

THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION PURSUANT TO THE COMMERCIAL  
ARBITRATION RULES OF THE AMERICAN ARBITRATION  
ASSOCIATION

**MASTER DEED**

**OF**

**BALLARDS POINTE II**  
HORIZONTAL PROPERTY REGIME

Santee, South Carolina

Developer

Ballards Pointe II, LLC

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**MASTER DEED  
OF  
Ballards Pointe II**

Horizontal Property Regime

Orangeburg County, Santee, South Carolina

Ballards Pointe II, LLC, having its principal office in Orangeburg, South Carolina, hereinafter referred to as the "Grantor", as the sole owner of the land and improvements hereinafter described, does hereby make, declare, and publish its intention and desire to submit, and does hereby submit, the lands and buildings herein described, together with all other improvements thereon, including all easements, rights, and appurtenances thereto belonging, to a Horizontal Property Regime (to be known as Ballards Pointe II Horizontal Property Regime, hereinafter called the "Regime") in the manner provided for by the South Carolina Horizontal Property Act, as amended, S.C. Code Ann § 27-31-1 et seq. (1976). In conformity with § 27-31-30 and § 27-31-100 of said Act, the Grantor sets forth the following particulars:

**I. Definitions**

As used in this Master Deed and all Exhibits hereto and all amendments hereof and, unless the context otherwise requires, the following words shall have the following definitions:

**1.1 "Act"**. The South Carolina Horizontal Property Act, South Carolina Code of Laws, (1976) Section 27-31-10 et seq., as amended, and as may be further amended from time to time.

**1.2 "Apartment"**. That portion of the Condominium intended for individual ownership and use for residential dwelling purposes and shall include the undivided ownership in the Common Elements assigned to the Apartment by this Master Deed.

**1.3 "Appurtenant Interest"**. (a) The undivided interest in the Common Elements appurtenant to an Apartment; (b) the interest of an Owner in any Apartment acquired by the Association or its designee on behalf of all Owners or the proceeds of the sale or lease thereof, if any; and (c) the interest of an Owner in any other right, right of membership, claim, cause of action or asset of the Condominium or the Association.

**1.4 "Articles of Incorporation" or "Charter"**. The Articles of Incorporation of

Ballards Pointe II 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 reference.

**1.5 "Assessment".** An Owner's pro-rata share of the Common Expenses, which, from time to time, is assessed against an Owner by the Association.

**1.6 "Association".** Ballards Pointe II Association, Inc., a South Carolina non-profit corporation, its successors and assigns.

**1.7 "Board of Directors" or "Board".** The elected body responsible for management and operation of the Association as further described in the By-Laws.

**1.8 "Building" or "Buildings".** The three (3) dwelling structures shown on Exhibit "C" attached hereto and incorporated herein by reference.

**1.9 "By-Laws".** The By-Laws of the Association attached to this Master Deed as Exhibit "G" and incorporated herein by reference.

**1.10 "Common Elements".** That portion of the Property subject to this Master Deed which is not included within the boundaries of an Apartment, as more particularly described in this Master Deed.

**1.11 "Common Expenses".** The expenses for which the Apartment Owners are liable to the Association including without limitation (a) all expenses incident to the administration, maintenance, insurance, repair or replacement of the General Common Elements and any Limited Common Elements which are the express responsibility of the Association; (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 this Master Deed and/or its Exhibits or by the Act; and (d) reasonable reserves established for the payment of any of the foregoing.

**1.12 "Condominium".** All that Property described in Exhibit "A" and Exhibit "B" attached hereto and incorporated herein by reference, submitted to the provisions of the Act by this Master Deed, and such other property as may hereafter be submitted to the provisions of the Act by supplement or amendment to this Master Deed, together with all buildings and improvements thereon and replacements thereof.

**1.13 "Condominium Instruments".** This Master Deed, the By-Laws and other Exhibits attached hereto and recorded and filed pursuant to the provisions of the Act, and the Rules and Regulations. Any exhibit, schedule or certification accompanying a Condominium Instrument and recorded or filed simultaneously therewith shall be deemed an integral part of that Condominium Instrument. To the extent permitted by law, any amendment or certification of any Condominium Instrument, whether or not such amendment or certification was made in accordance with the provisions of the Act, shall be deemed a Condominium Instrument.

**1.14 "Council of Owners" or "Association".** All the Co-Owners, as defined herein;

but a Majority, as defined herein, shall, except as otherwise provided, constitute a quorum for the adoption of decisions of the Association.

**1.15 "Declarant" or "Grantor".** Ballards Pointe II, LLC, its successors and assigns.

**1.16 "Exhibits".** The exhibits to this Master Deed, as they may be amended from time to time.

**1.17 "General Common Elements".** All of the Horizontal Property Regime Property after excluding the Apartments and the Limited Common Elements as defined herein, and more specifically described in Article V herein.

**1.18 "Improvements".** Any buildings or structures on or in any land or submerged land included in the Condominium.

**1.19 "Limited Common Elements".** Those Common Elements which are appurtenant to and reserved for the use of a single Apartment or a certain number of Apartments to the exclusion of other Apartments, as well as all those limited common elements enumerated in Article V as Limited Common Elements and not embraced within the definition of General Common Elements or Apartments.

**1.20 "Majority" or "Majority of Owners or Mortgagees".** The owners of fifty-one (51%) percent or more of the voting power in the Council of Owners which shall be equal to the percentage interest in the Common Elements shown on Exhibit "D", entitled Table of Values and Percentage Interests, attached hereto and incorporated herein by reference.

**1.21 "Manager or Managing Agent".** A person, firm or corporation, if any, employed by or engaged to perform management services for the Condominium and the Association.

**1.22 "Master Deed".** This Master Deed and all Exhibits attached hereto establishing the Condominium.

**1.23 "Mortgage".** Any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation.

**1.24 "Mortgagee".** The holder of any Mortgage.

**1.25 "Occupant".** Any Person occupying all or any portion of an Apartment for any period of time, regardless of whether such Person is a tenant or the Owner of the Apartment.

**1.26 "Owner" "Apartment Owner", "Co-Owner".** The Person, as defined herein, owning record title to an Apartment within the Condominium, together with the appurtenant undivided interest in the Common Elements specified and established in this Master Deed, but excluding a Mortgagee.

**1.27 "Person".** Any individual, corporation, limited liability company, firm,

association, partnership, trust or other legal entity.

**1.28 “Property” or “Submitted Property”.** The property shown as contained within Ballards Pointe II Horizontal Property Regime, as described in the Exhibits hereto and including the land, whether leasehold or in fee simple, including but not limited to submerged land and the Buildings, all Improvements and all structures thereon, and all easements, rights and appurtenances belonging thereto and subject to all easements, rights-of-way and rights of use as described herein, in the Exhibits and/or of record.

**1.29 “Rules and Regulations”.** Rules and Regulations for the use of Apartments and Common Elements and for the conduct of persons within the Condominium, made and promulgated by the Association pursuant to the By-Laws of the Association.

**1.30 “Trustee”.** The Association’s Board of Directors as Trustee for the receipt, administration and disbursement of funds derived from insured losses, condemnation awards, special assessments for uninsured losses, and other like sources.

**1.31 “Utility Services or Systems”.** Electric power, gas service, public water and sewer, telephone system, garbage and sewage disposal, and cable television.

## **II. Legal Description**

The lands (the “Real Property”), which are hereby submitted to the Regime are described on Exhibit “A” attached hereto and made a part hereof by reference, subject to the easement rights in favor of Grantor as more fully set forth in Article VIII (D) herein.

## **III. Survey and Description of Improvements**

The plat of the Real Property entitled "PLAT OF SURVEY PREPARED FOR: BALLARDS POINTE II, LLC TOWN OF SANTEE COUNTY OF ORANGEBURG SOUTH CAROLINA" made by Donald J. Smith, Jr. Inc., Donald J. Smith, R.L.S. 9764, Dated 10/06/05 is attached hereto as Exhibit “B” and incorporated herein by reference ("Plat"). The site plan of Ballards Pointe II entitled "General Arrangement Plan" made by Donald J. Smith, Jr. Inc., Donald J. Smith, R.L.S. 9764 dated October 11, 2005 ("Site Plan") shows the location of the Buildings and other Improvements on the Real Property and is attached hereto as Exhibit "C" and incorporated herein by reference. The Elevation and Floor Plans are also attached as Exhibit "C" and incorporated herein by reference. Exhibits "B" and "C" (collectively "Plot Plans"), together with this Master Deed, constitute a graphic description of all Apartments, including their identification numbers, location, area, dimensions, vertical and horizontal locations, and all Common Elements (General and Limited) and their respective locations and approximate dimensions. Each Apartment is identified on the Plot Plans by specific number and no Apartment bears the same designation as any other Apartment. The Buildings containing the Apartments have aggregate areas set forth on the Plot Plans.

## **IV. Warranty**

GRANTOR ASSIGNS TO THE BALLARDS POINTE II ASSOCIATION, INC. ALL ITS

RIGHTS UNDER THE LIMITED WARRANTY AS RECEIVED FROM ITS CONTRACTOR, \_\_\_\_\_ (“CONTRACTOR”). THIS WARRANTY IS LIMITED TO THE WORK PERFORMED BY THE CONTRACTOR PURSUANT TO THE PLANS AND DOES NOT APPLY TO ANY PORTION OF THE COMMON ELEMENTS WHICH HAVE NOT BEEN CONSTRUCTED BY THE CONTRACTOR.

GRANTOR’S SOLE OBLIGATION AND THE ASSOCIATION’S SOLE REMEDY, TO THE EXCLUSION OF ALL OTHER REMEDIES, IS LIMITED TO THE REPAIR OR REPLACEMENT, AT GRANTOR’S SOLE OPTION, OF THE DEFECTIVE CONDITION OF THE WORK PURSUANT TO THE PLANS (“WORK”) RELATING SOLELY TO THE GENERAL AND LIMITED COMMON ELEMENTS. ANY PORTION OF THE BUILDINGS OR OTHER IMPROVEMENTS NOT INCLUDED IN THE PLANS, IS CONVEYED “AS IS” WITHOUT WARRANTY.

FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF ISSUANCE OF THE OCCUPANCY PERMIT FOR THE REGIME (“WARRANTY PERIOD”), GRANTOR WILL, AT NO COST TO REGIME, REPAIR OR REPLACE, AT THE SOLE OPTION OF GRANTOR, ANY PORTION OF THE GENERAL AND LIMITED COMMON ELEMENTS, EXCEPT FIXTURES, FURNITURE, ACCESSORIES, AND APPLIANCES COVERED BY A WARRANTY OF MANUFACTURERS AND DEALERS, WHICH ARE DEFECTIVE AS TO MATERIAL OR WORKMANSHIP. THE LIABILITY OF THE GRANTOR IS EXPRESSLY LIMITED TO SUCH REPAIRS OR REPLACEMENT AND GRANTOR MAKES NO OTHER WARRANTIES EXPRESSED OR IMPLIED (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, SOUNDNESS, QUALITY, WORKMANLIKE SERVICE, VALUE, SUITABILITY, FITNESS, HABITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE).

THIS LIMITED WARRANTY IS NONTRANSFERABLE AND IS PERSONAL ONLY TO THE ASSOCIATION.

AS TO ANY PERSONAL PROPERTY (INCLUDING, WITHOUT LIMITATION, FAN COIL UNITS(S), MOTORIZED DAMPERS, AND HEATING, VENTILATING AND COOLING CONTROLS) CONVEYED ALONG WITH THE GENERAL AND LIMITED COMMON ELEMENTS BY THE GRANT TO THE ASSOCIATION, AND AS TO ANY “CONSUMER PRODUCT” (AS THAT TERM MAY BE DEFINED UNDER APPLICABLE FEDERAL LAW OR IMPLEMENTING REGULATIONS, OR AS A TERM OF SIMILAR MEANING MAY BE DEFINED UNDER STATE, OR LOCAL LAWS, OR THEIR IMPLEMENTING REGULATIONS) WHICH MAY BE CONTAINED IN THE COMMON ELEMENTS, GRANTOR NEITHER MAKES NOR ADOPTS ANY WARRANTY WHATSOEVER AND SPECIFICALLY EXCLUDES EXPRESS OR IMPLIED WARRANTIES OF ANY NATURE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ADDITIONALLY, THE GRANTOR EXCLUDES ALL WARRANTIES OF SOUNDNESS, QUALITY, WORKMANLIKE SERVICE, VALUE, SUITABILITY, FITNESS OR OF HABITABILITY.

**Additional Warranty Exclusions:**

1. Nail or screw pops or cracks in the walls and ceilings of the General and Limited

Common Elements which do not result from faulty workmanship or defective materials but are the result of natural shrinkage and drying of building materials, or of normal settlement of the building, wind loads or normal movement of the building components. To the extent that the Grantor may elect at its sole discretion to perform repairs for the above conditions, provided that notice of such conditions in writing is received by Grantor, during the Warranty Period, Grantor will not be liable for repainting, wallpapering or refinishing any repaired areas one (1) year after filing of this Master Deed. Thereafter, any repairs or corrections become the sole responsibility of the Association.

2. Ordinary wear and tear, or damage due to misuse or neglect, negligence, or the Association's failure to provide proper maintenance to the General and Limited Common Elements or the Association's failure to perform maintenance as required by the manufacturer.

3. This Limited Warranty does not cover damages to the Apartments or any lost rent of any of the Apartment Owners.

4. Any item which has been modified or repaired by the Association, or any items which are installed or constructed pursuant to a separate contractor agreement between the Association and any party other than Grantor.

5. Any and all secondary, incidental or consequential damages caused by the Association or any Apartment Owner or by any defect or breach hereof.

6. No steps taken by Grantor to correct defects shall act to extend the scope of duration of this Limited Warranty beyond the Warranty Period.

7. No representative of the Grantor has the authority to expand or extend the scope of this Limited Warranty or to make verbal agreements with respect thereto.

8. All requests for correction pursuant to this Limited Warranty must be in written form and delivered to the Grantor or their designated representatives.

**ARBITRATION AGREEMENT:**

**EACH AND EVERY CLAIM AND CAUSE OF ACTION ARISING OUT OF OR RELATED IN ANY WAY TO THE DESIGN, CONSTRUCTION, SALE, MAINTENANCE, HABITABILITY OF, OR CONDITION OF ANY APARTMENT OR ANY COMMON AREA THAT IS ASSERTED BY (I) ANY PERSON OR ENTITY THAT NOW HAS OR HEREAFTER ACQUIRES ANY INTEREST IN AN APARTMENT, (II) THE GRANTOR OR DEVELOPER, (III) THE APARTMENT OWNERS' ASSOCIATION (INCLUDING ANY CORPORATION OR OTHER ENTITY FORMED TO SERVE AS APARTMENT OWNERS' ASSOCIATION, (IV) ANY PERSON OR ENTITY THAT HAS PREVIOUSLY OR HEREAFTER SUPPLIES (DIRECTLY OR INDIRECTLY ) LABOR, MATERIALS, DESIGN SERVICES, EQUIPMENT OR OTHER THINGS OF VALUE IN CONNECTION WITH THE CONSTRUCTION OR MAINTENANCE OF ANY APARTMENT OR THE COMMON AREA, OR (V) ANY HEIR, SUCCESSOR, DELEGATEE OR ASSIGNEE OF ANY SUCH PERSONS OR ENTITIES, SHALL BE RESOLVED BY FINAL AND BINDING ARBITRATION BEFORE A PANEL OF THREE ARBITRATORS PURSUANT TO THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION, AS MODIFIED HEREIN. THE ARBITRATION HEARING SHALL BE CONDUCTED IN ORANGEBURG COUNTY, SOUTH CAROLINA. ALL CLAIMS AND CAUSES OF ACTION OF ALL PERSONS AND ENTITIES ENTITLED TO ENFORCE (OR BOUND BY) THIS ARBITRATION PROVISION SHALL BE ASSERTED IN A SINGLE ARBITRATION PROCEEDING, AND MULTIPLE PARTIES MAY BE JOINED IN THE ARBITRATION PROCEEDING SO THAT ALL DISPUTES MAY BE RESOLVED IN ONE FORUM. NO CLAIM OR CAUSE OF ACTION MAY BE ASSERTED THAT WOULD BE BARRED BY THE STATUTE OF LIMITATIONS OR THE STATUTE OF REPOSE.**

**IN ANY ARBITRATION PROCEEDING, REQUESTS FOR PRODUCTION OF DOCUMENTS MAY BE SERVED BY EACH PARTY, AND NON-PRIVILEGED, RESPONSIVE DOCUMENTS THAT WOULD BE DISCOVERABLE UNDER RULE 34 OF THE FEDERAL RULES OF CIVIL PROCEDURE (WERE THE CLAIMS AND CAUSES OF ACTION BEING ASSERTED IN UNITED STATES DISTRICT COURT) SHALL BE PRODUCED. DEPOSITIONS MAY BE TAKEN AS ALLOWED BY THE ARBITRATION PANEL, WHICH PANEL SHALL REASONABLY LIMIT THE NUMBER OF DEPOSITIONS IN ORDER TO AVOID UNNECESSARY OR EXCESSIVE EXPENSE, DELAY OR HARASSMENT.**

**THE ARBITRATION PANEL SHALL ISSUE A WRITTEN DECISION IDENTIFYING WITH SPECIFICITY EACH CLAIM OR CAUSE OF ACTION ASSERTED OR RESOLVED IN ANY ARBITRATION, AND THE LEGAL PRINCIPLES OF *RES JUDICATA* AND COLLATERAL ESTOPPEL SHALL BE APPLICABLE TO ANY ARBITRATION AWARD. ANY ARBITRATION AWARD MAY BE CONFIRMED AND ENFORCED IN ANY COURT OF JURISDICTION.**

**THIS ARBITRATION PROVISION IS EXPRESSLY INTENDED TO BENEFIT AND BE ENFORCEABLE BY EACH PERSON AND ENTITY REFERENCED IN**

**SUBPARAGRAPHS (I) – (V) ABOVE WHETHER OR NOT SUCH PERSON OR ENTITY IS BOUND BY THIS ARBITRATION PROVISION. ANY ATTEMPT BY ANY SUCH PERSON OR ENTITY TO ENFORCE THIS ARBITRATION PROVISION SHALL CONSTITUTE CONCLUSIVE CONSENT TO BE BOUND HEREBY.**

**THE GRANTOR, THE ASSOCIATION, AND THE INDIVIDUAL APARTMENT OWNERS EXPRESSLY WAIVE ALL RESORT TO TRIAL BY JURY OF ANY AND ALL ISSUES OTHERWISE SO TRIABLE.**

**ANY CLAIM OR CAUSE OF ACTION NOT COVERED BY THIS ARBITRATION AGREEMENT SHALL BE COVERED BY ARTICLE XXXIV HEREIN.**

**V. Apartments and General and Limited Common Elements**

The Regime consists of Apartments and General and Limited Common Elements, as said terms are defined herein. Apartments shall mean and comprise the forty-two (42) Apartments which are separately designated in Exhibit "C" to this Master Deed, including but not limited to the space, interior partitions or interior walls, fixtures and appliances therein, excluding, however, all spaces and improvements lying beneath the undecorated and/or unfinished inner surfaces of the perimeter walls and floors, and above the undecorated and/or unfinished inner surfaces of the ceilings and floors of each Apartment, and further excluding all spaces and improvements lying beneath the undecorated and/or unfinished inner surface of all interior load-bearing columns, and further excluding all pipes, ducts, wires, conduits and other facilities running through any interior wall or partition for the furnishing of Utility Services to other Apartments or to the Limited or General Common Elements. The general description and number of each Apartment in each building on the Real Property, expressing its area, general location, and any other data necessary for its identification, also appears in Exhibit "C". The Apartments include foyer area, living/dining area, kitchen area, including appliances therein, bathrooms, bedrooms, closets, porch/patio/balcony, storage and the HVAC System excluding the central air conditioning components on the roof. In Building F, there are five (5) Apartments per floor and there are three (3) floors. In Building G, there are four (4) Apartments per floor and there are three (3) floors. In Building H, there are five (5) Apartments per floor and there are three (3) floors. The Apartments are generally described as follows:

**Apartments in Building F:**

**Apartments: 161, 261, 361.** These Apartments are shown on the 3BRR (3 Bedroom Righthand) Floor Plan in the attached Exhibit "C". These Apartments have the Master Bedroom on the right side of the Apartment and each contain approximately 1,550 square feet in heated space. These Apartments each have three bedrooms, three baths, kitchen, living/dining area, foyer area and closets. Each of these Apartments has a Limited Common Element porch/patio/balcony of approximately 150 square feet.

**Apartments: 162, 262, 362.** These Apartments are shown on the 2BRR (2 Bedroom Righthand) Floor Plan in the attached Exhibit "D." These Apartments have the Master Bedroom on the right side of the Apartment and each contains approximately 1,227 square feet in heated space. These Apartments each have two bedrooms, two baths, kitchen, living/dining area, foyer area and

closets. Each of these Apartments has a Limited Common Element porch/patio/balcony of approximately 150 square feet

**Apartments: 163, 263, 363, 164, 264, 364.** These Apartments are shown on the 2BRL (2 Bedroom Lefthand) Floor Plan in the attached Exhibit "C" These Apartments have the Master Bedroom on the left side of the Apartment and each contains approximately 1,227 square feet in heated space. These Apartments each have two bedrooms, two baths, kitchen, living/dining area, foyer area and closets. Each of these Apartments has a Limited Common Element porch/patio/balcony of approximately 150 square feet.

**Apartments: 165, 265, 365.** These Apartments are shown on the 3BRL (3 Bedroom Lefthand) Floor Plan in the attached Exhibit "C." These Apartments have the Master Bedroom on the left side of the Apartment and each contains approximately 1,550 square feet in heated space. These Apartments each have three bedrooms, three baths, kitchen, living/dining area, foyer area and closets. Each of these Apartments has a Limited Common Element porch/patio/balcony of approximately 150 square feet.

#### **Apartments in Building G:**

**Apartments: 161, 261, 361.** These Apartments are shown on the 3BRR (3 Bedroom Righthand) Floor Plan in the attached Exhibit "C". These Apartments have the Master Bedroom on the right side of the Apartment and each contain approximately 1,550 square feet in heated space. These Apartments each have three bedrooms, three baths, kitchen, living/dining area, foyer area and closets. Each of these Apartments has a Limited Common Element porch/patio/balcony of approximately 150 square feet.

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### **Apartments in Building H:**

**Apartments: 161, 261, 361.** These Apartments are shown on the 3BRR (3 Bedroom Righthand) Floor Plan in the attached Exhibit "C". These Apartments have the Master Bedroom on the right side of the Apartment and each contain approximately 1,550 square feet in heated space. These Apartments each have three bedrooms, three baths, kitchen, living/dining area, foyer area and closets. Each of these Apartments has a Limited Common Element porch/patio/balcony of approximately 150 square feet.

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The Apartments are shown generally on the Floor Plans attached as Exhibit "C", however, the owners may have made interior alterations to the Floor Plans of an Apartment, which are not shown in Exhibit 'C'. **THE DIMENSIONS OF THE ROOMS IN EACH APARTMENT ARE CALCULATED FROM EXHIBIT "C" AND MAY NOT ACCURATELY DEPICT THE DIMENSIONS OF THE APARTMENTS AND THE ROOMS IN EACH APARTMENT.**

#### **General Common Elements means and includes:**

(1) The land, including but not limited to any submerged land, on which the buildings and other improvements are constructed, more fully described above, together with all of the other real property described in Exhibit "A";

(2) The foundations, main walls, roofs, storage rooms, covered walks and balconies, railings in the covered walks, stairways and balconies, stairways, elevators, equipment room and other communication ways of the buildings; -

(3) The sprinkler system, yards, patio, shrubs, planter boxes, exterior lights, fire alarms, fire hoses, signs, maintenance equipment, and storm drainage system, except as otherwise provided or stipulated;

(4) The compartments or installations of central services such as power, light, telephone, television, cold and hot water, surveillance cameras and screens, refrigeration, generator, fuel tank and water pump, and the like;

(5) All parking areas and walkways are as shown and depicted in Exhibit "C";

(6) In general, all devices or installations existing for common use;

(7) The fire sprinkler system, with riser room, associated equipment and piping (including a fire department pumping connection);

(8) The air conditioning compressors shall be Limited Common Elements, limited to the use of the Apartment they serve;

(9) All other elements of the property rationally of common use or necessary to its existence, upkeep, and safety; and;

(10) The Common Area containing such areas as are shown on said plat and shown on Exhibit "C."

**Limited Common Elements means and includes:**

(1) Any mailboxes, porches/patios/balconies, including the floor, ceiling, railings and walls thereof, and all exterior doors and windows or other fixtures designed to serve one or more but less than all Apartments, are Limited Common Elements allocated exclusively to such Apartment or Apartments.

(2) If any flue, duct, wire, conduit, load bearing wall, load bearing column, or any other fixture lies partially within and partially outside the designated boundaries of an Apartment, any portion serving only that Apartment is a Limited Common Element allocated solely to that Apartment insofar as possible. The Limited Common Elements are shown graphically and described in detail in words and figures in the Plat and Plans. The air conditioning compressors shall be Limited Common Elements, limited to the use of the Apartments they serve.

**VI. Ownership of Apartments and Appurtenant Interest In General Common Elements**

An Apartment in the Regime may be individually conveyed and encumbered and may be the subject of ownership, possession, or sale, and of all types of juridical acts, *inter vivos* or *mortis causa*, as if it were solely and entirely independent of the other Apartments in the Regime of which it forms a part, and the corresponding individual titles and interests are recordable.

Any Apartment may be held and owned by more than one person as tenants in common or in any other form of real property ownership recognized in this State.

An Apartment owner shall have the exclusive ownership of his Apartment and shall have a common right to a share, with the other Co-Owners, in the Common Elements of the Regime, equivalent to the percentage representing the value of the individual Apartment, with relation to the value of the whole Regime. This percentage, which is set forth on Exhibit "D" attached hereto and made a part hereof by reference, shall have a permanent character, and shall not be altered without the acquiescence of the Co-Owners representing all the Apartments of the Regime.

The basic value, which shall be fixed for the sole purpose of this Master Deed and irrespectively of the actual value, shall not prevent each Co-Owner from fixing a different circumstantial value to his Apartment in all types of acts and contracts.

#### **VII. Restriction Against Further Subdividing of Apartments and Separate Conveyance of Appurtenant Common Elements, Etc.**

An Apartment may not be divided or subdivided into a smaller Apartment or smaller Apartments than as described in Exhibit "C" attached hereto, nor shall any Apartment, or portion thereof, be added to or incorporated into any other Apartment without consent of the Grantor. The undivided interest in the General and Limited Common Elements declared to be an appurtenance to each Apartment shall not be conveyed, devised, encumbered, or otherwise dealt with separately from said Apartment and the undivided interest in General and Limited Common Elements appurtenant to each Apartment shall be deemed conveyed, devised, encumbered, or otherwise included with the Apartment even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering, or otherwise dealing with such Apartment. Any conveyance, mortgage, or other instrument which purports to effect the conveyance, devise, or encumbrance, or which purports to grant any right, interest or lien in, to, or upon an Apartment, shall be null, void, and of no effect insofar as the same purports to effect any interest in an Apartment and its appurtenant undivided interest in General and Limited Common Elements, unless the same purports to convey, devise, encumber, or otherwise trade or deal with the entire Apartment. Any instrument conveying, devising, encumbering or otherwise dealing with any Apartment which describes said Apartment by the Apartment Number assigned thereto in Exhibit "C" without limitation or exception, shall be deemed and construed to affect the entire Apartment and its appurtenant undivided interest in the General and Limited Common Elements. Nothing herein contained shall be construed as limiting or preventing ownership of any Apartment and its appurtenant undivided interest in the General and Limited Common Elements by more than one person or entity as tenants in common, joint tenants, or any other form of real property ownership recognized in this State. Except as allowed in the previous sentence, all Common Elements shall be owned by the Regime and may not be subject to a lease between the Apartment owners (or the Association) and another party, except that the Association shall have the authority to lease (a) General Common Element space on the rooftop to a third party for purposes of placing and maintaining electronic transmitting equipment and the like for the benefit of the Apartment Owners, and (b) telephone, internet, and related

communication and electronic transmitting equipment from a third party for the benefit of the Apartment Owners.

### **VIII. Horizontal Property Regime Subject to Restrictions, Grant of Easements, Reservations of Easements, Etc.**

A. Each and every Apartment and the General and Limited Common Elements shall be, and is hereby declared to be, subject to the restrictions, easements, conditions, and covenants prescribed and established herein, governing the use of said Apartment and General and Limited Common Elements, and setting forth the obligations and responsibilities incident to ownership of each Apartment and its appurtenant undivided interest in the General and Limited Common Elements. Said Apartments and General and Limited Common Elements are further declared to be subject to the restrictions, easements, conditions, and limitations now of record affecting the land and improvements of the Real Property.

**B. SUBMERGED LAND: ALL ACTIVITIES ON OR OVER AND ALL USES OF ANY PORTION THE SUBMERGED LAND OR OTHER CRITICAL AREAS ARE SUBJECT TO THE JURISDICTION OF THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL. ANY ACTIVITY OR USE OF THIS PROPERTY OR ANY PORTION THEREOF MUST BE AUTHORIZED BY THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL. ANY OWNER IS LIABLE TO THE EXTENT OF HIS OWNERSHIP FOR ANY DAMAGES TO, ANY INAPPROPRIATE OR UNPERMITTED USES OF, AND ANY DUTIES OR RESPONSIBILITIES CONCERNING ANY SUBMERGED LAND, COASTAL WATERS, OR ANY OTHER CRITICAL AREA.**

C. **Time Sharing**. Notwithstanding anything herein to the contrary, no Apartment 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.

D. **Reservation of Easements in favor of Grantor**. Grantor hereby reserves unto itself and its successors and assigns a non-exclusive easement over, under and through the Regime Property, except for the areas on which the Buildings are located, for ingress, egress and access to and from the adjoining property owned by Grantor and more particularly shown and described as "Water Parcel (3.94 Acres)" and "Parcel K (0.28 Acre)" on that certain plat entitled "A Plat of 8.04 Acres State of South Carolina County of Orangeburg Vance Township Surveyed for Ballards Pointe II, LLC" made by Edisto Engineers & Surveyors, Inc., Richard L. Stroman, SCRLS No. 5496 dated September 16, 2004 and recorded in Plat Book 346, Page 7 in the Register of Deeds Office for Orangeburg County, South Carolina ("Grantor's Property") for purposes of construction, maintenance, repair and replacement of improvements constructed or to be constructed on the Grantor's Property, including but not limited to a marina containing docks and boat slips, and utilities, drainage and other uses associated therewith. This a commercial easement in gross fully assignable by Grantor and shall be appurtenant to and run

with title to Grantor's Property and shall inure to the benefit of Grantor and its successors and assigns. The easement shall be binding on the Regime Property and the Owners and Co-Owners thereof or any portion therein. Nothing shall be construed herein to grant the Association or the Owners or Co-Owners of Apartments any rights in or to Grantor's Property except the easement rights specifically granted in Paragraph E below.

E. Grantor hereby grants to the Association and the Owners and Co-Owners of Apartments a non-exclusive perpetual easement for ingress, egress and access to and from Chapel Branch over the Water Parcel at such locations and at such times and subject to restrictions, rules, regulations and fees and Grantor, its successors and assigns, may establish from time to time in its sole discretion. The Association and the Owners and Co-Owners shall not interfere with Grantor's use of Grantor's Property or the construction of improvements thereon or thereunder. Grantor shall have the right, but not the obligation, to transfer title to Grantor's Property or any portion thereof and all improvements constructed or to be constructed thereon to the Association and the Association shall be obligated to accept title to said property and to manage the property as it manages Regime Property. Upon conveyance of the Grantor's Property or any portion thereof to the Association, the easement rights as to the portion conveyed shall terminate and be of no further force or effect.

#### **IX. Perpetual Non-Exclusive Easements in General Common Elements**

The General Common Elements shall be, and are hereby declared to be, subject to a perpetual non-exclusive easement in favor of all of the Co-Owners of Apartments in the Horizontal Property Regime for their use and the use of their immediate family, guests, and invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended, or the enjoyment of said Co-Owners of Apartments.

The Grantor reserves unto itself and its successors or assigns an easement, including a construction easement, through all General and Limited Common Elements as may be reasonably necessary for the purpose of discharging Grantor's rights or obligations or exercising special Grantor rights reserved in this Master Deed.

As part of the right of Grantor to construct the General and Limited Common Elements of this Regime, Grantor reserves unto itself, and its successors and assigns, easements for ingress and egress over, under and across all Common Elements, Limited and General and such other reasonable right of access to and use of the Common Elements, Limited and General as may be necessary for the construction, maintenance and marketing of the Apartments, including without limitation the right to place signage on any portion of the Common Elements.

Notwithstanding anything above provided in this Article, the Association shall have the right to establish the rules and regulations to include, among other things, the designation as to which Co-Owner or Co-Owners of any Apartment may be entitled to the exclusive use of any parking space or spaces located in or around the Building, provided such rules and regulations comply with all local, state and federal laws, rules and regulations.

#### **X. Perpetual Exclusive Easement to Use Limited Common Elements**

Subject to Grantor's rights reserved herein, each Co-Owner shall have the exclusive right to use the Limited Common Elements allocated to such Co-Owner's Apartment for his use and the use of his immediate family, guests, and invitees for all proper and normal purposes. Such right to use shall be a perpetual exclusive easement in favor of such Co-Owner.

#### **XI. Easement for Unintentional and Non-Negligent Encroachments**

In the event that any portion of the General and Limited Common Elements now or hereafter encroaches upon any Apartment, or vice versa, or in the event that any portion of one Apartment now or hereafter encroaches upon another Apartment, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, does and shall exist.

#### **XII. Restrictions Upon Separation and Partition of General and Limited Common Elements and Upon Termination of the Regime and Amendment of the Master Deed**

The Common Elements, both General and Limited, shall remain undivided and shall not be the object of an action for partition or division of the Co-Ownership. Any covenant to the contrary shall be void. All of the Co-Owners or the sole owner of the Regime may waive the Regime and regroup or merge the records of the individual Apartments with the Real Property, provided that the individual Apartments are unencumbered, or if encumbered, that the creditors in whose behalf the encumbrances are recorded agree to accept as security the undivided portions of the property owned by the debtors.

Subject to the other provisions of this Article, and Article XIII, unless all of the first mortgagees (based upon one vote for each first mortgage owned) and all owners of the Apartments have given their prior written approval, the Association shall not be entitled to:

- (a) by act or omission, seek to abandon or terminate the Regime or legal status of the project as a condominium;
- (b) change the *pro rata* interest or obligations of any Apartment for the purpose of (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the *pro rata* share of ownership of each Apartment in the General and Limited Common Elements;
- (c) partition or subdivide any Apartment; or
- (d) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Regime or Association shall not be deemed a transfer within the meaning of this subparagraph (d).

The Co-Owners representing two-thirds of the total value of the property shall be required to modify the system of administration of the Association. These provisions shall not apply to amendments to the constituent documents or termination of the Condominium Regime made as a result of destruction, damage, or condemnation pursuant to the provisions of this Master Deed or

the other constituent documents.

### **XIII. Rights of Eligible Mortgage Holders and Eligible Insurers or Guarantors**

1. Notice of Action: Upon written request to the Association identifying the name and address of the holder, insurer, or guarantor and the Apartment number or address, any such eligible mortgage holder or eligible insurer or guarantor 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 Apartment on which there is a first mortgage held, insured, or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable;

(b) Any delinquency in the payment of assessments or charges owed by a Co-Owner of an Apartment subject to a first mortgage held, insured, or guaranteed by such eligible holder or eligible insurer or guarantor, which remains uncured for a period of sixty (60) days;

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and

(d) Any proposed action which would require the consent of a specified percentage of eligible mortgage holders as specified in this Master Deed.

2. Other Provisions for Eligible Mortgage Holders: To the extent permitted by applicable law, eligible mortgage holders shall also be afforded the following rights:

(a) Any restoration or repair of the Regime, after a partial condemnation or damage, due to an insurable hazard, shall be performed substantially in accordance with this declaration (Master Deed) and the original plans and specifications, unless other action is approved by eligible holders holding mortgages on Apartments which have at least fifty-one percent (51%) of the votes of Apartments subject to eligible mortgage holders;

(b) Any election to terminate the legal status of the Regime after substantial destruction or a substantial taking in condemnation of the Regime property must require the approval of eligible holders holding mortgages on Apartments which have at least fifty-one percent (51%) of the votes of Apartments subject to eligible holder mortgages;

(c) No reallocation of interests in the Common Areas resulting from a partial condemnation or partial destruction of such a Regime may be effected without the prior approval of eligible holders holding mortgages on all remaining Apartments, whether existing in whole or in part, and which have at least fifty-one percent (51%) of the votes of such remaining Apartments subject to eligible holder mortgages; and

(d) When professional management has been previously required by any eligible mortgage holder, insurer, or guarantor, whether such entity became an eligible mortgage holder, insurer, or guarantor at that time or later, any decision to establish self-management by the Association shall require the prior consent of Co-Owners of Apartments to which at least

sixty-seven percent (67%) of the votes in the Association are allocated and the approval of eligible holders holding mortgages on Apartments which have at least fifty-one percent (51%) of the votes of Apartments subject to eligible mortgages holders.

3. Non-Material Amendments to Master Deed: An addition or amendment to this Master Deed, By-Laws, or other exhibits shall not be considered material if it is for the purpose of correcting technical, scrivener's or typographical errors or for clarification.

4. Material Amendments to Master Deed: In addition to the foregoing requirements, Amendments of a material nature must be agreed to by Apartment owners who represent at least sixty-seven percent (67%) of the total allocated votes in the Association and by eligible mortgage holders who represent at least fifty-one percent (51%) of the votes that are subject to mortgages held by eligible holders. An eligible mortgage holder who receives a written request to approve additions or amendments that does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request. A change to any of the provisions governing the following would be considered as material:

- (a) voting rights;
- (b) increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens, or the priority of the assessment liens;
- (c) reductions in reserves for maintenance, repair, and replacement of Common Elements;
- (d) responsibility for maintenance and repairs;
- (e) reallocation of interests in the General or Limited Common Elements, or rights to their use;
- (f) redefinition of any Apartment boundaries;
- (g) convertibility of Apartments into Common Elements, or vice versa;
- (h) Expansion or contraction of the Regime, or the addition, annexation, or withdrawal of property to or from the Regime;
- (i) hazard or fidelity insurance requirements;
- (j) imposition of any restrictions on the leasing of the Apartments;
- (k) imposition of any restrictions on an Apartment owner's right to sell or transfer his or her Apartment; and
- (l) any provisions that expressly benefit mortgage holders, insurers, or guarantors.

#### **XIV. Residential Use Restriction Applicable to Apartments**

Each Apartment is hereby restricted to residential use by the Co-Owner or Co-Owners thereof, their immediate families, guests, tenants, lessees, licensees, and invitees; provided, however, that so long as the Grantor shall retain any interest in the Regime or any Apartment, it may utilize a Apartment or Apartments of its choice owned or leased by Grantor from time to time, for a sales office, model, or other usage for the purpose of selling or closing the sale of Apartments in said Regime or outside of the Regime. Grantor may assign this commercial usage right to such other persons or entities as it may choose; provided, however, that when all Apartments have been sold this right of commercial usage shall immediately cease. Except as specifically allowed by the Grantor in the marketing and sales of the Apartments, no "For Sale" or "For Rent" signs or the like shall be permitted on any General or Limited Common Element or any Apartment so as to be visible from any General or Limited Common Element or public street or area. Nothing herein shall prevent the Association from providing portions of the Common Elements to management companies for use as an office, model or other purpose connected with the management of the Regime or to grant licenses and easements over the Common Areas for utilities, roads, electronic transmitting equipment, and other purposes reasonably necessary or usable for the proper maintenance and operation of the Regime. Any lease or rental agreement concerning the use of the Apartment must be in writing and subject to the requirements of the Master Deed and the rules and regulations of the Association and terms adopted by the Board of Directors of the Association.

#### **XV. Use of General Common Elements Subject to Rules of Association**

The use of General Common Elements by the Co-Owner or Co-Owners of all Apartments, and all other parties authorized to use the same shall be at all times subject to such reasonable rules and regulations as may be prescribed and established governing such or which may hereafter be prescribed and established by the Association,

#### **XVI. Horizontal Property Regime to be Used for Lawful Purposes, Restriction Against Nuisances, Etc.**

No immoral, improper, offensive, or unlawful use shall be made of any Apartment or of the General or Limited Common Elements, nor any part thereof, and all laws, zoning ordinances, and regulations of all governmental authorities having jurisdiction over the Regime shall be observed by the Apartment Co-Owners and Occupants. No Co-Owner or Occupant of any Apartment shall permit or suffer anything to be done or kept in an Apartment, or on the General or Limited Common Elements, which will increase the rate of insurance on the Regime, or which will obstruct or interfere with the rights of other Occupants of the Buildings or annoy them by unreasonable noises, nor shall any such Co-Owner or Occupant of any Apartment undertake any use or practice which shall create and constitute a nuisance to any other Co-Owner of an Apartment, or which interferes with the peaceful possession and proper use of any other Apartment or the General or Limited Common Elements.

#### **XVII. Right of Entry Into Apartments in Emergencies**

In case of any emergency originating in or threatening any Apartment, regardless of whether the

Co-Owner or Occupant is present at the time of such emergency, the Board of Directors of the Association or any other person or firm authorized by it, or the building superintendent or managing agent, shall have the right to enter such Apartment for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate. To facilitate entry in the event of any such emergency, the Co-Owner or Occupant of each Apartment, if required by the Association, shall deposit under the control of the Association a key to such Apartment.

#### **XVIII. Right of Entry for Maintenance of General Common Elements**

Whenever it is necessary to enter any Apartment for the purpose of performing any maintenance, alteration, or repair to any portion of the Common Elements, the Co-Owner of each Apartment shall permit other Co-Owners or their representatives, or the duly constituted and authorized agent of the Association, to enter such Apartment, provided that such entry shall be made only at reasonable times and with reasonable advance notice.

#### **XIX. Limitation Upon Right of Co-Owners to Alter and Modify Apartments**

No Co-Owner of an Apartment shall permit any structural modification or alterations to be made therein without first obtaining the written consent of the Association, whose consent may be withheld if a majority of the Board of Directors of said Association determine, in their sole discretion, that such structural modifications or alterations would affect or in any manner endanger the Building in part or in its entirety. If the modification or alteration desired by the Co-Owner of any Apartment involves the removal of any permanent interior partition, the Association shall have the right to permit such removal so long as the permanent interior partition to be removed is not a load-bearing partition, and so long as the removal thereof would in no manner affect or interfere with the provision of Utility Services constituting General or Limited Common Elements located therein. No Co-Owner shall cause the porch/patio/balcony abutting his Apartment to be enclosed, or cause any improvements or changes to be made on the exterior of the Building, the porch/patio/balcony or railings, including painting or other decoration, or the installation of electrical wiring, wire, screening, any railing cover, television, radio or telecommunication antennae, machines or air conditioning units which may protrude through the walls or roof of the building, or in any manner change the appearance of any portion of the Building, including porches/patios/balconies and railings not within the walls of such Apartment. No storm panels or awnings shall be affixed to any Apartment without first obtaining the written consent of the Association. Nothing herein shall prevent a Co-Owner from protecting his Apartment with protective covering on the doors when a hurricane is threatening the area, provided such protective covering meets the reasonable rules and regulations of the Association and is removed promptly after the threat subsides. All drapes or blinds within the Apartment must comply with the rules and regulations of the Association. Any replacement of the window blinds required by Grantor in the contracts to sell the Apartments must be the same manufacture, type and color blind. If the same window blind is no longer available, the Co-Owner of the Apartment must obtain a similar window blind of the same color and obtain the written approval the Association prior to installing it in the Apartment.

Floor slabs and other concrete components in the Buildings contain reinforced steel. Co-Owners are not allowed to do any drilling or modifications to the concrete floor slabs without prior

written approval from a structural engineer licensed in the State of South Carolina, and said written approval must be submitted to and approved by the Association prior to any such work being commenced. According to the building's structural engineer, Co-Owners are allowed to drill holes for window treatments only no larger than 3/4" deep and 1/4" in diameter. No nails or other objects, other than standard picture hanging hooks, may be installed and no holes shall be made in any walls in the Apartment unless same will not puncture any electrical, cable or water lines and plumbing in the walls. The Co-Owner shall, prior to drilling holes in or putting nails or other object in the walls, determine that such holes, nails or other objects will not puncture electrical, cable or water lines and plumbing in the walls.

## **XX. Right of the Association to Alter and Improve General and Limited Common Elements and Assessment Therefore**

The Association shall have the right to make or cause to be made alterations, modifications, and improvements to the General and Limited Common Elements, provided such alterations, modifications, or improvements are first approved in writing by the Board of Directors of the Association and also by the Co-Owners of sixty-seven percent (67%) or more of the Apartments in the entire Regime. The cost of such alterations, modifications, or improvements shall be assessed as common expenses and/or special assessments and collected from the Co-Owners of all Apartments according to their percentage of ownership of the General and Limited Common Elements. In the event Grantor conveys Grantor's Property or any portion thereof to the Association, the Association shall include in the assessments all costs in connection with the ownership, maintenance, repair and replacement of said property and improvements thereon for the benefit of the Owners. The amount of such costs shall be determined by the Board of Directors and implemented as part of the annual budget each year. The use of any property acquired by the Association from the Grantor shall be governed by such rules and regulations promulgated by the Board of Directors from time to time.

## **XXI. Maintenance and Repair by Co-Owners of Apartments**

Every Co-Owner must perform promptly all maintenance and repair work within his Apartment which, if omitted, would adversely affect the Regime in its entirety or in a part belonging to other Co-Owners, and is expressly responsible for the damages and liability which his failure to do so may engender. The Co-Owner of each Apartment shall be liable and responsible for the maintenance, repair, and replacement, as the case may be, of all air conditioning and heating equipment located within the Apartment, hot water heaters, stoves, refrigerators, garbage disposals, dishwashers, fans, or other appliances or equipment, including any fixtures and/or their connections or receptacles required to provide water, light, power, telephone, television, and sewerage and sanitary service to his Apartment and which may now or hereafter be situated in his Apartment including toilets, lavatories, sinks, tubs, and showers. Such Co-Owner shall further be responsible and liable for maintenance, repair, and replacement of any and all window glass, glass doors, wall, ceiling and floor surfaces or coverings, painting, decorating and furnishings, and all other accessories which such Co-Owner may desire to place or maintain in his Apartment. Whenever the maintenance, repair, and replacement of any items for which the Co-Owner of an Apartment is obligated to maintain, repair, or replace at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association, or the insurance

Trustee hereinafter designated, shall be used for the purpose of making such maintenance, repair, and replacement. Any cost of maintenance, repair, or replacement, by reason of the applicability of any deductibility provision of such insurance, which is not paid by the insurance of the Association, shall be paid by such Co-Owner. Reference is made to S.C. Code Ann. § 27-31-250 (1976) as amended, which is controlling of insurance proceeds use when said code section is applicable by its terms.

If an Apartment or any portion thereof is damaged by another Co-Owner's Apartment whether due to the other Co-Owner's failure to maintain their Apartment or not, the Association shall be responsible for repairing the damage and fixing the cause of the problem. If the damage was caused by the other Co-Owner's failure to properly maintain his Apartment in accordance with the provisions of this Master Deed, the Association shall have the authority to assess a Special Assessment against the negligent Co-Owner, which shall be a lien on said Co-Owner's Apartment until paid in full along with all accrued interest, costs, and attorney's fees related to collection in accordance with Article XXVIII of this Master Deed. If the Apartment damage was caused by a problem with the Common Elements, the Association shall be responsible for the cost of repair.

Co-Owners are hereby notified of the following Apartment temperature control recommendations in order to insure proper humidity levels to protect woodwork, furniture and electronic equipment in the Apartments: the Apartment's thermostat should never be set higher than seventy-nine (79°) degrees nor lower than seventy (70°) degrees in the cooling mode. In the heating mode, the thermostat should never be set lower than fifty-five (55°) degrees nor higher than seventy-five (75°) degrees. UNDER NO CIRCUMSTANCES SHOULD THE AIR CONDITIONING SYSEM FOR THE INDIVIDUAL APARTMENTS BE TURNED OFF. Co-Owners are responsible for any damage to their Apartments or to the contents of their Apartments or to any other Apartment, its contents and the Common Elements, if these temperature control recommendations are not adhered to, including, but not limited to damage from mold growing therein. The Association may abate the mold, repair any Apartment or Common Elements and replace the content of any Apartment damaged by mold, including, but not limited to, the abatement of the mold and the removal of all sheet rock and other improvements, if necessary. Any cost of abatement, repair, or replacement shall be paid by such Co-Owner. The Association shall have the authority to assess a Special Assessment against such Co-Owner for the cost thereof, which shall be a lien on said Co-Owner's Apartment until paid in full along with all accrued interest, costs, and attorney's fees related to Collection in accordance with Article XXVIII of this Master Deed.

## **XXII. Maintenance and Repair of General and Limited Common Elements by the Association**

The Association, at its expense, shall be responsible for the maintenance, repair, and replacement of all of the General and Limited Common Elements, including those portions thereof which contribute to the support of the Buildings, and all conduits, ducts, plumbing, wiring, and other facilities located in the General or Limited Common Elements for the furnishing of Utility Services to the Apartments and said General and Limited Common Elements as well as additional properties acquired by the Association from the Grantor pursuant to the terms of the within Master Deed. Should any incidental damage be caused to any Apartment by virtue of any

work which may be done or caused to be done by the Association in the maintenance, repair, or replacement of any General or Limited Common Elements, the Association shall, at its expense, repair such incidental damage. Excepted herefrom, however, are the maintenance of the floor and interior walls of the porch/patio/balcony attached to the Apartment, which shall be maintained by the Co-Owner at his expense.

The Association is responsible for insuring that the Regime's management company conduct, or have conducted at the Association's expense, a visual inspection of the exterior Common Elements of the Buildings a minimum of twice a year or as necessary for the purpose of determining needed repairs and maintenance and to insure that the buildings do not deteriorate and compromise the water tightness of the exterior skins. Said visual inspections shall include, but not be limited to, the following: (1) exterior surfaces; (2) sealant around doors, windows and all dissimilar materials; (3) any water proof membrane on the covered walk and patio concrete slab; (4) roofing materials and related flashing; (5) roof penetrations; (6) handrail sleeves and anchorage; (7) expansion joint assemblies; (8) ventilation equipment and louvers; and (9) elevator equipment, if any, and related items. Further, the Association is responsible for ensuring that the Regime's management company performs properly any maintenance to the Common Elements and Apartment HVAC units located outside of the Apartments, as required by the manufacturer.

### **XXIII. Personal Liability and Risk of Loss of Co-Owner and Apartment and Separate Insurance Coverage, Etc.**

The Co-Owner of each Apartment may, at his own expense, obtain insurance coverage for loss of or damage to any furniture, furnishings, personal effects, and other personal property belonging to such Co-Owner and may, at his own expense and option, obtain insurance coverage against personal liability or injury to the person or property of another while within such Co-Owner's Apartment or upon the General or Limited Common Elements. All such insurance obtained by the Co-Owner of each Apartment shall, where available, provide that the insurer waives its right of subrogation as to any claims against other Co-Owners of Apartments, the Association, the Grantor and the respective servants, agents and guests of said other Co-Owners, Association and Grantor. Except as otherwise provided in this Master Deed, risk of loss of or damage to any furniture, furnishings, personal effects, and other personal property (other than such furniture, furnishings, and personal property constituting a portion of the General or Limited Common Elements or which is insured by the Association) belonging to a Co-Owner or carried on the person of the Co-Owner of each such Apartment or carried by such Co-Owner in, to, or upon General or Limited Common Elements shall be borne by the Co-Owner of each such Apartment. All furniture, furnishings, and personal property constituting a portion of the General or Limited Common Elements and held for the joint use and benefit of all Co-Owners of all Apartments shall be covered by such insurance as shall be maintained in force and effect by Association as hereinafter provided. The Co-Owner of an Apartment shall have no personal liability for any damages caused by the Association or in connection with the use of the General or Limited Common Elements. The Co-Owner of an Apartment shall be liable for injuries or damage resulting from an accident in his own Apartment, to the same extent and degree that the Co-Owner of a house would be liable for an accident occurring within the house.

## **XXIV. Condemnation**

A. Apartments Acquired. If an Apartment is acquired by eminent domain, or if part of an Apartment is acquired by eminent domain, leaving the Apartment owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Master Deed, the award must compensate the Apartment owner for his Apartment and its General and Limited Common Element interest, whether or not any General Limited Common Element interest is acquired. Upon acquisition, unless the decree otherwise provides, that Apartment's entire General and Limited Common Element interest, votes in the Association, and common expense liability are automatically reallocated to the remaining Apartments in proportion to the respective interests and votes, and the Association shall promptly prepare, execute, and record an amendment to this Master Deed reflecting the reallocations. Any remnant of an Apartment remaining after part of an Apartment is taken under this subsection is thereafter a General and Limited Common Element.

B. Part of Apartment Acquired. Except as provided above, if part of an Apartment is acquired by eminent domain, the award must compensate the Apartment owner for the reduction of value of the Apartment and its Common Element interest. Upon acquisition, (1) that Apartment's Limited and General Common Element percentage interest, votes in the Association, and common expense liability are reduced in proportion to the reduction in size of the Apartment, and (2) the portion of Limited and General Common Element interest, votes, and common expense liability divested from the partially acquired Apartment are automatically reallocated to that Apartment and the remaining Apartments in the percentages set out in Exhibit "D."

C. Claims. The Board of Directors of the Association shall have exclusive authority to negotiate and settle on behalf of the Owners all claims arising from condemnation of any portion or all of the Apartments or General or Limited Common Elements, and the Owners hereby appoint the Board of Directors as their attorney in fact for this purpose. Any proceeds from such condemnation shall be distributed in accordance with the provisions of Article XXV Insurance, Paragraph F Insurance Proceeds.

## **XXV. Insurance**

A. Hazard Insurance. The Association shall insure all Apartments and all General and Limited Common Elements and other properties acquired by the Association pursuant to this Master Deed against all hazards and risks normally covered by a standard hazard policy, including fire and lightning, the hazards and risks covered by "extended coverage," vandalism, and malicious mischief, and by hazards or risks covered by the National Flood Insurance Act, windstorm and hail policies and all other coverage commonly required by lending institutions in the area. All Apartments and all General and Limited Common Elements and other properties acquired by the Association pursuant to this Master Deed shall be insured for the full replacement cost thereof, and where possible, the policy of insurance shall have a full replacement cost rider. Each year the Association shall update the replacement value cost rider. Such insurance shall cover only the Apartments and General and Limited Common Elements and such other properties acquired by the Association pursuant to this Master Deed. The Association

shall not be responsible for insuring the contents of the Apartment (other than standard fixtures originally installed therein by Grantor and being a part of such Apartment). The hazard insurance obtained by the Association shall provide that the maximum deductible amount shall be the lesser of (a) Ten Thousand Dollars (\$10,000.00) or (b) one percent (1%) of the policy face amount. The deductible related to an individual Apartment should be the higher of (a) One Thousand Dollars (\$1,000.00) or (b) one percent (1%) of the replacement cost of the Apartment; however, the deductible for the individual Apartment may be the higher of (a) Two Thousand Dollars (\$2,000.00) or (b) two percent (2%) of the replacement cost of the Apartment if the policy provides for a wind-loss deductible (either in the policy itself or in a separate endorsement). Any such deductible portion shall be borne by the Association as a Common Expense regardless of the number of Co-Owners directly affected by the loss.

B. Liability Insurance. The Association shall also obtain premises liability insurance on all Apartments and General and Limited Common Elements and such other properties acquired by the Association pursuant to this Master Deed and the policy shall provide for a single limit indemnity of not less than One Million Dollars (\$1,000,000.00) and cover bodily and personal injury and property damage, including, but not limited to, injury or property damage caused to third parties, Co-Owners, the Limited and General Common Elements or the Apartments or any improvements therein. Such liability insurance shall cover claims of one or more Co-Owners against one or more Co-Owners as well as claims of third parties against one or more Co-Owners, The Association shall not be required, however, to obtain public liability insurance covering accidents occurring within the limits of an Apartment or off the Regime Property. If available at a reasonable cost, the Association shall cause premises medical payment coverage to be included within the policy of liability insurance.

C. General Provisions. All insurance obtained by the Association on the Apartments and General and Limited Common Elements and other properties acquired by the Association pursuant to this Master Deed shall be written in the name of the Association as trustee for the Owners, and the cost of such insurance shall be a common expense. All such insurance shall be obtained from a company or companies licensed to do business in the State of South Carolina and currently rated "A" or better by Best's Insurance Ratings. No such insurance shall be permitted to expire except upon resolution of sixty-seven percent (67%) of the Co-Owners to that effect and all mortgagees. Duplicate originals of all policies of hazard insurance obtained on the Regime property by the Board of Directors, together with proof of payment of the premiums thereon, shall be delivered upon request to any Co-Owner or to any person holding a security interest in an Apartment.

D. Hazard Policy Provisions. All policies of hazard insurance on the Apartments and General and Limited Common Elements and other properties acquired by the Association pursuant to this Master Deed obtained by the Board of Directors shall provide as follows:

1. The indemnity payable on account of any damage to or destruction of the Apartments or General and Limited Common Elements shall be payable to the Owner and/or to any persons holding security interests in any damaged Apartments, as their interests may appear;
2. The policy shall not be canceled without thirty (30) days prior written

notice to the Board of Directors and to every holder of a security interest in any Apartment who is named in the policy or an endorsement thereto;

3. No Co-Owner shall be prohibited from insuring his own Apartment for his own benefit;

4. No insurance obtained by a Co-Owner on his own Apartment shall be brought into contribution with the insurance obtained by the Board of Directors;

5. If the Board of Directors determines that it is possible to obtain such a provision, no right to subrogation shall exist against any Owner or members of his household or his social guests;

6. If possible, the policy should provide that the insurer shall not be entitled to reconstruct in lieu of paying the indemnity in cash if the Owners determine, in the manner provided in the Master Deed, not to repair or restore the damaged property; and

7. The policy shall not be canceled on account of the actions of one or more of the Co-Owners.

If a policy of insurance containing all of the foregoing provisions cannot be obtained at a reasonable cost, one or more of such provisions may be waived by resolution of sixty-seven percent (67%) of the Co-Owners and fifty-one percent (51%) of the mortgagees of Apartments.

E. Claims. The Board of Directors of the Association shall have exclusive authority to negotiate and settle on behalf of the Owners all claims arising under policies of hazard insurance obtained on the Property by the Board of Directors except to the extent institutional mortgagees are granted such rights by Co-Owners. In the event of damage to or destruction of any portion of the Apartments or General or Limited Common Elements or other properties acquired by the Association pursuant to this Master Deed, the Board of Directors shall promptly file a claim for any indemnity due under any such policies. The Board of Directors shall simultaneously notify the holders of any security interest in the Property who may be entitled to participate in such claim of the filing of same.

F. Insurance Proceeds. If the insurance proceeds exceed Five Thousand (\$5,000.00) Dollars, the net proceeds received by the Board of Directors from any indemnity paid under a policy of hazard insurance obtained on the Property by the Board of Directors shall promptly be paid by the Board of Directors to an Insurance Trustee as trustee for the Co-Owners as hereinafter provided. The Insurance Trustee shall be a state or federally chartered bank or savings and loan association selected by the Board of Directors and having trust powers and capital and surplus of Five Million Dollars (\$5,000,000.00) or more or a Professional Property Management Company with a like amount of fidelity insurance coverage. The Insurance Trustee shall hold the insurance proceeds in trust and disburse said proceeds, after deduction of all reasonable fees and expenses of the Insurance Trustee, as follows:

1. If the Co-Owners determine, in the manner provided in the Master Deed, not to reconstruct the damaged property, the Insurance Trustee shall distribute the insurance

proceeds among all the Owners and/or mortgagees with liens upon the Apartments, as their respective interests may appear, in proportion to their respective undivided interests in the portion or portions of the property damaged or destroyed.

2. If the Board of Directors is required to provide for the reconstruction of the damaged property, the Insurance Trustee shall disburse the insurance proceeds to the person or persons employed by the Board of Directors to effect such reconstruction in accordance with written authorizations submitted to the Insurance Trustee by the architect supervising the reconstruction or by the Board of Directors. Any portion of the insurance proceeds remaining after all the costs of reconstructing the Property have been paid shall be disbursed to the Co-Owners and their mortgagees in proportion to their interests in the portion or portions of the property repaired or restored.

In making disbursements of the insurance proceeds, the Insurance Trustee shall be entitled to rely upon the written authorization submitted as provided above or upon any written certification of facts submitted to the Insurance Trustee by the Board of Directors as hereinafter provided without further inquiry. The Insurance Trustee shall in no event be responsible for obtaining insurance on the Property, paying the premiums on any such insurance, or filing claims for any payments due under any such insurance.

G. Insurance by Owners, Each Co-Owner shall be responsible for obtaining such amounts of the following types of Insurance as he deems necessary or desirable:

1. Hazard insurance on his Apartment for his own benefit;
2. Hazard insurance on the contents of his Apartment and on improvements made to his Apartment; and
3. Liability insurance covering accidents occurring within the boundaries of his Apartment.

Any Owner who obtains hazard insurance on his Apartment for his own benefit shall within thirty (30) days of obtaining the same deliver to the Board of Directors a copy of the policy of insurance, should the Board request.

## **XXVI. Apportionment of Tax or Special Assessment if Levied and Assessed Against the Regime as a Whole**

In the event that any taxing authority having jurisdiction over the Regime shall levy or assess any tax or special assessment against the Regime, as a whole, or against other properties acquired by the Association pursuant to this Master Deed as opposed to levying and assessing such tax or special assessment against each Apartment and its appurtenant undivided interest in General and Limited Common Elements as now provided by law, then such tax or special assessment so levied shall be paid as a common expense by the Association, and any taxes or special assessments which are to be levied shall be included wherever possible in the estimated annual

budget of Association, or shall be separately levied and collected as an assessment by the Association, against all of the Co-Owners of Apartments and said Apartments if not included in said annual budget. The amount of any tax or special assessment paid or to be paid by the Association in the event that such tax or special assessment is levied against the Regime, as a whole, or against other properties acquired by the Association pursuant to this Master Deed instead of against each separate Apartment and its appurtenant undivided interest in General and Limited Common Elements shall be apportioned among the Co-Owners of all Apartments so that the amount of such tax or special assessment so paid or to be paid by the Association and attributable to and to be paid by the Co-Owner or Co-Owners of each Apartment shall be that portion of such total tax or special assessment which bears the same ratio to said total tax or special assessment as the undivided interest in General and Limited Common Elements appurtenant to each Apartment bears to the total undivided interest in General and Limited Common Elements appurtenant to all Apartments. In the event that any tax or special assessment shall be levied against the Regime in its entirety, or against other properties acquired by the Association pursuant to this Master Deed without apportionment by the taxing authority of the Regime and appurtenant undivided interests in General and Limited Common Elements, then the assessment by the Association, which shall include the proportionate share of such tax or special assessment attributable to each Apartment and its appurtenant undivided interest in General and Limited Common Elements, shall separately specify and identify the amount of such assessment attributable to such tax or special assessments and the amount of such tax or special assessment so designated shall be a lien prior to all mortgages and encumbrances upon any Apartment and its appurtenant undivided interest in General and Limited Common Elements, regardless of the date of the attachment and/or recording of such mortgage or encumbrance, to the same extent as though such tax or special assessment had been separately levied by the taxing authority upon each Apartment and its appurtenant undivided interest in General and Limited Common Elements.

## **XXVII. Amendment of Master Deed**

Neither this Master Deed nor any of its provisions shall be revoked or amended without the acquiescence of the Co-Owners owning at least two-thirds of the Apartments and at least two-thirds of the total interest in the General and Limited Common Elements and the record holders of encumbrances affecting at least two-thirds of the Apartments and at least two-thirds of the total interest in the General and Limited Common Elements except that the system of administration as set forth in the Articles of Incorporation and By-Laws may be amended and modified from time to time in accordance with the provisions of the South Carolina Horizontal Property Act and other applicable provisions of the Code of Laws of South Carolina. Any such amendment or revocation shall be executed and subscribed with the same formalities required in South Carolina for the making of deeds, and recorded in the public records of Orangeburg County, South Carolina.

Without limiting the foregoing, the Grantor, its successors or assigns, "acting alone" shall have the power, but not the obligation, at any time (and from time to time), to amend the Master Deed to correct typographical or scrivener's errors, and to cause the Master Deed to conform to the requirements of the South Carolina Horizontal Property Act, the Federal National Mortgage Association, and/or the Federal Home Loan Mortgage Corporation, as set forth, respectively, in "FNMA Conventional Home Mortgage Selling Contract Supplement and "Seller's Guide to

Conventional Mortgages,” as the same may be amended from time to time or to replace easements with Common Areas.

### **XXVIII. Remedies In Event of Default**

The Co-Owner or Co-Owners of each Apartment shall be governed by and shall comply with the provisions of this Master Deed, the Articles and the By-Laws of the Association, and its rules and regulations as any of the same are now constituted or as they may be adopted and/or amended from time to time. A default by a Co-Owner or Co-Owners of any Apartment shall entitle the Association or the Co-Owner or Co-Owners of other Apartment or Apartments to the following relief:

A. Failure to comply with any of the terms of this Master Deed or other restrictions and regulations contained in the Articles of Incorporation, By-Laws of the Association, its rules and regulations, or decisions made pursuant thereto shall be grounds for relief which may include, without intending to limit the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien or any combination thereof. Relief may be sought by the Association, or if appropriate, by an aggrieved Co-Owner of an Apartment or both;

B. The Co-Owner or Co-Owners of each Apartment shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by his act, neglect, or carelessness, or by that of any member of his family, or his or their guests, employees, agents, or lessees, but only to the extent that such expense is not met by 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 an Apartment or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation;

C. In any proceeding arising because of an alleged default by the Co-Owner of any Apartment, the Association, if successful, shall be entitled to recover the costs of the proceedings and such reasonable attorney's fees as may be determined by the Court, and the Co-Owner of any Apartment shall be entitled to such attorney's fees and costs if successful in such action;

D. The failure of the Association or of the Co-Owner of an Apartment to enforce any right, provision, covenant, or condition which may be granted by this Master Deed or other above mentioned documents shall not constitute a waiver of the right of the Association or of the Co-Owner of an Apartment to enforce such right, provision, covenant, or condition in the future;

E. All rights, remedies, and privileges granted to Association or the Co-Owner or Co-Owners of an Apartment pursuant to any terms, provisions, covenants or conditions of this Master Deed or other above mentioned documents, shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies, or privileges as may be available to such party at law or in equity; and

F. The failure of the Grantor or any lender to enforce any right, privilege, covenant, or condition which may be granted to them, or either of them, by this Master Deed or other

above mentioned document shall not constitute waiver of either of said parties to thereafter enforce such right, provision, covenant, or condition in the future.

**XXIX. Use or Acquisition of Interest in the Regime to Render User of Acquirer Subject to Provisions of Master Deed Rules and Regulations, By-Laws and Binding Arbitration.**

All present or future Co-Owners, tenants, or any other person who might use the facilities of the Regime in any manner are subject to the provisions of this Master Deed and all documents appurtenant thereto and incorporated herewith. The acquisition or rental of any Apartment, or the mere act of occupancy of any Apartment, shall signify that the provisions of this Master Deed, By-Laws, and Rules and Regulations of the Association are accepted and ratified in all respects. **Such Owner or Occupant agrees that any dispute arising out of use, ownership or occupancy of an Apartment or the Common Elements in the Regime and any complaint against the Grantor shall be settled by binding arbitration pursuant to the provisions of Articles IV and XXXIV hereof.**

**XXX. Council of Co-Owners Association, Control of Board of Directors.**

Subject to the remainder of this paragraph, Grantor may appoint and remove members of the Board of Directors for a period not exceeding five (5) years from the date of recording of the Master Deed. This period of Grantor control terminates no later than sixty (60) days after all Apartments in all three Buildings have been completed and after conveyance of eighty-five percent (85%) of the Apartments in all three Buildings to Apartment Owners other than Grantor. Grantor may voluntarily surrender the right to appoint and remove members of the Board before termination of that time period. After termination of Grantor's control, any or all of the Board of Directors may be removed or replaced by written petition signed by the Co-Owners having more than fifty (50%) percent of the votes of the Association. The petition shall state the name(s) of the Board of Directors being removed and the name(s), address(es) and telephone number(s) of the replacement Director(s).

Whenever Grantor shall be entitled to designate and select any person or persons to serve on any Board of Directors of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles and/or By-Laws of the Association. Grantor shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or other persons to act and serve in the place of any director or directors so removed for the remainder of the unexpired term of any director or directors so removed. Any director designated and selected by Grantor need not be an Owner or a resident in the Regime. Anything to the contrary notwithstanding, the power in the Grantor to designate directors shall terminate five (5) years from the date of recording of the Master Deed.

Any representative of Grantor serving on the Board of Directors of the Association shall not be required to disqualify himself upon any vote upon any management contract or other matter between Grantor and Association where the said Grantor may have a pecuniary or other interest. Similarly, Grantor as a member of the Association, shall not be required to disqualify itself in

any vote which may come before the membership of the Association upon any management contract or other matter between Grantor and Association where Grantor may have a pecuniary or other interest.

Transfer of Rights. All rights, duties and obligations of Grantor herein may be experienced or performed by Grantor, its successors and assigns.

### **XXXI. Annual Reports to be Provided to Lender**

So long as any institutional lender is the Co-Owner or holder of a mortgage encumbering an Apartment in the Regime, the Association shall furnish said lender upon request with at least one copy of the annual financial statement and report of the Association audited satisfactorily, setting forth such details as the said lender may reasonably require, including a detailed statement of annual carrying charges or income collected and operating expense, with such financial statement and report to be furnished within ninety (90) days following the end of each fiscal year.

Such statement shall be prepared in accordance with generally accepted accounting principles and shall contain the certificate of the accountant or accounting firm to that effect. Further, the accountant or accounting firm shall include as a special item(s) any information to which a reasonable man would attach importance in the management of his own financial affairs, should said information not appear readily from the face of the statement. Unless the lender requests that the annual financial statement and report of the Association to be satisfactorily audited, the Association's accountants shall prepare un-audited annual financial statements based on the information provided by management, with such review and certification by its independent Certified Public Accountant, as the Board of Directors of the Association shall require.

The Association shall make available to Apartment Owners, lenders, lienholders, insurers, or guarantors of any first mortgage current copies of the Master Deed, By-Laws, other rules and regulations concerning the project and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

Any holder, insurer, or guarantor of a first mortgage shall be entitled, upon written request, to a financial statement of the immediately preceding fiscal year, free of charge to the party so requesting.

Any financial statement requested pursuant to this section shall be furnished within a reasonable time following such request.

### **XXXII. Severability**

In the event that any of the terms, provisions, or covenants of this Master Deed are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify, or impair in any manner whatsoever any of the other terms, provisions, or covenants hereof or the remaining portions of any terms, provisions, or covenants held to be

partially invalid or unenforceable.

### **XXXIII. Master Deed Binding Upon Grantor, its Successors and Assigns, and Subsequent Co-Owners**

The restrictions and burdens imposed by the covenants of this Master Deed are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Apartment and its appurtenant undivided interest in General and Limited Common Elements. This Master Deed and all easements reserved herein shall be binding upon Grantor, its successors and assigns, and upon all parties who may subsequently become Co-Owners of Apartments in the Regime and their respective heirs, legal representatives, and successors and assigns.

### **XXXIV. Alternative Dispute Resolution**

Any claim or cause of action not covered by Article IV's Arbitration Agreement shall be covered by the provisions of this Article.

#### **A. Definitions Applicable to this Article XXXIV.**

1. Bound Party. Includes: Grantor; all Co-Owners; the Association and its officers, directors, and committee members, including any corporation or other entity formed to serve as the Association; all persons and entities subject to this Master Deed; any person or entity not otherwise subject to this Master Deed who agrees to submit to this Article; any person or entity that now has or hereafter acquires any interest in an Apartment; the Declarant; any person or entity that has previously or hereafter supplied (directly or indirectly) labor, materials, design services, equipment or other things of value in connection with the construction or maintenance of any Apartment or Common Element in the Regime; any heir, successor, delegatee or assignee of any person or entity listed in this paragraph,

2. Claim. Refers to any claim, grievance or dispute arising out of or relating to:

(i) the interpretation, application, or enforcement of this Master Deed, including all documents attached hereto or incorporated by reference herein; (ii) the rights, obligations, and duties of any Bound Party under the Master Deed, including all documents attached thereto or incorporated by reference herein; or (iii) the design or construction of improvements within the Regime or other properties acquired by the Association pursuant to this Master Deed, including but not limited to, disputes with the Grantor, the Contractor, the Architect, or any of their successors or assigns, agents, employees, or subcontractors and the Co-Owners of the Apartments and/or the Association regarding the sale, design or construction of Ballards Pointe II or the purchased Apartments, the Limited Warranty, the Limitation of Remedies, or the Disclaimer and Exclusion of All Other Warranties, or any provision of any of them, except that the following shall not be considered a Claim unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section B of this Article:

(i) any suit by the Association to collect assessments or other amounts due from any

Co-Owner of an Apartment; (ii) any suit between Apartment Co-Owners, which does not include Grantor or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Master Deed; and (iii) any suit in which any indispensable party is not a Bound Party.

3. Claimant. A Bound Party asserting a Claim,
4. Respondent. A Bound Party against whom a Claim is made.

## **B. ARBITRATION.**

**1. CLAIMANT HEREBY SUBMITS TO IN PERSONAM JURISDICTION OF THE STATE OF SOUTH CAROLINA AND AGREES THAT ITS CLAIM SHALL BE DETERMINED BY AN ARBITRATOR AS PROVIDED HEREIN IN THE STATE OF SOUTH CAROLINA AND HEREBY WAIVES ALL OBJECTIONS TO VENUE. ALL MATTERS ARISING HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH THE LAW AND PRACTICE OF SOUTH CAROLINA AND CLAIMANT AGREES THAT ANY SERVICE OF PROCESS MAY BE ACCOMPLISHED BY CERTIFIED MAIL RETURN RECEIPT REQUESTED AT THE CLAIMANT'S LAST KNOWN HOME ADDRESS OR ANY OTHER METHOD ALLOWED IN THE STATE OF SOUTH CAROLINA OR CLAIMANT'S HOME STATE.**

**2. EACH AND EVERY CLAIM AND CAUSE OF ACTION ARISING OUT OF OR RELATED IN ANY WAY TO THE DESIGN, CONSTRUCTION, SALE, MAINTENANCE, HABITABILITY OF, OR CONDITION OF ANY APARTMENT OR ANY COMMON AREA OR OTHER PROPERTIES ACQUIRED BY THE ASSOCIATION PURSUANT TO THIS MASTER DEED THAT IS ASSERTED BY CLAIMANT SHALL BE RESOLVED BY FINAL AND BINDING ARBITRATION BEFORE A PANEL OF THREE (3) ARBITRATORS PURSUANT TO THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION, AS MODIFIED HEREIN. THE ARBITRATION HEARING SHALL BE CONDUCTED IN ORANGEBURG COUNTY, SOUTH CAROLINA. ALL CLAIMS AND CAUSES OF ACTION OF ALL PERSONS AND ENTITIES ENTITLED TO ENFORCE (OR BOUND BY) THIS ARBITRATION PROVISION SHALL BE ASSERTED IN A SINGLE ARBITRATION PROCEEDING, AND MULTIPLE PARTIES MAY BE JOINED IN THE ARBITRATION PROCEEDING SO THAT ALL DISPUTES MAY BE RESOLVED IN ONE FORUM. NO CLAIM OR CAUSE OF ACTION MAY BE ASSERTED THAT WOULD BE BARRED BY THE STATUTE OF LIMITATIONS OR THE STATUTE OF REPOSE.**

**3. IN ANY ARBITRATION PROCEEDING, REQUEST FOR PRODUCTION OF DOCUMENTS MAY BE SERVED BY EACH PARTY, AND NON-PRIVILEGED, RESPONSIVE DOCUMENTS THAT WOULD BE DISCOVERABLE UNDER RULE 34 OF THE FEDERAL RULES OF CIVIL PROCEDURE (WERE THE CLAIMS AND CAUSES OF ACTION BEING ASSERTED IN UNITED STATES DISTRICT COURT) SHALL BE PRODUCED. DEPOSITIONS MAY BE TAKEN AS ALLOWED BY THE ARBITRATION PANEL, WHICH PANEL SHALL REASONABLY LIMIT THE**

**NUMBER OF DEPOSITIONS IN ORDER TO AVOID UNNECESSARY OR EXCESSIVE EXPENSE, DELAY OR HARASSMENT.**

**4. THE ARBITRATION PANEL SHALL ISSUE A WRITTEN DECISION IDENTIFYING WITH SPECIFICITY EACH CLAIM OR CAUSE OF ACTION ASSERTED OR RESOLVED IN ANY ARBITRATION, AND THE LEGAL PRINCIPLES OF *RES JUDICATA* AND COLLATERAL ESTOPPEL SHALL BE APPLICABLE TO ANY ARBITRATION AWARD. ANY ARBITRATION AWARD MAY BE CONFIRMED AND ENFORCED IN ANY COURT OF JURISDICTION.**

**5. THIS ARBITRATION PROVISION IS EXPRESSLY INTENDED TO BENEFIT AND BE ENFORCEABLE BY EACH BOUND PARTY WHETHER OR NOT SUCH PERSON OR ENTITY IS BOUND BY THIS ARBITRATION PROVISION. ANY ATTEMPT BY ANY SUCH PERSON OR ENTITY TO ENFORCE THIS ARBITRATION PROVISION SHALL CONSTITUTE CONCLUSIVE CONSENT TO BE BOUND HEREBY.**

**C. Association Claims**

In addition to compliance with the foregoing arbitration procedures outlined in this Article, the Board shall not be authorized or obligated to, and the Association shall not initiate any judicial or administrative proceeding unless first approved by a seventy-five percent (75%) affirmative vote of the entire Association membership, except that no such approval shall be required for actions or proceedings:

(1) initiated to enforce the provisions of this Master Deed against a Co-Owner or occupant of any Apartment or Common Element (excluding the provisions of the Limited Warranty contained in Article IV herein) including all documents attached hereto or incorporated by reference herein, including, but not limited to collection of assessments and foreclosure of liens;

(2) initiated to challenge property taxation or condemnation proceedings;

(3) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This Section C shall not be amended unless such amendment is approved by one hundred percent (100%) of votes of the Association membership and the Grantor so long as it owns any Apartment in the Regime or any interest in the Real Property.

**D. WAIVER OF JURY TRIAL**

BY ACCEPTANCE OF A DEED TO ANY APARTMENT OR OTHER PROPERTY HEREUNDER, CO-OWNER(S) HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY HEREBY AGREE, THAT:

(I) NEITHER CO-OWNER NOR ANY ASSIGNEE, SUCCESSOR, HEIR, OR LEGAL REPRESENTATIVE OF CO-OWNER OR GRANTOR, SHALL SEEK A JURY

TRIAL IN ANY LAWSUIT, PROCEEDING, OR ANY OTHER LITIGATION PROCEDURE ARISING FROM OR BASED UPON THE MATTERS SET FORTH HEREUNDER, OR TO THE DEALINGS OR RELATIONSHIP BETWEEN OR AMONG THE GRANTOR, ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, ARCHITECTS, ENGINEERS AND THE CO-OWNERS OR THE ASSOCIATION;

(II) NEITHER CO-OWNER NOR GRANTOR WILL SEEK TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN OR CANNOT BE WAIVED;

(III) NEITHER OWNER NOR GRANTOR HAS IN ANY WAY AGREED WITH OR REPRESENTED TO ANY OTHER PARTY THAT THE PROVISIONS OF THIS SECTION WILL NOT BE FULLY ENFORCED IN ALL INSTANCES; AND

(IV) THE PROVISIONS CONTAINED IN THIS ARTICLE ARE A MATERIAL INDUCEMENT FOR GRANTOR TO MAKE THE DECLARATIONS SET FORTH HEREIN.

#### **XXXV. Miscellaneous**

- (a) Attached hereto as Exhibit 'A', Legal Description;
- (b) Attached hereto as Exhibit "B", Plat;
- (c) Attached hereto as Exhibit "C", Plot Plans (consisting of Site Plans, Building Plans, Elevations and Floor Plans of Buildings);
- (d) Attached hereto as Exhibit "D", Table of Values and Percentage Interests;
- (e) Attached hereto as Exhibit "E" and made a part hereof by reference is the Architect's Certificate required by S.C. Code Ann. § 27-31-110(1976);
- (f) Attached hereto as Exhibit "F", Articles of Incorporation of Ballards Pointe II Association, Inc.
- (g) Attached hereto as Exhibit "G" and made a part hereof by reference is a copy of the By-Laws of the Association, as required by S.C. Code Ann. § 27-31-1 50 (1976).



EXHIBIT "A"

All those certain pieces, parcels or tracts of land, situate, lying and being near the Town of Santee, County of Orangeburg, State of South Carolina and being located off of Bass Drive (U.S. Route 15 and 301) and being described as: Parcel G containing sixty-eight hundredths (0.68) of an acre; Parcel H containing one and nine hundredths (1.09) of an acre and Parcel J containing six tenths (0.60) of an acre as set forth and shown on that plat entitled "A Plat of 8.04 Acres State of South Carolina County of Orangeburg Vance Township Surveyed for Ballards Pointe II, LLC" made by Edisto Engineers & Surveyors, Inc., Richard L. Stroman, SCRLS No. 5496 dated September 16, 2004 and recorded in Plat Book 346, Page 7 in the Register of Deeds Office for Orangeburg County, South Carolina.

Said property having such size, shape, courses, distances, boundaries and measurements as is more fully set forth on the aforesaid plat which is incorporated herein by reference pursuant to Section 30-5-250, Code of Laws of S.C.

Being the same property conveyed to Ballards Pointe II, LLC by deed of Santee Shores, Inc. dated September 28, 2004 and recorded September 29, 2004 in Book 01060, Page 0271 thru 0273 in the Office of the Register of Deeds for Orangeburg County.

Portion of TMS #0324-10-01-008.000

ALSO

All that certain piece, parcel or tract of land, situate, lying and being near the Town of Santee, County of Orangeburg, State of South Carolina and being located off of Bass Drive (U.S. Route 15 and 301) and being described as Parcel F containing one and forty-five hundredths (1.45) of an acre, as set forth and shown on that plat entitled "A Plat of 8.04 Acres State of South Carolina County of Orangeburg Vance Township Surveyed for Ballards Pointe II, LLC" made by Edisto Engineers & Surveyors, Inc., Richard L. Stroman, SCRLS No. 5496 dated September 16, 2004 and recorded in Plat Book 346, Page 7 in the Register of Deeds Office for Orangeburg County, South Carolina.

Said property having such size, shape, courses, distances, boundaries and measurements as is more fully set forth on the aforesaid plat which is incorporated herein by reference pursuant to Section 30-5-250, Code of Laws of S.C.

Being the same property conveyed to Ballards Pointe II, LLC by deed of Santee Shores, Inc. dated June 9, 2005 and recorded June 14, 2005 in Book 01100, Page 0174 in the Office of the Register of Deeds for Orangeburg County.

Portion of TMS #0324-10-01-008.000

EXHIBIT "B"  
(Plat)

EXHIBIT "C"  
(Site Plan)

EXHIBIT "D"  
TABLES AND PERCENTAGE INTERESTS

BLDG.	UNIT	TYPE	NET AREA SQ. FOOT	PERCENTAGE
F	161, 261, 361	3BRR	1,550	
F	162, 262, 362	2BRR	1,227	
F	163, 263, 363	2BRL	1,227	
F	164, 264, 364	2BRL	1,227	
F	165, 265, 365	3BRL	1,550	
G	161, 261, 361	3BRR	1,550	
G	162, 262, 362	2BRR	1,227	
G	163, 263, 363	2BRL	1,227	
G	164, 264, 364	3BRL	1,550	
H	161, 261, 361	3BRR	1,550	
H	162, 262, 362	2BRR	1,227	
H	163, 263, 363	2BRL	1,227	
H	164, 264, 364	2BRL	1,227	
H	165, 265, 365	3BRL	1,550	

All Apartments shall have an assigned value of \$200,000.00

EXHIBIT "E"  
ARCHITECT'S CERTIFICATE

EXHIBIT "F"  
(Articles of Incorporation of Ballards Pointe II Association, Inc.)

EXHIBIT "G"  
BY-LAWS OF BALLARDS POINTE II ASSOCIATION, INC.

1. IDENTITY.

These are the By-Laws of Ballards Pointe II Association, Inc., a non-profit corporation existing under the laws of the State of South Carolina (the "Association"), which has been organized for the purpose of administering Ballards Pointe II Horizontal Property Regime, a horizontal property regime established pursuant to S.C. Cod Ann. §27-31-10 et seq. (1976), as amended (the "Regime"). The Regime is identified by the name Ballards Pointe II and is located upon real property in Orangeburg County, South Carolina, described on Exhibit "A" attached hereto and incorporated herein by reference.

(a) The provisions of these By-Laws are applicable to the Regime, and the terms and provisions hereof are expressly subject to the effect of the terms, provisions, conditions, and authorizations contained in the Articles of Incorporation and which may be contained in the formal Master Deed which will be recorded in the public records of Orangeburg County, South Carolina, at the time said property and the improvements now or thereafter situate thereon are submitted to the plan of condominium ownership, the terms and provisions of said Articles and Master Deed to be controlling whenever the same may be in conflict herewith.

(b) All present or future Co-Owners, tenants, future tenants, or their employees, or any other person WHO might use the Regime or any of the facilities thereof in any manner are subject to the regulations set forth in these By-Laws and in said Articles and Master Deed.

(c) The office of the Association shall be 1687 Chestnut Street, Orangeburg, South Carolina, 29116, or such other place as the Board of Directors of the Association may designate from time to time.

(d) The fiscal year of the Association shall be the calendar year;

(e) The seal of the Association shall bear the name of the Association and the words "South Carolina".

2. MEMBERSHIP, VOTING, QUORUM, PROXIES

(a) The qualification of members, the manner of their admission to membership and termination of such membership, and voting by members, shall be as set forth in the Articles of Incorporation of the Association, the provisions of which Articles are incorporated herein by reference.

(b) The quorum at members' meetings shall consist of persons entitled to cast a majority (51% of the value of the property) of the votes of the entire membership. The joinder of a member in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such person for the purpose of determining quorum.

(c) The vote of the Co-Owners of an Apartment owned by more than one person or by a corporation or other entity shall be cast by the person named in a certificate signed by all of the Co-Owners of the Apartment and filed with the Secretary of the Association. Such certificate shall be valid until revoked by subsequent certificate. If such certificate is not on file, the vote of such Co-Owners shall not be considered in determining the requirement for a quorum, nor for any other purpose.

(d) Votes may be cast in person or by proxy. Proxies must be filed with the secretary before the appointed time of the meeting for which their use is sought.

(e) Approval or disapproval of an Apartment co-owner upon any matters, whether or not the subject of an Association meeting, shall be by the same person who casts the vote of such co-owner in an Association meeting.

(f) Except where otherwise required under the provisions of the Articles of Incorporation of the Association, these By-Laws, the Master Deed, or where the same may otherwise be required by law, the affirmative vote of the Co-Owners of a majority of the Apartments represented at any duly called members' meeting at which a quorum is present shall be binding upon the members.

### 3. ANNUAL AND SPECIAL MEETINGS OF MEMBERSHIP

(a) The annual members' meeting shall be held at the office of the Association or such other place as may be designated by the Board of Directors, at 12:00 noon, Eastern Daylight Time, on the third Saturday in August, of each year, or at such other date and time as set by the Board of Directors after proper notice for the purpose of electing directors and of transacting any other business authorized to be transacted by the members; provided, however, that if that day is a legal holiday, the meeting shall be held at the same hour on the next succeeding Saturday. The first annual meeting shall be held in 2006.

(b) Special members' meeting shall be held whenever called by the President or Vice President or by a majority of the Board of Directors and must be called by such officers upon receipt of a written request from the members of the Association owning a majority of the Apartments.

(c) Notice of all members' meetings, regular or special, shall be given by the President, Vice President, or Secretary of the Association, or other officers of the Association in the absence of said officers, to each member, unless waived in writing. Such notice is to be written or printed and shall include a description of any matter as required by §33-31-705, of the Code of Laws of South Carolina (1976) as amended, and shall state the time and place of the member's meeting and shall be given to each member not less than ten (10) days nor more than sixty (60) days prior to the date set for such meeting. Notice shall be mailed first class or registered mail or presented personally to each member within said time. If presented personally, receipt of such notice shall be signed by the member, indicating the date on which such notice was received by him. If mailed, such notice shall be deemed properly given five (5) days after being deposited in the United States Mail, addressed to the member at his address as it appears in

the records of the Association, the postage thereon prepaid or where otherwise provided by Section 33-31-141 of the Code of Laws of South Carolina (1976), as amended from time to time. Proof of such mailing shall be given by Affidavit of the person giving the notice. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. If any members' meeting cannot be organized because a quorum has not been attended, or because the greater percentage of the membership required to constitute a quorum for particular purposes has not attended, wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation, these By-Laws, or the Master Deed, the members who are present, either in person or by proxy, may adjourn the meeting, from time to time until a quorum, or the required percentage of attendance greater than a quorum, is present.

(d) At meetings of the membership, the President shall preside or, in the absence of him, the membership present shall select a chairman.

(e) The order of business at annual members meeting, and, as far as practical, at any other members' meeting, shall be:

- i) Calling of the roll and certifying proxies;
- ii) Proof of notice of meeting or waiver of notice;
- iii) Reading of Minutes;
- iv) Reports of officers, president and chief financial officer;
- v) Reports of committees;
- vi) Appointment by Chairman of inspectors of election
- vii) Election of directors;
- viii) Unfinished business;
- ix) New business; and
- x) Adjournment.

#### 4. BOARD OF DIRECTORS.

(a) The initial Board of Directors of the Association shall be comprised of three (3) directors until the first members' meeting at which time five (5) directors will be elected. Thereafter, the Board shall consist of five (5) directors. Subject to the remainder of this paragraph, the Grantor may appoint and remove members of the Board for a period not exceeding five (5) years from the date of the recording of the Master Deed. The period of Grantor control terminates no later than sixty (60) days after all Apartments in all three Buildings have been completed and after onveyance of eighty five percent (85%) of the Apartments in all three Buildings to Apartment Owners other than Grantor. Grantor may voluntarily surrender the right to appoint and remove members of the Board before termination of that time period

Whenever Grantor shall be entitled to designate and select any person or persons to serve on any Board of Director of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or By-Laws of the Association and Grantor shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or other persons to act and serve in the place of any director or directors so removed for the

remainder of the unexpired term of any director or directors so removed. Any director designated and selected by Grantor need not be a resident in the Regime. Anything to the contrary notwithstanding, the power in Grantor to designate directors shall terminate five years from the date of the recording of the Master Deed.

Any representative of Grantor serving on the Board shall not be required to disqualify himself upon any vote upon any management contract or other matter between Grantor and Association where the said Grantor may have a pecuniary or other interest. Similarly, Grantor as a member of the Association, shall not be required to disqualify himself in any vote which may come before the membership of the Association upon any management contract or other matter between Grantor and Association where Grantor may have a pecuniary or other interest. This provision does not limit or restrict the requirement of Section 33-31-831, Code of Laws of South Carolina (1976), as amended

An individual Co-owner other than Grantor engaged by the Regime in a commercial operation or otherwise earning monies from servicing the premises, i.e. rental company, contractor hardware store, painter, or property manager, may not serve on the Board as long as the individual is engaged in a business performing a service in connection with the Regime.

(b) Election of directors shall be conducted in the following manner:

i) Grantor, as sponsor of the Regime, shall, at the beginning of the election of the Board designate and select that number of the members of the Board which it should be entitled to designate and select in accordance with the provisions of these By-Laws, and upon such designation and selection by Grantor by written instrument presented to the meeting at which such election is held, said individuals so designated and selected by Grantor shall be deemed and considered for all purposes directors of the Association, and shall thenceforth perform the duties of such directors until their successors shall have been selected or elected in accordance with the provisions of these By-Laws;

ii) All members of the Board whom Grantor shall not be entitled to designate and select under the terms and provisions of these By-Laws shall be elected by a plurality of the votes cast at the annual meeting of the members of the Association immediately following the designation and selection of the members of the Board whom Grantor shall be entitled to designate and select;

iii) Vacancies in the Board may be filled until the date of the next annual meeting by the remaining directors, except that should any vacancy in the Board be created in any directorship previously filled by a person designated and selected by Grantor such vacancy shall be filled by Grantor designating and selecting, by written instrument delivered to any officer of the Association, the successor director to fill the vacated directorship for the unexpired term thereof;

iv) At the first annual meeting of the members held after the Property identified herein has been submitted to the plan of condominium ownership and the Master Deed has been recorded in the public records of Orangeburg County, South Carolina, the term of office of the three (3) directors receiving the highest plurality of votes shall be established as two (2) years,

and the terms of office of the other two (2) directors shall be established as one (1) year. Thereafter, as many directors of the Association shall be elected at the annual meeting as there are regular terms of office of directors expiring at such time, and the term of the directors so elected at the annual meeting of the members each year shall be for two (2) years expiring at the second annual meeting following their election, and thereafter until their successors are duly elected and qualified or until removed in the manner elsewhere provided or as may be provided by law for the removal of directors of South Carolina Nonprofit Corporation Act. If, at the time of the first annual meeting, Grantor still has the right to appoint directors, then Grantor shall have the right to designate and select two (2) directors whose term of office shall be established at two (2) years, and one (1) director whose term of office shall be established at one (1) year;

v) In the election of directors, there shall be appurtenant to each Apartment as many votes for directors as there are directors to be elected provided, however, that no member or co-owner of any Apartment may cast more than one vote for any person nominated as director, it being the intent hereof that voting for directors shall be non-cumulative;

vi) In the event that Grantor, in accordance with the privilege granted unto it, selects any person or persons to serve on any Board, the said Grantor shall have the absolute right at any time, in its sole discretion, to replace any such person or persons with another person or persons to serve on said Board. Replacement of any person or persons designated by Grantor to serve on any Board shall be made by written instrument delivered to the President or Secretary of the Association or to the presiding officer of the Board, which instrument shall specify the name or names of the person or persons designated as successor or successors to the person or persons so removed from said Board. The removal of any director and designation of his successor shall be effective immediately upon delivery of such written instrument by Grantor to such officer of the Association and the director;

(c) The organizational meeting of the newly elected Board shall be held within ten (10) days of its election, at such time and at such place as shall be fixed by the directors at the meeting at which they were elected, and no further notice of the organization meeting shall be necessary provided a quorum shall be present;

(d) Regular meetings of the Board may be held without notice at such time and place as shall be determined from time to time by a majority of the directors;

(e) Special meetings of the directors may be called by the President and must be called by the Secretary at the written request of one-third (1/3) of the votes of the Board or upon written petition signed by the Co-owners of one-third (1/3) of the Apartments. Not less than two (2) days notice of a meeting shall be given to each director personally, or by mail, telephone, or telegram, which notice shall state the time, place, and purpose of the meeting;

(f) 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;

(g) A quorum at a directors' meeting shall consist of the directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board,

except as specifically otherwise provided in the Articles of Incorporation, these By-Laws, or the Master Deed. If any director's meeting cannot be organized because a quorum has not attended or because the greater percentage of the directors required to constitute a quorum for particular purposes has not attended, wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation, these By-Laws, or the Master Deed, the directors who are present may adjourn the meeting, from time to time, until a quorum, or the required percentage of attendance greater than a quorum, is present. At any adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a director in the action of a meeting by signing and concurring the minutes thereof shall constitute the presence of such director for the purpose of determining a quorum;

(h) The presiding officer of directors' meetings shall be the President. In the absence of the President, the directors present shall designate one of their number to preside;

(i) Directors' fees, if any, shall be determined by the members of the Association;

j) The Board shall manage and direct the affairs of the Association and subject to any restrictions imposed by law, by the Master Deed, or these By-Laws, may exercise all of the powers of the Association, subject only to approval by the members when such is specifically required of these By-Laws. The Board shall exercise such duties and responsibilities as shall be incumbent upon it by law, the Master Deed, or these By-Laws, as it may deem necessary or appropriate in the exercise of its powers and shall include, without limiting the generality of the foregoing, the following:

(i) To make, levy, and collect assessments against members and members' Apartments to defray the cost of the common areas and facilities of the Regime, and to use the proceeds of said assessments in the exercise of the powers and duties granted unto the Association;

(ii) To carry out the maintenance, care, upkeep, repair, replacements, operation, surveillance, and the management of the General and Limited Common Elements, services, and facilities of the Regime wherever the same is required to be done and accomplished by the Association for the benefit of its members;

(iii) To carry out the reconstruction of improvements after casualty and the further improvement of the property, real and personal;

(iv) To make and amend regulations, after Notice and Consent, governing the use of the property, real and personal, in the Regime and to establish fines for the violation of same, so long as such regulations or amendments thereto and fines do not conflict with the restrictions and limitations which may be placed upon the use of such property under the terms of the Articles of Incorporation and Master Deed;

(v) To acquire, operate, lease, manage, sell, and otherwise trade and deal with property, real and personal, including Apartments in the Regime, as may be necessary or convenient in the operation and management of the Regime, and in accomplishing the

purposes set forth in the Master Deed; provided, however, that any agreement for professional management of the Regime, or any other contract providing for services of Grantor, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice; provided, further, that any contract entered into prior to passage of control of the Association from Grantor may be terminated by the Association without cause and without penalty at any time after the transfer of control upon not more than ninety (90) days notice to the other party thereto unless ratified by a majority of the Board after passage of control;

(vi) By competitive bidding to contract for the management of the Common Areas and facilities in the Regime and to designate to such contractor all of the powers and duties of the Association, except those which may be required by the Master Deed to have approval of the Board or membership of the Association;

(vii) To enforce by legal means the provisions of the Articles of Incorporation and By-Laws of the Association, the Master Deed, and the rules and regulations and fines hereinafter promulgated governing use of the property in the Regime;

(viii) To pay all taxes and assessments which are liens against any property of the Regime, other than Apartments and the appurtenances thereto, and to assess the same against the members and their respective Apartments subject to such liens;

(ix) To carry insurance for the protection of the members and the Association against casualty and liability;

(x) To pay all costs of power, water, sewer, and other utility services rendered to the condominium or to other properties acquired by the Association pursuant to the Master Deed and not billed to the owners of the separate Apartments; and

(xi) To employ personnel for reasonable compensation to perform the services required for proper administration of the purposes of the Association, as well as to dismiss said personnel; and

(xii) To assign, reassign, or designate parking spaces for exclusive use to such Co-Owners as it shall decide and to revoke such assignment or designation from time to time.

(k) The first Board shall be comprised of three (3) persons designated to act and serve as directors in the Articles of Incorporation. Said persons shall serve until their successors are elected or appointed at the first meeting of the members of the Association called after the property identified herein has been submitted to the plan of condominium ownership and the Master Deed has been recorded in the public records of Orangeburg County, South Carolina. Should any member of said first Board be unable to serve for any reason, a majority of the remaining members of the Board shall have the right to select and designate a party to act and serve as a director for the unexpired term of said director who is unable to serve;

(l) The undertakings and contracts authorized by said first Board shall be binding

upon the Association in the same manner as though such undertakings and contracts had been authorized by the first Board duly elected by the membership after the Property identified herein has been submitted to the plan of condominium ownership and said Master Deed has been recorded in the Orangeburg County public records, so long as any undertakings and contracts are within the scope of powers and duties which may be exercised by the Board in accordance with all applicable Regime Documents;

(m) Directors may be removed from office in the manner provided by law for the removal of directors of South Carolina nonprofit corporations.

#### 6. ADDITIONAL PROVISIONS ABOUT MEETINGS OF MEMBERS AND DIRECTORS.

(a) Notwithstanding anything contained in these By-Laws to the contrary, any meeting of members or of the Board may be held at any place within or without the State of South Carolina or by telephone conference.

(b) To the extent now or from time to time hereafter permitted by the laws of South Carolina, the Board may take any action which it might take at a meeting of directors without a meeting. One or more written consents of any such action so taken, signed by each director, is to be retained in the Association's minute book and given equal dignity by all persons to the minutes of meetings duly called and held.

(c) Any action of the members may be taken by written ballot in accordance with §33-31-704, Code of Laws of South Carolina (1976), as amended, or by written consent in accordance with §33-31-704 of said Code.

#### 7. OFFICERS.

(a) The executive officers of the Association shall be a President, who shall be a director, a Vice President, a Treasurer, and a Secretary, all of whom shall be elected annually by the Board of Directors and who may be peremptorily removed by vote of the directors at any meeting. No person may hold more than two (2) offices. The Board shall, from time to time, elect such other officers or committees and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association,

(b) The President shall be the principal executive officer of the Corporation and subject to the control of the Board. He shall, in general, supervise and control all of the business and affairs of the Corporation. He shall preside at all meetings of the shareholders and of the Board. He may sign, with the Secretary or any other proper officer of the Corporation authorized by the Board, any deeds, mortgages, bonds, contracts, or other instruments which the Board has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board or by these By-Laws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board.

(c) The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the directors.

(d) The Secretary shall keep the minutes of all proceedings of the directors and the members. He shall attend to the giving and serving of all notices to the members and directors, and such other notices required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, perform all other duties incident to the office of Secretary of any association, and as may be required by the directors or President.

(e) The Treasurer shall have custody of all of the property of the Association, including funds, securities, and evidences of indebtedness. He shall keep the assessment rolls, the accounts of members, and the books of the Association in accordance with good accounting practices. He shall perform all other duties incident to the office of Treasurer.

(f) The compensation of all officers and employees of the Association shall be fixed by the Board. This provision shall not preclude the Board from employing Grantor as an employee of the Association, nor preclude the contracting with Grantor for management of the Regime. Officers need not be Apartment Owners.

#### 8. FISCAL MANAGEMENT.

The provisions for fiscal management of the Association set forth in the Master Deed and Articles of Incorporation shall be supplemented by the following provisions:

(a) The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Apartment. Such an account shall designate the name and address of the Co-owner or Co-owners, the amount of each assessment against the amounts paid upon the account and, the balance due upon assessments;

(b) The initial Board shall adopt a budget for the period commencing upon submission of the property to the Horizontal Property Regime, continuing through the end of the following calendar year, and shall establish assessments for that period;

(c) The Board shall adopt a budget for each calendar year, which shall contain estimates of the cost of performing the functions of the Association, including, but not limited to, the following items:

i) Common expense budget, which shall include without limiting the generality of the foregoing, the estimated amounts necessary for maintenance and operation of General Common Elements, landscaping, street and walkways, office expenses, utility services, casualty insurance, liability insurance, administration, and reserves (operating and replacement); and

ii) Proposed assessments against each member. Copies of the budget and proposed assessments shall be given to each member at each annual meeting. If the budget is subsequently amended before the assessments are made, a copy of the amended budget shall be furnished to

each concerned member. Delivery of a copy of any budget or amended budget to each member shall not affect the liability of any member for any such assessment, nor shall delivery of a copy of such budget or amended budget be considered as a condition precedent to the effectiveness of said budget and assessments levied pursuant thereto, and nothing herein contained shall be construed as restricting the right of the Board, at any time, in its sole discretion to levy an additional assessment in the event that the budget originally adopted shall appear to be insufficient to pay costs and expenses of operation and management, or in the event of emergencies.

(d) The Board shall determine the method of payment of such assessments and the due dates thereof and shall notify the members thereof. The assessments will initially be on a monthly-in-advance basis unless changed by a vote of the majority of the Board;

(e) The depository or the Association shall be such bank, savings and loan, or other Federally Insured depositories as shall be designated from time to time by the directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the directors.

(f) The Board shall require fidelity bonds from all officers and employees of the Association and from any contractor handling or responsible for Association funds. The amount of such bonds shall be determined by the directors, but shall be at least the amount of the total annual estimated operating expense and revenues. The premiums on such bonds shall be paid by the Association as a common expense.

## 9. PARLIAMENTARY RULES.

Roberts Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Articles of Incorporation and these By-Laws or with the statutes of the State of South Carolina and unless the board adopts other rules of order prior to the meeting.

## 10. ASSESSMENTS: LIABILITY. LIEN AND ENFORCEMENT

The Board, as and for the Co-owners, is given the authority to administer the operation and management of the Regime, it being recognized that the delegation of such duties to one entity is in the best interests of the Co-owners of all Apartments. To properly administer the operation and management of the project, the Association will incur, for the mutual benefit of all of the co-owners of Apartments, costs and expenses which will be continuing or non-recurring costs, as the case may be, which costs and expenses are sometimes herein referred to as "common expense". To provide the funds necessary for such proper operation and management, the said Board is hereby granted the right to make, levy, and collect assessments against the Co-owners of all Apartments and said Apartments. In furtherance .of said grant of authority to the Board to make, levy, and collect assessments to pay the costs and expenses for the operation and management of the Regime; the following provisions shall be operative and binding upon the co-owners of all Apartments, to wit:

(a) All assessments levied against the Co-Owners of Apartments and said Apartments shall be uniform and, unless specifically otherwise provided for in these By-Laws, the assessments made by the Board shall be in such proportion that the amount of assessment levied

against each co-owner of an Apartment and his Apartment shall bear the same ratio to the total assessment made against all Co-Owners of Apartments and their Apartments as does the undivided interest in General Common Elements appurtenant to each Apartment bear to the total undivided interest in the Regime;

(b) The Board, in establishing said annual budget for operation, management, and maintenance of the project shall include therein a sum to be collected and maintained as reserve fund for replacement of General Common Elements, which reserve fund shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a part of the General Common Elements and other properties acquired by the Association pursuant to the Master Deed as well as the replacement of personal property which may constitute a portion of the General Common Elements held for the joint use and benefit of all the Co-Owners of all Apartments. The amount to be allocated to such reserve fund for replacements shall be established by said Board so as to accrue and maintain at all times a sum reasonably necessary to anticipate the need for replacements of said General Common Elements. The amount collected and allocated to the reserve fund for replacements from time to time shall be maintained in a separate account by the Association, although nothing herein contained shall prohibit the Association from applying any monies in such reserve fund for replacements to meet other needs or requirements of the Association in operating or managing the project in the event of emergencies or in the event the sums collected from the Co-Owners of Apartments are insufficient to meet the then fiscal financial requirements of the Association, but it shall not be a requirement that these monies be used for such latter purposes, as a separate assessment may be levied therefore if deemed to be preferable by the Board in the sole discretion of said Board;

(c) Additionally, a working capital fund must be established for the initial months of the project operation equal to at least a two months' estimated Common Area charge for each Apartment. Each Apartment's share of the working capital fund must be collected and transferred to the Association at the time of the initial closing of the sale of each Apartment and maintained for the use and benefit of the Association. The contribution to the working capital fund for each unsold Apartment shall be paid to the Association within sixty (60) days after the date of the conveyance of the first Apartment in the project. The purpose of the fund is to ensure that the Association will have cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or desirable by the Board. Amounts paid into the fund are not to be considered as advance payment of regular assessments. Grantor shall not use the working capital funds to pay any of its expenses, reserve contributions, construction costs, or to make up any budget deficits while it is in control of the Association. However, when unsold Apartments are sold, Grantor may reimburse itself for funds it paid the Association for an unsold Apartment's share of the working capital fund by using funds collected at Closing when the Apartment is sold;

(d) The Board, in establishing said annual budget for operation, management, and maintenance of the project, shall include therein a sum to be collected as a general operating reserve which shall be used to provide a measure of financial stability during periods of special stress when such sums may be used to meet deficiencies existing from time to time as a result of delinquent payment of assessments by Co-Owners of Apartments, emergencies, or other reasons placing financial stress upon the Association;

(e) All monies collected by the Association shall be treated as the separate property of the Association and such monies may be applied by the said Association to the payment of any expense of operating and managing the Regime and other property acquired by the Association pursuant to the Master Deed or to the proper undertaking of all acts and duties imposed upon it by virtue of these By-Laws and the Articles of Incorporation and Master Deed of the Association. As the monies for any assessment are paid unto the Association by any co-owner of an Apartment, the same may be commingled with the monies paid to the Association by the other Co-Owners of Apartments. All funds and other assets of the Association, and any increments thereto or profits derived therefrom or from the leasing or use of General Common Elements, shall be held for the benefit of the members of the Association, who shall own any common surplus in the proportions of their percentage of undivided interest in the Regime. No member of the Association shall have the right to assign, hypothecate, pledge, or in any manner transfer his interest therein, except as an appurtenance to his Apartment;

(f) The payment of any assessment or installment thereof due to the Association shall be in default if such assessment, or any installment thereof, is not paid to the Association on or before the due dates for such payment, When in default, the Board may accelerate the remaining installments of the annual assessment upon notice thereof to the Apartment Co-owner, whereupon the entire unpaid balance of the annual assessment shall become due upon the date stated in the notice which shall not be less than ten (10) days after the date of the notice. In the event any assessment, installment, or accelerated assessments are not paid within twenty (20) days after their due date, the Association, through its Board, may proceed to enforce and collect the said assessments against the Apartment Co-owner owing the same in any manner provided for by the Act, including the right of foreclosure and sale. When in default, the delinquent assessment or delinquent installment thereof due to the Association shall bear interest at the highest rate allowed by law until such delinquent assessment or installment thereof and all interest due thereon has been paid to the Association. If any assessment or installment thereof is not paid when due, the Board may assess such late fees and interest as it deems appropriate from time to time;

(g) The Co-owner or Co-Owners of each Apartment shall be personally liable to the Association for the payment of all assessments, regular or special, which may be levied by the Association while such party or parties are Co-owner or Co-Owners of an Apartment in the Regime. In the event that any Co-owner or Co-Owners are in default in payment of any assessment or installment thereof owed to the Association, such Co-owner or Co-Owners of any Apartment shall be personally liable for interest on such delinquent assessment or installment thereof as above provided, and for all costs of collecting such assessment or installment thereof and interest thereon, including a reasonable attorney's fee, whether suit is brought or not.

(h) No Co-owner may exempt himself from liability for any assessment levied against such Co-owner and his Apartment by waiver of the use or enjoyment of any of the General Common Elements, by abandonment, or in any other manner.

(i) Recognizing that the necessity for providing proper operation and management of the project entails the continuing payment of costs and expenses therefore which results in

benefit to all of the Co-Owners of Apartments and that the payment of such common expense represented by the assessments levied and collected by the Association is necessary in order to preserve and protect the investment of the Co-owner of each Apartment, the Association is hereby granted a lien upon such Apartment and its appurtenant undivided interest in General Common Elements, which lien shall secure and does secure, the monies due for all assessments now or hereafter levied against the Co-owner of such Apartment. Such lien shall also secure interest, if any, which may be due on the amount of any delinquent assessments owing to the Association and all costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association in enforcing this lien upon said Apartment and its appurtenant undivided interest in the General Common Elements. The lien granted to the Association may be foreclosed in the same manner as mortgages may be foreclosed in the State of South Carolina. In any suit for the foreclosure of said lien, the Association shall be entitled to rental from the Co-owner of any Apartment from the date on which the payment of any assessment or installment thereof became delinquent and shall be entitled to the appointment of a receiver for said Apartment. The rental required to be paid shall be equal to the rental charged on comparable type of Apartments in Santee, South Carolina. The lien granted to the Association shall further secure such advances for taxes and payments on account of superior mortgages, liens, or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien. The Association shall further be entitled to interest at the highest rate allowed by law on any such advance made for such purpose. All persons, firms, or corporations who shall acquire, by whatever means, any interest in the ownership of any Apartment, are hereby placed on notice of the lien granted to Association and shall acquire such interest in any Apartment expressly subject to such lien. The lien shall be subordinate to all mortgages or other liens duly recorded prior to the filing of the lien encumbering the Apartment.

(j) The lien herein granted unto Association shall be effective from and after the time of recording in the public records of Orangeburg County, South Carolina, a claim of lien stating the description of the Apartment encumbered thereby, the name of the record Co-owner, the amount, and the date when due. The lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney fees, advances to pay taxes and prior encumbrances, and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record;

(k) In the event that any person, firm, or corporation shall acquire title to any Apartment and its appurtenant undivided interest in General Common Elements by virtue of any foreclosure, judicial sale, or deed in lieu of foreclosure, such person, firm, or corporation so acquiring title shall only be liable and obligated for assessments as shall accrue and become due and payable for said Apartment and its appurtenant undivided interest in General Common Elements subsequent to the date of acquisition of such title and shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquires such title. In the event of the acquisition of title to an Apartment by foreclosure, judicial sale, or deed in lieu of foreclosure, any assessment or assessments as to which the party so acquiring title shall not be liable shall be absorbed and paid by all Co-Owners of all Apartments as part of the common expense, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or the enforcement of collection

of such payment by means other than foreclosure;

(l) Whenever any Apartment may be sold or mortgaged by the Co-owner thereof, which sale shall be concluded only upon compliance with other provisions of these By-Laws, Association, upon written request of the co-owner of such Apartment, shall furnish a statement verifying the status of payment of any assessment which shall be due and payable to Association by the owner of such Apartment to the proposed purchaser or mortgagee. Such statement shall be executed by an officer of the Association and any purchaser or mortgagee may rely upon such statement in concluding the proposed purchase or mortgage transaction, as Association shall be bound by such statement. Any holder of any mortgage on any Apartment shall have the right at all reasonable times and frequency to inquire as to the past due status of any assessment payments. The Association shall, upon request, promptly notify any such mortgagee when any assessment payment becomes more than sixty (60) days past due or when any default in the performance of any obligation required by the Master Deed or these By-Laws as to such Apartment is not cured within sixty (60) days;

(m) In the event that an Apartment is to be sold or mortgaged at the time when payment of any assessment against the Co-owner of said Apartment is due to the Association, such Apartment shall be in default, whether or not a claim of lien has been recorded by the Association. Then the proceeds of such purchase or mortgage shall be applied by the purchaser or mortgagee first to payment of any then delinquent assessment or installment thereof due to the Association before the payment of any proceeds of purchase or mortgage proceeds to the co-owner of any Apartment who is responsible for payment of such delinquent assessment;

(n) Institution of a suit at law to attempt to effect the collection of payment of delinquent assessments shall not be deemed to be an election by the Association which shall prevent its thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed an election precluding the institution of a suit at law to attempt to effect collection of any sums then remaining owing it; and

(o) Assessments begin to accrue once the Master Deed for the Regime is recorded at the Orangeburg County ROD Office.

## 11. MANAGER.

(a) Employment. The Board may employ a professional Manager to assist in or take charge of the administration of the Council of Co-Owners and the Property. The Board shall solicit competitive bids for such management.

(b) Authority and Duties. The Manager shall have such authority and duties as may be determined by the Board and shall report to the Board or to the President, as the Board may determine.

(c) Compensation. The Manager shall receive such compensation as the Board may determine.

12. DEFINITIONS.

The definitions contained in the Master Deed or, if not set forth therein, as contained in §27-31-20 S. C. Code Ann. (1976), are hereby incorporated herein and made a part hereof by reference.

13. CONFLICTS.

In the event of any conflict between the provisions of the Master Deed and the provisions of these By-Laws, the provisions of the Master Deed shall control.

14. SEVERABILITY.

The provisions of these By-Laws are severable, and the invalidity of one or more provisions thereof shall not be deemed to impair or affect in any manner the enforceability or effect of the remainder hereof.

15. CAPTIONS.

The captions herein are inserted only as a matter of convenience and or reference and in no way define, limit, or describe the scope of these By-Laws or the intent of any provision hereof

16. GENDER AND NUMBER.

All pronouns used herein shall be deemed to include the masculine, the feminine, and the neuter, as well as the singular and the plural whenever the context requires or permits.

17. AMENDMENT TO BY-LAWS.

Amendments to these By-Laws shall be proposed and adopted in the following manner:

(a) Amendments to these By-Laws may be proposed by the Board acting upon vote of the majority of the directors, or by members of the Association owning a majority of the total value of the property in the Regime, whether meeting as members or by instrument in writing signed by them;

(b) Upon any amendment or amendments to these By-Laws being proposed. by said Board or members, such proposed amendment or amendments shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a special joint meeting of the members of the Board and the membership for a date not sooner than twenty (20) days or later than sixty (60) days from receipt by such officer of the proposed amendment or amendments, and it shall be the duty of the Secretary to give to each member written or printed notice of such meeting in the same form and in the same manner as notice of the call of a special meeting of the members is required as set forth herein;

(c) In order for amendment or amendments to become effective, the same must be

approved by an affirmative vote of the members owning a majority of the total value of the property in the Regime. Thereupon such amendment or amendments to these By-Laws shall be transcribed, certified by the Secretary of the Association, and a copy thereof recorded in the public records of Orangeburg County, South Carolina, within ten (10) days from the date on which any amendment or amendments have been affirmatively approved by the directors and members;

(d) At any meeting held to consider such amendment or amendments to the By-Laws, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association at or prior to such meeting; and

(e) Notwithstanding the foregoing provisions of this Article, no amendment to these By-Laws which shall abridge, amend or alter the right of Grantor to designate and select members of the Board, as provided in Article 4 hereof, may be adopted or become effective without the prior written consent of the Grantor. No amendment shall be effective until all the requirements of the Master Deed have been met.

The foregoing is the original set of By-Laws adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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**Secretary of Ballards Pointe II Association, Inc.**