the cost of any professional fees and premiums for such bonds as the Board of Directors may deem to be in the best interest of the membership of the Association. Whenever it shall appear that the insurance proceeds payable for such loss or damage will not be sufficient to defray the cost of repair, replacement or reconstruction thereof, the additional money required to completely pay for such repair, replacement or reconstruction of said loss or damage whether to be paid by all of the Owners of Units or only by the Owners of Units sustaining loss or damage, or both, as herein provided, shall be paid to the Association and deposited with the Insurance Trustee, if any, not later than thirty (30) days from the date on which the Association or the Insurance Trustee, as the case may be, shall receive the monies payable from the policies of fire and casualty insurance.

ARTICLE XI CONDEMNATION

11.01 Condemnation Considered a Casualty Loss. The taking of a portion of a Unit or Private Element, the Common Elements or the Limited Common Elements by eminent domain shall be

deemed to be a casualty loss, and except as otherwise provided below, the awards for such taking shall be deemed to be proceeds from insurance on account of the casualty and shall be applied and distributed by the Association in accordance with the provisions of the Declaration and the ACT. Even though the awards may be payable to the Owners, the Owners shall deposit the awards with the Association or Insurance Trustee, as the case may be. In the event of failure to do so, at the discretion of the Board of Directors, a special assessment shall be made against a defaulting Owner in the amount of such defaulting Owner's award, or the amount of such award shall be set off against the sums hereinafter made payable to such Owner. If any Unit or portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the Mortgagee of such Unit shall be entitled to timely written notice of any such proceeding or proposed acquisition as provided herein, and no provision hereof shall entitle the Owner of such Unit or other party to priority over such Mortgagee with respect to the distribution of any award or settlement to the Owner of the Unit.

11.02 Partial Condemnation. In the event that the Condominium Property is not to be terminated and one or more Units are taken in part, the taking shall have the following effects:

(A) If the taking reduces the size of a Unit and the remaining portion of that Unit can be made tenantable, the award for the taking for a portion of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium Property:

(1) The Unit shall be made tenantable.

(2) The balance of the award, if any, shall be distributed to the Owner of the Unit and the Mortgagee of the Unit, as their respective interests may appear.

(3) If there is a balance of the award distributed to the Owner and the Mortgagee, the share of the Common Elements or Limited Common Elements, if any, appurtenant to the Unit shall be equitably reduced. This shall be done by reducing such share by the proportion which the balance of the award so distributed bears to the market value of the Unit immediately prior to the taking, and then re-computing the percentage interest of all Owners in the Common Elements and the Limited Common Elements as percentages of the total of their shares as reduced by the taking.

(4) If the taking destroys or so reduces the size of a Unit so that it may not be made tenantable, the award for the taking of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium Property:

(a) The market value of such Unit immediately prior to the taking shall be paid to the Owner of the Unit and to each Mortgagee of the Unit as their respective interests may appear.

(b) The remaining portion of such Unit, if any, shall become a part of the Common Elements and shall be placed in condition for use by all of the Owners in the manner approved by the Board of Directors; provided, however, that if the cost of such work shall exceed the balance of the fund from the award for the taking, such work shall be approved in the manner required for further improvement of the Common Elements as provided herein.

(c) The shares in the Common Elements appurtenant to the Units which continue as a part of

the Condominium Property shall be equitably adjusted to distribute the ownership to the Common Elements among the reduced number of Owners. This shall be done by re-computing the shares of such continuing Owners in the Common Elements as percentages of the total of the shares of such Owners as they exist prior to the adjustment.

(d) If the amount of the award for the taking is not sufficient to pay the market value of the condemned Unit to the Owner and to restore the remaining portion of the Unit in condition for use as a part of the Common Elements, the additional funds required for such purposes shall be raised by assessments against all of the Owners who will continue as Owners of the Units after the changes in the Condominium Property effected by the taking. Such assessment shall be made in proportion to the share of such Owners in the Common Elements after the changes effected by the taking.

(B) If the Market value of a Unit prior to the taking cannot be determined by agreement among the Owner and the Mortgagee and the Association within thirty (30) days after notice by any such party that agreement cannot be reached, such value shall be determined by three (3) independent qualified appraisers with (i) an appraiser to be selected by the Association, (ii) an appraiser to be selected by the Owner and Mortgagee and (iii) an appraiser to be selected by the first and second appraisers so appointed, and the fair market value of the Unit shall be deemed to be the average of the two (2) appraisals of the fair market value of the Unit made by said appraisers having the least difference in amount. The cost of such appraisals shall be assessed against all Owners in the shares of the Common Elements as they existed prior to the changes effected by the taking.

(C) Changes in the Units, in the Common Elements and/or Limited Common Elements, in the ownership of the Common Elements and/or Limited Common Elements and in the shares of liability for Common Expenses and/or Limited Common Expenses which are effected by eminent domain, shall be evidenced by an amendment of the Declaration approved by the Board of Directors in accordance with the Declaration and the Association's By-Laws.

11.03 Association Appointed as Attorney-In-Fact for Unit Owners. The Association shall be appointed as attorney-in-fact for each Unit Owner for the purpose of representing such Unit Owners in any proceeding, negotiation, settlement or agreement arising from the condemnation or taking by eminent domain of the Condominium Property or any portion thereof.

ARTICLE XII TERMINATION

12.01 Destruction of the Condominium Property.

(A) Notwithstanding anything to the contrary contained in the Declaration, if the Board of Directors shall determine that any of the following conditions exist:

(1) two thirds (2/3) or more of the Units in the Condominium Property shall have been destroyed or substantially damaged by fire, wind, water or other natural causes, or a combination of such, including condemnation; or

(2) the Condominium Property has been in existence in excess of sixty (60) years and substantially all of the Units in the structure have substantially deteriorated and have been rendered

substantially obsolete;

then the Board of Directors may call a meeting of the Members of the Association to consider and vote upon whether to restore, repair and/or rebuild the Condominium Property, and if not, whether to terminate the Declaration and remove the Condominium Property from the provisions of the ACT if approved by the affirmative vote of at least eighty percent (80%) of the Owners of all Units (based upon one vote for each Unit) and by at least eighty percent (80%) of all Mortgagees (based upon one vote for each Mortgage owned) after notice given as provided herein. If approved, the Declaration and plan of condominium ownership established herein shall be subject to termination as provided in the ACT, and the Association shall file on behalf of and in the name of the Unit Owners a petition for such termination and removal with the Circuit Court of Baldwin County, Alabama. If less than eighty percent (80%) of the Owners of all Units and/or less than eighty percent (80%) of the Mortgagees vote in favor of terminating the Condominium Property as herein required, the Condominium Property shall be restored, repaired and/or rebuilt in accordance with these provisions. Implied approval shall be assumed from a Mortgagee if the Mortgagee fails to respond to any notice given as provided herein within sixty (60) days after receipt of the notice provided the notice was delivered by certified or registered mail with return receipt requested.

(B) In the event that the Circuit Court of Baldwin County, Alabama shall grant the petition for termination of the Declaration and the plan of condominium ownership as provided in subparagraph (A) above, all of the Owners of Units shall be and become tenants in common as to ownership of the Land and any then remaining improvements thereon. The undivided interest in the Land and remaining improvements held by the Owner of each Unit shall be the same as the undivided interest in the Common Elements which were formerly appurtenant to such Unit, and the lien of any Mortgage or other encumbrance upon each Unit shall attach to the percentage of undivided interest of the Owner of a Unit in the Land and then remaining improvements as above provided. The Owners of Units to which Limited Common Elements have been allocated in the Declaration shall own each such Limited Common Element appurtenant to each Owner's Unit, and the lien of any Mortgage or other encumbrance upon such Units shall attach to the Limited Common Elements of each respective Owner's Unit. Upon termination of the Declaration and the plan of condominium ownership established herein, the Owners of all Units still inhabitable shall within sixty (60) days from the date of grant of the petition, deliver possession of their respective Units to the Association. Upon such delivery of possession, the Owners of inhabitable Units and their respective Mortgagees, as their interests may appear, shall become entitled to participate proportionately together with all Owners of uninhabitable Units in the distribution of proceeds in the possession of the Association or the Insurance Trustee. Upon such termination of the Declaration and the plan of condominium ownership established herein, the Association or the Insurance Trustee, as the case may be, shall distribute any insurance indemnity which may be due under any policy or casualty insurance to the Owners of the Units and their Mortgagees as their respective interests may appear, such distribution to be made to the Owner of each Unit in accordance with such Owner's then undivided interest in the Land and remaining improvements as herein provided. The Land and any remaining improvements thereon shall be subject to all Condominium Documents. The assets of the Association upon termination of the plan of condominium ownership created by the Declaration shall then be distributed to the Owner of each Unit and Unit Owner's Mortgagee, as their respective interests may appear, in the same manner as is above provided for the distribution of any final insurance indemnity.

12.02 Termination by Consent. Except in the event of the Declaration and plan of condominium ownership established herein being terminated as provided above, the Declaration and said plan of condominium ownership may only be otherwise terminated by the consent of eighty percent (80%) of the Owners of all Units and all parties holding Mortgages, liens or other encumbrances against any of said Units in which event the termination of the Condominium Property shall be by such plans as may be then adopted by said Owners and parties holding any Mortgages, liens or other encumbrances. Such election to terminate the Declaration and the plan of condominium ownership established herein shall be evidenced by a termination agreement executed in writing by all of the aforesaid parties in recordable form in accordance with the ACT, and such instrument shall be recorded in the Probate Office of Baldwin County, Alabama.

12.03 Association Appointed as Attorney-In-Fact for Unit Owners. The Association shall be appointed as attorney-in-fact for each Unit Owner for the purpose of representing such Unit Owners in any proceeding, negotiation, settlement or agreement arising from the termination of the Declaration and plan of condominium ownership established herein.

ARTICLE XIII AMENDMENT

13.01 Amendment by Declarant. Without limiting the rights of the Declarant to alter the Plats and Plans as described above, and notwithstanding any other provision herein contained, the following provisions shall be deemed to be in full force and effect, none of which shall be construed as to relieve the Declarant from any obligations as a Unit Owner to pay assessments as to Units owned by it in accordance with the Condominium Documents.

(A) The Declarant reserves the right to amend the Articles of Incorporation and the By-Laws of the Association until such time as the Declarant relinquishes control of the Association as provided below.

(B) The Declarant reserves the right to amend the Declaration and the Condominium Documents so long as there is no Unit Owner other than the Declarant.

13.02 Amendment by Unit Owners. At such time as there is a Unit Owner other than the Declarant, the Declaration may be amended in the following manner:

(A) A proposal to amend the Declaration may be considered at any meeting of the Members of the Association called for that purpose in accordance with the provisions of the By-Laws. The proposal to amend the Declaration must be approved by the affirmative vote of the Members representing not less than sixty-six and two-thirds percent (66 2/3%) of the total allocated votes of the Association as set forth in Exhibit "E" hereto, as may be amended from time to time; or

(B) By unanimous consent or agreement of the Unit Owners as evidenced by their signatures to the amendment; or

(C) As pertaining to the reallocation of Limited Common Elements in accordance with Section 35-8A-208 of the ACT.

Notwithstanding the foregoing, no amendment to the Declaration under the Article shall:

(1) change a Unit, including the ownership in Common Elements, responsibility for Common Expenses and voting rights, without the prior written approval of the Unit Owner or Unit Owners so affected and the prior written approval of the holders of record of any Mortgage or other liens on the Unit or Units so affected; or

(2) change, impair or prejudice the rights of the Declarant, or change the provisions of the Declaration with respect to the Declarant's rights hereunder, without the Declarant's prior written approval; or

(3) be effective if the amendment is of a material adverse nature to Mortgagees unless approved by Mortgagees representing not less than fifty-one percent (51%) of the votes of Units subject to a Mortgage. Implied approval shall be assumed from a Mortgagee if the Mortgagee fails to respond to a written proposed amendment within sixty (60) days after receipt thereof provided the same was delivered by certified or registered mail with return receipt requested.

13.03 Amendment Effectiveness. Each amendment, other than any amendments by the Declarant or its successors or assigns, or in accordance with Section 35-8A-208 of the ACT, adopted shall be certified by the President, or a Vice President, and the Secretary, or an Assistant Secretary, of the Association as having been fully adopted, and shall be effective when recorded in the Probate Court of Baldwin County, Alabama.

ARTICLE XIV CONTROL OF THE ASSOCIATION

14.01 Election of Board of Directors. The Declarant, its successors or assigns, may appoint and remove the members of the Board of Directors, and in the event of vacancies, the Declarant shall fill the vacancies, until no later than the earlier of either (i) sixty (60) days after seventy-five percent (75%) of the total number of Units which may be created have been conveyed to purchasers of Units, or (ii) two (2) years have elapsed from the date the Declarant has ceased to offer Units for sale in the ordinary course of business; or (iii) three (3) years after any Development Rights to add new Units was last exercised; provided that the Declarant may, at its option, terminate its control of the Association at an earlier date. Notwithstanding the foregoing, within ninety (90) days after conveyance of twenty-five percent (25%) of the Units, the Unit Owners other than Declarant shall be entitled to elect twenty-five percent (25%) of the members of the Board of Directors. Not later than ninety (90) days after conveyance of fifty percent (50%) of the Units to Unit Owners other than Declarant, not less than thirty-three and one-third (33 1/3%) of the members of the Board shall be elected by the Unit Owners. The Declarant, its successors or assigns shall be entitled to appoint at least one (1) member of the Board of Directors as long as the Declarant, its successors or assigns has Development Rights or Special Declarant Rights, or holds for sale in the ordinary course of business at least one (1) Unit in the Condominium, and such is not contrary to the Declaration or the ACT.

14.02 Notice of Meeting. Within sixty (60) days before the date of termination of control of the Association by the Declarant, the Association shall call and give not less than ten (10) days nor more than thirty (30) days-notice of a meeting of the Unit Owners for the purpose of electing the members of the Board of Directors. Such meeting shall be called and the notice given in accordance

with the By-Laws.

14.03 Status of Unsold Units.

(A) The Declarant shall be deemed to be the Owner of each Unit which has not been conveyed to a person other than the Declarant. Unless otherwise provided in the Condominium Documents, the Declarant shall be entitled to all rights and privileges available to, and shall be subject to any and all obligations and duties imposed upon, the Owner of any such Unit under the Condominium Documents.

(B) Any person having a first mortgage lien against any Unit which has not been conveyed to a person other than the Declarant, whether under a blanket Mortgage affecting the Condominium Property generally or under a Mortgage on one or more specific Units, shall be deemed to be a Mortgagee with respect to any such Unit and shall be entitled to all rights and privileges available to a Mortgagee of any such Unit under the Condominium Documents.

(C) Notwithstanding the provision above, no assessments (excluding the working capital, which will be collected from a purchaser of a Unit at the time of closing) shall be imposed by the Association against the Declarant or any other Unit Owner for so long as the Declarant pays all of the Common Expenses. During such period, the Declarant shall be responsible for the Common Expenses and Limited Common Expenses of the Condominium Property. The date of the first assessment imposed by the Association shall be determined by the Association, and notice of the assessment will be mailed or delivered to all Owners of Units prior to the effective date of the assessment.

14.04 Professional Management and Other Contracts. Any agreement incurred by the Association prior to the passage of control of the Association from the Declarant (including contracts for professional management of the Condominium Property, whether it be the Declarant, its successors or assigns, or any other person or entity) shall provide the following:

The Association shall have the right of termination which is exercisable without penalty any time upon not less than ninety (90) days written notice to the other party thereto in accordance with Section 35-8A-305 of the ACT, as the same may be amended from time to time.

ARTICLE XV MISCELLANEOUS

15.01 Rights and Powers of Successors and Assignees. The rights and powers reserved to or exercisable by the Declarant under the Condominium Documents or the ACT may be exercised by any successor or assignee of the Declarant (i) who acquires title from the Declarant by foreclosure or other judicial sale or deed in lieu of foreclosure, or (ii) to whom the Declarant specifically assigns such rights and powers.

15.02 Headings. The captions herein are used solely as a matter of convenience and shall not define, limit or expand any term or provision of the Declaration.

15.03 Gender/Number. Whenever the context so permits, the use of the plural shall include the singular, the singular shall include the plural, and any gender shall be deemed to include all genders.

15.04 Exhibits. Exhibits "A", "B", "C", "D", "E", "F" and "G" attached hereto are an integral part of the Declaration.

15.05 Invalidity and Severability. It is the intention of the Declarant that the provisions of the Declaration are severable so that if any provision is invalid or void under any applicable federal, state or local law or ordinance, decree, order, judgment or otherwise, the remainder shall be unaffected thereby.

15.06 Interpretation. The provisions of the Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a condominium project in accordance with Alabama law. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

15.07 Conflict or Ambiguity. If there is any conflict or ambiguity in the terms and provisions of the Declaration, the general rules of construction against one party as a result of that party having drafted the Declaration are hereby waived by each Owner and, to the fullest extent allowed by law, no conflicts or ambiguity shall be resolved in favor or to the advantage of one party as opposed to another in interpreting any ambiguity or conflict contained herein.

IN WITNESS WHEREOF, DRG DEVELOPMENT, LLC, an Alabama limited liability company, has caused this instrument to be executed by its duly authorized officer, whose name is set forth below, this ____ day of _____, 2019.

DRG DEVELOPMENT, LLC, an Alabama limited liability company

By: _____
DAVID H. HEAD, JR., its Manager

STATE OF ALABAMA
COUNTY OF BALDWIN

I, _____, a Notary Public, in and for said County in said State, hereby certify that DAVID H. HEAD, JR., whose name as Manager of DRG DEVELOPMENT, LLC, 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 said instrument, he, as such Manager and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and seal this ____ day of _____, 2019.

Notary Public
My Commission Expires: _____

This instrument prepared by:

MARK H. TAUPEKA
TAUPEKA LAW, LLC
25299 Canal Road, Suite A-6
Orange Beach, Alabama 36561
(251) 301-8500