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Jefferson County, Alabama
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Judge of Probate- Alan L. King.

**ARTICLES OF INCORPORATION
OF
THE COLONY AT THE GRAND OWNERS' ASSOCIATION, INC.**

This instrument prepared by:
Stephen R. Monk, Esq.
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One Federal Place
1819 Fifth Avenue North
Birmingham, Alabama 35203
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**ARTICLES OF INCORPORATION
OF
THE COLONY AT THE GRAND OWNERS' ASSOCIATION, INC.**

The undersigned, for the purpose of forming a corporation pursuant to the provisions of the Alabama Nonprofit Corporation Act (*Ala. Code* (1975), Sections 10-3A-1, *et seq.*) hereby adopts the following Articles of Incorporation and certify as follows:

1. **NAME.** The name of the corporation is "The Colony at The Grand Owners' Association, Inc." (the "Association").

2. **DURATION.** The period of duration of the Association shall be perpetual.

3. **PURPOSES AND POWERS.** The purposes for which the Association is organized and the powers of the Association are as follows:

(a) To provide for the efficient preservation of the appearance, value and amenities of the property which is subject to the The Colony at The Grand Declaration of Covenants, Conditions and Restrictions (the "Declaration") recorded or to be recorded in the Office of the Judge of Probate of Baldwin County, Alabama. *Capitalized terms not otherwise specifically defined herein shall have the same meanings given to them in the Declaration.*

(b) To own, operate, maintain, manage, repair and replace Common Areas.

(c) To perform and carry out the acts, duties, responsibilities and conditions delegated to the Association in the Declaration, these Articles of Incorporation, the Bylaws of this Association and all amendments thereto, including, specifically, taking any action authorized or allowed to be taken by the Association in the Declaration, these Articles of Incorporation and the Bylaws.

(d) To own, lease, license, operate, purchase, acquire, hold, improve, develop, manage, sell, convey, transfer, exchange, release and dispose of, either alone or in conjunction with others, real and personal property, tangible and intangible, of every kind, character and description.

(e) To enforce all of the terms and provisions of the Declaration and to make, establish and enforce reasonable rules and regulations governing the administration, operation and management of the Property.

(f) To make, levy, collect and enforce Assessments, as defined in the Declaration, and to use and expend such Assessments in the manner set forth in the Declaration.

(g) To employ personnel and contract for services, material and labor, including contracting for the management of the Common Areas of the Property.

(h) To purchase and maintain insurance for such coverages, with such insurance carriers, in such amounts, at such rates and with such deductibles as may be necessary for the protection of the Association, its officers, directors and Members or as may be otherwise required in the Declaration.

(i) To enforce any of the provisions of the Declaration by legal and equitable actions as may from time to time be necessary.

(j) To enter into, make and perform contracts of every kind for any lawful purpose without limit as to amount, with any person, firm, association, partnership, limited partnership, corporation, municipality, county, state, territory, government, governmental subdivision, or body politic.

(k) To operate without profit for the sole and exclusive benefit of its Members; provided, however, that the Association may, at any time and from time to time, authorize and grant to persons who are not Members rights to use and enjoy the Common Areas on such terms and conditions as the Board of Directors of the Association may, in its sole and absolute discretion, determine.

(l) To carry on any other business in connection with the foregoing, to transact any or all lawful business for which corporations may be incorporated under the Alabama Nonprofit Corporation Act, as amended, and to have and exercise all powers necessary or convenient to effect the purposes of the Association in accordance with and subject to the terms and provisions of the Declaration.

THIS ASSOCIATION DOES NOT CONTEMPLATE PECUNIARY GAIN OR PROFIT FOR THE MEMBERS THEREOF AND THE FUNDS OF THE ASSOCIATION, WHETHER RECEIVED BY GIFT OR OTHERWISE, REGARDLESS OF THE SOURCE THEREOF, SHALL BE EXCLUSIVELY USED IN THE PROMOTION OF THE BUSINESS OF THE ASSOCIATION, AS THE BOARD OF DIRECTORS MAY FROM TIME TO TIME DETERMINE.

4. **INITIAL REGISTERED OFFICE AND AGENT.** The location and mailing address of the initial registered office of the Association, and the name of its initial registered agent at such address, are as follows:

Sheila D. Ellis
Daniel Corporation
3660 Grandview Parkway
Suite 100
Birmingham, AL 35243

5. **NONSTOCK AND NONPROFIT STATUS.** The Association shall have no capital stock, is not organized for profit, and does not contemplate pecuniary gain or profit to the Members thereof. No part of the earnings of the Association shall inure to the benefit of any Member, individual, officer, or director. The Association does not contemplate the distribution of gains, profits or dividends to the members thereof and is organized solely for nonprofit purposes.

6. **MEMBERS AND VOTING RIGHTS.**

(a) **Members.** Subject to the remaining provisions of this Paragraph 6, the members of the Association shall consist of all Owners. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Lot or Dwelling. As used in these Articles of Incorporation, the term "Member" shall mean any Owner, as defined in the Declaration. Notwithstanding anything provided herein or in the Bylaws of the Association to the contrary, until the Turnover Date, (i) Developer shall have the sole and exclusive right to exercise all voting rights in the Association (except as provided to the contrary in Paragraph 6(b) below) and (ii) Developer shall have the sole and exclusive right to appoint and remove all members of the Board of Directors of the Association.

(b) **Reservation of All Voting Rights By Developer Until Turnover Date.** Until the occurrence of the Turnover Date, Developer shall have the sole and exclusive right to exercise all voting rights in the Association; provided, however, that with respect to (i) any Special Assessments

to be made pursuant to Section 8.04 of the Declaration which would require the consent and approval of a specified percentage in interest of the Members, then Developer shall submit such Special Assessment to the Members for approval (in accordance with the voting requirements set forth in the Bylaws) and (ii) amendments to the Declaration which, pursuant to Section 10.02 of the Declaration, require the consent or approval of a specified percentage in interest of the Members, then Developer shall submit such amendment to the Owners for approval (in accordance with the voting requirements set forth in the Bylaws). From and after the Turnover Date, the Members shall thereafter have the exclusive right to all voting rights in the Association previously held and exercised by Developer pursuant to this Paragraph 6(b).

(c) **Voting Rights of Members.** Subject to the rights reserved by Developer pursuant to Paragraphs 6(a) and 6(b) above, the voting rights of the Members are set forth in the Bylaws. The voting rights of any Member who has violated the Declaration or who is in default in the payment of Assessments (as defined in the Declaration) may be limited and suspended in accordance with the provisions of the Declaration, the Bylaws or any rules and regulations adopted by the Board of Directors of the Association. Developer shall be entitled to exercise all voting rights attributable to any Lots or Dwellings owned by Developer.

(d) **Multi-Family Dwellings and Sub-Associations.** If a Lot has been improved with Multi-Family Dwellings, then, except as provided below in this Paragraph 6(d), the Owner of each Multi-Family Dwelling on such Lot shall have one (1) vote for each Multi-Family Dwelling owned; provided, however, that if a Lot has been improved with Multi-Family Dwellings and such Multi-Family Dwellings are subject to a Sub-Declaration which also establishes a Sub-Association for such Multi-Family Dwellings, then (i) the voting rights and membership rights in the Association attributable to such Multi-Family Dwellings shall be exercised solely by the Sub-Association and not by the individual Owners of such Multi-Family Dwellings and (ii) the applicable Sub-Association (or its designated representative) shall have one (1) vote for each Multi-Family Dwelling subject to the applicable Sub-Declaration for which such Sub-Association was organized.

7. DIRECTORS.

(a) **Number of Directors.** The affairs of the Association shall be managed by a Board of Directors (each member of which is hereinafter sometimes referred to individually as a "Director" and collectively as the "Directors" or the "Board of Directors"). Prior to the Turnover Date, the number of Directors constituting the Board of Directors shall be three (3); thereafter, the number of Directors constituting the Board of Directors shall be three (3). Developer shall have the sole and exclusive right to appoint and remove all members of the Board of Directors for the period of time and in the manner described in Paragraph 7(b) below. Prior to the Turnover Date, those Directors appointed by Developer need not be Members, Owners or residents of the State of Alabama. From and after the Turnover Date, Directors must be Members (or the spouses of Members) who are in good standing at the time of their election. The names and addresses of each person who is to serve as an initial Director of the Association until their successors are elected and qualified or until such Directors are removed as provided in Paragraph 7(b) of these Articles are as follows:

John D. Gunderson
Daniel Corporation
3660 Grandview Parkway
Suite 100
Birmingham, AL 35243

Sheila D. Ellis
Daniel Corporation
3660 Grandview Parkway
Suite 100
Birmingham, AL 35243

Jason Tickle
18321 Colony Drive
Fairhope, AL 36532-6898

(b) **Election and Removal of Directors.** The members of the Board of Directors of the Association shall be elected and may be removed as follows:

(i) Until the occurrence of the Turnover Date, Developer shall have the sole and exclusive right to appoint and remove all members of the Board of Directors; and

(ii) From and after the Turnover Date, the Members of the Association shall be entitled to elect or remove any of the members of the Board in accordance with the terms and provisions of the Bylaws.

(c) **Powers.** Except as may be otherwise provided to the contrary in the Declaration, these Articles of Incorporation or the Bylaws of the Association, all powers of the Association shall be exercised by or under authority of, and the business and affairs of the Association shall be managed under the direction of, the Board of Directors.

(d) **Conflicts of Interest.** No contract or other transaction between the Association and one or more of its Directors or any other corporation, firm, association or entity in which one or more of its Directors are directors or officers or are financially interested, shall be either void or voidable because of such relationship or interest. Any Director of the Association or any corporation, firm, association or entity of which any Director of the Association is a director or officer or is financially interested may be a party to, or may be pecuniarily or otherwise interested in, any contract or transaction of the Association, provided that such relationship or interest in such contract or transaction shall be disclosed or known to the Board of Directors at the meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction and, if such fact shall be disclosed or known, any Director so related or interested may be counted in determining a quorum at such meeting and may vote on such matter or action with the same force and effect as if he were not so related or interested. Any Director of the Association may vote on any contract or other transaction between the Association and any affiliated corporation without regard to the fact that he is also a director of such affiliated corporation.

8. **INCORPORATOR.** The name and address of the sole incorporator is as follows:

Sheila D. Ellis
Daniel Corporation
3660 Grandview Parkway
Suite 100
Birmingham, AL 35243

9. **DISTRIBUTION OF ASSETS UPON DISSOLUTION.**

(a) Upon dissolution of the Association, all of its assets remaining after provision for creditors and payment of all costs and expenses of such dissolution shall be distributed in the following manner:

(i) Real property contributed to the Association without the receipt of other than nominal consideration by Developer shall be returned to Developer, unless it refuses to accept the conveyance (in whole or in part); and

(ii) Unless otherwise agreed to the contrary in the plan of distribution, all remaining assets shall be distributed among the Members of the Association, as tenants in common, with each Member's share of the assets to be determined in accordance with their respective voting rights, as set forth in Paragraph 6 above.

(b) Dissolution of the Association shall be accomplished as set forth in the Alabama Nonprofit Corporation Act.

10. **POWER OF PRESIDENT AND VICE PRESIDENT TO EXECUTE DOCUMENTS.** The President and Vice President of the Association shall each have authority to execute all instruments, documents and contracts on behalf of the Association.

11. **INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS.**

(a) The Association shall indemnify, defend and hold harmless any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action, suit or proceeding, whether civil, criminal, administrative or investigative, including appeals (other than an action by or in the right of the Association), by reason of the fact that such person is or was a director, officer, employee or agent of the Association (including any person designated by the Board of Directors to serve as a committee member on any committee established by the Board of Directors) or is or was serving at the request of the Association as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such claim, action, suit or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Association; and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any claim, action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) The Association shall indemnify, defend and hold harmless any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that such person is or was a director, officer, employee or agent of the Association (including any person designated by the Board of Directors to serve as a committee member on any committee established by the Board of Directors) or is or was serving at the request of the Association as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with

the defense or settlement of such action or suit if such person acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association; provided, however, that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for willful, deliberate or wanton misconduct in the performance of his duty to the Association unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

(c) To the extent that a Director, officer, employee or agent of the Association (including any person designated by the Board of Directors to serve as a committee member on any committee established by the Board of Directors) has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Paragraphs 11(a) and 11(b) above, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith, notwithstanding that such person has not been successful on any other claim, issue or matter in any such action, suit or proceeding.

(d) Any indemnification under Paragraphs 11(a) and 11(b) above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Director, officer, employee or agent of the Association (including any person designated by the Board of Directors to serve as a committee member on any committee established by the Board of Directors) is proper in the circumstances because such person has met the applicable standard of conduct set forth in Paragraphs 11(a) or 11(b) above. Such determination shall be made (i) first, by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to, or who have been wholly successful on the merits or otherwise with respect to, such claim, action, suit or proceeding, or (ii) second, if such a quorum is not obtainable, or, even if obtainable, if a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion, or (iii) if (i) and (ii) above are not applicable (or are not utilized), then by the vote of at least sixty-six percent (66%) of the Members of the Association entitled to vote on such matter at an annual or special meeting of the Members or a ballot vote of the Members held, in either case, in accordance with the terms, provisions and requirements of the Bylaws.

(e) Expenses (including attorneys' fees) incurred in defending a civil or criminal claim, action, suit or proceeding may be paid by the Association in advance of the final disposition of such claim, action, suit or proceeding as authorized in the manner provided in Paragraph 11(d) above upon receipt of an undertaking by or on behalf of the Director, officer, employee or agent of the Association (including any person designated by the Board of Directors to serve as a committee member on any committee established by the Board of Directors) to repay such amount if and to the extent that it shall be ultimately determined that such person is not entitled to be indemnified by the Association as authorized in this Paragraph 11.

(f) The indemnification authorized by this Paragraph 11 shall not be deemed exclusive of and shall be in addition to any other right to which those indemnified may be entitled under any statute, rule of law, provisions of these Articles of Incorporation, the Bylaws or any other agreement, vote of Members or disinterested Directors, or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Director, officer, employee or agent of the Association (including any person designated by the Board of Directors to serve as a committee member on any committee established by the Board of Directors) and shall inure to the benefit of the heirs, executors and administrators of such a person.

(g) The Association shall purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Association (including any person designated by the Board of Directors to serve as a committee member on any committee established by the Board of Directors) or is or was serving at the request of the Association as a Director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify such person against such liability under the provisions of this Paragraph 11.

12. AMENDMENT. At any time prior to the Turnover Date, these Articles of Incorporation may be amended at any time and from time to time only by Developer, without the consent and approval of any of the Members of the Association. From and after the Turnover Date, these Articles of Incorporation may be amended at any time and from time to time by the affirmative vote of both (a) a majority of the members of the Board of Directors and (b) at least sixty-seven percent (67%) of those Members of the Association who are in "good standing" (as defined in the Bylaws) and are voting in person or by proxy either (i) at a duly convened meeting of the Members held pursuant to the terms and provisions of the Bylaws or (ii) in a ballot vote held pursuant to the provisions of Section 2.09 of the Bylaws. Notwithstanding anything provided in this Paragraph 12 to the contrary, any amendments to Paragraphs 6, 7, 11 and 12 of the Articles of Incorporation must also be approved by Developer for so long as Developer has any voting rights in the Association.

13. INCORPORATION BY REFERENCE. All of the terms, provisions, definitions, covenants and conditions set forth in the Declaration are hereby expressly incorporated herein by reference as if fully set forth herein. In the event of any conflict or ambiguity between the terms, provisions, definitions, covenants and conditions set forth in these Articles of Incorporation and the Declaration, then the provisions of the Declaration shall at all times control.

IN WITNESS WHEREOF, the undersigned Incorporator has hereunto subscribed his name to these Articles of Incorporation as of the 20th day of March, 2012.



Sheila D. Ellis

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, the undersigned, a Notary Public in and for said county, in said state, hereby certify that Sheila D. Ellis, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 20th day of March, 2012.

Danny R. Echols
Notary Public

[NOTARIAL SEAL]

My commission expires: 3-27-13

Beth Chapman
Secretary of State

P. O. Box 5616
Montgomery, AL 36103-5616

STATE OF ALABAMA

**I, Beth Chapman, Secretary of State of Alabama, having custody of the
Great and Principal Seal of said State, do hereby certify that**

pursuant to the provisions of Title 10A, Chapter 1, Article 5, *Code of Alabama*
1975, and upon an examination of the entity records on file in this office, the
following entity name is reserved as available:

The Colony at The Grand Owners' Association, Inc.

This domestic nonprofit corporation is proposed to be formed in Alabama and is
for the exclusive use of Daniel Corporation , 3660 Grandview Parkway, Suite
100, Birmingham, AL 35243 for a period of one hundred twenty days beginning
March 20, 2012 and expiring July 18, 2012.

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Bk: LR201212 Pg:5022
Jefferson County, Alabama
03/26/2012 02:05:12 PM NPINC
Fee - \$52.00

Total of Fees and Taxes-\$52.00
LYNN



599-614

**In Testimony Whereof, I have hereunto set my
hand and affixed the Great Seal of the State, at the
Capitol, in the city of Montgomery, on this day.**

March 20, 2012

Date

Beth Chapman

Beth Chapman

Secretary of State

State of Alabama
Jefferson County

CERTIFICATE OF INCORPORATION

OF

THE COLONY AT THE GRAND OWNERS' ASSOCIATION, INC.

The undersigned, as Judge of Probate of Jefferson County,
State of Alabama, hereby certifies that Articles of

INCORPORATION

duly signed and verified pursuant to the provisions of Alabama
NONPROFIT Corporation Act, have been received in this office
and are found to conform to law.

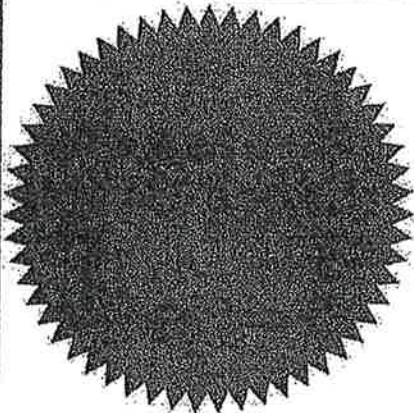
Accordingly the undersigned, as such Judge of Probate, and by
virtue of the authority vested in him by law, hereby, issues this
Certificate of INCORPORATION

of THE COLONY AT THE GRAND OWNERS' ASSOCIATION, INC.

and attaches hereto a copy of the Articles of

INCORPORATION

Given Under My Hand and Official Seal on this the 26TH
day of MARCH, 2012



Alan L. King

Judge of Probate

**BYLAWS
OF
THE COLONY AT THE GRAND OWNERS' ASSOCIATION,
INC.**

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THE COLONY AT THE GRAND OWNERS' ASSOCIATION, INC.

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BYLAWS
OF
THE COLONY AT THE GRAND OWNERS' ASSOCIATION, INC.

ARTICLE I

THE ASSOCIATION

SECTION 1.01 **NAME.** The name of this Association shall be "The Colony at The Grand Owners' Association, Inc.", an Alabama nonprofit corporation (the "Association"), which has been formed pursuant to Articles of Incorporation of The Colony at The Grand Owners' Association, Inc. dated as of March 20, 2012 and recorded in the Office of the Judge of Probate of Jefferson County, Alabama.

SECTION 1.02 **DECLARATION.** The provisions of these Bylaws are expressly subject to the terms and provisions of The Colony at The Grand Declaration of Covenants, Conditions and Restrictions dated as of June 6, 2012, which has been or will be recorded in the Office of the Judge of Probate of Baldwin County, Alabama (which, together with all subsequent amendments thereto, is hereinafter referred to as the "Declaration"). *Capitalized terms not otherwise expressly defined herein shall have the same meanings given to them in the Declaration.*

SECTION 1.03 **PRINCIPAL OFFICE.** The principal office of the Association in the State of Alabama shall be located at 3660 Grandview Parkway, Suite 100, Birmingham, Alabama 35243. The Association may have such other offices, either within or without the State of Alabama, as the Board of Directors may designate from time to time.

SECTION 1.04 **REGISTERED OFFICE.** The registered office of the Association required by the Alabama Nonprofit Corporation Act to be maintained in the State of Alabama shall be the same as the principal office of the Association.

ARTICLE II

MEMBERS

SECTION 2.01 **MEMBERSHIP.** Subject to the remaining provisions of this Section 2.01 and the provisions of Section 2.08 below, each person who is the Owner of a Lot and each person who is the Owner of a Dwelling within the Property shall be a member of the Association. Developer shall be deemed a member of the Association and shall have one (1) vote for each Lot or Dwelling owned by Developer. If a Lot or Dwelling is owned by more than one person and if only one of those persons is present at a meeting of the Association, that person shall be entitled to cast the vote appertaining to such Lot or Dwelling; provided, however, that if more than one of those persons is present, the vote appertaining thereto shall be cast only in accordance with their unanimous agreement, and, if no unanimous agreement is reached, the vote appurtenant to such Lot or Dwelling shall be suspended. Except as otherwise provided herein to the contrary with respect to Developer's voting rights in the Association, no Owner, whether one or more persons, shall be entitled to more than one vote per Lot or Dwelling owned. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Lot or Dwelling. As used in these Bylaws, "Member" shall mean an Owner, as defined in the Declaration. **Notwithstanding anything provided herein or in the Articles of Incorporation to the contrary, until the occurrence of the Turnover Date, Developer shall have the sole and exclusive right to (a) appoint and remove all of the members of the Board of Directors of the Association and (b) exercise all voting in the Association (except as specifically provided to the contrary in Sections 8.04 and 10.02 of the Declaration).** The voting rights of any Member who has violated the Declaration

or who is in default in the payment of any Assessments may be limited and suspended in accordance with the provisions of the Declaration, these Bylaws or any rules and regulations adopted from time to time by the Association. Notwithstanding anything provided herein to the contrary, (i) if a Lot has been improved with Multi-Family Dwellings, then, subject to the provisions of item (ii) set forth below, the Owner of each Multi-Family Dwelling on such Lot shall have one (1) vote for each Multi-Family Dwelling owned, (ii) if a Lot has been improved with Multi-Family Dwellings and such Multi-Family Dwellings are subject to a Sub-Declaration which also establishes a Sub-Association for such Multi-Family Dwellings, then (1) the voting rights and membership rights in the Association attributable to such Multi-Family Dwellings shall be exercised solely by the Sub-Association and not by the individual Owners of such Multi-Family Dwellings and (2) the applicable Sub-Association (or its designated representative) shall have one (1) vote for each Multi-Family Dwelling subject to the applicable Sub-Declaration for which such Sub-Association was organized, (iii) once a Lot is developed with a Dwelling, the Lot no longer has any rights (voting or otherwise) in the Association but, subject to the provisions of this Section 2.02, the Dwelling(s) on such Lot will have all such rights (voting and otherwise), and (iv) no Mortgagee shall become a member of the Association until such time, if at all, that the Mortgagee becomes an Owner by virtue of foreclosure of its Mortgage and title to such encumbered Lot or Dwelling is vested in Mortgagee pursuant to a duly recorded deed.

SECTION 2.02 **ANNUAL MEETING.** The annual meeting of the Members of the Association shall be held at 10:00 a.m. on the last business day of January of each year or at such other time, day or month as shall be fixed by the Board of Directors; provided, however, that the first meeting of the Members of the Association shall not be held until immediately following the Turnover Date; and, provided further, however, that unless otherwise approved by the Board of Directors, all subsequent annual meetings of the Members shall be held on the anniversary date of the Turnover Date. If the day fixed for the annual meeting shall be a legal holiday, such meeting shall be held on the next succeeding business day. Subject to the provisions of Section 2.09 below, at each annual meeting, the Members of the Association shall, subject to the terms of Sections 2.01 and 3.03 of these Bylaws, elect the Board of Directors of the Association and otherwise transact such other business as may come before such meeting. Subject to the provisions of Section 2.09 below, if the election of Directors shall not be held on the day designated herein for any annual meeting of the Members of the Association, or any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the Members of the Association as soon thereafter as may be convenient.

SECTION 2.03 **SPECIAL MEETINGS.** Subject to the provisions of Section 2.09 below, special meetings of Members, for any purpose or purposes, unless otherwise prescribed by statute, may be called either by the President or the Board of Directors of the Association and, after the Turnover Date, shall be called by the President or Secretary of the Association upon the petition of at least thirty percent (30%) or more of the total votes in the Association.

SECTION 2.04 **PLACE OF MEETING.** Subject to the provisions of Section 2.09 below, the Board of Directors may designate any place, either within or without the State of Alabama, as the place of meeting for any annual or special meeting. In the absence of any designation, all meetings shall be held at the principal office of the Association in the State of Alabama.

SECTION 2.05 **NOTICE OF MEETING.** Subject to the provisions of Section 2.09 below, written or printed notice (or wireless transmission via facsimile or electronic mail) stating the place, day and hour of the meeting and, in case of a special meeting, or of a meeting which is required by statute to be held for any special purpose, or of any annual meeting at which special action is to be taken, the purpose or purposes for which the meeting is called, or the special action which is proposed to be taken, shall be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the Board of Directors, the President, the Secretary, or the

officer or persons calling the meeting, to each Member of the Association. All notices shall be deemed given or served upon any Member when given as provided in Section 12.15 of the Declaration.

SECTION 2.06 **QUORUM.** Subject to the provisions of Sections 2.09 and 2.10 below, with respect to the annual or any special meeting of the Members of the Association, a quorum shall be deemed to exist if Members of the Association entitled to cast at least fifty-one percent (51%) of all votes of the Association are present, in person or by proxy, at such meeting. The Members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of Members therefrom leaving less than a quorum.

SECTION 2.07 **PROXIES.** At all meetings of the Members of the Association and in all ballot votes of the Members of the Association held pursuant to Section 2.09 below, a Member may vote either in person or by proxy executed in writing by the Member or by his duly authorized attorney-in-fact. Such proxy shall be filed with the Secretary of the Association before or at the time of the meeting or at the time of any ballot vote held pursuant to Section 2.09 below. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy. No proxy shall be required for a Sub-Association to exercise its voting rights.

SECTION 2.08 **VOTING BY MEMBERS.**

(a) Subject to the provisions of Section 2.01 above, this Section 2.08 and Sections 2.10 and 3.03 below, each Member of the Association shall be entitled to one (1) vote for each Lot or Dwelling owned by such Member. Developer shall be entitled to one (1) vote for each Lot or Dwelling owned by Developer. No fractional voting shall be permitted. When more than one person is the Owner of a Lot or Dwelling, the provisions of Section 2.01 of these Bylaws shall be applicable to the exercise of such voting rights. For purposes of these Bylaws, the Articles of Incorporation and the Declaration, the vote of sixty-seven percent (67%) of those Members of the Association who are present, in person or by proxy, at any meeting at which a quorum is present and who are in good standing, as defined in Section 2.10 below, shall be required to adopt or approve any action to be taken by the Members. Voting by the Members may be either in person or by proxy and may be undertaken either (i) at a duly constituted annual or special meeting of the Members (i.e., an annual or special meeting at which a quorum is present) or (ii) in a ballot vote held in accordance with the terms and provisions of Section 2.09 hereof; provided, however, that any Member whose voting rights in the Association are then currently suspended shall not be entitled to vote on any matters submitted to the Members for approval and shall not be included in any determination as to whether a quorum exists or the minimum number of votes are cast in a ballot vote. **Notwithstanding anything provided herein to the contrary, until the occurrence of the Turnover Date, Developer shall have the sole and exclusive right to exercise all voting rights in the Association other than with respect to: (1) any Special Assessments to be made pursuant to Section 8.04 of the Declaration which require the consent and approval of a specified number of the Members, in which event such Special Assessment shall be submitted to the Members for approval in accordance with the voting requirements of Section 8.04 of the Declaration and the provisions of this Section 2.08 and (2) amendments to the Declaration which, pursuant to Section 10.02 of the Declaration require the consent or approval of a specified percentage in interest of the Members, in which event such amendment shall be submitted to the Members for approval in accordance with the voting requirements set forth in Section 10.02 of the Declaration and the provisions of this Section 2.08.** Except for the exclusive voting rights reserved above by Developer and the voting rights held by and which may be cast by a Sub-Association, there shall be no cumulative voting by the Members.

(b) With respect to those two (2) matters described in Section 2.08(a) above which must be approved or voted on by the Members prior to the occurrence of the Turnover Date and at all

times following the Turnover Date, only Members who are "in good standing", as defined in Section 2.10 below, shall be entitled to vote in any matter submitted to the Members of the Association for approval; provided, however, that if a Lot has been improved with Multi-Family Dwellings and such Multi-Family Dwellings are subject to a Sub-Declaration which has a Sub-Association, then the Sub-Association organized under the application Sub-Declaration shall exercise the voting rights of the Owners/Members of all Multi-Family Dwellings subject to such Sub-Declaration and the individual Owners/Members of each Multi-Family Dwelling on such Lot shall not have separate voting right separate and apart from such Sub-Association. In the event a Lot contains a Multi-Family Building with Multi-Family Dwellings but such Lot or the Multi-Family Dwellings situated thereon are not subject to a Sub-Declaration or, if such Lot and/or the Multi-Family Dwellings situated thereon are subject to a Sub-Declaration but such Sub-Declaration does not establish a Sub-Association under such Sub-Declaration, then, in either event, each Owner/Member of each Multi-Family Dwelling on such Lot shall exercise the voting rights attributable to the Multi-Family Dwellings on such Lot. Such voting rights shall continue to apply to each Lot or Dwelling upon the addition of any of the Additional Property to this Declaration. Only those Members who hold legal title to a Lot or Dwelling shall be entitled to vote on any matter submitted to the Members of the Association for approval. For purposes of this Section 4.03, at all times prior to and after the Turnover Date, Developer shall be deemed the Owner of, and entitled to, all voting rights attributable to any Lots or Dwellings owned by Developer.

SECTION 2.09 BALLOT VOTING IN LIEU OF MEETINGS.

(a) Notwithstanding anything provided to the contrary in the Declaration, the Articles of Incorporation or these Bylaws, any matter which is required or permitted to be approved by the Members of the Association, including, without limitation, amendments to the Declaration, the Articles of Incorporation and the Bylaws which require any consent or approval of the Members, the election and removal of members of the Board of Directors and the approval of Special Assessments, may, subject to the rights retained and reserved by Developer until the Turnover Date pursuant to the terms of Sections 2.08 and 3.03 hereof, be submitted to the Members of the Association by a ballot vote, without any requirement that either an annual or special meeting of the Members of the Association be held, subject to the satisfaction of the following terms and conditions:

(i) Any matters to be submitted to the Members for approval pursuant to a ballot vote shall (1) be set forth on a ballot, the form of which must be approved by the Board of Directors, (2) subject to the provisions of Section 2.10 below, be mailed to all Members of the Association (utilizing the notice provisions set forth in Section 5.10 hereof) not less than ten (10) days nor more than fifty (50) days before the date such ballots shall be counted by the Board of Directors and (3) specify that all such ballots must be returned to and received by the Association no later than 12:00 p.m. on the date specified on such ballot as the date on which the ballots will be counted by the Board of Directors; and

(ii) Subject to the provisions of Section 2.10 below, any matter submitted to the Members for approval by ballot vote shall be deemed approved only if (1) ballots are cast (whether for or against a proposal or matter) by at least sixty-seven percent (67%) of the Members of the Association who are in good standing and (2) at least fifty-one percent (51%) of the Members voting on such matter vote in favor of such matter.

(b) The ballot voting procedures set forth above may be utilized in lieu of the holding of any annual or special meeting of the Members of the Association.

SECTION 2.10 **SUSPENSION OF VOTING RIGHTS.** Any Member who has not timely paid any Assessments due to the Association pursuant to any of the provisions of the Declaration or, pursuant to Section 11.01 of the Declaration, had his or her voting rights in the Association suspended or revoked, shall not be entitled to vote on any matters submitted to the Members for a vote and shall not be included in determining whether a quorum exists or whether the requisite number of Members have voted in a ballot vote. A Member shall be deemed "in good standing" so long as all Assessments payable by such Member have been paid in full and such Member's voting rights are not currently suspended or revoked pursuant to Section 11.01 of the Declaration.

ARTICLE III

BOARD OF DIRECTORS

SECTION 3.01 **GENERAL POWERS.** The business and affairs of the Association shall be managed by or under the direction of its Board of Directors (individually a "Director" and collectively, the "Directors"). All actions required or permitted to be taken by the Association under the Declaration shall be taken by the sole action of the Board of Directors without any requirement that any Owners or Mortgagees consent to or approve of such action.

SECTION 3.02 **NUMBER, TENURE AND QUALIFICATIONS.**

(a) Prior to the Turnover Date, the number of Directors of the Association shall be three (3). From and after the Turnover Date, the number of Directors of the Association shall be five (5). Each Director shall hold office until his or her successor shall have been elected and qualified. Directors appointed by Developer need not be residents of the State of Alabama or Members of the Association; however, Directors elected by the Members must be Members (or spouses of Members) in good standing at the time of their election.

(b) Prior to the Turnover Date, each Director appointed by Developer shall serve at the will and for such term as Developer elects; provided, however, that Developer may, in its sole discretion, remove any Director appointed by Developer at any time, with or without cause, upon written notice to such Director. Each Director shall hold office until his or her successor shall have been elected and qualified. Prior to the Turnover Date, Directors need not be residents of the State of Alabama or Members of the Association. From and after the occurrence of the Turnover Date, Directors must be Members (or the spouses of Members) who are in good standing at the time of their election.

(c) At the first meeting (or ballot vote) of the Members of the Association following the Turnover Date, the Members shall elect three (3) members of the Board of Directors to serve the following terms: one (1) candidate shall serve a three (3) year term on the Board of Directors, one (1) candidate shall serve a two (2) year term on the Board of Directors and one (1) candidate shall serve a one (1) year term on the Board of Directors. Such candidates shall be nominated pursuant to the provisions of Sections 3.03(b) and 3.03(c) below and shall be elected for the following terms: (i) the one (1) candidate receiving the first highest number of votes shall each be elected to a three (3) year term, (ii) the one (1) candidate receiving the second highest number of votes shall each be elected to a two (2) year term and (iii) the next candidate receiving the third highest number of votes shall be elected to a one (1) year term. All such elected members of the Board of Directors shall serve until such time as their respective successors have been duly elected. At each subsequent annual meeting of the Members (or any ballot of vote held in lieu of any annual meeting) following the Turnover Date, the Members shall elect Directors for terms of three (3) years each to fill the position of any expired terms of any Director. Following the Turnover Date, no person may be elected to serve as a Director for more than three (3) consecutive terms (regardless of the length of such consecutive terms).

SECTION 3.03

ELECTION, REMOVAL AND REPLACEMENT OF DIRECTORS.

(a) Until the occurrence of the Turnover Date, Developer shall have the sole and exclusive right to appoint and remove, with or without cause, all of the members of the Board of Directors of the Association. Each member of the Board of Directors appointed by Developer shall serve at the will and for such term as Developer elects; provided, however, that Developer may, in its sole discretion, remove any member of the Board of Directors at any time, with or without cause, upon written notice to such member of the Board of Directors. In the event of the death or resignation of a member of the Board of Directors at any time prior to the Turnover Date, then Developer shall appoint a substitute member of the Board of Directors to fill the vacancy of such deceased or resigned member of the Board of Directors.

(b) Immediately prior to the Turnover Date, the then existing members of the Board of Directors shall appoint a nominating committee consisting only of Members (or spouses of Members) of the Association. At least ten (10) days prior to the first annual meeting of the Members (or any ballot vote held in lieu of any annual meeting), the nominating committee shall provide written notice to all Members identifying those Members (or spouses of Members) who have been nominated by such nominating committee as candidates for the five (5) positions on the Board of Directors which will be vacated on the Turnover Date. Each subsequent year after the Turnover Date, the Board of Directors shall appoint a nominating committee consisting of Members (or spouses of Members) of the Association which shall, at least ten (10) days prior to the annual meeting of the Members (or any ballot vote held in lieu of any annual meeting), provide written notice to all Members identifying those Members (or spouses of Members) who have been nominated by such nominating committee as candidates to fill the upcoming vacancies on the Board of Directors at the next annual meeting of the Members (or any ballot vote held in lieu of any annual meeting). The number of candidates proposed to fill upcoming vacancies on the Board of Directors shall be determined by the nominating committee.

(c) At each annual meeting of the Members (or any ballot vote held in lieu of any annual meeting) on or after the Turnover Date, the Members will have the right to nominate from the floor (or write-in on any ballot) the name(s) of any Member(s) (or spouses of Members) not nominated by the nominating committee as a candidate for any position on the Board of Directors which will be vacated and filled by the vote of the Members at such annual meeting (or any ballot vote held in lieu of any such annual meeting).

(d) From and after the Turnover Date, the Members of the Association shall elect at each annual meeting of the Members (or in any ballot vote held in lieu of any annual meeting) from and among the Members (or spouses of Members) nominated pursuant to Sections (b) and (c) above the members of the Board of Directors to fill the expired terms of any Director(s).

(e) Following the occurrence of the Turnover Date, any member of the Board of Directors of the Association elected by the Members may be removed, with or without cause, at any time or from time to time by the vote of at least sixty-seven percent (67%) of those Members voting at an annual or a special meeting (or any ballot vote held in lieu of any annual meeting) of the Members held pursuant to the provisions of Article II hereof. In the event of the death or resignation of a member of the Board of Directors or the removal of any Director pursuant to Section 3.03(f) below at any time after the Turnover Date, then the remaining members of the Board of Directors shall appoint a substitute Director to fill the vacancy of such deceased or resigned member of the Board of Directors who shall serve for the remainder of the term of such former member of the Board of Directors.

(f) Following the occurrence of the Turnover Date, any Director who fails to attend three (3) or more consecutive meetings of the Board of Directors may be removed from the Board of Directors by the vote of a majority of the Directors, as defined in Section 3.08 below.

SECTION 3.04 **ANNUAL AND REGULAR MEETINGS.** An annual meeting of the Board of Directors shall be held, without further notice, immediately after, and at the same place as, the annual meeting of the Members of the Association; provided, however, that any such annual meeting may be held at any other time or place as determined by a majority of the members of the Board of Directors. The Board of Directors may provide, by resolution, the time and place, either within or without the State of Alabama, for the holding of regular meetings without further notice other than as set forth in such resolution.

SECTION 3.05 **SPECIAL MEETINGS.** Special meetings of the Board of Directors may be called by or at the request of the President, any Vice President or any two (2) Directors. The person or persons authorized to call special meetings of the Board of Directors may fix any place, either within or without the State of Alabama, as the place for holding any special meeting of the Board of Directors called by them.

SECTION 3.06 **NOTICE.** No notice of any annual, regular or special meeting of the Board of Directors shall be given so long as a quorum is present at any such meeting.

SECTION 3.07 **QUORUM.** Subject to the provisions of Section 3.14 below, a majority of the number of Directors fixed by Section 3.02(a) of these Bylaws shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but if less than such majority is present at a meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice. If a quorum is present when the meeting is convened, the Directors present may continue to do business until adjournment, taking action by a vote of a majority of the quorum as fixed above present at the beginning of such meeting, notwithstanding the withdrawal of Directors leaving less than a quorum as fixed above, or the refusal of any Director present to vote.

SECTION 3.08 **MANNER OF ACTING.** The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by statute, the Articles of Incorporation or these Bylaws. As used herein, the term "majority of the Directors" or "a majority of the number of Directors" or similar terms relating to any action to be taken by the Directors shall mean at least fifty-one percent (51%) of all of those Directors present at a duly convened meeting of the Board of Directors have approved or consented to such proposed action or matter.

SECTION 3.09 **ACTION WITHOUT A MEETING.** Any action required or permitted to be taken by the Board of Directors may be taken without a meeting of the Board of Directors if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors.

SECTION 3.10 **VACANCIES.** Any vacancy occurring in the Board of Directors shall be filled as provided in Section 3.03 above. A Director elected or appointed to fill a vacancy shall be elected to serve for the unexpired term of his predecessor in office.

SECTION 3.11 **COMPENSATION.** By resolution of the Board of Directors, each Director may be paid his or her expenses, if any, of attendance at each meeting of the Board of Directors. No such payment shall preclude any Director from serving the Association in any other capacity and receiving compensation therefor.

SECTION 3.12 **COMMITTEES.** The Board of Directors, by resolution adopted by a majority of the Directors, may designate from among the Members (or spouses of Members) one or more committees; provided, however, that members of the ARC need not be Members. No such committee

shall have the authority of the Board of Directors. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors. The designation of any such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors or any Director of any responsibility imposed upon it or such Director by law.

SECTION 3.13 RESIGNATIONS. Any Director of the Association may resign at any time either by oral tender of resignation at any meeting of the Board of Directors or by giving written notice thereof to the Secretary of the Association. Any such resignation shall take effect upon receipt of such notice or at any later time specified therein. Unless otherwise specified in the notice, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 3.14 PARTICIPATION IN MEETINGS BY CONFERENCE TELEPHONE. Members of the Board of Directors or any committee designated thereby may participate in a meeting of such Board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at such meeting.

SECTION 3.15 ARC MEMBERS. If, pursuant to the terms of the Declaration, Developer has relinquished its right to appoint and remove the members of the ARC, then the Board of Directors of the Association shall thereafter appoint and remove, with or without cause, all persons designated to serve on the ARC. The persons designated by either Developer or the Board of Directors to serve on the ARC shall, notwithstanding anything provided in these Bylaws to the contrary, (a) be deemed agents and representatives of the Association, (b) need not be Members of the Association and (c) have no personal liability with respect to either any actions taken by the ARC pursuant to the terms and provisions of the Declaration or with respect to any contract or other commitment made by them, in good faith, on behalf of the Association with respect to the ARC. The Association shall and does hereby indemnify, defend and agree to forever hold each person designated by the Board of Directors to serve on the ARC harmless from and against any and all liability on account of any (i) contract or commitment entered into by such persons, in good faith, on behalf of the ARC under the Declaration, and (ii) other actions undertaken by such persons in furtherance of their respective duties and responsibilities under the Declaration.

ARTICLE IV

OFFICERS

SECTION 4.01 PRINCIPAL OFFICERS. The principal officers of the Association shall be elected by the Board of Directors and shall include a President, a Vice President, a Secretary and a Treasurer. Any number of offices may be held by the same person, except the offices of President and Secretary. None of the principal officers need be Directors of the Association.

SECTION 4.02 ELECTION OF PRINCIPAL OFFICERS; TERM OF OFFICE. The principal officers of the Association shall be elected annually by the Board of Directors. Each principal officer shall hold office until his or her successor shall have been duly elected and qualified or until such officer's death or until such officer shall resign or shall have been removed in the manner hereinafter provided. If the Board of Directors shall fail to fill any principal office at an annual meeting of the Board of Directors, or if any vacancy in any principal office shall occur, or if any principal office shall be newly created, such principal office may be filled at any regular or special meeting of the Board of Directors.

SECTION 4.03 SUBORDINATE OFFICERS, AGENTS AND EMPLOYEES. In addition to the principal officers of the Association established in Section 4.01 above, the Association may have such other subordinate officers, agents and employees as the Board of Directors may deem advisable each of

whom shall hold office for such period and have such authority and perform such duties as the Board of Directors or the President may from time to time determine. The Board of Directors at any time may appoint and remove, or may delegate to any principal officer the power to appoint and to remove, any subordinate officer, agent or employee of the Association.

SECTION 4.04 **DELEGATION OF DUTIES OF OFFICERS.** The Board of Directors may delegate the duties and powers of any officer of the Association to any other officer or to any Director for a specified period of time for any reason that the Board of Directors may deem sufficient.

SECTION 4.05 **REMOVAL OF OFFICERS OR AGENTS.** Any officer or agent of the Association may be removed by the Board of Directors at any time, either with or without cause, and the Board of Directors may appoint a successor to such removed officer and agent. Election or appointment of any officer or agent shall not of itself create contract rights.

SECTION 4.06 **RESIGNATIONS.** Any officer may resign at any time by giving written notice of resignation to the Board of Directors, to the Chairman of the Board, to the President or to the Secretary. Any such resignation shall take effect upon receipt of such notice or at any later time specified therein. Unless otherwise specified in the notice, the acceptance of a resignation shall not be necessary to make the resignation effective.

SECTION 4.07 **VACANCIES.** A vacancy in any office, the holder of which is elected or appointed by the Board of Directors, because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term of such office. A vacancy in any other office for any reason shall be filled by the Board of Directors, or any committee, or officer to whom authority for the appointment, removal or filling of vacancies may have been delegated by these Bylaws or by resolution of the Board of Directors.

SECTION 4.08 **PRESIDENT.** The President shall preside at all meetings of the Members of the Association at which he or she is present. The President shall be the chief executive officer of the Association and, subject to the control of the Board of Directors, shall have general supervision over the business and affairs of the Association. The President shall have all powers and duties usually incident to the office of the President except as specifically limited by resolution of the Board of Directors. The President shall have such other powers and perform such other duties as may be assigned to him or her from time to time by the Board of Directors.

SECTION 4.09 **VICE PRESIDENT.** In the absence or disability of the President or if the office of President be vacant, the Vice President shall perform the duties and exercise the powers of the President, subject to the right of the Board of Directors at any time to extend or confine such powers and duties or to assign them to others. The Vice President shall generally assist the President in such manner as the President shall direct. The Vice President shall have such other powers and perform such other duties as may be assigned to him or her from time to time by the Board of Directors or the President.

SECTION 4.10 **SECRETARY.** The Secretary shall act as Secretary of all meetings of the Members of the Association and of the Board of Directors at which he or she is present, shall record the proceedings of all such meetings in a minute book to be kept for that purpose, shall have supervision over the giving and service of notices of the Association, and shall have supervision over the care and custody of the records and seal of the Association. The Secretary shall be empowered to affix the corporate seal to documents, the execution of which on behalf of the Association under its seal is duly authorized, and when so affixed may attest the same. The Secretary shall have all powers and duties usually incident to the office of Secretary, except as specifically limited by a resolution of the Board of Directors, including, without limitation, the right and authority to designate other persons who shall have the right to exercise

any of the rights, duties and authority of the Secretary set forth in this Section 4.10. The Secretary shall have such other powers and perform such other duties as may be assigned to him or her from time to time by the Board of Directors or the President.

SECTION 4.11 **TREASURER.** The Treasurer shall have general supervision over the care and custody of the funds and over the receipts and disbursements of the Association and shall cause the funds of the Association to be deposited in the name of the Association in such banks or other depositories as the Board of Directors may designate. The Treasurer shall have all powers and duties usually incident to the office of Treasurer except as specifically limited by a resolution of the Board of Directors. The Treasurer shall have such other powers and perform such other duties as may be assigned to him or her from time to time by the Board of Directors or the President.

SECTION 4.12 **SALARIES.** The officers of the Association shall not be entitled to any salaries or other compensation except for expenses incurred on behalf of the Association which shall be reimbursed; provided, however, that members of the ARC may be compensated for their services rendered to the Association.

ARTICLE V

FISCAL MATTERS AND BOOKS AND RECORDS

SECTION 5.01 **FIDELITY BONDS.** The Board of Directors may require that any contractor or employee of the Association handling or responsible for Association funds furnish an adequate fidelity bond. The premium for any such bond shall be paid by the Association and shall constitute a Common Expense.

SECTION 5.02 **BOOKS AND RECORDS KEPT BY ASSOCIATION.** The Association shall keep accurate financial records, including itemized records of all receipts and disbursements, shall keep minutes of the proceeds of all meetings of the Members and of the Board of Directors and committees having any of the authority of the Board of Directors, and shall keep such other books and records as may be required by law or necessary to reflect accurately the affairs and activities of the Association. The Association shall keep at the office of the Association a record giving the names and addresses of the Directors and all Members of the Association, which shall be furnished by each Owner pursuant to Section 5.10 of these Bylaws.

SECTION 5.03 **INSPECTIONS.** The books, records and papers of the Association shall, during reasonable business hours, be subject to inspection by any Member or his or her agent or attorney for any proper purpose upon not less than 72 hours prior written notice to the Association, which notice shall specify which books, records or papers of the Association such Member desires to inspect or review. To the extent the Association incurs any costs and expenses, including administration costs, in satisfying any request by a Member to inspect the books, records or papers of the Association, then the Member making such request shall pay all such costs and expenses incurred by the Association. True and correct copies of the Articles of Incorporation, these Bylaws, the Declaration and all rules and regulations of the Association with all amendments thereto, shall be maintained at the principal registered offices of the Association and copies thereof shall be furnished to any Member on request upon payment by such Member of a reasonable charge therefor.

SECTION 5.04 **CONTRACTS.** The Board of Directors may authorize any officer or officers, or agent or agents of the Association, in addition to the officers so authorized by the Declaration and these Bylaws, to enter into any contract or execute and deliver any instrument in the name of, or on behalf of the Association, and such authority may be general or confined to specific instances.

SECTION 5.05 **CHECKS, DRAFTS, ETC.** All checks, drafts or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers or agents of the Association in such manner as shall from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors, such instruments shall be signed by the Treasurer of the Association.

SECTION 5.06 **DEPOSITS.** All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board of Directors may select.

SECTION 5.07 **GIFTS.** The Board of Directors may accept and give, on behalf of the Association, any contribution, gift, bequest or devise for the general purposes, or for any special purpose, of the Association.

SECTION 5.08 **FISCAL YEAR.** The fiscal year of the Association shall be the calendar year.

SECTION 5.09 **ANNUAL STATEMENTS.** The Board of Directors shall determine and approve annually an annual budget covering the estimated Common Expenses for the Property for the upcoming year, such budget to include a capital contribution or reserve account, if necessary, for the capital needs of the Association. The amount set forth in such budget shall constitute the aggregate amount of all Annual Assessments for all of the Property for the then applicable year and each Member shall pay his or her prorata share of the same in accordance with the terms and provisions of the Declaration. Furthermore, the Board of Directors shall also have the right, pursuant to Section 8.04 of the Declaration, to levy Special Assessments. Furthermore, Individual Assessments may be levied by the Association against any Member in accordance with the terms and provisions of Section 8.05 of the Declaration. Not later than four (4) months after the close of each fiscal year, the Board of Directors shall prepare or cause to be prepared a balance sheet showing in reasonable detail the financial condition of the Association as of the close of its fiscal year and an income and expense statement showing the results of its operations during its fiscal year. Prior to the Turnover Date, such statements may be unaudited. After the Turnover Date such statements may, in the discretion of the Board, be audited statements. Upon receipt of written request, the Treasurer shall promptly mail to any Member copies of the most recent such balance sheet and income and expense statement upon payment by such Member of a reasonable charge therefor.

SECTION 5.10 **NOTICES.** Each Member shall be obligated to furnish to the Secretary of the Association in writing, the address, if other than the Lot or Dwelling of such Member, to which any notice to such Owner under the Declaration or these Bylaws is to be given and, if no address other than such Lot or Dwelling shall have been designated in writing, then all such notices and demands shall be mailed or delivered to the Lot or Dwelling of such Owner. Any Member may, for the purposes of notices hereunder, specify in writing to the Association that all notices be submitted to such Member by facsimile transmission or through the Internet utilizing a specific electronic mailbox for that particular Member. All notices required or permitted to be given by the Association to any Member under the Declaration, these Bylaws or under any other documents or agreements shall be deemed to have been sufficiently given or served upon any Member when given in the manner specified in Section 12.15 of the Declaration.

SECTION 5.11 **PAYMENT OF TAXES ON COMMON AREAS AND INSURANCE PREMIUMS.** The Board of Directors shall, to the extent funds are available, cause payment to be made, in

a timely manner, of all taxes assessed against the Common Areas or Association property and of all insurance premiums payable by the Association.

SECTION 5.12 **RULES AND REGULATIONS.** The Board of Directors shall have the right, from time to time and at any time, to adopt, amend, modify, repeal, alter, and change the Rules and Regulations which are attached to the Declaration. All Rules and Regulations, as amended from time to time, shall be binding upon all Members.

ARTICLE VI

INSURANCE

SECTION 6.01 **TYPES OF COVERAGE.** The Association shall maintain in effect at all times as a Common Expense the types of insurance coverage required by the Declaration and any other insurance required by law or which the Board of Directors may from time to time deem appropriate. The Board of Directors shall review the amount and terms of such insurance annually.

SECTION 6.02 **INDEMNIFICATION INSURANCE.** The Association shall have the power and authority to purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Association (including any Person appointed by the Board to serve on the ARC) or is or was serving at the request of the Association as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under applicable law.

ARTICLE VII

GENERAL PROVISIONS

SECTION 7.01 **WAIVER OF NOTICE.** Whenever any notice is required to be given under any provision of law, the Declaration, the Articles of Incorporation or these Bylaws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Members, the Board of Directors or members of any committees established by the Board of Directors need be specified in any written waiver of notice unless otherwise required by these Bylaws. Attendance of a Director at a meeting of the Board of Directors shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

SECTION 7.02 **INCORPORATION BY REFERENCE.** All of the terms, provisions, definitions, covenants and conditions set forth in the Declaration are hereby expressly incorporated herein by reference as if fully set forth herein. In the event of any conflict or ambiguity between the terms, provisions, definitions, covenants and conditions set forth herein in these Bylaws and in the Declaration, then the provisions of the Declaration shall at all times control.

SECTION 7.03 **AMENDMENTS.** The Board of Directors shall have the sole right, power and authority, without the consent or approval of the Members, to alter, amend or repeal the Bylaws of the Association or adopt new bylaws for the Association at any regular or special meeting of the Board of Directors; provided, however, that notwithstanding anything provided in this Section 7.03 to the contrary, any amendments to these Bylaws prior to the Turnover Date must be approved by Developer.

SECTION 7.04 **SEAL.** The Board of Directors may, but shall not be obligated to, provide a corporate seal which shall be circular in form and have inscribed thereon the name of the Association, the state of incorporation and such other words as the Board of Directors may prescribe; provided, however, that the use of the seal of the Association on any contract or agreement shall not be required to evidence the validity, authenticity or approval of such contract or agreement.