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DORCHESTER COUNTY, SC

MASTER DEED OF

THE HIGHLANDS OF LEGEND OAKS

HORIZONTAL PROPERTY REGIME

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STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

MASTER DEED
OF THE HIGHLANDS OF LEGEND OAKS
HORIZONTAL PROPERTY REGIME

WHEREAS, The Highlands of Legend Oaks, LLC (the "Developer") is a South Carolina limited liability company having its principal place of business located at 227 Haddrell Street, Mt. Pleasant, South Carolina 29464; and

WHEREAS, the Developer is the owner of that certain real property more fully described in **Exhibit "A"** attached hereto located within the community known as The Highlands of Legend Oaks Plantation, in the City of Summerville, Dorchester County, South Carolina (the "Initial Development Land"); and

WHEREAS, the Developer intends to construct certain improvements on the Initial Development Land; and

WHEREAS, the Developer now deems it appropriate to organize a horizontal property regime by duly executing and recording this Master Deed in the Office of the Register of Deeds ("ROD") for Dorchester County, South Carolina; and

WHEREAS, the Developer is also the owner of that certain real property more fully described in **Exhibit "A"**, the same being described as Tract 12A-1 (Expansion Land) attached hereto, which is also located within The Highlands of Legend Oaks Plantation (the "Expansion Land" or "Phasing Plat); and

WHEREAS, the Developer desires to reserve the right to construct additional improvements upon the Expansion Land in phases in Developer's sole discretion and to submit such improvements, if any, to the horizontal property regime being organized pursuant to this Master Deed.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that the Developer hereby submits the Initial Development Land more fully described in **Exhibit "A"** attached hereto and all improvements located thereon, together with all easements, rights and appurtenances thereunto belonging, to the provisions of Sections 27-31-10 et seq. of the South Carolina Code of Laws (1976) and hereby creates thereon a horizontal property regime (sometimes termed "condominium ownership") to be known as **THE HIGHLANDS OF LEGEND OAKS HORIZONTAL PROPERTY REGIME**, subject to the following:

ARTICLE I

Definitions

Section 1.1 Definitions. Unless defined herein or unless the context requires otherwise, the words defined in Section 27-31-20, South Carolina Code of Laws (1976), when used in this Master Deed or any amendment hereto, will have the meaning therein provided. The following words, as well as other defined terms set forth herein, when used in this Master Deed or any amendment or supplement hereto, unless the context requires otherwise, will be deemed to include the singular and plural forms as the context requires and have the following meanings:

"**Assessment**" means the amount assessed against an Owner and his Unit from time to time by the Association in the manner provided herein.

"**Assigned Value**" means the value assigned to each Unit in accordance with **Exhibit "D"** attached hereto and utilized for purposes of computing the Percentage Interest appurtenant to such Unit, which Assigned Value will not constitute the sales price of the Unit or be relied upon as a representation of the actual value of the Unit.

"**Annual Assessment Period**" means the fiscal year of the Association established by the Association's Board of Directors.

"**Association**" means The Highlands of Legend Oaks Property Owners Association, Inc. being an association of and limited to Owners of the Units located in the Regime in the form of a nonprofit, non-stock membership association which will be incorporated in accordance with the Article of Incorporation attached hereto as **Exhibit "E."**

"**Board of Directors**" or "**Board**" means the Board of Directors of the Association, and "**director**" or "**directors**" means a member or members of the Board.

"**Building**" means a structure or structures containing in the aggregate two or more Units comprising a part of the Regime.

"**By-Laws**" means the By-Laws of the Association attached hereto as **Exhibit "F,"** as amended from time to time in accordance with the terms of the By-Laws and this Master Deed.

"**Common Area**" means all of the Regime property after excluding the Units and those items mentioned and defined as "General Common Elements" in Section 27-31-20 (f) of the South Carolina Code, (1976), including the following:

1. Easements through Units for conduits, ducts, plumbing, chimneys, wiring, and other facilities for the furnishing of utility services to Units and the Common Areas; provided, however, such easements through a Unit will be only according to

the Plans for the Building, or as the Building is constructed unless otherwise approved by the Unit Owner.

2. An easement of support in every portion of a Unit which contributes to the support of a Building.
3. Easements through the Units and Common Areas for maintenance, repair and replacement of the Units and Common Areas.
4. Installation for the furnishing of utility services to more than one Unit or to the Common Areas or to a Unit other than the one containing the installation, which installation will include ducts, plumbing, wiring, and other facilities for the rendering of such services.
5. The tangible personal property required for the maintenance and operation of the Unit, even though owned by the Association.

"**Common Expense(s)**" means (a) all expenses incident to the administration of the Association and maintenance, repair and replacement of the Common Area and the Limited Common Area, after excluding there from such expenses which are the responsibility of an Owner; (b) expenses determined by the Association to be Common Expenses and which are lawfully assessed against Owners; (c) expenses declared to be Common Expenses by the Condominium Act or the Regime Documents; and (d) reasonable reserves established for the payment of any of the foregoing.

"**Condominium**" means that form of ownership established by the provision of the Act under which space intended for independent use is owned by an Owner or Owners in fee simple and the part of the Property other than such independently owned spaces are owned by such Owners in undivided interest, which undivided interest are appurtenances to the respective independently owned spaces.

"**Condominium Act**" or "**Act**" means the Horizontal Property Act of South Carolina, South Carolina Code of Laws (1976), Section 27-31-10 to Section 27-31-300, as may be amended from time to time.

"**Developer**" means The Highlands of Legend Oaks, LLC, a South Carolina limited liability company, its successors and assigns.

"**Garage Unit**" means that part of the Project intended principally for use as a covered parking and storage Unit by an Owner of same situate within the Unit boundaries described in **Exhibit "B"** attached hereto, as amended from time to time in accordance with the provisions of this Master Deed and constituting an "apartment" as defined in the Condominium Act. Each Garage Unit will be identified in **Exhibit C** attached hereto by a specific letter, number or combination thereof, which identification will be sufficient to identify the Unit for all purposes. "Garage Unit"

will also mean all the components of ownership held by an Owner, including not only the rights and interest of the Owner in and to the Garage Unit, but also the rights of use of and the individual interest in the Common Area.

"Institutional Mortgage" will mean and refer to a first lien Mortgage (prior to all other Mortgage liens) held by a bank, trust company, insurance company, or other recognized lending institution, or by an institutional or governmental purchaser of mortgage loans in the secondary market, such as Federal National Mortgage Association or Federal Home Loan Mortgage Corporation. Such term will also mean and refer to the holder of any Mortgage securing a loan made by Developer, its affiliates, successors, or assigns

"Land" means the Initial Development Land which is described in **Exhibit "A"** attached hereto, as said exhibit may be amended from time to time in accordance with the provisions of this Master Deed to add to the Regime portions of the Expansion Land shown as Lot 12A-1 on **Exhibit A**.

"Limited Common Area" means that portion of the Common Area set aside and allocated for the exclusive use of the Owner of the Unit to which attached or assigned and those items mentioned or defined as "Limited Common Elements" in Section 27-31-20(g) of the South Carolina Code(1976), and will include that portion of any Common Area that is pierced by the Unit's interior stairs, if any; the Unit's chimney structure and flue, if any; exterior stairs exclusively serving the Unit, if any; air conditioner units and condensers, hot water heaters and propane gas tanks located outside of the Unit, and the spaces occupied by same; and any balcony, deck or patio adjacent to the Unit.

"Master Deed" means this document, as amended from time to time.

"Member" means each Owner who is a member of the Association.

"Mortgage" will mean and refer to a mortgage, security deed, deed of trust, installment land sales contract, or other similar security instrument granting, creating, or conveying a lien upon, a security interest in, or a security title to a Unit.

"Mortgagee" will mean and refer to the holder of a Mortgage.

"Owner" means the record owner, whether one or more persons, of fee simple title in and to any Unit; excluding, however, those persons having such interest merely as security for the performance of an obligation.

"Percentage Interest" means the undivided percentage interest owned by each Owner as a tenant-in-common in the Common Areas. **"Total Percentage Interest"** means the aggregate of all the Percentage Interests.

"Plans" mean and include the site plan and the floor plans of the Project which are filed as an attachment to this Master Deed showing the boundaries of the Land, the horizontal and vertical location of the improvements and amenities of the Project thereon and certified by a licensed engineer or architect in accordance with the provisions of the Condominium Act.

"Project" or "Property" means, collectively, the Land, the Buildings and all other improvements and structures located thereon, and all easements, rights and appurtenances belonging thereto, submitted to the Condominium Act by this Master Deed, as amended from time to time in accordance with the provisions hereof.

"Regime" means the horizontal property regime established by this Master Deed, including all appurtenances and incidents of ownership attendant therewith.

"Regime Documents" means and includes this Master Deed, all Exhibits hereto, the Articles of Incorporation of the Association, the By-Laws and the Rules and Regulations, all as amended from time to time in accordance with the provisions thereof or in accordance with the laws of the State of South Carolina.

"Residential Units" means that part of the Project intended principally for residential use by an Owner, situate within the Unit boundaries described in Exhibit "B" attached hereto, as amended from time to time in accordance with the provisions of this Master Deed and constituting an "apartment" as defined in the Condominium Act. Each Unit will be identified in Exhibit "C" attached hereto by a specific letter, number or combination thereof, which identification will be sufficient to identify the Unit for all purposes. "Residential Unit" will also mean all the components of ownership held by an Owner, including not only the rights and interests of the Owner in and to the Unit, but also the rights of use of an undivided interest in the Common Area.

"Rules and Regulations" means the rules and regulations from time to time promulgated by the Board of Directors governing the use of the Common Areas and Units.

"Transition Period" means the time period commencing on the date of recording of this Master Deed and ending on the earlier of:

1. Thirty six (36) months; or
2. Three (3) months after the conveyance in the ordinary course of business of ninety percent (90%) of the maximum number of Units to be contained in all phases of the Project to persons other than the Developer; or
3. Three (3) months following the date the Developer surrenders its authority as a Member of the Association to appoint and remove directors and officers of the Association by an express amendment to this Master Deed executed and filed of record by Developer.

"Trustee" means the Board of Directors acting as a fiduciary for the benefit of the Association and the Owners in holding certain funds and providing services as provided herein, or such bank or trust company authorized to do trust business in the State of South Carolina and appointed therefore by the Board of Directors.

"Unit" or Units (sometimes referred to as "Condominium Unit or Condominium Units") means that part of the Project intended principally for residential use "Residential Unit" by an Owner or intended principally for parking and storage "Garage Unit" by an Owner, situate within the Unit boundaries described in Exhibit "B" attached hereto, as amended from time to time in accordance with the provisions of this Master Deed and constituting an "apartment" as defined in the Condominium Act. Each Unit will be identified in Exhibit "C" attached hereto by a specific letter, number or combination thereof, which identification will be sufficient to identify the Unit for all purposes. "Unit" will also mean all the components of ownership held by an Owner, including not only the rights and interests of the Owner in and to the Unit, but also the rights of use of and the undivided interest in the Common Area. When necessary in this Master Deed where reference is made to "Unit" such meaning shall either refer to a "Residential Unit" or a "Garage Unit" or both.

ARTICLE II

Administration

Section 2.1 The Association. The administration of the Regime will be the responsibility of the Association, which will be made up of all the Owners of Units in the Regime. The Association and the Owners will be governed by the Regime Documents, as the same may be amended from time to time.

Section 2.2 Membership. Each Owner of a Unit, including the Developer, will be a Member of the Association. Membership will be appurtenant to and may not be separated from ownership of a Unit and ownership of a Unit will be the sole qualification for such membership. In the event that fee title to a Unit is transferred or otherwise conveyed, the membership in the Association which is appurtenant thereto will automatically pass to such transferee, notwithstanding any failure of the transferor to endorse to his transferee any certificates or other evidences of such membership. The foregoing is not intended to include any Mortgagee or any other person who holds an interest merely as security for the performance of an obligation, and the giving of a security interest will not terminate or otherwise affect an Owner's membership in the Association.

Section 2.3 Agreements. The Association through its Board of Directors will be and hereby is authorized to enter into such contractual arrangements, including without limitation, management contracts, as it may deem necessary or desirable for the administration and operation of the Regime, subject, however, to the following limitations:

(a) The Association will not enter into any contractual arrangement with a term of longer than two (2) years without the consent of a majority of the Members voting in person or

by proxy, at a meeting duly called for the express purpose of approving such contractual arrangement; and

(b) Any agreements entered into during the Transition Period will provide that such contractual arrangement is subject to termination without cause at any time after the expiration of the Transition Period without a penalty upon not more than ninety (90) days prior written notice from the Association, and failing to contain such a provision, the Association will not be bound directly or indirectly by such contractual arrangement.

Anything contained herein to the contrary notwithstanding, the following contracts will be exceptions to the provisions of Sections 2.3(a) and 2.3(b) above:

(1) Any contract with a utility company if the rates charged for the materials or services are subject to regulation by the South Carolina Public Service Commission; provided, however, that the term of the contract will not exceed the shortest term for which the utility will contract at the regulated rate in effect at the contract date;

(2) Any prepaid casualty and/or liability insurance policy with a term not to exceed three (3) years, provided that the policy permits short rate cancellation by the insured;

(3) Any contract for cable television services and equipment or satellite dish television services and equipment for a term not to exceed five (5) years, provided the supplier is not an entity in which the Developer has a direct or indirect ownership interest of ten percent (10%) or more; and

(4) Any contract for the sale or lease of burglar and/or fire alarm equipment, installation and/or services for a term not to exceed five (5) years, provided the supplier is not an entity in which the Developer has a direct or indirect ownership interest of ten percent (10%) or more.

Each Owner by acquiring or holding an interest in any Unit thereby ratifies and agrees to be bound by the terms and conditions of all such contractual arrangements entered into by the Board of Directors on behalf of the Association prior to the conveyance of the Unit or interest therein to such Owner.

Section 2.4 Books and Records. The Association will keep full and accurate books of account and financial records showing all receipts and disbursements. In particular, the books will be maintained with a detailed account, in chronological order, of the receipts and expenditures affecting the Project and its administration, and specifying the maintenance and repair expenses of the Common Area as well as other expenditures incurred. Vouchers accrediting the entries made thereupon will also be maintained in chronological order.

Section 2.5 Financial Statements. No later than 120 days after the close of any fiscal year of the Association, the Association will cause financial statements for such fiscal year to be prepared (but not necessarily certified) by a public accountant licensed in the State of South Carolina. Copies of these financial statements will be delivered by mail or personal delivery to each Owner.

Section 2.6 Access to Information. The Association will make available to Owners of any Unit and to any Mortgagee current copies of the Regime Documents and the books, records, vouchers, contractual arrangements and financial statements of the Association. "Available" means available for reasonable inspection upon request during normal business hours or under other reasonable circumstances. The Association may charge reasonable copying costs for any requested copies or extracts. Any party entitled to the benefits of this Section 2.6 will be permitted to designate one or more agents who will be permitted to represent said party in connection with any and all reviews of the Regime Documents and books, records, contractual arrangements and financial statements of the Association.

Section 2.7 Rules and Regulations. The Board of Directors will be entitled to promulgate reasonable Rules and Regulations from time to time, which will be binding on the Association and all Owners and lessees of Owners, their families, invitees and guests, regarding the use and enjoyment of Units and Common Area. Copies of the current Rules and Regulations will be furnished to Owners and lessees of Owners upon request.

Section 2.8 Professional Property Manager. The Board of Directors may retain a professional property management company to manage the day-to-day affairs of the Association.

Section 2.9 Collections and Remission of Optional Cable Television, Telephone and Other Charges; Master Utility Charges. The Board of Directors will be entitled to collect fees charged to those Unit Owners who elect to receive any optional telephone service, television cable service, and/or other service made available to the Unit Owners through the Regime and remit the same to the provider thereof on behalf of such Unit Owners. Such elective costs and expenses will not be deemed a Common Expense hereunder, but will be charged to the Units Owners separately from their Assessment. Furthermore, the Board of Directors will pay any master utility meter charge, base cable to all Units, or other blanket utility fee for services to all units not otherwise separately metered or charged to individual Units. Such master cost and expense will be a Common Expense hereunder; provided, however, in the event actual costs exceed budgeted costs, such excess may be prorated and charged to the Units Owners separately from their Assessment, and will not require a Special Assessment or other extraordinary measure of collection.

ARTICLE III

Property Rights

Section 3.1 Units. The Condominium consist initially of 8 Residential Units in one building and 8 Garage Units in two buildings of 4 Units each. The Residential Units are designated as 100 Golfview Lane, Units 101-108 and the Garage Units are designated as Golfview Lane, Units A1-A4 and Units B1-B4. Each Unit will for all purposes constitute a separate parcel of real property which, subject to the provisions of this Master Deed, may be owned in fee simple and which may be conveyed, transferred, leased and encumbered in the same manner as any other real property. Each Owner, subject to the provisions of the Condominium Act and this Master Deed, will be entitled to the exclusive ownership and possession of his Unit.

Section 3.2 Description of Units. The dimensions, area and location of the Units are as set forth on **Exhibit "B"** attached hereto and are generally intended to include the following:

(a) In addition to the description of each Unit as may be seen by reference to exhibits attached hereto, each Residential or Garage Unit contains all space within the area bounded by the unfinished interior surface of the perimeter walls, windows, window frames, doors and door frames and trim, and the lowest floor and the uppermost ceiling of such Unit. Bearing walls located within the interior of a Unit are Common Areas, not part of the Unit, except the finished surfaces thereof. Specifically included in each Unit are the finished surfaces of the Unit, paint, plaster, wallpaper (if any), tiles, paneling (if any), sheetrock or drywall material, acoustic or ceiling tile, carpeting, and interior non-load bearing walls contained within the boundaries of each Unit as shown on the floor plans attached hereto, together with all interior doors, the main entrance door and frame, porch screens, windowpanes, window frames, sliding glass doorframes, sliding glass panels, window screen, light fixtures, installed bathroom and kitchen appliances, piping in connection therewith and installed heating and air condition devices and attachments measured from the interior of the Unit up to, but not including the point at which the unfinished surface of the lower most floor, upper most ceiling, and parametric walls of the Unit reach. The Owner of a Unit shall be responsible for the maintenance, repair and upkeep of the Unit and its appurtenances subject to the rules, regulations, covenants, and conditions set forth or incorporated herein by reference.

(b) Each Residential Unit will include the heating, hot water and air conditioning apparatus exclusively serving the Unit whether or not located within the boundaries of the Unit.

Section 3.3 Modification of Units. The Developer, on behalf of itself, its successors and assigns, hereby reserves the right to modify or reconstitute, at any time and from time to time, one or more Residential or Garage Units owned by Developer or its affiliates without the consent of the Association or any Owner other than those who may be directly affected; provided, however, that the aggregate Percentage Interest assigned to the Units so affected will not change even though the same may be reallocated among such Units. If Developer makes any changes in Units pursuant to this Section 3.3, such changes will be reflected by an amendment of this Master Deed which will be

duly recorded in the Dorchester County ROD. Such amendment will not require the consent of Owners other than the Developer.

Section 3.4 Common Area and Limited Common Area.

(a) Percentage Interest. The Owners will own the Common Area as tenants-in-common, with each Unit having, appurtenant thereto, the Percentage Interest in the Common Areas set forth in Exhibit "D" attached hereto; provided, however, that the use of the Limited Common Area will be restricted as set forth in Section 3.4(e). The Percentage Interest appurtenant to each Unit has been determined by dividing the Assigned Value of the respective Unit as shown on Exhibit "D" by the aggregate Assigned Value of all Units as shown on Exhibit "D." The value assigned to any Unit in Exhibit "D" does not represent the sales price or market value of the Unit and will only be utilized for purposes of computing the Percentage Interest appurtenant to the respective Unit. In the event that additional phases are made a part of the Regime, such individual undivided interest in the Common Area shall be adjusted as provide in Exhibit D.

(b) Inseparability of Percentage Interests. The Percentage Interest in the Common Area cannot be separated from the Unit to which it appertains and will be automatically conveyed or encumbered with the Unit even though such Percentage Interest is not expressly mentioned or described in the deed or other instruments.

(c) No Partition. The Common Area will remain undivided and no right to partition the same or any part thereof will exist except as provided in the Condominium Act, the By-Laws and this Master Deed.

(d) Use of Common Area. The Common Area will be used in accordance with the intended purposes without hindering the exercise of or encroaching upon the rights of other Owners. The Board of Directors will, if any question arises, determine the purpose for which a part of the Common Area is intended to be used. All Owners and lessees of Owners, their families, invitees and guests will abide by all Rules and Regulations from time to time in effect governing the use of the Common Area.

(e) Use of Limited Common Area. Anything to the contrary contained herein notwithstanding, ownership of each Unit will entitle the Owner or Owners thereof to the exclusive use of the Limited Common Area adjacent and appurtenant to such Unit, which exclusive use may be delegated by such Owner to persons who reside in his Unit. All Owners and lessees of Owners, their families, invitees and guests will abide by all Rules and Regulations from time to time in effect governing the use of the Limited Common Area. An Owner will be responsible for maintenance and repair of the Limited Common Area appurtenant to his Unit as set forth in Article VIII, Section 8.3 below.

(f) Reservation of Easements and Use and Expansion Rights. The Common Areas will be subject to all easements and use rights, if any, reserved by the Developer hereunder

and the right of the Developer to expand the Regime by construction of additional Units pursuant to Article XII.

Section 3.5 Status of Title of Project. The Developer represents to the Association and all the Owners that, as of the effective date hereof, the Developer has marketable, fee simple title to the Project. The rights and interests of all Owners in and to the Project will be subject only to (i) liens for real estate taxes for the current year and subsequent years; (ii) existing and/or recorded easements, conditions, covenants, declarations, reservations and restrictions including, without limitation, those set forth in this Master Deed; (iii) easements and use rights, if any, reserved by the Developer hereunder; and (iv) applicable governmental regulations, including zoning laws, which may be imposed upon the Project from time to time. Furthermore, the Project, including each Unit, the Common Area, and the Limited Common Area are further declared to be subject to the covenants, conditions, restrictions and easements under The Highlands of Legend Oaks Master Deed, By-Laws and Articles of Incorporation and any subsequent amendments thereto.

Section 3.6 Limited Warranty From Developer. FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF COMPLETION OF CONSTRUCTION (BEING THE LATER OF SUBSTANTIAL COMPLETION UNDER THE CONSTRUCTION CONTRACT, OR THE DATE A CERTIFICATE OF OCCUPANCY IS ISSUED Therefore), THE DEVELOPER SHALL AT NO COST TO THE ASSOCIATION REPAIR OR REPLACE (IN THE DEVELOPER'S DISCRETION) ANY PORTIONS OF THE COMMON AREA (EXCEPT FIXTURES, ACCESSORIES AND APPLIANCES COVERED BY SEPARATE WARRANTIES OF THEIR RESPECTIVE MANUFACTURERS) WHICH ARE DEFECTIVE AS TO MATERIALS OR WORKMANSHIP. THIS LIMITED WARRANTY IS IN PLACE OF ALL OTHER CONTRACTUAL OBLIGATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AND THE DEVELOPER DISCLAIMS ALL OTHER CONTRACTUAL OBLIGATIONS OR WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. TO THE FULLEST EXTENT PERMITTED BY LAW, THE LIABILITY OF THE DEVELOPER SHALL BE LIMITED TO SUCH REPAIR OR REPLACEMENT AND THE DEVELOPER SHALL NOT BE LIABLE FOR DAMAGES OF ANY NATURE, WHETHER DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL, REGARDLESS OF WHETHER SUCH DAMAGES ARE CLAIMED TO ARISE OUT OF THE LAW OF CONTRACT, TORT OR OTHERWISE, OR PURSUANT TO STATUTE OR ADMINISTRATIVE REGULATION. Each Owner, in accepting a deed from the Developer or any other party to a Unit, expressly acknowledges and agrees that this Section 3.6 establishes the sole liability of the Developer to the Association and the Owners related to defects in the Common Area and the remedies available with regard thereto. At the end of the one (1) year warranty period referred to herein above in this Section 3.6, the Developer will assign to the Association in writing all of its rights, claims, causes of action and demands which it has or which may thereafter accrue against all other people who may be responsible for the design and/or construction of the Common Area.

ARTICLE IV

Assessments

Section 4.1 Creation of Lien and Personal Obligation for Assessments. Each Unit is and will be subject to a lien and permanent charge in favor of the Association for the Assessments set forth herein. Each Assessment, together with interest thereon and cost of collection thereof as hereinafter provided, will be a permanent charge and continuing lien upon the Unit against which it relates, and will also be the joint and several personal obligation of each Owner of such Unit at the time the Assessment comes due and upon such Owner's successor in title if unpaid on the date of the conveyance of such Unit, and each and every Owner by acquiring or holding an interest in any Unit thereby covenants to pay such amounts to the Association when the same will become due; provided, however, that no Owner acquiring title to any Unit at a foreclosure sale of any Institutional Mortgage, his successors and assigns, will have any personal obligation with respect to the portion of any Assessments (together with late charges, interest, fees and costs of collection) related to such Unit, the lien for which is subordinate to the lien of the Institutional Mortgage being foreclosed as provided in Section 4.7.

Section 4.2 Annual Assessments. At least thirty (30) days prior to the Association's next succeeding Annual Assessment Period the Board will adopt a budget for the next succeeding Annual Assessment Period by estimating the Common Expenses to be incurred during such Annual Assessment Period, including a reasonable allowance for contingencies and operating and replacement reserves, such budget to take into account the projected anticipated income which is to be applied in reduction of the amount to be collected as an assessment. Upon adoption of the budget, a copy thereof will be delivered to each Owner. The Annual Assessment fixed against each Unit will be based upon said budget and in proportion to the respective Percentage Interests of each Unit subject to assessment, and the Board will give written notice to each Owner of the Annual Assessment fixed against his Unit for such next succeeding Annual Assessment Period; provided, however, the delivery of a copy of said budget will not be a condition precedent to an Owner's liability for payment of such Annual Assessment.

The Annual Assessment will not be used to pay for the following:

- (a) Casualty insurance of individual Owners on their possessions within the Units and liability insurance of such Owners insuring themselves and their families individually, which will be the sole responsibility of such Owners;
- (b) All utilities, including but not limited to, telephone, gas, water, electrical utility charges for each Unit, shall be the sole responsibility of the Owners of such Units;
- (c) Ad valorem taxes assessed against Units;
- (d) Other charges or expenses related solely to individual use or occupancy of any

Unit; or

(e) Assessments charged directly to Owners pursuant to any master or umbrella declaration to which the Regime is subject.

It is anticipated that ad valorem taxes and other governmental assessments, if any, upon the Project will be assessed by the taxing authority upon the Unit, and that each assessment will include the assessed value of the Unit and of the undivided interest of the Owner in the Common Area; provided, however, that for the current calendar year, the ad valorem taxes will be based upon the condition of the Land as of January 1, and the Developer will be liable for that portion of the taxes applicable to the period prior to the recordation of this Master Deed. When current ad valorem taxes are due and payable, the remainder of the ad valorem taxes for the current calendar year will be prorated between the Developer and each Owner based upon the number of days each owned the Unit as evidenced by the date of the Unit Deed. Any such taxes and governmental assessments upon the Project which are not so assessed will be included in the Association's budget as a recurring expense and will be paid by the Association as a Common Expense. Except as otherwise provided herein, each Owner is responsible for making his own return of taxes and such return will include such Owner's undivided interest in the Common Area as such undivided interest is determined by law for purposes of returning taxes.

Section 4.3 Special Assessments. In addition to the Annual Assessments, the Board of Directors may levy in any calendar year "Special Assessments" for the purpose (i) of supplementing the Annual Assessments if the same are inadequate to pay the Common Expenses and (ii) of defraying, in whole or in part, the cost of any reconstruction, repair, or replacement of the Common Area; provided, however, that any such Special Assessment which in the aggregate exceeds twenty percent (20%) of the total Annual Assessments for such year will have the assent of Members representing a majority of the Members, voting in person or by proxy, at a meeting at which a quorum is present, duly called for the express purpose of approving such Special Assessment.

Section 4.4 Date of Commencement of Annual Assessments; Due Dates. Although the Annual Assessment is calculated on a yearly basis for the Annual Assessment Period, each Owner of a Unit will be obligated to pay to the Association or its designated agent such Assessment in equal monthly installments on or before the first day of each month during such Annual Assessment Period.

The obligations of Owners regarding the payment of monthly portions of the Annual Assessment provided for in this Article IV will, as to each Unit, commence upon the closing of their Unit. The first monthly payment of the Annual Assessment for each such Unit will be an amount equal to the monthly payment for the Annual Assessment Period in progress on such commencement date, divided by the number of days in the month of conveyance, and multiplied by the number of days then remaining in such month.

The Association will, upon demand at any time, furnish any Owner liable for any such Assessment a certificate in writing signed by an Officer of the Association or the property manager of the Association, setting forth whether the same has been paid. A reasonable charge, as determined

by the Board, may be made for the issuance of such certificate. Such certificate will be conclusive evidence of payment of any Assessment stated to have been paid as to any person or entity who has relied on the certificate to his detriment.

Section 4.5 Effect of Non-Payment of Assessment; the Personal Obligation of the Owner; the Lien; Remedies of Association.

(a) If an Assessment is not paid on the date when due, as herein above provided, then such Assessment together with such late charges and interest thereon and any costs of collection thereof as hereafter provided, will be a charge and continuing lien on the Unit to which it relates, and will bind such property in the hands of the Owner, his heirs, legal representatives, successors, and assigns. The personal obligation of the then Owner to pay such Assessment, however, will remain his personal obligation, and if his successors in title assume his personal obligation, such prior Owner will nevertheless remain as fully obligated as before to pay to the Association any and all amounts which he was obligated to pay immediately preceding the transfer. Furthermore, such prior Owner and his successor in title who assumes such liabilities will be jointly and severally liable with respect thereto, notwithstanding any agreement between such prior Owner and his successor in title creating the relationship of principal and surety as between themselves, other than one by virtue of which such prior Owner and his successor in title would be jointly and severally liable to pay such amounts.

(b) Any Assessment which is not received within ten (10) days of the due date thereof, or within any established grace period, will incur a late charge of twenty-five (\$25.00) dollars or such greater amount as may be set by the Board of Directors. If so directed by the Board of Directors with respect to all late payments, Assessments and late charges will commence to accrue simple interest at the rate of eighteen percent (18%) per annum. In addition, in the event any Assessment is not received within thirty (30) days of the due date thereof, the Association will have the right to declare the balance of the Assessment for the Annual Assessment Period then in effect immediately due and payable upon written notice to the defaulting Owner.

(c) The Association through its Board of Directors may bring legal action against the Owner personally obligated to pay the same or foreclose its lien against the Unit to which it relates or pursue both such courses at the same time or successively. In any event, the Association will be entitled also to recover reasonable attorney's fees actually incurred and all other costs of collection. Each Owner, by his acceptance of a deed or other transfer of a Unit, vests in the Association or its agent the right and power to bring all actions against him personally for the collection of such charges as a debt and to foreclose the aforesaid lien in any appropriate proceeding at law or in equity. All Owners, to the fullest extent permitted by law, waive the right to assert any statute providing appraisal rights which may reduce any deficiency judgment obtained by the Association against any Owner in the event of such foreclosure and further, waive all benefits that might accrue to any Owner by virtue of any present or future homestead exemption or law exempting any Unit or portion thereof from sale. If the Association commences to foreclose its lien, the Owner may be required to pay a reasonable rental for the Unit after the commencement of the action and at its option the Association will be entitled to the appointment of a receiver to collect

such rents. The Association will have the power to bid on the Unit at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. No Owner may be relieved from liability from the Assessment provided for herein by abandonment of his Unit or otherwise.

(d) During any period in which an Owner will be in default in the payment of any Annual or Special Assessment levied by the Association, the voting rights of the Owner and the rights of the Owner and lessees of the Owner, their families, invitees and guests, to use and enjoy the recreational areas of the Common Area, if any, shall be suspended by the Board of Directors until such time as the Assessment has been paid.

Section 4.6 Developer's Unsold Units. Anything contained in this Article IV to the contrary notwithstanding, so long as the Developer owns any Unit for sale or any portion of the Initial Development Land and Expansion Land upon which an additional Building may be constructed and admitted to the Regime, the Developer may annually elect either to pay the regular Assessment for each such Unit or to pay the difference between the amount of Assessments collected on all other Units not owned by the Developer and the amount of actual expenditures by the Association during the fiscal year, but not in a sum greater than its regular Assessment. Unless the Developer otherwise notifies the Board in writing at least sixty (60) days before the beginning of each fiscal year, the Developer will be deemed to have elected to continue paying on the same basis as during the immediately preceding year. Furthermore, so long as the Developer owns any Unit for sale or any portion of the Initial Development Land or Expansion Land upon which an additional Building may be constructed and added to the Regime, the Developer may, but will not be obligated to, reduce the regular Assessment for any year to be paid by Owners of Units, which may be a contribution to the Association, an advance against future regular Assessments due from said Owners, or a loan to the Association, in the Developer's sole discretion. The amount and character (contribution, advance or loan) of such subsidy will be conspicuously disclosed as a line item in the budget and will be made known to the Owners. The payment of such a subsidy in any year will under no circumstances obligate the Developer to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Developer.

Section 4.7 Subordination of the Charges and Liens to Institutional Mortgages.

(a) The lien and permanent charge for the Assessments (together with late charges, interest, fees and cost of collection) authorized herein with respect to any Unit is hereby made subordinate to the lien of any holder of an Institutional Mortgage or its assigns placed on such Unit, and all Assessments with respect to such Unit having a due date on or prior to the date such Institutional Mortgage is filed for record have been paid. The lien and permanent charge hereby subordinated is only such lien and charge as relates to Assessments authorized hereunder having a due date subsequent to the date such Institutional Mortgage is filed for record and prior to the satisfaction, cancellation or foreclosure of such Institutional Mortgage.

(b) Such subordination is merely a subordination and will not relieve the Owner of the mortgaged Unit of his personal obligation to pay all Assessments coming due at a time when he is the Owner; will not relieve such Unit from the lien and permanent charge provided for herein

(except as to the extent the subordinated lien and permanent charge is extinguished against a Mortgagee or such Mortgagee's assignee or transferee by foreclosure); and no sale or transfer of such Unit to the Mortgagee or to any other person pursuant to a foreclosure sale will relieve any previous Owner from liability for any Assessment coming due before such sale or transfer.

(c) To the extent any subordinated lien and permanent charge for any Assessment is extinguished by foreclosure of any Institutional Mortgage, then the amount or amounts otherwise secured thereby which cannot otherwise be collected will be deemed a Common Expense collectible from all Owners, including the person who acquires title through the foreclosure sale.

Section 4.8 Reserves. The Board of Directors will establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of the Common Area. The Board of Directors will include amounts needed to maintain an adequate reserve fund in its estimation of the Common Expenses for each fiscal year and will cause deposits to the reserve fund to be made in connection with the collection of the Annual Assessment.

Section 4.9 Working Capital Assessment. Notwithstanding anything to the contrary in this Master Deed, a working capital fund will be established for the Association by collecting from each Owner who acquires title to his Unit from the Developer a Working Capital Assessment amounting to 2/12ths of the Annual Assessment then in effect, which Assessment will be due and payable at the time of transfer of each Unit by the Developer to any other Owner. Each such Owner's share of working capital, as aforesaid, will be transferred to the Association at the time of closing the conveyance from the Developer to the Owner. Such sum is and will remain separate and distinct from the Annual Assessment and will not be considered advance payment of the Annual Assessment.

ARTICLE V

Insurance and Casualty Losses

Section 5.1 Hazard Insurance.

(a) The Association will obtain, maintain and pay the premiums, as a Common Expense, upon a "master" or "blanket" type policy or policies of property insurance covering the entire Project, except (i) land, foundation, excavation, or other items normally excluded from coverage; (ii) all improvements and betterment made to Units by Owners at their expense; and (iii) personal property of Owners and lessees of Owners, their families, invitees and guests. Such coverage will also insure supplies, equipment and other personal property of the Association. All policies of property insurance will be single entity condominium insurance coverage. The master insurance policy will afford, at a minimum, protection against loss or damage by fire and other perils normally covered by standard extended coverage endorsements; and all other perils which are customarily covered with respect to condominium projects similar in construction, location and use, including all perils normally covered by a standard "all risk" endorsement, where such is available. The policy will be in an amount equal to one hundred (100%) percent of the current replacement cost of the Project, exclusive of land, foundations, excavation, and other items normally excluded from

coverage. A "deductible amount" not to exceed the lesser of \$10,000 or one percent (1%) of the policy face amount may be included at the discretion of the Board of Directors if a material savings, as determined by the Board in its sole discretion, in premium cost results therefrom, but the deductible amount will be considered a Common Expense and borne by the Association regardless of the number of Owners directly affected by the loss and reserves will be established therefore.

(b) The name of the insured under the master policy will be substantially as follows: "The Highlands of Legend Oaks Property Owners Association, Inc. for the use and benefit of the Individual Owners of Units in The Highlands of Legend Oaks Horizontal Property Regime." Loss payable provisions will be in favor of the Association and the Trustee, as a trustee for each Owner, and each such Owner's Mortgagee as the interests of such parties may appear. Each Owner and his respective Mortgagee, if any, will be beneficiaries of the policy in a percentage equal to the Percentage Interest attributable to the Unit owned by such Owner. All policies will contain a standard mortgagee clause, or equivalent endorsement (without contribution), which is commonly accepted by Institutional Mortgage investors in the area in which the Project is located, and which appropriately names all Mortgagees or their servicer in such form as requested by such Mortgagees or their servicer.

(c) All policies will be written with a company holding a general policyholder rating of "A" or better by Best's Insurance Reports and in a financial category of Class VI or better in Best's Key Rating Guide. Policies are unacceptable where (i) under the terms of the insurance carrier's charter, by-laws or policy, contributions or assessments may be made against the Association, Owners, Mortgagees or the designees of Mortgagees; (ii) by the terms of the carrier's charter, by-laws or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders or members; or (iii) the policy includes any limiting clause (other than insurance provisions) which could prevent Mortgagees or Owners from collecting insurance proceeds. Policies may not be cancelable or substantially modified by any party without at least ten (10) days prior written notice to the Association and each Mortgagee which is listed as a scheduled holder of a first Mortgage in the insurance policy. Policies should also contain a "special condominium endorsement" or its equivalent which provides for the following: recognition of any insurance trust agreement; a waiver of the rights of subrogation against Owners individually; the insurance is not prejudiced by any act or negligence of individual Owners which is not under the control of the Association or such Owners collectively; and the policy is primary in the event the Owner has other insurance covering the same loss.

(d) The Association will provide copies of all policies to Owners and/or Mortgagees requesting the same for a charge not to exceed reasonable copying costs.

(e) Each Owner may obtain additional insurance at his own expense; provided, however, that no Owner will be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association, on behalf of all of the Owners and their Mortgagees, may realize under any insurance policy which the Association may have in force on the Project at any particular time. Any diminution in insurance proceeds otherwise payable under the Association's policies that results from the existence of any Owner's policy will be chargeable to

the Owner who acquired such other insurance. Any Owner who obtains an individual insurance policy covering any portion of the Project, other than the personal property belonging to such Owner, will file a copy of such policy with the Association within thirty (30) days after purchasing such insurance. Each Owner, at his own expense, may obtain on his Unit or the contents thereof, title insurance, homeowner's liability insurance, theft and other insurance covering improvements, betterment and personal property damaged and lost. In addition, any improvements made by an Owner within his Unit may be separately insured by the Owner under an "improvements insurance" policy or rider; provided, however, if an Association's policy provides such "improvements insurance," any diminution in the Association's insurance proceeds resulting from the existence of an Owner's "improvements insurance" will be chargeable to such Owner. Each Owner will be required to notify the Association of all improvements made by such Owner to his Unit, the value of which exceeds \$10,000.00.

Section 5.2 Liability Insurance. The Association will obtain, maintain and pay the premiums, as a Common Expense, upon a policy of comprehensive general liability insurance coverage covering at a minimum all of the Common Area. Coverage limits will be in amounts generally required by private Institutional Mortgage holders for projects similar in construction, location and use to the Project; provided, however, that such coverage will be for at least \$1,000,000 for bodily injury, including death of persons, and property damage arising out of a single occurrence. Coverage under this policy will include, without limitation, legal liability to the insured for property damage, bodily injury and death of persons in connection with the operation, maintenance and use of the Common Area and legal liability arising out of law suits related to employment contracts in which the Association is a party. If the policy does not include "severability of interest" in its terms, an endorsement will be included which precludes the insurer's denial of the claims of an Owner because of the negligent acts of the Association or another Owner. Such policy must provide that it cannot be canceled or substantially modified, by any party, without at least thirty (30) days prior written notice to the Association and each Mortgagee listed as a scheduled holder of a first Mortgage in the insurance policy.

Section 5.3 Fidelity Bonds and Other Insurance. The Association will obtain, maintain and pay the premiums, as a Common Expense, upon a blanket fidelity bond for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds belonging to or administered by the Association, including any professional management company assisting with the administration of the Regime. The total amount of the fidelity bond coverage required will be based upon the best business judgment of the Board of Directors and will not be less than the estimated maximum funds, including reserve funds, in the custody of the Association or a professional management company, as the case may be, at any given time during the term of each bond; provided, however, that in no event will the aggregate amount of such bonds be less than a sum equal to 2/12ths of the total Annual Assessments plus reserve funds. Fidelity bonds will meet the following requirements: the Association will be named as an obligee; the bonds will contain waivers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions; and the bond will provide that it may not be canceled or substantially modified (including cancellation for nonpayment of a premium) without

at least ten (10) days prior written notice to the Association and each Mortgagee listed as a scheduled holder of a first Mortgage in the fidelity bond.

The Association will obtain, maintain and pay the premiums, as a Common Expense, on a policy of directors and officers liability insurance in such amounts as determined by the Board of Directors.

The Board of Directors will be authorized on behalf of the Association to obtain and maintain such other and further insurance as the Board of Directors may determine from time to time.

Section 5.4 Authority to Adjust Loss. The exclusive authority to negotiate, settle and otherwise deal in all respects with insurers and adjust all losses under policies provided for herein will be vested in the Board of Directors or its duly authorized agent for the benefit of all Owners and Mortgagees; provided, however, that all Owners and Mortgagees having an interest in such loss will be advised in advance of all actions anticipated to be taken of a material nature related to the adjustment of the loss. Each Owner, in accepting a deed to a Unit, expressly appoints the directors, and each of them, his due and lawful attorneys-in-fact, with full power of substitution, to act on behalf of the Owner as fully as the Owner could act in person on all matters related to the authority granted in this Section 5.4, including executing all documents required in connection therewith on behalf of the Owner.

Section 5.5 Trustee.

(a) The Board of Directors may, from time to time, designate a third party Trustee hereunder. The Trustee, whether the Board of Directors acting in said capacity, or a third-party designated by the Board, will serve the Association and the Owners and their Mortgagees (as their interests may appear) as provided herein. Any third-party Trustee, but not the Board of Directors acting in such capacity, will be entitled to receive reasonable compensation for services rendered which will be a Common Expense of the Association.

(b) All insurance policies obtained by the Association will name the Association and the Trustee as loss payees. Immediately upon the receipt by the Association of any insurance proceeds, the Association will endorse the instrument by means of which such proceeds are paid and deliver the instrument to the Trustee. The Trustee will not be liable for payment of premiums, for the renewal or the sufficiency of the policies or for the failure to collect any insurance proceeds. Nor will the Trustee have any obligation to inspect the Project to determine whether a loss has been sustained or to file any claim or claims against any insurer or any other person.

(c) Among other things, the duties of the Trustee will be to receive proceeds delivered to it, hold such proceeds in trust for the benefit of the Owners and their Mortgagees, and disburse the proceeds as hereinafter provided.

(d) Proceeds of insurance policies received by the Trustee will be disbursed as follows:

(i) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purposes, will be disbursed in payment for such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs will be paid to the Association for the benefit of all Owners and their Mortgagees, if any;

(ii) If it is determined, as provided in Section 5.6, that the damage or destruction for which the proceeds are paid will not be repaired or reconstructed, such proceeds will be disbursed to such persons as therein provided;

(iii) Any and all disbursements of funds by the Trustee for any purpose whatsoever will be made pursuant to and in accordance with a certificate of the Association signed by the President and attested by the Secretary directing the Trustee to make the disbursements;

(iv) If the damage or destruction is to the Common Area and is to be repaired or reconstructed, two days prior written notice of each disbursement will be given to the Mortgagee known by the Trustee from the records of the Association to have the largest interest in or lien upon such Common Area; and if the damage or destruction is to one or more Units and is to be repaired or reconstructed, said notice will also be given to the Mortgagee or Mortgagees known to the Trustee from the records of the Association to have an interest in or lien upon such Unit or Units.

(e) The Trustee will not incur liability to any Owner, Mortgagee or other person for any disbursements made by it in good faith pursuant to and in accordance with the foregoing requirements.

Section 5.6 Damage and Destruction.

(a) Immediately after all or any part of the Project covered by insurance is damaged or destroyed by fire or other casualty, the Board of Directors or its duly authorized agent will proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section 5.6, means repairing or restoring the damaged property to substantially the same conditions in which it existed prior to the fire or other casualty, with each Unit and the Common Area having the same vertical and horizontal boundaries as before.

(b) Any such damage or destruction to the Project will be repaired; provided, however, that any such damage which requires the reconstruction of the whole or more than two-thirds (2/3) of the Project will not be undertaken unless sixty-seven percent (67%) of the Members agree, voting in person or by proxy at a meeting at which a quorum is present, duly called, in whole or in part, for the purpose of disapproving such repair or reconstruction. If the Project is not reconstructed, all insurance proceeds will be delivered in accordance with the provisions of

Section 5.6(c) below. Except as otherwise provided, any such damage or destruction which renders any Unit untenable or uninhabitable, or any such damage or destruction to the Common Area, will be repaired and reconstructed as promptly as practicable. No Mortgagee will have any right to restrict the use of insurance proceeds otherwise available for repair, reconstruction or rebuilding.

(c) In the event that it is determined by the Association in the manner prescribed above that the damage or destruction will not be repaired, reconstructed or rebuilt, then and in that event:

(i) The Project will be owned by the Owners as tenants-in-common;

(ii) The undivided interest in the Project of each Owner will be a percentage equal to the Percentage Interest appurtenant to the Unit theretofore owned by the Owner;

(iii) All liens affecting any of the Units will be deemed to be transferred in accordance with the existing priorities to the undivided interest of the Owners of the respective Units;

(iv) The Project will be subject to an action for partition at the instance of any Owner, in which event the net proceeds of the sale will be deposited with the Trustee;

(v) The Association will proceed to satisfy all of its liabilities and convert all of its assets to cash which will be deposited with the Trustee;

(vi) The proceeds from the sale of the Project, the liquidation of the assets of the Association and the insurance proceeds related to the damage or destruction to the Project will be considered one fund which, after paying the reasonable expenses of the Trustee, will be distributed to all the Owners and their respective Mortgagees as their interests may appear in percentages equal to the Percentage Interests of said Owners. Distributions to such Owners and their Mortgagees will be made pursuant to certificates provided for in Section 5.5.

Section 5.7 Insufficient Proceeds to Repair.

(a) If the damage or destruction for which the insurance proceeds are paid to the Trustee is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, or if no insurance proceeds exist with respect to such damage or destruction, the Board of Directors will levy an Assessment against the Owners of damaged or affected Units in sufficient amounts to provide funds to pay costs in excess of insurance proceeds for repair or reconstruction. Additional Assessments may be made at any time during or following the completion of any repair or reconstruction. That portion of such Assessments levied against each Owner will be equal to that percentage computed by dividing the Percentage Interest appurtenant to such Owner's Unit by the aggregate Percentage Interests appurtenant to all Units damaged or affected.

(b) Any and all sums paid to the Association under and by virtue of those Assessments provided for in Paragraph (a) of this Section 5.7 will be deposited by the Association with the Trustee. Such proceeds from insurance and Assessments, if any, received by the Trustee will be disbursed as provided in Section 5.5.

ARTICLE VI

Condemnation

Section 6.1 General. Whenever all or any part of the Project will be taken by any authority having the power of condemnation or eminent domain, each Owner will be entitled to notice thereof; provided, however, that the exclusive right to negotiate, settle and otherwise deal in all respects with the condemning authority as to the taking of the Common Area will be vested in the Board of Directors or its duly authorized agent on behalf of the Association. Each Owner, in accepting a deed to a Unit, expressly appoints the directors, and each of them, his due and lawful attorneys-in-fact, with full power of substitution, to act on behalf of the Owner as fully as the Owner could act in person in all matters related to the authority granted in this Section 6.1, including executing all documents required in connection therewith on behalf of the Owner. The award made for such taking will be payable to the Trustee. Unless otherwise required by law at the time of such taking, any award made therefore will be disbursed by the Trustee, as hereinafter provided in this Article VI.

Section 6.2 Non-Essential Areas. If the taking does not include any portion of any Unit or any portion of the Common Area essential to the continued occupancy of any Unit, then the Board of Directors will be permitted to replace any nonessential improvements to the extent deemed appropriate and the Trustee will disburse the proceeds of such awards in the same manner as herein above provided for and in connection with the repair, reconstruction or rebuilding of improvements after damage or destruction, with all excess proceeds to be distributed to the Association.

Section 6.3 Essential Areas. If the taking includes any portion of a Unit or the Common Area essential to the use of any Unit, then the award will be disbursed, and all related matters, including, without limitation, alteration of the Percentage Interests appurtenant to each Unit, will be handled, by (i) the Developer, for so long as the Developer has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association, and (ii) thereafter, the Board of Directors in a just and equitable manner to all Owners; provided, however, that all action of the Board of Directors will be pursuant to and in accordance with a plan approved by Members representing at least sixty-seven (67%) percent of the total votes of the Association voting in person or by proxy, at a meeting at which a quorum is present, duly called, in whole or in part, for the purpose of approving such in a duly recorded amendment to this Master Deed. In the event that such an amendment will not be recorded within ninety (90) days after the taking, then such taking will be deemed to be and will be treated as damage or destruction which will not be repaired or reconstructed as provided for in Section 5.6, whereupon the Regime will be terminated in the manner therein prescribed.