

interstate commerce, as that term is defined in the Federal Arbitration Act, 9 U.S.C. § 2.

## ARTICLE XV

### MISCELLANEOUS

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

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

**Section 15.03 Mold and Mildew.** Mold and/or mildew can grow in any portion of the Condominium that is exposed to elevated levels of moisture. Each Unit Owner agrees to: (1) regularly inspect the parts of the Condominium that the Unit Owners maintain; and which are visible and accessible without having to first conduct invasive testing, for the existence of mold, mildew, and/or water intrusion and/or damage; (2) upon discovery, immediately repair in a good and workmanlike condition the source of any water intrusion in the parts of the Condominium that they respectively maintain; (3) remediate or replace any building material located in the parts of the Condominium that they maintain that has absorbed water or moisture as a result of water intrusion; and (4) promptly and regularly remediate all mold and/or mildew discovered in the parts of the Condominium that they maintain in accordance with current industry-accepted methods. In addition, each Unit Owner shall notify the Association and the Developer of the discovery of mold, mildew, and/or water intrusion and/or damage in their Units, and the Association shall notify the Developer of the discovery of mold, mildew, and/or water intrusion and/or damage in any part of the Condominium should the Developer own any Units at that time.

**Section 15.04 Gender/Number.** Whenever the context so permits, the use of the plural shall include the singular, the singular shall include the plural, and any gender shall be deemed to include all genders.

**Section 15.05 Exhibits.** Exhibits "A", "B", "C", "D", "E", and "F" attached to this Declaration are an integral part of this Declaration.

**Section 15.06 Invalidity and Severability.** It is the intention of the Developer that the provisions of this Declaration are severable so that if any provision is invalid or void under any applicable federal, state or local law or ordinance, decree, order, judgment or otherwise, the remainder shall be unaffected thereby.

**Section 15.07 Interpretation.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a condominium project. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

IN WITNESS WHEREOF, the Developer has hereunto set its signature and seal on the day and year first above written.

LIFESTYLE DEVELOPMENT, LLC,  
an Ohio limited liability company

Jordan Yates  
By: Jordan Yates  
Its: Partner

STATE OF ALABAMA     )  
HOUSTON COUNTY     )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Jordan Yates whose name as Partner of **LIFESTYLE DEVELOPMENT, LLC**, an Ohio limited liability company, is signed to the foregoing Declaration of Condominium, and who is known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing Declaration of Condominium, he, as such officer and with full authority, executed the same voluntarily on the date the same bears date.

Given under my hand and official seal of office this 25<sup>th</sup> day of November, 2008.

Paula M. Wray  
Notary Public

MY COMMISSION EXPIRES APRIL 1, 2012

My Commission Expires: \_\_\_\_\_



The undersigned, as **MORTGAGEE** under the Mortgage encumbering the real property identified in the foregoing Declaration of Condominium of Stone Creek Landing, a condominium, joins in the execution of the foregoing Declaration of Condominium of Stone Creek Landing, a condominium for the sole purpose of consenting to the filing of the Declaration of Condominium of Stone Creek Landing, a condominium as required by §§ 35-8A-101 *et seq.* of the CODE OF ALABAMA. The undersigned is not the Developer, and does not assume any obligation whatsoever under the terms, covenants and conditions of the foregoing Declaration of Condominium, and the execution hereof does not in any way subordinate or make the said Mortgage inferior to the said Declaration of Condominium.

**MORTGAGEE:**

**COMPASS BANK**

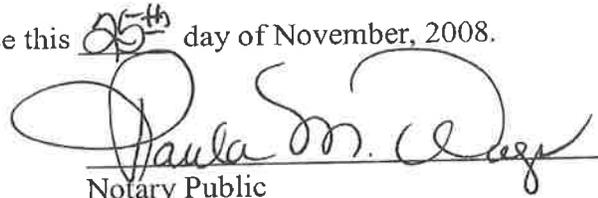
  
By: Ben Bendinger  
Its \_\_\_\_\_

STATE OF ALABAMA )  
HOUSTON COUNTY )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Ben Bendinger, whose name as VP of Compass Bank, is signed to the foregoing Declaration of Condominium, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Declaration of Condominium, he, as such officer, and with full authority, executed the same voluntarily for and as the act of said bank on the day the same bears date.

Given under my hand and seal of office this 25<sup>th</sup> day of November, 2008.



  
Notary Public

MY COMMISSION EXPIRES APRIL 1, 2012

My commission expires: \_\_\_\_\_

**EXHIBIT D**  
**PLAN OF THE CONDOMINIUM**





## EXHIBIT E

ALLOCATED INTERESTS AND VOTES

UNIT #	ALLOCATED INTEREST	VOTES PER UNIT
12-A	5%	1
12-B	5%	1
12-C	5%	1
12-D	5%	1
13-A	5%	1
13-B	5%	1
13-C	5%	1
13-D	5%	1
17-A	5%	1
17-B	5%	1
17-C	5%	1
17-D	5%	1
18-A	5%	1
18-B	5%	1
18-C	5%	1
18-D	5%	1
19-A	5%	1
19-B	5%	1
19-C	5%	1
19-D	5%	1
<b>TOTAL</b>	<b>100%</b>	<b>20</b>

**EXHIBIT F**

**ALLOCATED INTERESTS AND VOTES UPON  
ADDITION OF ADDITIONAL UNITS**

Upon addition of Additional Units to the Condominium, the allocated interests assigned to the Additional Units shall be calculated by dividing the square footage of each Additional Unit by the total square footage of all Units then-existing in the Condominium. The allocated interest of all previously-existing Units in the Condominium will likewise be reduced by dividing the square footage of the Unit by the square footage of all Units then-existing.

Each of the Additional Units shall have one vote.

Recording Fee 218.00  
TOTAL 218.00

*Gave original to Jordan Yates*

**EXHIBIT A****LEGAL DESCRIPTION**

A lot or parcel of land being located in the City of Dothan, Houston County, Alabama, and being further described as follows:

COMMENCING at the Southeast corner of Section 34, Township 3 North, Range 26 East as marked by an existing iron pin (EIP) (BRANTON 13186); thence N 80°18'45" W a distance of 678.35 FT to an EIP (1/2" BENT PIPE) on the North right-of-way (R/W) of Taylor Road (60' R/W) and the POINT OF BEGINNING (P.O.B.); thence along said North R/W bearing S 72°39'04" W a distance of 360.94 FT to a set iron pin (SIP); thence along said North R/W along a curve to the right having a delta angle of 08°02'02" with a radius of 1900.00 FT an arc length of 266.41 FT with a chord bearing of S 77°13'06" W a chord distance of 266.19 FT to an EIP (1/2" PIPE) marking the Northeast intersection of said North R/W of Taylor Road with the East R/W of South Park Avenue (80' R/W); thence along said East R/W bearing N 00°18'11" W a distance of 832.69 FT to an EIP (1/2" BENT PIPE); thence along said East R/W along a curve to the right having a delta angle of 10°23'56" with a radius of 1875.00 FT an arc length of 340.30 FT with a chord bearing of N 04°35'28" E a chord distance of 339.83 FT to an EIP (1/2" BENT PIPE); thence along said East R/W along a curve to the right having a delta angle of 08°37'13" with a radius of 2375.00 FT an arc length of 357.33 FT with a chord bearing of N 15°38'44" E a chord distance of 356.99 FT to a SIP; thence along said East R/W bearing N 20°38'38" E a distance of 578.35 FT to a SIP at the Southeast intersection of said East R/W of South Park Avenue with the South R/W of Moore Road (60' R/W); thence along said South R/W bearing S 67°31'46" E a distance of 180.32 FT to an EIP (1/2" PIPE); thence along said South R/W along a curve to the right having a delta angle of 33°18'24" with a radius of 375.00 FT an arc length of 217.99 FT with a chord bearing of S 51°48'38" E a chord distance of 214.94 FT to a SIP; thence along said South R/W bearing S 33°29'21" E a distance of 148.50 FT to the Northwest corner of Hidden Creek Subdivision as found recorded in the Office of the Judge of Probate of Houston County, Alabama, in Plat Book 10, Page 61 and being a point in the center of Limestone Creek as marked by an EIP (1/2" BENT PIPE) lying S 33°17'26" E a distance of 57.50 FT; thence along said West line and the center of said Limestone Creek bearing S 65°16'55" W a distance of 76.21 FT to a point; thence along said West line and the center of said Limestone Creek bearing S 00°18'55" E a distance of 209.04 FT to a point; thence along said West line and the center of said Limestone Creek bearing S 20°46'11" W a distance of 152.73 FT to a point; thence along said West line and the center of said Limestone Creek bearing S 32°24'47" E a distance of 123.00 FT to a point; thence along said West line and the center of said Limestone Creek bearing S 03°15'11" W a distance of 212.10 FT to a point; thence along said West line and the center of said Limestone Creek bearing S 13°39'16" W a distance of 127.50 FT to a point; thence along said West line and the center of said Limestone Creek bearing S 08°52'26" E a distance of 111.50 FT to a point; thence along said West line and the center of said Limestone Creek bearing S 38°48'41" E a distance of 81.88 FT to a point; thence along said West line and the center of said Limestone Creek bearing S 41°40'34" E a distance of 41.07 FT to a point; thence along said West line and the center of said Limestone Creek bearing S 67°23'15" E a distance of 81.70 FT to an EIP (1/2"

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Stone Creek Landing / Declaration

PIPE); thence depart said center of Limestone Creek bearing S 12°22'52" E along said West line a distance of 107.02 FT to an EIP (1/2" PIPE); thence depart said West line bearing S 72°45'34" W a distance of 209.46 FT to an EIP (CRIMPED PIPE); thence S 12°30'14" E a distance of 209.67 FT to a SIP; thence S 72°43'44" W a distance of 105.00 FT to a SIP; thence S 12°35'03" E a distance of 105.00 FT to the P.O.B. Said parcel being in the City of Dothan, Houston County, in the East 1/2 of the Southeast 1/4 of Section 34, T3N, R26E, and containing 26.70 acres, more or less.

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**EXHIBIT B****LEGAL DESCRIPTION OF ADDITIONAL PROPERTY**

A lot or parcel of land in the City of Dothan, Houston County, Alabama, and being more particularly described as follows:

COMMENCING at an existing iron pin (EIP) marking the Southwest corner of Section 35, Township 3 North, Range 26 East; thence N 22°13'30" E a distance of 338.49 FT to an EIP on the North right-of-way (R/W) of Taylor Road (60 FT R/W); thence depart said North R/W bearing N 08°42'26" E a distance of 176.59 FT to a set iron pin (SIP) and the Point of Beginning (P.O.B); thence N 08°42'26" E a distance of 8.56 FT to an EIP; thence N 74°56'30" W a distance of 206.82 FT to an EIP marking the East R/W of Moore Road (60 FT R/W); thence along said East R/W bearing N 01°04'34" W a distance of 155.90 FT to a set concrete monument (SCM); thence along said East R/W along a curve to the left having a delta angle of 37°50'01" with a radius of 555.00 FT an arc length of 366.48 FT with a chord bearing of N 15°44'40" W a chord length of 359.86 FT to a SCM; thence along said East R/W bearing N 30°57'27" W a distance of 523.67 FT to a SIP; thence along said East R/W bearing N 31°59'05" W a distance of 166.66 FT to a SIP; thence along said East R/W bearing N 31°26'10" W a distance of 39.41 FT to an EIP; thence depart said East R/W bearing S 80°53'06" E a distance of 382.64 FT to an EIP marking the centerline of an Alabama Power utility easement; thence along said centerline of the Alabama Power utility easement bearing N 10°14'11" W a distance of 372.47 FT to an EIP; thence depart said centerline of the Alabama Power utility easement bearing S 88°35'11" E a distance of 1092.04 FT to an existing concrete monument (ECM); thence S 01°59'24" W a distance of 1414.45 FT to an EIP; thence S 88°02'32" W a distance of 209.35 FT to a SIP; thence S 02°22'10" W a distance of 29.45 FT to a SIP; thence S 87°52'38" W a distance of 466.88 FT to the P.O.B. Said parcel being located in the City of Dothan, Houston County, Alabama, in the E 1/2 of the SE 1/4 of Section 34, T3N, R26E and in the W 1/2 of the SW 1/4 of Section 35, T3N, R26E and containing 35.16 acres, more or less.

**LEGAL DESCRIPTION**

A lot or parcel of land in the City of Dothan, Houston County, Alabama, and being more particularly described as follows:

COMMENCING at an existing iron pin (EIP) marking the Southwest corner of Section 35, Township 3 North, Range 26 East; thence N 22°13'30" E a distance of 338.49 FT to an EIP on the North right-of-way (R/W) of Taylor Road (60 FT R/W) and the Point of Beginning (P.O.B); thence N 08°42'26" E a distance of 176.59 FT to a set iron pin (SIP); thence N 87°52'38" E a distance of 466.88 FT to a SIP; thence S 02°22'10" W a distance of 180.55 FT to a SIP on said North R/W; thence along said North R/W bearing S 87°52'38" W a distance of 474.68 FT to an existing concrete monument (ECM); thence along said North R/W bearing N 61°52'15" W a distance of 13.00 FT to the

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P.O.B. Said parcel being located in the City of Dothan, Houston County, Alabama, in the E 1/2 of the SE 1/4 of Section 34, T3N, R26E and in the W 1/2 of the SW 1/4 of Section 35, T3N, R26E and containing 1.97 acres, more or less.

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**EXHIBIT C**  
**BYLAWS**  
**OF**  
**STONE CREEK LANDING ASSOCIATION, INC.**

**ARTICLE I**

**THE ASSOCIATION**

**Section 1. Identity.** These are the Bylaws of Stone Creek Landing Association, Inc., a not for profit corporation (the "Association"), which was formed under the Alabama Nonprofit Corporation Act [Code of Alabama 1975 §§10-3A-1 et seq.] by filing the Articles of Incorporation of the Association (the "Articles") with the Office of the Judge of Probate of Houston County, Alabama on November 29<sup>th</sup> 2008. (These and other terms are used in these Bylaws as they are defined in the Declaration of Condominium of Stone Creek Landing, a condominium, which Declaration is recorded in the Office of the Judge of Probate of Houston County, Alabama. The words "Member" or "Members" as used in these Bylaws means and shall refer to "Unit Owners" or "Unit Owners," as the case may be, as defined in the Declaration.) The Association has been organized for the purpose of providing for the operation, management, maintenance, control and administration of Stone Creek Landing, a condominium (the "Condominium"), pursuant to the provisions of the Alabama Uniform Condominium Act of 1991 [Code of Alabama §§ 35-8A-101 et seq.] and the Declaration of Condominium of Stone Creek Landing, a condominium, (the "Declaration") as filed with the Office of the Judge of Probate of Houston County, Alabama in accordance with the provisions of said Act. These and other terms are used in these Bylaws as they are defined in the Master Deed

**Section 2. Principal Office.** The principal office of the Association in the State of Alabama shall be located in the City of Dothan, County of Houston, Alabama. The Association may have such other offices, either within or without the State of Alabama, as the Board of Directors may designate or as the business of the Association may require from time to time.

**Section 3. Registered Office.** The registered office of the Association, required by the Alabama Nonprofit Corporation Act to be maintained in the State of Alabama, may be, but need not be, identical with the principal office in the State of Alabama, and the address of the registered office may be changed from time to time by the Board of Directors.

**ARTICLE II**

**MEMBERSHIP**

**Section 1. Annual Meeting.** The annual meeting of the membership shall be held in the month of October each year, beginning with the year 2009 on a date to be designated by the Board of Directors, or at such other time as shall be fixed by the Board of Directors, for the purpose of electing directors, if the period of Developer control has ended, and for the transaction of such other business as may come before the meeting.

**Section 2. Special Meetings.** Special meetings of the membership, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President or by a majority of the Board of Directors and shall be called by the President or the Secretary at the request of holders of not less than ten percent (10%) of all the outstanding votes of the membership.

**Section 3. Place of Meeting.** The Board of Directors may designate any place, within or without the State of Alabama, as the place of meeting for any annual meeting or for any special meeting of the membership. If no designation is made, or if a special meeting is otherwise called, the place of the meeting shall be the principal office of the Association in the State of Alabama.

**Section 4. Notice of Meeting.** Written or printed notice 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 an 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, unless otherwise prescribed by statute, be delivered not less than ten (10) nor more than sixty (60) days before the date of the meeting, either personally or by mail, by or at the direction of the President, the Secretary, or the persons calling the meeting, to each member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at his address as it appears on the records of the Association, with postage thereon prepaid.

**Section 5. Fixing of Record Date.** The Board of Directors may fix in advance a date as the record date for the purpose of determining the members entitled to notice of or to vote at any meeting of members or any adjournment thereof, or for any other proper purpose, such date in any case to be not more than thirty (30) days and, in case of a meeting of the membership, not less than ten (10) days prior to the date on which the particular action, requiring such determination of members, is to be taken. If no record date is fixed for the determination of members entitled to notice of or to vote at a meeting of the membership, the date on which notice of the meeting is mailed shall be the record date for such determination of members. When a determination of members entitled to vote at any meeting of the membership has been made as provided in this section, such determination shall apply to any adjournment thereof.

**Section 6. Voting Lists.** The officer or agent having charge of the records of members of the Association shall make, at least ten (10) days before each meeting of the membership, a complete list of the members entitled to vote at such meeting, or any adjournment thereof, arranged in alphabetical order, with the address of each member and the number of votes to which he is entitled, which list, for a period of ten (10) days prior to such meeting, shall be kept on file at the principal office of the Association and shall be subject to inspection by any member making written request therefor at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any member during the whole time of the meeting.

**Section 7. Quorum.** The presence at any meeting of the membership of the members entitled to cast forty (40%) percent of the votes in the Association, represented in person or by proxy, shall constitute a quorum. If a quorum is not present at any meeting, a

majority of the members so represented may adjourn the meeting from time to time without further notice. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally notified. The members present or represented at a meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

**Section 8. Majority Vote.** The vote of members entitled to cast a majority of the votes represented at a meeting of the membership at which a quorum is present shall be the act of the members of the Association, unless the vote of a greater number is required by law, the Declaration, the Articles, or these Bylaws.

**Section 9. Proxies.** At all meetings of the membership, a member may vote in person or by proxy executed in writing by the member or by his duly authorized attorney in fact. A proxy is void if it is not dated or purports to be revocable without notice. Such proxy shall be filed with the Secretary of the Association before or at the time of the meeting. No proxy shall be valid after one year from the date of its execution, unless a shorter term is provided in the proxy.

**Section 10. Voting Rights.** If only one of the multiple Owners of a Unit is present at a meeting of the Association, he is entitled to cast all the votes allocated to that Unit. If more than one of the multiple Owners are present, the votes allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the multiple Owners. There is a majority agreement if any one of the multiple Owners casts the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Unit.

**Section 11. Informal Action by Members.** Any action required to be taken at a meeting of the membership, or any other action which may be taken at a meeting of the membership, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof.

## ARTICLE III

### BOARD OF DIRECTORS

**Section 1. General Powers.** The business and affairs of the Association shall be managed by or under the direction of its Board of Directors.

**Section 2. Number, Tenure and Qualifications.** The number of directors of the Association shall consist of not less than three (3) nor more than seven (7) directors with the exact number to be fixed from time to time by the members holding a majority of the votes of the Association. The initial Board of Directors shall consist of three (3) directors.

**Section 3. Election of Directors.**

(a) Election of directors shall be held at the annual meeting of the membership. The election shall be by secret ballot (unless dispensed with by unanimous consent) and by a plurality of the votes cast. The Owner of each whole Unit shall be entitled to cast his votes for each of as many nominees as there are vacancies to be filled at the time of the election. There shall be no cumulative voting.

(b) Notwithstanding the provisions set forth in this Article III, LIFESTYLE DEVELOPMENT, LLC, an Ohio limited liability company (the "Developer"), its successors and assigns, shall control by appointing and renewing officers and members of the Board until such time as (a) sixty (60) days have elapsed since seventy-five percent (75%) of the Units which may be created in the Condominium have been conveyed to purchasers of Units other than the Developer, (b) two (2) years have elapsed since Developer has ceased offering Units for sale in the ordinary course of business, or (c) two (2) years have lapsed since Developer last exercised a development right to add new Units to the Condominium, or (d) the Developer elects, at its option, to terminate control of the Association, whichever first occurs. Not later than ninety (90) days after conveyance of twenty-five percent (25%) of the Units which may be created to Unit Owners other than the Developer, the Unit Owners other than Developer shall be entitled to elect at least one member or twenty-five percent (25%) of the members of the Board. Not later than ninety (90) days after conveyance of fifty percent (50%) of the Units which may be created to Unit Owners other than Developer, not less than thirty-three and one-third percent (33 $\frac{1}{3}$ %) of the members of the Board shall be elected by the Unit Owners. The Developer shall be entitled to elect at least one (1) member of the Board of Directors as long as the Developer holds for sale in the ordinary course of business at least five percent (5%) of the Units which may be created in the Condominium. Within sixty (60) days before the date of termination of control of the Association by the Developer, the Board of Directors shall call and give not less than ten (10), nor more than thirty (30), days' notice of a special meeting of the membership for the purpose of electing the members of the Board of Directors.

**Section 4. Regular Meetings.** A regular meeting of the Board of Directors shall be held without other notice than this Bylaw immediately after, and at the same place as, the annual meeting of the membership, provided, however, any such regular meeting may be held at any other time or place which shall be specified in a notice given as hereinafter provided for special meetings, or in a consent and waiver of notice thereof, signed by all Directors. The Board of Directors may provide, by resolution, the time and place, within or without the State of Alabama, for the holding of additional regular meetings without other notice than such resolution.

**Section 5. Special Meetings.** Special meetings of the Board of Directors may be called by or at the request of the President or any two directors.

**Section 6. Notice.** Notice of any special meeting shall be given at least three (3) days previously thereto by written notice delivered personally or mailed to each director at his business address, or by telegram. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. If notice be

given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any director may waive notice of any meeting. The attendance of a director at a meeting 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. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

**Section 7. Quorum.** A majority of the number of directors fixed by Section 2 of this Article III 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, taking action by a vote of the majority of a quorum, until adjournment, notwithstanding the withdrawal of enough directors to leave less than a quorum present, or the refusal of any director present to vote.

**Section 8. Manner of Acting.** The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

**Section 9. Action Without a Meeting.** Any action that may be taken by the Board of Directors at a meeting may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors.

**Section 10. Vacancies.** Any vacancy occurring in the Board of Directors and any directorship to be filled by reason of an increase in the number of directors may be filled by a majority of the remaining directors. A director elected or appointed, as the case may be, shall be elected or appointed for the unexpired term of his predecessor in office.

**Section 11. Compensation.** By resolution of the Board of Directors, the directors may be paid their 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 12. Committees.** The Board of Directors may, by resolution or resolutions, passed by a majority of the Board, designate one or more committees, each of which shall consist of two (2) or more directors and which to the extent provided in said resolution or resolutions or in the Bylaws of the Association shall have and may exercise all of the powers of the Board of Directors in the management of the activities and affairs of the Association except that no such committee shall have the authority of the Board of Directors in reference to amending, altering or repealing the Bylaws; electing, appointing or removing any member of any such committee or any director or officer of the Association; amending the Articles, restating the Articles, adopting a plan of merger or adopting a plan of consolidation with another corporation; authorizing the sale, lease, exchange, or mortgage of all or substantially all of the property and assets of the Association; authorizing the voluntary dissolution of the Association or revoking proceedings therefor; adopting a plan for the distribution of assets of the Association; or amending, altering or

repealing any action or resolution of the Board of Directors which by its terms provides that it shall not be amended, altered, or repealed by such committee. The designation of such committee or committees or the delegation thereto of authority shall not operate to relieve the Board of Directors or any individual director of any responsibility imposed upon it or him by law.

**Section 13. Resignations.** Any director of the Association may resign at any time either by oral tender of resignation at any meeting of the Board or by giving written notice thereof to the Secretary of the Association. Such resignation shall take effect at the time specified therefor, and the acceptance of such resignation shall not be necessary to make it effective.

**Section 14. Place of Meeting.** The Board of Directors may designate any place within or without the State of Alabama as the place of meeting for any regular or special meeting of the Board of Directors.

**Section 15. Presumption of Assent.** A director of the Association who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

## ARTICLE IV

### OFFICERS

**Section 1. Number.** The officers of the Association shall be a President, one or more Vice President(s) (the number thereof to be determined by the Board of Directors), a Secretary, and a Treasurer, each of whom shall be elected by the Board of Directors. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors. Any two or more offices may be held by the same person, except the President and Secretary. The failure of the Board of Directors to elect any officers other than a President and a Secretary shall not constitute a violation of these Bylaws.

**Section 2. Election and Term of Office.** The officers of the Association to be elected by the Board of Directors shall be elected annually by the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of the membership. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall have resigned or shall have been removed in the manner hereinafter provided.

**Section 3. Removal.** Any officer or agent elected or appointed by the Board of Directors may be removed at any time, by the affirmative vote of the Board of Directors, whenever in their judgment the best interests of the Association will be served thereby. Any such removal shall be without prejudice to the contract rights, if any, of the person so removed.

Election or appointment of an officer shall not of itself create any contract rights in favor of such officer.

**Section 4. Vacancies.** A vacancy in any office 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.

**Section 5. President.** The President shall be the chief executive officer of the Association and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Association. He shall preside at all meetings of the membership. He may sign, with the Secretary or an Assistant Secretary, any deeds, mortgages, bonds, contracts or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws 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 of Directors from time to time.

**Section 6. Vice President.** In the absence of the President or in the event of his death, inability or refusal to act, the Vice President (or in the event there be more than one Vice President, the Vice Presidents in the order designated at the time of their election, or in the absence of any designation, then in the order of their election) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Any Vice President shall perform such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

**Section 7. Secretary.** The Secretary shall: (a) keep the minutes of the proceedings of the Members and of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the Association and see that the seal of the Association is affixed to all documents the execution of which on behalf of the Association under its seal is duly authorized; (d) keep a register of the mailing address of each member which shall be furnished to the Secretary by such member; (e) have general charge of the transfer books of the members of the Association; and (f) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

**Section 8. Treasurer.** The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Association; (b) receive and give receipts for monies due and payable to the Association from any source whatsoever, and deposit all such monies in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Article V of these Bylaws; and (c) in general perform all of the duties as from time to time may be assigned to him by the President or by the Board of Directors. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall determine.

**Section 9. Assistant Secretaries and Assistant Treasurers.** The Assistant Secretaries and Assistant Treasurers, in general, shall perform such duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the President or the Board of Directors. The Assistant Treasurers shall respectively, if required by the Board of Directors, give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine.

## ARTICLE V

### CONTRACTS, LOANS, CHECKS AND DEPOSITS

**Section 1. Contracts.** The Board of Directors may authorize any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

**Section 2. Loans.** No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

**Section 3. Checks, Drafts, Etc.** All checks, drafts or other 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, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors.

**Section 4. Deposits.** All funds of the Association not otherwise employed 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.

## ARTICLE VI

### BOOKS AND RECORDS

**Section 1. Accounting.** The Association shall keep correct and complete books and records of account and shall keep minutes of the proceedings of the members, Board of Directors and committees thereof and shall keep at its registered or principal office in Alabama a record of the names and addresses of members entitled to vote, directors and officers. The accounting records shall be maintained in accordance with generally accepted accounting principles. All books and records of the Association shall be open to inspection by the members or their authorized representatives for any proper purpose at any reasonable time. Such records shall include:

(a) **Association Accounts.** The receipts and expenditures of the Association shall be credited and charged to the appropriate account as set forth below.

(i) **Current Expenses.** All funds to be expended during the year for the maintenance of the Common Elements and Limited Common Elements (as defined in the Declaration) and the operation and working capital of the Association shall be held in

the Current Expense Account. Any balance in this fund at the end of each year may be used to pay Common Expenses and Limited Common Expenses incurred in any successive year or may be placed in the Reserve Fund Account.

(ii) Reserve Funds. All funds to be expended for replacement, acquisition and repair of capital improvements which are a part of Common Elements and Limited Common Elements shall be held in the Reserve Fund Account. Reserve funds will be accumulated through special assessments.

(b) Member Accounts. An account for each member shall be maintained setting forth the name and address of the member, the interest percentage in the Common Elements, the amount of each assessment, the dates and amounts in which the assessments become due, the amounts paid upon the account and the balance due.

**Section 2. Budget**. Within sixty (60) days prior to the beginning of each calendar year the Board of Directors shall adopt a proposed budget for each calendar year that shall include the estimated funds required to defray the Common Expenses and Limited Common Expenses and to provide and maintain funds for the foregoing accounts and reserves according to good accounting practices. Within thirty (30) days of adoption of the proposed budget copies of the budget and proposed assessments shall be transmitted to each member of the Association and a date set for a meeting of the Unit Owners to consider ratification of the budget, not less than fourteen (14) days nor more than thirty (30) days after delivery of the budget to the Unit Owners. Unless at the meeting a majority of all Unit Owners present in person or by proxy reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the budget for the last year shall continue in effect until such time a new budget is ratified.

**Section 3. Assessments**. Assessments against the members for their shares of the items of the budget shall be made for the calendar year annually in advance on or before December 31, preceding the year for which the assessments are made. Such assessments shall be due in quarterly or monthly installments, as may be determined by the Board of Directors of the Association. In the event the annual assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board of Directors.

**Section 4. Assessments for Emergencies**. Assessments for Common Expenses for emergencies that cannot be paid from the annual assessments for Common Expenses shall be made only after notice of the need for such is given to the members concerned, and it shall be due 30 days after such notice in such manner as the Board of Directors of the Association may require in the notice of assessment.

**Section 5. Audit, Review or Compilation**. An audit, review or compilation of the accounts of the Association shall be made annually by a certified public accountant, and a copy of the report shall be made available for review by each member or Mortgagee.

**Section 6. Bonds**. Fidelity bonds may be required by the Board of Directors from all persons handling or responsible for Association funds. The amount of such bonds shall be determined by the Board of Directors, but shall not be less than three times the amount of the

total annual assessments against members for Common Expenses and Limited Common Expenses. The premiums of such bonds shall be paid by the Association as a Common Expense.

## ARTICLE VII

### WAIVER OF NOTICE

Whenever any notice is required to be given to any member or director of the Association under the provisions of these Bylaws, the Articles of Incorporation, the Declaration, the provisions of the Alabama Nonprofit Corporation Act, and any act amendatory thereof, supplementary thereto or substituted therefor, the provisions of the Alabama Uniform Condominium Act of 1991, and any act amendatory thereof, supplemental thereto or substituted therefor, or the Alabama Constitution, 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 deemed equivalent to the giving of such notice.

## ARTICLE VIII

### FISCAL YEAR

The fiscal year of the Association shall be a calendar year starting on January 1 of each year and ending on December 31 of each year.

## ARTICLE IX

### INDEMNIFICATION

**Section 1. General.** The Association shall indemnify and hold harmless each of its directors and officers, each member of any committee appointed pursuant to the Bylaws of the Association, and the Board and Developer, against all contractual and other liabilities to others arising out of contracts made by or other acts of such directors, Board, officers, committee members or Developer, on behalf of the Unit Owners, or arising out of their status as directors, Board, officers, committee members or Developer, unless any such contract or act shall have been made fraudulently or with gross negligence or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such director, officer, Board, committee member or Developer may be involved by virtue of such persons being or having been such director, officer, Board, committee member, or Developer; provided, however, that such indemnity shall not be operative with respect to:

- (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such director, officer, Board, committee member, or Developer, or

(b) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such persons being adjudged liable for gross negligence or fraud in the performance of his duties as such director, officer, Board, committee member, or Developer.

**Section 2. Success on Merits.** To the extent that the Developer or a member of the Board of Directors or an officer of the Association or a member of any committee appointed pursuant to the Bylaws of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

**Section 3. Advance Payment.** Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the person or entity seeking such indemnification or payment in advance to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article IX.

**Section 4. Miscellaneous.** The Association and the Board shall have the power to raise and the responsibility for raising, by special assessment or otherwise, any sums required to discharge its obligations under this Article, provided, however, that the liability of any Unit Owner arising out of any contract made by or other acts of the directors, Board, officers, members of such committees, or Developer, or out of the aforesaid indemnity in favor of the directors, Board, officers, members of such committees, or Developer, shall be limited to such proportion of the total liability hereunder as said Unit Owner's percentage of interest in the Common Elements bears to the total percentage interest of all the Unit Owners in the Common Elements. Every agreement made by the directors, Board, officers, members of committees, Developer or by the managing mgent on behalf of the Unit Owners shall provide that the directors, Board, officers, members of such committees, Developer or the managing agent, as the case may be, are acting only as agents for the Unit Owners and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his percentage of interest in the Common Elements bears to the total percentage interest of all Unit Owners in the Common Elements. The indemnification provided by this Article IX shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Association or disinterested members of the Board of Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. Such right to indemnification shall continue as to a person or entity who has ceased to be Developer or a member of the Board of Directors, officer of the Association or a member of such committee, and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of such person or entity.

**ARTICLE X****AMENDMENT**

**Section 1. Amendment to Bylaws.** These Bylaws may be amended, altered or repealed in the following manner:

(a) By the Board of Directors until such time as Developer relinquishes its control of the Association; or

(b) By the members at any regular or special meeting upon the affirmative vote of the holders of not less than two-thirds of the outstanding votes.

**Section 2. Recordation.** No modification or amendment to the Bylaws shall be valid and effective until the President and Secretary of the Association shall certify as to the adoption of such amendment and shall file their certificate setting forth the text of the amendment with the Office of the Judge of Probate of Houston County, Alabama.

