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CHARLESTON COUNTY, SC

**MASTER DEED**

**OF**

**Bay Club Homes**

**HORIZONTAL PROPERTY REGIME**

**CHARLESTON COUNTY**

**TOWN OF MT. PLEASANT, SOUTH CAROLINA**

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**MASTER DEED**  
**OF**  
**Bay Club Homes**  
**HORIZONTAL PROPERTY REGIME**

THIS MASTER DEED is made by Bay Club Homes, LLC, a South Carolina limited liability company (hereinafter called the "**Declarant**"), having its principal place of business located at c/o E. Michael Washburn, 1165 Chuck Dawley Blvd., Mt. Pleasant, SC 29464.

W I T N E S S E T H

WHEREAS, Declarant is the fee simple owner of that certain tract or parcel of land lying and being in the Town of Mt. Pleasant, Charleston County, South Carolina, as more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (hereinafter called the "**Property**"); and

WHEREAS, certain improvements have been constructed and completed on the Property as shown on the Plat and the Plans which are referenced in Article 3 hereof; and

WHEREAS, Declarant has duly incorporated the Bay Club Homes Property Owners Association, Inc. as a nonprofit membership corporation under the laws of the State of South Carolina; and

WHEREAS, Declarant desires to create a horizontal property regime and submit the Property to the condominium form of ownership pursuant to the provisions of the South Carolina Horizontal Property Act, South Carolina Code of Laws (1976), Section 27-31-10, et seq., as amended (the "**Act**"), as the same is in effect on the date hereof and the terms and conditions hereinafter set out; and

WHEREAS, Declarant desires to reserve certain rights and privileges to itself and its successors and assigns as Declarant, (the "**Declarant Rights**"), as hereinafter more particularly described;

NOW, THEREFORE, Declarant does hereby submit the Property to the condominium form of ownership, pursuant to, subject to, and in accordance with the provisions of the Act and the terms and conditions hereinafter set forth.

**ARTICLE 1  
NAME**

The name of the residential housing development is Bay Club Homes Horizontal Property Regime (hereinafter referred to as the "Regime").

**ARTICLE 2  
DEFINITIONS**

The terms used in this Master Deed, the By-Laws, and the Articles of Incorporation shall have their normal, generally accepted meanings except as may be otherwise defined in the Act, the South Carolina Nonprofit Corporation Act, or this Master Deed. Certain terms used in this Master Deed, the By-Laws, the Articles of Incorporation, and Rules and Regulations promulgated from time-to-time, shall be defined as follows:

2.1 "Act" shall be defined as the South Carolina Horizontal Property Act, South Carolina Code of Laws (1976), Sections 27-31-10, et seq., as amended from time-to-time.

2.2 "Agencies" shall be defined as and collectively refers to the Federal National Mortgage Association ("FNMA"), the Government National Mortgage Association ("GNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC"), the Department of Housing and Urban Development ("HUD"), the Veterans Administration ("VA"), and any other governmental or quasi-governmental agency and any other public, quasi-public, or private entity which performs (or may perform in the future) functions similar to those currently performed by such entities.

2.3 "Allocated Interest(s)" shall be defined, with respect to each Condominium Unit, the appurtenant undivided interest in the Common Elements, the Common Expense liability, and votes in the Association, as the ownership percentage interest allocated to said Condominium Unit.

2.4 "Articles of Incorporation" or "Articles" shall be defined as the Articles of Incorporation of Bay Club Homes Property Owners Association, Inc. filed with the Secretary of State of South Carolina, as amended from time-to-time. A copy of the initial Articles of Incorporation is attached to this Master Deed as Exhibit "F" and incorporated herein by this reference.

2.5 "Annual Assessments" shall be annual assessments imposed on owners of Units other than Units owned by the Declarant as authorized by the provisions of Articles 10 hereof.

2.6 "Assessment(s)" shall be defined to mean and include all assessments for Common Expenses provided for in this Master Deed.

2.7 "Association" shall be defined as Bay Club Homes Property Owners Association, Inc. a South

Carolina nonprofit corporation, its successors and assigns.

2.8 “**Board of Directors**” or “**Board**” shall be defined as the governing body responsible for management and operation of the Association as further described hereinafter and in the By-Laws.

2.9 “**Building**” shall be defined as the building structure(s) and improvements erected on the Property.

2.10 “**By-Laws**” shall be defined as the By-Laws of Bay Club Homes Property Owners Association, Inc. attached to this Master Deed as **Exhibit “E”** and incorporated herein by this reference.

2.11 “**Common Elements**” shall be defined as all of the Property except the portions thereof which constitute Units, and shall include, without limitation, all parts of the Building or any facilities, improvements, and fixtures located within a Unit which are or may be necessary or convenient to the support, existence, use, occupation, operation, maintenance, repair, or safety of the Building or any part thereof or any other Unit therein. Without limiting the generality of the foregoing, the following shall constitute Common Elements:

- (a) all of the land, appurtenances, and beneficial easements which are part of the Real Estate;
- (b) all foundations, columns, girders, beams, and supports of any Building;
- (c) all deck areas, balconies, patios, fireplaces, doors and windows (subject to reservation for individual Owner use as Limited Common Elements, as hereafter defined and provided);
- (d) the exterior walls of any Building, the main or bearing walls within any Building, the main or bearing sub-flooring, and the roof of any Building;
- (e) the unfinished surfaces of the floors, ceilings, and perimeter walls of the Units, as well as non-weight bearing walls and building structures within the Units;
- (f) all entrances, exits, vestibules, halls, corridors, lobbies, lounges, swimming pool, clubhouse, tennis courts, bridges, lake shed, laundry gatehouse and related facilities, and stairways, if any, not within any Unit;
- (g) all driveways and parking areas (subject to such reservations as may be established by the Declarant in the first instance and not-inconsistent reservations as may be established by the Association thereafter);
- (h) all other parts of the Property necessary in common use or convenient to its existence, maintenance, and safety;
- (i) intentionally omitted;
- (j) all landscaping;



(k) equipment, piping, conduits, and installations used in connection with the provision of sewer, water, electrical, and any other common utilities serving the Property; fixtures and decorating in common areas; and

(l) those areas and things within the definition of "Common Elements" as set forth in the Act.

2.12 "**Common Expense(s)**" shall be defined as the expenses incurred or anticipated to be incurred by the Association for the general benefit of all Units, including, but not limited to (a) those expenses incurred for administration, management, maintenance, repair, alteration, replacement, renovation, reconstruction, restoration, and operation of the Common Elements, including the Limited Common Elements; (b) expenses determined by the Association to be Common Expenses and which are lawfully assessed against Owners; (c) expenses declared to be Common Expenses by the Act or any of the Regime Instruments; (d) reasonable reserves established for the payment of any of the foregoing; and (e) other expenses relating to the use and enjoyment of the Property agreed upon as Common Expenses by a vote of the Owners representing an aggregate ownership interest of at least fifty-one percent (51%) of the Common Elements.

2.13 "**Community-Wide Standard**" shall be defined as the standard of conduct, maintenance, or other activity generally prevailing within the Regime. Such standard may be more specifically determined by the Board of Directors and the Architectural Review Board.

2.14 "**Development Rights Period**" shall be defined to mean the period of time commencing on the date of recording of this Master Deed and ending on the earlier of: (i) the sale of all of the Condominium Units within the Regime to third-party purchasers; (ii) the date that is ten years after the date of Declarant's recording of this Master Deed; or (iii) the date that Declarant waives all remaining Declarant rights pursuant to an express written waiver executed and acknowledged by Declarant and recorded in the Records.

2.15 "**Eligible Mortgagees**" Those holders of First Mortgages secured by Units in the Regime who have requested notice of certain items as set forth in this Master Deed.

2.16 "**Guest**" shall be defined to mean any tenant of a Residential Unit Owner, and any family member, guest, or invitee of such owner or of such tenant, PROVIDED that the Association Board reserves the right to exclude from the Property any non-Owner as hereinafter provided.

2.17 "**Index**" shall be defined to mean the Consumer Price Index for Wage Earners and Clerical Workers (CPI-W) (1982-84-100), U.S. City Average for "All Items" issued by the Bureau of Labor Statistics of the United States Department of Labor. Any reference to the "Index" in effect at a particular time shall mean the Index as then most recently published and/or announced. If the Index shall be converted to a different standard reference base or otherwise revised, any computation of the percentage increase in the Index shall be made with the use of such conversion factor, formula or table for converting the Index as may be published by the Bureau of Labor Statistics or, if said Bureau shall not publish the same, then with the use of such conversion factor, formula or table as may be published by Prentice-Hall, Inc., or failing such publication, by any other nationally recognized publisher of similar statistical information as may be selected by the Association.

2.18 "**Individual Floor Plans**" shall be defined as the individual floor plans for the Units

which are show in Exhibit "C" attached hereto.

2.19 "Limited Common Elements" shall be defined as a portion of the Common Elements reserved for the exclusive use of those entitled to occupy one (1) or more, but less than all, Units, as more particularly set forth in this Master Deed.

2.20 "Majority" shall be defined as those eligible votes, Owner, or other group as the context may indicate totaling fifty one percent (51%) or more of the total eligible number.

2.21 "Managing Agent" shall be defined to mean any person or entity selected by the Board to perform the management and operational functions of the Association, and so designated.

2.22 "Mortgage" shall be defined as any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance encumbering any Unit for the purpose of securing the performance of an obligation. A "First Mortgage" shall be defined to mean and include a Mortgage on a Unit which is duly recorded and has first and paramount priority under applicable law over all other Mortgages or other liens encumbering said Unit. A vendor under a Contract for Deed on a Unit shall be deemed a First Mortgagee unless said Unit is encumbered by the interest of a prior Mortgagee or prior contract vendor.

2.23 "Mortgagee" shall be defined as the holder of any Mortgage, and "First Mortgagee" shall be defined as a holder of any First Mortgage.

2.24 "Occupant" shall be defined as any Person occupying all or any portion of a Unit for any period of time, regardless of whether such Person is a tenant, the Owner of such property, or a Guest of either. "Occupancy" shall be defined to mean the actual occupancy of any Unit in a manner consistent with the normal usage and purposes of the Unit or the right to so occupy the Unit, regardless of whether such right is ever exercised. It shall be presumed from the exercise of rights of a landlord even though actual occupancy is by a tenant or licensee. The terms "occupy," "occupancy," and "use" are synonymous for the purposes of this Master Deed and any other Regime Instruments.

2.25 "Owner" or "Unit Owner" shall be defined as each record title holder of a Unit within the Regime, but not including any Mortgagee.

2.26 "Parking Plan", if any, shall be defined as the parking plan maintained by the Association. The Parking Plan may be amended from time to time by the Association in accordance with the terms of this Master Deed.

2.27 "Parking Space" shall be defined as any parking space located on the Property as reconfigured by the Association from time-to-time.

2.28 "Person" shall be defined as any individual, corporation, limited liability company, firm, association, partnership, trust, or other legal entity.

2.29 "Plans" shall be defined as the floor plans, elevations and Unit table set forth in Exhibit "C" describing the Units as required by the Act.

2.30 "Plat" shall be defined as the plat of survey or site plan set forth in Exhibit "B" and describing the Property and various elements of the Regime in graphic form as required by the Act.

- 2.31 “**Property**” shall be defined as the real property described on Exhibit “A”.
- 2.32 “**Records**” shall be defined to mean the real property records of the Recorder of Charleston County, South Carolina, and any and all other official public records relating to the ownership, use, and transfer of real estate located in Charleston County, South Carolina.
- 2.33 “**Regime**” shall be defined as the Bay Club Homes Horizontal Property Regime created by this Master Deed, including any supplements or amendments to this Master Deed.
- 2.34 “**Regime Instructions**” shall be defined as this Master Deed and all exhibits to this Master Deed, including the By-Laws, the Articles of Incorporation, the rules and regulations of the Association, and the Plat and Plans, all as may be supplemented or amended from time-to-time.
- 2.35 “**Specific Assessments**” shall be defined as set forth in Article 10 hereof.
- 2.36 Intentionally Omitted
- 2.37 “**Residential Unit**” shall be defined as a Unit used for residential purposes as defined in Section 14.1.
- 2.38 Intentionally Omitted
- 2.39 “**Rules and Regulations**” shall be defined to mean the content of any instrument, however denominated, which is adopted and/or promulgated by the Association pursuant to the Regime Instruments or the Act and relating directly or indirectly to the operation and management of the Property, the Regime, or the affairs of the Association.
- 2.40 “**Special Assessments**” shall mean special assessments imposed on Units other than Units owned by the Declarant under the provisions of Article 10 hereof.
- 2.41 “**Unit**” or “**Condominium Unit**” shall be defined as that portion of the Regime intended for separate ownership and use and depicted as such on the Plans and shall include the undivided ownership in the Common Elements assigned to the Unit by this Master Deed. Notwithstanding anything herein, no Common Elements or Limited Common Elements located within a Unit as described herein shall be considered part of the Unit.

### ARTICLE 3 LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS

The Regime subject to this Master Deed and the Act is located in the Town of Mt. Pleasant, Charleston County, South Carolina, being more particularly described in Exhibit “A” attached to this Master Deed, which exhibit is specifically incorporated herein by this reference (the “**Property**”). The Plat relating to the Regime, being more particularly described in the attached Exhibit “B”, which exhibit is specifically incorporated herein by this reference (the “**Plat**”). Floor plans, elevations and Unit tables relating to the Regime, being more particularly described in the attached Exhibit “C” which exhibit and plans are specifically incorporated herein by this reference (the “**Plans**”). The Declarant shall have the right to file additional plats and plans from time-to-time as necessary or appropriate to further describe the Regime, Common Elements, Limited Common Elements, or Units, or to comply with the Act.

Further, the Declarant shall have the right to file additional plats and plans which modify or adjust a previously filed plat or plan as deemed necessary and appropriate by Declarant. The Plans are incorporated herein by reference as if the same were set forth in their entirety herein.

## ARTICLE 4 UNITS AND BOUNDARIES

4.1 **Creation of Units.** The Regime will be, and is hereby, initially divided into not more than **One Hundred Sixty (160)** separate Residential Units, the Limited Common Elements, and the Common Elements. Each Unit consists of a dwelling and its appurtenant percentage of undivided interest in the Common Elements as shown on **Exhibit "D"** attached to this Master Deed and incorporated herein by this reference.

Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the Act and the Regime Instruments. The Units, and their locations in relationship to other Units, Common Elements, and Limited Common Elements, are depicted on the Plans. Each Unit includes that part of the structure which lies within the following boundaries.

4.2 **Horizontal (Upper and Lower) Boundaries.** The horizontal boundaries of each Unit shall be the planes formed by the unfinished interior surfaces of the floors and ceilings of the Unit.

- (a) To the extent that any chutes, flues, fireplaces, ducts, conduits, wires, load bearing walls, load bearing columns, or any other apparatus lies partially inside of the designated boundaries of a Unit, any portions thereof serving only that Unit shall be deemed a Limited Common Element in favor of that Unit; all portions thereof serving more than one Unit shall be deemed a part of the Limited Common Elements in favor of those Units; and all portions thereof serving all Units or the Common Elements generally shall be deemed Common Elements.
- (b) In interpreting any deeds and plans, the existing physical boundaries of a Unit as originally constructed or of a Unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in any deed or plan, regardless of settling or lateral movement of the building in which the Unit is located, and regardless of minor variance between the boundaries shown on the plans or in a deed and those of the Unit. To the extent of any such discrepancy(ies) and variance(s), an appropriate easement shall exist to prevent involuntary removal, correction, or injunction against use and enjoyment.
- (c) The ownership of each Unit shall include, and there shall pass with each Unit as appurtenances thereto whether or not separately described in the conveyance thereof, that percentage of the right, title, and interest in the Common Elements attributable to such Unit, together with membership in the Association and an undivided interest in the funds and assets held by the Association. Every portion of a Unit and all Limited Common Elements contributing to the support of an abutting Unit shall be burdened with an easement of support for the benefit of such abutting Unit.

4.3 **Vertical Boundaries.** The parametrical or vertical boundaries of each Unit shall be the planes formed by the unfinished interior surfaces of the exterior walls of the Unit. Entry doors, exterior

doors, and exterior glass surfaces, including, but not limited to, glass windows, glass doors, or other exterior doors serving the Unit shall be included within the boundaries of the Unit. Heating and air conditioning systems serving a single Unit (including any part of such system located outside the boundaries of the Unit), all duct work for heating and air conditioning systems and appliances and plumbing fixtures within a Unit and serving only that Unit shall be part of the Unit. Exterior door frames and window frames shall be deemed a part of the Common Elements.

## ARTICLE 5 COMMON ELEMENTS

The Common Elements consist of all portions of the Regime not located within the boundaries, or considered a part, of a Unit. Ownership of the Common Elements shall be by the Unit Owners as tenants-in-common. The percentage of undivided interest in and to the Common Elements attributable to each Unit shall be as set forth in Exhibit "D".

Such percentages of undivided interest may otherwise be altered only by the consent of all Owners and Mortgagees (or such lesser number of Owners and Mortgagees as may hereafter be prescribed by the Act) expressed in a duly recorded amendment to this Master Deed. The percentage of undivided interest of each Owner in the Common Elements is appurtenant to the Unit owned by the Owner and may not be separated from the Unit to which it appertains and such appurtenance shall be deemed to be conveyed or encumbered or to otherwise pass with the Unit whether or not expressly mentioned or described in a conveyance or other instrument describing the Unit.

The Common Elements shall remain undivided, and no Owner or any other Person shall have the right to bring any action for partition or division of the whole or any part thereof except as provided in the Act. Except as provided for Limited Common Elements or as otherwise provided herein, each Owner and the Association may use the Common Elements for the purposes for which they are intended, but no use shall enter or encroach upon the lawful rights of the other Owner. Each Owner and Occupant shall have a right and easement of use and enjoyment in and to the Common Elements (including the right of access, ingress and egress to and from the Unit over those portions of the Regime designated for such purpose), and such easement shall be appurtenant to and shall pass with the title to such Unit, subject to the rights of the Unit Owners to the exclusive use of the Limited Common Elements assigned to their respective Units and to the right of the Association to control the use and enjoyment of the Common Elements as provided by the terms of this Master Deed. Every portion of a Unit and all Limited Common Elements contributing to the support of an abutting Unit shall be burdened with an easement of support for the benefit of such abutting Unit.

The Declarant hereby reserves, for the benefit of Declarant, its successors and assigns, a temporary non-exclusive easement over, across, and under the Common Elements for the maintenance of sales and leasing offices, signs, and the reasonable use of the Common Elements for sales, leasing, marketing, and construction purposes, including, without limitation, access, ingress and egress across, over and under the Common Elements for the purpose of further improving the Property or the Regime for purposes of marketing, leasing and sales, so long as Declarant owns any Unit primarily for the purpose of sale or lease. The Declarant further reserves, for the benefit of Declarant, its successors and assigns as Declarant, the right to use any unsold Unit as a "model unit" for purposes of marketing, leasing, and sales, so long as Declarant owns any Unit primarily for the purpose of sale or lease.

## ARTICLE 6

## LIMITED COMMON ELEMENTS

6.1 **Designation.** The Limited Common Elements and the Unit(s) or Owner to which they are assigned, licensed, or owned by are:

- (a) to the extent that a deck, piazza, patio, porch, or balcony, together with any enclosure of such elements, serving a Unit is not within the boundaries of the Unit, the deck, piazza, patio, porch, or balcony which is appurtenant to a Unit is assigned as Limited Common Element to the Unit having direct access to such deck, piazza, patio, porch, or balcony;
- (b) the doorsteps or stoops leading as access to a deck, patio, porch, or balcony are assigned as Limited Common Elements to the Unit to which the deck, patio, porch, or balcony is assigned;
- (c) the Parking Space which are assigned to a Unit and which are specified by showing such assignment on the Parking Plan, if any;
- (d) the portion of the Common Elements on which there is located any portion of the mechanical, electrical, air conditioning, or heating system exclusively serving a particular Unit or Units is assigned as Limited Common Element to the Unit or Units so served;
- (e) any gas or electric meter which serves only one Unit is assigned as a Limited Common Element to the unit so served; and
- (f) each unit is assigned one (1) mailbox which will be located in a mailbox area of the Regime.

6.2 **Parking Spaces.** The Association shall maintain the Parking Plan. The Association may promulgate rules and regulations relating to the Parking Spaces. The Association may reconfigure, re-assign, and redesignate the Parking Spaces.

6.3 **Assignment and Reassignment.** The Owners hereby delegate authority to the Board of Directors, without a membership vote, to assign and to reassign Limited Common Elements in whole or part, as the Board shall from time-to-time determine, in its sole discretion. Notwithstanding anything herein to the contrary, the Board of Directors is not authorized to assign or reassign the Limited Common Elements without the consent of Declarant for so long as the Declarant owns any portion of the Regime, and without the consent of the affected Unit Owner or Owners.

## ARTICLE 7 DECLARANT AND OWNER RIGHTS

7.1 **Right to Combine, Subdivide, and Redesignate Units/Creation of Units, General Common Elements and Limited Common Elements.**

(a) **Declarant Rights.**

- (i) **Combination and Subdivision.** Declarant hereby reserves the right to: 1)

physically combine the total area or space of one Unit with the total area or space of one or more adjacent Units (whether adjacent horizontally or vertically); 2) physically combine a part of or combination of parts of the area or space of one or more Units with a part of or combination of parts of the area or space within one or more adjacent Units (whether adjacent horizontally or vertically); 3) physically subdivide one or more Units into two or more Units; and 4) redesignate and reallocate Limited Common Elements in connection with any combination or subdivision of any Unit(s). Declarant shall not exercise its rights pursuant to this subparagraph 7.1.a.1 unless it is the Owner of or has the consent of all Owners of the Unit(s) to be subdivided or combined, nor shall Declarant exercise such rights without the written consent of any First Mortgagee having an interest in said Unit or Units. Any such combination or subdivision shall result in corresponding reallocation of the Allocated Interest for the affected Units, provided that the Allocated Interests of all other Units shall remain unchanged.

- (ii) Create and Convert Common Elements. Declarant reserves the right to convert any Units owned by it into General Common Elements or Limited Common Elements. Declarant further reserves the right to relocate the boundaries of any or all of the Units located on the Property to the extent Declarant owns any of such Units to incorporate any portion or all of the Common Elements or Limited Common Elements located adjacent thereto as part of such Units. If Declarant so relocates the boundaries of any such Unit, it may designate, as additional Limited Common Elements appurtenant to such Unit, any walls, floors, or other structural separations that formerly constituted the Unit boundary, or any space that would be occupied by such structural separations but for the relocation of the Unit boundary. If Declarant converts any Units to Common Elements or Limited Common Elements pursuant to this subparagraph, the Allocated Interest appurtenant to the remaining Units shall be reallocated proportionally in accordance with their respective percentages as set forth in Exhibit "D," and an appropriate amendment thereto and to Exhibit "C" shall be prepared by Declarant and recorded in the Records.

Except for the "Stairways," "Hallways," and "Lobby," Declarant further reserves the right to convert any Common Elements or Limited Common Elements into Units. If Declarant converts any Common Elements or Limited Common Elements to Units pursuant to this subparagraph, the Allocated Interest appurtenant to all Units shall be reallocated proportionately in accordance with the formula set forth in paragraph 4.1 and subparagraph 3 below, and an appropriate amendment to Exhibit "C" and "D" shall be prepared by Declarant and recorded in the Records. Any conversion of Common Elements and/or Limited Common Elements to Units shall require the consent of any Unit Owner and First Mortgagee whose Unit is affected.

- (iii) Condominium Plat Supplements and Other Procedures. If Declarant exercises one or more of its rights as set forth above or any other Development Right which affects the Plat after the Plat has been recorded, it shall cause a supplemental or amended Plat or other appropriate document to be recorded in the Records reflecting the same, and shall record an amendment, if necessary, to Exhibit "B" reflecting the same. Upon any physical combining of Units, the

resulting Unit shall be allocated the Allocated Interest appurtenant to the Units so combined. Upon any such physical combining of Units to create a single Unit, the Owner of such combined Unit shall be responsible for the assessments for Common Expenses allocable to the Units so combined, as determined pursuant to paragraph 4.1. Declarant reserves the right to designate, as additional Limited Common Elements appurtenant to such combined Unit, any walls, floors, or other physical separations between the Units so combined, or any space which would be occupied by such physical separations but for the combination of such Units; provided, however, that such walls, floors, or other physical separations or such space shall automatically become Common Elements if the combined Units become subject to separate ownership in the future. Upon any subdivision of any one or more Units to create additional Units, the resulting Units shall be allocated the Allocated Interest of the Units so subdivided, which undivided interests shall be allocated between or among such Units by Declarant in accordance with the formula set forth in paragraph 4.1, and such determination shall be final and conclusive.

(iv) Expiration of Reserved Rights. The reserved rights of Declarant set forth in this paragraph 7.1(a) shall terminate upon the expiration of the Development Rights Period. Declarant states that: (i) its rights under this paragraph 7.1(a) or under any other provision of this Master Deed may be exercised with respect to the Common Elements, Limited Common Elements, or various Units at different times; (ii) no assurances are made as to the boundaries of the Units, Common Elements, or Limited Common Elements that may be subject to Declarant's rights under this paragraph 7.1 (a), or under any other provision of this Master Deed, or as to the order in which Common Elements, Limited Common Elements, or Units, if any, may be subjected to such rights; and (iii) if Declarant exercises any rights as to any Units pursuant to paragraph 7.1(a) or under any other provision of this Master Deed, such rights may, but need not, be exercised as to all or any other portion of the Property.

(b) Unit Owner Rights. Each owner of a Unit shall have the right to combine two or more adjacent Units (whether adjacent horizontally or vertically), or to divide two or more Units which have previously been divided or combined, as the case may be, by Declarant in accordance with paragraph 7.a, or by an Owner in accordance with this paragraph 7.b. Except as provided in the foregoing sentence, there may be no other division or combination of Units or relocation of boundaries of adjacent Units by Owners. A proposed combination or division of Units by an Owner shall require the consent of the Association and, if during the Development Rights Period, by Declarant, and shall be accomplished in accordance with the procedures set forth by the Board. The exercise of the rights granted in this paragraph 7.b shall be subject to the prior written consent of each Mortgagee having an interest in any such combined or divided Unit(s). If Units are combined, the undivided interest in the Common Elements appurtenant to the combined Units shall be the sum of the previous Allocated Interests in the Units that were combined. Any previously combined Units that are later divided shall have the Allocated Interests which they had prior to the previous combination.

## ARTICLE 8



## MEMBERSHIP AND ALLOCATIONS

8.1 **Membership.** All Owners, by virtue of their ownership of an interest in a Unit, excluding Persons holding such interest under a Mortgage, are members of the Association and, except as otherwise provided herein or in the By-Laws, shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to this Master Deed and the Act and in accordance with the By-Laws.

8.2 **Votes.** (a) Subject to the provisions of the Regime Instruments, each Owner shall be entitled to cast one (1) weighted vote for each Unit in which such Owner holds the interest required for membership, which vote shall be appurtenant to such Unit. Each vote shall be weighted in accordance with the percentage of undivided interest in the Common Elements attributable to each Unit, as shown on **Exhibit "D"** attached hereto and by reference incorporated herein. No votes may be split; each Owner must vote his or her entire weighted vote on each matter to be voted on by the Owners. If Owners of a Unit cannot agree on how the vote for that Unit is to be cast, that vote will not be cast or counted for any purpose other than the calculation of the total votes for the entire Regime. The total votes for the entire Regime shall equal one hundred (100) per cent at all times.

(b) Notwithstanding (a) above, a majority of the Board of Directors is hereby irrevocably appointed as agent and attorney-in-fact for the Unit Owners of all the units to vote their interest at all meetings of the Association, unless such Unit Owner is present or has filed a proxy as set forth in Section 2.9 of the By-Laws of the Association attached to this Master Deed. Whenever the approval or disapproval of a Unit Owner is required by the Horizontal Property Act, this Master Deed or the By-Laws, such approval or disapproval shall be made only by the person who would be entitled to cast the vote at any meeting of the Association.

8.3 **Allocation of Liability for Common Expenses.** Except as otherwise provided herein, each Unit is hereby allocated liability for Common Expenses apportioned in accordance with the percentage of undivided interest in the Common Elements appurtenant to the Unit, as shown on **Exhibit "D"**.

- (a) Except as provided below, or elsewhere in the Act or Regime Instruments, the amount of all Common Expenses shall be assessed against all the Units in accordance with the allocation of liability for Common Expenses described above.
- (b) The Board of Directors shall have the power to assess specifically pursuant to this Section as in its discretion it deems appropriate. Failure of the Board of Directors to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the right to exercise authority under this Section in the future with respect to any expenses, including an expense for which the Board of Directors has not previously exercised its authority under this Section.
  - i) Any Common Expenses benefitting less than all of the Units or significantly disproportionately benefitting all Units may be specifically assessed equitably among all of the Units which are benefitted according to the benefit received, as determined in the sole discretion of the Board of Directors.

- ii) Any Common Expenses occasioned by the conduct of less than all of those entitled to occupy all of the Units or by the Occupant(s), licensees, or invitees of any such Unit or Units may be specifically assessed against such Unit or Units.

For purposes of subsection (b) of this Section, nonuse shall constitute a benefit to less than all Units or a significantly disproportionate benefit among all Units only when such nonuse results in an identifiable, calculable reduction in cost to the Association.

8.4 **Unit and Property Values.** The Schedule of Unit Values and Property Interests contained in **Exhibit "D"** shows the assigned value of each Unit as of the date of this Master Deed and the respective percentage of undivided interest in the Common Elements attributable to each Unit, as required by Section 27-31-60 of the Act. The value of the Regime, for the sole purpose of Section 27-31-60 of the Act, is equal to the total value of all Units, which includes the value of the appurtenant percentage of undivided interests in the Common Elements and Limited Common Elements. The statutory values are not intended to coincide with fair market values, ad valorem tax values, appraised values, or any other measure of values, and are provided solely for the statutory purposes indicated in Section 27-31-60 of the Act.

## ARTICLE 9 ASSOCIATION RIGHTS AND RESTRICTIONS

The Association shall have all of the rights set forth in this article in addition to, and not in limitation of, all other rights it may have pursuant to South Carolina law, this Master Deed, and the Regime Instruments.

9.1 **Right of Entry.** The Association shall have the right to enter into Units for maintenance, emergency, security, or safety purposes, which right may be exercised by the Board of Directors, officers, agents, employees, managers, and all police officers, fire personnel, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after reasonable notice to the Owner or Occupant of the Unit.

9.2 **Rules and Regulations.** The Association shall have the continuing right to make and to enforce reasonable rules and regulations governing the use of the Regime, including the Units, Limited Common Elements, and Common Elements.

9.3 **Right of Enforcement.** The Association shall have the right to enforce use restrictions, provisions of the Master Deed and By-Laws, and rules and regulations by the impositions of reasonable monetary fines and suspension of use and voting privileges. These powers, however, shall not be construed as limiting any other means of enforcing the use restrictions or rules and regulations of the Association. Any fines imposed in accordance with this Section 9.3 shall be considered an assessment against the Unit and may be collected in the manner provided for collection of other assessments.

9.4 **Permits, Licenses, Easements, etc.** The Association shall have the right to grant permits, licenses, utility easements, and other easements over, through, and under the Common Elements without a vote of the Owners.

Owners are subject to the terms of any exclusive or other arrangement entered into by the

Association with regard to the grant of a permit, license, utility easement, or other easement to any third party.

9.5 **Right of Maintenance.** The Association shall have the right to control, manage, operate, maintain, improve, and replace all portions of the Regime for which the Association is assigned maintenance responsibility under this Master Deed or applicable law.

9.6 **Property Rights.** The Association shall have the right to acquire, hold, encumber, and dispose of tangible and intangible personal property and real property.

9.7 **Casualty Loss.** The Association shall have the right to deal with any insurance carrier and/or any governmental or quasi-governmental entity, as the case may be, in the event of damage or destruction as a result of casualty loss, or threatened or actual condemnation, or exercise of rights of eminent domain, in accordance with the provisions of this Master Deed and applicable law.

9.8 **Governmental Entities.** The Association shall have the right to represent the Owners in dealing with governmental entities.

9.9 **Intentionally Omitted**

9.10 **Common Elements.** The Association shall have the right to close temporarily any portion of the Common Elements for emergency, security, or safety purposes, or for any such other reasonable purpose as determined in the sole discretion of the Board, with no prior notice of such closing to the Owners, for a period not to exceed one (1) year. Furthermore, the Association shall have the right to permanently close any portion of the Common Elements (excluding Limited Common Elements) upon thirty (30) days prior notice to all Owners. Any portion of the Common Elements which has been permanently closed may be reopened by action of the Board or by the vote of Owners holding a majority of the votes cast at a duly called special or annual meeting.

## ARTICLE 10 ASSESSMENTS

10.1 **Purpose of Assessment.** The Association shall have the power to levy assessments as provided herein and in the Act. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of Units in the Regime as may be more specifically authorized from time-to-time by the Board of Directors.

10.2 **Creation of the Lien and Personal Obligation for Assessments.** Each Owner of any Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges ("Annual Assessments"); (ii) special assessments ("Special Assessments"); (iii) specific assessments ("Specific Assessments"); and (iv) an assessment upon the sale of a Unit ("Assessment Reserve Payment") all as herein provided. All such assessments, together with the late charges, interest, costs, and reasonable attorney's fees actually incurred shall be a charge on the Unit and shall be a continuing lien upon the Unit against which each assessment is made. Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any First Mortgage made in good faith and for value (except those accruing after the First Mortgagee

forecloses or takes a conveyance in lieu of foreclosure). Such lien, when delinquent, may be enforced by suit, judgment, and/or foreclosure in the same manner as Mortgages are foreclosed under South Carolina law.

Such amounts shall also be the personal obligation of each Person who was the Owner of such Unit at the time when the assessment fell due and may be collected in the same manner as other debts or liens are collected under South Carolina law. Each Owner and each successor-in-title to the Unit shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors; unless otherwise provided, the Annual Assessments shall be paid in equal monthly installments due on the first day of each calendar month. No Owner may exempt such Owner from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, nonuse of the Common Elements; the Association's failure to perform its obligations required or purportedly required under this Master Deed or applicable law; or inconvenience, discomfort, or purported or actual consequential damages arising from the Association's performance of its duties or deficiency therein. The lien provided for herein shall have priority as provided in the Act.

10.3 **Delinquent Assessments.** All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner shall be in default.

- (a) If any monthly installment of Annual Assessments or any part thereof or any other charge is not paid in full within five (5) days of when due, a late charge equal to the greater of Twenty Five dollars (\$25.00) or ten percent (10%) of the amount not paid, or such higher amounts as may be permitted or authorized by the Act, may be imposed without further notice or warning to the delinquent Owner, and interest at the highest rate as permitted by the act or other applicable law and adopted by resolution of the Board of Directors shall accrue from the due date.
- (b) If part payment of assessments and related charges is made, the amount received shall be applied in the following order, and no restrictive language on any check or draft shall be effective to change the order of application:
  - (i) respectively, to any unpaid late charges, interest charges, and Specific Assessments (including, but not limited to, fines) in the order of their coming due;
  - (ii) to costs of collection, including reasonable attorney's fees actually incurred by the Association;
  - (iii) to any unpaid installments of the Annual Assessment or Special Assessments in the order of their coming due; and
  - (iv) any other amounts due and owing.
- (c) If assessments, fines, or other charges or any part thereof due from an Owner are not paid when due, a notice of delinquency may be given to that Owner stating that if the assessment, fine, or charge remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board of Directors may accelerate and declare

immediately due all of that Owner's unpaid installments of the Annual Assessment, any Special Assessments, and any Specific Assessments. If an Owner fails to pay all assessments and related charges currently due within ten (10) days of the date of the notice of delinquency, the Board of Directors may then accelerate and declare immediately due all installments of the Annual Assessment, any Special Assessments, and any Specific Assessments without any further notice being given to the delinquent Owner. Upon acceleration, that Owner shall thereby lose the privilege of paying the Annual Assessment in monthly installments for that fiscal year.

- (d) If assessments and other charges or any part thereof remain unpaid more than thirty (30) days after the assessment payments first become delinquent, the Association, acting through the Board of Directors, may institute suit to collect all amounts due pursuant to the provisions of the Master Deed, the By-Laws, the Act and South Carolina law, and may suspend the Owner's and/or Occupant's right to vote and/or to use the Common Elements; provided, however, that the Board of Directors may not limit ingress or egress to or from the Unit or disconnect utilities or other essential services to the Unit.

10.4 **Computation of Operating Budget and Annual Assessment.** The Board has the obligation and duty, prior to the beginning of each fiscal year, to prepare a budget covering the estimated costs of operating the Regime during the coming year. The Board shall cause the budget and notice of the assessments to be levied against each Unit for the following year to be delivered to each member at least thirty (30) days prior to the end of the Association's fiscal year. The Annual Assessment for each Unit (other than Units owned by the Declarant) shall be equal to the amount of the budget approved by the Board multiplied by the percentage of ownership in the Common Elements owned by each Unit (other than Units owned by the Declarant). The budget and the Annual Assessment shall become effective unless disapproved at a duly called and constituted meeting of the Association by a vote of at least fifty-one (51%) of the total eligible voting power of the Association and the Declarant (so long as the Declarant owns any portion of the Regime); provided, however, if a quorum is not obtained at the such meeting, the budget shall become effective even though a vote to disapprove the budget could not be called at the meeting. So long as the Declarant has the right to appoint and remove any member or members of the Board of Directors of the Association under the provisions of Article 21 below, Declarant shall have the option, but shall not be required to, loan funds to the Association to make up any deficits in the budget and shall have the option of charging interest on all funds advanced to the Association used to fund such deficits.

Notwithstanding the foregoing, in the event that the membership disapproves the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the current year shall continue for the succeeding year. In such case, the Board may propose a new budget at any time during the year at a special meeting of the Association. The proposed budget and Annual Assessment shall be delivered to the members at least thirty (30) days prior to the proposed effective date thereof and at least seven (7) days prior to the special meeting. The approval procedure set forth above for budgets considered at annual meetings shall also apply to budgets considered at special meetings.

10.5 **Special Assessments.** In addition to the Annual Assessment provided for in Section 10.2 above, the Board of Directors may, at any time, and in addition to any other rights it may have, levy a special assessment against all Owners as, in its discretion, it shall deem appropriate. Notice of any such special assessment shall be sent to all Owners prior to becoming effective. Notwithstanding the

above, for so long as the Declarant owns any portion of the Regime, all Special Assessments must be consented to by the Declarant prior to becoming effective.

10.6 **Specific Assessments.** The Board shall have the power to assess specific expenses of the Association against Units (a) receiving benefits, items, or services not provided to all Units within the Regime that are incurred upon request of the Owner of a Unit for specific items or services relating to the Unit or (b) that are incurred as a consequence of the conduct of less than all Owners, their licensees, invitees, or guests. The Association may also levy or specifically assess any Unit to reimburse the Association for costs incurred in bringing the Unit into compliance with the provisions of the Master Deed, any applicable Supplemental Master Deed, the Articles, the By-Laws, and rules and regulations, provided the Board gives prior notice to the Unit Owner and an opportunity for a hearing. The Board shall have the right to bill the deductible for any insurance claim to the owner(s) of a Unit when an insurable event occurs.

10.7 **Assessment Reserves.** Upon the initial sale of a Unit, the purchaser shall deposit at closing with the Association an amount determined by the Association, which sum shall not exceed two times the amount of the monthly Common Expense assessment then allocable to such Unit. Such sum shall be non-refundable and shall be held, with or without interest, by the Association or Managing Agent in a segregated account as a reserve for working capital, and may be used for such purposes as the Association or the Board deems necessary or appropriate, except as restricted by the provisions of paragraph 10.12 hereof. Such payment shall not be considered an advance payment of regular assessments as the same come due. While Declarant is in control of the Association, it cannot use any of the working capital funds of the Association to defray Declarant's expenses or reserve contributions, or non-Association construction costs, or to make up any non-Association budget deficits. For the purpose of this paragraph 10.7, "sale" means the conveyance of an ownership interest of more than 51% of ownership, coupled with a present possessory interest, excluding any such transfers between and among Persons already having some ownership and possessory interest in a Common Unit. Lien and collection rights relating to Assessment Reserves payments shall be the same as for other assessments.

10.8 **Capital Budget and Contribution.** The Board shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, the expected repair or replacement cost, and available reserves. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget. The capital contribution required, if any, shall be fixed by the Board and included within the budget and assessment as provided in Section 10.4 of this Article. A copy of the capital budget shall be distributed to each member in the same manner as the operating budget.

Notwithstanding any other provisions of this Master Deed, during the time in which the Declarant appoints the directors and officers pursuant to Section 3.4 of the By-Laws and Section 21.1 of this Master Deed, the Declarant (a) may collect a non-refundable contribution to the capital fund of the Association from the initial purchaser of each Unit in the amount of one (1) month's installment of the Annual Assessment (in addition to those amounts set forth in Section 10.7), and (b) shall not be required to prepare a capital budget, set any other capital contribution, or otherwise collect amounts for capital reserves.

10.9 **Date of Commencement of Assessments.** The obligation to pay assessments shall commence as to a Unit on the date on which such Unit is conveyed to a Person other than the Declarant.

The first Annual Assessment levied on each Unit shall be prorated on a per diem basis and adjusted according to the number of days and months remaining in the fiscal year at the time assessments commence on the Unit.

10.10 **Statement of Account.** Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Unit, or a lender considering a loan to be secured by a Unit, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against a Unit. The Association shall respond in writing within ten (10) days of a receipt of the request for a statement; provided, however, the Association may require the payment of a reasonable fee as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Unit as of the date specified therein.

10.11 **Surplus Funds and Common Profits.** Common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common profits to the payment of Common Expenses shall, at the option of the Board of Directors, be distributed to the Owners, credited to the next assessment chargeable to the Owners in proportion to the liability for Common Expenses attributable to each Unit, or added to the Association's reserve account.

10.12 **Restriction on Expense of Litigation.** Notwithstanding any contrary provision contained in this Master Deed, in no event may the Association commence any action or proceeding against any person seeking equitable relief, or seeking either an unspecified amount of damages or damages in excess of \$25,000.00; or any action or proceeding where the estimated cost of legal fees exceeds \$5,000.00, unless the following conditions are satisfied: (a) the decision to commence such action or proceeding shall be taken at an annual or special meeting of the Association; (b) a budget for such litigation, including all fees and costs assuming trial and all potential appeals, shall have been prepared by the attorneys who will be engaged by the Association for such purpose, and shall have been mailed or delivered to all Owner and posted at the principal office of the Association at least 30 days prior to such meeting; and (c) at such meeting Owners representing an aggregate ownership interest of 2/3 or more of the Common Elements shall approve the decision to commence, and the proposed budget for, such action or proceeding, and shall concurrently approve the imposition of a Special Assessment to fund the costs of such action or proceeding in accordance with the approved budget. The Association shall be authorized to expend funds for such proceeding in excess of the amount contemplated by the approved budget only after an amended budget has been approved in accordance with the procedures specified in the foregoing subparts (a), (b) and (c). The procedural requirements set forth in this paragraph 10.12, however, shall not apply to any action to collect or otherwise enforce Assessments and any related fines, late charges, penalties, interest, or costs and expenses, including reasonable attorneys' fees, in an amount of \$25,000.00 or less, or any such action where the estimated cost of legal fees is less than \$5,000.00. All of the costs and expenses of any action or proceeding requiring the approval of the Owners in accordance with this paragraph shall be funded by means of a Special Assessment pursuant to paragraph 10.6, and in no event may the Association use reserve funds or contingency funds, reallocate previously budgeted operating funds, or incur any indebtedness in order to pay any costs and expenses incurred for such purpose. Further, if the Association commences any action or proceeding against a particular Owner or particular Owner(s) against whom suit is being considered shall be exempted from the obligation to pay the Special Assessment(s) levied in order to pay the costs and expenses of such action or proceeding. The monetary thresholds stated in this paragraph 10.12 shall increase by the greater of 3% or the CPI Index each year on the anniversary of filing this Master Deed. The provisions of this paragraph 10.12 cannot be amended without the approval of at least 75% of all Allocated

Interests.

10.13 **Developer's Unsold Units.** Anything contained in this Article 10 to the contrary notwithstanding, so long as the Declarant owns any Units for sale, the Declarant may annually elect either to pay the regular Assessment for each such Unit so owned or to pay the difference between the amount of the Assessments collected on all other Units not owned by the Declarant and the amount of actual expenditures by the Association during the fiscal year, but not in a sum greater than its regular Assessment.

## ARTICLE 11 INSURANCE

11.1 **Insurance.** The Association shall obtain and maintain at all times, as a Common Expense, insurance as required by law and as required herein. All such insurance coverage shall be written in the name of the Association as trustee for itself, each of the Owners, and the Mortgagees of Owners, if any. It shall be the duty of the Board of Directors at least every three (3) years to conduct an insurance review to determine if the policy in force is adequate to meet the needs of the Association. Such insurance shall run to the benefit of the Association, the respective Unit Owners, and their respective Mortgagees, as their interests may appear.

- (a) The Association may elect at its sole discretion to obtain an insurance policy that covers any of the following types of property contained within a Unit, regardless of ownership:
  - (i) fixtures, improvements, and alterations that are part of the building or structure; and
  - (ii) appliances which become fixtures, including built-in refrigerating, ventilating, cooking, dishwashing, laundering, security, or housekeeping appliances.

Because the Association's insurance policy might not insure improvements and betterments owned by the individual Unit Owners, each Owner shall obtain at the Owner's expense insurance coverage for any improvements, betterments, or personal property owned by the Owner which are not Common Elements or Limited Common Elements.

- (b) The Board of Directors shall utilize every reasonable effort to secure a master policy covering physical damage in an amount equal to full replacement costs of all improvements located on the Regime at commercially reasonable rates that will provide the following:
  - (i) that the insurer waives its rights of subrogation of any claims against the Board of Directors, officers of the Association, the individual Owners, their respective household members, and their respective insurers;
  - (ii) that the master policy on the Regime cannot be canceled, invalidated, or suspended on account of the conduct of any director, officer, or employee of the Association or the managing agent without a prior demand in writing delivered



- to the Association and to all Mortgagees of Units to cure the defect, and the allowance of a reasonable time thereafter within which the defect may be cured;
- (iii) that any "no other insurance" clause contained in the master policy shall expressly exclude individual Unit Owners' policies from its operation;
  - (iv) that until the expiration of thirty (30) days after the insurer gives notice in writing to the Mortgagee of any Unit, the Mortgagee's insurance coverage will not be affected or jeopardized by any act or conduct of the Owner of such Unit, the other Unit Owners, the Board of Directors, or any of their agents, employees, or household members, nor be canceled for nonpayment of premiums;
  - (v) that the master policy may not be canceled or substantially modified without at least thirty (30) days prior notice in writing to the Board of Directors and all Mortgagees of Units;
  - (vi) a construction code endorsement;
  - (vii) an agreed value endorsement and an inflation guard endorsement; and
  - (viii) that the deductible amount per occurrence shall not exceed such amount as determined by the Board;
  - (ix) the policy may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance equals the full replacement costs.
- (c) All policies of insurance shall be written with a company authorized to do business in the state of South Carolina and holding a rating of B+:V or better in the Financial Category as established by A.M. Best Company, Inc., if available at commercially reasonable rates, or, if not available, the best rating available. The company shall provide insurance certificates to each Owner and each Mortgagee upon request.
  - (d) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses shall be prohibited from participating in the settlement negotiations, if any, related hereto;
  - (e) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Unit Owners or their Mortgagees. Any Unit Owner who obtains an individual insurance policy which insures an Common Elements or Limited Common Elements shall file a copy of such individual policy or policies with the Board of Directors within thirty (30) days after the purchase of such insurance. Such Owner shall also promptly notify, in writing, the Board of Directors in the event such policy is canceled.
  - (f) In addition to the insurance required herein above, the Board shall obtain as a Common Expense;

- (i) worker's compensation insurance if and to the extent necessary to meet the requirements of law; and
  - (ii) flood insurance, to the extent that it is required by law or the Board determines it to be necessary.
- (g) In addition to the required insurance, the Board may obtain such additional insurance, in such amounts and with such endorsements, as the Board determines is advisable in its sole discretion, which additional insurance shall be a Common Expense. Such additional insurance may include without limitation:
  - (i) public liability and officers' and directors' liability insurance, with or without a cross-liability endorsement; and
  - (ii) fidelity bonds, covering officers, directors, employees, and other persons who handle or are responsible for handling Association funds.
- (h) Insurance carried by the Association as a Common Expense shall not include part of a Unit not depicted on the Plat and Plans, nor shall the Association include public liability insurance for individual Owners for liability arising within the Unit. Nothing contained herein gives any Owner or other party a priority over the rights of First Mortgagees as to distribution of insurance proceeds.
- (i) Every Unit Owner shall be obligated to obtain and maintain at all times insurance covering those portions of his or her Unit to the extent not insured by policies maintained by the Association. Each Owner shall obtain at the Owner's expense insurance coverage for the finished surfaces of perimeter and partition walls, floors, and ceilings within the Unit (i.e., paint, wallpaper, paneling, other wall covering, tile, bathroom fixtures, appliances, cabinets, carpet and any floor covering) and any other improvements, betterments, or personal property owned by the Owner which are not Common Elements or Limited Common Elements. Upon request by the Board, the Unit Owner shall furnish a copy of such insurance policy or policies to the Association. In the event that any such Unit Owner fails to obtain insurance as required by this subparagraph, the Association may purchase such insurance on behalf of the Unit Owner and assess the cost thereof to the Unit Owner, to be collected in the manner provided for collection of assessments under Article 10 hereof.
- (j) In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the Person(s) who would be responsible for such loss in the absence of insurance. If the loss affects more than one Unit or a Unit and the Common Elements, the cost of the deductible may be apportioned equitably by the Board among the parties suffering loss in proportion to each affected owner's portion of the total cost of repair. Notwithstanding this, if the insurance policy provides that the deductible will apply to each Unit separately or to each occurrence, each Unit Owner shall be responsible for paying the deductible pertaining to his or her Unit, if any. If any Owner or Owners fail to pay the deductible when required under this subparagraph, then the Association may pay the deductible and assess the cost to the Owner or Owners pursuant to Article 10 hereof.

**ARTICLE 12**  
**REPAIR AND RECONSTRUCTION**

In the event of damage to or destruction of all or any part of the Regime insured by the Association as a result of fire or other casualty, the Board of Directors or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the structure. Notwithstanding the above, the Association may elect not to proceed with reconstruction and repair if the requisite number of Owners and Eligible Mortgagees of the Units subject to a Mortgage required by the Act so decide.

12.1 **Cost Estimates.** Immediately after a fire or other casualty causing damage to the Regime, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring the structures (including any damaged Unit) to substantially their same condition which existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Such costs may also include professional fees and premiums for such bonds as the Board of Directors determines to be necessary.

12.2 **Source and Allocation of Proceeds.** If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, as determined by the Board of Directors, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, the additional costs shall be assessed against all Owners in proportion to each Owner's respective undivided interest in the Common Elements. This assessment shall not be considered a special assessment. If there is a surplus of funds after repair and reconstruction is complete, such funds shall be common funds of the Association to be used as directed by the Board of Directors.

12.3 **Plans and Specifications.** Any such reconstruction or repair shall be substantially in accordance with the plans and specifications under which the Regime was originally constructed, except where changes are necessary to comply with current applicable building codes or where improvements not in accordance with the original plans and specifications are approved by the Board of Directors. To the extent insurance proceeds are available, the Association may reconstruct or repair Owner improvements damages as a result of fire or other casualty.

12.4 **Encroachments.** Encroachments upon or in favor of Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Unit Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the architectural plans under which the Regime was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the reconstructed building shall stand.

12.5 **Construction Fund.** The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from assessments against Unit Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Section to be disbursed by the Association in

appropriate progress payments to such contractor(s), supplier(s), and personnel performing the work or supplying materials or services for the repair and reconstruction of the buildings as are designated by the Board of Directors.

### ARTICLE 13 ARCHITECTURAL CONTROL

13.1 **Architectural Standards.** Except for the Declarant and except as provided herein, no Owner, Occupant, or any other person may make any encroachment onto the Common Elements or Limited Common Elements, or make any exterior change, alteration, or construction (including painting and landscaping), nor erect, place or post any object, sign, antenna, playground equipment, light (except for reasonable seasonal decorative lights during the applicable seasonal period), storm door or window, artificial vegetation, exterior sculpture, fountain, flag, or thing on the exterior of the buildings, in any windows, or make structural changes to a Unit, or modify the plumbing, electrical or HVAC systems of a Unit, or otherwise make any changes to any Limited Common Elements, or any other Common Elements, without first obtaining the written approval of the Architectural Review Board (the "ARB").

The standard for approval of such improvements shall include, but not be limited to, aesthetic consideration, materials to be used, harmony with the external design of the existing buildings, the location in relation to surrounding structures and topography, the effect on the structural and other systems shared with other Units and the utility of using the same HVAC equipment throughout the Regime. Applications for approval of any such architectural modification shall be in writing and shall provide such information as the ARB may reasonably require. The ARB or its designated representative shall be the sole arbiter of such application and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction which is not in conformance with approved plans. The Board of Directors or the ARB may publish written architectural standards for exterior and Common Elements alterations or additions, and any request in substantial compliance therewith shall be approved; provided, however, each such requested change shall be in harmony with the external design of the existing buildings and Units and the location in relation to surrounding structures and topography. The ARB may allow such encroachments on the Common Elements and Limited Common Elements as it deems acceptable.

In the event that the ARB fails to approve or to disapprove such application within forty-five (45) days after the application and all information as the ARB may reasonably require have been submitted, its approval will not be required and this section (a) will be deemed complied with; provided, however, even if the requirements of this subsection are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement that is otherwise in violation of the Master Deed, the By-Laws, or the rules and regulations.

13.2 **Architectural Review Board.** The ARB shall have the exclusive jurisdiction over all construction on any portion of the Regime. For so long as the Declarant owns any portion of the Regime the Declarant retains the right to appoint and remove all members of the ARB, who shall serve at the Declarant's discretion. The ARB shall consist of one (1) to three (3) members, with the exact number being set from time to time by and in the sole discretion of the Declarant for so long as the Declarant retains the right to appoint and remove ARB members. There shall be no surrender of these rights prior to their expiration as provided above, except in a written instrument in recordable form executed by Declarant; provided, however, that Declarant may delegate certain authority of the ARB to the

Association for such periods of time as Declarant in its sole discretion may decide. Upon expiration or permanent surrender of such rights, the Board shall set the number of members of the ARB and appoint the members of the ARB, who shall thereafter serve and may be removed in the Board's discretion.

13.3 **Condition of Approval.** As a condition of approval for a requested architectural change, modification, addition, or alteration, an Owner, on behalf of such Owner and such Owner's successors-in-interest, shall assume the obligation to complete all work in accordance with applicable codes and ordinances, free of liens and encumbrances, and assume all responsibilities for maintenance, repair, replacement, and insurance of such change, modification, addition, or alteration. In the discretion of the ARB, an owner may be required to verify such condition of approval by written instrument in recordable form acknowledged by such Owner. The ARB may also condition any approval upon the posting of a bond or other form of completion assurance.

13.4 **Limitation of Liability.** Review and approval of any application pursuant to this Section is made on the basis of aesthetic considerations only and the Declarant, the Board of Directors, and the ARB shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. The Declarant, the Association, the Board of Directors, the ARB, and the members of any of the foregoing shall not be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Unit.

13.5 **No Waiver of Future Approvals.** Each Owner acknowledges that the members of the Board of Directors and the ARB will change from time-to-time and that interpretation, application, and enforcement of the architectural standards may vary accordingly. The approval of either the Board of Directors or the ARB of any proposals, plans, specifications, or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Board of Directors or the ARB, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans, specifications, drawings, or matters whatsoever subsequently or additionally submitted for approval or consent.

13.6 **Enforcement.** Any construction, alteration, or other work done in violation of this Article shall be nonconforming. Upon written request from the ARB, or from the Board of Directors if said authority has been delegated by the Declarant to the Association or Declarant's right under Section 13.2 has expired or been surrendered, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the ARB shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. All costs thereof, including reasonable attorney's fees, may be assessed against the Unit and collected as an assessment pursuant to this Master Deed. In addition to the foregoing, the ARB shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this paragraph and its decisions. Any exterior change, alteration, or construction (including landscaping) upon the Common Elements made by an Owner in violation of this Master Deed shall be at such Owner's sole risk and expense. The ARB may require that the Owner remove the change, alteration, or construction and restore the Common Elements to the original condition, or may require that the change, alteration, or construction remain on the Common Elements without reimbursement to the Owner for any expense incurred in making the change, alteration, or construction.

## ARTICLE 14 USE RESTRICTIONS

Each Owner of a Unit shall be responsible for ensuring that the Owner's family, invitees, guests, tenants, employees and Occupants comply with all provisions of the Regime Instruments. Furthermore, each Owner and Occupant shall always endeavor to observe and promote the cooperative purposes for which the Association was established. In addition to any rights that the Association may have against the Owner's family, invitees, guests, tenants, employees or Occupants, as a result of such Person's violation of the Regime Instruments, the Association may take action under this Master Deed against the Owner as if the Owner committed the violation in conjunction with the Owner's family, invitees, guests, tenants, employees or Occupants. Whether the same is documented elsewhere or not, under any such circumstances above-described, the affected Owner shall have and enjoy a right over for indemnification and/or contribution from and against the offending party. This right over shall not be deemed to diminish the liability of the Owner to the Association, and the Association shall also have all remedies available at law or in equity against the offending party jointly and severally with the Owner. Use restrictions regarding the use of Units and the Common Elements are as follows and also as may be adopted by the Board of Directors in accordance with the terms hereof and as specified in the By-Laws.

14.1 **Residential Units**. All Residential Units shall be used for residential purposes and for ancillary home office uses. A home office use shall be considered ancillary so long as: (a) the existence or operation of the activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (b) the activity conforms to all zoning requirements for the Regime; (c) the activity does not involve regular or unreasonable visitation of the Unit by clients, customers, suppliers, or other invitees, or door-to-door solicitation of residents within the Regime; (d) the activity does not increase traffic or include frequent deliveries within the Regime other than deliveries by couriers, express mail carriers, parcel delivery services, and other such delivery services; (e) the activity is consistent with the primarily residential character of the Regime and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Regime, as may be determined in the sole discretion of the Board; and (f) the activity does not result in a materially greater use of Common Element facilities or Association services or increase the premiums for any insurance maintained by the Association.

No other business, trade, or similar activity shall be conducted upon a Residential Unit without the prior written consent of the Board. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

The leasing of a Residential Unit shall not be considered a business or trade within the meaning of this Section. This Section shall not apply to any activity conducted by the Declarant or an agent of the Declarant, or a contractor or subcontractor approved by the Declarant, with respect to its development

and sale of the Regime or its use of any Units which it owns within the Regime.

14.2 Intentionally Omitted

14.3 Alteration of Units. Subject to the prior approval of the ARB and compliance with the other provisions of this Master Deed, Unit Owners may make alterations to the interiors of their Units, relocate the boundaries between adjoining Units, and subdivide their Units as follows:

- (a) Alterations of the Interiors of the Units. If any Owner acquires an adjoining Unit, such Owner may (subject to the prior written approval of the Mortgagees of the Units involved, the prior written approval of the Board, and, for so long as the Declarant owns a Unit, the prior written approval of the Declarant) remove all or any part of any intervening partition or to create doorways or other apertures therein, notwithstanding the fact that such partition may, in whole or part, be part of the Common Elements, so long as no portion of any load bearing wall or column is materially weakened or removed and no portion of any Common Elements is damaged, destroyed, or endangered, other than that partition and any chutes, flues, conduits, wires or other apparatus contained therein which shall be relocated by such Owner if such facilities serve any other part of the Regime. The alterations permitted by this subsection shall not be deemed an alteration or relocation of boundaries between adjoining Units.
- (b) Relocation of Boundaries. For so long as Declarant owns one or more Units, boundaries between adjoining Units may be relocated only with the prior written consent of the Declarant. The Declarant shall have the right to relocate boundaries between Units owned by the Declarant or its affiliates without the approval of the Association, and the Declarant, without the need for further Owner approval, may execute any required amendment to the Master Deed on the Association's behalf pertaining thereto.
- (c) Subdivision of Units. An Owner may subdivide his or her Unit only with the prior written consent of the Association acting through the Board and, for so long as the Declarant owns a Unit, the prior written consent of the Declarant. Notwithstanding the above, the Declarant shall have the right to subdivide Units owned by the Declarant or its affiliates without the approval of the Association, and the Declarant, without the need for further Owner approval, may execute any required amendment to the Master Deed on the Association's behalf pertaining thereto. Notwithstanding anything in this Master Deed to the contrary, any Amendment required to provide for subdivision of Units shall set forth the restated percentage interest in the Common Elements attributable to each Unit created by the subdivision, the total of which must equal the percentage interest attributable to each Unit created by the subdivision, the total of which must equal the percentage interest attributable to the Board of Directors or, the Declarant, for so long as the Declarant owns a Unit, without a membership vote, to restate the percentage interest for purposes of this subsection, in its sole discretion. Notwithstanding anything herein to the contrary, the Board of Directors is not authorized to restate the percentage interest in the Common Elements of a subdivided Unit without the consent of the Declarant, for so long as the Declarant owns any portion of the Regime.

14.4 Use of Common Elements. There shall be no obstruction of the Common Elements, nor shall anything be kept on, parked on, stored on, or removed from any part of the Common Elements

without the prior written consent of the Board, except as specifically provided herein. This prohibition shall not apply to the Declarant.

With the prior written approval of the Board, and subject to any restrictions imposed by the Board, an Owner or Owners may reserve portions of the Common Elements for use for a period of time as set by the Board. Any such Owner or Owners who reserve a portion of the Common Elements as provided herein shall assume, on behalf of himself/herself/themselves and his/her/their guests, Occupants and family, all risks associated with the use of the Common Elements and all liability for any damage or injury to any person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Association, its agents, or employees.

**14.5 Use of Limited Common Elements.** Use of the Limited Common Elements is restricted exclusively to the Owners of the Unit(s) to which such Limited Common Elements are assigned, and said Owner's family members, guests, invitees, and Occupants. The Limited Common Elements are reserved for exclusive use, but are and remain a part of the Common Elements, and the restrictions applicable to the Common Elements shall also apply to the Limited Common Elements.

**14.6 Prohibition of Damage, Nuisance and Noise.** Without the prior written consent of the Board, nothing shall be done or kept on the Regime, or any part thereof, which would increase the rate of insurance on the Regime or any Unit or part thereof, which would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirements of any governmental body, or which would increase the Common Expenses.

Noxious, destructive, or offensive activity shall not be carried on upon the Regime. No Owner or Occupant of a Unit may use or allow the use of the Unit or any portion of the Regime at any time, in any way or for any purpose which may endanger the health or unreasonably annoy or disturb or cause embarrassment, discomfort, or nuisance to other Owners or Occupants, or in such a way as to constitute, in the sole opinion of the Board of Directors, a nuisance. Nothing herein, however, shall be construed to affect the rights of an aggrieved Owner to proceed individually for relief from interference with his or her property or personal rights. Notwithstanding anything to the contrary herein, no Owner or Occupant of a Unit may use or allow the use of the Unit, the Common Elements or the Limited Common Elements in any manner which creates noises between the hours of 11:00 p.m. and 7:30 a.m. which can be heard by persons in another Unit that will, in the sole discretion of the Board, interfere with the rights, comfort, or convenience of the other Owner(s) or Occupant(s).

No Owner shall do any work which, in the reasonable opinion of the Board or its designee, would jeopardize the soundness or safety of the Regime or any structure created thereon, would reduce the value thereof, or would impair any easement or other interest in real property thereto, without in every such case the unanimous, prior written consent of all members of the Association and their Mortgagees. No damage to or waste of the Common Elements, or any part thereof, or of the exterior of any building shall be permitted by any Owner or member of his or her family or any invitee or guest of any Owner. Each Owner shall indemnify and hold the Association and the other Owners harmless against all loss to the Association and other Owners resulting from any such damage or waste caused by such Owner, members of his or her family, guests, invitees, or Occupants of his or her Unit.

**14.7 Firearms and Fireworks.** The display or discharge of firearms or fireworks on the Common Elements is prohibited; provided, however, that the display of lawful firearms on the Common



Elements is permitted for the limited purpose of transporting the firearms across the Common Elements to or from the Owner's Unit. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size.

14.8 **Pets.** No Owner or Occupant of a Unit may keep more than a reasonable number of pets, as determined by the Association's rules and regulations and the Town of Mt. Pleasant ordinances. In the event of conflict, the most restrictive regulations shall apply. No Owner or Occupant may keep, breed, or maintain any pet for any commercial purpose. Pets may not be left unattended outdoors or kept unattended outdoors, including on any terrace or balcony areas. Dogs, cats and other pets must be kept on a leash and be under the physical control of a responsible person at all times while outside the Owner's Unit and anywhere on or about the Common Elements. The owner of the pet or the person responsible for the pet must promptly remove any feces left upon the Common Elements or Limited Common Elements by pets.

14.9 **Parking.** Subject to the provisions of paragraphs 6.1, 6.2 and 14.5, the Board of Directors may promulgate rules and regulations restricting parking on and about the Property, including restricting the number of vehicles which any Owner or Occupant may bring onto the Property and designating, assigning, or licensing parking spaces to Owners. This paragraph 14.9 shall not prohibit an Owner or Occupant from having service vehicles park temporarily on the Property if otherwise in compliance with this Section 14.9 and the rules and regulations adopted by the Board.

If any vehicle is parked on any portion of the Property in violation of this paragraph 14.9, or in violation of the Association's rules and regulations, or in violation of paragraph 6.1(c), the Board may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed. The notice shall include the name and telephone number of the person or entity which will do the towing and the name and telephone number of a person to contact regarding the alleged violation. If, twenty-four (24) hours after such notice is placed on the vehicle, the violation continues or thereafter occurs again within six (6) months of such notice, the vehicle may be towed in accordance with the notice, without further notice to the Owner or user of the vehicle.

If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's or Occupant's Unit, is obstructing the flow of traffic, is parked other than in a parking space, is parked in a space which has been reserved or is licensed as a Limited Common Element exclusively serving another Unit, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed immediately. If a vehicle is towed in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow, or in addition to the exercise of such authority.

14.10 **Abandoned Personal Property.** Abandoned or discarded personal property, other than an automobile as provided for in paragraph 14.10, is prohibited from being stored, kept, or allowed to remain for a period of more than twenty-four (24) hours upon any portion of the Common Elements or Limited Common Elements without the prior written permission of the Board. If the Board or its designee, in its sole discretion, determines that property is being kept, stored, or allowed to remain on the Common Elements or Limited Common Elements in violation of this section, then the Board may remove and either discard or store the personal property in a location which the Board may determine.

Prior to taking any such action, the Board shall place a notice on the personal property and/or on the front door of the Unit of the Owner of such property, if known, specifying the nature of the violation and stating that after two (2) days the property may be removed and either discarded or stored. The notice shall include the name and telephone number of the Person or entity which will remove the property, and the name and telephone number of a Person to contact regarding the alleged violation.

If two (2) days after such notice is placed on the personal property and/or the front door of the Unit, the violation continues or thereafter occurs again within six (6) months of such notice, the personal property may be removed in accordance with the original notice, without further notice to the owner or user of the personal property.

Notwithstanding anything to the contrary, the Board, in its discretion, may determine that an emergency situation exists, and the personal property abandoned or stored in violation of this subparagraph may, without prior notice to the owner or user of the personal property, be removed and either discarded or stored by the Board in a location in which the Board may determine; provided, however, the Board shall give to the owner, if known, notice of the removal of the property and the location of the personal property within three (3) days after the personal property is removed.

If personal property is removed in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage resulting from the removal activity or subsequent disposition thereof. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to remove abandoned or improperly stored personal property, as set forth herein, or in addition to the exercise of such authority.

14.11 **Heating of Units in Colder Months.** In order to prevent breakage of water pipes during colder months of the year that might result in damage to any portion of the Regime, increased Common Expenses, increased insurance premiums, or cancellation of insurance policies due to numerous damage claims, the thermostats within the Units shall be maintained with the heat in an "on" or "automatic" position and at a minimum temperature setting of fifty-five degrees (55°) Fahrenheit (except during power failures or periods when heating equipment is broken) whenever the temperature is forecasted to or does reach thirty-two degrees (32°) Fahrenheit or below. Owners and Occupants of Units shall take all steps reasonably necessary on a timely basis to keep heating equipment, including, but not limited to, the thermostat, in good working order and repair. At any time during the months specified above when the heating equipment is not working properly, the Unit Owner or Occupant shall immediately inform the Association of this failure of the equipment and of the time needed to repair the equipment. The Board of Directors may fine any Owner or Occupant and/or may cause the water service to the violator's Unit to be discontinued for violation of this subparagraph, in addition to any other remedies of the Association. Any fine imposed pursuant to this subparagraph shall be deemed an assessment against the Unit and may be collected in the same manner as provided herein for collection of assessments.

14.12 **Signs.** Except as may be required by legal proceedings, no signs, advertising posters, billboards, canopy or awnings, or any variation of the foregoing of any kind shall be erected, placed, or permitted to remain on the Property without the prior written consent of the Board or its designee. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association and to enact reasonable rules and regulations governing the general placement of signs on or about the Property. Notwithstanding the restrictions contained in this section, the Declarant may approve and erect signs for the purpose of carrying on business related to the development, improvement, and sale of Units in the

Regime, and such signs shall not be subject to approval or regulation by the Association or by the Board.

14.13 **Rubbish, Trash, and Garbage.** All rubbish, trash, and garbage shall be regularly removed from the Unit and shall not be allowed to accumulate therein. No garbage or trash shall be placed on the Common Elements or Limited Common Elements outside the Unit, temporarily or otherwise, except as provided herein. Rubbish, trash, and garbage shall be disposed of in closed plastic bags and placed in proper receptacles designated by the Board for collection or shall be removed from the Property. Garbage to be recycled shall be disposed of as instructed by the Association.

14.14 **Impairment of Units and Easements.** An Owner shall not directly or indirectly engage in any activities or work that will impair the structural soundness or integrity of another Unit, Limited Common Element, or Common Element or impair any easement or other interest in real property, nor shall an Owner engage in any activities or allow any condition to exist which will adversely affect any other Unit, Limited Common Element, or Common Element or their Owners, Occupants, or licensees.

14.15 **Unightly or Unkempt Conditions.** The pursuit of hobbies or other activities, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Property. Clothing, bedding, rugs, mops, appliances, indoor furniture, and other household items shall not be placed or stored outside the Unit.

14.16 **Garage Sales.** Garage sales, yard sales, flea markets, or similar activities are prohibited unless and to the extent conducted under the auspices of the Association.

14.17 **Window Treatments.** Unless otherwise approved in writing by the Board, all windows which are part of a Unit shall have window treatments and any portion thereof visible from outside the Unit shall be white or off-white in color.

14.18 **Antennas and Satellite Equipment.** Unless otherwise approved in writing by the Board, and subject to any relevant federal, state or local law, no Owner, Occupant, or any other person shall place or maintain any type of exterior television or radio antenna, or satellite equipment on the Property. This provision shall not, however, prohibit the Association from constructing or maintaining a central antenna or communications system on the Property for the benefit of its members. Notwithstanding the foregoing, the Association shall regulate antennas, satellite dishes, or any other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind only in strict compliance with all federal laws and regulations.

14.19 **Time Sharing.** Notwithstanding anything herein to the contrary, no Unit shall be used for or subject to any type of Vacation Time Sharing Ownership Plan, Vacation Time Sharing Lease Plan, or Vacation Time Sharing Plan, as defined by the South Carolina Code of Laws, Section 27-32-10, et seq., as amended, or any subsequent laws of the State of South Carolina dealing with a vacation time share ownership or leasing plan, unless the Owner of said Unit has obtained the prior written approval of the Board and, for so long as the Declarant owns a Unit, the prior written consent of the Declarant.

14.20 **Barbeque Grills and Other Cookout Devices.** No occupant of a Unit, whether an Owner or Tenant shall have the right to use any type of cooking devise or grill on any porch or deck of any building in the Regime except in areas designated by the Board of Directors of the Association for outdoor cooking. This restriction involves safety issues and will be strictly enforced by the Association.

## ARTICLE 15 LEASING

The Board shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Master Deed and By-Laws, in order to enforce the provisions of this Article.

15.1 **Definition.** "Leasing," for purposes of this Master Deed, is defined as regular, exclusive occupancy of a Unit by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument.

15.2 **Leasing Provisions.** Leasing of Units shall be governed by the following provisions:

- (a) **General.** Units may be leased only in their entirety; no fraction or portion may be leased without prior written approval of the Board. All rentals must be for an initial term of no less than one (1) year. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board may maintain and, upon request, provide a form which is deemed acceptable. There shall be no subleasing of Units or assignment of leases unless prior written approval is obtained from the Board of Directors. Within seven (7) days after executing a lease agreement for the lease of a Unit, the Unit Owner shall provide the Board of Directors with a copy of the lease and the name of the lessee and all other people occupying the Unit. The Unit Owner must make available to the lessee copies of the Master Deed, By-Laws, and the rules and regulations. The Board may require that no adult Person be allowed to occupy any Unit subject to a lease unless they are signatory to and obligated by the lease.
- (b) **Compliance With Master Deed, By-Laws, and Rules and Regulations, Use of Common Elements, and Liability for Assessments.** Any lease of a Unit shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Owner and each lessee, by occupancy of a Unit, covenants and agrees that any lease of a Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant on the Unit;
- (c) **Compliance With Master Deed, By-Laws, and Rules and Regulations.** The lessee shall comply with all provisions of the Master Deed, By-Laws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Unit in order to ensure compliance with the foregoing. The Owner shall cause all Occupants of his or her Unit to comply with the Master Deed, By-Laws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations by such Occupants, notwithstanding the fact that such Occupants of the Unit are fully liable and may be sanctioned for any violation of the Master Deed, By-Laws, and rules and regulations adopted pursuant thereto. In the event that the lessee, or a person living with or visiting the lessee, violates the Master Deed, By-Laws, or a rule or regulation for which a fine is imposed, notice of the violation shall be given to the Owner and the lessee, and such fine shall be assessed against the lessee in accordance with Section 3.23 of the By-Laws. If the fine is not paid by the lessee within the time period set by the Board, the Board may assess the fine against the Owner and the Owner

shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Unit.

Any violation of the Master Deed, By-Laws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any Person living with the lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with South Carolina law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Master Deed, By-Laws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf, and for the benefit, of the Owner, in accordance with the terms hereof. In the event the Association proceeds to evict the lessee, any costs, including attorney's fees and court costs, associated with the eviction shall be an assessment and lien against the Unit.

- (a) Use of Common Elements. Except where the Owner also occupies the Unit, the Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Elements of the Regime, including, but not limited to, the use of any and all recreational facilities.
- (b) Liability for Assessments. When a Unit Owner who is leasing his or her Unit fails to pay any Annual, Special, or Specific Assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid Annual, Special, and Specific Assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by the lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under this Master Deed as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

## ARTICLE 16 SALE OF UNITS

A Unit Owner intending to make a transfer or sale of a Unit or any interest in a Unit shall give written notice to the Board of such intention within seven (7) days after execution of the transfer or sales documents. The Unit Owner shall furnish to the Board as part of the notice (i) the name and address of the intended grantee; and (ii) such other information as the Board may reasonably require. This Article

shall not be construed to create a right of first refusal in the Association or in any third party.

Within seven (7) days after receiving title to a Unit, the purchaser of the Unit shall give written notice to the Board of his or her ownership of the Unit. Upon failure of an Owner to give the required notice within the seven-day time period provided herein, the Board may levy fines against the Unit and the Owner thereof, and assess the Owner for all costs incurred by the Association in determining his or her identity.

## ARTICLE 17 MAINTENANCE RESPONSIBILITY

17.1 **By the Owner.** Each Owner shall have the obligation to maintain and keep in good repair all portions of his or her Unit and all improvements made to the Limited Common Elements assigned to the Unit. This maintenance responsibility shall include, but not be limited to the following: window locks, all doors, doorways, door frames, and hardware that are part of the Unit (except for periodic painting or staining of the exterior surface of exterior doors and entry doors and door frames facing the hallway(s) of the Regime); all portions of the heating and air conditioning system, including the air conditioning compressor serving the Unit and the fan coil; and all pipes, lines, ducts, conduits, or other apparatus which serve only the Unit, whether located within or without a Unit's boundaries (including all gas, electricity, water, sewer, or air conditioning pipes, lines, ducts, conduits, or other apparatus serving only the Unit).

Some Units contain interior support beams which are load bearing beams. No Owner or Occupant shall do any act which jeopardizes or impairs the integrity of such beams.

- (a) In addition, each Unit Owner shall have the responsibility:
- (i) to keep in a neat, clean, and sanitary condition any Limited Common Elements serving his or her Unit including, without limitation, terraces and balconies;
  - (ii) to perform his or her responsibility in such manner so as not to unreasonably disturb other persons in other Units or otherwise lawfully on or about the Property;
  - (iii) to report promptly to the Association or its agent and defect or need for repairs for which the Association is responsible; and
  - (iv) to pay for the cost of repairing, replacing, or cleaning up any item which is the responsibility of the Unit Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repairing, replacing, or cleaning up any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of the Unit Owner, his or her family, invitees, tenants, or guests, with the cost thereof to be added to and become part of the Unit Owner's next chargeable assessment.

17.2 **By the Association.**

- (a) The Association shall maintain and keep in good repair as a Common Expense the "Area of Common Responsibility," which includes the following:
- (i) all Common Elements, provided, however, the cost of maintenance and repair of Limited Common Elements may be assessed against the Unit Owner to whom the Limited Common Elements is assigned under paragraph 8.3 of this Master Deed. Notwithstanding anything contained herein to the contrary, the Area of Common Responsibility shall include the paving, curbing, and striping of any parking spaces within the Regime and maintaining any garages located within the Regime, including those Reserved Parking Spaces licensed as Limited Common Elements to individual Owners;
  - (ii) periodic cleaning and/or painting and/or staining of exterior surfaces of the building and of exterior doors and door frames and entry doors and door frames facing the hallway(s) of the Regime, as determined to be appropriate by the Board; and;
  - (iii) all windows, window frames, and casings (except window locks), even though they are part of the Unit, the cost of which may be assessed against the Unit in which the item is located, pursuant to paragraph 8.3 of this Master Deed.
- (b) Subject to the maintenance responsibilities herein provided, the maintenance or repair performed on or to the Common Elements by an Owner or Occupants which are the responsibility of the Association hereunder (including, but not limited to landscaping of Common Elements) shall be performed at the sole expense of such Owner or Occupant, and the Owner or Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.
- (c) The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner of any Unit, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance, or equipment which the Association is responsible to maintain hereunder. The Association shall not be liable to the Owner of any Unit or such Owner's Occupant, guest, invitee, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements. The Association shall not be liable to any Owner, or any Owner's Occupant, guest, invitee, or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Article where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Master Deed, or for inconvenience, discomfort, or consequential damages arising from the action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, or the failure or alleged failure to act.
- (d) The Association shall repair incidental damage to any Unit resulting from performance

of work which is the responsibility of the Association. As finished levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready." Components that may require repair or replacement, such as tile and trim, will be reinstated only to the extent that matching or similar materials are readily available at reasonable costs, as determined in the sole discretion of the Board. Accessibility around personal belongings for workers to perform such repairs is the responsibility of the Unit Owner or Occupant. Removal, storage, or other protective measure of personal items are also the responsibility of the Unit Owner or Occupant. If the removal, storage, or other protective measures are not taken by the Unit Owner or Occupant and damage occurs due to the repair process, neither the Association nor the Board will be liable for such damage. Upon completion of such repairs the Association will perform cursory cleaning, but shall not be responsible for a detailed cleaning. The Board has sole discretion of defining what is reasonable for the level, quality, and extent of the repair and subsequent cleaning. In performing its responsibilities hereunder, the Association shall have the authority to delegate to such Persons if its choice, such duties as are approved by the Board of Directors;

- (e) Subject to the maintenance responsibilities herein provided, the maintenance or repair performed on or to the Common Elements by an Owner or Occupants which are the responsibility of the Association hereunder (including, but not limited to landscaping of Common Elements) shall be performed at the sole expense of such Owner or Occupant, and the Owner or Occupant shall not be entitled to reimbursement from the Association even if the Association accepts maintenance or repair.
- (f) The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner of any Unit, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance, or equipment which the Association is responsible to maintain hereunder. The Association shall not be liable to the Owner of any Unit or such Owner's Occupant, guest, invitee, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements. The Association shall not be liable to any Owner, or any Owner's Occupant, guest, invitee, or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Article, where such damage or injury is not foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Master Deed, or for inconvenience, discomfort, or consequential damages arising from the action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, or the failure or alleged failure to act.
- (g) The Association shall repair incidental damage to any Unit resulting from performance of work which is the responsibility of the Association. As finished levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready." Components that may require repair or replacement, such as tile and trim, will be reinstated only to the extent that matching or similar materials are readily available at



reasonable costs, as determined in the sole discretion of the Board. Accessibility around personal belongings for workers to perform such repairs is the responsibility of the Unit Owner or Occupant. Removal, storage, or other protective measures of personal items are also the responsibility of the Unit Owner or Occupant. If the removal, storage, or other protective measures are not taken by the Unit Owner or Occupant and damage occurs due to the repair process, neither the Association nor the Board will be liable for such damage.. Upon completion of such repairs the Association will perform cursory cleaning, but shall not be responsible for the level, quality, and extent of the repair and subsequent cleaning. In performing its responsibilities hereunder, the Association shall have the authority to delegate to such Persons of its choice, such duties as are approved by the Board of Directors.

17.3 **Failure to Maintain.** If the Board of Directors determines that any Owner has failed or refused to discharge property such Owner's obligation with regard to the maintenance, repair, or replacement of items for which such Owner is responsible hereunder, then the Association shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board of Directors. Unless the Board of Directors determines that an emergency exists, the Owner shall have ten (10) days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days and prosecute the completion thereof with all deliberate speed. If the Board of Directors determines that: (i) an emergency exists or (ii) that an Owner has not complied with the demand given by the Association as herein provided, the Association may provide any such maintenance , repair, or replacement at the Owner's sole cost and expense, and such costs, including reasonable attorney fees, shall be an assessment and a lien against the Unit.

17.4 **Maintenance Standards and Interpretation.** The maintenance standards and the enforcement thereof and the interpretation of maintenance obligations under this Master Deed may vary from one term of the Board of Directors to another. These variances shall not constitute a waiver by the Board of Directors of the right to adopt and enforce maintenance standards under this Article. No decision or interpretation by the Board of Directors shall constitute a binding precedent with respect to subsequent decisions or interpretations of the Board of Directors. All maintenance of a Unit shall be in conformance with the Community-Wide Standard of the Association from time-to-time established. No owner shall perform any maintenance which may result in a change or alteration to the exterior of the Unit without the prior written approval of the Board of Directors as provided in Article 13 hereof.

17.5 **Measures Related to Insurance Coverage.** The Board, upon resolution, shall have the authority to require all or any Unit Owner(s) to do any act or perform any work involving portions of the Regime which are the maintenance responsibility of the Unit Owner, which will, in the Board's sole discretion, decrease the possibility of fire or other damage in the Regime, reduce the insurance premium paid by the Association for any insurance coverage, or otherwise assist the Board in procuring or maintaining such insurance coverage(s). This authority shall include, but need not be limited to, requiring all Owners to turn off cut-off valves, which may now or hereafter be installed, during winter months for outside water spigots; requiring Owners to insulate pipes sufficiently or take other preventative measures to prevent freezing of water pipes; requiring Owners to install and maintain smoke detectors; requiring Owners to make improvements to the Owner's Unit; and such other measures as the Board may reasonably require so long as the cost of such work does not exceed five hundred and no/100

dollars (\$500.00) per Unit in any twelve (12) month period.

In addition to, and not in limitation of, any other rights the Association may have, if any Unit Owner does not comply with any reasonable requirement made by the Board pursuant to this paragraph 17.5 above, the Association, upon fifteen (15) days' written notice (during which period the Unit Owner may perform the required act or work without further liability), may perform such required act or work at the Unit Owner's sole cost. Such cost shall be an assessment and a lien against the Unit as provided herein. The Association shall have all rights necessary to implement the requirements mandated by the Board pursuant to this paragraph 17.5, including, but not limited to, a right of entry during reasonable hours and after reasonable notice to the Owner or Occupant of the Unit, except that access may be had at any time without notice in an emergency situation.

## ARTICLE 18 PARTY WALLS

18.1 **General Rules of Law to Apply.** Each wall build as a part of the original construction of the Units which shall serve and separate any two (2) adjoining Units shall constitute a party wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligent or willful acts or omissions shall apply thereto.

18.2 **Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in equal proportions.

18.3 **Damage and Destruction.** If a party wall is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner or Owners who have benefitted by the wall may restore it, and the Association's right to seek reimbursement from or withhold payment to the Owners or others under any rule of law or provision in this Master Deed regarding liability for negligent or willful acts or omissions.

18.4 **Right to Contribution Runs With Land.** The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

## ARTICLE 19 EMINENT DOMAIN

In the event of a taking by eminent domain of any portion of the Common Elements on which improvements have been constructed, then, unless within 60 days after such taking the Owners vote shall otherwise agree in accordance with the Act, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Elements to the extent lands are available therefor. The provisions of Article 5 above, applicable to Common Elements improvements damage, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced. Any costs incurred for such restoration or replacement shall be a Common Expense, without prejudice to claims in favor of the Association against third-parties.

## ARTICLE 20 MORTGAGEE RIGHTS

20.1 **Liability of First Mortgagees.** Where a First Mortgagee of record or other purchaser of a Unit obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Units, including such acquirer, its successors, and assigns. Additionally, such acquirer shall be responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passes.

20.2 **Mortgagee Notice.** Upon written request to the Association, identifying the name and address of the holder and the Unit number or address, any Eligible Mortgagee will be entitled to timely written notice of:

- (a) any condemnation loss or any casualty loss which affects a material portion of the Regime or any Unit on which there is a First Mortgage held by such Eligible Mortgagee;
- (b) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to a First Mortgage held by such Eligible Mortgagee which remains unsatisfied for a period of sixty (60) days, and any default in the performance by an individual Unit Owner of any other obligation under the Regime Instruments which is not cured within sixty (60) days;
- (c) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or
- (d) any proposed action which would require the consent of a specified percentage of Eligible Mortgagees, as specified herein.

20.3 **Financial Statements.** Any First Mortgagee shall be entitled, upon written request, to receive within a reasonable time after request, a copy of the financial statement of the Association for the immediately preceding fiscal year, free of charge to the Mortgagee so requesting.

20.4 **Additional Mortgagee Rights.** Notwithstanding anything to the contrary herein contained, the provisions of Articles 15 and 16 governing sales and leases shall not apply to impair the right of any first Mortgagee to:

- (a) foreclose or take title to a Unit pursuant to remedies contained in its Mortgage; or
- (b) take a deed or assignment in lieu of foreclosure; or
- (c) sell, lease, or otherwise dispose of a Unit acquired by the Mortgagee.

20.5 **Notice to Association.** Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

20.6 **Failure of Mortgagee to Respond.** Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the

Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

20.7 **Construction of Article.** Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Master Deed, By-Laws, or South Carolina law for any of the acts set out in this Article.

## ARTICLE 21 ADDITIONAL DECLARANT RIGHTS

21.1 **Right to Appoint and Remove Directors.** The Declarant shall have the right to appoint and remove any member or members of the Board of Directors of the Association subject to such limitations as set forth below. The Declarant's authority to appoint and remove members of the Board of Directors of the Association shall expire on the termination of the Development Rights Period.

21.2 **Number and Terms of Directors Appointed by Declarant.** The Board of Directors of the Association shall be comprised initially of no more than three (3) Directors, who shall be appointed and/or reappointed by the Declarant, whose terms shall expire at the time of expiration of the rights of Declarant above.

21.3 **Sale and Leasing of Units.** Notwithstanding anything to the contrary contained herein, Declarant shall have the right to sell or lease Units and to erect and maintain signs to facilitate such sales or leases as it, in its sole discretion, deems appropriate and shall not be required to comply with the provisions of this Master Deed regarding signs and sales and lease.

21.4 **Construction and Sale Period.** Notwithstanding any provisions in this Master Deed, the By-Laws, Articles of Incorporation, use restrictions, rules and regulations, design guidelines, any amendments thereto, and related documents, for so long as Declarant owns any portion of the Regime, it shall be expressly permissible for Declarant and any builder, contractor, subcontractor, or developer approved by Declarant to maintain and carry on, upon such portion of the Regime as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be require, convenient, or incidental to Declarant's and such third party's development, construction, and sales activities related to property described on **Exhibit "A"** to this Master Deed, including, but without limitation, the right of access, ingress or egress for vehicular and pedestrian traffic over, under, on, or in the Regime; the right to tie into any portion of the Regime with streets, driveways, parking areas, and walkways; the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), install, lay, replace, relocate, maintain, and repair any device which provides utility or similar services including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under, and/or over the Regime; the right to carry on sales and promotional activities within and about the Regime; and the right to construct and operate business offices, signs, construction trailers, model Units, and sales offices. Declarant and any such third party may use Units or offices owned or leased by Declarant or such third party as model Units and sales offices. Rights exercised pursuant to such reserved easement(s) shall be exercised with a minimum of interference with the quiet enjoyment of affected property and Owners; reasonable steps shall be taken to protect such property and Owners; and damage shall be repaired by the Person causing the damage at its sole expense.

## ARTICLE 22 EASEMENTS

22.1 **Use and Enjoyment.** Each Unit Owner and Occupant shall have a right and easement of use and enjoyment in and to the Common Elements (including the right of access, ingress and egress to and from his or her Unit over those portions of the Regime designated for such purposes), and such easement shall be appurtenant to and shall pass with the title to each Unit, subject, however, (i) to the rights of the Unit Owners to the exclusive use of the Limited Common Elements assigned to their respective Units; (ii) to the right of the Association to control the use and enjoyment of the Common Elements as provided by the terms of this Master Deed, including, but not limited to, the right of the Association to suspend voting and use privileges as provided herein; and (iii) to the general terms and conditions of this Master Deed. Every portion of a Unit and all Limited Common Elements contributing to the support of an abutting Unit shall be burdened with an easement of support for the benefit of such abutting Unit.

22.2 **Utilities.** To the extent that the sprinkler system or any utility line, pipe, wire, or conduit serving any Unit, Units, or the Common Elements shall lie wholly or partially within the boundaries of another Unit or the Common Elements, such other Unit, Units, or the Common Elements shall be burdened with an easement for the use, maintenance, repair and replacement of such sprinkler system, utility line, pipe, wire or conduit, such easement to be in favor of the Unit, Units, or Common Elements served by the same and the Association. It shall be the obligation of the benefitted Owner to maintain, replace, and repair any pipe, line, conduit, duct, or wire owned by such Owner, even if such pipe, line, conduit, duct or wire is located in the Unit of another Owner. In such circumstance, the benefitted Owner shall repair all incidental damage to any Unit or the Common Elements resulting from performance of any such work. All Unit Owners hereby covenant and agree that as finished levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready." Components that may require repair or replacement, such as tile or trim, will be reinstated only to the extent that matching or similar materials are readily available at reasonable costs, as determined in the sole discretion of the Board.

22.3 **Pest Control.** The Association may, but shall not be obligated to, dispense chemicals for the extermination of insects and pests within the Units and Common Elements. In the event the Association chooses to provide such pest control, the Association and its duly authorized contractors, representatives, and agents shall have an easement to enter Units for the purpose of dispensing chemicals for the extermination of insects and pests within the Units and Common Elements. Each Unit Owner shall either provide a key to the Unit for purpose of such entry or have someone available at such times as are designated by the Board of Directors to allow entry into the Unit for this purpose. The Association shall not be liable for any illness, damage, or injury caused by the dispensing of these chemicals for this purpose.

22.4 **Declarant Easements.** For so long as Declarant owns any Unit primarily for the purpose of sale, Declarant and its duly authorized contractors, representatives, agents, and employees shall have: (a) an easement for the maintenance of signs, a sales office, a business office, promotional facilities and model Units on the Regime, together with such other facilities as in the opinion of Declarant may be reasonably required, convenient, or incidental to the completion, renovation, improvement, development, or sale of the Unit; (b) a transferable easement on, over, through, under, and across the Common Elements and Limited Common Elements for the purpose of making improvements

on the Regime or any portion thereof, for the purpose of installing, replacing, repairing, and maintaining all utilities serving the Regime, and for the purpose of doing all things reasonably necessary and proper in connection therewith; and (c) a transferable easement four (4) feet from the ceiling of a Regime Unit down into such Regime Unit for the purpose of making improvements to and installing all utility lines, pipes, wires, conduits and ducts serving the Regime Unit above such Unit and for the purpose of doing all things reasonably necessary and proper in connection therewith.

## ARTICLE 23 GENERAL PROVISIONS

23.1 **Security.** The Association may, but shall not be required to, from time-to-time, provide measure or take actions which directly or indirectly improve safety on the Regime; however, each Owner on behalf of such Owner and the Occupants, guests, licensees, and invitees of the Unit acknowledges and agrees that the Association is not a provider of security and shall have not duty to provide security in and to the Regime. It shall be the responsibility of each Owner to protect such Owner's person and property and all responsibility to provide security shall lie solely with each of the respective Unit Owners. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of safety measures undertaken.

Neither the Association may be considered insurers or guarantors of security within the Regime, nor shall nay of them be held liable for any loss or damage by reason of failure or alleged failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any security system or measures cannot be compromised or circumvented, not that any such systems or security measures cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and covenants to inform its tenants and all Occupants of its Unit that the Association, its Board of Directors and committees, and Declarant are not insurers, and that each Person using the Regime assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

23.2 **Implied Rights.** The Association may exercise any right or privilege given to it expressly by this Master Deed, the By-Laws, the Articles of Incorporation, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

23.3 **Amendment.**

- (a) **By Declarant.** For so long as the Declarant has the right to appoint and remove directors of the Association as provided in this Master Deed, the Declarant may unilaterally amend this Master Deed for any purpose. Thereafter, the Declarant may unilaterally amend this Master Deed at any time and from time-to-time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) to enable any Agencies to make, purchase, insure or guarantee Mortgage loans on or title to the Units

or any of them; or (iv) to satisfy the requirements of any local, state, or federal governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent in writing.

- (b) **By Members.** Except where a higher vote is required for action under any other provisions of this Master Deed or by the Act, in which case such higher vote shall be necessary to amend such provision, this Master Deed may be amended by the written consent of the Members of the Association holding two-thirds (2/3) of the total vote thereof, and the consent of the Declarant for so long as the Declarant owns a Unit or has the right to appoint a majority of the directors of the Association. Notice of any meeting at which a proposed amendment will be considered shall state that fact and the subject matter of the proposed amendment. No amendment shall be effective until certified by an officer of the Association and recorded in the RMC Office for Charleston County, South Carolina. Any action to challenge the validity of an amendment adopted under this paragraph must be brought within one (1) year of the effective date of such amendment. No action to challenge such amendment may be brought after such time.

23.4 **Compliance.** Every Owner and Occupant of any Unit shall comply with this Master Deed, the By-Laws, and the rules and regulations of the Association. Failure to comply shall be grounds for an action by the Association or, in a proper case, by any aggrieved Unit Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Association in Article 9 hereof.

23.5 **Severability.** Whenever possible, each provision of this Master Deed shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Master Deed to any Person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application and, to this end, the provisions of this Master Deed are declared to be severable.

23.6 **Captions.** The captions of each Article and paragraph hereof, as to the contents of each Article and paragraph, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or paragraph to which they refer.

23.7 **Notices.** Notices provided for in this Master Deed or the Articles or By-Laws shall be in writing, and shall be addressed to any Owner at the address of the Unit and to the Declarant or the Association at the address of their respective registered agents in the State of South Carolina. Any Owner may designate a different address for notices to such Owner by giving written notice to the Association. Notices addressed as above shall be deemed delivered three (3) business days after mailing by United States Registered or Certified Mail, postpaid, or upon delivery when delivered in person, including delivery by Federal Express or other reputable courier service.

23.8 **Perpetuities.** If any of the covenants, conditions, restrictions, or other provisions of this Master Deed shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

23.9 **Indemnification.** To the fullest extent allowed by the South Carolina Nonprofit Corporation Act, and in accordance therewith, the Association shall indemnify every current and former officer, director, and committee member against any and all expenses, including, but not limited to, attorney's fees, imposed upon or reasonably incurred by any officer, director, or committee member in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then-Board of Directors) to which such officer, director, or committee member may be a party by reason of being or having been an officer, director, or committee member. The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith.

The officers, directors, and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association, and the Association shall indemnify and forever hold each such officer, director, and committee member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or committee member, or former officer, director, or committee member may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available in the opinion of the Board.

To the extent permitted by law, each Owner shall release, and hold harmless each current and former officer, director, committee member and employee from all claims, causes of actions, liability and damages arising by reason of such person's actions or inactions relating to the Association and the Regime, unless such person's conduct constitutes gross negligence or intentional misconduct. In the event that an Owner institutes litigation against the Association, such Owner shall reimburse and indemnify the Association and such other designated persons for all costs and expenses incurred as a result of the Owner's litigation, including reasonable attorneys fees unless there is a final court order that rules the Owner is the prevailing party in such litigation.

23.10 **Storage Spaces.** Neither the Declarant nor the Association shall be held liable for loss or damage to any property placed or kept in a storage space in the Regime. Each Owner or Occupant with use of a storage space who places or keeps property in such storage space does so at his or her own risk.

23.11 **Supplemental to Law.** The provisions of this Master Deed shall be in addition and supplemental to the Act and to all other provisions of law.

23.12 **Numbers and Genders.** Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

23.13 **Successors and Assigns.** This Master Deed shall be binding upon and shall inure to the benefit of Declarant, the Association, and each Owner, and the heirs, personal representatives, successors, and assigns of each of them, except as otherwise expressly provided herein.

23.14 **No Waiver.** Failure to enforce any provision of this Master Deed shall not operate as a waiver of any such provision or of any other provision(s) of this Master Deed no matter how many violations or breaches occur.



23.15 **Conflict.** In the event of a conflict between the provisions of the Master Deed and the By-Laws, the Master Deed shall prevail except to the extent the Master Deed is inconsistent with the Act. In the event of a conflict between provisions relating to the exercise of Declarant's Rights and provisions relating to Owners, including specifically restrictions on rights of Owners, provisions relating to the exercise of Declarant's Rights shall prevail notwithstanding that Declarant is also an Owner of one or more Units.

23.16 **Assignment of Development Rights.** Declarant shall have the unrestricted right to assign from time-to-time any one or more of the Declarant's Rights.

23.17 **Adaptability of Residential Units for the Handicapped.** Residential Units can be made handicapped accessible in accordance with the state and city building codes. Any modification(s) for handicapped accessibility or adaptability must be approved in advance by the Association and shall be completed at the expense of the Unit Owner whose Unit is modified, free of liens and encumbrances and in conformity with all applicable codes and ordinances.

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BOOK OF  
GIBBSISTON COUNTY, GA

MASTER DEED  
OF  
**Bay Club Homes**  
HORIZONTAL PROPERTY REGIME  
  
CHARLESTON COUNTY  
TOWN OF MT. PLEASANT, SOUTH CAROLINA