

BK R 497PG595

**EXHIBIT D  
TO MASTER DEED ESTABLISHING  
CAROLINA COVE HORIZONTAL PROPERTY REGIME**

**BYLAWS OF CAROLINA COVE HOMEOWNERS ASSOCIATION, INC.**  
(See Attached)

BY-LAWS OF  
CAROLINA COVE HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

Purpose

Carolina Cove Homeowners Association, Inc., a non-profit corporation existing under the laws of the State of South Carolina (hereinafter called the "Association"), has been organized for the purpose of administering a horizontal property regime established pursuant to the Horizontal Property Act of South Carolina (hereinafter called the "Act"), which is identified by the name Carolina Cove Horizontal Property Regime (hereinafter called the "Condominium"), said Condominium being located at 415 Parkdale Drive, in the City of Charleston, County of Charleston, South Carolina, and being more particularly described in the Master Deed and exhibits thereto establishing such Condominium (hereinafter the "Master Deed"). These By-Laws shall govern the operation of the Association.

ARTICLE II

Definitions

All terms and phrases used herein shall have the same definition and meaning as set forth in the Master Deed and/or in the Act and as follows, unless the context otherwise requires:

2.1 Members: All Co-Owners of the Property.

2.2 Majority of Members: Members owning fifty-one percent (51%) or more of the basic value of the Property as a whole, as set forth in the Master Deed.

ARTICLE III

Offices

The principal office of the Association shall be located at c/o Southeastern Management Group, Inc., P.O. Box 21878, Charleston, SC 29413. The Association may have other offices within and without the State of South Carolina as the Board of Directors may determine or as the affairs of the Association may require from time to time. The Association shall have and continuously maintain in the State of South Carolina, a registered agent whose office shall be located in the State of South Carolina. The registered agent and principal office may be changed from time to time by the Board of Directors.

ARTICLE IV

Members

Each and every Co-Owner of a Unit in the Condominium shall be a Member of this Association. Further, there shall be appurtenant to each Unit in the Condominium the voting rights assigned in the Master Deed which shall be voted collectively by the voting Member of that Unit as set forth in Exhibit C of the Master Deed. Upon the sale, conveyance, devise or other transfer of any kind or nature of any Unit, such subsequent transferee shall automatically become a Member hereof and likewise the vote appurtenant to the Unit shall automatically pass and the membership of the transferor immediately terminated whether any membership certificate or voting certificate be transferred or not: provided, however, the Association shall for all purposes be entitled to rely upon the right to membership and voting rights of the person shown as the Co-Owner of a Unit in its records until notified of such transfer by delivery of written notice thereof to the Secretary of the Association. Each and every Co-Owner of Unit in the Condominium shall provide the Association with the name and mailing address of any Mortgagee having a lien on his or her Unit by sending written notice thereof to the Secretary of the Association.

ARTICLE V

Application

All present and future Co-Owners, tenants, future tenants, agents, servants, employees, guests, invitees and any other person using the facilities of the Condominium or occupying any Unit thereof shall be and are hereby subject to all matters set forth in these By-Laws, the Rules and Regulations, the Master Deed and its Exhibits and the Act.

A mere acquisition or rental of a Unit or use of the facilities of the Condominium shall signify these By-Laws and all provisions contained within the Master Deed, the Rules and Regulations, and the Act are accepted, ratified and shall be complied with.

ARTICLE VI

Member's Meetings

6.1 The annual Member's meeting shall be held at the office of the Association or at such other location as may be determined by the Board of Directors of the Association on the first Saturday of each November at 10:00 a.m. or at such other time and date as shall be designated by the Board of Directors, for the purpose of electing Directors, and of transacting any other business authorized to be transacted by the Members.

6.2 Special Member's meetings shall be held whenever called by the President or Vice President or by a majority of the Board of Directors. Also, upon written request from Members entitled to cast thirty-three percent (33%) of the votes of the entire membership made to the Secretary of the Association stating the purpose therefor, a special meeting shall be called

by the Secretary of the Association to be held within forty (40) days thereafter. No business, other than such business stated in the notice for a special meeting, shall be transacted at said meeting.

6.3 Notice of all Members' meetings stating the time and place and, if a special meeting, the purposes for which the meeting is called, shall be given to all Members by the President, Vice President or Secretary unless waived in writing. Such notice shall be in writing to each Member at his, her or its address as it appears on the books of the Association and shall be mailed not less than ten (10) days nor more than sixty (60) days prior to the date of the meeting; provided, however, if the notice is mailed by other than first class or registered mail, said notice shall be mailed not less than thirty (30) days but no more than sixty (60) days prior to the date of the meeting. Proof of such mailing shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived before or after meetings.

6.4 A quorum at Members' meetings shall consist of Co-Owners owning fifty-one percent (51%) or more of the basic value of the Condominium property, as a whole, as set forth in Exhibit C to the Master Deed. The acts approved by the Members owning a majority of the total basic value of the Condominium property present at the meeting, a quorum being present, shall constitute a decision of the Members and shall be binding upon the Members, except where approval by a greater percentage is required by the Act, the Master Deed, the Charter of the Association or these By-Laws.

6.5 The presiding officer at Members' meetings shall be the President or, in his absence, such other person selected by the Members.

6.6 Voting. Each Co-Owner shall have a vote equal to his, her or its percentage ownership in the Condominium property as a whole, as set forth in Exhibit C to the Master Deed, except that no Co-Owner may vote at any meeting of the Association or be elected to serve on the Board of Directors if payment of such Co-Owner's assessment on his Unit is delinquent more than thirty (30) days and the amount necessary to bring the account current has not been paid at the time of such meeting or election. If a Unit is owned by more than one person, the person entitled to cast the vote for the Unit shall be one of the record owners designated by a certificate signed by all of the record owners of the Unit and filed with the Secretary of the Association. If a Unit is owned by a corporation, partnership or other similar entity, the person entitled to cast the vote for the Unit shall be designated by a certificate of appointment signed by the President or Vice President or other authorized officer or general partner or representative of the Co-Owner, as the case may be, and attested by the Secretary or Assistant Secretary or other authorized officer or general partner or representative of the Co-Owner, as the case may be, and filed with the Secretary of the Association. Such certificates shall be valid until revoked, until superseded by a subsequent certificate or until a change in the ownership of the Unit concerned has been properly filed with the Secretary of the Association. A certificate designating the person entitled to cast the vote of Unit may be revoked in like manner as provided hereinabove. In the case of multiple or corporate, partnership or other similar entity type of ownership of a Unit, the vote appurtenant thereto shall not be exercised until the certificate of appointment designating the person entitled to cast the vote for the Unit has been filed with the Secretary of

the Association. If such certificate is not on file, the vote of such Co-Owner(s) shall not be considered in determining the requirement for a quorum nor for any other purpose.

6.7 Proxies. Votes may be cast in person or by proxy. A proxy may be made by any person entitled to vote and shall be valid for such period as provided by law, unless a shorter period is designated in the proxy. A vote may not be cast by proxy unless such proxy is filed with the Secretary of the Association before the appointed time of the meeting or any adjournment thereof. A proxy may be revoked by a Member by attending a meeting and voting in person or signing and delivering to the Secretary of the Association a written statement that the proxy is revoked or by filing a subsequent proxy appointment form with the Secretary of the Association.

6.8 Action in lieu of a meeting. Any action required by law to be taken at a meeting of the Association or any action which may be taken in a meeting of the Association may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by Members holding not less than eighty percent (80%) of the entire votes entitled to vote on the subject matter thereof and further provided the same is not otherwise prevented by these By-Laws, the Master Deed, the Act or applicable law. The action taken must be delivered to the Association for inclusion in the minutes or records of the Association.

6.9 Action by written Ballot. Any action required by law to be taken at a meeting of the Association or any action which may be taken in a meeting of the Association may be taken without a meeting if the Association delivers a written ballot to every member entitled to vote on the matter. A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot is valid only when the number of votes cast by ballot is equal or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the votes that would be required to approve the matter at a meeting at which the total votes cast was the same as the votes cast by ballot. All solicitations for votes by written ballot shall:

- (a) Indicate the number of responses needed to meet the quorum requirements;
- (b) State the percentage of approval necessary to approve each matter other than the election of directors; and
- (c) Specify the time by which a ballot must be received by the Association in order to be counted.

6.10 Adjourned meetings. If any meeting of Members cannot be organized because a quorum has not attended, a majority of the total basic value of the Condominium property present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

6.11 The order of business at annual Members' meetings and as far as practical at all other Members' meetings, shall be: (a) Calling of the roll and certifying of proxies; (b) Proof of notice of meeting or waiver of notice; (c) Reading and disposal of any unapproved minutes;

(d) Reports of directors and officers; (e) Reports of committees; (f) Election of inspectors of election; (g) Election of Directors; (h) Unfinished business; (i) New business; and (j) adjournment.

6.12 Declarant Control Period. Notwithstanding anything to the contrary contained in these By-Laws, until the date of the first meeting of the members of the Association occurring after the earlier of (i) the third (3rd) anniversary of the date the first Unit is sold by the Declarant and (ii) four months after the date the Declarant has sold seventy-five percent (75%) of the Units in the Condominium (the "Declarant Control Period"), the Declarant retains the right to appoint the Directors of its choice, and the proceedings of all meetings of Members of the Association shall have no effect unless approved by the Board of Directors, and the Board of Directors shall be entitled to take any action that would otherwise require a vote of the Members.

## ARTICLE VII

### Board of Directors

7.1 Membership of the Board of Directors. The Association shall be managed by a Board of Directors (hereinafter called the "Board"). The initial Board of Directors shall consist of no less than one (1) nor more than five (5) persons appointed by the Declarant, which Directors shall hold office until the first election of Directors after the expiration of the Declarant Control Period. Thereafter, the number of Directors shall be no more than five (5) nor less than three (3) persons, the exact number to be determined by the Members of the Association at the annual meeting prior to the election of Directors.

7.2 Director Qualifications. After expiration of the Declarant Control Period, all Members of the Board of Directors shall be either Co-Owners (or voting designees of a corporate or other similar entity type Co-Owners), Mortgagees or designees of Mortgagees. Each Director must be in good standing with the Association and current in payment of all fees, assessments and common expenses. Any Director who is delinquent in the payment of any common expenses or assessments shall automatically cease to be a Director.

7.3 Election of Directors shall be conducted in the following manner:

- (a) The Board of Directors to replace the initial Board of Directors appointed by the Declarant shall be nominated and elected at the organizational meeting called by Declarant to relinquish control. The terms of such initial replacement Directors shall be staggered over three (3) years so that an equal (or nearly equal) number of Directors comes up for re-election each year. At subsequent regular annual meetings, the voting Members shall vote for the number of Directors necessary as there are vacancies on the Board. There shall not be cumulative voting. The candidates receiving the most votes shall be declared elected as members of the Board to fill the Board positions vacant at that time. Directors shall serve for a three (3) year term (or for the remainder of the term of the Director they replaced) or until their successors are elected and qualified.

- (b) Except as to vacancies provided by removal of Directors by Members, vacancies in the Board of Directors occurring between annual meetings of Members shall be filled by the remaining Directors.
- (c) Any Director may be removed by concurrence of sixty-seven percent (67%) of the votes (based on basic value of the Units) of the entire membership of the Association at a special meeting of the Members called for that purpose. The vacancy in the Board of Directors so created shall be filled by the Members of the Association at the same meeting.
- (d) Notwithstanding the foregoing, until the expiration of the Declarant Control Period, the initial Directors of the Association shall serve until removed by the Declarant, and in the event of vacancies during the Declarant Control Period, the vacancies shall be filled by the Declarant.

7.4 The organizational meeting of a newly-elected Board of Directors shall be held within thirty (30) days of their election at such place and time as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary.

7.5 Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings shall be given to each Director personally or by mail, telephone or telegraph, at least five (5) days prior to the day named for such meeting.

7.6 Special meetings of the Directors may be called by the President and must be called by the Secretary at the written request of two (2) of the Directors. Not less than ten (10) days' notice of the meeting shall be given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting.

7.7 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice. The attendance of a Director at any meeting shall constitute a waiver of notice for such meeting unless the attendance of such meeting is for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

7.8 A quorum at Directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority at a meeting of the Board of Directors at which a quorum is present shall constitute the acts of the Board of Directors, except where approval by a greater number of Directors is required by the Master Deed, the Charter of the Association, these By-Laws or the Act.

7.9 Adjourned meetings. If at any meeting of the Board of Directors there is less than a quorum present, a majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting, any business which might have been transacted at a meeting as originally called, may be transacted without further notice.

7.10 Joinder in meeting. A Director's attendance at or participation in a meeting waives any required notice of the meeting unless the Director, upon arriving at the meeting or prior to the vote on the matter not properly noticed, objects to the lack of notice and does not thereafter vote for or assent to the objected to action.

7.11 Action in lieu of a meeting. Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the Directors shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Board of Directors.

7.12 The presiding officer of Directors' meetings shall be the Chairman of the Board if such an officer has been elected; and if none, then the President shall preside. In the absence of such presiding officers, the Directors present shall designate one of their number to preside.

7.13 The Directors shall be entitled to reimbursement of all reasonable out-of-pocket expenses incurred in connection with their duties as Directors, but shall otherwise not be entitled to any compensation for their service as Directors.

7.14 Powers and duties of the Board of Directors. All of the powers and duties of the "Council of Co-Owners" existing under the Act, the Master Deed, the Charter of the Association and these By-Laws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by the Co-Owners when such is specifically required by law or the Condominium Instruments. The Board of Directors shall have the power from time to time to adopt any Rules and Regulations deemed necessary for the benefit and enjoyment of the Condominium; provided, however, that such Rules and Regulations shall not be in conflict with the Act or the other Condominium Instruments. The Board of Directors shall delegate to one of its members or to a person employed for such purpose the authority to act on behalf of the Board on such matters relating to the duties of the managing agent, if any, which may arise between meetings of the Board as the Board deems appropriate. In addition to the duties imposed by these By-Laws, the Master Deed, the Act or by any resolution of the Association that may hereafter be adopted, the Board shall on behalf of the Association:

- (1) Annually prepare and adopt a budget for the upcoming fiscal year which shall include such sums as it deems necessary and adequate to provide for the Common Expenses and other related expenses of the Condominium.
- (2) Make assessments against Co-Owners to defray the costs and expenses of the condominium, establish the means and methods of collecting such assessments from the Co-Owners and establish the period of the installment payment of the annual assessment for Common Expenses; provided, however, that the Declarant shall be responsible for such assessments only the extent they represent Common Expenses actually incurred and in no event shall be responsible for assessments to the extent they are made for Reserves or Common Reserves.



- (3) Provide for the operation, care, upkeep and maintenance of all of the Property and services of the Condominium.
- (4) Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair and replacement of the Common Elements and provide services for the Property and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and materials to be used by such personnel in the performance of their duties, which supplies and equipment shall be deemed part of the Condominium.
- (5) Collect the assessments against the Co-Owners, deposit the proceeds thereof in bank depositories designated by the Board of Directors and use the proceeds to carry out the administration of the Condominium Property.
- (6) Make and amend the Rules and Regulations for the use of the Condominium and all facilities and property thereof.
- (7) Fix, impose and remit penalties for violation of these By-Laws and the Rules and Regulations.
- (8) Open bank accounts on behalf of the Association and designate the signatories thereon.
- (9) Make, or contract for the making of, repairs, additions and improvements to or alterations of the Property, and repairs to and restoration of the Property, in accordance with these By-Laws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.
- (10) Enforce by legal means the provisions of the Master Deed, these By-Laws and the Rules and Regulations, act on behalf of the Co-Owners with respect to all matters arising out of any eminent domain proceedings and notify the Co-Owners of any litigation against the Association involving a claim in excess of ten percent (10%) of the amount of the annual budget.
- (11) Obtain and carry insurance against casualties and liabilities, as provided in these By-Laws, pay the premiums therefor and adjust and settle any claims thereunder.
- (12) Pay the cost of all authorized services rendered to the Association and not billed to Co-Owners of individual Units or otherwise provided for in these By-Laws.
- (13) Keep books with detailed accounts in chronological order of the receipts and expenditures affecting the Property, and the administration of the Condominium, specifying the expenses of maintenance and repair of the Common Elements and any other expenses incurred. Such books and vouchers accrediting the entries therein shall be available for examination by the Co-Owners, their Mortgagees and authorized agents during general business hours on business days at the times

and in the manner set and announced by the Board of Directors for the general knowledge of the Co-Owners. All books and records shall be kept in accordance with generally accepted accounting principles.

- (14) At the written request of a Mortgagee, notify a Mortgagee of any default hereunder by the Co-Owner of the Unit subject to such Mortgage, in the event such default continues for a period exceeding sixty (60) days.
- (15) Borrow money on behalf of the Condominium when required in connection with any one instance relating to the operation, care, upkeep and maintenance of the Common Elements; provided, however, that the consent of the Co-Owners owning at least sixty-seven percent (67%) of the Common Elements, obtained either in writing or at a meeting duly called and held for such purpose in accordance with the provisions of these By-Laws, shall be required to borrow any sum in excess of Ten Thousand Dollars (\$10,000.00). If any sum borrowed by the Board of Directors on behalf of the Condominium pursuant to the authority contained in this subsection (15) is not repaid by the Association, a Co-Owner who pays to the creditor a percentage of the total amount due equal to its Common Element interest in the Condominium shall be entitled to obtain from the creditor a release of any judgment or other lien which such creditor shall have filed or shall have the right to file against such Co-Owner's Unit, and the Association shall not be entitled to assess his Unit for payment of the remaining amount due such creditor.
- (16) Acquire, hold and dispose of Units and mortgage the same if such expenditures and hypothecation are included in the budget adopted by the Association.
- (17) Settle disputes with respect to the Property.
- (18) Do such other things and acts not inconsistent with the Act or the Condominium Instruments which the Board of Directors may be authorized to do by a resolution of the Association.
- (19) Employ for the Condominium a "managing agent" or "manager" at a compensation to be established by the Board. The managing agent shall be a bona fide business enterprise or person which manages or has managed common interest or similar residential properties. The managing agent should be able to advise the Board of Directors regarding the administrative operation of the Condominium and shall employ personnel knowledgeable in the necessary areas. The managing agent shall perform such duties and services as the Board of Directors shall direct. The Board of Directors may delegate to the managing agent all of the powers granted to the Board of Directors by these By-Laws other than the powers set forth in subsections (2), (6), (15), (16), (17) and (18). The managing agent shall perform the obligations, duties and services relating to the management of the Property, the rights of Mortgagees and the maintenance of reserve funds in compliance with the provisions of these By-Laws.

Notwithstanding the foregoing, any contract with a managing agent entered into by the Association during the Declarant Control Period shall be terminable without penalty upon 90 days notice at any time after the Declarant Control Period.

- (20) The Board of Directors is hereby irrevocably appointed as agent and attorney-in-fact for the Co-Owners of all of the Units and for each of them, to manage, control and deal with the interests of such Co-Owners in the Common Elements of the Condominium in order to permit the Board of Directors to fulfill all of its powers, rights, functions and duties. The Board of Directors is hereby irrevocably appointed as agent and attorney-in-fact for each Co-Owner, each Mortgagee, other named insured and their beneficiaries and any other holder of a lien or other interest in the Condominium or Property to: (i) adjust and settle all claims arising under insurance policies purchased by the Board of Directors, (ii) execute and deliver releases upon the payment of claims and (iii) act on their behalf in any condemnation proceeding or action of eminent domain; provided, however, that the consent of a Mortgagee shall be required if such Mortgagee notifies the Board of Directors pursuant to these By-Laws within thirty (30) days after receipt of notice of the damage or eminent domain action pursuant to these By-Laws. The powers hereby granted shall be in addition to any rights granted by the Act.
- (21) Notwithstanding anything to the contrary herein, the Association shall not enter into a contract with the Declarant or any affiliate of the Declarant during the Declarant Control Period unless such contract is terminable without penalty upon 90 days notice at any time after the Declarant Control Period.

#### ARTICLE VIII

##### Officers

8.1 The Executive officers of the Association shall be a President, a Vice President, a Treasurer, and a Secretary, all of whom shall be Directors, and at the option of the Board of Directors, an Assistant Secretary and an Assistant Treasurer, all of whom shall be elected annually by the Board of Directors immediately following the annual meeting of the Association and who may be peremptorily removed by vote of the Directors at any meeting. Any person may hold two or more offices. The Board of Directors shall from time to time elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association. Each officer shall hold office until his successor shall be duly elected and qualified.

Additionally, the officers of the Association may delegate their duties to other Members of the Association from time to time as it is necessary to manage the affairs of the Association.

8.2 The President shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Board and shall have all of the powers and duties which are

usually vested in the office of the President of an association, including, but not limited to, the power to appoint committees from among the Members from time to time, as the President may in his or her discretion determine appropriate to assist in the conduct of the affairs of the Association.

8.3 The Secretary shall record the minutes of all proceedings of the Board and the Association. The Secretary shall attend to the giving and serving of all notices to the Members and Directors and other notices required by law. The Secretary shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He or she shall keep the records of the Association or cause such to be prepared and kept, except those of the Treasurer, and shall perform all other duties incident to the office of secretary of an association and as may be required by the Board or the President.

8.4 The Assistant Secretary, if any, shall exercise the powers and perform the duties of the Secretary when the Secretary is absent or unable to perform his or her duties.

8.5 The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. The Treasurer shall keep the books of the Association in accordance with good accounting practices and he or she shall perform all other duties incident to the office of Treasurer.

8.6 The Assistant Treasurer, if any, shall exercise the powers and perform the duties of the Treasurer when the Treasurer is absent or unable to perform his or her duties.

8.7 The compensation of all employees of the Association shall be fixed by the Directors. The provision that the Directors shall not be entitled to compensation for their services shall not preclude the Board of Directors from employing a Director as an employee of the Association nor preclude the Board from contracting with a Director for the management of the Condominium; provided, however, any Director who is an employee of the Association or contracts with the Association to provide labor, material or services shall not vote on any matter regarding such employment or contract.

#### ARTICLE IX

##### Maintenance, Upkeep and Repairs

Responsibility for the maintenance of the Property of the Condominium shall be as follows:

9.1 Units.

(a) By the Association. The Association shall maintain, repair and replace at the Association's expense:

(1) All Common Elements, Limited Common Elements (except when the Limited Common Element is the heating and/or air conditioning unit

serving a Unit), and portions of Units, except interior surfaces, contributing to the support of the Building, which portions shall include but not be limited to load-bearing columns and load-bearing walls unless, if in the opinion of not less than a majority of the Board of Directors such expense was necessitated by negligence, misuse or neglect of a Co-Owner. Also, all conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services contained in the portions of Units maintained by the Association; and all such facilities contained within Units that service part or parts of the Condominium other than the Unit in which they are contained.

- (2) All incidental damage caused to a Unit by maintenance or repairs performed by the Association shall be promptly repaired at the expense of the Association.
- (b) By the Co-Owner. The responsibility of the Co-Owner shall be as follows:
- (1) To maintain in good, clean and sanitary condition and to repair and replace at his, her or its expense all portions of the Co-Owner's Unit other than those portions to be maintained, repaired and replaced by the Association, including, but not limited to, the following where applicable: service equipment, such as the heating and air conditioning unit, serving the Co-Owner's Unit, including condensers and all appurtenances thereto wherever situated; hot water heater; dishwasher; refrigerator; oven; range; disposal; trash compactor; and all other appliances whether or not such items are built-in equipment; interior fixtures, drains, electric panels, lines, and outlets; interior doors, windows, screens and glass; exterior doors (except the painting of an exterior door which shall be a common expense); floor and wall coverings; and sheetrock and ceiling damage. Such shall be done without disturbing the rights of other Co-Owners. Nothing contained in this paragraph shall negate the obligation of any insurer to provide coverage for any insured loss as specified by Section 11.2 of these By-Laws.
  - (2) Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the Building or a unit including the exterior of an exterior door to a Unit.
  - (3) To maintain in a neat, clean and orderly fashion any Limited Common Elements appurtenant to such Co-owner's Unit; however, all structural repair or replacement of such Limited Common Elements shall be made by the Association as a Common Expense.
  - (4) Not to make or cause to be made any structural addition or alteration to his Unit or to the Common Elements or any part(s) thereof. Alterations within a Unit may not be made without the prior written consent of the

Board of Directors in accordance with the terms of the Master Deed and any Mortgagee holding a mortgage upon such Unit as could be affected by such alteration. Upon approval of such alteration, the Board of Directors shall have the right to require approval of any contractor and/or subcontractor employed by such Co-Owner for such purpose. Said parties shall comply with all Rules and Regulations adopted by the Board of Directors. Further, such Co-Owners shall be liable for all damages to any other Unit(s), Common Element(s) or the Property caused by the Co-Owner's contractor, subcontractor or employee whether such damage is caused by negligence, accident or otherwise.

- (5) To display no signs, advertisements or notices of any type on the Common Elements, Units or Building, and to erect no exterior antennae or aerials, except as consented to by the Board of Directors.
- (6) To allow the Board of Directors or their representative, agent or employee to enter into Unit for the purpose of maintenance, inspection, repair or replacement or improvement within the Unit and/or Common Elements; to determine in the case of emergency, circumstances threatening the Unit and/or Common Elements; or to determine compliance with the provisions of the Master Deed, these By-Laws or a Rule or Regulation.
- (7) To promptly report to the Association any defect or need for repairs, the responsibility for which is the Association.
- (8) To be responsible for all damage to any other Unit or to the Common Elements resulting from his failure or negligence to perform any obligations required herein.

#### 9.2 Common Elements.

- (a) By the Association. The maintenance and operation of the Common Elements, both General and Limited (except the maintenance and operation of the heating and air conditioning unit which is a Limited Common Element appurtenant to each Unit shall be the responsibility of that Unit Owner), shall be the responsibility of the Association and a Common Expense; provided, however, that in case of emergency and in order to preserve the Property or for the safety of the occupants, a Co-Owner may assume the responsibility therefor, and he or she shall be relieved of liability for such acts performed in good faith and reimbursed for his or her expense by the Association when approved by its Board of Directors.
- (b) The Association shall have the power to determine the use to be made of the Common Elements from time to time, provided that no such use shall discriminate against a Co-Owner. The Association may establish reasonable charges to be paid to the Association for the use of Common Elements not

otherwise inconsistent with other provisions of the Master Deed, the Charter or these By-Laws, such as the short term rental of its office and/or the pool and pool house or any portion thereof.

## ARTICLE X

### Fiscal Management

The making and collection of assessments against Co-Owners for Common Expenses shall be pursuant to the following provisions:

10.1 Assessments. The Association shall assess each Co-Owner, including the Declarant, for such Co-Owner's proportionate share of the Common Expenses, such share being the same as the undivided share of such Co-Owner in the Common Elements appurtenant to his, her or its Unit specified in Exhibit C to the Master Deed, which assessment shall be made and collected in the manner hereinafter provided; provided, however, that the Declarant shall be responsible only for its proportionate share of Common Expenses actually incurred and in no event shall be responsible for assessments to the extent they are for Reserves or Common Reserves.

10.2 Accounts. The funds and expenditures of the Association shall be credited and charged according to good accounting practices to accounts under the following classifications or combinations thereof, as shall be appropriate, all of which expenditures shall be Common Expenses unless otherwise provided:

- (a) Current expenses, which shall include all funds and expenditures to be made within the year, including a reasonable reserve for contingencies and working funds (the "Operating Reserve"), except expenditures chargeable to reserves other than the Operating Reserve, to additional improvements or to accounts for which reserves are maintained. The balance in this fund at the end of each year may be applied to reduce the assessments for current expense for the succeeding year.
- (b) Reserve for deferred maintenance, which shall include funds for maintenance items which occur less frequently than annually, and the amount of which reserve if any, may be determined by the Board of Directors of the Association. Any funds held in this account shall be held by the Association in a fiduciary capacity for the benefit of the Co-Owners for such purpose.
- (c) Reserve for replacement, which shall include funds for repair or replacement required because of damage, depreciation or obsolescence, and the amount of which reserve, if any, shall be determined by the Board of Directors of the Association. Any funds held in this account shall be held by the Association in a fiduciary capacity for the benefit of the Co-Owners for such purpose.
- (d) Reserve for additional improvements, which shall include the funds to be used for capital expenditures for additional improvements or additional personal property

which will be part of the Common Elements, provided however, that no item for this account shall be budgeted without the approval of the Co-Owners in the manner elsewhere provided for alteration or further improvement of the Common Elements.

10.3 Budget. Copies of the budget and proposed assessments recommended by the Board of Directors shall be transmitted to each Co-Owner on or before the annual members' meeting during the year for which the budget is made. The proposed budget, as it may be amended by motion of a Co-Owner, shall be submitted to a vote of the Board of Directors immediately after the annual members' meeting and when approved by the Board of Directors shall become the budget of the Association for the fiscal year. The Association shall adopt a budget for each fiscal year which shall include the estimated funds required to defray the Common Expenses and to provide and maintain funds for current expenses. The budget adopted for each fiscal year which shall include funds for expenses of that year and reserves according to good accounting practices as follows:

- (a) Current expenses (including Operating Reserves);
- (b) Reserve for deferred maintenance, if any, the amount for which shall not exceed 110% of the budget for this account for the prior year, after the first year such reserve is established;
- (c) Reserve for replacement, if any, the amount for which shall not exceed 110% of the budget for this account for the prior year, after the first year such a reserve is established; and
- (d) Reserve for additional improvements; provided, however, that no item for this account shall be budgeted without the approval of the Co-Owners in the manner elsewhere provided for alteration or further improvement of the Common Elements.

Notwithstanding the foregoing, the amount budgeted for current expenses, reserve for deferred maintenance and reserve for replacement may be increased over the foregoing limitations when approved by Co-Owners owning not less than sixty-seven percent (67%) of the basic value of all Units.

#### 10.4 Assessment Procedure.

- (a) Annual installments: Assessments against the Co-Owners for their shares of the items of the budget shall be made for the fiscal year annually in advance on or before November 31 preceding the fiscal year for which the assessments are made. Such assessments shall be due in twelve equal monthly installments on the first day of each month for the year for which the assessments are being made. The Board shall have the authority to adjust the payment dates of the assessments as it shall deem appropriate and may elect, upon prior written notice to the Co-Owners, to change from monthly to quarterly payments. If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior assessment and monthly payments thereon



shall be due upon each installment payment date until changed by an amended assessment. In the event the annual assessment proves to be insufficient, the budget and assessments therefore may be amended at any time by the Board of Directors of the Association provided that the accounts of the amended budget do not exceed the limitations thereon for that year. Any account which does exceed such limitation shall be subject to approval of the Co-Owners heretofore required. The unpaid assessment for the remaining portion of the calendar year for which the amended assessment is made shall be due in equal monthly installments on the first day of each month thereafter during the year for which the assessment is made. All assessment payments shall be made on the 1st day of each month.

- (b) Acceleration of assessment installments upon default. If a Co-Owner shall be in default in the payment of an installment upon an assessment, the Board of Directors may accelerate the remaining installments of the assessment upon notice thereof to the Co-Owner, and thereupon the unpaid balance of the assessment shall come due upon the date stated in the notice, which date shall not be less than ten (10) days after delivery thereof to the Co-Owner, or not less than twenty (20) days after the mailing of such notice to the Co-Owner by registered or certified mail, whichever shall first occur.
- (c) Assessments for emergencies. Assessments for emergency Common Expenses which cannot be paid from the annual assessments for Common Expenses shall be made only after notice of the need therefor to the Co-Owners concerned. After such notice and upon approval in writing by Co-Owners owning fifty-one percent (51%) or more of the basic value (as set forth on Exhibit C to the Master Deed) of the Units concerned, the assessment shall become effective, and it shall be due after thirty (30) days' notice thereof in such manner as the Board of Directors of the Association shall require.
- (d) Working capital. The Declarant, as the agent of the Board of Directors, will collect from each initial Co-Owner at the time of closing a special working capital assessment equal to twice the normal monthly assessment attributable to the purchased Unit. Such special assessment shall be in addition to regular monthly assessments. The Declarant will deliver the funds so collected to the Board of Directors to provide the necessary working capital for the Association. Such funds may be used for certain prepaid items, initial equipment, supplies, organizational costs and other start-up costs, and for such other purposes as the Board of Directors may determine.

10.5 Capital Contribution; Transfer fee. Upon the transfer of title to a Unit in the Condominium a capital contribution or transfer fee equal to one twelfth (1/12) of the annual assessment for such Unit shall be due from the purchaser of the Unit to the Association to help defray Association administrative expenses associated with the transfer of the membership in the Association. Said capital contribution or transfer fee shall be due and payable within thirty (30) days of the date of the deed transferring title to the Unit.

10.6 Liability for Assessments. A Co-Owner shall be personally liable for all assessments coming due while he, she or it is the owner of a Unit. The Association shall provide for the issuance, and shall issue to every prospective purchaser of a Unit, or mortgagee, upon his, her or its written request, a statement of the status of the assessment account of the seller or mortgagor.

10.7 Collection of Assessments.

- (a) Interest; application of payments. Assessments and installments thereon paid on or before ten (10) days after the date when due shall not bear interest, but all sums not paid on or before ten (10) days after the date when due shall bear interest at the rate of eighteen percent (18%) per annum or the highest rate permitted by law, whichever is lower, from the date when due until paid. All payments upon account shall be first applied to interest and then to the assessment payment first due.
- (b) Lien. All assessments against any Co-Owner shall constitute a lien against the Co-Owner's Unit in favor of the Association, as provided by the Act, which lien shall become effective when a notice claiming such lien has been duly recorded by the Association in the appropriate Charleston County office. Such claim of lien shall state the description of the Unit, the name of the record owner, the amount due and the date when due. Such claim of lien shall be signed and verified by an officer or agent of the Association prior to its being recorded; and no such claim of lien shall be made by the Association unless the assessment, charge or expense giving rise to the lien remains unpaid for more than ten (10) days after same becomes due. Any such lien may be foreclosed by the Association in the manner provided by law for the foreclosure of real estate mortgages. The lien shall secure the payment of all assessments as described in said claim of lien and, in addition thereto, shall secure the payment of subsequent assessments which come due after the filing of the claim of lien and prior to the satisfaction of such lien by foreclosure or otherwise, including interest thereon at the rate of eighteen percent (18%) per annum or the highest rate permitted by law, whichever is lower, together with all costs and reasonable attorneys' fees incurred by the Association incident to the collection of such assessments or the enforcement of such lien. The right of the Association to foreclose a lien as aforesaid shall be in addition to any other remedy, at law or in equity, which may be available to it for the collection of the monthly and/or quarterly charges and expenses, including the right to proceed personally against any delinquent owner for the recovery of a judgment "in personam". Any personal judgment against any such delinquent Co-Owner may include all unpaid subsequent assessments which come due after the institution of such suit and prior to such order of judgment, including interest thereon at the highest rate permitted by law, together with all costs and reasonable attorney's fees incurred by the Association incident to the collection of such assessments.

As set forth in Section 27-31-210(a) of the Act, the lien against a Unit for unpaid Assessments is subordinate to mortgages and other liens, duly recorded, encumbering the Unit. Further, as set forth in Section 27-31-210(b) of the Act, where the mortgagee of any mortgage of record or other purchaser of a Unit obtains title at the foreclosure sale of such a mortgage, such acquirer of title, his successors and assigns, shall not be liable for the Assessments chargeable to such Unit accruing after the date of recording such mortgage but prior to the acquisition of title to such Unit by such acquirer.

- (c) Rental pending foreclosure. In any foreclosure of a lien for assessments, the Association shall, pending foreclosure, be entitled to the appointment of a receiver who shall collect a reasonable rental for the use of the unit subject to the lien, which rental shall be applied to the obligations of the Co-Owner.
- (d) In the event that the payment of any assessment provided for in the Bylaws or the Master Deed is received more than ten (10) days after its due date, an administrative fee of Thirty Dollars (\$30), or such other reasonable amount as may be determined from time to time by the Board of Directors of the Association, shall be charged to the Member who failed to make payment upon the scheduled payment date. A separate administrative fee shall be charged for each instance in which payment is received more than ten (10) days after its due date. All such administrative fees shall constitute a lien in the same manner as provided herein for the underlying assessment and all unpaid administrative fees shall bear interest in the same manner as provided herein for the underlying assessment.

#### ARTICLE XI

##### Insurance

##### 11.1 Authority to Purchase; Notice.

- (a) Except as otherwise provided in Section 11.5 herein, all insurance policies relating to the Property shall be purchased by the Board of Directors. The Board, the managing agent and the Declarant shall not be liable for failure to obtain any coverages required by this Article or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverages from reputable insurance companies, or if such coverages are so available only at a demonstrably unreasonable cost. The Board shall promptly furnish to each Co-Owner and Mortgagee (and insurer of their mortgages) written notice of the procurement of, subsequent changes in, or termination of, insurance coverages obtained on behalf of the Association.

- (b) Each such policy shall provide that:
- (1) The insurer waives any right to claim by way of subrogation against the Association, the Board of Directors, the managing agent or the Unit Owners, and their respective agents, employees, guests and, in the case of the Unit Owners, the members of their households;
  - (2) Such policy shall not be cancelled, invalidated or suspended due to the conduct of any Co-Owner (including his invitees, agents and employees) or of any member, officer or employee of the Board of Directors or the managing agent without a prior demand in writing that the Board or the managing agent cure the defect and neither shall have so cured such defect within thirty (30) days after such demand;
  - (3) Such policy may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days prior written notice to the Board of Directors, the managing agent and all mortgagees of record.
- (c) The Declarant, so long as Declarant shall own any Unit, shall be protected by all such policies as a Unit Owner. The coverage provided to the Declarant under the insurance policies obtained in compliance with this Article XI shall not be deemed to protect or to be for the benefit of any contractor engaged by the Declarant.
- (d) All policies of insurance shall be written by reputable companies licensed to do business in the State of South Carolina.
- (e) The deductible, if any, on any insurance policy purchased by the Board of Directors shall be a Common Expense; provided, however, that the Association may, pursuant to these By-Laws, assess any deductible amount (i) necessitated by the negligence, misuse or neglect of a Co-Owner against such Co-Owner or (ii) related to damage to a portion of a Unit to be maintained by Co-Owner against such Co-Owner.

#### 11.2 Physical Damage Insurance.

- (a) The Board shall obtain and maintain a blanket, "all-risk" form policy of hazard insurance with extended coverage, vandalism, malicious mischief, sprinkler leakage (if applicable), debris removal and water damage endorsements, insuring the entire property, specifically including all of the Units and all their interior walls, boundary walls and roofs (notwithstanding the provisions of the Master Deed), carpet, or other floor covering and the bathroom and kitchen fixtures initially installed therein by the Declarant and the replacements thereto installed by the Declarant but not including furniture, wall coverings, furnishings or other

personal property supplied or installed by Unit Owners, together with all air-conditioning and heating equipment and other service machinery contained therein or deemed to be Limited Common Elements appurtenant to a Unit and covering the interest of the Association, the Board of Directors and all Unit owners and their Mortgagees, as their interests may appear, (subject, however, to the loss payment and adjustment provisions in favor of the insurance trustee contained in Section 11.6 below) in an amount equal to one hundred percent (100%) of the then current replacement cost of the insured property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation (such amount to be redetermined annually by the Board with the assistance of the insurance company affording such coverage). Nothing in this Article XI effects the maintenance, repair and upkeep responsibilities of the Association and the Unit Owner set out in Article IX of these Bylaws in the event such policy does not provide coverage and the Association shall charge back individual Unit Owners for such policy's deductible to the extent the damage covered by such policy is the responsibility of the Unit Owner as set forth in Article IX of these Bylaws. The Board of Directors shall also obtain and maintain such coverage on all real and personal property owned by the Association.

- (b) Such policy or policies shall also provide:
- (1) A waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if a decision is made pursuant to these By-Laws not to do so;
  - (2) **[Intentionally Left Blank]**
  - (3) That any "no other insurance" clause expressly exclude individual Unit owners' policies from its operation so that the physical damage policy purchased by the Board of Directors shall be deemed primary coverage and any individual Unit Owners' policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder provide for or be brought into contribution with insurance purchased by individual Unit Owners or their Mortgagees, unless otherwise required by law.
- (c) A Certificate of Insurance of the policy of physical damage insurance, all renewals thereof, and any subpolicies or certificates and endorsements issued thereunder, together with proof of payment of premiums, shall be delivered by the insurer to any Mortgagee or Unit owner requesting the same, at least thirty (30) days prior to expiration of the then current policy. Prior to obtaining any policy of physical damage insurance or any renewal thereof, the Board of Directors may obtain an appraisal from an insurance company, or such other source as the Board may determine, of the then current replacement cost of the Property (exclusive of the Land, excavations, foundations, and other items normally excluded from such

coverage), without deduction, for depreciation, for the purpose of determining the amount of physical damage insurance to be secured pursuant to this section. All Mortgagees shall be notified promptly of any event giving rise to a claim under such policy arising from damage to the Common Elements in excess of ten percent (10%) of the then current replacement cost of the Property. The Mortgagee of a Unit shall be notified promptly of any event giving rise to a claim under such policy arising from damage to such Unit.

11.3 Liability Insurance. The Board of Directors shall obtain and maintain comprehensive general liability (including libel, slander, false arrest and invasion of privacy coverage) and property damage liability insurance in such limits and with such coverages as the Board may from time to time determine, insuring each director, officer, the managing agent and each Unit owner against any liability to the public or to the Unit owners (and their invitees, agents and employees) arising out of, or incident to the ownership or use of the Common Elements. Such insurance shall be issued on a comprehensive liability basis and shall contain: (i) a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to an action against another named insured; and (ii) a "severability of interest" endorsement which shall preclude the insurer from denying liability coverage to a Unit Owner because of negligent acts of the Association or of another Unit Owner. The Board of Directors shall review such limits once each year, but in no event shall such insurance be less than \$500,000 single limits covering all claims for bodily injury or property damage arising out of one occurrence. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits shall also be obtained in an amount not less than \$1,000,000.

11.4 Other Insurance. The Board of Directors shall obtain and maintain:

- (a) if required by any governmental or quasi-governmental agency, including without limitation the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, flood insurance in accordance with the then applicable regulations of such agency;
- (b) workmen's compensation insurance if and to the extent necessary to meet the requirements of law (including a voluntary employees endorsement and an "all states" endorsement);
- (c) directors and officers liability insurance in an amount not less than \$1,000,000.00;
- (d) If required by any governmental or quasi-governmental agency, including, without limitation, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, fidelity bonds in accordance with the then applicable regulations of such agency; and
- (e) such other insurance as the Board of Directors may determine or as may be requested from time to time by a majority vote of the members.

11.5 Separate Insurance. Each Unit Owner shall have the right and obligation to obtain insurance for such owner's benefit, at such owner's expense, covering the Unit and such owner's personal property and personal liability, as well as any improvements made to the Unit by such Unit Owner (under coverage normally called "improvements and betterments coverage"); provided, however, that no Unit Owner shall be entitled to exercise this right to acquire or maintain such insurance coverage so as to decrease the amount which the Association, on behalf of all Unit Owners, may realize under any insurance policy maintained by the Board or to cause any insurance coverage maintained by the Board to be brought into contribution with insurance coverage obtained by Unit Owner. No Unit Owner shall obtain separate insurance policies on the Condominium except as provided in this section.

11.6 Insurance Trustee.

- (a) All physical damage insurance policies purchased by the Board of Directors shall be for the benefit of the Association, the Unit Owners, their Mortgagees and the Declarant, as their interests may appear, and shall provide that all proceeds of such policies shall be paid in trust to the Board as "insurance trustee" to be applied pursuant to the terms of these By-Laws. The Board of Directors shall have the authority to designate an independent insurance trustee to act in its place under the By-Laws.
- (b) The sole duty of the insurance trustee shall be to receive such proceeds as are paid to it and to hold the same in trust for the purposes elsewhere stated in these By-Laws, for the benefit of the insured and their beneficiaries.

11.7 Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense.

11.8 The Board Of Directors is hereby irrevocably appointed agent for each Co-Owner to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon payment of claims.

11.9 Insurance proceeds shall be held in trust for the purposes elsewhere stated herein by the insurance trustee for the benefit of the Co-Owners and their Mortgagees, in the following shares:

- (a) Proceeds on account of damage to Common Elements shall consist of an undivided share for each Co-Owner, such share being the same as the undivided share of such Co-Owner in the Common Elements appurtenant to his, her or its Unit specified in Exhibit C of the Master Deed.
- (b) Proceeds on account of damage to Units shall be held for the Co-Owners thereof in proportion to the cost of repairing the damage suffered by each Co-Owner, which costs shall be determined by the Association. In the event a decision is made not to reconstruct the Units, as provided hereinafter and in the Act, such

proceeds shall be held for such Co-Owners in the proportion in which they own the Common Elements as specified in Exhibit C to the Master Deed.

- (c) In the event a mortgagee endorsement has been issued as to a Unit, the share of the Co-Owner shall be held in trust for the mortgagee and the Co-Owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired.

11.10 Proceeds of insurance policies received by the insurance trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

- (a) All expenses of the insurance trustee shall be paid or provisions made for payment.
- (b) If the damaged property for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the costs thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to Co-Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.
- (c) If it is determined in a manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittances to Co-Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

11.11 In making distribution to Co-Owners and their mortgagees, the Board shall be entitled to rely upon the names of the Co-owners, their respective shares of the distribution and the name of their mortgagees as set forth in the Association's records.

## ARTICLE XII

### Reconstruction or Repair After Casualty

12.1 In the event of fire or other disaster or casualty resulting in damage to the Buildings or Common Elements of the Condominium which the Board of Directors shall determine to be two-thirds (2/3) or less of the then total value of the property of the Condominium (excluding land), the net proceeds of all insurance collected shall be made available for the purpose of restoration or replacement. When such insurance proceeds are insufficient to cover the cost of such reconstruction or replacement, the balance of such costs may be obtained from the appropriate reserve for replacement funds and/or shall be deemed a Common Expense and assessed against the Co-Owners in the case of damage to Common Elements, and against the Co-Owners who own the damaged Units in the case of damage to Units. Such assessments on account of damage to Common Elements shall be in proportion to



the Co-Owner's share in the Common Elements as specified in Exhibit C to the Master Deed. Assessments against Co-Owners for damage to Units shall be in proportion to the costs of reconstruction and repair of their respective Units.

12.2 In the event the Buildings and improvements of the Condominium are damaged or destroyed to an extent which is more than two-thirds (2/3) of the then total value of the property of the Condominium (excluding land) as determined by the Board of Directors, the Members of the Association shall be polled in writing via United States Mail by the Association as to whether the Condominium shall be waived or the damaged property reconstructed and repaired. The Condominium shall be waived unless within sixty (60) days after the mailing of such notices the Co-Owners of all the basic value of the Units, as well as all of the record owners of the encumbrances thereon, agree in writing to repair and reconstruct the Buildings and improvements in the Condominium. If the election is to reconstruct or replace, payment of the costs thereof shall be made as provided for in Section 12.1 of this Article XII. If the decision is to waive the Condominium and not to reconstruct and replace, all sums recovered from insurance shall be paid over to the Co-Owners in the proportion in which they own the Common Elements as specified in Exhibit C to the Master Deed and to their respective mortgagees, as their interests may appear.

12.3 If the damage is only to those parts of a Unit for which the responsibility of maintenance and repair is that of the individual Co-Owner, then the Co-Owner shall be responsible for reconstruction and repair after casualty. In all other instances, the responsibility of reconstruction and repair after casualty shall be that of the Association; provided, however, if the responsibility of reconstruction and repair after casualty is that of the Association, but the negligence or misuse of a Co-Owner is the cause of such casualty and such casualty falls within insurance coverage obtained by Association, such Co-Owner shall pay the deductible amount thereunder.

12.4 Immediately after a casualty causing damage to property for which the Association has the responsibility of maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair so as to place the damaged property in as good a condition as the damaged property was in before the casualty.

12.5 Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original improvements which are shown on or referenced in the Master Deed and the exhibits thereto, or if not, then according to such other plans and specifications approved by the Board of Directors of the Association; provided, however, that such other action may be taken only if approved by a majority of the mortgagees of the Units; and if the damaged property is the Buildings, also by the Co-Owners who own at least sixty-seven percent (67%) of the basic value of the Units, including the Co-Owners of all damaged Units. The approvals herein required shall not be unreasonably withheld.

12.6 Disbursement of Construction Funds. The funds for payment of costs of reconstruction and repair after casualty, which funds shall consist of proceeds of insurance and/or funds collected by the Association from assessments against Co-Owners, shall be disbursed in payment of such costs in the following manner:

- (a) If the amount of the estimated cost of reconstruction and repair which is the responsibility of the Association is less than \$50,000.00 then the reconstruction fund shall be disbursed in payment of such costs upon the order of the Board of Directors; provided, however, that upon request of twenty percent (20%) of the mortgagees which are beneficiaries of an insurance policy, the proceeds of which are included in the reconstruction fund, such fund shall be disbursed in the manner hereafter provided for the reconstruction and repair of major damage.
- (b) If the amount of the estimated cost of reconstruction and repair which is the responsibility of the Association is more than \$50,000.00 then the reconstruction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors and upon approval of an architect qualified to practice in South Carolina and employed by the Association to supervise the work.
- (c) The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with a Co-Owner shall be paid to the Co-Owner, or if there is a mortgagee endorsement as to such Unit, then to the Co-owner and the mortgagee jointly, who may use such proceeds as they may determine.
- (d) It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in the reconstruction fund after payment of all costs of reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated; except, however, that the part of a distribution to a beneficial Co-Owner which is not in excess of assessments paid by such Co-Owner into the construction fund shall not be made payable to any mortgagee.
- (e) Notwithstanding the provisions herein, the Board may delegate its authorities and responsibilities hereunder to an independent insurance trustee, who shall not be required to determine whether or not sums paid by Co-Owners upon assessments shall be deposited by the Association with the insurance trustee, nor to determine whether a disbursement is to be made from the reconstruction fund nor to determine the payee nor the amount to be paid. Instead, the insurance trustee may rely upon a certificate of the Association made by its President and Secretary as to any or all of such matters and stating that the sums to be paid are due and properly payable and stating the name or names of the payee and the amount to be paid; provided that when a mortgagee is herein required to be named as payee, the insurance trustee shall also name the mortgagee as payee of any distribution of insurance proceeds to a Co-Owner; and further provided that when the

Association or mortgagee which is the beneficiary of an insurance policy, the proceeds of which are included in the reconstruction fund, so requires, the approval of an architect named by the Association shall be first obtained by the Association prior to disbursement in payment of costs of reconstruction and repair.

- (f) If the Board of Directors elects not to repair any substantial damage to the Common Elements, the Board of Directors shall remove all remains of the damaged improvements and restore the site thereof to an acceptable condition compatible with the remainder of the Condominium and the balance of any insurance proceeds received on account of such damage shall be distributed among all Unit Owners in proportion to their respective Common Element interests. If the Condominium shall be terminated pursuant to the Act, the net assets of the Condominium together with the net proceeds of insurance policies, if any, shall be divided among all Unit owners in proportion to their respective Common Element interests as stated in Exhibit C to the Master Deed, after first paying out of the share of each Unit owner, to the extent sufficient therefor, the amount of any unpaid liens on the Unit in the order of priority of such liens.

### ARTICLE XIII

#### Mortgages

13.1 Notice to Association. A Co-Owner who mortgages his Unit shall notify the Association of the name and address of his mortgagee and shall file a conformed copy of the note and mortgage with the Board.

13.2 Notice of Default, Casualty or Condemnation. The Board of Directors when giving notice to any Co-Owner of a default in paying an assessment for Common Expenses or any other default, shall simultaneously send a copy of such notice to the mortgagee of such Unit, if so requested in writing by the mortgagee. Each mortgagee shall also be promptly notified of any casualty when required by these By-Laws, of all actions taken under Article XII and of any taking in condemnation or by eminent domain and actions of the Association with respect thereto.

13.3 Notice of Amendment of Condominium Instrument. The Board of Directors shall give notice to all mortgagees at least ten (10) days prior to the date on which the Unit Owners, in accordance with the provisions of these By-Laws, materially amend the Condominium Instruments.

13.4 Notice of Change in Managing Agent. The Board of Directors shall give notice to all mortgagees requesting such notice at least thirty (30) days prior to changing the managing agent, if possible.

13.5 Mortgagees' Approvals.

- (a) Two-Thirds Vote. Unless the mortgagees holding mortgages on at least sixty-seven percent (67%) of the basic value of the Units and the Co-Owners owning at least sixty-seven percent (67%) of the basic value of the Units have given their prior written approval, the Association shall not:
- (1) (except following destruction or condemnation) change any Unit's Common Element interest except as provided in the Master Deed and/or the Act;
  - (2) (except following destruction or condemnation) partition, subdivide, abandon, encumber, sell or transfer the Common Elements (except for the granting of utility easements, etc. pursuant to the Master Deed and/or the Act);
  - (3) (except following destruction or condemnation) by act or omission withdraw the submission of the Property to the Act, except as provided by the Act;
  - (4) modify the method of determining and collecting assessments or allocating distributions of casualty insurance proceeds or condemnation awards; or
  - (5) use hazard insurance proceeds for losses to the Condominium for any purpose other than repair replacement or restoration except as otherwise provided in these By-Laws the Master Deed and/or the Act.
- (b) Majority Vote. Unless the mortgagees holding mortgages on at least fifty-one percent (51%) of the basic value of the Units and the Co-Owners owning at least sixty-seven percent (67%) of the basic value of the Units have given their prior written approval, the Association shall not:
- (1) following destruction or condemnation, change any Unit's Common Element interest except as provided in the Master Deed and/or the Act;
  - (2) following destruction or condemnation, by act or omission, withdraw the submission of the Property to the Act, except as provided by the Master Deed and/or the Act; and
  - (3) add any material provisions of the Condominium Instruments which establish, provide for, govern or regulate any of the following: (1) voting; (2) assessments liens or subordination of such liens; (3) reserves for maintenance, repair and replacement of

the Common Elements (or Units if applicable); (4) insurance or fidelity bonds; (5) rights to use of the Common Elements; (6) maintenance responsibility; (7) boundaries of any Unit; (8) the interests in the General Common Elements or Limited Common Elements; (9) convertibility of Units into Common Elements or of Common Elements into Units; (10) imposition of any right of first refusal or similar restriction on the right of a Co-Owner to sell, transfer, or otherwise convey the Unit; (11) any provisions which are for the express benefit of mortgagees; (12) expansion or contraction of the Regime; (13) leasing of Units; or (14) imposition of self-management where professional management has been required by any of the Agencies (as defined below).

- (c) Non-Material Amendments; Presumptive Approval. Any addition or amendment to the Condominium Instruments shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. A mortgagee who is notified of additions or amendments and who does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

13.6 Other Rights of Mortgagees. All Mortgagees or their representatives shall have the right to attend and to speak at meetings of the Association. As provided elsewhere in the Condominium Instruments, all such Mortgagees (and the insurers of their mortgages) shall have the right to examine the Condominium Instruments, Rules and Regulations and books and records of the Condominium, to receive any annual reports filed by Declarant and to require the submission of annual financial reports and other budgetary information. If any of the Department of Housing and Urban Development, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Veterans Administration or any similar federal agency or corporation (the "Agencies") that has an interest or prospective interest in a Unit makes a written request for such information, the Association shall prepare and furnish to such Agency within a reasonable time an audited financial statement of the Association for the immediately preceding fiscal year.

ARTICLE XIV

Non-Liability and Indemnity of Directors and officers.

14.1 No Director or officer of the Association shall be liable for acts, defaults, or neglects of any other Director or officer or member or for any loss sustained by the Association or any Co-Owner, unless the same shall have resulted from the Director's own willful or grossly negligent act or omission.

14.2 Every Director, officer, and agent of the Association shall be indemnified by the Association against all reasonable costs, expenses and liabilities (including counsel fees) actually and necessarily incurred by or imposed upon such Director in connection with or resulting from

any claim, action, suit, procedure, investigation, or inquiry as to whatever nature in which he or she may be involved as a party or otherwise by reason of being or having been a Director, officer or agent of the Association whether or not he or she continues to be such Director, officer or agent at the time of incurring or imposition of such costs, expenses, or liabilities, except in relation to matters as to which he or she shall be finally adjudged in such action, suit, proceeding, investigation, or inquiry to be liable for willful misconduct or gross neglect in the performance of duties. The foregoing right of indemnification shall be in addition to and not in limitation of all other rights to which such person may be entitled as a matter of law, and such shall inure to the benefit of the legal representative of such person.

#### ARTICLE XV

##### Alterations and Modifications

15.1 Neither the Association nor any Co-owner shall make any structural modifications or alterations to his, her or its Unit, or remove any portion thereof, or make any additions thereto, or do anything which would jeopardize the safety or soundness of such Unit or any Building, or adversely affect any of the Common Elements, or impair any easement, without first obtaining approval in writing for the same in accordance with the terms of the Master Deed and the exhibits thereof. A copy of plans for all such work, prepared by an architect licensed to practice in the State of South Carolina, shall, if requested, be filed with the Association prior to the start of the work.

15.2 Subject to the rights of the Declarant, there shall be no alterations or further improvements of the Common Elements without the prior approval in writing by the Co-Owners of sixty-seven percent (67%) or more of the Common Elements of the Condominium. Any such alteration or further improvement shall not interfere with the rights of any Co-Owners. The cost of such alterations or further improvement shall be assessed to the Co-Owners of the Units in the proportion which their respective shares in the Common Elements bear to each other as specified in Exhibit C to the Master Deed.

#### ARTICLE XVI

##### Failure to Comply with Condominium Instruments

16.1 Each Co-Owner, tenant and occupant of Unit and the Association shall be governed by and shall comply with the terms of the Master Deed, these By-Laws, any rules or regulations adopted thereunder and said documents as they may be amended from time to time. Failure to comply therewith shall entitle the Association and/or other Co-Owners to relief including but not limited to an action to recover sums due for damages or injunctive relief, or both, which actions may be maintained by the Association, or in a proper case by an aggrieved Co-Owner.

16.2 A Co-Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by the act, neglect or carelessness of the Co-Owner or by that of any member of the Co-Owner's family or the Co-Owner's guests, employees, agents, lessees,

licensees or invitees, but only to the extent that such expense is not paid from the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of Unit or its appurtenances, or of the Common Elements.

16.3 In any proceeding arising because of an alleged default by a Co-Owner under any provisions of the Master Deed or these By-Laws, or any Rules and Regulations adopted by the Board, the Association shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the Court.

16.4 The failure of the Association or any person to enforce any covenant, restriction or other provision contained in the Act, the Master Deed, these By-Laws, and the Rules and Regulations adopted pursuant hereto and said documents as they may be amended from time to time, shall not constitute a waiver of the right to do so thereafter.

#### ARTICLE XVII

##### Amendments

These By-Laws may be amended in the following manner:

1. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.
2. A resolution for the adoption of the proposed amendment shall be presented to a meeting of the members of the Association. Such approval shall be by Co-Owners representing at least sixty-seven percent (67%) of the Common Elements of the Condominium as specified in Exhibit C to the Master Deed.
3. Proviso. Provided, however, that no amendment shall discriminate against any Co-Owner nor against any Unit or class or group of Units unless the Co-Owners so affected shall consent. No amendment shall be made which is in conflict with the Act, the Charter of the Association or the Master Deed establishing the Condominium.
4. Execution and recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the officers of the Association with formalities of a deed. The amendment shall be effective when such certificate and a copy of the amendment are recorded in the office of the Register of Mesne Conveyances for Charleston County, South Carolina.

#### ARTICLE XVIII

##### Miscellaneous

18.1 Parliamentary Rules. Roberts' Rules of Order (latest edition) shall govern the conduct of Association meetings when not in conflict with the Charter and By-Laws of the

Association, the Master Deed establishing the Condominium, or with the laws of the State of South Carolina.

18.2 Depository. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors; withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Directors.

18.3 Fidelity Bonds. Fidelity bonds may be required by the Board of Directors, at its sole option, from all persons handling or responsible for Association funds. In the event the Board elects to require fidelity bonds, the premiums on such bonds shall be paid by the Association.

18.4 Fiscal Year. The fiscal year of the Association shall be the calendar year.

18.5 Seal. The seal of the Corporation shall consist of two concentric circles between which is the name of the Association, and in the center of which is inscribed "Seal".

18.6 Prospective Purchasers. The Association shall make available to prospective purchasers of Units current copies of the Condominium Instruments, the Rules and Regulations, and the most recent annual audited financial statements, if such is available.