

WD 0631-0645



DOMINE SMILLING  
CAMDEN COUNTY  
RECORDER OF DEEDS

2006 SEP 18 P 3:04 B

PGS. 68 & 225<sup>DD</sup>

DEPUTY A. Kimmey

(space above reserved for Recorder of Deeds certification)

Title of Document: *Condominium Declaration*

Date of Document: *9-18-2006*

Grantor(s): *Big Bear Resort LLC*

Grantor(s) Address:

Grantee(s):

Grantee(s) Address:

Legal Description: *See Exhibit A&D*

Book and Page:

Koala Bear Condominium Owner's Association (Big Bear Resort)  
Rules and Regulations

1. **No Smoking** inside any unit at any time (smoke travels through vents to other units).
2. **NO PETS** allowed inside units, or on premises at any time. **No exceptions!**
3. The "**Board of Managers**" must be made aware of each person occupying (living) in the unit (name and ages) immediately!
4. Quiet hours are between 10:00pm and 9:00am.
5. Decks are "common" areas, and are not to be used for storage of any kind. Common decks may not be "obstructed" at any time. All "personal items" must be stored inside the unit at all times. Decks must be kept free and clear of trash, rubbish, and other unsightly materials. Ashtrays must be emptied regular basis.
6. **No charcoal grills, or gas cans** are allowed on decks at any time!
7. Entry doors must be kept closed to the units. No loud blaring music! No Fireworks!
8. No laundry, or any other items may be hung from any deck at any time.
9. Each unit has its own table and chairs. You must only use the table and chairs that is specified for your unit. Do not use or sit on other units decks or property.
10. **All units are individually OWNED. This is not an apartment complex.** You are only allowed to use the deck space allotted for the unit you are occupying.
11. All trash must be placed in the **trash containers** in the parking lot. Do not dispose of trash, food, cigarette butts etc... over the decks rails!!!!!!!!!!
12. **No extra guests** (other than those who are listed as occupying the unit) may use the pool or hot tub. The **boat dock** is for owners use only.
13. **NO GLASS** of any kind allowed at the pool.
14. Children must be at least **14 years of age** to be at the pool. Children under this age must be accompanied by an adult 18 years of age or older. A 14 year old may not supervise younger children!!
15. Children under 14 may not be in the hot tub without an adult age 18 or older.
16. No diapers allowed in pool.
17. You must abide by **POSTED POOL HOURS AND RULES!** (9:00am - 11:00pm). No exceptions!!!
18. Nothing other than white blinds may be hung in any window or door of any unit.
19. No noxious or offensive activity shall be carried on in any condominium unit, or in the common elements, nor shall anything be done which will become an annoyance or nuisance to the other owners or occupants.
20. **Working on cars in the parking lot is PROHIBITED.** Derelict, unlicensed, or expired licensed vehicles are **NOT** allowed on the premises. All vehicles without proper tags will be reported to authorities.
21. Each unit shall have access to **two parking spaces**. Any additional cars shall park in lot above the pool.
22. Coin laundry room is for use of the people living in the unit only (not their guests or friends). Laundry is available during business hours only.
23. Arrangements must be made for **mail service** (P.O. Boxes etc..). Mail may NOT be sent to the complex address.
24. No more than 4 people may occupy a one bedroom unit. No more than 6 people may occupy a two bedroom unit.

In an effort to eliminate some of the problems we have been experiencing, The Board would like to vote to change Section 9.8 of the Koala Bear Condominiums Declaration. The new animal policy shall be as follows:

### **NEW ANIMAL POLICY**

One dog, cat, or bird may be kept as a pet in a condominium unit y UNIT OWNERS ONLY. No other person be it (tenants of owners, nightly renters, guests, or friends of owners will be allowed to have a pet of any kind either in the unit or on the premises at any time. There shall be no exceptions to this rule.

Owners that do bring their pets must keep their pets inside their unit, or on a leash at all times. Owners must immediately clean up their pet's waste. Pest must not be allowed to be a nuisance to others. (barking etc.) Pets will not be allowed up at the pool or on any other common area. Pets may not be tethered to any trees or decks. The pet shall not be curbed on shrubbery, flowers, or trees. The owner will be responsible, and will pay for any damage or destruction caused by the pet to any part of the property, such responsibility and liability of the owner to include repair of damaged items to their former condition, and/or replacement where necessary, in the sole opinion of the Board of Managers.

The owner acknowledges and agrees that the Board of Managers may revoke this consent and/or amend and change this section pertaining to animals without prior notice to unit owners, and at any time, and unit owners shall abide by such amendments or changes.

The owner agrees to put the pet out for board or otherwise remove the pet from the unit, if the pet is or becomes a nuisance or annoyance or interferes with the rights or enjoyment of other unit owners, or because of any noises or smell emanating from the pet, damage by the pet, or if the Board of Managers subsequently revoke the consent.

New policy effective May 8, 2010

**KOALA BEAR CONDOMINIUM  
DECLARATION OF CONDOMINIUM**

**A Condominium Community by  
Big Bear Resort, LLC**

**PREPARED BY:  
PHILLIPS, McELYEA, CARPENTER & WELCH, P.C.  
85 COURT CIRCLE NW, P.O. BOX 559  
CAMDENTON, MO 65020**

**KOALA BEAR CONDOMINIUM  
DECLARATION OF CONDOMINIUM**

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**KOALA BEAR CONDOMINIUM**  
**DECLARATION OF CONDOMINIUM**

This Declaration of Condominium is made this 18th day of September 2006, by Big Bear Resort, LLC, a Missouri limited liability company, sometimes hereinafter referred to as "Developer" or "Declarant".

**WITNESSETH:**

**WHEREAS**, Developer is the owner in fee simple of certain real estate, situated in the County of Camden, State of Missouri, the legal description of which is set forth on **Exhibit "A"** attached hereto and incorporated herein by reference, subject to building lines, easements, conditions, restrictions, reservations and limitations of record, if any, including without limiting the foregoing, any contained in that certain plat creating **Koala Bear Condominium**, a subdivision in Camden County, Missouri, and recorded in Plat Book 101, page 4-B, in the Office of the Recorder of Deeds of Camden County, Missouri; and

**WHEREAS**, Developer intends that the aforesaid parcel of real estate together with all buildings, structures, of whatever kind now or hereinafter thereon, shall be submitted to the provisions of the Uniform Condominium Act of the State of Missouri, as contained in Chapter 448, Missouri Revised Statutes 1983; and

**WHEREAS**, Developer does hereby establish a plan for the ownership in fee simple of real property estates consisting of the area or space contained in each of the air space units (hereinafter defined and referred to as "Unit" or "Units") in the improvements on said Condominium and a plan for the co-ownership by the individual and separate owners thereof (hereinafter defined and referred to as "Unit Owners"), as tenants in common, of all of the remaining property within said Condominium, which remaining property is hereinafter defined and referred to as "Common Elements",

**NOW THEREFORE**, Developer, as the owner of the property above described, for the purposes above set forth, does hereby **DECLARE** said property and all buildings, structures, improvements and facilities thereon and those to be erected thereon to be a condominium property hereafter known as "**KOALA BEAR CONDOMINIUM**" under the said cited Uniform Condominium Act of the State of Missouri, and further declares and provides:

## ARTICLE I DEFINITIONS

The following terms, as used herein or elsewhere in any of the condominium documents relating to Koala Bear Condominium, unless otherwise provided, are defined as follows:

**Section 1.1. AFFILIATE OF DECLARANT:** means any person who controls, is controlled by, or is under common control with a declarant. A person "controls" a declarant if the person (a) is a general partner, officer, director, or employer of the declarant, (b) directly or indirectly, or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than twenty percent of the voting interests in the declarant, (c) controls in any manner the election of a majority of the directors of the declarant, or (d) has contributed more than twenty percent of the capital of the declarant. A person "is controlled by" a declarant if the declarant (a) is a general partner, officer, director or employer of the person, (b) directly or indirectly, or acting in concert with one or more other persons, or through one or more subsidiaries, owns, control, holds with power to vote, or holds proxies representing more than twenty percent of the voting interests in the person, (c) controls in any manner the election of a majority of the directors of the person, or (d) has contributed more than twenty percent of the capital of the person. Control does not exist if the powers described in this subdivision are held solely as security for an obligation and are not exercised;

**Section 1.2. ALLOCATED INTERESTS:** means the undivided interest in the common elements, the common expense liability, and votes in the association allocated to each unit;

**Section 1.3. ASSOCIATION FACILITIES:** shall mean all items or things, whether real or personal, that are now or hereafter owned in fee simple or leased by the Association;

**Section 1.4. ASSOCIATION OR UNIT OWNER'S ASSOCIATION:** means the unit owners' association organized under Section 448.3-101 RSMo;

**Section 1.5. BUILDING:** shall mean any building or any part thereof now or hereafter located on and forming part of the Condominium and containing such Units as indicated by the Plat or Plans;

**Section 1.6. BYLAWS:** shall mean the Bylaws of the Association, a copy of which is attached hereto as Exhibit "B" and incorporated herein by this reference as though more fully set forth;

**Section 1.7. COMMON ELEMENTS:** means all portions of a condominium other than the units;

**Section 1.8. COMMON EXPENSES:** means expenditures made by or financial liabilities of the association, together with any allocations to reserves, including but not limited to:

(a) The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, stairs, and stairways of the building or buildings as now or hereafter located and constructed;

(b) The patios, yards, decks, and storage spaces hereafter located and constructed and submitted to the Condominium and the Act by Declarant;

(c) The installations, consisting of the equipment and materials making up central services such as power, light, hot and cold water, central heating and air conditioning, storm and sanitary sewer mains, sewage treatment plant(s), well(s), water line(s), as now or hereafter located and constructed and submitted to the Condominium and the Act by Declarant;

(d) The tanks, pumps, motors, fans, compressors, ducts, lines, pipes, and in general all apparatus and installations now or hereafter located, constructed and existing for common use;

(e) All other parts of the Property, the elements and appurtenances necessary or convenient to its existence, maintenance and safety, as are normally now or hereafter in common use;

(f) Maintenance, management, operation, repair, and replacement of the condominium unit as to which, pursuant to the other provisions of this Declaration, it is the responsibility of the Board of Managers to maintain, repair, restore, reconstruct and replace; except that all such costs, as they relate to condominium units prior to original sale by Developer or its successors or assigns, shall be borne by Developer, or its respective successors or assigns.

(g) Management and administration of the condominium and the maintenance, management, operation, repair, restoration, and replacement of the common elements therein, which expenses shall include, without limiting the generality of the foregoing, compensation paid by the condominium to any manager or managing agent, accountants, attorneys and other employees.

(h) Payment for electricity, water, propane, cable television, sewer and trash service for all units.

**Section 1.9. COMMON EXPENSE LIABILITY:** means the liability for common expenses allocated to each unit pursuant to Section 448.2-107 RSMc;

**Section 1.10. CONDOMINIUM:** means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners;

**Section 1.11. DECLARANT OR DEVELOPER:** shall mean Big Bear Resort, LLC, a Missouri limited liability company. In the event the Developer transfers the property prior to completion of the construction program, the term "Developer shall include a transferee who acquires the property for the purpose of completing the construction as show on the Plat or Plans;

**Section 1.12. DECLARATION:** shall mean the within instrument by which the Property, as hereinafter defined, is submitted to the provisions of the Act and shall include such amendments and supplements, if any, to the within instrument as may be from time to time adopted pursuant to the terms hereof;

**Section 1.13. DEVELOPMENT RIGHTS:** means any right, or combination of rights, reserved by a declarant in the declaration to add real estate to a condominium; to create units, common elements, or limited common elements within a condominium; to subdivide units or convert units into common elements; or to withdraw real estate from a condominium;

**Section 1.14. DISPOSE OR DISPOSITION:** means a voluntary transfer to a purchaser of any legal or equitable interest in a unit, but does not include the transfer or release of a security interest;

**Section 1.15. EXECUTIVE BOARD:** means the body, regardless of name, designated in the declaration to act on behalf of the association;

**Section 1.16. IDENTIFYING NUMBER:** means a symbol or address which identifies only one unit in a condominium;

**Section 1.17. LIMITED COMMON ELEMENT:** means a portion of the common elements allocated by this Declaration, the Plat or by operation of subsection (2) or (4) of Section 448.2-102 RSMo. for the exclusive use of one or more but fewer than all of the units;

**Section 1.18. MAJORITY OR MAJORITY OF THE UNIT OWNERS:** except as otherwise defined and used in the Declaration or Bylaws of the Association, shall mean those Owners, without regard of their number, who own more than FIFTY PERCENT (50%) in the aggregate of the Allocated Interests of the Condominium. Except as otherwise defined and used in the Declaration or Bylaws of the Association, any specified percentage of the unit Owners shall mean those Owners who, in the aggregate, own such specified percentage of the Allocated interests of this Condominium;

**Section 1.19. MANAGING AGENT:** shall mean a person who may be engaged by the Executive Board to see to the day-to-day operation and maintenance of the Condominium, in accordance with the policies set from time to time by the Executive Board;

**Section 1.20. MASTER ASSOCIATION:** means an organization described in Section 448.2-120 RSMo, whether or not it is also an described in Section 448.3-101 RSMo.;

**Section 1.21. PERSON:** means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, governmental, governmental subdivision or agency, or other legal or commercial entity; provided, however, that in the case of a land trust, "person" means the beneficiary of the trust rather than the trust or the trustee;

**Section 1.22. PLAN:** means a drawing prepared by a registered architect or engineer which contains the information required by the provisions of subsection 4 of Section 448.2-109 RSMo.;

**Section 1.23. PLAT:** means a drawing prepared by a registered land surveyor which contains the information required by the provisions of Subsection 2 of Section 448.2-109 RSMo.;

**Section 1.24. PURCHASER:** means any person, other than a declarant or a person in the business of selling real estate for his own account, who by means of a voluntary transfer acquires a legal or equitable interest in a unit, other than (a) a leasehold interest, including renewal options of less than twenty years, or (b) as security for an obligation;

**Section 1.25. REAL ESTATE:** means any leasehold or other estate or interest in, over or under land, including structures, fixtures, and other improvements and interests which by custom, usage, or law, pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. Real estate includes parcels with or without upper or lower boundaries, and spaces which may be filled with air or water;

**Section 1.26. RESIDENTIAL PURPOSES:** means use for dwelling or recreational purposes, or both;

**Section 1.27. SEWER SYSTEM:** shall mean and refer to the wastewater disposal system and all sewer lines, pipes, fittings, valves, motors, tanks, pumps and other necessary components of the system;

**Section 1.28. SPECIAL DECLARANT RIGHTS:** means rights reserved for the benefit of a declarant to complete improvements indicated on plats and plans filed with the declaration; to

exercise any development right; to maintain sales offices, management offices, signs advertising the condominium, and models; to use easements through the common elements for the purpose of making improvements within the condominium or within the real estate which may be added to the condominium; to make the condominium part of a larger condominium or a planned community; to make the condominium subject to a master association; or to appoint or remove any officer of the association or any master association, or any executive board member during any period of declarant control;

**Section 1.29. UNIT:** means a physical portion of the condominium designated for separate ownership or occupancy, the boundaries of which are described pursuant to subsection (5) of subsection 1 of Section 448.2-105 RSMo., and, except as otherwise provided herein, walls, floors or ceilings are designated as boundaries of a unit, and all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereof are a part of the unit and all other portions of the walls, floors or ceilings are part of the common elements;

**Section 1.30. UNIT OWNER or OWNER:** shall mean the Declarant or other person or persons whose estate or interests individually or collectively aggregate fee simple absolute ownership of a Unit or Units, but does not include a person having an interest in a Unit solely as security for an obligation.

## ARTICLE II SUBMISSION TO ACT

**Section 2.1. SUBMISSION OF PROPERTY TO THE ACT.** The Developer hereby submits the real property described in **Exhibit "A"**, attached hereto and made a part of this Declaration by this reference, to the provisions of the Uniform Condominium Act of the State of Missouri, subject to the reservations, restrictions and easements contained in this Declaration, the Bylaws, and any and all supplements and amendments thereto which may be duly adopted and filed for record from time to time. All streets, drives, lanes, circles, boulevards, trails, cul-de-sacs and other ways commonly used for vehicular and pedestrian traffic, as now or hereafter located on the real property described in **Exhibit "A"** hereto are private streets, and no dedication to the public of such ways for vehicular and pedestrian traffic is intended, but same are hereby dedicated to the use and benefit of all Unit Owners, their grantees, heirs, personal representatives, agents, successors and assigns, and to their guests, invitees, business visitors and to all duly constituted public authorities in the performance of their official duties, for ingress and egress over said private ways. The easements and dedications herein are expressly made subject to the Developer's rights reserved as set forth in Article VIII of this Declaration.

### ARTICLE III CONDOMINIUM UNITS

**Section 3.1. DIVISION OF PROPERTY INTO UNITS AND ALLOCATION OF INTERESTS:** The real property described in **Exhibit "A"** is hereby divided into fee simple estates, each such estate consisting of a separately designated Unit, the limited Common Elements reserved to the use of such Unit as designated on the Plat and set forth on **Exhibit "C"**, attached to this Declaration and made a part hereof by this reference as though more fully set forth herein, and the undivided percentage or fractional interest in and to the Common Elements appurtenant to each Unit. The percentage of interest in the Common Elements for each Unit shall be the percentage figure represented by a fraction whose numerator is the number of square feet in the unit and whose denominator is the total of the square footage in all Units in the Condominium at any given time. Each such Unit and the Owner of each such Unit shall be responsible for the Common Expenses of the Association in a percentage amount equal to the undivided percentage of fractional interest in and to the Common Elements appurtenant to that Unit. The number of votes in the Association to which each Unit Owner shall be entitled shall be equal to the percentage of that Owner's interest in the common elements. The votes allocated to a Unit shall be cast unanimously, and the Owners of a Unit jointly owned by two or more Persons shall agree among themselves as to how they shall cast the votes allocated to such Unit.

Developer's right of subdivision shall be deemed to have been exercised automatically at each time that a warranty deed is recorded which conveys a Unit as depicted on the Building Plat to a purchaser other than Developer or at the time the to be subdivided unit is destroyed by fire or other catastrophe (hereinafter referred to as "occurrence"). At the time of each such occurrence or conveyance, said purchaser other than Developer shall acquire, with each such newly-created Unit, the Allocated Interests set forth on **Exhibit "C"**, attached hereto and made a part hereof by this reference. Developer shall, however, be responsible for all expense associated with such Building as is not provided for by the assessments attributable to Units therein which are owned by purchasers other than Developer.

The rights, responsibilities and provisions set forth in the preceding paragraph shall be deemed to have been exercised by Developer each time a supplement to this Declaration is recorded which adds another Building to the Condominium. At the time that any such supplement is recorded, Developer shall also record a Plat of such Building, depicting the Units into which Developer intends to subdivide the master unit constituting the Building, and the supplement shall set forth the Allocated Interests which will be attributed to each such subdivided Unit at the time such Unit is created by recording of a warranty deed conveying such Unit to a purchaser other than Developer.

**Section 3.2. SCOPE OF OWNERSHIP.** The owner of each respective condominium

unit shall be deemed to own all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting a part of the finished surfaces of walls, floors and ceilings. All other portions of walls, floors or ceilings are part of the common elements. Except as hereinafter set forth in Article III, all spaces, interior partitions, and other fixtures and improvements within the boundaries of a unit are a part of the unit.

#### **ARTICLE IV PLAT AND PLANS**

**Section 4.1.** The Plat shall show those things required in Section 448.1-109 of the Act, and may be filed for record in whole or in parts or sections, from time to time, as the stages of construction of the Units and other improvements are substantially completed. The Plat or any part or section thereof depicting Units shall not be filed for record until the Building in which the Units are located has been substantially completed in order to permit the location and depiction thereon of all information required by Section 448.2-109 of the Act. The Plat shall contain the certificate of a registered and licensed surveyor, certifying that the Plat contains all information required by Section 448.2-109 of the Act and was made in compliance with the minimum standards for property boundary surveys as established by rule of the Missouri Board of Architects, Professional Engineers and Land Surveyors, that such plat was prepared subsequent to substantial completion of the improvements, and that the dimensions and elevations shown are the result of an actual survey, including each Unit. Each supplement and/or any amendment shall set forth a like certificate when appropriate. In interpreting the Plat, the existing physical boundaries of each separate Unit as constructed shall be conclusively presumed to be its boundaries. Upon exercise of a development right, Developer shall record either new Plats or Plans, as necessary to conform to the requirements of Section 448.2-109 of the Act, subject, however, to the provisions set forth in Section 3 hereinabove.

**Section 4.2.** Any Plans of the Units shall show or project those things required in Section 448.2-109 of the Act, and shall be certified by a registered and licensed engineer or architect.

#### **ARTICLE V COMMON ELEMENTS**

**Section 5.1. SCOPE OF COMMON ELEMENTS.** The common elements of the project are as follows:

- a. The property in which the multi-family structure containing the condominium units are located and such multi-family structure itself including the foundations, exterior walls, roofs, gutter, downspouts, exterior surface of exterior doors, exterior

balconies, exterior stairways, and any and all other common portions of the said multi-family structures not included within the condominium units as in Article II hereinabove provided.

b. Each and every service facility now or hereafter erected, constructed or installed on or in the property, including without limiting the generality of the foregoing, all common utility installations, including pipes, wires, chutes, flues, ducts, conduits, bearing walls, bearing columns or any other connections for electricity, light, water and plumbing and other utilities, except those which are exclusively within or for the benefit of the condominium unit and not used to service any unit other than the particular condominium unit.

c. All other appurtenances not herein specifically designated which are not enclosed within the confines of the condominium unit as is hereinabove delineated in this Declaration.

d. The foregoing sections notwithstanding, if any chute, flue, duct, wire, conduit, bearing wall, bearing column or any other fixture lies partially within and partially outside the designated boundary of a unit, any portion thereof serving only that unit is a limited common element allocated solely to that unit and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.

e. Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios and all exterior doors and windows or other fixtures designed to serve a single unit but located outside the unit's boundaries are limited common elements allocated exclusively to that unit.

**Section 5.2. TENANTS IN COMMON.** The owner of each unit shall own an undivided interest in the common elements as a tenant (or tenants) in common with all the other owners of the property, and, except as otherwise limited in this Declaration (as, for example, the use of limited common elements), shall have the right to use and occupancy of his or their unit as a place of residence, and such other incidental use as permitted by this Declaration, which right shall be appurtenant to and run with such person's or persons' unit. The extent, amount or percentage of such ownership and the percentage share of common expenses shall be expressed by a percentage amount, the particular percentage amount, also sometimes referred to herein as "share" appertaining to each unit, as set forth in **Exhibit C**, attached hereto and incorporated herein by reference the same as if more fully set out herein.

**Section 5.3. PERCENTAGE INTEREST.** Except as otherwise provided herein, and in particular in Section 16.1 hereof, the percentage interest so allocated to each condominium unit shall not be changed except by consent of all the condominium unit owners, which agreement to change such percentage interests shall not be effective until duly acknowledged by all owners and recorded in the Office of the Recorder of Deeds, in the County in which the property is situated.

Except as may otherwise be provided herein, a limited common element may be reallocated by an amendment to the declaration executed by the unit owners between or among whose units the reallocation is made. The persons executing the amendment shall provide a copy thereof to the association, which shall record a copy. The amendment shall be recorded in the names of the parties and the condominium.

**Section 5.4. EXCLUSION FROM COMMON ELEMENTS.** Areas designated on the condominium as "Need Not Be Built" or "Subject to Developmental Rights" or other similar language shall not be considered part of the common elements and unit owners shall not have a vested interest in any of said areas.

## **ARTICLE VI LIMITED COMMON ELEMENTS**

**Section 6.1.** Portions of the Common Elements are reserved for the exclusive use of the Unit Owners of the respective Units, and such areas are referred to as "Limited Common Elements". The Limited Common Elements so reserved shall include those provided under the Act and those identified on the Plat or Plans, appurtenant to the Units, as set forth on the attached **Exhibit "C"** or in this Declaration or any supplement thereto. Any balcony, stairwell, patio, dock, shutters, awnings, window boxes, doorsteps, stoops, porches and exterior doors and windows which are designed to serve a single Unit or which are assessable from, associated with or which adjoin a Unit, and any portion of any chute, flue, duct, wire, conduit, bearing wall, or bearing column which serves only that Unit, shall, without further reference thereto, be used in connection with such Unit to the exclusion of the use thereof by the other Owners of the Common Elements, except by invitation. No reference thereto whether such Limited Common elements are exclusive or non-exclusive, need be made in any deed, instrument of conveyance, or other instruments. All of the Unit Owners in the Condominium shall have a non-exclusive right in common with all the other Unit Owners to the use of all Common Elements located within the Condominium.

## **ARTICLE VII COVENANTS**

**Section 7.1. NO PARTITION OF COMMON ELEMENTS.** As long as the property is subject to the provisions of the Uniform Condominium Act, the common elements shall, except as provided in the Uniform Condominium Act, remain undivided, and no unit owner or owners shall bring any action for partition or division of the common elements and any covenant or agreement to the contrary shall be null and void. Provided, however, nothing herein contained shall prevent partition of a condominium unit as between any persons who are co-owners thereof, if such right of partition shall otherwise be available, but such partition shall not be in kind.

**Section 7.2. NO SEVERANCE OF OWNERSHIP.** No owner shall execute any deed, mortgage, lease or other instrument affecting title to his unit ownership without including therein both his interest in the unit and his corresponding share in the common elements, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other, shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein.

**Section 7.3. INSEPARABILITY OF A CONDOMINIUM UNIT.** Each unit, the Allocated interests for that Unit, and the appurtenant Limited Common Elements shall together comprise one Condominium Unit, shall be inseparable, and may be conveyed, leased, devised or encumbered only as one Condominium Unit.

**Section 7.4. USE OF COMMON ELEMENTS AND LIMITED COMMON ELEMENTS.** Each Unit Owner shall be entitled to exclusive ownership and possession of his Unit. Each Owner may use the Common Elements and Limited Common Elements in accordance with the purposes for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners.

**Section 7.5. USE AND OCCUPANCY.** The Units shall be used and occupied by the Unit Owner, his family and their guests, his business invitee and tenants and their guests, for Residential Purposes only and no commercial use shall be made of any Unit. The Executive Board or Managing Agent may maintain an office in one of the Units in the Condominium, for the purpose of managing the Units within the Condominium. The Executive Board or its duly appointed Managing Agent may exercise the right to approve the number and demeanor of guests of any Unit Owner prior to said guests' occupancy of a Unit and such approval shall be continuous at the discretion of said Executive Board or its duly appointed Managing Agent. All such use and occupancy as granted in this paragraph shall be subject to the rights reserved to Developer herein below.

**Section 7.6. EASEMENTS FOR ENCROACHMENTS.** If the Plat, or any supplement thereto, shall be inaccurate so that any portion of the Common Elements encroaches upon a Unit or Units, a valid easement for the encroachment and the maintenance of same, so long as it stands, shall and does exist. If the Plat shall be inaccurate so that any portion of a Unit encroaches upon the general Common Element, or upon an adjoining Unit or Units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Elements or on the Units for purposes of marketability of title. Corrections shall be made by refileing an amended Plat properly reflecting the corrections in description, by the Executive Board, as soon after the discovery of the errors as is practicable.

**Section 7.7. TERMINATION OF MECHANIC'S LIEN RIGHTS AND**

**INDEMNIFICATION.** Subsequent to the completion of the Improvements described on the Plat, no labor performed or materials furnished and incorporated in a Unit with the consent or at the request of the Unit Owner, his agent, his contractor or subcontractor shall be the basis for filing a lien against the Unit of any other Unit Owner not expressly consenting to or requesting the same, or against the Common Elements. Each Unit Owner shall indemnify and hold harmless each of the other Unit Owners from and against the Common Elements for construction performed or for labor, materials, services or other products incorporated in the Unit at such Unit Owner's request.

**Section 7.8. ADMINISTRATION AND MANAGEMENT.** The Condominium shall be governed and administered by the Executive Board of the Association. The Executive Board shall have a general responsibility to govern, manage and administer the Condominium and to exercise other powers conferred by this Declaration, the Bylaws, and the Act, all in accordance with the terms, covenants, conditions, limitations and provisions of this Declaration and the Bylaws of the Association. The administration and management functions of the Executive Board of the Association shall be subject to the rights, abilities and preferences of Developer as specified in Article XII, Section 12.4 of this Declaration. An Owner of a Condominium Unit, upon becoming an Owner, shall become a member of the Association, and shall remain a member for the period of his ownership of such Unit, regardless of whether or not such Unit is hereafter removed from the effect of the Act, subject to the terms of this Declaration, the Bylaws, and the rules and regulations relating to the use of the Common Elements and Association Facilities. No person shall use the Common Elements and Association Facilities in any manner not in accordance with such rules and regulations. The mere acquisition or rental of any of the units in the Condominium or the mere act of occupancy of any of said Units, by Unit Owners, their families, tenants, guests or invitees, will signify that this Declaration and the rules and regulations adopted pursuant thereto are accepted, ratified and will be complied with.

**Section 7.9. RESERVATION FOR ACCESS, MAINTENANCE, REPAIR AND EMERGENCIES.** The Unit Owners shall have the irrevocable right, to be exercised by the Managing Agent or Executive Board, to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Elements therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the Common Elements or to another Unit. Damage to the interior of any part of a Unit resulting from the maintenance, repair, emergency repair or replacement of any of the Common Elements or as a result of emergency repairs within another Unit, at the instance of the Executive Board or Managing Agent, shall be a Common Expense of all of the Unit Owners, provided, however, that if such damage is the result of the misuse or negligence of a Unit Owner, then such Unit Owner shall be responsible and liable for all of such damage. Negligence and misuse shall be determined by the Executive Board. All damaged improvements shall be restored to substantially the same condition in which they existed prior to the damage. All maintenance, repairs and replacements to the Common Elements, whether located inside or outside of Units, shall be the Common Expense of all the Unit Owners, unless necessitated by the negligence or misuse of a Unit Owner, in which case such expense shall be charged to such Unit Owner.

**ARTICLE VIII  
DEVELOPER'S RIGHTS AND DEVELOPMENT ACTIVITIES**

**Section 8.1. DEVELOPMENT RIGHTS.** Subject to limitations contained in the Uniform Condominium Act, the declarant, its successors and assigns, hereby reserves as "development rights" the right to add real estate to the condominium development; to create units, common elements, or limited common elements, within a condominium; to subdivide units or convert units into common elements; or to withdraw all real estate from the condominium.

**Section 8.2. NUMBER OF UNITS.** Declarant, its successors and assigns, hereby reserves the right to create up to thirty (30) additional condominium units on the property described on Exhibit D hereto which may, but need not be added to the condominium.

**Section 8.3. RESERVATION OF DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS.**

(a) Developer reserves the right to construct additional Buildings and to create Units, Limited Common Elements, and Common Elements within the Condominium and within any real estate added to the Condominium upon exercise of the right reserved in subparagraph (b) of this paragraph. Developer may create a maximum of thirty (30) units on the real estate described in Exhibit "D" and if thus created, all such Units will be completed within five (5) years of the date of recording of this Declaration.

If the exercise of this Developer right creates any Common Elements or Limited Common Elements, the Amendment shall describe same and shall designate the Unit to which each Limited Common Element is allocated.

(b) Developer reserves the right to add to the Condominium, at any time and from time to time, within five (5) years of the date of recording this Declaration, and from time to time any part of, or all of, the real estate more particularly described on Exhibit "D", attached hereto and made a part hereof by this reference. The right to add shall apply to all or any sub-divided part, lot or parcel of the real property within the real property described on the attached Exhibit "D" and the initial exercise of the right to add by Developer shall not preclude Developer from further, subsequent exercise of this right to add as to other parts, lots or parcels of real property within Exhibit "D". In addition, the previous exercises of this right by Developer shall in no way limit, or preclude or waive Developer's ability or method of exercising said right subsequent thereto. If Developer exercises this right to add the aforescribed real estate to the Condominium, Developer may create a maximum of thirty (30) Units thereon, with Limited Common Elements and Common Elements. If thus created, all such Units will be completed within five (5) years of the date of recording of an amendment to this Declaration adding such real estate to the Condominium, pursuant to Section

448.2-110 of the Act.

Upon the creation of such additional Units, the Allocated Interests shall be reallocated among the Units, both previously existing and newly created, by allocating to each Unit that percentage of interest in the Allocated Interest arrived at by dividing the square footage of a Unit by the combined total square footage of all the Units, previously existing and newly created. Ownership of each unit, both previously existing and newly created, shall entitle the Owner to vote interest allocated to that unit. If the exercise of this Developer right creates any Common Elements or Limited Common Elements, the Amendment shall describe same and shall designate the Unit to which each Limited Common Element is allocated.

(c) Developer reserves the right to withdraw from the Condominium, at any time and from time to time within five (5) years, of the recording of the supplement adding said real property to the condominium, all or any portion of the real property described on Exhibit "D" which Developer may have added to the Condominium. The right to withdraw as hereinbefore provided shall apply to all or any subdivided part of the real property described in Exhibit "D" and the initial exercise of the right to withdraw by Developer shall not preclude Developer from further exercise of the same right to withdraw as to other parcels or sub-divided parts subsequent thereto. In addition, the exercise of the right to withdraw shall not be limited waived or otherwise precluded in any manner as to size, quality, extent or quantity of the real property by the initial or subsequent exercise of this right.

(d) Developer reserves the right to subdivide Units or to convert Units into additional Units or into Common Elements at any time prior to the conveyance of any such Unit to a purchaser other than Developer. This right shall be deemed to have been exercised automatically by Developer at the time each warranty deed is recorded which conveys a Unit to a purchaser other than Developer. This right shall be deemed to also have been automatically exercised by Developer at the beginning of the time when each unit as shown on the plat is begun to be destroyed by fire or other catastrophe. If by exercise of the right reserved in this subparagraph a Unit is converted entirely to Common Elements, Developer shall prepare, execute and record an amendment to this Declaration which shall reallocate the Allocated Interests of the converted Unit among the other Units in accordance with the provisions of Section 448.1-107 of the Act. If by exercise of the right reserved in this subparagraph a Unit is subdivided into two or more Units, whether or not part of the subdivided Unit is converted into Common Elements, Developer shall prepare, execute and record an amendment to this Declaration which shall reallocate the Allocated Interests of the subdivided Unit among the Units created by dividing the total area (in square feet) of living space contained in each newly created Unit by the total area (in square feet) of the subdivided Unit; provided, however, that this sentence shall not apply upon automatic exercise of Developer's rights as set forth in paragraph 3 hereinabove.

(e) Upon exercise of any of the development rights reserved under subparagraphs (a), (b), (c) or (d) hereinabove, Developer will prepare, execute and cause to be recorded in the Office of the Recorder of Deeds for the County in which the Condominium is located, an amendment to this Declaration,

including Plats or Plans, as required by the Act, and will otherwise comply with the requirements set forth in Section 448.2-110 of the Act; provided however, that such recording shall not be required upon automatic exercise of Developer's rights as set forth in paragraph 3 hereinabove.

(f) In the event that Developer exercises any of the development rights reserved in subparagraphs (a), (b), (c) or (d) hereinabove, no assurance is made as to which shall be exercised first, or in what order Developer may, but need not, exercise such rights as to all or only portions of such real estate, and a single exercise of any such right shall not constitute a waiver of the right to subsequently exercise that right or any other right reserved to Developer, either with respect to the same or a different portion of the property.

(g) Developer reserves in, on, under, through and above the real estate described on **Exhibit "A"** and any real estate described on **Exhibit "D"** and added to the Condominium through exercise of the rights reserved in subparagraph (b) hereinabove, such easements are reasonable or necessary in order for Developer to exercise the rights reserved hereinabove in creating additional Units, and to complete improvements and Units included in this Declaration, or in the real estate which may be subsequently added to the Condominium, as hereinabove described. This reservation of easement is in addition to that granted by Section 448.1-116 of the Act.

(h) Developer reserves to itself, its successors and assigns, an easement or license to give or to grant to others, or to locate, relocate, erect, construct, maintain and use, or to authorize the relocation, erection, construction, or maintenance and use of the easements, rights-of-way or conduits for all and any purposes, including water, gas, septic tanks, storm and sanitary sewer mains, electric lines, telephone lines, poles and wires, and other utilities, or lake access or all or any of them, over, under, across, upon and within any part of the real property described on **Exhibit "A"** hereto or any real property described on **Exhibit "A"** hereto or any real estate added to the Condominium in the future and to relocate parking areas, streets, drives and roads on such property.

(i) Developer reserves the right to make the Condominium part of a larger Condominium or a planned community, or to make the Condominium subject to a Master Association.

(j) Developer shall be liable for all expenses in connection with the real estate subject to the development rights as set forth in paragraphs (a), (b), (c), and (d) hereinabove, and no other Unit Owner or portion of the Condominium shall be subject to a claim for payment of such expenses. Any income or proceeds from real estate subject to the development rights reserved subparagraphs (a), (b), (c) and (d) hereinabove shall inure to Developer.

(k) Developer reserves the right to grant access over the property submitted to the condominium as set forth in Exhibit A hereto to the Lake of the Ozarks in favor of the property set forth in Exhibit D whether or not the said property is added to the Condominium.

(k) So long as Developer owns all of the Units (or has the consent of all owners of the Units) in Building 6 Developer reserves the right to tear down said building and rebuild it with one or two

stories consisting of four or less units in a style that is harmonious with the rest of the development. The cost of the tear down and rebuilding shall be borne by Developer and any owners of Units within the building in such manner as they may agree. If the square footage of the reconstructed building is changed, the allocated common interest of all units shall be adjusted accordingly.

#### **Section 8.4. MANAGEMENT RIGHTS.**

(a) Subject to the limitations contained in Section 448.1-103 and the Uniform Condominium Act, the Declarant, or its successors and assigns, hereby reserves as "special declarant rights", the right, duty, power and privilege to manage said condominium and to maintain management offices for the purpose of managing said condominium and any rental program which may be formed to facilitate the rental of units by owners and that all reasonable costs of such management shall be treated as a common expense as defined under Section 448.1-103 RSMo., the Uniform Condominium Act and Article I, Section 1.8 of this Declaration of Condominium; provided that the reasonable costs attributable solely to of the operation of any rental program should be charged to the owners participating in the rental program.

(b) Developer shall have the right and easement to maintain sales offices, construction offices, management offices and models throughout the Property and to maintain one or more advertising signs on the Common Elements for so long as the Developer shall continue to sell Units in the Condominium in the normal course of business. Developer reserves the right to place models, management offices and sales offices in any Units owned by Developer and on any portion of the Common Elements in such number, of such size and in such locations as Developer deems appropriate. The models, management offices and sales offices constituting a portion of the Common Elements shall be subject to the following requirements:

1. The number of models maintained by the Developer within the Common Elements shall not exceed one (1). The size of each such model shall not exceed the size of the comparable Unit available for purchase.
2. In addition to the models maintained by the Developer on the Common Elements, Developer shall have the right to maintain within the Common Elements not more than one (1) office for sales and management purposes. The sales or management office may not exceed the size of the largest Unit in the Condominium.
3. Developer may from time to time relocate the model, management office and sales office to different locations within the Property. Upon the relocation of a model, management office or sales office constituting a Common Element, Developer may remove all personal property and fixtures therefrom. Any fixtures not so removed shall be deemed Common Elements, and any personal property not so removed shall be deemed the property of the Association.
4. So long as Developer shall be selling Units in the Condominium, Developer shall

have the right to restrict the use of the Common Element parking spaces, reserving spaces for use by prospective Unit purchasers, Developer's employees and other engaged in sales, maintenance, construction or management activities.

**Section 8.5. DEVELOPMENT ACTIVITIES.** Notwithstanding any provision hereof to the contrary, at all times and from time to time, prior to Developer or its successors or assigns conveying all units of this condominium to third parties, Developer shall have the right, privilege and "special declarant right", which is hereby reserved only to itself and to its successors and assigns and their respective agents, to erect and maintain on the common areas advertising signs, sales flags or other sales devices and banners for the purpose of aiding the sale of units in the condominium, to maintain a model condominium in at least one unit in the condominium and to maintain sales and rental program offices in at least one unit in the condominium and/or a portion of the common element space to aid in the sale and rental of the units in the condominium for itself and for the benefit of other owners, to maintain business offices in at least one unit in this condominium to facilitate the completion of construction of the buildings and improvements comprising this condominium and any other condominiums, apartments and homes now or hereafter constructed in the property described in **Exhibit A** and to help facilitate the sale of the units therein contained, and to retain the right to use easements through the common elements for the purpose of making improvements within the condominium or within the real estate which may be added to the condominium or to make the condominium part of a larger condominium or a planned community or to make the condominium subject to a master association; or to appoint or remove any officer of the association, or any master association, or any executive board member during any period of declarant control.

**Section 8.6. MISCELLANEOUS DEVELOPMENT RIGHTS.** An easement or license or "special declarant right" is hereby granted to and reserved by the declarant or developer, their successors and assigns, to give or to grant to others, or to locate, erect, construct, maintain and use, or to authorize the locations, erection, construction or maintenance and use of, easements, right of ways, or conduits for all and any purpose, water, gas, storm and sanitary sewer mains, electric lines, telephone lines, poles and wires, and other utilities, or all or any of them, over, under, across, upon and within any part of the land described in **Exhibit A**. All streets, drives, lanes, circles, boulevards, trails, cul-de-sacs and other ways commonly used for vehicular and pedestrian traffic, as shown on the plat filed herewith, are private streets, and no dedication to the public of such ways for vehicular and pedestrian traffic is hereby expressed or intended. An easement, however, is hereby granted to all owners of land or estates within **Koala Bear Condominium**, their grantees, heirs, personal representatives, successors and assigns, and to their guests, invitee, business visitors and to all duly constituted public authorities in the performance of their official duties, for ingress and egress over said private ways to all properties within the subdivision. Declarant further reserves an easement to place, access and maintain the boat docks which are attached to the common elements or which may subsequently be added, replaced or upgraded by Declarant. Declarant may lease slips in said docks to owners of Units or owners of the property set forth in **Exhibit D**.

## ARTICLE IX RESTRICTIONS

In addition to any and all restrictions now existing against said property and all improvements now or hereafter constructed thereon, the use of condominium units and common elements (including restricted common elements) is hereby expressly restricted as follows:

**Section 9.1. USE OF CONDOMINIUM UNITS.** No part of the property shall be used for other than residential housing and common recreational and resort purposes for which the property was designated, except that Developers and their heirs, successors, and assigns may retain and use space for other purposes such as, but not limited to, a sales office and recreational room. Each such unit shall be used as a family-type residence and for no other purpose.

**Section 9.2. ALTERATIONS AND IMPROVEMENTS.** A unit owner may make any improvements or alterations to his unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium; provided, however, that no unit owner may change the appearance of the common elements, or the exterior appearance of a unit or any portion of a condominium, without permission of the association.

**Section 9.3. ACQUIRING ADJOINING UNITS.** After acquiring an adjoining unit or an adjoining part of an adjoining unit, a unit owner may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a common element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium. Removal of partitions or creations of apertures under this subdivision is not an alteration of boundaries.

**Section 9.4. RELOCATION AND REALLOCATION OF UNITS.** The boundaries between an adjoining unit may be relocated by an amendment to the declaration upon application to the association by the owners of those units. If the owners of the adjoining units have specified a reallocation between their units and their allocated interests, the application shall state the proposed reallocations. Unless the executive board determines within thirty days, that the reallocations are unreasonable, the association shall prepare an amendment that identifies the units involved, states the reallocation, is executed by those unit owners, containing words of conveyance between them, and upon recordation, is indexed in the name of the grantor and grantee. The association shall cause to be prepared and shall record any plats necessary to show the altered boundaries between the adjoining units and their dimensions and identifying numbers provided that the adjoining unit owners pay a reasonable fee for the expense incurred in preparing and recording said plats.

**Section 9.5. OBSTRUCTIONS AND APPEARANCE.** There shall be no obstructions of any portions of the common elements nor any storage in the common elements, other than in the

interior of any exterior storage locker attached to such unit, without prior written consent of the Board of Managers. No door mats, clothes, laundry, or other articles shall be hung or exposed in any portion of the common elements or on or about the exterior of the buildings or out of any windows, that particular site and type of equipment used for hanging to have the prior approval of the Board of Managers and to be subject to such rules and regulations as may from time to time be promulgated by them. All draperies on windows overlooking the Lake of the Ozarks and the road shall have white linings which conform to specifications of the Board of Managers.

**Section 9.6. MAINTENANCE OF CONDOMINIUM UNITS AND RESTRICTED COMMON ELEMENTS.** Each owner shall maintain and keep his (their) condominium unit in good order and repair and shall do nothing which will increase the rate of insurance on the building in which his (their) condominium unit is situated or which would be in the violation of law. The exterior of front and rear doors to the condominium unit, as well as the limited common elements provided hereinabove for the use of the owner of such particular condominium unit, shall, be maintained, repaired and decorated by the Board of Managers, any such maintenance, repair or redecoration by whomsoever done to be part of the common expenses, unless any such repair, redecoration or maintenance resulted from the neglect, abuse or misuse by the users of a particular unit or units, in which case such repair, maintenance and redecoration to be at the sole cost and expense of the owner(s) of the particular condominium unit(s), the same to be by special assessment against said condominium unit(s) and the owner(s) thereof.

**Section 9.7. SIGNS.** No signs or exterior lights shall be displayed on the windows or placed on the exterior walls or surfaces of any building on the property nor on any of the common elements, and nothing shall be placed or kept on the outer sill or on the outside of any window and nothing shall be thrown or swept out of any window, door or from any porch or balcony, and no awnings, canopies, shutters or radio or television antennas shall be affixed to or placed upon any exterior wall or roof or upon any portion of the common elements, without the prior written consent of the Board of Managers, except that signs may be placed by Developers, their heirs, successors and assigns, adjacent to or on premises held by them.

**Section 9.8. ANIMALS.** No animals, reptiles, birds, rabbits, livestock, fowl or poultry of any kind shall be kept, raised or bred in any portion of the property, except that one dog, cat, bird or other household animal may be kept as a pet in the condominium unit. There shall be no structure maintained for any such animal outside the condominium unit at any time.

- a. The pet shall not be allowed out of the owner's unit unless it is in the custody of a responsible person and on a leash.
- b. The pet shall not be curbed on shrubbery, flowers or small trees and the owner will pick up the pet's waste.
- c. The owner will be responsible and will pay for any damage or destruction caused by the pet to any part of the property, such responsibility and liability of the owner

to include the repair of damaged items to their former condition and/or replacement where necessary, in the sole opinion of the Board of Managers.

d. The owner agrees to put the pet out for board or otherwise remove the pet from the unit, if the pet is or becomes a nuisance or annoyance or interferes with the rights or enjoyment of other unit owners or because of any noises or smells emanating from the pet, or damage by the pet, or if the Board of Managers subsequently revoke this consent.

e. The owner acknowledges and agrees that the Board of Managers may revoke this consent and/or amend and change this section pertaining to animals without prior notice to unit owners and at any time, and unit owners shall abide by such amendments or changes.

**Section 9.9. NUISANCES.** No noxious or offensive activity shall be carried on in any condominium unit or in the common elements nor shall anything be done which will become an annoyance or nuisance to the other owners or occupants. The common elements shall be kept free and clear of rubbish, debris, and other unsightly materials. Except in areas as may be designated by the Board of Managers, there shall be no parking of vehicles of any kind, nor shall any benches, chairs, wagons, toys, bicycles or playpens be placed or stored on any of the common elements, except that balconies, patios, porches and terraces may be used for their intended purposes without the violation of any portion of the restrictions in this Section 9.9 contained. No water beds will be allowed except on ground floors.

**Section 9.10. BUSINESS USE.** No business, trade, occupation or profession of any kind shall be conducted, maintained or permitted on any part of the property nor, without written authorization of the Board of Managers, shall any "For Sale" or "For Rent" signs be displayed by any person, firm or corporation other than the Developers, their successors and assigns, or any bank, savings and loan association or insurance company who as the holder of a deed of trust against any condominium unit acquired ownership thereof through foreclosure (or by deed in lieu of foreclosure), or the agent of any of them. Nothing in this Section 9.10 is intended to restrict the right of any condominium unit owner to rent or lease his (their) condominium unit from time to time or to engage any person, firm or corporation to rent or lease said unit and provide maid and janitorial services therefore, but all the express restrictions herein contained as to the use of displays and signs shall nonetheless be and remain in full force and effect and prohibit such activity in connection with any rental or lease or attempts to rent or lease. Developers, their heirs, successors or assigns, may however, conduct a business upon any part of the property owned by or reserved to them.

**Section 9.11. CHANGE OF COMMON ELEMENTS.** Nothing shall be altered or constructed in or removed from any of the common elements except upon the written consent of the Board of Managers.

**ARTICLE X  
UNIT OWNERS ASSOCIATION**

The Condominium shall be administered by a Unit Owners Association which shall be organized as a not for profit corporation and shall be known as the Koala Bear Condominium Owner's Association, Inc. and shall be hereafter called "Association".

**Section 10.1. POWERS OF ASSOCIATION.** Except as otherwise set forth herein the Association may:

- (a) adopt and amend by-laws and rules and regulations;
- (b) adopt and amend budgets for revenue, expenditures, and reserves and collect expenses for common expenses from unit owners;
- (c) hire and terminate managing agents and other employees, agents and independent contractors;
- (d) institute, defend or intervene in litigation or administrative proceedings in its own name, on behalf of itself or two or more unit owners on matters affecting the condominium;
- (e) make contracts and incur liabilities;
- (f) regulate the use, maintenance, repair, replacement and modification of common elements;
- (g) cause additional improvements to be made as a part of the common elements;
- (h) acquire, hold, encumber and convey in its own name, any right, title or interest to real or personal property; provided, that common elements may be conveyed or subjected to a security interest only pursuant to Section 448.3-112 RSMo.;
- (i) grant easements, licenses, leases and concessions through or over the common elements;
- (j) impose and receive any payments, fees or charges for the use, rental or operation of the common elements other than limited common elements described in subsections (2) and (4) of Section 448.2-102 RSMo. and services provided to unit owners;

(k) impose charges for late payment of assessments and, after notice and opportunity to be heard, levy reasonable fines for violations of the Declaration, By-Laws, and rules and regulations of the association;

(l) impose reasonable charges for the preparation and recordation of amendments to the Declaration, resale certificates required by Section 448.4-109 RSMo. or statements of unpaid assessments;

(m) provide for the indemnification of its officers and executive board and maintain directors and officers liability insurance;

(n) assign its rights to future income, including the right to receive common expense assessments, but only to the extent expressly provided in the Declaration;

(o) exercise any other power conferred by the Declaration or By-Laws;

(p) exercise all other powers that may be exercised in this State by legal entities of the same type as the association; and

(q) exercise any other powers necessary and proper for the governance and operation of the association.

**Section 10.2. EXECUTIVE BOARD.** Immediately upon the creation of the Koala Bear Condominium Owner's Association, Inc., Declarant shall designate three persons to serve as the Executive Board which may act in all instances on behalf of the association except as otherwise provided herein and except as provided in Sections 448.1-101 to 448.4-120 RSMo. Until such time as set forth hereafter, the Declarant shall have the authority to appoint and remove members of the Executive Board. This authority shall terminate no later than the earlier of (1) sixty days after conveyance of 75% of the units created to unit owners other than a declarant; (2) two years after declarant has ceased to offer units for sale in the ordinary course of business; or (3) two years after any development right to add new units was last exercised. Not later than the termination of any period of Declarant control, the unit owners shall elect an Executive Board of at least three members, at least a majority of whom shall be unit owners. The Executive Board shall elect officers. The Executive Board members and officers shall take office upon election.

As soon as is feasible, at such time as the elected members of the executive board are chosen, their term shall be three years except the first time a membership of the Executive Board is filled by vote of the unit owners, the terms shall be staggered so that one member of the executive board is chosen at each annual meeting.

**Section 10.3. OFFICERS.** The officers of the association shall consist of a President, Treasurer and Secretary, each of who shall be elected by the Executive Board to serve for one year

each or until such time as a successor is duly elected by the Executive Board and takes office. The President shall preside over all meetings of the association. The Secretary shall keep minutes of all meetings of the association and, in general, perform all duties incident to the office of Secretary. The Treasurer shall keep all financial records and books of account of the association and shall prepare at least annually financial statements which shall be available to the members of the association. In addition, the President and Secretary are authorized, to prepare, execute, certify and record amendments to the Declaration on behalf of the Association.

**Section 10.4. ASSOCIATION MEETING.** The annual meeting of the Association shall be held on the Saturday prior to the observed Memorial Day in each year. Special meetings of the association may be called by the President or by 25% of either the Executive Board or the Unit Owners. Not less than 20 nor more than 60 days in advance of any meeting, regular or special, the Secretary shall cause notice to be hand delivered or sent prepaid by United States Mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner. The notice of any meeting shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or By-Laws, any budget changes and any proposal to remove a director or officer.

**Section 10.5. MEETING QUORUM.**

(a) A quorum is deemed present throughout any meeting of the association of persons entitled to cast 50% of the votes which may be cast for election of the Executive Board are present in person or by proxy at the beginning of the meeting.

(b) A quorum is deemed present throughout any meeting of the Executive Board if persons entitled to cast 50% of the votes on that Board are present at the beginning of the meeting.

**Section 10.6. ACTION BY EXECUTIVE BOARD.** Any action taken by the Executive Board shall be binding upon the unit owners so long as that action is authorized by their By-Laws or the Condominium Law of Missouri.

**Section 10.7. REMOVAL OF MEMBER OF EXECUTIVE BOARD.** Any member of the Executive Board may be removed by an affirmative vote of two-thirds (2/3) majority vote of all persons present and entitled to vote at any meeting of the unit owners at which a quorum is present; provided, however, that during any period of Declarant control, no executive board member appointed by Declarant may be removed under this section.

**Section 10.8. GENERAL POWERS OF THE EXECUTIVE BOARD.** The Executive Board shall have the following powers, duties, rights and privileges, the exercise of which shall be paid for out of the general maintenance fund hereinafter provided as follows:

(a) To estimate the cost of the expenses of administration, maintenance and repair of the common elements and of all exterior portions of the improvements and property,

and after determining the amount required annually for such purposes to determine the manner in which such amount shall be collected and paid to the general maintenance fund to be held, managed and administered by the Board.

(b) To provide water, water sewage, waste removal and treatment, gas, electricity and telephone, and other necessary utility services for the common elements and facilities.

(c) To obtain insurance for the property against loss or damage by fire and other hazards as are covered under standard extended coverage provisions for the full insurable replacement cost of common elements (including the personal property therein and thereon owned by the condominium) and the condominium units. The insurer shall acknowledge on the policy or policies it issues to the Board that the insurance issued there under insures the condominium units and the common elements for their full insurable replacement value. Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Board of Managers, as Trustee for each of the condominium unit owners and their respective mortgages as their interests may appear, in the percentages established in this Declaration. Premiums for the insurance shall be common expenses. The amount of such insurance coverage shall be reviewed at each annual meeting of the condominium unit owners and shall be in an amount sufficient to cover the cost of reconstruction as determined by the vote of a majority of the condominium unit owners through their voting owners.

(d) To obtain a policy or policies of insurance, insuring members of the Board, their agents, servants, representatives, employees, and the owners of the condominium units, against any liability to the public or to the owners, their invitees, tenants and any other persons who may be on the condominium property for any reason whatever, in the use of any common elements, the liability under which insurance shall not be less than \$100,000.00 for any one person injured, \$300,000.00 for any one accident and \$50,000.00 for property damage, the amount of which limitation shall be reviewed at least annually by the Board who may raise the same at their discretion. The Board is further authorized to purchase policies of workmen's compensation insurance to the extent necessary to comply with Missouri law. Premiums for all such insurance policies shall be common expenses to be paid from the general maintenance fund.

(e) To furnish upon request of any condominium unit owner and payment of a reasonable fee therefore, a statement of the owner's account setting forth the amount of any unpaid assessments, whether general or special, or other charges; to keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the common elements, specifying and itemizing the maintenance and repair expenses of the common elements and any other expenses incurred, whether general or special, and to make such records available for examination by the

condominium unit owners at all reasonable times.

(f) In the event the Declarant wishes to relinquish the special Declarant right to maintain management offices for the purpose of managing said condominium as is provided for herein in Section 8.3 of Article VIII, and from time to time as they may determine, to select a manager or managing agent for the purposes designated in Section 10.9 herein and to agree upon the compensation to be paid to such manager or managing agent, if any, the amount thereof to be added to and be a part of the common expenses and paid out of the general maintenance fund and that the choice of selecting said manager or managing agent, shall not be limited and the Board may in its discretion select as the manager or managing agent, the developer's successors, assigns or any of its or their affiliates, or any condominium owner or owners.

(g) To retain and from time to time to contract for the services of attorneys and accountants.

(h) To discharge any mechanic's lien or encumbrance levied against the entire property or any part thereof which may in the opinion of the Board constitute a lien against the property or against the common elements, rather than merely against the interest therein of the particular condominium unit owners. Where one or more condominium unit owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Board by reason of said lien or liens shall be specially assessed against said unit owners and their respective unit and share.

(i) To provide a manner for estimating the amount of the annual budget and the manner of assessing and collecting from the condominium unit owners their respective shares of the estimated expenses and of all other expenses lawfully agreed upon by a majority of the voting owners at any meeting of the unit owners called and conducted as provided in Article XII herein below.

(j) To establish, grant and dedicate easements for public, quasi-public and private utilities in addition to any shown on the plat, in, over and through any of the common elements and to construct and maintain any utility service where the same is not otherwise readily available to the property or the condominium unit owners. Any such utility service carried on and supplied by the Board under the terms hereof may, in the Board's discretion, be charged (on a uniform basis) to each particular condominium unit consuming the same where separately metered, to be treated in such case as a special assessment against such unit, otherwise such service to be paid from out of the general maintenance fund.

(k) To contract with others for the use of recreational facilities for the benefit of unit owners.

(l) To extend the use of any pool(s), sewer system(s) and laundry room facilities to the owners of other property owned by the Developer.

**Section 10.9. GENERAL POWERS OF THE MANAGER OR MANAGING AGENT.** The manager or managing agent shall have the following powers, duties, rights and privileges, subject to the provisions hereof, the exercise of which shall be treated as common expenses and paid out of the general maintenance fund and which are hereinafter provided for as follows:

(a) To designate, hire, employ and remove personnel necessary for the maintenance, repair and replacement of the common elements.

(b) To provide for landscaping, gardening, snow removal, painting, cleaning, tuck pointing, maintenance, decorating, repairing, replacement of the common elements and such furnishings and equipment for the common elements as the Board of Managers shall determine are necessary and proper, and the manager or managing agent shall have the exclusive right and duty to acquire any such furnishings and equipment for the common elements as the Board of Managers shall determine are necessary and proper.

(c) To purchase or otherwise acquire, or provide for the furnishing of, any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance or assessments which are required to be secured or paid for pursuant to the terms of this Declaration or By-Laws, or which in the opinion of the manager or managing agent shall be necessary or proper for the maintenance and operation of the property as a first class condominium development or for the enforcement of the restrictions stated herein in this Condominium Declaration.

(d) To maintain and repair any unit if such maintenance or repair is necessary, as determined by the manager or managing agent in the event that the owner of such condominium unit has failed or refused to perform said maintenance or repair within a reasonable time, under the circumstances, after written notice (signed by a member of the Board or by the manager or managing agent) of the necessity of such maintenance or repair has been either personally delivered by any member of the board or manager or managing agent (or their agents, servants, representatives or employees) or deposited in the mail by the board or manager or managing agent (or their agents, servants, representatives or employees) to the address given by such condominium unit owner as the address to which such owner has heretofore designated as his (their) mailing address; and the board or manager or managing agent shall levy a special assessment against such unit owner for the cost of said maintenance or repair; and the board or manager or managing agent shall have the right to enter any unit in the event of an emergency, as determined by the board or

manager or managing agent. The unit owner shall at all times keep his condominium unit in good order and repair.

(e) To authorize entry into any condominium unit or on any restricted common element when necessary in connection with the maintenance or construction for which the manager or managing agent is responsible or at any other time that the manager or managing agent feels that it is in the best interest of the development to enter a unit to see that these restrictions and any regulations or rules set by the Board of Managers are being complied with. Such entry into the condominium unit itself or restricted common elements appurtenant to said unit shall be made with as little inconvenience to the condominium unit owner as practicable and any damage caused thereby shall be repaired by the manager or managing agent at the expense of the general maintenance fund.

(f) To establish such restrictions on and requirements respecting the use and maintenance of condominium units and the use of the common elements to prevent unreasonable interference with the use of the respective condominium units and of the common elements by the several unit owners; to establish administrative rules and regulations governing the operations and use of the common elements; provided however, that the adoption of any such rules and regulations must have the consent of the majority of the voting owners.

(g) To see that the furnishings and other features of each unit be at all times in a disposition so as to insure that they shall be maintained at a minimum temperature of 50 degrees F.

(h) To retain and from time to time to contract for the services of attorneys and accountants in connection with the managerial duties stated herein.

(i) To enter into a contract with a property manager to be the exclusive rental management agent for Owners who desire to rent their units to third parties. No such contract shall prohibit an Owner from renting his unit on his own behalf without the involvement of the exclusive rental management agent.

#### **Section 10.10. Relinquishment of declarant rights.**

(a) In the event that the declarant wishes to relinquish any or all of the "special declarant rights" reserved for managing and maintaining management offices for the purposes designated in Article VIII hereof, each and any or all of the special declarant rights that the declarant wishes to relinquish shall become under and part of the general powers of the executive board who shall then govern the powers, duties, rights and privileges contained in each and any or all of the relinquished "special declarant rights".

(b) Compensation to declarant manager. Compensation, if any, to be paid to the declarant manager or declarant managing agent or its successors or assigns shall be left to the discretion of the declarant manager or the declarant managing agent or their successors and assigns, however, in no event shall said compensation be made for any purpose other than payment for administrative services and overhead provided and said payment shall not exceed 15% of the cost of the carrying out of the services and activities to be provided for by said manager, managing agent or their successors and assigns as are provided for herein in Article VIII and in the event that the manager, managing agent or their successors and assigns should relinquish any or all of the said "special declarant rights" reserved herein as is provided for herein in Article VIII, then from time to time as they may determine the executive board shall, in exercising their discretion, agree upon the compensation, if any, to be paid to any such person or manager or managing agent for performing these services, however, in no event shall said compensation be made for any purpose other than for administrative services.

#### **Section 10.11. ACQUISITION OF INSURANCE.**

(a) Commencing not later than the time of the first conveyance of a Unit to a Person other than Developer, the Association shall purchase and maintain to the extent reasonably available, property insurance on the Common Elements and on all fixtures, installations or additions comprising part of the Buildings within the unfinished interior surface of the perimeter walls, floors and ceilings of the individual Condominium Units initially installed, or replacements thereof, in accordance with the original Condominium plans and specifications, insuring against all risks of direct physical loss, issued by responsible insurance companies authorized to do business in the State of Missouri. The total amount of such insurance after application of any deductibles shall be not less than eighty percent (80%) of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies.

(b) Commencing not later than the time of the first conveyance of a Unit to a Person other than Developer, the Association shall purchase and maintain liability insurance, in an amount determined by the Executive Board, but in no event less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00), covering all occurrences commonly insured against by similar condominiums, for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements.

(c) The Association may carry such other insurance as deemed appropriate by the Executive Board to protect the Association or the Unit Owners.

(d) Each Unit Owner may obtain additional insurance at his own expense for his own benefit, provided that all such policies shall contain waivers of subrogation and provided, further, that the liability of the carriers issuing insurance to the Association shall not be affected or diminished by reason of any such insurance carried by any Unit Owner. Insurance coverage on the furnishings and other items of personal property belonging to a Unit Owner and casualty and public

liability insurance coverage pertaining to losses within each individual Unit shall be the responsibility of the Unit Owner thereof.

(e) Insurance policies carried pursuant to subparagraphs (a) and (b) hereinabove shall provide that each Unit Owner is an insured person under the policy with respect to liability arising out of his interest in the Common Elements or membership in the Association; that the insurer waives its rights to subrogation under the policy against any Unit Owner or members of his household; that no act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and that if, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

(f) Any loss covered by the insurance described in subparagraph (a) hereinabove shall be adjusted with the Association, and insurance proceeds for that loss shall be payable to the Association (as trustee for Unit Owners and lienholders as their interests may appear), and not directly to any mortgagee or beneficiary under any deed of trust. Subject to the provisions of subparagraphs (h) and (i) herein below, the proceeds shall be disbursed first for the repair or restoration of the damaged property, and Unit owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the Condominium is terminated.

(g) An insurer that has issued an insurance policy under this paragraph shall issue certificates or memoranda of insurance to the Association and, upon written request, to any Unit Owner, mortgagee, or beneficiary under a deed of trust. No insurer issuing the policy may cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Unit Owner and each mortgagee or beneficiary under a deed of trust to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses.

(h) Any portion of the Condominium for which insurance is required under this section which is damaged or destroyed shall be repaired or replaced promptly by the Association unless the Condominium is terminated, or repair or replacement would be illegal under any state or local health or safety statute or ordinance, or eighty percent (80%) of the Unit Owners, which 80% must include the unanimous agreement of each Owner of a Unit or assigned Limited Common Element which will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. In the event of destruction of any Building, no replacement Building may be constructed or erected without prior written approval from the Executive Board of the Association of the plans and specifications for the Building proposed to be constructed or erected. If the entire Condominium is not repaired or replaced, (i) the insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium, (ii) the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt shall be distributed to the

Owners of those Units and to the Owners of the Units to which those Limited Common Elements were allocated, (iii) and the remainder of the proceeds shall be distributed to all the Unit Owners or lienholders, as their interest may appear, in proportion to the Common Element interest of all Units. If the Unit Owners vote not to rebuild any Unit, that Unit's Allocated Interests are automatically reallocated upon the vote as if the Unit had been condemned under subsection 1 of Section 448.1-107 of the Act, and the Association shall promptly prepare, execute, and record an amendment to the Declaration reflecting the reallocations.

(i) Notwithstanding any of the provisions contained in subparagraph (h) hereinabove, the distribution of insurance proceeds shall be governed by Section 448.1-118 of the Act if the Condominium is terminated.

## **ARTICLE XI ASSESSMENTS**

### **Section 11.1. COMMON EXPENSE ASSESSMENT.**

(a) All Owners shall be obligated to pay the assessments, either estimated or actual, imposed by the Executive Board to meet the Common Expenses of the Condominium and the Association Facilities. The assessments for the Condominium shall be made according to each Owner's percentage or fractional interest in and to the Common Elements, and payment shall be made quarterly, in advance, on the first day of January, April, July and October of each calendar year, or more frequently as may be determined by the Executive Board. The Executive Board shall prepare and deliver or mail to each Owner a statement for the estimated or actual Common Expenses.

(b) Assessments shall commence upon the conveyance of the first Unit to a Person other than Developer, and Developer shall pay all Common Expenses until that time in the manner set forth in herein. In the event the ownership of a Condominium Unit, title to which is derived from Developer, commences on a day other than the first day of the assessment period, the assessment for that period shall be pro-rated.

(c) The assessment made shall be based upon the cash requirements of the Association, deemed to be such aggregate sum as the Managing Agent or the Executive Board shall from time to time determine is to be paid by all of the Unit Owners of this Condominium to provide for the payment of all estimated expenses growing out of or connected with the maintenance, repair, operation, additions, alterations and improvements of and to the Common Elements of the Condominium and the Association Facilities, which sum may include, but shall not be limited to, expenses of management, taxes and special assessments unless separately assessed, insurance premiums, landscaping and care of grounds, common lighting and heating, repairs and renovations, trash and garbage collections, wages, common water and sewer charges, legal and accounting fees,

management and rental fees, expenses and liabilities incurred by the Executive Board on behalf of the Unit Owners under or by reason of this Declaration and the bylaws of the Association, for any deficit remaining from a previous period, the creation of a reasonable contingency, reserve, working capital and sinking funds, as well as other costs and expenses relating to the Common Elements. The omission or failure of the Executive Board to fix the assessment for any period shall not be deemed a waiver, modification or release of the owners from their obligation to pay the same. The Executive Board may require each Unit Owner to deposit and maintain, with the Executive Board, an amount not to exceed a twelve month's estimated assessment for use as working capital.

(d) Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element shall be assessed against the Units to which that Limited Common Element is assigned. Any Common Expense, or portion thereof, benefiting fewer than all of the Units shall be assessed exclusively against the Units benefited. Assessments to pay a judgment against the Association shall be made only against the Units in the Condominium at the time the judgment was entered, in proportion to their Common Expense liabilities.

(e) Any surplus funds of the Association remaining after provision for Common Expenses and any prepayment of reserves shall be retained by the Association, to be applied to future Common Expenses.

#### **Section 11.2. LIABILITY FOR COMMON EXPENSE UPON TRANSFER OF CONDOMINIUM UNIT.**

Upon payment to the Managing Agent or to the Executive Board of a reasonable fee, not to exceed TWENTY FIVE AND NO/100 DOLLARS (\$25.00), and upon the written request of any Owner or prospective mortgagee of a Unit, the Managing Agent, or the Executive Board, shall issue a written statement setting forth the amount of unpaid Common Expenses, if any, with respect to the subject Unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for any advanced payments of common assessments for prepaid items, such as insurance premiums, but not including accumulated amounts for reserves or sinking funds, if any, which statement shall be conclusive upon the Association, the Executive Board, and every Unit Owner, in favor of all persons who rely thereon in good faith. Unless such request for a statement of indebtedness shall be complied with within ten (10) days, all unpaid Common Expenses which became due prior to the date of making such request shall be subordinate to the rights of the person requesting such statement. The grantee of a Condominium Unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for the unpaid common assessments up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore; provided, however, that any such prospective grantee shall be entitled to request a statement as set forth hereinabove, upon payment of the same fee. Unless a request for such statement shall be complied with within thirty (30) days after request, then such requesting grantee shall not be liable for, nor shall the Unit be conveyed subject to a lien for any unpaid assessments against the subject Unit.

**Section 11.3. LIMITED COMMON ELEMENTS.** The foregoing notwithstanding, any common expense associated with a maintenance repair or replacement of a limited common element shall be assessed against the units to which that limited common element is assigned equally. Any common expense or portion thereof benefiting fewer than all of the units shall be assessed exclusively against the units benefited.

**Section 11.4. ASSESSMENTS TO PAY JUDGMENT AGAINST THE ASSOCIATION.** Any assessments to pay Judgment against the association shall be made only against the units in the condominium at the time the Judgment was entered, proportioned to their common expense liabilities.

**Section 11.5. COMMON EXPENSE CAUSED BY MISCONDUCT OF UNIT OWNER.** If any common expense is caused by the misconduct of any unit owner, the association may assess that expense exclusively against his unit.

**Section 11.6. NECESSARY AND UNEXPECTED EXPENDITURES AND REPLACEMENTS.** Extraordinary or unexpected expenditures and replacements not originally included in the annual estimate which may become necessary during the assessment year, shall be charged first against any reserves, but if any estimated cash requirement assessed as provided proves inadequate for any reason, including non-payment by any condominium unit owner of his share of the assessment authorized by this Declaration, the Board shall serve notice of such further assessment on all condominium unit owners by a statement in writing giving the amounts and reasons therefore, and such further assessment shall become effective with the proportionate assessment payment next following the mailing of such notice of such further assessment. All condominium unit owners shall be obligated to pay the amount as so adjusted by the board hereunder.

**Section 11.7. ASSOCIATION'S LIEN FOR ASSESSMENT.** The association has a lien on any unit for any assessment or special assessment levied against that unit or fines imposed against its unit owner from the time the assessment or special assessment or fine becomes due. The association's lien may be enforced in like manner as a mortgage on real estate or a power of sale under Chapter 443 RSMo and the Association may designate a trustee to prosecute the foreclosure. Fees, charges, late charges, fines and interest charge pursuant to subdivisions (10), (11), and (12), of subsection 1 of Section 448.3-102 RSMo, are enforceable as assessments under this section.

**Section 11.8. PERSONAL LIABILITY FOR ASSESSMENTS.** No unit owner may waive or otherwise escape personal liability for the assessments or common expenses and special assessments provided for herein by non-use of the common elements or abandonment of his condominium unit; and in addition to the right and authority hereinabove of the Board of Managers to foreclose on any such lien for unpaid assessments, as aforesaid, the Board of Managers, in their individual names as members of the Board, and for and on behalf of the other condominium unit owners, and as their representatives, may bring legal action for and on behalf of themselves and as representatives of all the unit owners, to effect collection thereof, and in this event, there shall be

added to the amount due all costs of such litigation, together with interest at the maximum legal rate, not to exceed eleven (11%) percent per annum, and reasonable attorneys' fees.

**Section 11.9. OTHER REMEDIES.** In addition to any other remedies herein conferred or conferred by law when a condominium unit owner is delinquent in the payment of any assessment, the Board may terminate with or without notice, any services to the condominium unit without waiving any right to proceed with any other remedy.

## **ARTICLE XII VOTING AND MEETINGS**

**Section 12.1. VOTING RIGHTS.** If only one of the multiple owners of a unit is present at a meeting of the association, he is entitled to cast all votes allocated to that unit. If more than one of the multiple owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the multiple owners. There is a majority agreement if any one of the multiple owners casts the votes allocated to that unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the unit.

**Section 12.2. VOTING BY PROXY.** Votes allocated to a Unit may be cast pursuant to a proxy duly executed by a unit owner. If a unit is owned by more than one person, each owner of the unit may vote or register a protest to the casting of votes by the other members of the unit through a duly executed proxy. No unit owner may revoke a proxy given pursuant to a section except by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates one year after its date unless it specifies a shorter term.

**Section 12.3. VOTES.** The value of the total number of votes of all unit owners shall be 100. The value of the voting owners vote as to any particular condominium unit he or she represents shall be the percentage of ownership interest in the common elements allocated to such condominium unit as provided in **Exhibit C** attached hereto and incorporated herein by reference the same as if more fully set out herein and as may be from time to time reallocated as provided by law.

**Section 12.4. VOTING RIGHTS - DEVELOPER CONTROL.** Subject to the provisions of §408.3-103 RSMo, Developer reserves to itself or its designee the right to appoint or to remove the Officers and members of the Executive Board. Notwithstanding this reservation, however, not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units which may be created to Unit Owners other than Developer, at least one (1) member and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by Unit Owners other than the Developer. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that may be created to Unit Owners other than Developer, not less than thirty-

three and one-third percent (33 1/3%) of the members of the Executive Board shall be elected by Unit Owners other than Developer.

### **ARTICLE XIII SALE, LEASING AND OTHER ALIENATION**

**Section 13.1. SALE OR LEASE.** Other than Developers, their heirs, successors and assigns, and other than any bank, savings and loan association or insurance company which as purchase money mortgagee, acquires a condominium unit by foreclosure or by deed in lieu of foreclosure, any condominium unit owner who wishes to sell or lease (for a period of more than one (1) year) his or their condominium unit (or the lessee of any condominium unit wishing to assign or sublease such unit for such period) to any person not related by blood or marriage to the condominium unit owner or owners, shall give to the Board not less than thirty (30) days prior written notice of the detailed terms of and contemplated sale or lease, together with the name and address of the proposed purchaser, lessee or sublessee. The Board in behalf of those condominium unit owners through their voting owners voting in person or by proxy in favor of said exercise at a regular or special meeting of the unit owners only called in conformity with the provisions of this Declaration and By-Laws, shall after receipt of such notice of proposed sale, lease or sublease, at all times have the first right and option to purchase or lease such unit interest upon the same terms and conditions, which option shall be exercisable for a period of thirty (30) days following the date of receipt of such notice. If said option is not exercised by the Board within said thirty (30) day period, the unit owner (or lessee) may, at the expiration of said thirty (30) day period, contract to sell or lease (or sublease or assign) such unit interest to the proposed purchaser or lessee named in such notice upon the terms and conditions specified therein. The sale, lease or other disposition of any unit acquired by the Board pursuant to exercise of this first right and option to purchase or lease shall be in accordance with such terms and provisions as the Board of Managers shall in each instance approve. All leases or subleases for a period or periods of less than one year shall be pursuant to rental programs available through the Board of Managers. The Board of Managers or their agent shall be notified at any time a unit is occupied by other than the owner.

**Section 13.2. GIFTS.** Other than Developers, their heirs, successors and assigns, and other than any qualified lender who as purchase money mortgagee acquires a unit by foreclosure or by deed in lieu of foreclosure, should any condominium unit owner propose to make a gift of such condominium unit or should a condominium owner die or devise the ownership of the condominium unit or any interest therein to persons not heirs at law of the deceased under the laws of descent of the State of Missouri, or should the personal representative of the deceased owner propose to sell either under power of sale in the will of the deceased unit owner or under order of sale by court the Board in behalf of those condominium unit owners voting through their voting owners in person or by proxy in favor of said exercise, shall have the right and option to purchase the condominium unit or the interest therein, it being the duty of the person or persons proposing to make any such gift or sale to notify the Board thereof in writing, giving all particulars of such gift or sale. Within forty-five (45) days after receiving such notice, the Board acting in behalf of the unit

owners who through their voting owners have indicated their desire that the Board would pursue the matter, on the one hand, and the donor-owner or the unit owner's devisees or legal representative(s), as the case may be, on the other hand, shall each appoint an appraiser who is either a member of the American Institute of Appraisers or is qualified to be a member thereof. Within ten (10) days thereafter the appraisers so appointed shall appoint a third appraiser who is also either a member of the American Institute of Appraisers or qualified to be a member thereof, and within fifteen (15) days after such appointment of the third appraiser, the three appraisers shall determine the fair market value of the property involved. The decision of any two of the three appraisers shall be binding on all parties whomsoever, and the Board, in behalf of those condominium unit owners who through their voting owners vote in favor of such exercise at any regular or special meeting duly called in conformity with the provisions of this Declaration and By-Laws within twenty-five (25) days after receipt of the majority of the appraisers determination of the market value, shall have a sixty (60) day option after receipt of such appraisal to purchase the property involved at such appraisal price; and the sale, lease or other disposition of any such condominium unit acquired by the Board pursuant to the exercise of its right and option herein to purchase shall be in accordance with such terms and provisions as the Board shall in each instance approve, the approval of any voting owners not being required.

**Section 13.3. INVOLUNTARY SALE.** Should any condominium unit or interest therein be sold at any judicial or execution sale, other than at a foreclosure sale under a purchase money deed of trust securing any note or notes held by a qualified lender, the person acquiring through such sale, before taking possession, shall give the Board thirty-five (35) days prior written notice. In this event, the Board shall in behalf of those condominium unit owners who through their voting owners vote in favor of the exercise at any regular or special meeting of the unit owner duly called under the provisions of this Declaration within twenty (20) days after the receipt of such notice of sale, shall have the option to purchase the condominium unit at the price for which it was sold at such sale. If said option is not exercised by the Board within thirty-five (35) days after receipt of such notice, it shall thereupon expire and said purchaser may thereafter take possession of said condominium unit. The Board shall be deemed to have exercised its option if it tenders the required sum of money to the purchaser within said thirty-five (35) day period.

In the event any condominium unit owner or owners shall default in the payment of any monies required to be paid under the provisions of any mortgage or deed of trust against his condominium unit ownership, the Board shall have the right to cure such default by paying out of the general maintenance fund the amount so owing to the party entitled thereto, and shall thereupon have a lien therefore against such unit ownership, which lien shall have the same force and effect and may be enforced in the same manner as provided in Section 11.7 of Article XI hereinabove.

**Section 13.4. RELEASE AND WAIVER OF OPTION.** Upon the written consent of all the members of the Board, any of the options contained in this Article XIII may be released or waived without notice to or consent of the unit owners, and the unit ownership or interest therein which is subject to any option set forth in this Article XIII may be sold, conveyed, leased, given or devised free and clear of the provisions of this Article as to such particular sale, conveyance, lease,

devise or transfer (whether the same be voluntary, involuntary or sale under order of court, or otherwise); provided however, that any subsequent sale, conveyance, lease, devise or transfer shall be subject to all the rights and options herein in this Article XIII contained.

**Section 13.5. CERTIFICATE OF EXERCISE OF WAIVER.** A certificate executed and acknowledged by the acting Secretary of the Board stating that the provisions of this Article XIII as hereinabove set forth as to any sale, conveyance, lease, devise or transfer have been met by the condominium unit owner or duly waived by all the members by the Board, and that the rights of the Board and any other unit owners hereunder have as to such particular sale, conveyance, lease, devise or transfer terminated, shall be conclusive upon the Board and the condominium unit owners in favor of all persons who rely thereon in good faith; and such certificate shall be furnished to any unit owner who has in fact complied with the provisions of this Article or in respect to the provisions of this Article have been waived, upon request at a reasonable fee, not to exceed Ten (\$10.00) Dollars.

**Section 13.6. FUNDING ACQUISITIONS.** Except upon unanimous approval of all of the voting owners in person or by proxy in any such duly called special or regular meeting, the funds with which to pay the cost of any such appraisal and to purchase any unit ownership or interest therein or the leased rights therein shall not come out of the general maintenance fund nor be considered a common expense of the condominium, but shall be paid by those condominium unit owners whose voting owners vote for the exercise of such right by the Board, in the same percentage as their respective percentage interest as set forth in Section 3.1 of Article III herein, bears to the total percentage of all owners voting in the affirmative for such appraisal or exercise, as the case may be. Provided, however, whenever the voting owners attending, in person or by proxy, any duly called special or general meeting unanimously approved by the Board's exercise of any option hereunder, acquisition of such condominium unit ownership or any interest therein under the provisions of this Article shall be made from the general maintenance fund, and in the event such fund be insufficient, the Board shall levy an assessment against each condominium unit owner in proportion to his (their) ownership in the common elements, which assessment shall become a lien and be enforceable in the same manner as provided in Section 11.7 of Article XI hereinabove. The Board, in its discretion, may borrow money to finance the acquisition of any condominium unit so authorized by such unanimous consent of the voting owners attending such meeting in person or by proxy; provided, however, that no financing may be secured by an encumbrance or hypothecation of any portion of the property other than the condominium unit ownership or interest therein so to be acquired.

**Section 13.7. TITLE TO INTEREST ACQUIRED UNDER EXERCISE OF OPTION; DISTRIBUTION OF PROCEEDS FROM DISPOSITION.** Condominium ownerships or interests therein acquired pursuant to the terms of this Article XIII shall be sold of record in the name of the Board of Managers, in their capacity as such, or such nominee as they shall designate, for the benefit of all the unit owners if such acquisition was made by unanimous consent of the voting owners attending (in person or by proxy) such duly called general or special meeting, or for the benefit of the unit owners in behalf of whom the Board is making acquisition as above provided, as the case may be. Said condominium unit ownerships or interests therein shall

be resold or leased by the Board for the benefit of the unit owners contributing to such acquisition as in Section 13.6 hereinabove provided; and the proceeds of any such sale or lease shall, where any such exercise is with such unanimous consent of the voting owners, be deposited in the general maintenance fund and may thereafter be disbursed at such time, and in such manner as the Board may determine, or if such exercise was by less than unanimous consent, the proceeds of any such resale or lease shall be disbursed among those condominium unit owners whose voting owner voted in favor of the exercise thereof, such distribution to be made in the same percentage as such unit owner's interest bears to the total interest of all owners voting in favor of such acquisition.

#### **ARTICLE XIV DAMAGE, DESTRUCTION AND RECONSTRUCTION**

**Section 14.1. USE OF INSURANCE PROCEEDS.** Should any portion of the condominium for which insurance is required by this declaration be damaged or destroyed, it shall be repaired or replaced promptly by the association unless (1) a condominium is terminated, (2) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (3) 80% of the unit owners, including every owner of a unit or assigned limited common element which will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense. If the entire condominium is not repaired or replaced, (1) the insurance proceeds attributable to the damage, common elements shall be used to restore the damaged area to a condition compatible with the remainder of the condominium, (2) the insurance proceeds attributable to the units and limited common elements which are not rebuilt shall be distributed to the owners of those units and the owners of the units to which those limited common elements were allocated and (3) the remainder of the proceeds shall be distributed to all the unit owners or lienholders as their interest may appear in proportion to the common element interests of all units. If the unit owners vote not to rebuild any unit, that unit's allocated interests are automatically reallocated on vote as if the unit had been condemned under subsection 1 of Section 448.1-107 RSMo., and the association shall promptly prepare, execute and record an amendment to the Declaration reflecting the reallocations. Notwithstanding the provisions of this section, Section 448.2-118 RSMo. governs the distribution of insurance proceeds if the condominium is terminated.

#### **ARTICLE XV BREACHES**

**Section 15.1. REMEDIES, ABATEMENT.** The violation of any restriction, condition or regulation adopted by the Board, or the breach of any covenant or provision herein, shall give the Board the power to enter upon the land or condominium unit upon which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting condominium unit owner or owners, any structure, thing or condition that may exist thereon

contrary to the intent and meaning of the provisions hereof, and in so doing, neither Declarant, its successors and assigns, nor the Board or any of their agents, employees, servants and representatives, shall be deemed guilty in any manner of trespassing.

**Section 15.2. LEGAL PROCEEDINGS, INVOLUNTARY SALE FOR FAILURE TO ABATE OR CORRECT.** In addition to the above rights and powers of the Board set out in Section 10.8 hereof, if any condominium unit owner, either by his own conduct or by the conduct of any other occupant of his condominium unit, shall violate any of the covenants or restrictions or provisions of this Declaration, or the regulations adopted by the Board, and such violation shall continue for 30 days after notice in writing from the Board, or shall occur repeatedly during any 30 day period after written notice or required by the Board to cure such violation, then the Board shall have the power to issue to the defaulting condominium unit owner a ten (10) day notice in writing to terminate the rights of said defaulting condominium unit owner to continue as a unit owner and to continue to use, occupy or control his (their) condominium unit and thereupon an action in equity may be filed by the Board against the defaulting unit owner, either (a) for a decree of mandatory injunction against the unit owner or occupant to cure such default, subject to the prior written consent of any qualified lender who as mortgagee has a security interest in the unit ownership of the defaulting condominium unit owner, which consent shall not be unreasonably withheld, or, in the alternative (b) for a decree declaring the termination of the defaulting condominium unit owner's right to occupy, use or control the unit owned by him (them) on account of the breach of such covenant, and ordering that all right, title and interest of the unit owner in the property shall be sold, subject to the lien of any existing mortgage, at a judicial sale upon such notice and terms as the Court shall establish, except that the court shall enjoin or restrain the defaulting unit owner from reacquiring his (their) interest in such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, master's or commissioner's fees, court reporter charges, reasonable attorney's fees and all other expenses of the proceeding, and all such items shall be taxed against the defaulting unit owner in said decree. The balance of the proceeds remaining, if any, after satisfaction of such charges and any unpaid assessments hereunder and any other liens against such ownership interest, may be paid to the condominium unit owner. Upon the confirmation of such sale, the purchaser thereof shall thereupon be entitled to a deed to the unit ownership and to immediate possession of the unit and may apply to the court for a writ of execution for the purpose of acquiring such possession; and it shall be a condition of any such sale and the decree shall so provide, that the owner shall take the interest in the property sold subject to this Declaration and the terms, provisions and restrictions herein contained, and the purchaser shall become the condominium unit owner in the place and stead of the defaulting unit owner.

## **ARTICLE XVI AMENDMENT, TERMINATION**

**Section 16.1. ADDITIONAL UNITS.** Each initial unit owner and each subsequent unit owner agrees by the acceptance of a deed to the unit that at anytime within five (5) years hereof

such unit owner will consent to a change in the Declaration, the Plat and By-Laws to permit the addition, deletion or alteration of units to the parcel herein described, and constitutes and appoints the Developer such owner's lawful attorney-in-fact for a period of five (5) years hereof to execute and record any amendments to the Declaration, the Plat and the By-Laws to include an additional parcel or parcels or to delete any parcel or portion thereof or to change the number of units or to change the size or dimension of any unit owned by the Developer, its successors or assigns, and to amend the percentage of ownership interests in the Common Elements allocated to each unit by virtue of such additions or deletions or changes in the number of units or changes in the size or dimension of any unit owned by the Developer, its successors or assigns. Parcels separated only by roads or right-of-ways shall be deemed contiguous.

**Section 16.2. ADDITIONAL INSTRUMENTS.** Each unit owner agrees to execute whatever instruments may be reasonably necessary to effect the amendments described in this Article XVI.

**Section 16.3. AMENDMENT OF DECLARATION.**

(a) This Declaration may be amended only in accordance with the procedures specified in Section 448.2-117 of the Act, the other sections of the Act referred to in said Section 448.2-117, and the express provisions of this Declaration and the Bylaws.

(b) No amendment shall be made to this Declaration during the period of time in which Developer continues to control the Association, as provided in Section 12.4 of Article XII of this Declaration, without the express written consent of Developer. No amendment to this Declaration shall diminish or impair any right of Developer under this Declaration without the prior written consent of Developer. No amendment may modify this provision or the rights of any Person hereunder. Except as specifically provided in this Declaration or the Act, no provision of this Declaration shall be construed to grant to any Unit Owner, or to any other Person, any priority over any rights of mortgagees.

(c) Notwithstanding any other provision of this Declaration to the contrary, if any amendment is necessary in the judgment of the Developer or the Executive Board to cure any ambiguity or to correct or supplement any provisions of the Declaration or Bylaws that are defective, missing or inconsistent with any other provisions thereof, or if such amendment is necessary to conform to the requirements of secondary mortgage market lenders, guarantors, or insurers with respect to condominium projects, then at any time and from time to time the Executive Board may effect an appropriate corrective amendment without the approval of the Unit Owners or the holders of any liens on all or any part of the Property, upon receipt by the Executive Board of an opinion from independent legal counsel to the effect that the proposed amendment is permitted by the terms of this sentence and by the provisions of the Act. Each amendment of the type described in this paragraph shall be effective upon the recording of an appropriate instrument setting forth the amendment and its due adoption, which instrument has been executed and acknowledged by one or more Officers of the Executive Board.

**Section 16.4. ADDITIONAL COMMON ELEMENTS.** Additional common elements may be added by the Declarant and if accepted by a majority of the Association shall become a part of the existing common elements and considered as accepted by the existing unit owners and lenders.

## **ARTICLE XVII RESERVATIONS BY DEVELOPER**

Notwithstanding any other provisions of this Declaration, the Developer, for itself, successors, assigns, lessees and licensees, reserve unto itself, or grants unto itself if such be necessary to effectuate the same, the following rights, privileges and interests:

### **Section 17.1 GENERAL RESERVATIONS.**

(a) The property shall be subject to a perpetual easement to the Executive Board and to the Managing Agent, and to their respective successors and assigns, for ingress and egress, to perform their obligations and duties as required by this Declaration and the Bylaws, or any amendment or supplement thereto.

(b) No riparian rights in the Lake of the Ozarks shall be deemed to be conveyed to any Unit Owner with the deed to any Unit in this Condominium. Any riparian rights shall ultimately belong to the Association.

## **ARTICLE XVIII MISCELLANEOUS**

**Section 18.1. EFFECTIVE COVENANTS.** Each grantee of Declarant, its successors and assigns, by the acceptance of a deed or conveyance, and each purchaser, accepts the same subject to all restrictions, conditions, covenants, reservations, options, liens and charges and the jurisdiction, rights and powers granted or reserved by this Declaration or to which this Declaration is subject, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said property and shall inure to the benefit of such condominium unit owner in like manner as though the provision, terms and restrictions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

**Section 18.2. WAIVER.** No covenant, restriction, condition or provision of this Declaration and in these By-Laws shall be deemed the same at any time, irrespective of the number of violations or breaches which may occur.

**Section 18.3. SAVINGS CLAUSE.** The invalidity of any covenant, restriction, condition, limitation, or any other provision of this Declaration and By-Laws or any part of the same shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration or the other By-Laws herein contained, as the case may be.

**Section 18.4.** If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstances, be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstance shall not be affected thereby.


**Section 18.5.** The provisions of this Declaration shall be in addition and supplemental to the Uniform Condominium Act of the State of Missouri, and to all other provisions of law.

**Section 18.6.** The headings and captions contained in this Declaration are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this Declaration or any provision herein contained.

**Section 18.7.** Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, and the plural the singular, and the use of any gender shall include all genders.

**IN WITNESS WHEREOF,** Developer/Declarant, has caused this instrument to be executed this 18<sup>th</sup> day of September 2006.

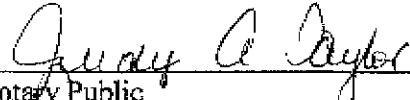
**BIG BEAR RESORT, LLC**

  
By: Angelia Bohrer, Attorney in Fact for  
ROBERT HELMS, Sole Member of  
Big Bear Resort, LLC

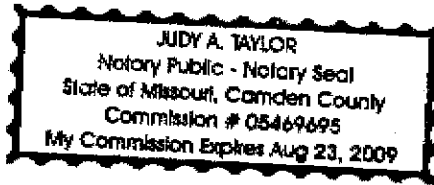
STATE OF MISSOURI     ]  
  ss  
COUNTY OF CAMDEN    ]

On this 18 day of September, 2006, before me personally appeared, Angelia Bohrer, to me personally known as attorney in fact for Robert Helms, sole member and manager of Big Bear Resort, LLC., and to be the person described in and who executed the foregoing instrument and acknowledged that she executed the same upon the authority of Robert Helms and on behalf of Big Bear Resort, LLC and as the free act and deed of said limited liability company.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above-written.

  
\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_



**Exhibit A**  
**Legal Description of Property Submitted to Condominium**

All that part of Block 10 of Horseshoe Bend Estates No. 1, a subdivision of record in Camden County, Missouri, according to the plat thereof on file and of record, and being more particularly described as follows:

Commencing at a 1" pipe on the right of way of Duckhead Road which marks the Southwestern most corner of said Block 10; thence North 17 degrees 58 minutes 00 seconds West, a distance of 422.83 feet to a 1/2" re-bar for the POINT OF BEGINNING; thence along the North line of lands in title to Shackelford as described in Warranty Deed recorded in Book 483, Page 43 in the Camden County Recorder of Deeds, North 89 degrees 01 minute 35 seconds East, a distance of 166.22 feet to a 5/8" re-bar on the right of way of a 40 foot wide roadway as described in said Deed; thence leaving said right of way North 89 degrees 01 minute 35 seconds East, a distance of 25.05 feet to a 5/8" re-bar on the centerline of said roadway; thence leaving said centerline, North 52 degrees 01 minute 00 seconds East, a distance of 20.00 feet to a 5/8" re-bar on the right of way of said roadway; thence leaving said right of way, North 29 degrees 50 minutes 53 seconds West, a distance of 118.29 feet to a 5/8" re-bar; thence North 70 degrees 26 minutes 57 seconds East, a distance of 27.92 feet to a 5/8" re-bar; thence South 54 degrees 38 minutes 09 seconds East, a distance of 31.14 feet to a 5/8" re-bar; thence North 70 degrees 26 minutes 57 seconds East, a distance of 34.04 feet to a 5/8" re-bar; thence North 9 degrees 27 minutes 32 seconds East, a distance of 27.98 feet to a 5/8" re-bar; thence North 48 degrees 58 minutes 22 seconds East, a distance of 83.10 feet to a 1/2" re-bar which marks the Westernmost corner of Big Bear Resort Condominium Subdivision as recorded in Plat Book 52, Page 47, in the Camden County Recorder of Deeds; thence along the boundary thereof, North 48 degrees 58 minutes 22 seconds East, a distance of 51.19 feet to a 1/2" re-bar; thence North 24 degrees 42 minutes 39 seconds East, a distance of 29.58 feet to a 1/2" re-bar; thence North 32 degrees 58 minutes 59 seconds East, a distance of 19.93 feet to a 1/2" re-bar; thence North 21 degrees 00 minutes 10 seconds East, a distance of 4.54 feet to a 5/8" re-bar on the shoreline of the Lake of the Ozarks; thence leaving said boundary and along said shoreline, North 50 degrees 07 minutes 15 seconds West, a distance of 13.07 feet; thence North 46 degrees 45 minutes 16 seconds West, a distance of 66.98 feet; thence North 46 degrees 01 minute 21 seconds West, a distance of 36.91 feet; thence North 52 degrees 12 minutes 36 seconds West, a distance of 6.97 feet; thence North 64 degrees 45 minutes 00 seconds West, a distance of 13.12 feet; thence North 66 degrees 13 minutes 21 seconds West, a distance of 79.96 feet; thence North 82 degrees 44 minutes 02 seconds West, a distance of 11.59 feet; thence South 75 degrees 50 minutes 14 seconds West, a distance of 19.40 feet; thence South 55 degrees 30 minutes 30 seconds West, a distance of 11.72 feet; thence South 38 degrees 06 minutes 29 seconds West, a distance of 15.81 feet; thence South 39 degrees 00 minutes 18 seconds West, a distance of 32.58 feet; thence South 48 degrees 35 minutes 16 seconds West, a distance of 12.43 feet; thence South 61 degrees 15 minutes 08 seconds West, a distance of 42.54 feet; thence South 52 degrees 06 minutes 16 seconds West, a distance of 8.84 feet; thence South 41 degrees 08 minutes 49 seconds West, a distance of 8.76 feet; thence South 29 degrees 39 minutes 42 seconds West, a distance of 12.10 feet; thence South 21 degrees 23 minutes 20 seconds West, a distance of 6.63 feet; thence South 20 degrees 10 minutes 45 seconds West, a distance of 65.46 feet; thence South 16 degrees 33 minutes 00 seconds West, a distance of 21.82 feet; thence South 4 degrees 59 minutes 34 seconds East, a distance of 2.97 feet; thence South 28 degrees 11 minutes 33 seconds East, a distance of 14.77 feet; thence South 12 degrees 52 minutes 11 seconds West, a distance of 13.99 feet; thence South 4 degrees 18 minutes 30 seconds West, a distance of 34.28 feet; thence South 9 degrees 09 minutes 47 seconds East, a distance of 32.22 feet; thence South 7 degrees 02 minutes 24 seconds East, a distance of 39.59 feet; thence South 8 degrees 25 minutes 56 seconds West, a distance of 15.44 feet; thence South 8 degrees 40 minutes 44 seconds West, a distance of 19.23 feet; thence South 4 degrees 01 minute 13 seconds West, a distance of 11.76 feet; thence South 33 degrees 45 minutes 03 seconds West, a distance of 45.85 feet to the POINT OF BEGINNING.

**ALSO INCLUDING AND RESERVING UNTO THE DEVELOPER THE FOLLOWING DESCRIBED ROADWAY TO BE USED FOR INGRESS AND EGRESS AND PLACEMENT OF UTILITIES ON THE PROPERTY THAT MAY BE ADDED TO THE CONDOMINIUM DESCRIBED ON EXHIBIT D OF THIS DECLARATION OF CONDOMINIUM BEING DESCRIBED AS FOLLOWS;**

A roadway being 40 feet in width, 20 feet each side of the following described centerline located in part of Block 10 of Horseshoe Bend Estates No. 1, a subdivision of record in Camden County, Missouri, according to the plat thereof on file and of record, and being more particularly described as follows: Commencing at a 5/8 inch re-bar which marks the Southeasternmost corner of said Block 10 and on the right of way of Duckhead Road; thence along said right of way on a curve, concave to the South, having a radius of 694.23 feet, a central angle of 6 degrees 09 minutes 36 seconds, and a chord of 74.60 feet bearing South 78 degrees 45 minutes 08 seconds West; Thence along said curve a distance of 74.64 feet to the point of beginning of said roadway centerline; thence North 42 degrees 30 minutes 39 seconds West a distance of 16.80 feet; thence North 51 degrees 02 minutes 44 seconds West, a distance of 48.95 feet; thence North 46 degrees 54 minutes 16 seconds West, a distance of 73.03 feet; thence North 39 degrees 13 minutes 42 seconds West, a distance of 157.84 feet; thence North 40 degrees 08 minutes 28 seconds West, a distance of 54.14 feet; thence North 50 degrees 01 minute 46 Seconds West, a distance of 34.42 feet to the Point of Termination.

EXHIBIT B

**BYLAWS OF**

**KOALA BEAR CONDOMINIUM OWNERS ASSOCIATION, INC.  
A MISSOURI NOT FOR PROFIT CORPORATION**

**ARTICLE I. GENERAL**

1.1 Name: The name of the corporation shall be Koala Bear Condominium Owners Association, Inc., hereinafter referred to as the "Association".

1.2. Condominium Principal Office: The principal office of the Association shall be at 133 Polar Bear Circle, Lake Ozark, Missouri, 65049, or at such other place as may be subsequently designated by the Board of Directors of the Association. All books and records of the Association shall be kept at the principal office of the Association.

1.3. Definitions: All terms which are used herein shall have the same definitions as set forth in Article I of the Koala Bear Declaration of Condominium (the "Declaration").

**ARTICLE II. DIRECTORS**

2.1. Term and Number: The affairs of the Association shall be managed by a Board of Directors (the "Board"), which shall consist of three (3) directors. Directors need not be members of the Association. Within the limits above specified, the number of directors shall be determined by the members at the annual meeting. The directors term shall be three years except the first time the directors are selected, the terms shall be staggered so that one director is chosen at each annual meeting, or until his successor shall be elected and shall qualify. This section is subject to the provisions of the Declaration dealing with the period of Developer control.

2.2. Vacancy and Replacement: If the office of any director or directors becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, a majority of the remaining directors, though less than a quorum, at a special meeting of directors duly called for this purpose, shall choose a successor or successors, who shall hold office for the unexpired term of the office vacated. If the number of directors falls below the minimum provided for in these Bylaws, a special members meeting shall be called for the purpose of filling such vacancies in the Board.

2.3. Removal: Directors may be removed from office with or without cause by a two-thirds vote of the membership of the Association.

2.4. First Board of Directors: The initial Board of Directors shall consist of Robert Helms, Angelia Bohrer and William Karr, who shall hold office and exercise all powers of the Board of Directors until the first meeting at which the members of the Association are entitled to elect a

director; provided however, that any or all of the initial directors shall be subject to replacement by the Developer in the event of resignation or death as above provided.

2.5. Powers: The property and business of the Association shall be managed by the Board of Directors, which may exercise all corporate powers not specifically prohibited by statute, the Articles of Incorporation or the Declaration. The powers of the Board shall specifically include:

2.5.1. To estimate the cost of the expenses of administration, maintenance and repair of the common elements and of all exterior portions of the improvements and property, and after determining the amount required annually for such purposes to determine the manner in which such amount shall be collected and paid to the general maintenance fund to be held, managed and administered by the Board.

2.5.2. To provide water, water sewage, waste removal and treatment, gas, electricity and other necessary utility services for the common elements and facilities.

2.5.3. To obtain insurance for the property against loss or damage by fire and other hazards as are covered under standard extended coverage provisions for the full insurable replacement cost of common elements (including the personal property therein and thereon owned by the condominium) and the condominium units. The insurer shall acknowledge on the policy or policies it issues to the Board that the insurance issued thereunder insures the condominium units and the common elements for their full insurable replacement value.

Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Board of Managers, as Trustee for each of the condominium unit owners and their respective mortgages as their interests may appear, in the percentages established in the Declaration. Premiums for the insurance shall be common expenses. The amount of such insurance coverage shall be reviewed at each annual meeting of the condominium unit owners and shall be in an amount sufficient to cover the cost of reconstruction as determined by the vote of a majority of the condominium unit owners through their voting owners.

2.5.4. To obtain a policy or policies of insurance, insuring members of the Board, their agents, servants, representatives, employees, and the owners of the condominium units, against any liability to the public or to the owners, their invitees, tenants and any other persons who may be on the condominium property for any reason whatever, in the use of any common elements, the liability under which insurance shall not be less than \$100,000.00 for any one person injured, \$300,000.00 for any one accident and \$50,000.00 for property damage, the amount of which limitation shall be reviewed at least annually by the Board who may raise the same at their discretion. The Board is further authorized to purchase policies of workmen's compensation insurance to the extent necessary to comply with Missouri law. Premiums for all such insurance policies shall be common expenses to be paid from the general maintenance fund.

2.5.5. To furnish upon request of any condominium unit owner and payment of a reasonable fee therefor, a statement of the owner's account setting forth the amount of any

unpaid assessments, whether general or special, or other charges; to keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the common elements, specifying and itemizing the maintenance and repair expenses of the common elements and any other expenses incurred, whether general or special, and to make such records available for examination by the condominium unit owners at all reasonable times.

2.5.6. In the event the Declarant wishes to relinquish the special declarant right to maintain management offices for the purpose of managing said condominium as is provided for by the Declaration, and from time to time as they may determine, to select a manager or managing agent for the purposes designated in Section 10.9 of the Declaration and to agree upon the compensation to be paid to such manager or managing agent, if any, the amount thereof to be added to and be a part of the common expenses and paid out of the general maintenance fund and that the choice of selecting said manager or managing agent, shall not be limited and the Board may in its discretion select as the manager or managing agent, the developer's successors, assigns or any of its or their affiliates, or any condominium owner or owners.

2.5.7. To retain and from time to time to contract for the services of attorneys and accountants.

2.5.8. To discharge any mechanic's lien or encumbrance levied against the entire property or any part thereof which may in the opinion of the Board constitute a lien against the property or against the common elements, rather than merely against the interest therein of the particular condominium unit owners. Where one or more condominium unit owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Board by reason of said lien or liens shall be specially assessed against said unit owners and their respective unit and share.

2.5.9. To provide a manner for estimating the amount of the annual budget and the manner of assessing and collecting from the condominium unit owners their respective shares of the estimated expenses and of all other expenses lawfully agreed upon by a majority of the voting owners at any meeting of unit owners called and conducted as provided in Article IX of the Declaration.

2.5.10. To establish, grant and dedicate easements for public, quasi-public and private utilities in addition to any shown on the plat, in, over and through any of the common elements (excepting therefrom any balcony, porch, patio, stairway or attached storage locker), and to construct and maintain any utility service where the same is not otherwise readily available to the property or the condominium unit owners. Any such utility service carried on and supplied by the Board under the terms hereof may, in the Board's discretion, be charged (on a uniform basis) to each particular condominium unit consuming the same where separately metered, to be treated in such case as a special assessment against such unit, otherwise such service to be paid from out of the general maintenance fund.

2.5.11. To contract with others for the use of recreational facilities for the benefit of unit owners.

2.5.12. To extend the use of any pool(s), sewer system(s) and laundry room facilities to the owners of other property owned by the Developer.

## 2.6. Meetings of the Board of Directors:

2.6.1. The first meeting of each Board newly elected by the members shall be held immediately upon adjournment of the meeting at which the Board is elected, provided a quorum shall then be present, or as soon thereafter as may be practicable. The annual meeting of the Board shall be held at the same place as, and immediately after the adjournment of, the annual meeting of members of the Association.

2.6.2. Special meetings of the Board shall be held whenever called by the President or a majority of the Board. The Secretary shall give notice of each special meeting either personally, by mail or telegram, at least ten (10) days before the date of such meeting, but the directors may waive notice of the calling of the meeting.

2.6.3. A quorum for the transaction of business is deemed present throughout any meeting of the Board if persons entitled to cast 50% of the votes on that Board are present at the beginning of the meeting. If a quorum shall not be present at the meeting, the Directors then present may adjourn the meeting until a quorum shall be present.

## 2.7. Transfer of Association Control:

2.7.1. Within sixty (60) days after Unit Owners other than the Developer are entitled to elect a member or members of the Board of Directors of the Association, the Association shall call and give not less than thirty (30) days nor more than forty (40) days notice of a meeting of the Unit Owners for this purpose. Such meeting may be called and the notice given by any Unit Owner if the Association fails to do so.

## ARTICLE III. OFFICERS

3.1. Executive Officers: The executive officers of the Association shall be a President, Treasurer and Secretary all of who shall be elected annually by the Board.

3.2. Subordinate Officers: The Board may appoint such other officers and agents as it may deem necessary, who shall hold office at the pleasure of the Board of Directors and have such authority and perform such duties as from time to time may be prescribed by said Board.

3.3. Initial Officers: The initial officers of the Association shall be the individuals named in the Articles of Incorporation of the Association. The initial officers shall serve until replaced by the Board at its first meeting following the first meeting at which the members of the Association are entitled to elect a director.

3.4. Tenure of Officers; Removal: Officers shall be elected by the Board of Directors at the first meeting of each Board newly elected by the membership of the Association and shall serve annually, provided however, that all officers and agents of the Board shall be subject to removal, with or without cause, at any time, by action of the Board of Directors.

3.5. Vacancies: If the office of President, Secretary or Treasurer, becomes vacant by reason of death, resignation, disqualification or otherwise, the remaining directors by a majority vote shall choose a successor or successors who shall hold office for the unexpired term.

3.6. Resignation: Any director or officer may resign his office at any time by instrument in writing. Resignations shall take effect from the time of receipt by the Association unless some other time be fixed in the resignation. The acceptance of a resignation shall not be required to make it effective.

3.7. The President: The President shall:

3.7.1. Act as presiding officer at all meetings of the Association and of the Board of Directors.

3.7.2. Call special meetings of the Board of Directors and of members.

3.7.3. Sign all checks, contracts, promissory notes, deeds and other instruments on behalf of the Association, except those which the Board of Directors specifies may or shall be signed by other persons.

3.7.4. Perform all acts and duties usually required of an executive to insure that all orders and resolutions of the Board of Directors are carried out.

3.7.5. Appoint committees and be ex officio member of all committees, and render an annual report at the annual meeting of members.

3.8. The Secretary: The Secretary shall:

3.8.1. Attend all regular and special meetings of the members of the Association and the Board of Directors and keep all records and minutes of proceedings thereof or cause the same to be done.

3.8.2. Have custody of the corporate seal and affix same when necessary or required.

3.8.3. Attend to all correspondence on behalf of the Board of Directors, prepare and serve notice of meetings, and keep membership books.

3.8.4. Perform such other duties as the Board may determine and on all occasions in the execution of his duties, act under the superintendence, control and direction of the board.

3.8.5. Have custody of the minute book of the meetings of directors and members which minute book shall be at all times be available at the office of the Association for the information of directors and officers, and act as transfer agent to record transfers and rules and regulations in the Association's books.

3.9. The Treasurer: The Treasurer shall:

3.9.1. Receive such monies as shall be paid into his hands for the accounts of the Association, and disburse funds as may be ordered by the Board, taking proper vouchers for such disbursements, and be custodian of all securities, contracts, leases and other important documents of the Association which he shall keep safely deposited.

3.9.2. Supervise the keeping of accounts of all financial transactions of the Association in books belonging to the Association and deliver such books to his successor. He shall prepare at least annually financial statements which shall be available to the members of the Association.

3.9.3. The Treasurer may have the assistance of an accountant or auditor, who shall be employed by the Board of Directors. In the event the Association enters into a management agreement, it shall be proper to delegate such of the Treasurer's functions to the management agent as is deemed appropriate by the Board of Directors.

#### ARTICLE IV. FIDELITY BONDS

All officers and directors of the Association who control or disburse funds of the Association may have such fidelity bonds as may be required by the Board. The costs thereof, if any, paid by the Association.

#### ARTICLE V. COMPENSATION

The officers and Board of Directors of the Association shall not be entitled to any fees or compensation for their services as officers or directors, but shall be reimbursed their expenses in performance of the Association's business.

#### ARTICLE VI. MEMBERSHIP

6.1. Definition: Each Unit owner shall be a member of the Association, and membership in the Association shall be limited to owners of units in the Condominium.

6.2. Transfer of Membership and Ownership: Membership in the Association may be transferred only as an incident to the transfer of the transferor's Condominium unit and his undivided interest in the Common Elements of the Condominium. Such transfer shall be subject to the procedures set

forth in the Declaration and shall become effective only upon the recording of a deed to the condominium unit.

## ARTICLE VII. MEETINGS OF MEMBERSHIP

7.1. Place: All meetings of the Association membership shall be held at the office of the Association or such other place as may be designated by the Board of Directors.

### 7.2. Annual Meeting:

7.2.1. The annual meeting shall be held on the Saturday preceding Memorial Day observed of each year, at a time to be designated by the Board of Directors, for the purpose of electing directors, approving an annual budget for the coming year, and transacting any other business authorized to be transacted by the members.

7.2.2. Written notice of the annual meeting shall be not less than ten nor more than sixty days in advance and be hand delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner as appears on the books of the Association, at least sixty (60) days prior to the meeting and a notice of such meeting shall be posted at a conspicuous place on the condominium property at least ten (10) days prior to said meeting. The notice shall state the time and place of the meeting and the items on the agenda, including the general nature if any proposed amendment to the Declaration or Bylaws, any budget change, and any proposal to remove a director or officer.

### 7.3. Special Meetings:

7.3.1. Special meetings of the members, for any purpose or purposes, unless otherwise prescribed by statute or by the Articles of Incorporation, may be called by the President, and shall be called by the President or Secretary at the request, in writing, of one-fifth (1/5) of the members. Such request shall state the purpose or purposes of the proposed meeting.

7.3.2. Written notice of a special meeting shall be the same as required for the annual meeting.

7.3.3. Business transacted at any special meeting shall be confined to the objects stated in the notice thereof.

7.4. Quorum: A quorum for the transaction of business is deemed present throughout any meeting of the association of persons entitled to cast 50% of the votes which may be cast for election of the Board members which are present in person or by proxy at the beginning of the meeting.

7.5. Vote Required to Transact Business: When a quorum is present at any meeting, a majority of the votes cast in person or represented by written proxy shall decide any question brought before

the meeting, unless the question is one upon which, by express provision of the Declaration, Missouri Statutes, the Articles of Incorporation or these Bylaws, a different vote is required, in which case such express provision shall govern and control the decision of such question.

7.6. Voting Rights: If only one of the multiple owners of a unit is present at a meeting of the association, he is entitled to cast all votes allocated to that unit. If more than one of the multiple owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the multiple owners. There is a majority agreement if any one of the multiple owners casts the votes allocated to that unit without protest being made promptly to the person presiding over the meeting by any of the owner or owners of the unit.

7.7. Voting by Proxy: Votes allocated to a unit may be cast pursuant to a proxy duly executed by a unit owner. If a unit is owned by more than one person, each owner of the unit may vote or register a protest to the casting of votes by the other members of the unit through a duly executed proxy. No unit owner may revoke a proxy given pursuant to a section except by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates one year after its date unless it specifies a shorter term.

7.8. Waiver and Consent: Whenever the vote of members at a meeting is required or permitted by any provision of the Missouri Statutes or the Articles of Incorporation or of these Bylaws to be taken in connection with any action of the Association, the meeting and vote of members may be dispensed with if all members who would have been entitled to vote consent in writing to such action being taken without a meeting.

## ARTICLE VIII. NOTICES

8.1. Definition: Whenever the provisions of the Missouri Statutes, the Articles of Incorporation or these Bylaws require notice to be given to any directors or members, it shall not be construed to mean personal service, but such notice may be given in writing by mail, by depositing the same in a post office or letter box in a postpaid, sealed envelope, addressed as appears on the books of the Association.

8.2. Service of Notice - Waiver: Whenever any notice is required to be given under the provisions of the Missouri Statutes, the Articles of Incorporation, or these Bylaws, a waiver of notice, in writing and signed by the person or persons entitled to such notice, whether executed before or after the time for notice stated herein, shall be deemed the equivalent thereof.

## ARTICLE IX. FINANCES

9.1. Fiscal Year: The fiscal year of the Association shall be the calendar year.

9.2. Checks and Bank Accounts: The funds of the Association shall be deposited in one or more Association bank accounts established by resolution of the Board of Directors. Association funds

shall be used only for Association purposes. All checks, demands for money and notes of the Association shall be signed by any one of the following officers: President, Secretary or Treasurer, or by such other officers or persons as the Board of Directors may from time to time designate.

9.3. Annual Budget: The Association shall adopt the Association's annual budget of common expenses at a duly called meeting of the Association. The Board of Directors shall mail a meeting notice and copies of the proposed annual budget of common expenses to each unit owner prior to the meeting at which the budget will be considered.

The Board of Directors may propose a budget to the unit owners at a meeting of the members or by writing, and if such budget or proposed budget be approved by a majority of the unit owners present in person or by proxy at the meeting or by a majority of their whole number in writing, such budget shall not thereafter be re-examined by the unit owners in the manner hereinabove set forth nor shall the Board of Directors be recalled under the provisions of this section.

#### 9.4. Assessments:

9.4.1. Assessments shall be handled by the Association as provided for in Article IX of the Declaration.

9.4.2. Notwithstanding anything in these Bylaws or the Declaration which authorizes expenditures by the Board, no expenditures for the improvement of the Common Elements exceeding \$ 5,000.00 per annum shall be made without the specific approval of the membership, except for the repair of the condominium property due to casualty loss.

### ARTICLE X. AMENDMENT

10.1. Amendment Procedure: These Bylaws may only be altered or amended at duly called meetings of the members provided that:

10.1.1. Notice of the meeting shall contain a statement of the proposed amendment.

10.1.2. The amendment shall require approval by the affirmative vote of not less than two-thirds (2/3) of the voting membership of the Association.

10.1.3. Said amendment shall be evidenced by a certificate executed by an officer of the Association with the formalities of a deed. The certificate shall contain the recording data of the Declaration and shall be recorded in the Public Records of Camden County, Missouri.

10.1.4. Notwithstanding anything above to the contrary, until one year after the Developer has sold all units in the condominium, there shall be no amendment of these Bylaws without

the written approval of the Developer. This paragraph may only be amended with the written approval of the Developer.

10.1.5. No Bylaw shall be revised or amended by reference to its title or number only. Proposals to amend existing Bylaws shall contain the full text of the Bylaw to be amended; new words shall be inserted in the text underlined, and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment stating: "substantial rewording of Bylaw. See Bylaw \_\_\_\_ for present text."

## ARTICLE XI. RULES AND REGULATIONS

11.1. Adoption by Board: The Board of Directors may, from time to time, adopt or amend previously adopted administrative rules and regulations governing the operation, use, maintenance, management and control of Condominium units, the common elements and facilities of the condominium and any other facilities or services made available to unit owners. Copies of such rules and regulations shall be furnished to each unit owner prior to the time same become effective.

## ARTICLE XII. MISCELLANEOUS

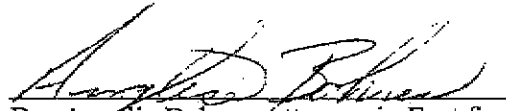
12.1. Gender and Number: Whenever the masculine singular form of the pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter, singular or plural, as the context so requires.

12.2. Validity: If any provision of these Bylaws or any rule or regulation adopted pursuant to these Bylaws shall be judged invalid or unenforceable at law or in equity, such fact shall not affect the validity or enforceability of any other Bylaws provision, rule or regulation.

12.3. Conflict: In the event any conflict between the provisions hereof and the Articles of Incorporation, the Articles shall control. In the event of any conflict between the provisions hereof and the Declaration, the Declaration shall control. In the event of any conflict between the provisions hereof and the Missouri Uniform Condominium Act, said Act shall control.

The foregoing provisions were adopted as the Bylaws of Koala Bear Condominium Owners Association, Inc., a not for profit Missouri corporation, under the laws of the State of Missouri, at a duly noticed meeting of the Board of Directors of the Association, at which all Directors were present, by the unanimous vote of the Directors on the 18th day of September 2006.

**BIG BEAR RESORT, LLC**

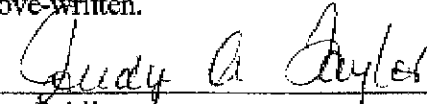


By: Angelia Bohrer, Attorney in Fact for  
ROBERT HELMS, Sole Member of  
Big Bear Resort, LLC

STATE OF MISSOURI     ]  
  ss  
COUNTY OF CAMDEN    ]

On this 18 day of September, 2006, before me personally appeared, Angelia Bohrer, to me personally known as attorney in fact for Robert Helms, sole member and manager of Big Bear Resort, LLC., and to be the person described in and who executed the foregoing instrument and acknowledged that she executed the same upon the authority of Robert Helms and on behalf of Big Bear Resort, LLC and as the free act and deed of said limited liability company.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above-written.

  
\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

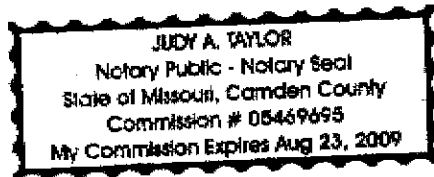


Exhibit C  
 Limited Common Elements/Percentage Interest In  
 Common Elements  
**EXHIBIT "C"**  
 BUILDINGS 1, 2, 3, 4, 5 AND 6

UNIT NO.	UNIT SQUARE FEET	LIMITED COMMON ELEMENTS*	PERCENTAGE INTEREST IN COMMON ELEMENTS
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**BUILDING 1**

101	541.8		3.188
102	415.9		2.447
103	395.9		2.329
104	483.8		2.845
105	531.7		3.128
106	396.15		2.330
107	782.43		4.602
108	398.2		2.342
109	490.5		2.885
110	537.8		3.163
111	399.23		2.349
112	793.74		4.670

BUILDING 1  
 SQUARE FOOTAGE 6,167.15

**BUILDING 2**

201	743.9		4.375
202	743.9		4.375
203	747.40		4.397
204	747.40		4.397

BUILDING 2  
 SQUARE FOOTAGE 2,982.60

**BUILDING 3**

301	714.36	WATER HEATER ROCK FIREPLACE	4.202
302	712.27	WATER HEATER ROCK FIREPLACE	4.190

BUILDING 3

SQUARE FOOTAGE 1,426.63

UNIT NO.	UNIT SQUARE FEET	LIMITED COMMON ELEMENTS*	PERCENTAGE INTEREST IN COMMON ELEMENTS
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**BUILDING 4**

401	448.27		2.636
402	504.87		2.970
403	674.59		3.969
404	526.83	WOOD DECK	3.099
405	745.26	WOOD DECK	4.383
406	644.14	WOOD DECK	3.790

**BUILDING 4**

SQUARE FOOTAGE 3,543.96

**BUILDING 5**

501	714.36	WATER HEATER ROCK FIREPLACE	4.202
502	712.27	WATER HEATER ROCK FIREPLACE	4.190

**BUILDING 5**

SQUARE FOOTAGE 1,426.63

**BUILDING 6**

601	356.09		2.094
602	370.43		2.179
603	370.64		2.180
604	355.99		2.094

**BUILDING 6**

SQUARE FOOTAGE 1,453.15

**TOTAL SQUARE FOOTAGE 17,000.12**

Exhibit D  
Legal Description of Real Estate That May, But Need Not,  
Be Added to the Condominium Pursuant to Developer Rights

All that part of Block 10 of Horseshoe Bend Estates No. 1, a subdivision of record in Camden County, Missouri, according to the plat thereof on file and of record, and being more particularly described as follows:

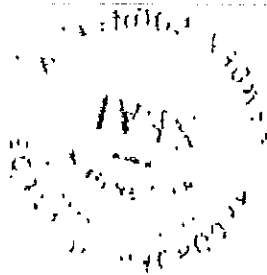
Commencing at a 5/8" re-bar on the right of way of Duckhead Road with marks the Southeastern most corner of said Block 10, said point being the POINT OF BEGINNING; thence leaving said roadway and along the East line of said Block 10 and the West line of Tract C of Big Bear Estates No. 1, First Addition, a subdivision as recorded in Plat Book 14 at Page 64 in the Camden County Recorder of Deeds, North 22 degrees 20 minutes 00 seconds West, a distance of 163.89 feet to a 5/8" re-bar which marks the Northeast corner of said Tract C; thence leaving said line and along the South line of Big Bear Resort Condominium Subdivision as recorded in Plat Book 52 at Page 47 in the Camden County Recorder of Deeds, South 49 degrees 18 minutes 00 seconds West, a distance of 29.94 feet to a 1/2" re-bar; thence South 49 degrees 29 minutes 58 seconds West, a distance of 39.08 feet to a 1/2" re-bar; thence North 56 degrees 46 minutes 29 seconds West, a distance of 100.20 feet to a 5/8" re-bar; thence North 40 degrees 03 minutes 45 seconds West, a distance of 54.00 feet to a 1/2" re-bar; thence North 50 degrees 01 minute 46 seconds West, a distance of 115.76 feet to a 1/2" re-bar; thence leaving said line, South 48 degrees 58 minutes 22 seconds West, a distance of 83.10 feet to a 5/8" re-bar; thence South 9 degrees 27 minutes 32 seconds West, a distance of 27.98 feet to a 5/8" re-bar; thence South 70 degrees 26 minutes 57 seconds West, a distance of 34.04 feet to a 5/8" re-bar; thence North 54 degrees 38 minutes 09 seconds West, a distance of 31.14 feet to a 5/8" re-bar; thence South 70 degrees 25 minutes 57 seconds West, a distance of 27.92 feet to a 5/8" re-bar; thence South 29 degrees 50 minutes 53 seconds East, a distance of 118.29 feet to a 5/8" re-bar on the right of way of a 40 foot wide roadway as described in Deed Book 483, Page 43 as recorded in the Camden County Recorder of Deeds; thence leaving said right of way, South 52 degrees 01 minute 00 seconds West, a distance of 20.00 feet to a 5/8" re-bar on the centerline of said roadway; thence along said centerline, South 37 degrees 59 minutes 00 seconds East, a distance of 51.60 feet; thence South 31 degrees 00 minutes 00 seconds East, a distance of 53.00 feet; thence South 25 degrees 22 minutes 00 seconds East, a distance of 64.40 feet; thence South 7 degrees 38 minutes 00 seconds East, a distance of 25.70 feet; thence South 11 degrees 22 minutes 00 seconds West, a distance of 32.80 feet; thence South 22 degrees 26 minutes 00 seconds West, a distance of 36.40 feet; thence South 29 degrees 15 minutes 00 seconds West, a distance of 171.17 feet to the right of way of said Duckhead Road and the point of curvature of a non-tangent curve, concave to the Northwest, having a radius of 298.38 feet a central angle of 3 degrees 29 minutes 29 seconds, and a chord of 18.18 feet bearing North 59 degrees 39 minutes 45 seconds East; thence Northeast along said right of way and said curve, a distance of 18.18 feet; thence North 57 degrees 55 minutes 00 seconds East, a distance of 22.51 feet; thence North 57 degrees 55 minutes 00 seconds East, a distance of 60.69 feet to the point of curvature of a tangent curve, concave to the Northwest, having a radius of 281.56 feet and a central angle of 34 degrees 11 minutes 59 seconds; thence Northeast along said curve, a distance of 168.06 feet, curving to the left to the point of compound curvature of a non-tangent curve, concave to the Southeast, having a radius of 167.66 feet, a central angle of 49 degrees 26 minutes 04 seconds, and a chord of 140.21 feet bearing North 48 degrees 26 minutes 00 seconds East; thence Northeast along said curve, a distance of 144.66 feet, curving to the right; thence North 73 degrees 09 minutes 00 seconds East, a distance of 43.60 feet to the point of curvature of a tangent curve, concave to the South, having a radius of 694.23 feet and a central angle of 2 degrees 31 minutes 20 seconds; thence East along said curve, a distance of 30.56 feet, curving to the right; thence continuing East along said curve, a distance of 74.64 feet to the POINT OF BEGINNING.

**EXCEPTING THEREFROM** A roadway being 40 feet in width, 20 feet each side of the following described centerline located in part of Block 10 of Horseshoe Bend Estates No. 1, a subdivision of record in Camden County, Missouri, according to the plat thereof on file and of record, and being more particularly described as follows: Commencing at a 5/8 inch re-bar which marks the Southeasternmost corner of said Block 10 and on the right of way

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of Duckhead Road; thence along said right of way on a curve, concave to the South, having a radius of 694.23 feet, a central angle of 6 degrees 09 minutes 36 seconds, and a chord of 74.60 feet bearing South 78 degrees 45 minutes 08 seconds West; Thence along said curve a distance of 74.64 feet to the point of beginning of said roadway centerline; thence North 42 degrees 30 minutes 39 seconds West a distance of 16.80 feet; thence North 51 degrees 02 minutes 44 seconds West, a distance of 48.95 feet; thence North 46 degrees 54 minutes 16 seconds West, a distance of 73.03 feet; thence North 39 degrees 13 minutes 42 seconds West, a distance of 157.84 feet; thence North 40 degrees 08 minutes 28 seconds West, a distance of 54.14 feet; thence North 50 degrees 01 minute 46 Seconds West, a distance of 34.42 feet to the Point of Termination. **THIS ROADWAY IS THE SAME ROADWAY RESERVED IN EXHIBIT A OF THIS CONDOMINIUM DECLARATION.**

#D0640-0511



BONNIE SCHILLING  
CLERK OF COURT  
RECORDER OF DEEDS

2007 MAR 15 P 2:08 PM

PAS. 9 3 48

DEPUTY D. Kinney

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PMCW → |

TITLE OF DOCUMENT: CONSENT OF UNIT OWNERS TO CONVERSION AND TRANSFER OF A PORTION OF THE COMMON ELEMENTS OF KOALA BEAR CONDOMINIUM

DATE OF DOCUMENT: MARCH 6, 2007

GRANTOR (S): TAMMIE J. HOLIDAY  
RITA M. LOVETT-CASH AND DON CASH, HUSBAND AND WIFE,  
JACKSON TAM,  
SCOTT A. HELGESON AND JEANNE M. HELGESON, HUSBAND AND WIFE,  
BIG BEAR RESORT L.L.C.,  
WILLIAM JEFFERY KARR

ADDRESS: 133 POLAR BEAR CIRCLE, LAKE OZARK, MISSOURI 65049

GRANTEE (S): KOALA BEAR CONDOMINIUM OWNERS ASSOCIATION, INC.

ADDRESS: 133 POLAR BEAR CIRCLE, LAKE OZARK, MISSOURI 65049

LEGAL: SHOWN ON PAGE 1

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CONSENT OF UNIT OWNERS TO CONVERSION  
AND TRANSFER OF A PORTION OF  
THE COMMON ELEMENTS KOALA BEAR CONDOMINIUM

This consent is executed by the parties hereto on the dates set forth below.

WHEREAS, the parties hereto are the owners of all units in Koala Bear Condominium;  
and

WHEREAS, the parties are desirous of converting a small portion of common elements as described hereinafter into an addition to present Unit 406 of Koala Bear Condominium; and

WHEREAS, § 448.3-112 and 448.2-117 RSMo, require that 80% of the votes in the Koala Bear Condominium Owners Association, Inc. henceforth "Association", including 80% of the votes allocated to units not owned by a declarant consent to the conveyance of common elements and that the unanimous consent of all unit owners to change the boundaries of a unit not otherwise allowed.

NOW THEREFORE, the undersigned, being all of the unit owners of units in the Koala Bear Condominium and having all votes in the Association, do hereby consent to the following:

1. That the following described portion of the common elements, adjacent to Unit 406 of Koala Bear Condominium may be taken out of the common elements of the condominium and added to the Unit 406 thus changing the boundaries thereof and increasing the square footage of said unit:

All that part of the Common Elements of the upper floor of Koala Bear Condominium Building 4 according to the plat thereof as recorded in the Camden County Recorder of Deeds in Plat Book 101 at Page 4A through 4P, and being more particularly described as follows:

Commencing at the Westernmost exterior corner of said Building 4 at the finished floor level; thence leaving said exterior South 88 Degrees 48 Minutes 47 Seconds East, a distance of 0.75 feet to the interior wall for the POINT OF BEGINNING; thence North 31 Degrees 13 Minutes 31 Seconds East, a distance of 8.41 feet; thence South 58 Degrees 46 Minutes 29 Seconds East, a distance of 15.69 feet; thence South 31 Degrees 13 Minutes 31 Seconds West, a distance of 4.86 feet; thence North 58 Degrees 46 Minutes 29 Seconds West a distance of 4.17 feet; thence South 31 Degrees 13 minutes 31 Seconds West, a distance of 3.25 feet; thence North 58 Degrees 46 Minutes 29 Seconds West, a distance of 3.30 feet; thence South 31 Degrees 13 Minutes 31 Seconds West, a distance of 5.03 feet; thence North 28 Degrees 52 Minutes 53 Seconds West, a distance of 9.48 feet to the POINT OF BEGINNING.

2. That the action contemplated hereby will reduce the common elements of the condominium by approximately 135 square feet.

3. That the plat of Koala Bear Condominium may be amended to change the boundaries of Unit 406 to add the property described in paragraph 1 above and the declaration of condominium creating Koala Bear Condominium shall be amended to reallocate the common elements in accordance with the addition of the square footage to Unit 406.

4. That the Association is authorized to execute any conveyance or other documentation to accomplish the purposes set forth in this Consent.

5. That the signatures of all of the undersigned need not be set forth in the same single instrument and that the signature pages of each of the undersigned may be appended to the same identical Consent for recording purposes.

Dated this 27 day of February, 2007.

Tammie J. Holliday  
Tammie J. Holliday

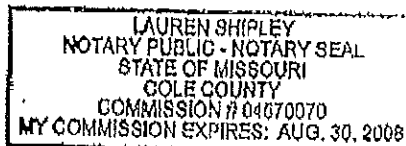
STATE OF Missouri ]  
COUNTY OF Cole ]  
§§

On this 27 day of February, 2007, before me personally appeared Tammie J. Holliday, a single person, owner of Unit 401 of "Koala Bear Condominium", and to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed. And the said Tammie J. Holliday further declared herself to be single and unmarried.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in the County and State aforesaid, the day and year first above written.

Lauren Shipley  
Notary Public

My Commission Expires: Aug 30, 2008





Dated this 28<sup>th</sup> day of February, 2007.

Jackson Tam  
Jackson Tam

STATE OF New York ]

COUNTY OF New York ]<sup>SS</sup>

On this 28<sup>th</sup> day of February, 2007, before me personally appeared Jackson Tam, a single person, owner of Unit 402 of "Kodak Bear Condominium", and to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed. And the said Jackson Tam further declared himself to be single and unmarried.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in the County and State aforesaid, the day and year first above written.

Alex Lagomora  
Notary Public

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

Alex J. Lagomora  
Notary Public, State of New York  
No. 011A6096774  
Qualified in Queens County  
Commission Expires July 21, 2007

Dated this 6 day of March, 2007.

William Jeffery Karr  
William Jeffery Karr

STATE OF Missouri }

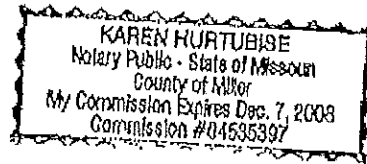
COUNTY OF Miller <sup>SS</sup> }

On this 6 day of March, 2007, before me personally appeared William Jeffery Karr, a single person, owner of Unit 101 of "Koala Bear Condominium", and to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed. And the said William Jeffery Karr further declared himself to be single and unmarried.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in the County and State aforesaid, the day and year first above written.

Karen Hurtubise  
Notary Public

My Commission Expires: 12-7-08







**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of San Diego

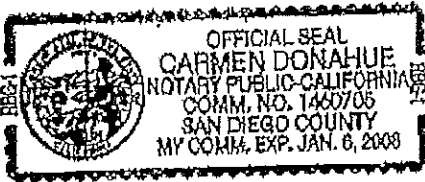
On 2/27/07 before me, Carmen Donahue, Notary Public

personally appeared Robert Francis Helms

personally known to me

(or proved to me on the basis of satisfactory evidence)

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Place Notary Seal Above

Carmen Donahue  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: Consent of unit owners of common element Koda Blue Condominium

Document Date: 2/27/07 Number of Pages: 17

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer -- Title(s): \_\_\_\_\_
- Partner --  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**

Top of thumb here

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

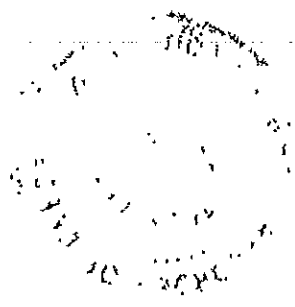
- Individual
- Corporate Officer -- Title(s): \_\_\_\_\_
- Partner --  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**

Top of thumb here

Signer Is Representing: \_\_\_\_\_

WD 0640-0514



CLARENCE S. HELMS  
CAMDEN COUNTY  
RECORDER OF DEEDS

2007 MAR 15 P 2:11 P

PSS. 4 S. 33

DEPUTY *D. K...*

PMCW 5

**FIRST AMENDMENT TO THE DECLARATION OF  
RESTRICTIONS, COVENANTS AND CONDITIONS FOR  
KOALA BEAR CONDOMINIUM**

**KNOW ALL MEN BY THESE PRESENTS:**

WHEREAS, Big Bear Resort, LLC as Developer, has heretofore declared, made and executed a certain "KOALA BEAR CONDOMINIUM DECLARATION OF CONDOMINIUM, hereafter, "Declaration", filed for record in the Camden County Recorder's Office on September 18, 2006 at Book 631 Page 645 (hereinafter referred to as "Declaration"); and,

WHEREAS, Developer has been authorized by the unanimous consent of all unit owners and the entire membership of the condominium association to convert and add a portion of the common elements into existing unit 406, all in accordance with the Declaration and Missouri statute; and

WHEREAS, the conversion of the portion of common elements into a unit will require the amendment of the condominium plat and an amendment to the Declaration reallocating the ownership of the common elements which is set forth on Exhibit C to the Declaration; and

WHEREAS, Developer desires to amend Exhibit C of said Declaration.

NOW THEREFORE, Developer does hereby declare that Exhibit C to the Declaration shall be deleted in its entirety and a new Exhibit C shall be inserted in lieu thereof in the form attached hereto and incorporated herein;

See attached Exhibit C

In all other respects, the Declaration shall be reaffirmed as originally drafted.

BIG BEAR RESORT, LLC

By: Angella Bohrer, Attorney in Fact for  
ROBERT HELMS, Sole Member of  
Big Bear Resort, LLC

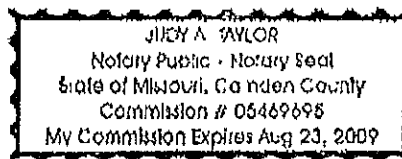
STATE OF MISSOURI            ]  
  68  
COUNTY OF CAMDEN         ]

On this 9 day of March 2007, before me personally appeared, Angelia Bohrer, to me personally known as attorney in fact for Robert Helms, sole member and manager of Big Bear Resort, LLC., and to be the person described in and who executed the foregoing instrument and acknowledged that she executed the same upon the authority of Robert Helms and on behalf of Big Bear Resort, LLC and as the free act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above-written.

*Quincy A Taylor*  
\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_



**EXHIBIT "C"**  
 Limited Common Elements/Percentage Interest In  
 Common Elements

BUILDINGS 1, 2, 3, 4, 5 AND 6

UNIT NO.	UNIT SQUARE FEET	LIMITED COMMON ELEMENTS*	PERCENTAGE INTEREST IN COMMON ELEMENTS	
101	541.8		3.160%	
102	415.9		2.425%	
103	393.9		2.309%	
104	483.8		2.821%	
105	531.7		3.101%	
106	396.15		2.310%	
107	782.43		4.563%	
108	398.2		2.322%	
109	490.5		2.860%	
110	537.8		3.136%	
111	399.23		2.328%	
112	793.74		4.629%	35.965%
 BUILDING 1 SQUARE FOOTAGE 6,167.15				
 BUILDING 2				
201	743.9		4.338%	
202	743.9		4.338%	
203	747.4		4.359%	
204	747.4		4.359%	17.394%
 BUILDING 2 SQUARE FOOTAGE 2,982.60				
 BUILDING 3				
301	714.36	WATER HEATER ROCK FIREPLACE	4.166%	
302	712.27	WATER HEATER ROCK FIREPLACE	4.154%	8.320%

BUILDING 3  
 SQUARE FOOTAGE  
 1,426.63

UNIT NO.	UNIT	LIMITED COMMON ELEMENTS*	PERCENTAGE INTEREST IN COMMON ELEMENTS
----------	------	--------------------------	--

**BUILDING 4**

401	448.27		2.614%
402	504.87		2.944%
403	674.59		3.934%
404	526.83	WOOD DECK	3.072%
405	745.26	WOOD DECK	4.346%
406	791.8	WOOD DECK	4.618%
BUILDING 4			21.528%
SQUARE FOOTAGE			
3691.62			

**BUILDING 5**

501	714.36	WATER HEATER ROCK FIREPLACE	4.166%
502	712.27	WATER HEATER ROCK FIREPLACE	4.154%
			8.320%

BUILDING 5  
 SQUARE FOOTAGE  
 1,426.63

**BUILDING 6**

601	356.09		2.077%
602	370.43		2.160%
603	370.64		2.161%
604	355.99		2.076%
			8.474%

BUILDING 6  
 SQUARE FOOTAGE  
 1,453.15

TOTAL SQUARE  
 FOOTAGE  
 17,147.78

100.000% 100.000%

STATE OF MISSOURI 1  
COUNTY OF CAMDEN 43  
1

On this, 9 day of March 2007, before me personally appeared, Angela Bohrer, to me personally known as attorney in fact for Robert Helms, sole member and manager of Big Bear Resort, LLC, and to be the person who executed in and who executed the foregoing instrument and acknowledged that she executed the same upon the authority of Robert Helms and on behalf of Big Bear Resort, LLC and as the free, act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above-written.

My Commission expires: \_\_\_\_\_

*Quinn A. ...*  
Notary Public  
Notary Public, State of Missouri  
Commission Expires 06/30/09  
My Commission Expires 06/30/09

WD 0735-0777



DONNIE SHELLING  
CAMDEN COUNTY  
RECORDER OF DEEDS

2013 APR 10 A 10:49 AM

PGS. 3 \$ 30

DEPUTY J.W.

PMCW

**SECOND AMENDMENT TO THE DECLARATION OF RESTRICTIONS,  
COVENANTS AND CONDITIONS FOR KOALA BEAR CONDOMINIUM**

**KNOW ALL MEN BY THESE PRESENCE:**

WHEREAS, Big Bear Resort, LLC as Developer has heretofore declared, made and executed a certain "KOALA BEAR CONDOMINIUM DECLARATION OF CONDOMINIUM", hereafter "Declaration", file of record in the Camden County Recorder's Office on September 18, 2006 at Book 631, Page 645; and

WHEREAS, the membership of the Condominium Association did, at a meeting duly held on May 26, 2012 with the required sixty-seven percent (67%) of the membership in favor (pursuant to §448.2-117 RSMo, approve an amendment to the Declaration to change the annual meeting date from the Saturday prior to the observed Memorial Day to the second Saturday of October to be effective in 2013.

NOW THEREFORE, Section 10.4 of the Declaration of Restrictions, Covenants and Conditions for Koala Bear Condominium be and is hereby amended to read as follows:

**10.4. ASSOCIATION MEETING:** The annual meeting of the Association shall be held on the second Saturday in October of each year. Special meetings of the Association may be called by the President or by twenty-five percent (25%) of either the Executive Board or the unit owners. Not less than twenty (20) nor more than sixty (60) days in advance of any meeting, regular or special, the Secretary shall cause notice to be hand delivered or sent prepaid by the United States Mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner. The notice of any meeting shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or By-Laws, any budget changes or any proposal to remove a director or officer.

In all other respects, the Declaration shall be reaffirmed as originally drafted.

*Cindy Rehmeier*  
2717 Kentwood Dr.  
Wolfeboro, N.H. 03598



ATTESTED:

*Cindy Rehmeier*  
Cindy Rehmeier, Treasurer

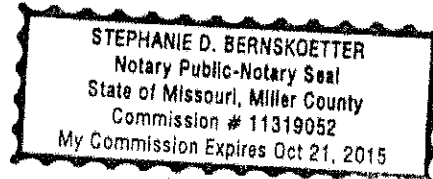
STATE OF MISSOURI     ]  
                          *Cole*     ss  
COUNTY OF ~~CAMDEN~~     ]

On this 3 day of April, 2013, before me, personally appeared Cindy Rehmeier, Treasurer to me personally known, who being by me duly sworn, did say that she is Treasurer of Koala Bear Condominium Association, Inc., a Missouri corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said Cindy Rehmeier acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the County and State aforesaid, the day and year first above written.

*Stephanie D. Bernskoetter*  
Notary Public

My Commission Expires: 10-21-2015



WD 0744-0074

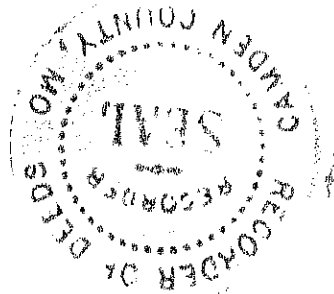
RECEIVED OCT 30 2013

DONNIE SNELLING  
CAMDEN COUNTY  
RECORDER OF DEEDS

2013 OCT 22 P 4:22 R

PGS. 3 of 30

DEPUTY D.W.



Date: September 13, 2013

Document Title: Koala / Big Bear Resort, L.L.C. Well & Sewer Expense Sharing Agreement

Grantor: Koala Bear Condominium Owners Association, Inc.

\* Grantor Address: 2610 Bagnell Dam Blvd. Ste. A  
Lake Ozark, MO 65049

Grantee: Big Bear Resort, LLC.

Grantee Address: 1189 Duckhead Rd.  
Lake Ozark MO 65049

Legal Description: All that part of block 10 of Horseshoe Bend Estates No.1, a subdivision of record in Camden County, Missouri, according to the plat thereof on file and of record.

Grantee Address was listed  
as 11728 Hedgefield Lane  
St. Louis Mo 63126  
which was not the correct  
address per Canderton  
Court house it doesn't  
matter to them & don't need  
to refile them. Marked by

## Koala/Big Bear Resort, L.L.C. Well & Sewer Expense Sharing Agreement

Date: August 23, 2013

This Agreement is made between Koala Bear Condominium Owners Association (Koala) and Big Bear Resort, L.L.C. and is effective as of the date of this contract.

Koala agrees to provide billing supporting documents to Big Bear Resort, L.L.C. on a quarterly basis for the following:

- Ongoing well expenses including electric, maintenance, replacement parts, labor associated with water samples and any charges from the Department of Natural Resources associated with the well shared by Big Bear Resort, L.L.C. apartment buildings and full-time tenants, Koala building 1 seasonal tenants, seasonal pool and hot tub and seasonal Big Bear Condominium tenants.
- Ongoing sewer expenses including all billing from Lake Region Water & Sewer, any future named sewer provider and any sewer maintenance.

Big Bear Resort, L.L.C. agrees to pay for the following on a monthly basis to Koala in the form of an automated payment in the exact amount of \$200.00 beginning September 15, 2013 and on the 15th of each month thereafter. **This monthly estimate will be evaluated annually and adjusted if deemed necessary by both parties.**

- 30% of ongoing well expenses including electric, maintenance, replacement parts, labor associated with water samples and any charges from the Department of Natural Resources associated with the well shared by the Big Bear Resort, L.L.C. apartment buildings and full-time tenants, Koala building 1 seasonal tenants, seasonal pool and hot tub and seasonal Big Bear Condominium tenants.
- 50% of all ongoing sewer expenses including all billing from Lake Region Water & Sewer, any future named sewer provider and any sewer maintenance.

Either Koala or Big Bear Resort L.L.C. may conduct or authorize reasonable emergency repair to the well and the other party will be notified of the repair(s) immediately. Neither party may authorize non-emergency repair or maintenance without the advanced approval of the other party.

If charges paid for shared well expenses by Big Bear Resort Condominiums are increased, then the payment required by Big Bear Resort L.L.C. will be reduced by the same pro rata amount.

This is the entire agreement. Both parties agree to the terms stated above and understand this to be a binding contract between the parties, their successors and personal representatives.

Koala Representative: Cindy R. Rehmeier Date: 9/12/13

State of Missouri

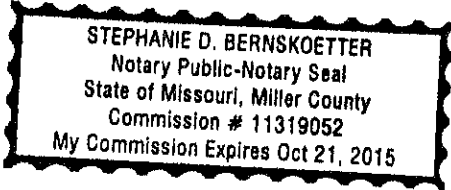
County of Cole

On 9-12-2013, before me, Stephanie D. Bernskoetter  
(date) (notary)

personally appeared Cindy R. Rehmeier, Treasurer and proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within this instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature(s) on the instrument, Cindy R. Rehmeier, Treasurer on behalf of Koala Condominium Owners Association, Inc., executed the instrument.

WITNESS my hand and official seal

Stephanie D. Bernskoetter  
(notary signature)



My Commission Expires: 10-21-2015

Robert Helms (Big Bear Resort, L.L.C.): Robert Helms Date: 9-13-13

State of Missouri

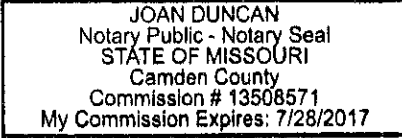
County of Camden

On 9-13-13, before me, Joan Duncan  
(date) (notary)

personally appeared Robert Helms representing Big Bear Resort, L.L.C. and proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within this instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature(s) on the instrument, Robert Helms representing Big Bear Resort, L.L.C., executed the instrument.

WITNESS my hand and official seal

Joan Duncan  
(notary signature)



My Commission Expires: 7/28/2017

WD 0744-0075

RECEIVED OCT 30 2013



DUNNIE SNELLING  
CAMDEN COUNTY  
RECORDER OF DEEDS

2013 OCT 22 P 4:22 8


PGS. 4 of 33

DEPUTY J.W.

Date: October 12, 2013

Title of Document: Amendment to the By-Laws of the Koala Bear Condominium Owners Association, Inc.

Grantor: Koala Bear Condominium Owners Association, Inc.

 Grantor Address: 2610 Bagnell Dam Blvd. Ste. A  
Lake Ozark, MO 65049

Grantee: Koala Bear Condominium Owners Association, Inc.

Grantee Address: 2610 Bagnell Dam Blvd. Ste. A  
Lake Ozark, MO 65049

Legal Description: All that part of block 10 of Horseshoe Bend Estates No.1, a subdivision of record in Camden County, Missouri, according to the plat thereof on file and of record.

**AMENDMENT TO THE BY-LAWS OF THE KOALA BEAR CONDOMINIUM OWNERS' ASSOCIATION, INC.**

**KNOW ALL MEN BY THESE PRESENCE:**

WHEREAS, the Koala Bear Condominium Owners' Association, Inc. is a duly constituted Missouri Not-for-Profit Corporation created pursuant to the Koala Bear Condominium Declaration of Condominium; and

WHEREAS, Article X of the By-Laws Koala Bear Condominium Owner's Association, Inc. "hereafter" By-Laws provides that the By-laws may only be altered or amended at a duly called meeting of the members and then, only if:

1. Notice of the meeting shall contain a statement of the proposed amendment.
2. The amendment shall require approval by the affirmativew vote of not less than two-thirds (2/3) of the voting membership of the Association.
3. Said amendment shall be evidenced by a certificate executed by an officer of the Association with the formalities of a deed. The certificate shall contain the recording data of the Declaration and shall be recorded in the Public Records of Camden County, Missouri.
4. Notwithstanding anything above to the contrary, until one year after the Developer has sold all units in the condominium, there shall be no amendment of these By-laws without the written approval of the Developer.
5. No By-laws shall be revised or amended by reference to its title or number only. Proposals to amend existing By-laws shall contain the full text of the By-Law to be amended; new words shall be inserted in the text underlined and words to be deleted shall be lined through with hyphens. However; and

WHEREAS, at a meeting of the membership on October 12, 2013, pursuant to the notice in procedure above described in the following amendments were adopted;


**ARTICLE XII. MEETINGS OF MEMBERSHIP**

7.2.1. The annual meeting shall be held on the second Saturday in October of each year, at a time to be designated by the Board of Directors, for the purpose of electing directors, approving an annual budget for the coming year, and transacting any other business authorized to be transacted by the members.

7.2.2. Written notice of the annual meeting shall be not less than twenty (20) nor more than sixty (60) days in advance and be hand-delivered or, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner as appears on the books of the Association, at least sixty (60) days prior to the meeting and a notice of such meeting shall be posted at a conspicuous place on the condominium property at least twenty (20) days prior to said meeting. The notice shall state the time and place of the meeting and the items on the agenda, including the general nature if any proposed amendment to the Declaration or By-laws, any budget change, and any proposal to remove a director or officer.

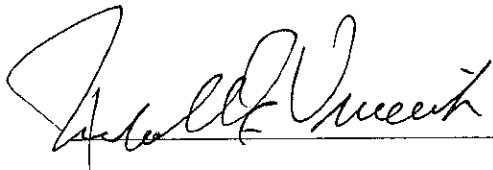
CONDOMINIUM

KOALA BEAR  
ASSOCIATION, INC.

  
Kevin Dellopoulos

President

ATTESTED:



Secretary

RAYMOND S. VINCENT

STATE OF MISSOURI ]  
SS  
COUNTY OF CAMDEN ]

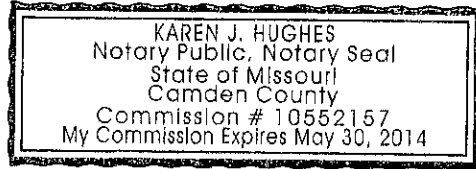
On this 12 day of Oct, 2013, before me, personally appeared Kevin Dellopp<sup>SS</sup>, to me personally known, who being by me duly sworn, did say that he is President of Koala Bear Condominium Association, Inc., a Missouri corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said he acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the County and State aforesaid, the day and year first above written.

Karen J. Hughes

Notary Public

My Commission Expires: May 30, 2014

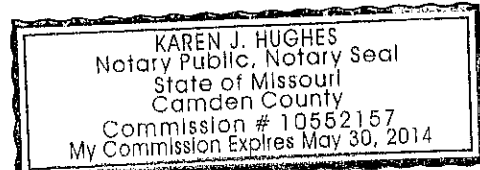


STATE OF MISSOURI ]  
SS  
COUNTY OF CAMDEN ]

On this 12 day of Oct, 2013, before me, personally appeared Randall Vincent, Secretary to me personally known, who being by me duly sworn, did say that he is Secretary of Koala Bear Condominium Association, Inc., a Missouri corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said he acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the County and State aforesaid, the day and year first above written.

Karen J. Hughes



Notary Public

My Commission Expires: May 30, 2014