

SUNSET HARBOR RESORT LUXURY CONDOMINIUMS REGIME

STATE OF TEXAS

COUNTY OF MONTGOMERY

Preamble

This Declaration is made on October 10, 2006, at Austin, Texas, by Lake Conroe Properties, LLC, a Texas limited liability corporation (hereinafter "Declarant") whose mailing address is 11200 Centennial Trail, Austin, Texas 78726.

RECITALS

1. Declarant is the owner of all of real property, including the land; all improvements and structures on the property; and all easements, rights, and appurtenances belonging to the property that is located in the City of Willis, County of Montgomery, State of Texas (the "Property"), more particularly described in Exhibit A, which is attached and incorporated by reference.
2. Declarant submits the Property to a condominium regime established by the Texas Uniform Condominium Act (TUCA), which is codified in Chapter 82 of the Property Code.
3. The Property constitutes a condominium project (the "Project") within the meaning of TUCA. The formal name of the Project is Sunset Harbor Condominiums I.
4. Declarant intends and desires to establish by this Declaration a plan of ownership for the condominium project ("Project"). The plan consists of individual ownership of residential apartment units (the "Unit(s)") and other areas. The Project shall be divided into no more than thirty (30) Units.
5. The Declarant intends to impose on the Project mutually beneficial restrictions for the benefit of all Units and the persons who own those Units (the "Owners"). The Declarant further intends, in accordance with the terms set forth herein, that the Owners will govern the Project by means of an organization of Owners (herein the "Association"), as more particularly set forth herein. The formal name of the Association is SHR Luxury Condominium Association, Inc.
6. The Units and other areas of the Project are more particularly described in Exhibits B and C, which are attached and incorporated by reference. The Owners each have an undivided interest in the remaining property of the Project (referred to as the "Common Elements"), which is also more particularly described in Exhibits B and C. Exhibit D sets forth the allocation to each Unit of (a) a fraction or percentage of undivided interests in the common elements of the condominium, (b) a fraction or percentage of undivided interests in the common expenses of the Association, and (c) a portion of votes in the Association, by the formulas set forth therein.
7. Therefore, the Declarant declares that the Project is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the following

covenants, conditions, and restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement of the Property and the division of the Property into Units, and all of which are established and agreed on for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the Project and every part of the Project. All of the covenants, conditions, and restrictions shall run with the Property and shall be binding on all parties having or acquiring any right, title, or interest in or any part of the Property and shall be for the benefit of each Owner of the Project or any interest in the Project and shall inure to the benefit of and be binding on each successor in interest of the Owners.

ARTICLE 1 DEFINITIONS

Articles

1.1 *Articles* mean the Articles of Incorporation of the Association that are or shall be filed in the Office of the Secretary of State of the State of Texas.

Association

1.2 *Association* means the SHR Luxury Condominium Association, Inc., a corporation organized under the Texas Non-Profit Corporation Act for the management of the Project, the membership of which consists of all of the Owners in the Project.

Board

1.3 *Board* means the Board of Directors of the Association.

Bylaws

1.4 *Bylaws* mean the Bylaws of the Association and amendments to the Bylaws that are or shall be adopted by the Board.

Condominium

1.5 *Condominium* means the separate ownership of single units in a multiple-unit structure or structures with common elements.

Common Elements

1.6 *Common Elements* mean all elements of the Project except the separately owned Units, and includes both general and limited common elements.

Common Surplus

1.7 *Common Surplus* means the excess of all financial amounts received by the Board including without limitation, without limitation, all Assessments, rentals, fees, profits, proceeds, income, royalties and revenues, if any, in excess of the amount of the Common Expenses. Each Owner shall

have an undivided percentage interest in the Common Surplus in the same percentage as his undivided percentage interest in the Common Elements as described on Exhibit E attached hereto and fully incorporated herein by reference; and as may be amended, restated and/or supplemented from time to time.

Condominium Act

1.8 *Condominium Act and/or Act* means Chapter 82 of the Texas Property Code, more specifically the Texas Uniform Condominium Act of 1993, in present form and as amended from time to time.

Condominium Unit

1.9 *Condominium Unit* means a physical portion of the Condominium designated for separate ownership or occupancy, the boundaries of which are described in this Declaration; together with the Percentage Interest in the Common Elements pertaining to that Unit.

Covenants, Conditions and Restrictions

1.10 *Covenants, Conditions and Restrictions (the "CCRs")* means those administrative and governing rules, together with any and all exhibits, schedules or certificates thereto, as created by the Board on behalf of the Association; and as may be adopted, restated and/or supplemented from time to time by the Board; and that are deemed necessary for the enjoyment of the Property, provided that none such are in conflict with the Act, the Instruments and/or the applicable laws of any federal, state, or local governmental agency or authority.

Declarant

1.11 *Declarant* means Lake Conroe Properties, LLC, and its successors and assigns, notwithstanding anything to the contrary in this Declaration, and pursuant to the Texas Uniform Condominium Act, the Declarant reserves all Special Declarant Rights or Development Rights under the Act, including but not limited to the right to:

- (a) exercise any development right;
- (b) add additional phases to the Condominium or to make the Condominium part of a planned community;
- (c) maintain sales, management, and leasing offices, sign, advertising the Condominium, and models;
- (d) access and use easements through or across the Common Elements for the purpose of making improvements within the Condominium or within real property that may be added to the Condominium; and/or
- (e) the right to appoint or remove any Officer or Trustee of the Association during any period of Declarant control.

Parcels

1.12 *Parcels* means any real property located in Montgomery County, Texas; together with any actual or contemplated improvements thereon; and all appurtenances thereto; inclusive of all Buildings, Units and Common Elements which may be submitted to and annexed under this Declaration as Additional Phases of the Property by recordation of a Supplemental Declaration in accordance with Article XII hereof.

Supplemental Declaration

1.13 *Supplemental Declaration* means an instrument recorded by the Board of Trustees on behalf of the Association in the official public records with the Office of the Clerk for Montgomery County, Texas, adding an Additional Phase or Phases to the Condominium Regime in accordance with Article XII hereof.

Unit Occupant

1.14 *Unit Occupant* means any person(s) occupying or permitted to occupy a Unit, including, without Limitation, any Owner, his family, guests and tenants.

Declaration

1.15 *Declaration* means this Declaration document and all that it contains.

General Common Elements

1.16 *General Common Elements* mean all the Common Elements except the Limited Common Elements.

Governing Instruments

1.17 *Governing Instruments* mean the Declaration, and the Articles of Incorporation and Bylaws of the Association.

Limited Common Elements

1.18 *Limited Common Elements* mean the Common Elements allocated for the exclusive use of one or more but less than all of the Units.

Manager

1.19 *Manager* means the person or corporation, if any, appointed by the Board to manage the Project.

Owner(s)

1.20 *Owner(s)* means any person that owns a Unit within the Project.

Person

1.21 *Person* means an individual, firm, corporation, partnership, association, trust, other legal entity, or any combination of persons or entities.

Project

1.22 *Project* means the entire parcel or the Property described in Exhibit A, including the land, all improvements and structures on the Property, and all easements, rights, and appurtenances belonging to the Property that are divided or are to be divided into Units to be owned and operated as a Condominium. The Project shall be divided into no more than thirty (30) Units.

Rules

1.23 *Rules* mean and refer to the Rules and Regulations for the Project adopted by the Declarant pursuant to this Declaration.

Unit

1.24 *Unit* means a physical portion of the condominium designated by Exhibits B and C for separate ownership and occupancy.

ARTICLE 2

THE DECLARANT

Corporate Name and Address

The name of the Declarant is Lake Conroe Properties, LLC, the address of which is 11200 Centennial Drive, Austin, Texas 78726.

ARTICLE 3

THE PROPERTY

Property Subject to Declaration

3.1 All the real property described in Exhibit A to this declaration, including the land; all improvements and structures on the property; and all easements, rights, and appurtenances belonging to the property (referred to as the "Property") shall be subject to this Declaration.

Exclusive Ownership and Possession

3.2 Each Owner shall be entitled to the exclusive ownership and possession of the Owner's Unit. Any Unit may be jointly or commonly owned by more than one Person. No Unit may be subdivided.

The boundaries of the Unit shall be and are the interior surfaces of the perimeter walls, floors, ceilings, and the exterior surfaces of balconies and terraces. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and other finish surface materials are a part of the Unit. An Owner shall not be deemed to own the utilities running through the Owner's Unit that are utilized for or serve more than one Unit, except as a tenant in common with the other Owners. An Owner shall be deemed to own and shall have the exclusive right to paint, repaint, tile, wax, paper, or otherwise refinish and decorate the interior surfaces of the walls, floors, ceilings, windows, and doors bounding the Owner's Unit. Each Unit contains any balcony attached thereto in its entirety. Each Unit also contains all non-structural interior partition walls, except those which contain, comprise or support part of the Common Elements located within the boundaries of the Unit, and all doors, windows, fixtures, appliances, mechanical, electrical and intercom systems or equipment, water and sewage pipes located within the boundaries of the Unit which serve that Unit, heating and air conditioning equipment installed exclusively for the Unit, commencing at the point of disconnection from the structural body of the building or from the utilities, lines, pipes and systems serving the Unit. The Unit shall not include the interior and exterior perimeter walls of the unit, load-bearing walls and partitions of the Unit, perimeter walls of the building in which the Unit is located, including the exterior finished surfaces of the perimeter walls of the building, all pipes (except water, gas and sewage pipes located within the boundaries of the Unit serving that Unit exclusively), wires, conduits and other public utility lines, ventilation shafts or other ducts, and any structural portions of the building running through a Unit which are utilized for or serve more than one Unit and all other property or fixtures of any kinds which are not removable without jeopardizing the soundness, safety or usefulness of the remainder of the building.

Common Elements

3.3. Each Owner shall be entitled to an undivided interest in the Common Elements described in Exhibit D in the percentage expressed in Exhibit D. The percentage of the undivided interest of each Owner in the Common Elements, as expressed in Exhibit D, shall have a permanent character and shall not be altered without the consent of all Owners, expressed in an amended, duly recorded Declaration. The percentage of the undivided interest in the Common Elements shall not be separated from the Unit to which it pertains and shall be deemed to be conveyed or encumbered or released from liens with the Unit even though the interest is not expressly mentioned or described in the conveyance or other instrument. Each Owner may use the Common Elements in accordance with the purpose for which they are intended as long as the lawful rights of the other Owners are not hindered or encroached on.

Limited Common Elements

3.4 The Common Elements designated as Limited Common Elements in Exhibit C are reserved for the exclusive use of the Owners of the Units to which they are appurtenant.

Partition of Common Elements

3.5 The Common Elements, both General and Limited, shall remain undivided and shall not be the object of an action for partition or division of ownership so long as the Property remains a Condominium Project. In any event, all mortgages must be paid prior to the bringing of an action

for partition or the consent of all mortgagees must be obtained.

ARTICLE 4

SHR Luxury Condominium Association, Inc. Responsibility for the repair, replacement, restoration, improvement, maintenance, operation, management and administration of the Property shall be vested in the Association as the agent of all Owners. Exclusive control and responsibility over the maintenance, modification, alteration, repair, restoration, color schemes, decor, design and improvement of the Common Elements, the limited Common Elements and the Common Furnishings, if any, is also vested in the Association.

4.1 Property Manager. All of the Association's rights, powers and authority as set forth in this Declaration and the other Instruments, including, without limitation, the Association's management, administration, operation, collection and enforcement responsibilities, rights, recourses and remedies, shall be delegated to the Board, which at its' sole discretion and without notice or limitation, may assign such responsibilities, rights, recourses and remedies to the Property Manager provided that a Management Agreement with the Board is in full force and effect. In such event, the Property Manager shall act as the designee of the Association.

4.2 Membership. Each Unit Owner and the Association, for so long as the Association is deemed to be an Owner of one or more Unit(s), shall automatically be a Member of the Association and shall continue to be an Association Member thereof until the Member ceases to be an Owner.

4.3 Transfer of Membership. An Owner's membership in the Association is appurtenant to and inseparable from ownership of a Unit and shall automatically terminate upon a valid transfer or conveyance of a Unit ownership interest to any transferee or grantee, whether voluntary or by operation of applicable law, except to the extent that such transferor retains an interest in any other Unit within the Property. The transferee of a Unit ownership interest shall immediately and automatically upon the valid transfer of the Unit ownership interest, as provided herein, become a member of the Association. If title to such Unit ownership interest is vested in more than one person or entity, then all of the persons and/or entities having title to such Unit ownership interest shall be Members of the Association and entitled to an undivided percentage interest of the prior Owner in the Common Elements, Common Expenses, Common Furnishing, and Common Surplus, although not expressly mentioned or addressed in the Warranty Deed or any instrument of conveyance and without any further instrument of transfer.

4.4 Association Power. In accordance with Section 82.102 of the Act, the Association, acting through its' Board of Trustees, may:

- (a) Enforcement of the applicable provisions of this Declaration, the Bylaws, and any Rules of the Association.
- (b) Payment of taxes and assessments that are or could become a lien on the Common Elements or a portion of the Common Elements.
- (c) Contracting for casualty, liability, and other insurance on behalf of the Association.

- (d) Contracting for goods and services for the Common Elements, facilities, and interests of the Association.
- (e) Delegation of its powers to such committees, officers, or employees of the Association as are expressly authorized by the Governing Instruments.
- (f) Adopt and amend budgets for revenues, expenditures, and Reserves, and collect Assessments for Common Expenses from Owners.
- (g) Formulation of rules of operation for the Common Elements and facilities owned or controlled by the Association.
- (h) Initiation and execution of disciplinary proceedings against Owners for violations of provisions of the Governing Instruments in accordance with procedures set forth in the Governing Instruments.
- (i) Authorizing entry into any Unit as necessary in connection with construction, maintenance, or emergency repair for the benefit of the Common Element or the Owners in the aggregate.
- (j) Adopt and amend Bylaws.
- (k) Hire and terminate managing agents and other employees, agents, and other independent contractors.
- (l) Institute, defend, intervene in, settle, or compromise litigation or administrative proceedings in its own name, on behalf of itself or in the names of two or more Owners on matters affecting the Condominium.
- (m) Cause additional improvements to be made as part of the Common Elements;
- (n) Acquire, hold, encumber, and convey in its own name any right, title or interest to real or personal Property, except Common Elements of the Condominium.
- (o) Grant easements, leases, licenses, and concessions through or over the Common Elements.
- (p) Impose and receive payments, fees, or charges for the use, rental, or operation of the Common Elements and for services provide to Owners.
- (q) Impose interest and late charges for delinquent Assessments, returned check charges, and, if proper notice and an opportunity to be heard are given, reasonable penalties for violations of this Declaration, the Bylaws, CCRs, Rules & Regulations and any other Instruments of the Association.
- (r) Adopt and amend Rules & Regulations or additional policies regulating the

collection of delinquent Assessments and the application of payments and regulating the use, occupancy, leasing or sale, maintenance, repair, modification, and appearance of Units and Common Elements, to the extent that the regulated actions affect Common Elements or other Units.

- (s) Adopt and amend rules regulating the termination of utility service to a Unit, the Owner of which is delinquent in the payment of an Assessment that is used, in whole or in part, to pay the cost of that utility.
- (t) Impose reasonable charges for preparing, recording, or copying Declaration amendments, resale certificates, or statements of unpaid Assessments.
- (u) Assign its right to future income, including the right to receive Common Expense Assessments, but only to the extent that this Declaration provides.
- (v) Suspend the voting privileges of or the use of certain Common Elements, by an Owner who is delinquent for more than thirty (30) days in the payment of Assessments.
- (w) Exercise any other powers necessary and proper for the government and operation of the Association.

4.5 Board of Trustees and Officer. The Board of Trustees shall act and carry out its fiduciary duties and responsibilities in accordance with Section 82.103 of the Act and shall in all instances act in good faith and reasonable judgment on behalf of the Association. All acts of the Association must be by and through the Board unless otherwise provided by this Declaration or the Bylaws or by law. The Board may not act on behalf of the Association to amend this Declaration, terminate the Condominium Regime, elect Trustees, or determine the qualifications, powers and duties, or terms of office of the Board of Trustees. The Board may fill a vacant seat on the Board for the unexpired portion of any Trustee's term.

Pursuant to Section 82.103(d) of the Act, the Declarant may initially appoint and remove Association Officers and Trustees. Such period shall automatically terminate not later than the one hundred twentieth (120th) day after conveyance of seventy-five percent (75%) of the Units that may be conveyed to Owners other than Declarant. Declarant may voluntarily surrender the right to appoint and remove Officers and Trustees before termination of Declarant control, but, Declarant requires, for the duration of the period that the Declarant would otherwise control, that the specific actions of the Board be approved by the Declarant before taking effect. Transfer of any special Declarant rights does not terminate the period of Declarant control.

Notwithstanding any limitation of liability provided an Officer or Trustee of the Association by the Bylaws, Articles or Instruments other than this Declaration, and any amendments to same, an Officer or Trustee of the Association is not liable to the Association or any Owner for monetary damages resulting from any act or omission occurring in the person's capacity as an Officer or Trustee, unless it is determined by an independent auditor or in an applicable court of law by a preponderance of evidence that:

- 1) the Officer or Trustee breached a fiduciary duty to the Association;
- 2) the Officer or Trustee received an improper benefit; or
- 3) the act or omission was in bad faith, involved intentional misconduct, or was one for which liability is expressly provided by Texas civil or criminal statute(s).

4.6 Meeting Notice. Notice of a Meeting of the Association must be given to each Owner in the same manner in which notice is given to Members of a nonprofit corporation under Section A, Article 2.11 of the Texas Non-Profit Corporation Act (Article 1396-2.11, Vernon's Texas Civil Statutes). Notice of a Board Meeting must be given to each Trustee in the same manner in which notice is given to members of the board of a nonprofit corporation under Section B, Article 2.19, Texas Non-Profit Corporation Act (Article 1396-2.19, Vernon's Texas Civil Statutes). The Association, on the written request of an Owner, shall inform the Owner of the time and place of the next regular or special meeting of the Board. If the Association representative to whom the request is made does not know the time and place of the meeting, the Association representative shall promptly obtain the information and disclose it to the Owner or inform the Owner in writing where the information may be obtained.

4.7 Meetings. In accordance with Section 82.108 of the Act, meetings of the Association must be held at least once annually. Special meetings of the Association may be called by the Board President, a Board majority or Owners having at least twenty percent (20%) of the eligible votes in the Association. Meetings of the Association and Board must be open to Owners, subject to the right of the Board to adjourn a Board meeting and reconvene in a closed executive session to consider actions involving personnel, pending litigation, contract negotiations, real estate, enforcement actions, matters involving the privacy of individual unit owners, or matters that are to remain confidential by request of the affected parties and agreement of the Board. The general nature of any business to be considered in executive session must first be announced at the open meeting. A Board meeting may be held by any method of communication, including electronic and teleconference, if the meeting has been properly noticed in accordance with the Bylaws and provided that each Trustee in attendance may hear and be heard by every other Trustee; and that the meeting does not involve voting on a personal charge, damage assessment, appeal from a denial of architectural control approval, or suspension of any right of a member before the member has had an opportunity to attend a Board meeting to present his position, including any defense.

4.8 Voting. Except as otherwise specified by this Declaration and other Instruments, including, without limitation, any Purchase Contract, each Owner including the Association for so long as the Association is deemed to be an Owner of one or more Unit(s) in accordance with this Declaration shall be eligible to vote as a Member of the Association in accordance with ARTICLE VI, Section 2(a) of the Bylaws. Any Unit owned by more than one (1) person or entity shall be voted in accordance with the Bylaws.

4.9 Approval. Unless otherwise required by the Bylaws or applicable law and except as otherwise provided or limited by this Declaration and the other Instruments, including, without limitation, any Purchase Contract, all decisions, actions, activities and matters made or undertaken by the Association in accordance with this Declaration, the then-current Rules & Regulations and

the other Instruments, shall be approved and authorized by a simple majority vote of the Board of Trustees.

4.10 Association Records. In accordance with Section 82.114 of the Act, the Association shall keep the:

- (a) detailed financial records that comply with generally accepted accounting principles and that are sufficiently detailed to enable the Association to prepare a resale certificate under Section 82.157 of the Act and any amendments thereto;
- (b) Condominium public information disclosure statement required under Section 82.152 of the Act and any amendments thereto;
- (c) name and mailing address of each Owner;
- (d) voting records and proxies,
- (e) correspondence about any amendments to this Declaration;
- (f) Minutes of all meetings of the Association and the Board;
- (g) the plans and specifications used to construct the Condominium except for buildings originally constructed before January 1, 1999.

All financial and other records of the Association shall be made reasonably available at the Association's registered office or its principal place of business for examination by an Owner or the Owner's agent(s). The Association shall, as a Common Expense, obtain an annual independent audit of the Records. Copies of the audit must be made available to the Owners. An audit shall be performed by a certified public accountant if required by a Board vote or a majority vote of Members at an Annual or Special Meeting of the Association.

Not later than the thirtieth (30th) day after the date of acquiring an interest in a unit, the Owner shall provide the Association with the:

- (a) Owner's mailing address, telephone number, and driver's license number, if any;
- (b) name and address of the holder of any lien against the Unit, and any loan number;
- (c) name and telephone number of any person occupying the Unit other than the Owner;
and
- (d) name, address, and telephone number of any person managing the Unit as agent of the Owner.

An Owner shall notify the Association not later than the thirtieth (30th) day after the date such Owner has notice of a change in any of the above required information and shall promptly

provide such information on request by the Association from time to time.

ARTICLE 5

Seven Coves Association, Inc. Each SHR Luxury Condominium Association Member (hereinafter "SHR Member") is automatically a Member of the Seven Coves Association (SCA) and, as such, is subject to the SCA's Deed Restrictions, Bylaws, Articles of Incorporation, Rules & Regulations, Assessments, Fees, Liens, provisions and other terms (hereinafter, "CCRs") as set forth in the instrument recorded under Clerk's File No. 8143801 and located in the official public records of Real property for Montgomery County, Texas. The SCA is a separate corporate entity from the SHR. All rights, privileges and obligations of SCA Members are separate and apart from the rights, privileges and obligations of SHR Members.

5.1 Voting. The SCA Deed Restrictions provide that there shall be one (1) vote allocated per Unit in the Condominium. Each Unit Owner hereby irrevocably appoints the Declarant as attorney-in-fact with full power and authority to act in the Owner's name, place and stead for the sole purpose of exercising all quorum rights and voting privileges with respect to SCA business conducted, in accordance with SCA Bylaws, Articles of Incorporation, Deed Restrictions and other governing documents. Such appointment of the Declarant as attorney-in-fact for all SHR Members is coupled with quorum rights and voting privileges in the Association and irrevocable, but will expire nonetheless upon termination of the Association or as otherwise provided herein.

5.2 Assessments. The Deed Restrictions for each section of the SHR Luxury Condominium Regime provide for an annual assessment to be set by the SCA Board of Directors and to be assessed against each SHR Member (Unit Owner); and also include provisions for special assessments against each SHR Member as deemed reasonable and necessary by the SCA Board of Directors. The Board of Trustees shall include the annual and any special assessment imposed by the SCA upon SHR Members as an item has the usual SHR budget and shall be responsible for remitting all such assessments upon collection of the Common Expense Assessment from Owners.

5.3 Vendor's Lien. SCA Deed Restrictions provide for a vendor's lien against each Unit for SCA's benefit to secure payment of all SCA assessments, any past due interest thereon and all collection expenses or legal fees associated with such assessments. By recordation of a Warranty Deed for the Property in the official public records of Real Property for Montgomery County, Texas, a SHR Member is deemed to have acquired a real property interest in his Unit subject to said vendor's lien.

ARTICLE 6

Compliance with Condominium Instruments. All present and future Unit Owners, Unit Occupants and users of Units or any part of the Condominium are subject to and shall comply with all provisions of the Instruments, together with the decisions and resolutions of the Association adopted pursuant thereto, and hereby acknowledge that time is of the essence regarding compliance and adherence with each of the terms and provisions of this Declaration and the other Instruments. Such provisions are deemed to be enforceable, equitable servitudes as covenants running with the land that shall bind any person having at any time any interest or estate in such Unit, as though such

provisions were recited and stipulated in full in each and every deed of conveyance or lease thereof.

6.1 Rights, Recourse and Remedies for Default or Breach. Any default in the payment of any Assessment or breach of any terms and provisions of this Declaration or the other instruments by any Unit Owner/Unit Occupant shall be grounds for an action to recover any sums and/or damages due, for injunctive relief, or for both; and for the reimbursement of all costs, including, without limitation, reasonable attorneys' fees and court costs incurred in connection therewith, as well as late charges and any interest on delinquent amounts. Such action shall be maintainable by the Association, or, in any proper case as provided for herein or under law on behalf of any aggrieved Owner. All such amounts, along with any other costs incurred by the Association to retain an attorney for enforcement of this Declaration and the other Instruments shall constitute a Personal Assessment against the Owner who is in default or breach; or who is responsible for Unit Occupants, guests or other parties committing such violations; or for whomever/whatever caused the Association to pursue such action; and shall be promptly reimbursed by such Owner to the Association upon demand thereof.

6.2 Enforcement. Unless otherwise prohibited by applicable law, any violation of this Declaration or the other Instruments shall vest in the Association a right, in addition to any other rights and remedies available under law and the Instruments, to:

- (a) enter the Unit or area in which, or as to which, such violation or breach exists, and to summarily abate and remove, at the expense of the Owner who caused or permitted such violation to be caused, any structure, thing or condition that may exist therein contrary to the intent and meaning of the Declaration and other Instruments; and the Association, the Board, Property Manager and/or any authorized agent thereof, shall not thereby be deemed guilty in any manner of either civil or criminal trespass;
- (b) engage the services of any attorney to initiate such action as is deemed necessary by the Association to enforce this Declaration and the other Instruments, including the initiation of a civil suit for damages and/or to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the existence or continuance of any default or breach;
- (c) file for judicial foreclosure if such remedy is available under law;
- (d) suspend some or all of any Member rights and privileges hereunder and pursuant to an Owner's Warranty Deed, including, without limitation, the right to vote as a SCRCA Member, the right to use (or allow others, including Unit Occupants, tenants, family and guests, to use) the Common Elements, Limited Common Elements, Common Furnishings and SCA/SCRCA amenities, if any. The Owner who is in default or breach shall be notified in writing within seven (7) calendar days of any such suspension of rights and privileges, including the reason therefore and the length thereof, immediately after such enforcement decision has been made by the Association, its; Board and/or Property Manager; and

- (e) provided that a suspension of Member rights and privileges is a result of the failure of an Owner to pay any Assessment required hereunder when due payable, then the suspended rights and privileges of such Owner shall be automatically reinstated .at such time as the Owner pays to the Association, in cash or by cashier's check, money order or certified check, all amounts past due as of the date of such reinstatement, If such suspension of rights and privileges is based on any breach, violation, act or omission other than the failure, neglect or refusal by an Owner to pay any Assessments required hereunder when due, then the suspended rights and privileges shall be automatically reinstated upon the expiration of the suspension period stated in the written notice of suspension, more fully described in the Collections Policy that is made a part of the Rules & Regulations, and as may be amended, restated or supplemented from time to time.

6.3 Cumulative Remedies. All of the rights, resources and remedies granted under this Declaration and the other Instruments are cumulative and the exercise of one right, recourse or remedy shall not impair, preclude or prevent the right to exercise any other right, recourse or remedies, at any time. The Association shall not be limited to the express rights, recourses and remedies set forth in this Declaration or as specified in the other Instruments, and may invoke or exercise any other rights, recourses and remedies available under law or allowable in equity.

6.4 Estoppel. No restriction, condition, obligation, term or provision contained in either this Declaration or the other Instruments shall be deemed to have been abrogated, relinquished or waived by reason of any failure, neglect or refusal of the Association to enforce this Declaration or the other Instruments, irrespective of the number of violations or breaches thereof which may occur, and shall not be construed as an estoppel, waiver, relinquishment or modification of any terms or provisions thereof. Rather, all such terms and provisions run with the land and shall remain in full force and effect at all times.

6.5 Use, Occupancy and Constructive Possession of Units. A Unit shall only be used by an Owner/Unit Occupant for private, residential purposes consistent with the general character of the Condominium, except for such other uses as are specified in the Instruments. The acquisition, rental, lease or occupancy of a Unit and the use of any part of the Property by any person shall constitute an implicit agreement with such person(s) to comply with and be bound by all provisions of the Instruments.

6.6 Maximum Occupancy. No Owner/Unit Occupant shall cause or permit any Unit to be occupied by a number of persons in excess of such occupancy limits which are imposed by any applicable law and/or as may be stipulated in the Instruments.

6.7 Offensive Use. No Owner/Unit Occupant shall cause or permit may offensive, illegal, improper and/or disruptive activity to occur in any Unit or upon any of the Common Elements which is not in conformity with the Instruments. This provision shall not be construed to prevent Owners from declaring a portion of their home as a home office for income tax purposes, nor to prevent sole proprietors from operating home-based clerical businesses (ie: writing, review or research) without customer traffic.

6.8 Hazardous Use. Any violation deemed by the Board of Trustees to constitute a health or safety hazard shall be corrected immediately. The responsible Owner/Unit Occupant shall be liable for any uninsured expense of correcting any such violation. No Owner/Unit Occupant shall cause or permit anything to be kept in a Unit Which will increase the rate of any portion of the Association's insurance coverage; or which will obstruct, impair or interfere with the rights of other Owners/Unit Occupants.

6.9 Rental Use. This provision shall not be construed to prevent the Declarant from using any Unit so owned by the Declarant for temporary or overnight accommodation(s) on a transient or temporary basis primarily benefitting the Declarant; or to rent any Unit so owned by the Declarant to any member of the general public for any similar purpose; or to use any Unit so owned by the Declarant for a display model, business office and/or storage. All guests or tenants of the Association shall be subject to the same membership rights and restrictions as the guests or tenants of other Owners. Any revenues generated by such rentals shall inure solely to Association's benefit.

6.10 Signage. The Declarant may without further notice install signage, banners or other promotional tools in and around the Common Elements for marketing, sales, rental, operation, management, administration, repair and maintenance purposes, in combination with or to the exclusion of all other uses. The Declarant shall place such signage, banners or other promotional tools and conduct all activities in such manner and location as to minimize any inconvenience to Owners that may be occasioned thereby. Owners/Unit Occupants other than the Board or its' designees, are prohibited from placing signage or other materials in and around the Common Elements.

6.11 Separate Accounts. The Board and its' designee, agent, employee or assigns shall maintain accounts within the books and records reflecting the use of the Condominium by the Owners and their family members, guests, tenants, licensees and invitees, which are separate and distinct from those accounts within the books and records maintained to reflect the rental or use by the Association of Association-owned Units as set forth above. The Board shall submit to the Owner a written annual report for the preceding fiscal year of the Association setting forth the amount, if any, of revenues derived by the Association from temporary or overnight accommodation usage; as well as the amount of money paid by the Association for expenses incurred by or allocated to the Condominium in connection with the transient or temporary use of any Unit owned by the Association that is used by the general public..

6.12 Owner Rentals. Any Owner, whether personally or through a broker, may rent his Unit in accordance with the provisions of this Declaration and other Instruments. For a fee charged to the Owner on behalf of the Association, the Board and its' designee, agent, employee, broker or assigns, will represent an Owner seeking to rent his Unit.

6.13 Pet Restrictions. No pet or animal of any type shall be permitted in any Unit or elsewhere within or on the Property except as provided in the Instruments.

6.14 Alterations. An Owner shall not make any structural addition, structural improvements or structural alterations within his Unit or do anything which would change the exterior appearance of his Unit or any other portion of the Condominium except as permitted by the Instruments.

6.15 Relocation of Mutual Boundaries. The Owners of adjoining Units may relocate mutual boundaries between such Units and subdivide or combine any Units within a single Building but only in accordance with and subject to the Instruments.

ARTICLE 7

Common and Limited Common Elements. The Association shall at all times maintain the Common Elements and the Limited Common Elements in good condition and repair; and shall exercise sole discretion in determining the timing, extent and scope of redecorations, repairs, restorations, refurbishments and/or replacements thereof.

7.1 Management, Maintenance & Repairs. Exclusive control and responsibility over the repair, replacement, redecoration, restoration, refurbishment, improvement, maintenance, modification, alteration, addition, operation, management and administration of the Common Elements, Limited Common Elements and Common Furnishings if any is vested in the Association. No Owner/Unit Occupant shall make any repair, replacement, redecoration, restoration, refurbishment, improvement, maintenance, modification, alteration or addition to any Common Elements, Limited Common Elements or Common Furnishings, if any; and shall be personally liable for any damage or destruction thereto caused by such Owner, any of his family members, guests or tenants. Each Owner shall maintain his Unit in a safe, sanitary and attractive condition, including, without limitation, all appurtenances thereto such as windows, doors and balconies.

7.2 Right of Access. The Association shall have an irrevocable right of access to all Units, without liability for trespass, as may be reasonable and necessary to perform and carry out its rights, duties, obligations and responsibilities as set forth in this Declaration and the other Instruments, including, without limitation:

- (a) making emergency repairs therein;
- (b) abating any nuisance or other dangerous, unauthorized, prohibited or unlawful activities;
- (c) protecting the property rights and general health safety and welfare of the Owners/Unit Occupants; and
- (d) any other purposes reasonably related to the performance by the Association of its duties, obligations and responsibilities under this Declaration and the other Instruments.

Such right and authority to enter any Unit shall be exercised in such manner as to avoid any unreasonable or unnecessary interference with "the possession, use and/or enjoyment of a Unit by any Owner/Occupant thereof, and shall be preceded by reasonable notice to the Owner/Occupant whenever circumstances permit.

7.3 Common Elements. The Common Elements of each Parcel of the Property include the following, except to the extent that any portion is designated as a Limited Common Element more

fully described below in Section 5.2 and subject to being amended restated or supplemented from time to time at the sole discretion of the Board.

- (a) all real property listed on Exhibit A upon which the Parcels are situated and all land adjacent thereto with the perimeters of the Property, including all trees, shrubbery, plants, greenbelts, playgrounds, paved areas, parcels and any storage facilities; but excluding any porch, patio or other appurtenance to a Unit that is designated as a Limited Common Element for exclusive use of that Unit. The parking lot shall contain a minimum of thirty-two (32) Common Element parking spaces, with one (1) parking space assigned to each Unit by the Board of Trustees pursuant to this provision;
- (b) the foundations, beams, supports, girders, columns, bearing walls, non-bearing and bearing perimeter walls of the Building; all walls and partitions of the Building separating any Unit from corridors, stairs and other mechanical spaces, excepting those finished portions of such walls as are within the interior of any Units; all floors and ceilings, exclusive of the finished flooring and finished ceiling which are within a Unit; the roof and any attic space;
- (c) all of the walkways, easements, steps, corridors and other means of access which are incidental thereto and which provide access to the Buildings;
- (d) the compartments, housings, tanks, pumps, fans, reservoirs, apparatus, fixtures, equipment, facilities or installations over, across, through, around and under Parcels for central services, including but not limited to water, gas, electrical, sewage, intercom, satellite, modem, pipes, ducts, flues, chutes, gutters, downspouts, drains, cables, wires, telephone, data and other utility lines which service one or more Units;
- (e) all other elements of the Condominium generally of common use or necessary for the existence, maintenance, operation, administration and safety of the Property; and
- (f) all that part of the Condominium which is not part of any of the Units and is not a Limited Common Element as better defined in Section 7.6 below.

7.4 Ownership and Use of Common Elements. Each Unit is allocated an undivided Percentage Interest in the Common Elements. The Percentage Interest in the Common Elements shall not be separated from the Unit and shall be deemed to be conveyed or encumbered with the Unit even though such undivided interest is not expressly mentioned or described in the document of conveyance or encumbrance. The Percentage Interest allocated to each Unit is set forth on Exhibit G to this Declaration. The use of the Common Elements shall be limited to the Owners in residence, to their tenants in residence and to their guests, invitees and licensees and shall be governed by the Instruments.

7.5 No Revocation, Abandonment or Partition. The Common Elements shall remain undivided and shall not be abandoned by act or omission, and no Owner or other person may bring any action for partition or division of the Common Elements unless the Condominium Regime is

terminated pursuant to the Condominium Act.

7.6 Limited Common Elements. The Limited Common Elements of the Condominium include the following, except to the extent that any portion is designated as a general Common Element above:

- (a) the porches, balconies, patios and yards of any Unit;
- (b) the walkways, easements, steps, corridors and other means of access which are incidental thereto and which provide access to any Unit;
- (c) the exterior staircases that lead to any Unit, including storage areas if any under such staircases, and
- (d) the skylights, porch lights, mailboxes and garden hoses of any Unit.

7.7 Ownership and Use of Limited Common Elements. In accordance with Section 82.058 of the Act, the Limited Common Elements and the provisions of this Declaration relating to the right to use the Limited Common Elements may not be altered without the consent of each affected Owner and the Owner's first lien mortgagee. Except as otherwise provided by this Declaration, a Limited Common Element may be reallocated by an amendment to this Declaration, executed by the Owners between or among whose Units the reallocation is made. The persons executing the amendment shall deliver it to the Association, which shall record it at the expense of the reallocating Owners. A common element not previously allocated as a Limited Common Element may not be allocated except pursuant to this Declaration made by amendment to this Declaration in accordance with Section 82.055(7) of the Act.

7.8 Suspension and Limitation of Use. The Board of Trustees may suspend or limit the right of any Owner or other person to use any part of the Common Elements upon failure of such Owner or other person to observe the provisions of the Rules & Regulations or other Instruments governing usage of the Common Elements.

ARTICLE 8

Easements. The Condominium shall be subject to the following easements:

8.1 Common Easements. The Association hereby retains for itself, its Board, agents, employees, contractors and assigns, a non-exclusive, perpetual easement in and to the Common Elements and shall have full access to such easement for the operation, maintenance, repair and replacement of each Unit; and for any future installation of such central services as cable television, telephone and electronic data lines; coaxial cable; CATV-E data lines; satellite dishes; security monitors or any other central services over, across, through, around or under any Common Easements, Common Elements or Units; and moreover shall have the:

- (a) right of access to each Unit for inspection of such Common Easements and other Common Elements, to remove or correct violations; and maintain, repair or replace

Common Elements therein or elsewhere in each Unit and Buildings;

- (b) right of ingress and egress over, across, through, around and under such Common Easements mad may roadways, walkways, pathways, stairways or rights-of-way serving the Units and Common Elements as may be necessary to provide reasonable vehicular and pedestrian access thereto, as well as an easement for ingress and egress over, across, through, around and under such paved portions of the Common Elements as may be necessary to provide reasonable vehicular and pedestrian access thereto; provided, however, that the latter easement shall not give or create in any person the right to park upon any portion of the Property not designated for parking by the Association;
- (c) right, power and authority at Association expense and for the benefit of the Association, any adjacent or other property owned or administered by the Association, to utilize, grant, convey, transfer, modify, amend, restate, terminate, relocate and otherwise deal with easements over, across, through, around and under the Common Elements for utilities, poles, sanitary sewers, storm sewers, water lines, drainage, security devices, cable lines, roadways, walkways, pathways and rights-of-way, and to relocate or realign any existing easements or rights-of-way over, across, through, around and under the Common Elements, including, without limitation, any utilities, poles, sanitary sewers, storm sewers, water lines, drainage and cable lines, and to connect the same over, across, through, around and under the Common Elements, provided that such connections shall not materially impair or interfere with the use of any Unit. In addition, the Association is authorized to utilize, grant, convey, transfer, modify, amend, restate, terminate, relocate and otherwise deal with any and all easements now or hereafter located on or affecting the Property, or any portion thereof; and
- (d) right, power and authority to establish additional easements, exceptions, waivers and exclusions at the Board's sole discretion as deemed necessary and in the best interest of Owners and to the benefit of the Association; or to modify, amend, restate, re-plat and terminate plats affecting the Property; subject to the Declaration of Cross Easements, attached as Exhibit "F" hereto and incorporated herein.

8.2 Easements for Owners. Each Owner shall have an easement in common with all other Owners to use all pipes, wires, ducts, flues, cables, conduits, public utility lines, telephone and data lines, coaxial cable, CATV-E data lines and other Common Elements generally allocated in any of the other Units; and to service the telephone and data lines, coaxial cable, CATV-E data lines and other Common Elements located in the Owner's Unit or in any of the other Units serving the Owner's Unit.

8.3 Easements for Encroachments. To the extent that any Unit or Common Element now or hereafter encroaches upon any other Unit or Common Element, whether by design or deviation from the Condominium Plat and Condominium Plans in the construction, repair, renovation, restoration or replacement of any improvement; or by reason of any land settling or shifting; a valid easement shall exist for the encroachment and maintenance of same, so long as the encroaching Unit or Common Elements stand. A valid easement shall not relieve an Owner of liability for his or his

agent's negligence or intentional acts in creating, causing, or permitting to be caused such an encroachment.

8.4 Easement of Support. Each Unit and the related Common Elements shall have an easement of lateral and subjacent support from every other Unit and Common Elements.

8.5 Easement for Emergency Ingress or Egress. A valid easement is granted to each Unit Owner and to the Association over, across, through, around or under any Unit or Limited Common Element for the purpose of emergency ingress or egress.

ARTICLE 9

Conditions, Covenants & Restrictions and Rules & Regulations.

9.1 Each Unit Owner shall automatically be a Member of the Seven Coves Association (SCA) and, as such, is subject to SCA's Deed Restrictions, Bylaws, Articles of Incorporation, Rules & Regulations, Assessments, Fees, Liens, provisions, policies, procedures and other terms of the CCRs, as set forth in the instrument recorded under Clerk's File No. 8143801 and located in the Official Public Records of Real Property for Montgomery County, Texas. All dues pertinent to said association shall be part of the Common Expense Assessment due and payable to SHR Luxury Condominium Association, Inc.

9.2 Each Unit Owner automatically be a Member of the Seven Coves Community Improvement Association (SCCIA) or its successor and assigns which is the neighborhood association for this community and, as such, is liable for membership dues to the SCCIA which dues shall be part of the Common Expense Assessment and payable to SHR Luxury Condominium Association, Inc.

9.3 SHR Luxury Condominium Association, Inc., Rules & Regulations. From time to time, the Board shall establish certain policies and procedures for the Association that shall take the form of written Rules & Regulations; and that shall govern the Association, including, without limitation, the use of the Units and all Common Elements; and shall be effective until such time as they are duly amended, modified and/or restated by the Board or its' designee(s), and shall apply equally to and be binding upon all Owners/Unit Occupants, who shall at all times obey, adhere to and comply with same, and shall make their best efforts to ensure that such Rules & Regulations are fully and faithfully kept and observed by their family member and guests. The Rules & Regulations, as detailed on Exhibit E are subordinate and supplemental to the terms and provisions of the Declaration, and in the event of any conflict with the Declaration, then the Declaration shall prevail, control and govern in all respects.

ARTICLE 10

Bylaws and Articles of Incorporation. In accordance with Section 82.106 of the Act, the administration and operation of the Condominium are governed by the Bylaws and the Articles of Incorporation, more fully detailed on Exhibit H.

ARTICLE 11

Owner Assessments & Personal Charges. Except as otherwise provided herein, each Owner, including the Association with respect to any Unit of which it is deemed to be an Owner in accordance with this Declaration, shall be required to pay the Common Expense Assessment for each Unit owned.

11.1 Common Expense Assessments. The Common Expense Assessment shall be levied and assessed by the Association to meet the Common Expenses. The liability for payment of the Common Expenses shall be apportioned among Owners according to the Unit specifically identified in each Owner's Warranty Deed. For each Unit owned, an Owner's Common Expense Assessment shall be determined by multiplying the fractional interest of the Owner as identified in Exhibit D times the total expenses applicable to the Unit specifically identified in the Owner's Warranty Deed. The total Common Expense Assessment shall be set forth in the Annual Budget approved by the Association; and shall include without limitation the following costs and expenses:

- (a) The personal property taxes, real estate or *ad valorem* taxes, utility standby fees if any and any other fees or assessments levied by a governmental authority and not billed directly to the Owners;
- (b) the repair, replacement, redecoration, restoration, refurbishment, improvement, maintenance, modification, alteration and addition of the Common Elements, the Limited Common Elements and the Common Furnishings, if any;
- (c) the utility charges;
- (d) insurance coverage;
- (e) maintenance, domestic and grounds-keeping services;
- (f) rental by the Association of any furnishings, equipment, recreational facilities and other amenities from other persons or entities;
- (g) administrative and management fees and expenses;
- (h) reserves;
- (i) such membership, license, permit and other fees, dues, royalties or costs which are customary and may be payable by the Association to other persons or entities for the right to use and enjoyment of recreational facilities and amenities, by Owners, including, without limitation, any amenities furnished to Owners under use, reciprocal or franchise agreements; and any membership, license, permit and other fees, dues, royalties or costs which are customary and may be payable by the Association to other persons or entities for the right to participate in and/or belong to affiliated trade organizations, including, without limitation, participation in any continuing education, edification and enrichment seminars, conferences, courses,

workshops or conventions as may benefit the Association and interest the Board or its designees; and

- (j) all other costs, expenses or fees incurred by the Association in connection with the operation, management and administration of the Property, and/or its connection with the operation, management and administration of the Association, including those item noted in Article IX hereof.

The initial Common Expense Assessment shall be due and payable by any Owner at the time and in the manner set forth in such Owner's Purchase Contract. Unless and until such date is changed by the Association, subsequent Common Expense Assessments shall be due and payable annually by each Owner in one lump sum on or before January 15th, commencing with the first year immediately after the year in which the Owner executed a binding Purchase Contract to purchase the Unit against which the Common Expense Assessment is levied and assessed, unless and until the Association institutes a different payment schedule providing written notice thereof to each Owner; provided, however and notwithstanding anything contained herein to the contrary, the Association, at its sole discretion, shall be entitled to pay any Common Expense Assessments which are levied and assessed against any Unit of which it is deemed to be an Owner in accordance with this Declaration on a monthly, quarterly or other periodic basis.

11.2 Special Assessments. If the Common Element Assessments collected from the Owners are at any time inadequate to meet the costs and expenses incurred by the association for any reason, including, without limitation:

- (a) non-payment by any Owner of any Assessment or Personal Charge;
- (b) a judgment filed against the Association; or
- (c) other extraordinary, unforeseen or unbudgeted items deemed reasonably necessary by the Association;

then, the Association shall immediately determine the approximate amount of such inadequacy, prepare a supplemental budget and levy a Special Assessment upon each Owner in such amounts as the Association determines necessary to pay its' expenses.

Such Special Assessment shall be allocated among the Owners by multiplying the fractional interest of the Owner in the Common Elements times the total Special Assessment applicable to the Unit identified in each Owner's Warranty Deed; provided, however, that the approval of such Special Assessment by the affirmative vote or written consent of sixty-five-percent (65%) of the Owners eligible to vote as Members of the Association shall be required unless the:

- [i] Special Assessment (other than a Special Assessment for the purpose of restoring or rebuilding any Units or the Common Elements thereof as a result of the damage or destruction thereof) is levied and assessed against all of the Owners in an amount which, in the aggregate of any fiscal year, does not exceed five percent (5%) of the budgeted gross Common Expenses of the Association for the fiscal year;

[ii] Special Assessment is levied and assessed for the repair, restoration or rebuilding of a Unit in accordance with this Declaration; or

[iii] Special Assessment is levied against all Owners for the purpose of reimbursing the Association for expenses incurred in bringing the Owner into compliance with this Declaration and other Instruments.

Any Special Assessment shall be due and payable within thirty (30) days after the date on which a written notice of such Special Assessment is delivered to the Owner via Certified Mail -- Return Receipt Requested, unless the Association determines that installments shall be permitted and thereafter provides the Owner(s) with an approved payment schedule, in which case, each Owner's payments shall be made no later than is specific in such schedule. If the Association authorizes the payment of a Special Assessment in installments, no notice of the due date of each individual installment payment shall be required to be given other than the aforesaid Special Assessment notice.

11.3 Units Owned by the Association. Notwithstanding anything contained in the Declaration and the other Instruments to the contrary, or contrary to applicable law, the Association shall not be required to pay any Common Expense Assessments or Special Assessments attributable to any Unit of which it is deemed to be the Owner in accordance with the Declaration; provided, however, that the Association shall subsidize these expenses by paying any monetary deficiencies (the "Deficiency") in the Common Expense Assessments and Special Assessments levied and assessed against all Owners; provided, however, that the Association's maximum liability for the Deficiency at all times shall never exceed the total amount of net rental income, if any, from the net rental of Units in accordance with the Declaration.

11.4 Personal Charges. Each Owner shall be responsible for paying to the Association any and all expenses incurred as a result of the act or omission of the Owner, or at any other time or of any other persons occupying such Owner's Unit, including, without limitation, the costs or expenses associated with:

- (a) any negligent, willful or intentional act or omission of an Owner, his family members, their guests or other occupants (to the extent not covered by insurance) or resulting from his/their breach of this Declaration or the other Instruments;
- (b) any late fees, levies, fines, penalties, attorneys' fees, court costs and other amounts that this Declaration, other Instruments, and local, state or federal laws expressly allows to be levied and assessed against an Owner; and
- (c) any dues, membership fees, charges and other amounts due and payable to Seven Coves Association, Inc. and any other person or entity.

11.5 Liability for Assessments. No Owner may ever exempt himself, his executors, administrators, legal representatives, agents, heirs, successors, designees and assigns, from his obligation to pay any Assessments by his waiver, failure, neglect or refusal to use, occupy and enjoy his Unit, or any of the Common Elements, the Limited Common Elements and Common

Furnishings, if any; or by abandonment or purported abandonment of his ownership interest in his Unit. Before the Association may charge an Owner for property damage for which the Owner is liable; and/or levy a Personal Charge for violation of this Declaration, the Bylaws, CCRs, Rules & Regulations, and/or other Instruments, the Association shall give written notice to the Owner and a copy of such written notice to any Unit Occupant that:

- (a) describes the violation or property damage and states the amount of the Personal Charge;
- (b) states how not later than the thirtieth (30th) day after the date of the notice, the Owner may request a hearing with the Board about the Personal Charge; and
- (c) allows the Owner a reasonable time, by a specified date, to cure the violation, default, damage and/or breach in order to avoid payment of such Personal Charge; unless the Owner was given notice and a reasonable opportunity to cure a similar violation, default, damage and/or breach within the preceding twelve (12) months.

11.6 Surplus Funds. The Association shall, from time to time, determine and set the sum or sums which are necessary and adequate to provide for the Common Expenses of the Property and such other Assessments as are specified herewith. The procedure for determining the Assessments shall be set forth in the Bylaws, this Declaration and the Exhibits attached hereto. If the Association determines at any time during the Association's fiscal year that the aggregate amount of Assessments is, or will be, in excess of the amounts necessary to meet the Common Expenses of the Condominium, then such excess amount shall appear as a line item in the Association's budget for the immediately following fiscal year, and shall be applied to reduce the amount levied and assessed to meet the Common Expense, as appropriate, for such fiscal year. Any such excess shall never relieve any Owner from his obligation to pay any delinquent amounts which he owes to the Association, nor shall any Owner ever be entitled to a refund of all or any portion of any Assessments previously paid on account of such excess.

11.7 Replacement Reserves. Notwithstanding the foregoing provisions of this Declaration, the Association shall, from time to time, establish one (1) or more Replacement Reserve(s) (hereinafter, "Reserve(s)") as are necessary for the operation, administration, maintenance, cleaning, repair, refurbishment, restoration, replacement and improvement of the Condominium by including amounts intended for such purpose in the Association's budget; or by levying Assessments upon all of the Owners in such amounts as the Association determined to be necessary and appropriate, provided that the annual budget shall include a reserve fund for the maintenance, cleaning, repair, refurbishment, restoration, replacement and improvement of the Common Elements of not less than ten percent (10%) of the total annual budget. For each Unit owned, an Owner's liability for Reserve(s) will be determined by multiplying the fractional interest of the Owner as identified in Exhibit D times the total Reserve(s) applicable to the Unit type specified in his Warranty Deed.

Such Reserve(s), at the Association's sole discretion, may be used to pay any extraordinary expense for which they were established or intended, may be allocated to reserve amounts which were established for different purposes, or may be used to meet any deficiencies in operating capital, as the case may be, from time to time, resulting from Owners in the payment of any Assessments,

any Personal Charges or otherwise; provided, however, that the existence of such Reserve(s) shall not operate to exempt any Owner from his obligation to contribute his proportionate share of the Common Expenses or to pay any Assessments therefore. Any funds used from any of said Reserve(s) to meet any deficiencies in operating or maintenance funds resulting from an Owner's delinquencies shall be promptly restored upon the payment of such delinquent Assessments or Personal Charges by said Owner.

The proportionate interest of each Owner in said Reserve(s) and any other fund(s) being held by the Association shall not be withdrawn or assigned separately, but shall be deemed to be transferred with each Owner's interest in any Unit, even though not mentioned or described expressly in the Warranty Deed. If the Condominium is terminated, then all such funds remaining after full payment of all Common Expenses shall be distributed to all then-existing owners in accordance with each Owner's undivided percentage interest in the Common Surplus as described on Exhibit D hereto.

11.8 Default Interest Rate. Except as otherwise expressly provided in this Declaration or the other Instruments, any Assessment or Personal Charge levied and assessed upon an Owner which is not paid within thirty (30) days after the date on which it is invoiced shall bear and accrue interest on the unpaid amount due and owing at eighteen percent (18%) per annum. Such default rate and interest shall never exceed the maximum rate of interest allowed by applicable law. Any interest payable, that is in excess of the maximum legal rate of interest allowed by applicable law shall be applied to the reduction of the principal indebtedness of the obligation or if such excessive interest exceeds the unpaid balance of such principal, such excess amount shall be refunded.

11.9 Default in Payment of Assessments and Personal Charges; Suspension of Rights and Privileges; Liens. Unless otherwise prohibited by applicable law, no Owner (or any person/entity authorized by the Owner to use and/or occupy his Unit, exclusive of the Association and a Mortgagee of record in title pursuant to a valid transfer) shall be entitled to use and/or occupy such Unit unless and until all Assessments and Personal Charges owed by the Owner are paid in full. The Association shall provide a written notice to any Owner who fails to pay any Assessments or Personal Charges, or any installment payment thereof, when due, which notice shall advise such Owner of:

- (a) all delinquent Assessments and Personal Charges due payable by the Owner and of the Association's intention to undertake collection efforts, including, without limitation, foreclosure of its lien as hereinafter set forth, in order to collect such unpaid Assessments, Personal Charges and collection expenses if unpaid; and
- (b) and of the Owner's right to cure such default (and avoid foreclosure) by remitting all delinquent amounts, late charges, interest, reasonable attorneys' fees and other collection expenses to the Association.

If full payment of all such amounts is not received, then the unpaid balance of such Owner's remaining installments, if any, for such fiscal year shall then also become accelerated (to the extent that acceleration is permissible under all applicable laws) and due payable in full. The Association may commence legal action to recover all such delinquent amounts and/or exercise its right to