

After Recording Return to:  
Jerry Slusky  
Smith Gardner Slusky Lazer Pohren & Rogers, LLP  
8712 West Dodge Road, Suite 400  
Omaha, Nebraska 68114  
402-392-0101

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Document Title: Fifth Amendment to Declaration of Condominium  
For Beebe & Runyan Condominium

Document Date: April 30, 2012

Declarant Name: BB&R Condominium Association

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FIFTH AMENDMENT TO  
DECLARATION OF CONDOMINIUM  
FOR BEEBE & RUNYAN CONDOMINIUM

This FIFTH AMENDMENT TO DECLARATION OF CONDOMINIUM FOR BEEBE & RUNYAN CONDOMINIUM (“Fifth Amendment”) is made this 30th day of April, 2012, by BB&R Condominium Association (hereinafter referred to as “Declarant”).

All of the capitalized terms in this Fifth Amendment shall have the same meaning as assigned to such terms in that certain Declaration of Condominium for Beebe & Runyan Condominium dated as of March 16, 2006, and recorded on March 16, 2006 as Document No. 2006 029801 in the office of the Register of Deeds of Douglas County, Nebraska (the “Original Declaration”), as amended by:

1. First Amendment of Declaration of Condominium of Beebe & Runyan Condominium, 105 S. Ninth Street, Omaha, Nebraska, filed February 25, 2008, in the records of the Register of Deeds of Douglas County, Nebraska as instrument number 2008 017760 (the “First Amendment”), as further amended by
2. Second Amendment of Declaration of Condominium of Beebe & Runyan Condominium, 105 S. Ninth Street, Omaha, Nebraska, filed August 6, 2009, in the records of the Register of Deeds of Douglas County, Nebraska as instrument number 2009 086040 (the “Second Amendment”), as further amended by
3. Cancellation of the Second Amendment of Declaration of Condominium of Beebe & Runyan Condominium, 105 S. Ninth Street, Omaha, Nebraska, filed October 27, 2009, in the records of the Register of Deeds of Douglas County, Nebraska as instrument number 2009 115668 (the “Cancellation of Second Amendment”), as further amended by
4. Third Amendment of Declaration of Condominium of Beebe & Runyan Condominium, 105 S. Ninth Street, Omaha, Nebraska, filed June 8, 2010, in the records of the Register of Deeds of Douglas County, Nebraska as instrument number 2010 051707 (the “Third Amendment”), as further amended by
5. Fourth Amendment of Declaration of Condominium of Beebe & Runyan Condominium, 105 S. Ninth Street, Omaha, Nebraska, filed June 9, 2010, in the records of the Register of Deeds of Douglas County, Nebraska as instrument number 2010 051708 (the “Fourth Amendment”).

The original Declaration, as amended by the First Amendment, Second Amendment, Cancellation of the Second Amendment, Third Amendment and Fourth Amendment is herein referred to as the “Declaration”.

## **RECITALS OF FACT**

- 1) WHEREBY as the Declarant Control Period has terminated and the management and control of the Common Areas, as defined in the Declaration, was transferred from BOCA Development, LLC to BB&R Condominium Association on April, 2, 2011, Declarant is BB&R Condominium Association; and
- 2) WHEREBY Article VI of the Declaration confers to the Members the express authority and control to effect necessary amendments, following the expiration of the Declarant Control Period; and
- 3) WHEREBY Section 14.14 states that the Declaration may be amended by recording a written instrument that has been signed and acknowledged by sixty-seven (67%) of the Members of the Association; and
- 4) WHEREBY on April 26, 2012, at least sixty-seven percent (67%) of the Members executed and acknowledged a desire to amend the Declaration as set forth below.

## **AMENDMENT**

- 5) Effective Date of Amendment. This Amendment shall become effective as of the date of the filing of this instrument with the Douglas County, Register of Deeds.
- 6) Section 1.15. Declarant, shall be deleted and replaced in its entirety with the following:

“Declarant” shall mean BB&R Condominium Association, and its successors and assigns”.

- 7) Section 3.07(a). Share of Common Element Interest and Common Expense Liability, shall be deleted and replaced in its entirety with the following:

“(a) The Declarant and each Unit Owner shall have and be deemed to own, by virtue of their respective ownership of a Unit or Units, a share or percentage of the undivided interests in all the Common Elements for the entire Condominium, based upon the relative square footage of a Unit owned by a particular Owner in relation to the relative square footage of all Units that have been created as of this date in the entire Condominium as described herein. The extent or amount of such ownership and liability shall be expressed as a common percentage of Common Element Interest or Common Expense Liability.”

8) No Other Amendments. Except as specifically set forth herein, the Declaration shall remain in full force and effect without change.

IN WITNESS WHEREOF, the Declarant has caused this Fifth Amendment to be executed on its behalf.

BB&R CONDOMINIUM ASSOCIATION  
("Declarant")

Condominium

By: \_\_\_\_\_  
Laurence Jones, President, BB&R  
Association

STATE OF NEBRASKA    )  
  ) SS.  
COUNTY OF DOUGLAS    )

On this 30<sup>th</sup> day of April 2012, before me appears Laurence Jones, on behalf of, and as the duly elected President of BB&R Condominium Association and is either personally known to me or was identified by me through satisfactory evidence.

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