

EXHIBIT "A"

2010 CONSOLIDATED, AMENDED AND RESTATED BY-LAWS  
OF  
RIBAUT ISLAND PROPERTY OWNERS ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

The name of the Association is RIBAUT ISLAND PROPERTY OWNERS ASSOCIATION, INC., a South Carolina nonprofit Association (the "Association"). The principal office of the Association is located at ~~34 Firehorn Lane~~ **PO Box 23094**, Hilton Head Island, South Carolina 29925, but meetings of members and Directors of the Association may be held at such places within the State of South Carolina as may be designated by the Board of Directors.

ARTICLE II

OBJECT AND DEFINITIONS

Section 2.1-Purposes. The Association was formed for the purposes set forth in the Declaration of Covenants, Conditions, and Easements for Ribaut Island, dated August 7, 1989, and recorded on September 8, 1989 in Deed Book 536 at Page 1138 in the RMC Office for Beaufort County, South Carolina, as the same may be amended from time to time (the "Declaration"); and, the purposes set forth in the Declaration and Petition for Incorporation and Charter for the Association (the "Articles"); and, the purposes set forth in these By-Laws. Specifically, the purposes for which the Association was formed are: (i) to provide for the maintenance, preservation, and control of the Common Area which is part of the real property located in Beaufort County, South Carolina (the "Property") and which has been submitted to the Declaration; (ii) to exercise such powers and perform such functions as are delegated to the Association by the Declaration and/or the Articles; (iii) to enforce any and all covenants, restrictions and agreements applicable to the Property; and (iv) to otherwise promote the health, safety and welfare of the Owners and users within the Property.

Section 2.2-Assent. All present and future Owners, their family, present and future tenants, and their guests and invitees, and any other person using the Common Area or facilities contained on the Property are subject to the Declaration, Articles and these By-Laws. The mere acquisition or rental of any Lot or Dwelling within the Property, or the mere act of

occupancy of one of the Lots or Dwellings shall constitute ratification and acceptance of these By-Laws.

Section 2.3-Definitions. The defined terms used in these By-Laws shall have those meanings that the same terms have in the Declaration.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

Section 3.1-Membership. Every Owner of a Lot or Dwelling shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Dwelling.

Section 3.2-Class of Membership. Membership in the Association shall be deemed to be held in one class. The class shall consist of owners of individual Lots or Dwellings within the property subject to the Declaration.

Section 3.3-Multiple Ownership. When more than one person holds an interest in any Lot or Dwelling, all such persons shall be Members. The vote for such Members shall be exercised as they among themselves determine, and the Secretary of the Association shall be notified of such designation prior to any meeting. In the absence of such advice, the vote allocated to the Lot or Dwelling shall be suspended in the event more than one person or entity seeks to exercise the right to vote. Any Owner of a Lot or Dwelling which is leased may assign his voting right to the tenant, provided that a copy of the instrument of assignment is furnished to the Secretary of the Association prior to any meeting.

### ARTICLE IV

#### ASSOCIATION: MEETINGS, QUORUM, VOTING PROXIES

Section 4.1-Annual Meetings. The first annual meeting of the Members shall be held within one (1) year from the date of incorporation of the Association, and each subsequent regular annual meeting of the Members shall be held in the month of October of each year, unless otherwise specified by the Board of Directors. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following the originally scheduled date which is not a legal holiday.

Section 4.2-Special Meeting. Special meetings of the Members may be called at any time by the President of the Association, by the Board of Directors, or upon written request of the Members who are entitled to vote one-tenth (1/10) of all of the vote of the membership.

Section 4.3-Notices. Unless waived in writing in due form of law, written notice stating the place, day and hour of a meeting of the Members, or in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered to each Member of record entitled to vote at such meeting by any person calling the meeting not less than ten (10) nor more than fifty (50) days before the date of the meeting, such written notice to be delivered to the Members either personally or by mail. No such notice shall be required to be given and no meeting shall be deemed to have been improperly held as a result of failure to provide notice where all the Members of the Association sign a waiver of such notice, either before or after such meeting. If mailed, such notice shall be deemed to be delivered five (5) days after deposited in the United States mail addressed to the mailing address as it appears on the records of the Association, with postage prepaid. Attendance at a meeting of the Members by a person entitled to notice of said meeting shall constitute a waiver of notice of the meeting unless the person attends for the express purpose of objecting to the transaction of business on the ground that the meeting was not lawfully called or convened.

Section 4.4-Informal Action by Members. Any action which may be taken at a meeting of the Members may be taken without a meeting, if one or more consents setting forth in writing the action so taken or to be taken, which shall be signed by all of the persons who would have been entitled to vote upon such action at a meeting and filed with the Secretary of the Association to be kept in the corporate minute book, whether done before or after such action is taken.

Section 4.5-Closing of Transfer Books and Fixing Record Date. For the purpose of determining Members entitled to notice of or to vote at any meeting of Members, or any adjournment thereof, or in order to make a determination of Members for any other proper purpose, the Board of Directors of the Association may provide that the Membership records shall be closed for a stated period but not to exceed, in any case, fifty (50) days. If the Membership records shall be closed for the purpose of determining Members entitled to notice of or to vote at a meeting of Members, the records shall be closed for at least ten (10) days immediately preceding the meeting. In lieu of closing the Membership records, the Board of Directors may fix in advance a date as the record date for any such determination of Members, such date, in any case, to be not more than fifty (50) days and, not less than ten (10) days, prior to the date on which the particular action requiring this determination of Members is to be taken. If the Membership records are not closed and no record date is fixed for the determination of Members entitled to notice of or vote at a meeting of Members, the date on which notice of the meeting is mailed shall be the record date for the determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section, the determination shall apply to any adjournment thereof.

Section 4.6-Voting List. The Secretary of the Association shall make from the Membership records a complete list of the Members entitled to vote at the meeting or any adjournment thereof, arranged in alphabetical order, with the address and number of votes held by each. This list shall be produced and kept open at the time and place of the meeting and shall

be subject to the inspection of any Member during the whole time of the meeting for the purposes thereof. Failure to comply with the requirements of this Section shall not affect the validity of any action taken at the meeting.

Section 4.7-Quorum for Member Action. A quorum at any meeting of the Members shall consist of the presence in person or by proxy of the holders of the majority of the votes entitled to be cast at the meeting. A majority of such quorum shall decide any questions that may come before the meeting, except when otherwise specified by law.

Section 4.8-Cumulative Voting for Election of Directors. In all elections of Directors each ~~common~~ Member entitled to vote shall be allowed to cast in person or by proxy as many votes as the number of shares of common stock he owns, multiplied by the number of Directors to be elected, the same to be cast for any one candidate or to be distributed among two or more candidates.

Section 4.9-Voting on Other Matters. In all other matters properly coming before any meeting of the Members, except for the election of Directors, each Member shall be allowed to cast in person or by proxy one vote for each vote to which he is entitled as of the time of said vote or such time prior thereto as may have previously been specified in the notice of the meeting.

Section 4.10-Order of Business. The order of business at the annual meeting and, as far as possible, at all other meetings of the Members shall be:

1. Proof of notice of meeting
2. Call of the roll
3. Reading and disposal of unapproved minutes
4. Annual reports of officers and committees
5. Election of Directors
6. Unfinished business
7. New business
8. Adjournment

## ARTICLE V

### BOARD OF DIRECTORS

Section 5.1-Duties of Directors. In addition to those powers and authorities granted by law to directors, the business and affairs of the Association shall be managed by the Board of Directors who shall be elected and shall serve as hereinafter provided.

Section 5.2-Number and Election. At the first election of Directors after the effective date of this Second Amendment to the Fourth Amendment and Restated Covenants, Restrictions, and Easements for Ribaut Island, the Owners shall elect four (4) Directors for a

term of two (2) years, and three (3) Directors for a term of one (1) year; and at each annual meeting of the Members, or at a special meeting of Members called for that purpose, thereafter the Members shall elect the Directors to fill the expiring terms. The Directors of the Association must be Members of the Association. The Directors of the Association need not be residents of the State of South Carolina.

Section 5.3-Term of Office. Each Director of the Association elected by the Members shall hold office for a term of two years and may, if elected, serve a consecutive two-year term. To be eligible to serve an additional term (third), the Member must defer for a minimum period of two years. Any vacancy however occurring in the Board of Directors, may be filled by a majority of the remaining Directors even though less than a quorum or by a sole remaining Director, and any vacancy created in the number of Directors may be filled by the Board of Directors until the next annual meeting of the Members or any special meeting of the Members called earlier for the purpose of the election of Directors. The term of such an appointed or elected Director would be only as long as the remainder of the departing Director's term.

Section 5.4-Directors' Meeting.

(a) There shall be an annual meeting of the Board of Directors immediately following the annual meeting of the Members or as soon thereafter as may be practicable.

(b) The Board of Directors shall have the power to establish the time and place for holding regular meetings of the Board. The Board of Directors shall have the power in its discretion to change the time and place of such regular meetings or to make them more or less frequent and to eliminate such regular meetings entirely.

(c) Special meetings of the Board of Directors may be called at any time by the President or, in his absence or refusal to act, by any Vice-President or by any two Directors, and may be held at any time and place either within or without the State of South Carolina.

Section 5.5-Participation by Telecommunication Device. Any or all of the Directors may participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A Director participating in a meeting by this means is considered to be present in person at the meeting.

Section 5.6-Notices. Two (2) **days's** notice of all meetings shall be given to each member of the Board. Notices of meetings may be waived in writing by any Director either before or after the meeting, and attendance at any meeting shall constitute a waiver in the absence of an objection. In computing the period of time for the giving of any notice under these

By-Laws, the day on which notice is given shall be excluded and the day when the act for which notice is delivered shall be included. If mailed, such notice shall be deemed given or delivered five (5) days after deposited with postage prepaid in the United States mail, addressed to the last known address of the person entitled to such notice, otherwise notice, whether oral or written, shall be deemed given upon receipt. Attendance at a meeting of the Members of Directors by a person entitled to notice of said meeting shall constitute a waiver of notice of the meeting unless the person attends for the express purpose of objecting to the transaction of business on the ground that the meeting was not lawfully called or convened.

Section 5.7-**Informal Action by Directors.** Any action which may be taken at a meeting of the Directors may be taken without a meeting if a consent setting forth in writing the action so taken or to be taken shall be signed by all of the persons who would have been entitled to vote upon such action at a meeting and filed with the Secretary of the Association to be kept in the corporate minute book, whether done before or after the action so taken.

Section 5.8-**Quorum.** A quorum at any meeting shall consist of a majority of the entire membership of the Board as then appointed and serving. A majority of such quorum may decide an question that may come before the meeting.

Section 5.9-**Election of Officers by Directors.** Officers of the Association for the ensuing year shall be elected by the Board of Directors at their first meeting after the election of Directors each year. If any office becomes vacant during the year, the Board of Directors shall fill the same for the unexpired term. The Board of Directors shall fix compensation of the officers of the Association.

Section 5.10-**Executive Committees and Other Committees.**

(a) The Board of Directors may from time to time, by a resolution adopted by a majority vote and/or consent, designate from among its members an executive committee and/or other committees, each consisting of two (2) or more Directors, and may delegate to such committee or committees all or a portion of the authority of the full Board of Directors to the extent permitted by the corporate laws of the State of South Carolina; PROVIDED, HOWEVER, that the designation of any such committee and the delegation to it of authority and power shall not relieve the Board of Directors or any member thereof of any responsibility imposed by law on directors. Special meetings of any such committee may be called at any time by any Director who is a member of the committee or by one or more of the persons entitled to call a special meeting of the full Board of Directors. The notice requirements, the method of participation and the ability to utilize consents shall be the same for any such committee as is permissible for the full Board of Directors.

(b) Additionally, the Board may from time to time, by a resolution adopted by majority vote and/or consent designate from among its Members a Nominating Committee. Nominations for election to the Board of Directors shall be made by a Nominating Committee,

consisting of a Chairman, who shall be a Member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors not less than 30 days prior to each annual meeting of the Members to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each such annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but in no event less than the number of vacancies or terms to be filled by vote of the Members. Nominations shall be permitted from the floor. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

Section 5.11-Compensation of Directors. No member of the Board of Directors shall receive compensation for serving in such capacity. However, by resolution of the Board of Directors, the Directors may be paid their expenses of attendance at each meeting of the Board of Directors and/or a stated salary as Director. No such payment shall preclude any director from serving the Association in any other capacity and receiving compensation therefor.

Section 5.12-Order of Business. The order of business at all meetings of the Board of Directors shall be:

1. Reading and disposal of any unapproved minutes
2. Reports of officers and committees
3. Unfinished business
4. New business
5. Adjournment

## ARTICLE VI

### POWERS OF THE BOARD OF DIRECTORS

Section 6.1-General. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association. The Board of Directors may do all such acts and things as are not by law or by the Articles of Incorporation, these By-Laws, or the Declaration directed to be exercised or done by the Members.

Section 6.2-Specific Powers and Duties. Without limiting the generality of powers and duties set forth in Section 6.1 above, the Board of Directors shall be empowered and shall have the powers and duties as follows:

- (a) To administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations, and all other provisions set forth in the Declaration.
- (b) To establish, make, and enforce compliance with such reasonable rules and regulations as may be necessary for the operation, use, and occupancy of the Property,

with the right to amend same from time to time. A copy of such rules and regulations shall be delivered to or mailed to each Member promptly after adoption.

- (c) To keep in good order, condition, and repair all the Common Area and all items of personal property, if any, used in the enjoyment of the Common Area. No approval of the Members is required for expenditures for these purposes, except as otherwise required by the Declaration.
- (d) To insure and keep insured all the insurable property contained in the Common Area and to maintain casualty and other insurance, all as may be required by the Declaration.
- (e) To fix, determine, levy, and collect the prorated annual Assessments to be paid by each of the Members towards the gross expenses of the Association, and to adjust, decrease, or increase the amount of the Assessments, and to credit any excess Assessments over expenses and cash reserves to the Members against the next succeeding assessment period.
- (f) To the extent permitted under the Declaration, to levy and collect special assessments whenever, in the opinion of the Board, it is necessary to do so in order to meet increased operating or maintenance expenses or costs, or additional capital expenses, or because of emergencies. All special Assessments shall be in statement form and shall set forth in detail the various expenses for which the Assessments are being made.
- (g) To levy and collect default assessments for violation of the Declaration, the Articles, these By-Laws and any rules and regulations promulgated by the Board (all such documents being hereinafter referenced as the "Governing Documents"), or because the Association has incurred an expense on behalf of a Member under the Governing Documents.
- (h) To collect delinquent assessments by suit or otherwise and to enjoin or seek damages and late charges from an Owner as provided in the Declaration and these By-Laws; and to exercise other remedies for delinquent Assessments as set forth in the Declaration.
- (i) To borrow funds in order to pay for any expenditure or outlay required pursuant to the authority granted by the provisions of the Declaration and these By-Laws and to authorize the appropriate officers to execute all such instruments evidencing such indebtedness as the Board of Directors may deem necessary.
- (j) To enter into contracts within the scope of their duties and powers.
- (k) To establish a bank account for the operating account of the Association and for all separate funds which are required or may be deemed advisable by the Board of Directors.



- (l) To cause to be kept and maintained full and accurate books and records showing all of the receipts, expenses, or disbursements and to permit examination thereof by Members of their Mortgagees at convenient weekday business hours.
- (m) To cause any and all access roads, parking areas, and driveways in, and across the Property to be maintained.
- (n) To cause the maintenance of lawn, trees, shrubs and other vegetation, **and Private Recreational Areas**, and the sprinkler or other irrigation systems located on the Lots and Common Area for the benefit of the Members.
- (o) To delegate to the Manager or any other person or entity such of the Association's duties or responsibilities as may be more conveniently or efficiently performed by another than by the Association, and to agree to assess to the Members a reasonable fee for such services, except that the duties set forth in (e), (f), (g), (i) and (j) shall not be so delegated.
- (p) To assist the Design Review Committee and the similarly related bodies in the performance of their functions.
- (q) To make available , for inspection upon request during normal working hours or under other reasonable circumstances, to Owners, the holders, insurers or guarantors of any first mortgage on any Lot or Dwelling, current copies of the Consolidated Declaration, the By-Laws, and other Rules or Regulations pertaining to the Association, and the books, records and financial statements of the Association.**

## ARTICLE VII

### OFFICERS

Section 7.1-Number. The principal officers of the Association shall be designated by the Board of Directors and may include the President, one or more Vice Presidents, one or more of whom may be designated as Executive Vice-President, a Secretary and a Treasurer. The Board of Directors may, in its discretion, elect such other officers as it deems advisable and fix their duties and compensation, including without limitation a Chairman of the Board of Directors, a General Manager, Comptroller and one or more Assistant Vice Presidents, Assistant Secretaries and Assistant Treasurers. An individual may hold more than one office with the Association; PROVIDED, HOWEVER, that no officer may act in more than one capacity where action by two or more officers is required.

Section 7.2-Election and Term of Office. The officers of the Association shall be elected at the first meeting of the Board of Directors held after the election of Directors. Each

officer shall be elected to hold office for the latter of one year or until his or her successor shall have been elected and shall have qualified.

Section 7.3-Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified in the notice, and unless otherwise specified in the notice, the acceptance of such resignation shall not be necessary to make it effective.

Section 7.4-Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7.5-Chairman of the Board. Should the Directors or Members decide to elect a Chairman of the Board, such Chairman, who shall be chosen from among the Directors, shall preside at all meetings of the Board of Directors, if present and shall in general perform all duties then incident to the office of Chairman of the Board and such other duties as may be assigned by him by the Board of Directors.

Section 7.6-President. The President, who need not be a Director, shall be the chief executive officer of the Association and, subject to control by the Board of Directors, shall be the general manager and shall have general supervision of all of the affairs and business of the Association. The President, together with the Secretary or one or more Assistant Secretary, shall sign all deeds, mortgages, certificates of capital stock or other formal instruments which the Board of Directors or Members, as the case may be, has authorized to be executed, except documents in the normal course of the business of the Association which the President may sign alone.

Section 7.7-Vice-Presidents. The Vice-President, or Vice-Presidents as the case may be, including the Executive Vice-President or Executive Vice-Presidents, if any, shall assist the President as the President may request and perform such other duties as are incidental to this office or are properly required by the Board of Directors. In the absence of the President, or in the event of his death or disability, the Vice-President (or in the event there be more than one Vice-President, the Vice-Presidents so designated by the Board of Directors) shall perform the duties of the President, and when so acting shall have all the powers and be subject to all of the restrictions upon the President.

Section 7.8-Secretary. The Secretary shall keep the minutes of meetings of the Members and the Board of Directors; shall see that all notices are duly given in accordance with the provisions of these By-Laws and as required by law; shall authenticate records of the Association and shall be the custodian of the corporate records and of the seals of the Association and, if necessary, shall see that the corporate seal is affixed to such documents of a formal nature which require such seal, and shall attest to such documents as may require, and shall sign on

behalf of the Association such instruments as he is authorized by the Board of Directors to so sign, and shall make such reports and shall perform such other duties as are incident to his office or are properly required of him by the Board of Directors.

Section 7.9-Treasurer. The Treasurer shall be the chief financial officer of the Association and shall have charge and custody of and be responsible for all funds and securities of the Association and shall keep regular books of account, in accordance with accepted accounting practices, of all receipts and disbursements of the Association, and in general shall perform such other duties as may be assigned to him by the Board of Directors. The Treasurer shall disburse out of the funds of the Association payment of such just demands against the Association as may from time to time be authorized by the Board of Directors. The Treasurer shall sign or countersign all checks, notes and such other instruments or obligations as require his signature, and shall perform all duties incident to his office or that are properly required of him by the Board; provided, however, that by resolution of the Board of Directors, authority and responsibility for the signing of checks, notes and other obligations may be assigned to either the President, such other officer(s) and/or agents as the Board of Directors may designate from time to time.

Section 7.10-Assistants. The Assistant Vice-President or Vice-Presidents, Assistant Secretary or Secretaries, and the Assistant Treasurer or Treasurers, if any, shall perform such duties as are from time to time delegated to them by the Board of Directors or the President and if no such delegation is made they shall be able to perform in the absence of a Vice-President, Secretary or Treasurer, respectively, as if they held such positions as opposed to being an assistant.

Section 7.11-Further Authorities. The Board of Directors may grant, delegate or assign to any officer of the Association any of the duties and authorities hereinabove designated to be performed by any officer or may enlarge or restrict the duty and authority of any officer, either temporarily or permanently.

Section 7.12-Salaries. Salaries of the principal officers may be fixed from time to time by the Board of Directors. No officer shall be prevented from receiving his salary by reason of the fact that he is also a Director of the Association.

## ARTICLE VIII

### INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS;

#### INSURANCE

Section 8.1-Indemnification of Directors. To the fullest extent permitted by law and particularly to the fullest extent allowed by Section 33-8-510 of the Code of Laws of South

Carolina, the Association shall indemnify an individual made a party to a proceeding because such individual is or was a director against liability incurred in the proceeding if: such individual conducted himself in good faith; and, he reasonably believed, in the case of conduct in his official capacity with the Association, that his conduct was in the Association's best interest and/or, in all other cases, that his conduct was at least not opposed to the Association's best interest; and in the case of any criminal proceedings, such individual had no reasonable cause to believe his conduct was unlawful.

A director's conduct with respect to any employee benefit plan for a purpose he reasonably believed to be in the interests of the participants in the beneficiaries of the plan is conduct that satisfies the requirement that such conduct was not opposed to the best interest of the Association.

The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the director did not meet the standard of conduct described in this section. An Association may not indemnify a director under this section:

- (a) in connection with a proceeding by or in the right of the Association in which the director was adjudged liable to the Association, or
- (b) in connection with any other proceeding charging improper personal benefit to him, whether or not involving action in his official capacity, in which he was adjudged liable on the basis that personal benefit was improperly received by him.

Indemnification permitted under this section in connection with a proceeding by or in the right of the Association is limited to reasonable expenses (including counsel fees) incurred in connection with the proceeding.

Section 8.2-Advance for Expenses. An Association may pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding if:

- (a) the director furnishes the Association a written affirmation of his good faith belief that he has met the standard of conduct described in Section 8.1;
- (b) the director furnishes the Association a written undertaking, executed personally or on his behalf, to repay the advance if it is ultimately determined that he did not meet the standard of conduct; and
- (c) a determination is made that the facts then known to those making the determination would not preclude indemnification under this subchapter.

The undertaking required by this Section must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to financial ability to make repayment.

Determinations and authorizations of payments under this Section must be made in the manner specified in Section 8.3.

Section 8.3-Determination and Authorization of Indemnification. The Association shall not indemnify a director under Section 1 unless authorized in the specific case after a determination has been made that indemnification of the director is permissible in the circumstances because he has met the standard of conduct set forth in Section 1.

Such determination must be made:

- (a) by the board of directors by majority vote of a quorum consisting of directors not at the time parties to be proceeding;
- (b) if a quorum cannot be obtained under subdivision (i), by majority vote of a committee duly designated by the board of directors (in which designation directors who are parties may participate), consisting solely of two or more directors not at the time parties to the proceeding:
  - (c) by special legal counsel which has been:
    - (i) selected by the board of directors or its committee in the manner prescribed in item (a) or (b) above; or
    - (ii) if a quorum of the board of directors cannot be obtained under subdivision (a) and a committee cannot be designated under subdivision (b), selected by majority vote of the full board of directors (in which selection directors who are parties may participate); or
  - (d) by the Members, but shares owned by or voted under the control of directors who are at the time parties to the proceeding may not be voted on the determination.

Authorization of indemnification and evaluation as to reasonableness of expenses must be made in the same manner as the determination that indemnification is permissible, except that, if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses must be made by those entitled under subsection (c) to select counsel.

Section 8.4-Indemnification of Officers, Employees, and Agents. The

Association shall indemnify and advance expenses under this Article to an officer, employee, or agent of the Association who is not a director to the same extent as to a director; and

The Association also shall indemnify and advance expenses to an officer, employee or agent who is not a director to the fullest extent consistent with public policy.

Section 8.5-Insurance. The Association may purchase and maintain insurance on behalf of an individual who is or was a director, officer, employee, or agent of the Association, or who, while a director, officer, employee, or agent of the Association, is or was serving at the request of the Association as a director, officer, partner trustee, employee, or agent of another foreign or domestic Association partnership, joint venture, trust, employee benefit plan, or other enterprise, against liability asserted against or incurred by him in that capacity or arising from his status as a director, officer, employee, or agent, whether or not the Association would have the power to indemnify him against the same liability under this Article VIII.

## ARTICLE IX

### MISCELLANEOUS

Section 9.1-Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

~~Section 9.2 Documents for Inspection.~~ The following documents shall be kept at the principal office of the Association subject to inspection by the Members of the Association during usual business hours:

~~(1) its Charter, restated Articles of Incorporation and all amendments to them currently in effect;~~

~~(2) its By Laws or restated By Laws and all amendments to them currently in effect;~~

~~(3) the minutes of all Members' meetings, and records of all action taken by Members without a meeting, for the past ten (10) years;~~

~~(4) all written communications to Members as a group within the past three (3) years, including the financial statements furnished for the past three (3) years under Section 33-16-200 of the South Carolina Code;~~

~~(5) a list of the names and business addresses of all members;~~

~~(6) its most recent annual report delivered to the Department of Revenue under Section 12-20-20 of the South Carolina Code; and~~

~~(7) its federal and state income tax returns for the last ten (10) years.~~

Section 9.3- 2 Conflicts of Documents. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

## ARTICLE X

### AMENDMENTS

Section 10.1-Amendment. These By-Laws may be amended, at a regular or special meeting of the Board, by a vote of a majority of a quorum of Directors present in person or by proxy, but amendment of Article V or X or any portion of those Articles shall require approval of all Directors.

## ARTICLE XI

### SEVERABILITY

Section 11.1 0-Severability. Any provision of these By-Laws or any amendment or alteration hereof which has been constructed to be in violation of the South Carolina Business Corporation Act of 1988, as amended, Title 33 of the Code of Laws of South Carolina, any amendment thereto or replacement thereof, shall not in any way render the remaining provisions invalid.

Adopted:        Effective as of \_\_\_\_\_, 2010.