

**AMENDED AND RESTATED BYLAWS**  
**OF**  
**STERLING GATE HOMEOWNERS ASSOCIATION, INC.**

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**AMENDED AND RESTATED  
BYLAWS  
OF STERLING GATE HOMEOWNERS ASSOCIATION, INC.**

These Amended and Restated Bylaws of Sterling Gate Homeowners Association, Inc., are promulgated for the purpose of governing Sterling Gate Homeowners Association, Inc., a non-profit corporation organized under the provisions of the Alabama Non-Profit Corporation Act ALA. CODE § 10-31-1, et seq., as amended, as an association of members of Sterling Gate Subdivision and Cedar Grove at Sterling Gate (the "Property").

**ARTICLE I**

**THE ASSOCIATION**

1.01 **Name.** The name of this Association shall be "Sterling Gate Homeowners Association, Inc.", an Alabama non-profit corporation (the "Association"), which has been formed pursuant to Articles of Incorporation of the Association (the "Articles of Incorporation") which have been filed with the Probate Office of Shelby County, Alabama. The provisions of these Bylaws are expressly subject to the terms, provisions, covenants and conditions contained in the Amended and Restated Declaration of Protective Covenants for Sterling Gate Subdivision and Cedar Grove at Sterling Gate to be filed with the Office of the Judge of Probate of Shelby County, Alabama (which, together with all subsequent amendments thereto, is hereinafter referred to as the "Declaration"). Capitalized terms not otherwise defined herein shall have the same meanings given to them in the Declaration.

1.02 **Principal Office.** The principal office of the Association in the State of Alabama shall be located at 561 First Street North, Alabaster, Alabama 35007. 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.

1.03 **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**

2.01 **Membership.** Each person who is the Owner of any Lot in the Property shall be a member of the Association. Developer shall be deemed a member of the Association and shall have one (1) vote for each Lot owned by Developer. If a Lot is owned by more than one person and if

only one of those persons is present at a meeting of the Association, that person shall be entitled to cast the vote appertaining to such Lot; provided, however, that if more than one of those persons is present, the vote appertaining thereto shall be cast only in accordance with their unanimous agreement, and, if no unanimous agreement is reached, the vote appurtenant to such Lot shall be suspended. No Owner, whether one or more persons, shall be entitled to more than one vote per Lot owned. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Lot. As used in these Bylaws, "member" shall mean an Owner, as defined in the Declaration. Notwithstanding anything herein to the contrary, for so long as Developer owns any Lot in the Property, (a) Developer shall have the sole and exclusive right to (i) elect the Board of Directors of the Association, (ii) appoint the officers of the Association and the members of the Architectural Committee, as defined in the Declaration, (iii) remove and replace any members of the Board of Directors of the Association, the officers of the Association and the members of the Architectural Committee, (iv) amend these Bylaws and the Articles of Incorporation, (v) amend the Declaration (subject to the limitations set forth in Section 11.02 of the Declaration), (vi) take all other action on behalf of the Association and vote on all other matters required to be voted on or approved by the members of the Association (except to the extent all members of the Association are entitled to vote on the matters described in item (b) below of this Section 2.01), and (b) the voting rights of the members of the Association shall be limited (i) approving Special Assessments as provided in Section 9.05 of the Declaration, (ii) approving amendments to the Declaration if such approval is required pursuant to Section 11.02 of the Declaration, and (iii) voting on amendments to the Declaration as provided in Section 11.03 of the Declaration. , During the Developer's Control Period (as defined in Section 2.13), the members shall have no further voting rights or privileges in the Association. The voting rights of any member who has violated the Declaration or who is in default in the payment of Assessments (as defined in the Declaration) may be limited and suspended in accordance with the provisions of the Declaration or any rules and regulations adopted by the Association.

2.02 **Annual Meeting.** The annual meeting of the members of the Association shall be held during the second quarter of the calendar year at such date and time as shall be fixed by the Board of Directors. If the day fixed for the annual meeting shall be a legal holiday, such meeting shall be held on the next succeeding business day. At the annual meeting, the members of the Association shall elect the Board of Directors of the Association and receive a financial report of previous year . If the election of Directors shall not be held on the day designated herein for any annual meeting of the members of the Association, or any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the members of the Association as soon thereafter as practicable. Notwithstanding the foregoing, any annual meeting held during the Developer's Control Period shall be at the election of the Developer and shall be informational only, it being expressly understood that there shall be no requirement for the Developer to hold an annual meeting during the Developer's Control Period.

2.3 **Special Meetings.** Special meetings of members, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President or by the Board of Directors

and shall be called by the President or the Secretary of the Association upon the petition of at least one-third (1/3) or more of the total votes in the Association.

2.04 **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.

2.05 **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 fifty (50) 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.

2.06 **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 fifty (50) 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.

2.07 **Quorum.** With respect to the annual or any special meeting of the members of the Association, a quorum shall be deemed to exist if members of the Association entitled to cast over ten percent (10%) of all of the votes of the Association are present, in person or by proxy, at such meeting. The members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

2.08 **Majority Vote.** The vote of members entitled to cast a majority of the votes represented at a meeting 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 of Incorporation or these Bylaws.

2.09 **Proxies.** At all meetings of the members of the Association, a member may vote in person or by proxy executed in writing by the member or by his duly authorized attorney in

fact. Such proxy shall be filed with the Secretary of the Association before or at the time of the meeting. All proxies shall be valid only for the specific meeting (as the same may be adjourned) for which the proxy was executed and shall have no force and effect beyond that specific meeting.

2.10 **Voting Rights.** Subject to the restrictions hereinafter set forth, each member shall be entitled to one (1) vote for each Lot subject to the terms of the Declaration in which he holds the interest required for membership. When one or more persons hold such interest, all such persons may be members, but in no event shall more than one vote be cast with respect to any Lot. If an Owner is a corporation or other entity, the person entitled to cast the vote for the Lot shall be designated by a certificate duly executed by such corporation or other entity and filed with the Secretary of the Association. Such certificate shall be valid until revoked or until superceded by a subsequent certificate or a change in the ownership of the Lot concerned. A certificate designating the person entitled to cast the vote of a Lot may be revoked at any time by any Owner of a Lot. There shall be no fractional voting. The votes of an Owner of more than one Lot cannot be divided for any issue and must be voted as a whole. Except where otherwise required under the provisions of the Declaration, the Articles of Incorporation or these Bylaws, the affirmative vote of Owners who own a majority of the total Lots within the Property which is represented at any meeting of members duly called, and at which a quorum is present, shall be binding upon the members. Voting may take place by proxy executed and delivered in the manner set forth herein.

2.11 **Informal Action by Members.** Any action required to be taken at a meeting of the members of the Association, or any other action which may be taken at a meeting of the members of the Association, 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.

2.12 **Order of Business.** The order of business at any annual or special meeting and, as far as practicable, at all other members' meetings shall be according to the latest edition of Robert's Rule of Order.

2.13 **Control Period.** The Developer's Control Period ("Control Period") is defined as that time that the Developer has not sold all of the Lots in the Property; provided, however, that the Developer may elect to terminate the Control Period at any time prior to its sale of all the Lots.

## ARTICLE III

### **BOARD OF DIRECTORS**

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

3.02 **Number, Tenure and Qualifications.** The number of directors of the Association shall consist of five (5) directors. Each Director shall hold office until his successor shall have been elected and qualified. During the Developer's Control Period, Directors need not be residents of the State of Alabama; thereafter, all Directors shall be members of the Association .

### 3.03 Election, Removal and Replacement of Directors.

(a) During the Developer's Control Period, (i) all of the members of the Board of Directors of the Association shall be appointed by Developer and (ii) Developer shall have the right at any time and from time to time to remove any Directors, either with or without cause, and may appoint a successor to such removed Director or otherwise fill any vacancies on the Board, without any consent or approval from any of the members.

(b) At such time as the Developer's Control Period has terminated, the members of the Association shall elect, by majority vote of the members of the Association, new members of the Board of Directors of the Association as provided in Section 13.01 of the Declaration. Thereafter, the members of the Association, by affirmative vote of a majority of the members, shall (i) elect the members of the Board of Directors at the annual meeting of the members of the Association and (ii) have the right to remove, either with or without cause, at any time or from time to time, any of the members of the Board and appoint a successor to such removed Director. There shall be no cumulative voting by the members.

(i) Staggered Terms. At the first annual meeting of the members to elect Directors in accordance with Section 3.03(b) above, there shall be elected in the manner set forth in these Bylaws five (5) Directors, two (2) such Directors being elected for three (3) years, two (2) such Directors being elected for two (2) years, and one (1) such Director being elected for one (1) year, with the two (2) members receiving the first and second highest vote totals receiving the three (3) year terms, the two (2) members receiving the third and fourth highest vote totals receiving two (2) year terms and the member receiving the fifth highest vote total receiving a one (1) year term. Thereafter, the term of office for Directors elected at subsequent annual meetings shall be three (3) years.

3.04 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 members of the Association, 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.

3.05 Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two directors. The person or persons authorized to call special meetings of the Board of Directors may fix any place, either within or without the State of Alabama, as the place for holding any special meeting of Board of Directors called by them.

3.06 Notice. Notice of any special meeting shall be given at least forty-eight (48) hours previously thereto by written notice delivered personally or mailed to each director at his business address, or by facsimile. 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 facsimile, such notice shall be deemed to be delivered when the facsimile is transmitted. 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.

3.07 **Quorum.** A majority of the number of Directors fixed by Section 3.02 of these Bylaws shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but if less than such majority is present at a meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice. If a quorum is present when the meeting is convened, the Directors present may continue to do business, until adjournment, notwithstanding the withdrawal of enough Directors to leave less than a quorum present, or the refusal of any Director present to vote.

3.08 **Manner of Acting.** The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless a greater number is required under by statute, the Articles of Incorporation or these Bylaws.

3.09 **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.

3.10 **Vacancies.** For so long as Developer is the Owner of any Lot in the Property, any vacancy occurring in the Board of Directors shall be filled by Developer as provided in Section 3.03(a) above. At such time as Developer no longer owns any Lot in the Property, any vacancy occurring in the Board of Directors, other than a vacancy occurring by reason of a Director's removal pursuant to Section 3.03(b) of these Bylaws, may be filled by the affirmative vote of a majority of the remaining Directors. In the event there are no remaining Directors, then the vacancy or vacancies occurring in the Board of Directors shall be filled by the affirmative vote of a majority of the members of the Association. A Director elected or appointed to fill a vacancy shall be elected to serve for the unexpired term of his predecessor in office.

3.11 **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.

3.12 **Committees.**

(a) The Board of Directors may, by resolution or resolutions, passed by a majority of the whole Board, designate one or more committees, each of which shall consist of two or more Directors and which to the extent provided in said resolution or resolutions or in these Bylaws 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 and may have power to authorize the seal of the Association to be affixed to all papers which may require it; except that no such committee shall have the authority of the Board of Directors in reference to amending, altering or repealing these Bylaws; electing, appointing or removing any member of any such committee or any Director or



officer of the Association; amending the Articles of Incorporation, restating the Articles of Incorporation, 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.

(b) Notwithstanding anything provided to the contrary in Section 3.12(a) above, after the Developer's Control Period has ended or, upon Developer's written notice to the Association that it no longer desires to exercise the rights to appoint and remove members of the Architectural Committee as provided in Section 5.02(a) of the Declaration, then the Board of Directors shall appoint all members of the Architectural Committee in accordance with the provisions of Article V of the Declaration.

3.13 **Resignations.** Any director of the Association may resign at any time either by oral tender of resignation at any meeting of the Board 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.

3.14 **Participation in Meetings by Conference Telephone.** Members of the Board of Directors or any committee designated thereby may participate in a meeting of such Board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at such meeting.

3.15 **Compensation.** Directors shall not be entitled to any salaries or other compensation except for expenses incurred on behalf of the Association which shall be reimbursed. Nothing herein shall preclude any Director from serving the Association in any other capacity and receiving compensation therefore.

## ARTICLE IV

### **OFFICERS**

4.01 **Principal Officers.** The principal officers of the Association shall be elected by the Board of Directors and shall include a President, one or more Vice Presidents, a Secretary and a Treasurer and may, at the discretion of the Board of Directors, such other officers as may be designated from time to time. Any number of offices may be held by the same person, except the offices of President and Secretary. None of the principal officers need be Directors of the Association.

4.02 **Election and Term of Office.** The principal officers of the Association 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 members. If the election of principal officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each principal 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. If the Board of Directors shall fail to fill any principal office at an annual meeting, or if any vacancy in any principal office shall occur, or if any principal office shall be newly created, such principal office may be filled at any regular or special meeting of the Board of Directors.

4.03 **Subordinate Officers, Agents and Employees.** In addition to the principal officers, the Association may have such other subordinate officers, agents and employees as the Board of Directors may deem advisable, each of whom shall hold office for such period and have such authority and perform such duties as the Board of Directors, the President, or any officer designated by the Board of Directors, may from time to time determine. The Board of Directors at any time may appoint and remove, or may delegate to any principal officer the power to appoint and to remove, any subordinate officer, agent or employee of the Association.

4.04 **Delegation of Duties of Officers.** The Board of Directors may delegate the duties and powers of any officer of the Association to any other officer or to any Director for a specified period of time for any reason that the Board of Directors may deem sufficient.

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

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

4.07 **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.

4.08 **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 members of the Association. He may sign, with the 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.

4.09 **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.

4.10 **Secretary.** The Secretary shall (a) keep the minutes of the meetings of the Association 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 post office address of each member which shall be furnished to the Secretary by such member; (e) have general charge of the records 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.

4.11 **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.

4.12 **Salaries.** The officer of the Association shall not be entitled to any salaries or other compensation except for expenses incurred on behalf of the Association which shall be reimbursed. Nothing herein shall preclude any Director from serving the Association in any other capacity and receiving compensation therefore.

## ARTICLE V

### **FISCAL MATTERS AND BOOKS AND RECORDS**

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

5.02 **Books and Records Kept by Association.** The Association shall keep detailed, complete and accurate financial records, including itemized records of all receipts and disbursements, shall keep detailed minutes of the proceedings of all meetings of the members and of the Board of Directors and committees having any of the authority of the Board of Directors, and

shall keep such other books and records as may be required by law or necessary to reflect accurately the affairs and activities of the Association. The Association shall keep at the office of the Association a record giving the names and addresses of the Directors and all members of the Association, which shall be furnished by each Owner pursuant to Section 5.10 of these Bylaws.

5.03 **Inspections.** The books, records and papers of the Association shall at all times during reasonable business hours be subject to inspection by any member or his agent or attorney for any proper purpose. True and correct copies of the Articles of Incorporation, these Bylaws, the Declaration, and all rules and regulations of the Association, with all amendments thereto, shall be maintained at the principal registered offices of the Association and copies thereof shall be furnished to any member on request on payment of a reasonable charge therefore.

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

5.05 **Checks, Drafts, etc.** All checks, drafts or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, or agents of the Association, and in such manner as shall from time to time be determined by resolution of the Board of Directors, such instruments shall be signed by the Treasurer of the Association.

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

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

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

5.09 **Annual Statements.** Not later than four (4) months after the close of each fiscal year, the Board of Directors shall prepare or cause to be prepared a balance sheet showing in reasonable detail the financial condition of the Association as of the close of its fiscal year and an income and expense statement showing the results of its operations during its fiscal year. Such statements may, in the discretion of the Board, be audited statements. Upon receipt of written request, the Treasurer promptly shall mail to any member copies of the most recent such balance sheet and income and expense statement on payment of a reasonable charge therefore.

5.10 **Notices.** Each member shall be obligated to furnish to the Secretary of the Association, the address, if other than the Lot of such member, to which any notice or demand to the Owner under the Declaration or these Bylaws is to be given, and if no address other than such Lot shall have been designated, all such notices and demands shall be mailed or delivered to such Lot.

5.11 Payment of Taxes on Common Areas and Insurance Premiums. The Board shall, to the extent funds are available, cause payment to be made, in a timely manner, for all Common Expenses of the Property, including all taxes assessed against the Common Areas or Association property and all insurance premiums.

## ARTICLE VI

### INSURANCE

6.01 Types of Coverage. The Association shall maintain in effect at all times as a Common Expense the types of insurance coverage required by the Declaration, any workmen's compensation or other insurance required by law, and such other insurance as the Board may from time to time deem appropriate. The Board shall review the amount and terms of such insurance annually.

6.02 Damage or Destruction to Common Areas. Immediately after the damage or destruction by fire or other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance, and, in any event, the board shall obtain, reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction means repairing or restoring the damaged property to substantially the same condition in which it existed prior to the fire or other casualty. The Association shall promptly commence and complete the repair and restoration of any portions of the Common Areas damaged by any such fire or other casualty. If the insurance proceeds, if any, for such damage or destruction are not sufficient to defray the cost thereof, and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board of Directors may levy a Special Assessment against all members, without the necessity of a vote or the consent or approval of any of the members, as provided in the Declaration, to provide funds to pay such excess costs of repair or reconstruction. Such a Special Assessment shall be levied against the members equally in the same manner as Annual Assessments are levied, and additional Special Assessments may be made at any time during or following the completion of any repair or reconstruction. Any and all sums paid to the Association under and by virtue of such Special Assessments shall be held by and for the benefit of the Association under and by virtue of such Special Assessments shall be held by and for the benefit of the Association together with the insurance proceeds, if any, for such damage or destruction. Such insurance proceeds and assessments shall be disbursed by the Association in payment for such repair or reconstruction as is established by the Board of Directors. Any proceeds remaining after defraying such costs shall be retained by and for the benefit of the Association. If it is determined by the Board of Directors that the damage or destruction for which the insurance proceeds are paid shall not be repaired or reconstructed, such proceeds shall be retained by and for the benefit of the Association, and the ruins of the Common Areas damaged or destroyed by fire or other casualty shall be cleared and the Common Areas left in a clean, orderly, safe and sightly condition.

6.03 Condemnation of Common Areas. Whenever all or any part of the Common Areas of the Property shall be taken by any authority having the power of condemnation or eminent

domain, or is conveyed in lieu thereof by the Board, the award made or collected for such taking or sale in lieu thereof shall be payable to the Association and shall be disbursed or held as follows:

(a) If the taking or sale in lieu thereof involves a portion of the Common Areas on which Improvements have been constructed, then the Association shall restore or replace such Improvements so taken, to the extent practicable, on the remaining lands included in the Common Areas which are available therefore, in accordance with the plans approved by the Board of Directors and the Architectural Committee (as defined in the Declaration). If the award is not sufficient to defray the cost of such repair and replacement and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board of Directors may levy a Special Assessment against all members, without the necessity of a vote or the consent or approval of any of the members, as provided in the Declaration, to provide funds to pay such excess costs of repair or reconstruction. Such a Special Assessment shall be levied against the members equally in the same manner as Annual Assessments are levied, and additional Special Assessments may be made at any time during or following the completion of any repair or reconstruction. If the Board of Directors determine that such Improvements are not to be repaired or restored, the award or proceeds shall be retained by and for the benefit of the Association to be used as provided in the Declaration.

(b) If the taking or sale in lieu thereof does not involve any Improvements to the Common Areas, or if there are net funds remaining after any such restoration or replacement of such Improvements is completed, then such award or net funds shall be retained by and for the benefit of the Association.

## ARTICLE VII

### INDEMNIFICATION

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

The Association shall, to the fullest extent permitted by applicable law, indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association, as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

To the extent that a Director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Article VII, 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.

Any indemnification under this Article VII (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in this Article VII. Such determination shall be made (i) by the Board of Directors by a majority vote of directors who were not parties to such action, suit or proceeding, or (ii) if disinterested directors so direct, by independent legal counsel in a written opinion, or (iii) by the members.

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 director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this section.

The indemnification provided by this section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of members or disinterested director or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person

## ARTICLE VIII

### GENERAL PROVISIONS

8.01 **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 Act, and any act amendatory thereof, supplementary 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. Attendance by a Director at a meeting of the Board of Directors shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

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

8.03 **Power of Directors to Amend.** The Board of Directors shall have the right, power and authority to alter, amend or repeal the Bylaws of the Association or adopt new Bylaws for the Association at any regular or special meeting of the Board. Furthermore, at such time as the Developer's Control Period has ended, the members of the Association, by the affirmative vote of a majority of the total votes in the Association, may alter, amend or repeal the Bylaws or adopt new Bylaws for the Association at any annual meeting or at a special meeting called for such purposes.

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