

GEORGIA, FULTON COUNTY  
RECORDED AND RETURNED

Return to:

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Attention: Seth G. Weissman, Esq.

3 DEC 21 PM 12: 59

JUANITA HICKS  
CLERK, SUPERIOR COURT

CROSS REFERENCE

STATE OF GEORGIA

Reference: Deed Book 7130

Page 394

COUNTY OF FULTON

**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM**

**FOR**

**MUSCOGEE CONDOMINIUM**

WHEREAS, Trafalgar Investments, Inc., a Georgia corporation, recorded a Declaration of Condominium for Muscogee Condominium, on December 19, 1978, in Deed Book 7130, Page 394, et seq., Fulton County, Georgia Records (hereinafter referred to as the "Original Declaration"); and

WHEREAS, the Original Declaration has been previously amended by amendments recorded in the Fulton County, Georgia Records as follows:

<u>Recording Date</u>	<u>Deed Book/Page</u>
April 13, 1979	7217/449 <u>et seq.</u>
May 25, 1979	7253/463 <u>et seq.</u> ; and
June 9, 1989	12562/247 <u>et seq.</u>

WHEREAS, a plat related to the Condominium was filed in Condominium Plat Book 4, Page 76, Fulton County, Georgia Records; and

WHEREAS, floor plans relating to the Condominium were filed in Condominium File Cabinet No. 1, Folder No. 65, of the Fulton County, Georgia Records; and

WHEREAS, Section 14.01 of the Declaration provides that the Declaration may be amended by the affirmative vote of the members of the Muscogee Condominium Association, Inc. ("Association") holding at least two-thirds (2/3) of the total votes thereof; and

WHEREAS, members of the Association holding at least two-thirds (2/3) of the total votes thereof desire to amend the Declaration and have approved this Amendment; and

WHEREAS, in accordance with Article XV, Section 6 of the By-Laws of The Muscogee Condominium Association, Inc. ("Original By-Laws"), the Original By-Laws may be amended by the affirmative vote of members holding not less than three-fourths (3/4) of the total votes in the Association at any meeting of the members duly called for such purpose, such amendment having been proposed by the Association's Board of Directors; and

WHEREAS, at least \_\_\_\_\_ members of record have approved this amendment to the Original By-Laws at a meeting of the Association duly called for such purpose; and

WHEREAS, this amendment is not material with respect to first mortgagees in that it does not materially and adversely affect the security title or interest of any first mortgagee; provided, however, in the event a court of competent jurisdiction determines that this amendment does materially and adversely affect the security title or interest of any first mortgagee without such first mortgagee's consent to this amendment, then this amendment shall not be binding on the first mortgagee so involved, unless such first mortgagee consents to this amendment; and if such consent is not forthcoming, then the provisions of the Declaration prior to this amendment shall control with respect to the affected first mortgagee;

NOW, THEREFORE, the Original By-Laws and the Original Declaration and all exhibits thereto, are hereby stricken in their entirety and the following is simultaneously substituted therefor:

**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM**

**FOR**

**MUSCOGEE CONDOMINIUM**

**WEISSMAN, NOWACK, CURRY, & WILCO, P.C.**

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**DECLARATION OF CONDOMINIUM**

**FOR**

**MUSCOGEE CONDOMINIUM**

1. NAME.

The name of the condominium is Muscogee Condominium (hereinafter sometimes called "Muscogee" or the "Condominium", as further defined herein), which condominium is a residential condominium which hereby submits to the Georgia Condominium Act, O.C.G.A. § 44-3-70, et seq. (Michie 1982).

2. DEFINITIONS.

Generally, terms used in this Declaration, the Bylaws, and the Articles of Incorporation shall have their normal, generally accepted meanings or the meanings given in the Act or the Georgia Nonprofit Corporation Code. Unless the context otherwise requires, certain terms used in this Declaration, the Bylaws, and the Articles of Incorporation shall be defined as follows:

(a) Act shall mean the Georgia Condominium Act, O.C.G.A. § 44-3-70, et seq. (Michie 1982), as such act may be amended from time to time.

(b) Architectural Control Committee or ACC shall mean the committee established to exercise the architectural review powers set forth in Paragraph 13 hereof.

(c) Area of Common Responsibility shall mean and refer to the Common Elements, together with those areas, if any, which by the terms of this Declaration or by contract or agreement with any other person or entity become the responsibility of the Association.

(d) Articles or Articles of Incorporation shall mean the Articles of Incorporation of Muscogee Condominium Association, Inc., which have been filed with the Secretary of State of the State of Georgia.

(e) Association shall mean Muscogee Condominium Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

(f) Board or Board of Directors shall mean the elected body responsible for management and operation of the Association.

(g) Bylaws shall mean the Bylaws of Muscogee Condominium Association, Inc., attached to this Declaration as Exhibit "E" and incorporated herein by this reference.

(h) Common Elements shall mean those portions of the property subject to this Declaration which are not included within the boundaries of a Unit.

(i) Common Expenses shall mean the expenses incurred or anticipated to be incurred by the Association for the general benefit of the Condominium, including, but not limited to, those expenses incurred for maintaining, repairing, replacing, and operating the Common Elements.

(j) Community-Wide Standard shall mean the standard of conduct, maintenance, or other activity generally prevailing within the Condominium. Such standard may be more specifically determined by the Board of Directors and the Architectural Control Committee.

(k) Condominium shall mean all that property described in Exhibit "A" attached hereto and incorporated herein by this reference, submitted to the provisions of the Act by this Declaration.

(l) Condominium Instruments shall mean this Declaration and all exhibits to this Declaration, including the Bylaws of the Association, and the Survey and Floor Plans, all as may be supplemented or amended from time to time.

(m) Eligible Mortgage Holder shall mean those holders of first mortgages secured by Units in the Condominium who have requested notice of certain items as set forth in this Declaration.

(n) Floor Plans shall mean the floor plans for Muscogee Condominium, filed in the condominium file cabinet of the Fulton County, Georgia records, and as amended from time to time.

(o) Limited Common Elements shall mean a portion of the Common Elements reserved for the exclusive use of those entitled to occupy one (1) or more, but less than all, Units, as more particularly set forth in this Declaration.

(p) Majority means those eligible votes, Owners, or other group as the context may indicate totaling more than fifty (50%) percent of the total eligible number.

(q) Mortgage shall refer to any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation, including, but not limited to, a transfer or conveyance of fee title for such purpose.

(r) Mortgagee or Mortgage Holder shall mean the holder of any mortgage.

(s) Occupant shall mean any Person occupying all or any portion of a Unit for any period of time, regardless of whether such Person is a tenant or the Owner of such property.

(t) Owner shall mean the record title holder of a Unit within the Condominium, but shall not include a Person who is only a Mortgage Holder.

(u) Person shall mean any individual, corporation, firm, association, partnership, trust, or other legal entity.

(v) Survey shall mean the plat of survey for Muscogee Condominium, filed in the condominium plat book of the Fulton County, Georgia records, and as amended from time to time.

(w) Unit shall mean that portion of the Condominium intended for individual ownership and use as more particularly described in this Declaration and shall include the undivided ownership in the Common Elements assigned to the Unit by this Declaration.

### 3. LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS.

The Condominium subject to this Declaration and the Act is located in Land Lot 112, of the 17<sup>th</sup> District of Fulton County, Georgia, being more particularly described in Exhibit "A" attached to this

Declaration, which exhibit is specifically incorporated herein by this reference. The Survey and Floor Plans are incorporated herein by reference as fully as if the same were set forth in their entirety herein.

4. UNITS AND BOUNDARIES.

The Condominium is divided into sixteen (16) separate Units, Common Elements and the Limited Common Elements. Each Unit consists of a dwelling and its appurtenant percentage of undivided interest in the Common Elements. Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the Act and the Condominium Instruments. The Units are depicted on the Survey and the Floor Plans. Each Unit includes that part of the structure which lies within the following boundaries:

(a) Vertical Boundaries. The vertical boundaries of any Unit shall extend to and include the finished interior surface of the walls of such Unit which separate that Unit from the other Units and Common Elements and also extends to include the balcony areas of each Unit.

(b) Horizontal Boundaries. The horizontal boundaries of any Unit shall extend to and include the finished horizontal surface of the floor and ceiling of such Unit.

(c) Additional Information to Interpret Unit Boundaries. Entry doors and exterior glass surfaces, including, but not limited to, windows and glass doors, serving the Unit shall be included within the boundaries of the Unit. Heating and air conditioning systems serving a single Unit (including any part of any such system located outside the boundaries of the Unit), all duct work for heating and air conditioning systems and appliances and plumbing fixtures within a Unit shall be part of the Unit.

If any chutes, flues, ducts, conduits, wires, pipes or other apparatus lies partially within and partially outside of the designated boundaries of the Unit, any portion thereof which serve only that Unit shall be deemed to be a part of that Unit, while any portions thereof which serve more than one Unit or any portion of the Common Elements shall be deemed a part of the Common Elements.

In interpreting deeds and Floor Plans, the existing physical boundaries of a Unit as originally constructed or of a Unit reconstructed in substantial accordance with the original Floor Plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in any deed or Floor Plan, regardless of settling or lateral movement of the building in which the Unit was located, and regardless of minor variance between the boundaries shown on the Floor Plans or in a deed and those of the Unit.

The ownership of each Unit shall include, and there shall pass with each Unit, whether or not separately described in the conveyance thereof, that percentage of the right, title and interest in the Common Elements attributable to such Unit, together with membership in the Association and an undivided interest in the funds and assets held by the Association.

5. COMMON ELEMENTS.

The Common Elements consists of all portions of the Condominium not located within the boundaries of a Unit.

Ownership of the Common Elements shall be by the Unit Owners as tenants-in-common. The percentage of undivided interest in and to the Common Elements attributable to each Unit is set forth on Exhibit "B." Such percentages of undivided interest may be altered only by the consent of all Owners and Mortgagees (or such lesser number of Owners and Mortgagees as may hereafter be prescribed by the Act) expressed in a duly recorded amendment to this Declaration.



The Common Elements shall remain undivided, and no Owner nor any other person shall bring any action for partition or division of the whole or any part thereof except as provided in the Act. Except as provided for Limited Common Elements or as otherwise provided herein, each Owner and the Association may use the Common Elements for the purposes for which they are intended, but no such use shall enter or encroach upon the lawful rights of the other Owners.

6. LIMITED COMMON ELEMENTS.

(a) The Limited Common Elements located on the Condominium and the Unit(s) to which they are assigned are:

(i) any doorstep, landing step, stairway, or any other apparatus serving more than one Unit, as shown on the Floor Plans, are assigned as Limited Common Elements to the Units which they serve;

(ii) the portion of the Common Elements on which there is located any portion of the air conditioning or heating system exclusively serving a particular Unit or Units is assigned as Limited Common Element to the Unit or Units so served;

(iii) any utility meter which serves only one Unit is assigned as a Limited Common Element to the Unit so served;

(iv) each Unit is assigned one (1) or more parking spaces which are assigned on Exhibit "C" attached hereto and incorporated herein by this reference and shown on the Floor Plans as a Limited Common Element assigned to the Unit. Parking spaces may be initially assigned or reassigned by amendment to this Declaration as provided in Subparagraphs (b) and (c) below;

(v) each Unit is assigned one (1) or more storage spaces which are assigned on Exhibit "D" attached hereto and incorporated herein by this reference and shown on the Floor Plans as a Limited Common Element, assigned to the Unit. Storage spaces may be initially assigned or reassigned by amendment to this Declaration as provided in subparagraphs (b) and (c) below; and

(vi) each Unit is assigned one (1) mailbox or mail slot.

(b) The Association's Board of Directors, without need for a membership vote, is hereby authorized to assign and to reassign Limited Common Elements, provided that any such assignment or reassignment shall be made in accordance with the provisions of Section 44-3-82(b) and (c) of the Act. A Common Element not previously assigned as a Limited Common Element may be so assigned and a Limited Common Element may be reassigned by the Board, without the need for a vote of the Association, upon written application to the Association by the Unit Owner or Owners for whose exclusive use such Common Element is requested or whose use of the Limited Common Element previously assigned is directly affected. Upon such application, the Association shall prepare and execute an amendment to the Declaration assigning the Common Element as a Limited Common Element or reassigning the Limited Common Element, which amendment shall be executed by the Owner or Owners making such application. Such amendment shall be delivered and become effective as provided in Section 44-3-82 of the Act.

7. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES.

All Unit Owners, by virtue of their ownership of a fee or undivided fee interest in any Unit in the Condominium, excluding Persons holding such interest under a Mortgage, are members of the Muscogee

Condominium Association, Inc., and, except as otherwise provided herein or in the Bylaws, shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to the Declaration and in accordance with the Bylaws. Subject to the provisions of the Condominium Instruments, each Owner or Owners of a Unit shall be entitled to that number of votes in the Association equivalent to the fraction of the undivided interest in the Common Elements allocated to that Unit as more particularly set forth on Exhibit "B" attached hereto and incorporated herein by reference.

8. ALLOCATION OF LIABILITY FOR COMMON EXPENSES.

(a) Except as provided below, or elsewhere in the Act or Condominium Instruments, the amount of all Common Expenses shall be assessed against all the Units in accordance with the percentage of undivided interest in the Common Elements appurtenant to the Unit as set forth on Exhibit "B" attached hereto and incorporated herein by reference.

(b) The Board of Directors shall have the power to assess specially pursuant to this Paragraph and to Section 44-3-80(b) of the Act as, in its discretion, it shall deem appropriate. Failure of the Board of Directors to exercise its authority under this Paragraph shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Paragraph in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Paragraph.

(i) Any Common Expenses benefiting less than all of the Units or significantly disproportionately benefiting all Units may be specially assessed equitably among all of the Units which are benefited according to the benefit received. Except for expenses for maintenance, repair or replacement of Limited Common Elements, which may be specially assessed, expenses incurred for the maintenance, repair, or replacement of the Area of Common Responsibility, shall not be specially assessed.

(ii) Any Common Expenses occasioned by the conduct of less than all of those entitled to occupy all of the Units or by the Occupant(s), licensees or invitees of any such Unit or Units may be specially assessed against such Unit or Units.

(c) The Condominium currently is served by a common water meter. The Board shall have the authority, but shall have no obligation, to install submeters and assess individual Unit utilities usage charges, including a right to add a charge for the cost of overhead for such submetering, against individual Units and/or to install separate utility meters for the Units.

9. ASSOCIATION RIGHTS AND RESTRICTIONS.

In addition to and not in limitation of all other rights it may have, the Association, acting through its Board of Directors, shall have the right and authority:

(a) to enter into Units for maintenance, emergency, security, or safety purposes, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after reasonable notice to the Owner or Occupant of the Unit. For the purposes of this section, a water or other utility leak, fire, strong foul odor, obvious insect infestation or sounds indicating that a person or animal might be injured or sick and require immediate medical attention shall be considered emergencies justifying immediate entry into a Unit. The failure to exercise the rights herein or to exercise said rights in

a timely manner shall not create liability to any of the above-referenced parties, it being agreed that no duty to enter a Unit shall exist;

(b) to make and to enforce reasonable rules and regulations governing the use of the Condominium, including the Units, Limited Common Elements, and Common Elements;

(c) to enforce use restrictions, other Declaration and Bylaws provisions, and rules and regulations by the imposition of reasonable monetary fines and suspension of use and voting privileges as provided in Section 44-3-76 of the Act, as amended;

(d) to grant permits, licenses, utility easements, and other easements;

(e) to control, manage, operate, maintain, improve and replace all portions of the Area of Common Responsibility;

(f) to deal with the Condominium in the event of damage or destruction as a result of casualty loss, condemnation or eminent domain, in accordance with the provisions of the Act and this Declaration;

(g) to acquire, hold, and dispose of tangible and intangible personal property and real property;

(h) at the sole expense of the Association, without need for a membership vote, and without the consent of any affected Unit Owner, to relocate any portion of the air conditioning, heating, plumbing, ventilating, exhaust or electrical system serving a particular Unit, provided that after such relocation, the system serving the Unit functions at least as well and at no greater cost to the Unit Owner as existed prior to the relocation; and

(i) to establish a construction deposit of Two Thousand Five Hundred and No/100 Dollars (\$2,500.00) or such other reasonable amount as determined by the Board of Directors to be paid by all Owners making modifications, alterations or additions to their Units in order to protect the Condominium against damage due to the transportation and use of construction materials in the Condominium. Costs for repair of such damage may be deductible from the construction deposit and any additional expenses may be specifically assessed against the Unit under Paragraph 8(b)(ii) above.

#### 10. ASSESSMENTS.

(a) Purpose of Assessment. The Association shall have the power to levy assessments as provided herein and in the Act. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of Units in the Condominium as may be more specifically authorized from time to time by the Board.

(b) Creation of the Lien and Personal Obligation For Assessments. Each Owner of any Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges; (ii) special assessments, such assessments to be established and collected as hereinafter provided; (iii) specific assessments against any particular Unit which are established pursuant to the terms of this Declaration, including but not limited to reasonable fines imposed in accordance with the terms of this Declaration; and (iv) if necessary, the costs of collection, including court costs, the expenses of sale of a Unit, any expenses required for the protection and preservation of the Unit, and reasonable attorney's fees actually incurred.

All such assessments, together with charges, interest, costs, and reasonable attorney's fees actually incurred, and if the Board so elects, rents, in the maximum amount permitted by the Act, shall be a charge on the Unit and shall be a continuing lien upon the Unit against which each assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Unit at the time when the assessment fell due. Each Owner and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors; unless otherwise provided, the annual assessments shall be paid in equal monthly installments due on the first day of each calendar month. No Owner may exempt himself or herself from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, nonuse of the Common Elements, the Association's failure to perform its obligations required hereunder, or inconvenience or discomfort arising from the Association's performance of its duties. The lien provided for herein shall have priority as provided in the Act.

(c) Delinquent Assessments. All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner shall be in default.

(i) If any monthly installment of annual assessments or any part thereof is not paid in full by the twentieth (20th) day of the month or if any other charge is not paid within ten (10) days of the due date, a late charge equal to the greater of ten (\$10.00) dollars or ten (10%) percent of the amount not paid, or such higher amounts as may be authorized by the Act, may be imposed without further notice or warning to the delinquent Owner and interest at the rate of ten (10%) percent per annum or such higher rate as may be permitted by the Act shall accrue from the due date.

(ii) If part payment of assessments and related charges is made, the amount received may be applied first to costs and attorney's fees, then to late charges, then to interest, then to delinquent assessments, and then to current assessments.

(iii) If assessments, fines or other charges or any part thereof due from an Owner remain delinquent and unpaid for a period greater than fifteen (15) days from the date due, a notice of delinquency may be given to that Owner stating that if the assessment, fine or charge remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board of Directors may accelerate and declare immediately due all of that Owner's unpaid installments of the annual assessment and of any special assessment. If an Owner fails to pay all assessments and related charges currently due within ten (10) days of the date of the notice of delinquency, the Board of Directors may then accelerate and declare immediately due all installments of the annual assessment and of any special assessment, without any further notice being given to the delinquent Owner. Upon acceleration, that Owner shall thereby lose the privilege of paying the annual assessment in monthly installments for that fiscal year.

(iv) If assessments and other charges or any part thereof remain unpaid more than thirty (30) days after the assessment payments first become delinquent, the Association, acting through the Board of Directors, may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the Bylaws, the Act and Georgia law and suspend the Owner's and/or Occupant's right to vote and the right to use the Common Elements; provided, however, the Board may not limit ingress or egress. Enforcement under this subparagraph is not dependent upon or related to other restrictions and/or other actions.

(v) If any assessment or other charge is delinquent for thirty (30) days or more, in addition to all other rights provided in the Act and herein, the Association shall have the right upon

ten (10) days written notice, and in compliance with any requirements set forth in the Act, to suspend any utility or service, the cost of which are an Association Common Expense, including, but not limited to, water, electricity, heat, air conditioning and cable television, to that Unit until such time as the delinquent assessments and all costs permitted under this Paragraph, including reasonable attorney's fees, are paid in full. Any costs incurred by the Association in discontinuing and/or reconnecting any utility service, including reasonable attorney's fees, shall be an assessment against the Unit.

Notwithstanding the above, the Board only may suspend any utility or service paid for as a Common Expense after a final judgment or judgments in excess of a total of \$750.00, or such other amount as required by the Act, are obtained in favor of the Association from a court of competent jurisdiction, the Association provides the notice required to be provided by the institutional provider of such service prior to suspension of such service, and the Association complies with any other requirements of Georgia law. A Unit Owner whose utility service has been suspended shall not be entitled to use any such services paid for as a common expense from any source and any such unauthorized use shall be considered a theft of services under O.C.G.A. § 16-8-6. The utility services shall not be required to be restored until all judgments are paid in full, at which time the Association shall direct the utility provider to restore the service.

(d) Computation of Operating Budget and Assessment. It shall be the duty of the Board at least twenty-one (21) days prior to the beginning of the Association's fiscal year to prepare a budget covering the estimated costs of operating the Condominium during the coming year. The Board shall cause the budget and notice of the assessments to be levied against each Unit for the following year to be delivered to each member at least thirty (30) days prior to the Association's annual meeting. The budget and the assessment shall become effective unless disapproved at a duly called and constituted annual meeting of the Association by a vote of a majority of the total Association vote; provided, however, if a quorum is not obtained at the annual meeting, the budget shall become effective even though a vote to disapprove the budget could not be called at this meeting.

Notwithstanding the foregoing, in the event that the membership disapproves the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the current year shall continue for the succeeding year. In such case, the Board may propose a new budget at any time during the year at a special meeting of the Association. The proposed budget and assessment shall be delivered to the members at least thirty (30) days prior to the proposed effective date thereof and at least seven (7) days prior to the special meeting. The approval procedure set forth above for budgets considered at annual meetings shall also apply to budgets considered at special meetings.

Enforcement under this subparagraph is not dependent upon or related to other restrictions and/or other actions.

(e) Special Assessments. In addition to the annual assessment provided for in subparagraph (b) above, the Board may, at any time, and in addition to any other rights it may have, levy a special assessment against all Owners, notice of which shall be sent to all Owners. Any special assessment (except as provided in Paragraph 8(b) regarding the power to assess specially pursuant to Section 44-3-80(b) of the Act and Paragraph 12(b) herein, regarding repair or reconstruction of casualty damage to or destruction of all or part of the Condominium) which would cause the average total of special assessments levied in one fiscal year to exceed two hundred (\$200.00) dollars per Unit, shall be approved by a majority of the total Association vote prior to becoming effective.

(f) Capital Budget and Contribution. The Board of Directors shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by equal annual assessments over the period of the budget. The annual capital contribution required, if any, shall be fixed by the Board and included within the budget and assessment as provided in subparagraph (d) of this Paragraph. A copy of the capital budget shall be distributed to each member in the same manner as the operating budget.

(g) Statement of Account. Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Unit, or a lender considering a loan to be secured by a Unit, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against a Unit. The Association shall respond in writing within five (5) days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding ten (\$10.00) dollars, or such higher amount as may be authorized by the Act, as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Unit as of the date specified therein.

(h) Surplus Funds and Common Profits. Pursuant to Section 44-3-108 of the Act, common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common profits to the payment of Common Expenses may be, at the sole discretion of the Board of Directors, (i) distributed to the Owners or credited to the next assessment chargeable to the Owners in proportion to the liability for Common Expenses attributable to each Unit or (ii) added to the Association's capital reserve account as set forth in (f) above.

#### 11. INSURANCE.

The Association shall obtain and maintain at all times, as a Common Expense, insurance as required by Section 44-3-107 of the Act, as amended, and as required herein. The Association's insurance policy shall cover any of the following types of property contained within a Unit, regardless of ownership: (a) fixtures, improvements and alterations that are a part of the building or structure; and (b) appliances, such as those used for refrigerating, ventilating, cooking, dishwashing, laundering, security or housekeeping. In the alternative, the Association's insurance policy may exclude improvements and betterments made by the Unit Owner and may exclude the finished surfaces of perimeter and partition walls, floors, and ceilings within the Units (i.e., paint, wallpaper, paneling, other wall covering, tile, carpet and any floor covering; provided, however, floor covering does not mean unfinished hardwood or unfinished parquet flooring).

All insurance purchased by the Association pursuant to this Paragraph shall run to the benefit of the Association, the Board of Directors, officers, all agents and employees of the Association, the Unit Owners, and their respective Mortgagees, and all other persons entitled to occupy any Unit, as their interests may appear. The Association's insurance policy may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance equals at least the replacement cost of the insured property.

The Board of Directors shall make available for review by Owners a copy of the Association's insurance policy to allow Owners to assess their personal insurance needs and each Owner shall have the right to obtain additional coverage at his or her own expense.

All insurance coverage for the Association shall be written in the name of the Association as trustee for itself, each of the Owners, and the Mortgagees of Owners, if any. It shall be the duty of the Board of Directors at least every two (2) years to conduct an insurance review to determine if the policy in force is

adequate to meet the needs of the Association and to satisfy the requirements of Section 44-3-107 of the Act, as amended. Such responsibility may be performed, and shall be deemed reasonably performed, by the Board requesting the Association's insurance agent to verify that insurance policies in existence meet the needs of the Association and satisfy the requirements of Section 44-3-107 of the Act, as amended.

(a) The Board of Directors shall utilize reasonable efforts to secure a blanket hazard insurance policy providing "all risk" coverage in an amount equal to full replacement cost, before application of deductibles, of all improvements located on the Condominium. If "all risk" coverage is not reasonably available at reasonable cost, the Board shall obtain, at a minimum, fire and extended coverage, including coverage for vandalism and malicious mischief, in like amounts. The Board shall use reasonable efforts to obtain policies that will provide the following:

(i) the insurer waives its rights of subrogation of any claims against directors, officers, the managing agent, the individual Owners, Occupants, and their respective household members;

(ii) any "other insurance" clause contained in the master policy shall expressly exclude individual Unit Owners' policies from its operation;

(iii) until the expiration of thirty (30) days after the insurer gives notice in writing to the Mortgagee of any Unit, the Mortgagee's insurance coverage will not be affected or jeopardized by any act or conduct of the Owner of such Unit, the other Unit Owners, the Board of Directors, or any of their agents, employees, or household members, nor be canceled for nonpayment of premiums;

(iv) the master policy may not be canceled, substantially modified, or subjected to nonrenewal without at least thirty (30) days prior notice in writing to the Board of Directors and all Mortgagees of Units;

(v) an agreed value endorsement and an inflation guard endorsement; and

(vi) the deductible amount per occurrence for coverage required by the Act shall not exceed one thousand (\$1,000.00) dollars.

(b) All policies of insurance shall be written with a company licensed to do business in the State of Georgia. The company shall provide insurance certificates to each Owner and each Mortgagee upon request.

(c) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Unit Owners or their Mortgagees. Each Unit Owner shall notify the Board of Directors of all structural improvements made by the Unit Owner to his or her Unit. Any Unit Owner who obtains an individual insurance policy covering any portion of the Condominium, other than improvements and betterments made by such Owner at his or her expense and personal property belonging to such Owner, shall file a copy of such individual policy or policies with the Board of Directors within thirty (30) days after the purchase of such insurance. Such Owner shall also promptly notify, in writing, the Board of Directors in the event such policy is canceled.

(e) In addition to the insurance required hereinabove, the Board shall obtain as a Common Expense:

(i) worker's compensation insurance if and to the extent necessary to meet the requirements of law;

(ii) public liability insurance in amounts no less than required by Section 44-3-107 of the Act, as amended, and officers' and directors' liability insurance in such amounts as the Board may determine. The public liability insurance shall contain a cross liability endorsement;

(iii) fidelity bonds, if reasonably available, covering officers, directors, employees, and other persons who handle or are responsible for handling Association funds. Such bonds, if reasonably available, shall be in an amount consistent with the best business judgment of the Board of Directors, but in no event less than three (3) month's assessments plus a reasonable amount to cover all or a reasonable portion of reserve funds in the custody of the Association at any time during the term of the bond; provided, however, fidelity coverage herein required may be reduced based on the implementation of financial controls which take one or more of the following forms: (a) the Association or management company, if any, maintains a separate bank account for the working account and the reserve account, each with appropriate access controls and the bank in which funds are deposited sends copies of the monthly bank statements directly to the Association; (b) the management company, if any, maintains separate records and bank accounts for each association that uses its services and the management company does not have the authority to draw checks on, or to transfer funds from, the Association's reserve account; or (c) two members of the Board of Directors must sign any checks written on the reserve account; and

(iv) such other insurance as the Board of Directors may determine to be necessary.

(f) Insurance carried by the Association as a Common Expense shall not be required to include any part of a Unit which is not depicted on the original Survey and Floor Plans or any part of a Unit that was included, nor shall the Association include public liability insurance for individual Owners for liability arising within the Unit.

(g) Nothing contained herein gives any Owner or other party a priority over any rights of first Mortgagees as to distribution of insurance proceeds. Any insurance proceeds payable to the Owner of a Unit on which there is a Mortgagee endorsement shall be disbursed jointly to such Unit Owner and the Mortgagee. This is a covenant for the benefit of any such Mortgagee and may be enforced by any such Mortgagee.

(h) Every Unit Owner shall be obligated to obtain and maintain at all times insurance covering those portions of his or her Unit to the extent not insured by policies maintained by the Association. Upon request by the Board, the Unit Owner shall furnish a copy of such insurance policy or policies to the Association. In the event that any such Unit Owner fails to obtain insurance as required by this subparagraph, the Association may purchase such insurance on behalf of the Unit Owner and assess the cost thereof to the Unit Owner, to be collected in the manner provided for collection of assessments under Paragraph 10 hereof.

(i) Insurance Deductibles. In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the person or persons who would be responsible for such loss in the absence of insurance. If the loss affects more than one Unit or a Unit and the Common Elements, the cost of the deductible may be apportioned equitably by the Board among the parties suffering loss in proportion to each affected owner's portion of the total cost of repair. Notwithstanding this, if the insurance policy provides that the deductible will apply to each Unit separately or to each occurrence, each Unit



Owner shall be responsible for paying the deductible pertaining to his or her Unit, if any. If any Owner or Owners fail to pay the deductible when required under this subparagraph, then the Association may pay the deductible and assess the cost to the Owner or Owners pursuant to Paragraph 8 of this Declaration; provided, however, where the deductible is for insurance required under the Act, no Owner shall be assigned more than one thousand (\$1,000.00) dollars, or such higher amount as authorized by the Act, as the cost of the deductible for any one occurrence.

12. REPAIR AND RECONSTRUCTION.

In the event of damage to or destruction of all or any part of the Condominium as a result of fire or other casualty, unless eighty (80%) percent of the Unit Owners, including the Owner or Owners of any damaged Unit or Units, vote not to proceed with the reconstruction and repair of the structure, the Board of Directors or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the structure. In the event of substantial damage or destruction, each holder of a first Mortgage shall be entitled to written notice of the damage, and nothing in these documents shall be construed to afford a priority to any Unit Owner with respect to the distribution of proceeds to any such Unit.

(a) Cost Estimates. Immediately after a fire or other casualty causing damage to the Condominium, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring the structures (including any damaged Unit) to substantially the condition which existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Such costs may also include professional fees and premiums for such bonds as the Board of Directors determines to be necessary.

(b) Source and Allocation of Proceeds. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, as determined by the Board of Directors, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, the additional costs shall be assessed against the Owners of the Unit(s) damaged in proportion to the damage to the Units or against all Owners, in the case of insufficient funds to cover damage to the Common Elements. This assessment shall not be considered a special assessment as discussed in Paragraph 10(e). If after repair and reconstruction is completed there is a surplus of funds, such funds shall be common funds of the Association to be used as directed by the Board of Directors.

(c) Floor Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the Floor Plans and specifications under which the Condominium was originally constructed, except where changes are necessary to comply with current applicable building codes or where improvements not in accordance with the original Floor Plans and specifications are approved by the Board of Directors. To the extent insurance proceeds are available, the Association may reconstruct or repair Owner improvements damaged as a result of fire or other casualty.

(d) Encroachments. Encroachments upon or in favor of Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Unit Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the architectural plans under which the Condominium was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the reconstructed building shall stand.

(e) Construction Fund. The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from assessments against Unit Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of

reconstruction and repair in the manner set forth in this Paragraph to be disbursed by the Association in appropriate progress payments to such contractor(s), supplier(s), and personnel performing the work or supplying materials or services for the repair and reconstruction of the buildings as are designated by the Board of Directors.

13. ARCHITECTURAL CONTROLS.

(a) Architectural Control Committee. The Architectural Control Committee ("ACC") shall be comprised of the members of the Board of Directors. No Owner, Occupant, or any other person may make any encroachment onto the Common Elements or Limited Common Elements, or make any exterior change, alteration, or construction (including painting and landscaping), nor erect, place or post any object, sign, clothesline, speaker, playground equipment, light, fountain, flag, or thing on the exterior or roof of the buildings, in any windows (except window treatments as provided herein), on any Limited Common Elements, or on any other Common Elements, without first obtaining the written approval of the ACC; provided, however, a mezuzah not larger than three inches (3") in width and nine inches (9") in height may be posted on the door frame of the Unit between Thanksgiving and January 15<sup>th</sup>. The standard for approval of such improvements shall include, but not be limited to, aesthetic consideration, materials to be used, harmony with the external design of the existing buildings, Units and structures, and the location in relation to surrounding structures and topography.

(b) Alteration of Units. Subject to the other provisions of this Declaration, alterations to the interiors of Units, relocation of the boundaries between adjoining Units, and subdivision of Units are subject to the following restrictions:

(i) Alterations to the Interiors of the Units. Except as provided herein, no Owner or Occupant may make any alteration within a Unit which involves connecting to Common Element pipes, lines, conduits and/or other apparatus for access to common utilities without prior written ACC approval. Except as provided herein, no Owner or Occupant shall make any interior modifications to or place an excessive load on any structural or load bearing portions of a Unit without first obtaining the prior written approval of the ACC. Such approval shall not be granted by the ACC unless the Owner has presented to the ACC a report, drawing and/or certification from a licensed structural engineer showing that compensating measures will be taken to ensure the structural integrity of the Unit and the Condominium, and that the proposed alterations to the interiors of the Unit will not damage or impair the structure of the Condominium building or the roof. The Unit Owner, at his or her sole expense, shall comply with all governmental requirements for any construction and/or renovation to be done within the Unit, including, but not limited to approvals, permits, plans, insurance, dumpster fees, and contractor license, and shall provide the ACC with a copy of any such documentation within three (3) days of the ACC's request. In the event that Unit Owner fails to provide the ACC with copies of the requested documentation within three (3) days of such request, Unit Owner shall cease and desist any and all construction and/or renovation activities until such time as such documentation is provided to the ACC; provided, however, a Unit Owner shall be permitted to conduct construction activities which are performed for the sole purpose of restoring the Unit to its original condition prior to the commencement of construction.

The Unit Owner shall further provide the ACC, at the ACC's request, advance written notification of any construction and/or renovation to be done in his/her Unit, and further release the Association from any liability arising from said activities. The Unit Owner shall be required to pay in advance a construction deposit as set forth in Paragraph 9(i) above to protect the Condominium building and Common Elements against damage. Any and all trash, garbage and debris resulting

from a Unit Owner's construction activities shall be promptly removed from the Condominium at the Unit Owner's sole cost.

(ii) Relocation of Boundaries. Boundaries between adjoining Units shall not be relocated.

(iii) Subdivision of Units. No Unit shall be subdivided into a smaller Unit or Units.

(c) Applications. Applications for approval of any such architectural modification shall be in writing and shall provide such information as the ACC may reasonably require. The ACC shall be the sole arbiter of such application and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction which is not in conformance with approved plans. The Board or ACC may publish written architectural standards for exterior and Common Element alterations or additions, and any request in substantial compliance therewith shall be approved; provided, however, each such requested change shall be in harmony with the external design of the existing buildings and Units and the location in relation to surrounding structures and topography of the vicinity.

In the event that the ACC fails to approve or to disapprove such application within forty-five (45) days after the application and all information as the ACC may reasonably require have been submitted, its approval will not be required and this paragraph will be deemed complied with; provided, however, even if the requirements of this paragraph are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement that is otherwise in violation of the Declaration, the Bylaws, or the rules and regulations.

(d) Encroachments onto Common Elements and Limited Common Elements. The ACC subject to this paragraph may allow encroachments onto the Common Elements and Limited Common Elements as it deems acceptable.

(e) Condition of Approval. As a condition of approval for a requested architectural change, modification, addition, or alteration, an Owner, on behalf of himself or herself and his or her successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance of such change, modification, addition, or alteration, unless otherwise agreed to in writing by the ACC. It is the responsibility of every Owner of a condominium Unit to determine for himself or herself what architectural modifications have been made to his or her Unit by any predecessor-in-interest. In the discretion of the Board or ACC, an Owner may be made to verify such condition of approval by written instrument in recordable form acknowledged by such Owner on behalf of himself or herself and all successors-in-interest.

(f) Limitation of Liability. Review and approval of any application pursuant to this Paragraph is made on the basis of aesthetic considerations only, and the Board of Directors as the ACC shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes and other governmental requirements. Neither the Association, the Board of Directors as the ACC, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Unit.

(g) No Waiver of Future Approvals. Each Owner acknowledges that the members of the Board of Directors and ACC will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. Each Owner further acknowledges that the Board of Directors and ACC may adopt different architectural standards for different parts of the condominium, based on street visibility and location of the proposed modification in the building. The approval of either the Board of Directors or the ACC of any proposals, plans and specifications or drawings

for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Board of Directors, or the ACC shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

(h) Enforcement. Any construction, alteration, or other work done in violation of this Paragraph shall be deemed to be nonconforming. Upon written request from the Board or the ACC, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the Board or its designees shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs thereof, including reasonable attorney's fees, may be assessed against the benefited Unit and collected as an assessment pursuant to this Declaration.

In addition to the foregoing, the Board of Directors shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this Paragraph and its decisions. Furthermore, the Board shall have the authority to record in the Fulton County land records notices of violation of the provisions of this Paragraph.

If any Owner or Occupant makes any exterior change, alteration, or construction (including landscaping) upon the Common Elements or Limited Common Elements in violation of this Paragraph, he or she does so at his or her sole risk and expense. The Board may require that the change, alteration or construction be removed or that it remain on the Common Elements or Limited Common Elements without reimbursement to the Owner or Occupant for any expense he or she may have incurred in making the change, alteration or construction.

(i) Commencement of Construction. All changes, modifications and improvements approved by the ACC hereunder must be commenced within one (1) year from the date of approval. If not commenced within one (1) year from the date of such approval, then such approval shall be deemed revoked by the ACC, unless the ACC gives a written extension for commencing the work. All work approved by the ACC hereunder shall be completed in its entirety within ninety (90) days from the date of commencement, unless otherwise agreed in writing by the ACC. All approved changes, modifications, and improvements must be completed in their entirety, an Owner may not construct only a portion or part of an approved change, modification, or improvement.

#### 14. USE RESTRICTIONS.

Each Owner of a Unit shall be responsible for ensuring that the Owner's family, guests, tenants and Occupants comply with all provisions of the Condominium Instruments and the rules and regulations of the Association. Furthermore, each Owner and Occupant shall always endeavor to observe and promote the cooperative purposes for which the Association was established. In addition to any rights the Association may have against the Owner's family, guests, tenants or Occupants, as a result of such person's violation of the Condominium Instruments, the Association may take action under this Declaration against the Owner as if the Owner committed the violation in conjunction with the Owner's family, guests, tenants or Occupants.

In addition to the following use restrictions, the Board of Directors may adopt rules and regulations in accordance with the terms hereof and as specified in the Bylaws.

(a) Use of Units. Each Unit shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Unit or any part of the Condominium, except that the Owner or Occupant residing in a Unit may conduct ancillary business activities within the Unit so long as:

(i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside of the Unit;

(ii) the business activity does not involve visitation of the Unit by employees, clients, customers, suppliers or other business invitees in greater volume than would normally be expected for guest visitation to a residential Unit without business activity;

(iii) the business activity conforms to all zoning requirements for the Condominium;

(iv) the business activity does not increase traffic in the Condominium in excess of what would normally be expected for residential Units in the Condominium without business activity (other than by deliveries by couriers, express mail carriers, parcel delivery services and other such similar delivery services);

(v) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage;

(vi) the business activity is consistent with the residential character of the Condominium and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Condominium, as determined in the Board's discretion; and

(vii) the business activity does not result in a materially greater use of common element facilities or Association services.

(b) Number of Occupants. The maximum number of occupants in a Unit shall be limited to four (4) people. "Occupancy," for purposes hereof, shall be defined as staying overnight in a Unit for a total of more than thirty (30) days, either consecutive or nonconsecutive, in any calendar year. This occupancy restriction shall not apply to require the removal of any person lawfully occupying a Unit on the Effective Date hereof. Upon written application, the Board shall grant variances to this restriction to comply with provisions of the Fair Housing Amendments Act of 1988 or any amendments thereto.

If an Owner of a Unit is a corporation, partnership, trust or other legal entity not being a natural person, the entity shall designate in writing to the Board the name(s) of the person(s) who will occupy the Unit. The designated person(s) to occupy the Unit may not be changed more frequently than once every six (6) months.

(c) Outbuildings. No structure of a temporary character, trailer, tent, shack, carport, garage, barn or other outbuilding shall be erected by any Owner or Occupant on any portion of the Condominium, at any time, either temporarily or permanently, without the written approval of the Board.

(d) Use of Common Elements Including Amenities. There shall be no obstruction of the Common Elements, nor shall anything be kept on, parked on, stored on or removed from any part of the Common Elements without the prior written consent of the Board, except as specifically provided herein. With prior written Board approval, and subject to any restrictions imposed by the Board, an Owner may reserve portions of the Common Elements for use for a period of time as set by the Board. Any such Owner

who reserves a portion of the Common Elements as provided herein shall assume, on behalf of himself or herself and his or her guests, Occupants and family, all risks associated with the use of the Common Elements and all liability for any damage or injury to any person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Association, its agents or employees. There shall be no use of the roofs of the Condominium buildings by the Owners, their family members, guests, tenants, invitees, agents or contractors. The Association and its agents and contractors shall have access to the roofs for performing its maintenance and repair responsibility. There shall be no gardening or landscaping on the Common Elements by Owners or Occupants without the prior written consent of the Board.

(e) Use of Limited Common Elements and Storage Spaces. Use of the Limited Common Elements is restricted exclusively to the Owners of the Unit to which such Limited Common Elements are assigned, and said Owner's family members, guests, tenants and invitees. The Limited Common Elements are reserved for exclusive use, but shall not be construed or interpreted to be separate and apart from the Common Elements in general, and the restrictions applicable to the Common Elements shall also apply to the Limited Common Elements.

(i) Storage Spaces. Storage spaces shall be used solely for the purpose of storing any personal property belonging to the Owner or Occupant of the Unit to which such storage space is assigned as a Limited Common Element. No Owner or Occupant shall store any explosives, or any flammable, odorous, noxious, corrosive, hazardous or pollutant materials or any other goods in the space which would cause danger or nuisance to the storage space or the Condominium. The storage space shall not be used for any purposes unlawful or contrary to any ordinance, regulation, fire code, or health code. If hazardous substances are stored, used, generated or disposed of on or in the storage space or if the storage space becomes contaminated in any manner for which the Owner or Occupant thereof is legally liable, Owner or Occupant shall indemnify and hold harmless the Association and Board of Directors from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses and any and all sums paid from settlement of claims, attorneys' fees, consultant and expert fees, arising as a result of that contamination by Owner or Occupant.

(f) Prohibition of Damage, Nuisance and Noise. Without the prior written consent of the Board of Directors, nothing shall be done or kept on the Condominium, or any part thereof, which would increase the rate of insurance on the Condominium or any Unit or part thereof, which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body, or which would increase the Common Expenses.

Noxious, destructive or offensive activity shall not be carried on upon the Condominium. No Owner or Occupant of a Unit may use or allow the use of the Unit or any portion of the Condominium at any time, in any way or for any purpose which may endanger the health, unreasonably annoy or disturb or cause embarrassment, or discomfort to other Owners or Occupants, or in such a way as to constitute, in the sole opinion of the Board of Directors, a nuisance. In addition, no Owner or Occupant of a Unit may use or allow the use of a Unit or the Common Elements in any manner which creates disturbing noises, including, without limitation, use of stereo speakers or equipment that will in the sole discretion of the Board of Directors interfere with the rights, comfort or convenience of the other Owners or Occupants. Nothing herein, however, shall be construed to affect the rights of an aggrieved Owner to proceed individually for relief from interference with his or her property or personal rights.

No Owner, Occupant or agent of such Owner or Occupant shall do any work which, in the reasonable opinion of the Association's Board of Directors or its designee, would jeopardize the soundness or safety of the Condominium or any structure created thereon, would reduce the value thereof, or would

impair any easement or other interest in real property thereto, without in every such case the unanimous, prior written consent of all members of the Association and their Mortgagees.

No damage to or waste of the Common Elements, or any part thereof, shall be permitted by any Owner or member of his or her family or any invitee of any Owner. Each Owner shall indemnify and hold the Association and the other Owners harmless against all loss to the Association or other Owners resulting from any such damage or waste caused by such Owner, members of his or her family, guests, invitees, or Occupants of his or her Unit.

(g) Firearms and Fireworks. The display or discharge of firearms or fireworks on the Common Elements or Limited Common Elements is prohibited; provided, however, that the display of lawful firearms on the Common Elements or Limited Common Elements is permitted by law enforcement officers and also is permitted for the limited purpose of transporting the firearms across the Common Elements or Limited Common Elements to or from the Owner's Unit. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. The term "fireworks" shall include those items as listed in O.C.G.A. § 25-10-1, as amended.

(h) Pets. No Owner or Occupant may keep any pets other than generally recognized household pets on any portion of the Condominium; provided, however, no Owner or Occupant may keep more than a total of two (2) cats and/or dogs, each weighing no more than thirty-five (35 lbs.) pounds, per Unit.

No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose. Pets may not be left unattended outdoors. No structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Common Elements, including Limited Common Elements, without prior written ACC approval. Dogs must be kept on a leash and be under the physical control of a responsible person at all times while outdoors. Feces left upon the Common Elements by dogs must be removed by the owner of the dog or the person responsible for the dog.

No potbellied pigs, snakes, pit bulldogs, rotweillers or other animals determined in the Board's sole discretion to be dangerous may be brought onto or kept on the Condominium at any time. The Board may require that any pet which, in the Board's opinion, endangers the health of any Owner or Occupant or creates a nuisance or unreasonable disturbance, be permanently removed from the Condominium upon seven (7) days written notice. If the Owner or Occupant fails to do so, the Board may remove the pet. Any pet which, in the Board's sole discretion, presents an immediate danger to the health, safety or property of any community member may be removed by the Board without prior notice to the pet's owner.

Any Owner or Occupant who keeps or maintains any pet upon the Condominium shall be deemed to have agreed to indemnify and hold the Association, its directors, officers, and agents free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Condominium.

(i) Parking. Each Unit shall have at least one (1) parking space assigned as a Limited Common Element, exclusively serving a particular Unit. Such assigned spaces are designated Limited Common Elements and may only be used by the Owner or Occupants to whom the spaces are assigned, and their guests and families.

Disabled and stored vehicles are prohibited from being parked on the Condominium. For purposes hereof, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously

inoperable. A vehicle shall be considered "stored" if it remains on the Condominium for fourteen (14) consecutive days or longer without prior written Board permission.

Boats, trailers, panel trucks, buses, trucks with a load capacity of one (1) ton or more, vans (excluding mini-vans or utility vehicles used as passenger vehicles and receiving a "car" or "passenger vehicle" classification by the Georgia Department of Motor Vehicles), recreational vehicles (RV's and motor homes), vehicles used primarily for commercial purposes, and vehicles with commercial writings on their exteriors are also prohibited from being parked on the Condominium, except in areas designated by the Board as parking areas for particular types of vehicles. Notwithstanding the above, trucks, vans, commercial vehicles and vehicles with commercial writings on their exteriors shall be allowed temporarily on the Common Elements during normal business hours for the purpose of serving any Unit or the Common Elements, but no such vehicle shall remain on the Common Elements overnight or for any purpose except serving a Unit or the Common Elements, without written Board consent.

If any vehicle is parked on any portion of the Condominium in violation of this Section or in violation of the Association's rules and regulations, the Board may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed. The notice shall include the name and telephone number of the person or entity which will do the towing and the name and telephone number of a person to contact regarding the alleged violation. If twenty-four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six (6) months of such notice, the vehicle may be towed in accordance with the notice, without further notice to the Owner or user of the vehicle.

Notwithstanding anything to the contrary herein, if a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's Unit or parking space, is obstructing the flow of traffic, is parked on any grassy area, is parked in a space which has been assigned as exclusively serving another Unit, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed immediately. If a vehicle is towed in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing activity. The Board may further elect to impose fines or use other available sanctions, rather than exercise its authority to tow.

(j) Heating of Units in Colder Months. In order to prevent breakage of water pipes during colder months of the year resulting in damage to any portion of the Condominium, increased Common Expenses, and increased insurance premiums or cancellation of insurance policies due to numerous damage claims, the thermostats within the Units shall be maintained with the heat in an "on" position and at a minimum temperature setting of fifty-five (55°) degrees Fahrenheit (except during power failures or periods when heating equipment is broken) whenever the temperature is forecasted to or does reach thirty-two (32°) degrees Fahrenheit or below. Owners and Occupants of Units shall take all steps possible on a timely basis to keep heating equipment, including, but not limited to, the thermostat, in good working order and repair. The Board of Directors may fine any Owner or Occupant and/or may cause the water service to the violator's Unit to be discontinued for violation of this subparagraph, in addition to any other remedies of the Association.

(k) Signs. Except as may be provided for herein or as may be required by legal proceedings, no signs, advertising posters, political placards or billboards of any kind shall be erected, placed, or permitted to remain on the Condominium without the prior written consent of the Board or its designee. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association.

(l) Rubbish, Trash, and Garbage. All rubbish, trash, and garbage shall be regularly removed from the Unit and shall not be allowed to accumulate therein. No garbage or trash shall be placed on the



Common Elements or Limited Common Elements outside the Unit, temporarily or otherwise, except in those trash receptacles designated by the Board for collection or removal from the Condominium. Rubbish, trash, and garbage shall be disposed of in sealed bags and placed in said trash receptacles. All over-sized items which do not fit in a designated trash receptacle shall be promptly removed from the Condominium by the Owner.

(m) Unightly or Unkempt Conditions. The pursuit of hobbies or other activities, including, but not limited to the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Condominium. Clothing, bedding, rugs, mops, appliances, indoor furniture, and other household items shall not be placed or stored outside the Unit.

(n) Garage Sales. Garage sales, yard sales, flea markets, or similar activities are prohibited unless approved in writing by the Board of Directors.

(o) Window Treatments. The color of all window treatments visible from outside the Unit must be white or off-white. Bed sheets shall not be used as window treatments.

(p) Antennas and Satellite Dishes. No satellite dish, antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained on the Common Elements; provided, however, that the Association shall have the right to erect, construct and maintain such devices.

(q) Grilling. The use of outdoor grills in any Condominium building is prohibited. However, the Board may designate an area on which grilling shall be permitted.

(r) Abandoned Personal Property. Personal property, other than vehicles as provided for in subparagraph (i) shall not be kept, or allowed to remain for more than twenty-four (24) hours upon any portion of the Common Elements, other than on a Limited Common Element, without prior written Board permission. If the Board determines that a violation exists, then, not less than two (2) days after written notice is placed on the personal property and/or on the front door of the property owner's Unit, if known, the Board may remove and either discard or store the personal property in a location which the Board may determine and shall have no obligation to return, replace or reimburse the owner of the property. The notice shall include the name and telephone number of the person or entity which will remove the property and the name and telephone number of a person to contact regarding the alleged violation.

The Board, in its discretion, may determine that an emergency situation exists and may exercise its removal rights hereunder without prior notice to the property owner; provided, however, in such case, the Board shall give the property owner, if known, notice of the removal of the property and the location of the property within three (3) days after the property is removed.

Neither the Association nor any officer or agent thereof shall be liable to any person for any claim of damage resulting from the removal activity in accordance herewith. The Board may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

(s) Floor Covering. No Owner, Occupant, or any other person may replace carpeting with a tile, marble, vinyl or hardwood floor, or other hard surfaced flooring material, on the interior of a Unit which is located above another Unit without first obtaining written approval of the ACC, as set forth in Paragraph 13. Among other factors, the ACC may consider whether the change will cause noise to any Unit below which will exceed the average noise level in Units below Units with carpeted floors and that the weight of such proposed flooring is appropriate and will not cause problems to the structure or subflooring.

The Owner applying for such approval shall provide the ACC with information regarding these factors, as well as other information requested by the ACC regarding the proposed flooring and its effect; provided, however, the noise level requirements shall be considered to be met if the Owner provides a sound transmission test that the proposed flooring will create a noise level less than a standard level set by reasonable regulation of the ACC. Notwithstanding the above, Owner shall: (i) install wall to wall carpeting in all rooms of the Unit (excluding the kitchen and bathrooms); (ii) carpet at least eighty-five percent (85%) of each room of the Unit (excluding the kitchen and bathrooms) unless the flooring is sound proofed so as not to exceed the noise level in Units with carpeted floors; or (iii) lay area rugs in each room of the Unit (excluding the kitchen and bathrooms) which rugs shall cover all of the hard surfaced flooring material in each room except for a one (1) foot border extending from the edge of the area rug to the wall of the room, unless the flooring is sound proofed so as not to exceed the noise level in Units with carpeted floors.

(t) Transient Tenants. No transient tenants or Occupants shall be accommodated in a Unit.

15. LEASING.

In order to preserve the character of the Condominium as predominantly owner-occupied, and to comply with the eligibility requirements for financing in the secondary mortgage market, leasing of Units shall be governed by the restrictions imposed by this Paragraph. Except as provided herein, the leasing of Units shall be prohibited.

(a) General. Owners desiring to lease their Units may do so only if they have applied for and received from the Board of Directors a "hardship leasing permit." Such a permit, upon its issuance, will allow an Owner to lease his or her Unit provided that such leasing is in strict accordance with the terms of the permit and this Paragraph. The Board of Directors shall have the authority to establish conditions as to the duration and use of such permits consistent with this Paragraph. All leasing permits and hardship leasing permits shall be valid only as to a specific Unit Owner and Unit and shall not be transferable between either Units or Unit Owners (including a subsequent Owner of a Unit where a permit was issued to the Owner's predecessor in title).

(b) Hardship Leasing Permits. If the failure to lease will result in a hardship, the Owner may seek to lease on a hardship basis by applying to the Board of Directors for a hardship leasing permit. Hardship leasing permits shall only be granted to those Owners who have owned his or her Unit at least two (2) years prior to the date of the leasing application as provided herein. The Board of Directors shall have the authority to issue or deny requests for hardship leasing permits in its discretion after considering the following factors: (1) the nature, degree, and likely duration of the hardship, (2) the harm, if any, which will result to the Condominium if the permit is approved, (3) the number of hardship leasing permits which have been issued to other Owners, (4) the Owner's ability to cure the hardship, and (5) whether previous hardship leasing permits have been issued to the Owner. A "hardship" as described herein shall include, but not be limited to the following situations: (1) a Unit Owner must relocate his or her residence outside the Atlanta metropolitan area and cannot, within six (6) months from the date that the Unit was placed on the market, sell the Unit except at a price below the current appraised market value, after having made reasonable efforts to do so; (2) where the Owner dies and the Unit is being administered by his or her estate; and (3) the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Unit. Hardship leasing permits shall be valid for a term not to exceed one (1) year. Owners may apply for additional hardship leasing permits. Hardship leasing permits shall be automatically revoked if during the term of the permit, the Owner is approved for and receives a leasing permit.

(c) Leasing Provisions. Leasing which is authorized, pursuant to permit, hereunder shall be governed by the following provisions:

(i) Notice. At least seven (7) days prior to entering into the lease of a Unit, the Owner shall provide the Board with a copy of the proposed lease agreement. The Board shall approve or disapprove the form of said lease. In the event a lease is disapproved, the Board shall notify the Owner of the requisite action to be taken in order to bring the lease in compliance with the Declaration and any rules and regulations adopted pursuant thereto.

(ii) General. Units may be leased only in their entirety; no fraction or portion may be leased without prior written Board approval. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board may maintain and, upon request, provide a form which is deemed acceptable. There shall be no subleasing of Units or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than one (1) year, except with written Board approval, which shall not be unreasonably withheld in cases of undue hardship. Within ten (10) days after executing a lease agreement for the lease of a Unit, the Owner shall provide the Board with a copy of the lease and the name of the lessee and all other people occupying the Unit. The Owner must provide the lessee copies of the Declaration, Bylaws, and the rules and regulations. Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease.

(iii) Liability for Assessments, Use of Common Elements, and Compliance with Declaration, Bylaws, and Rules and Regulations. Each Owner covenants and agrees that any lease of a Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(a) Compliance with Declaration, Bylaws, and Rules and Regulations. The lessee shall comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Unit in order to ensure such compliance. The Owner shall cause all Occupants of his or her Unit to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations by such Occupants, notwithstanding the fact that such Occupants of the Unit are fully liable and may be sanctioned for any such violation. If the lessee, or a person living with the lessee, violates the Declaration, Bylaws, or a rule or regulation for which a fine is imposed, notice of the violation shall be given to the Owner and the lessee, and such fine may be assessed against the lessee in accordance with Article V of the Bylaws. If the fine is not paid by the lessee within the time period set by the Board, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Unit.

Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any guest of lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. If the Association proceeds to evict the

lessee, any costs, including reasonable attorney's fees actually incurred and court costs, associated with the eviction shall be an assessment and lien against the Unit.

(b) Use of Common Elements. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Elements, including but not limited to, the use of any and all recreational facilities and other amenities.

(c) Liability for Assessments. When a Unit Owner who is leasing his or her Unit fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

(d) Applicability of this Paragraph. Notwithstanding the above, this Paragraph shall not apply to any leasing transaction entered into by the Association or the holder of any first Mortgage on a Unit who becomes the Owner of a Unit through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage, and they shall be permitted to lease without obtaining a permit.

#### 16. SALE OF UNITS.

A Unit Owner intending to make a transfer or sale of a Unit or any interest in a Unit shall give written notice to the Board of Directors of such intention within seven (7) days after execution of the transfer or sales documents. The Unit Owner shall furnish to the Board as part of the notice (i) the name and address of the intended grantee and (ii) such other information as the Board may reasonably require. The Unit Owner shall also provide the intended grantee with a copy of all Condominium instruments and all Rules and Regulations which are adopted by the Board from time to time. This Paragraph shall not be construed to create a right of first refusal in the Association or in any third party.

Within fourteen (14) days after receiving title to a Unit, the new Owner of a Unit shall give written notice to the Board of Directors of his or her ownership of the Unit and request a meeting with the Board of Directors, which meeting shall be scheduled within thirty (30) days of the new Owner's written notice. Upon failure of a Owner to give the required notice within the fourteen-day time period provided herein, the Board may levy fines against the Unit and the Owner thereof, and assess the Owner for all costs incurred by the Association in determining his or her identity. All successors-in-interest to a Unit Owner are bound by the Condominium Instruments and all Rules and Regulations which are adopted by the Board from time to time. A new Unit Owner may request and obtain at its own cost a copy of such documents from the Board of Directors.

17. MAINTENANCE RESPONSIBILITY.

(a) By the Owner. Each Owner shall have the obligation to maintain and keep in good repair all portions of his or her Unit except any portion of a Unit which is expressly made the maintenance obligation of the Association as set forth in subparagraph (b) below. This maintenance responsibility shall include, but not be limited to the following: all glass surfaces (excluding exterior cleaning), windows, window frames (except exterior painting), casings and locks (including caulking of windows); all doors, doorways, door frames, and hardware that are part of the entry system of the Unit (except for periodic painting or staining of the exterior surface of entry doors and door frames of the Condominium); all portions of the heating and air conditioning system and the fan coil; and all pipes, lines, ducts, conduits, or other apparatus which serve only the Unit, whether located within or without a Unit's boundaries (including all electricity, water, sewer, or air conditioning pipes, lines, ducts, conduits, or other apparatus serving only the Unit).

In addition, each Unit Owner shall have the responsibility:

(i) To keep in a neat, clean and sanitary condition any Limited Common Elements serving his or her Unit.

(ii) To perform his or her responsibility in such manner so as not to unreasonably disturb other persons in other Units.

(iii) To promptly report to the Association or its agent any defect or need for repairs, for which the Association is responsible.

(iv) To pay for the cost of repairing, replacing or cleaning up any item which is the responsibility of the Unit Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repairing, replacing, or cleaning up any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of the Unit Owner, his or her family, tenants or guests, with the cost thereof to be added to and become part of the Unit Owner's next chargeable assessment.

(v) To promptly remove, at Unit Owner's sole cost, any and all rubbish, trash, garbage, construction debris, and over-sized items and/or objects from the Condominium.

(b) By the Association. The Association shall maintain and keep in good repair as a Common Expense the "Area of Common Responsibility," which includes the following:

(i) all Common Elements, including any Limited Common Elements, but excluding all improvements made to such Limited Common Elements; provided, however, the cost of maintenance and repair of Limited Common Elements may be assessed against the Unit Owner to whom the Limited Common Element is assigned under Paragraph 8(b)(i);

(ii) periodic painting and/or staining of exterior surfaces of the Condominium buildings and of entry doors and door frames of the Condominium and exterior window frames, on a schedule to be determined by the Board of Directors; and

(iii) periodic cleaning of exterior window surfaces on a schedule to be determined by the Board of Directors.

Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Elements by an Owner or Occupant which is the responsibility of the Association hereunder (including, but not limited to landscaping of Common Elements) shall be performed at the sole expense of such Owner or Occupant, and the Owner or Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner of any Unit, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder. The Association shall not be liable to the Owner of any Unit or such Owner's Occupant, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements. The Association shall not be liable to any Owner, or any Owner's Occupant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Paragraph where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

The Association shall repair incidental damage to any Unit resulting from performance of work which is the responsibility of the Association. As finished levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready". Such repair and subsequent cleaning shall be performed based on a reasonableness standard. In performing its responsibilities hereunder, the Association shall have the authority to delegate to such persons, firms or corporations of its choice, such duties as are approved by the Board of Directors.

(c) Failure to Maintain. If the Board of Directors determines that any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair, or replacement of items of which he or she is responsible hereunder, then, the Association shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board of Directors.

Unless the Board of Directors determines that an emergency exists, the Owner shall have ten (10) days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days. If the Board determines that: (i) an emergency exists or (ii) that an Owner has not complied with the demand given by the Association as herein provided; then the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs shall be added to and become a part of the assessment to which such Owner is subject, shall become and be a lien against the Unit, and shall be collected as provided herein for the collection of assessments.

If the Board determines that the need for maintenance or repair is in the Area of Common Responsibility and is caused through the willful or negligent act of any Owner, or Occupant or their family, guests, lessees, or invitees, then the Association may assess the cost of any such maintenance, repair, or replacement against the Owner's or Occupant's Unit, shall become a lien against the Unit, and shall be collected as provided herein for the collection of assessments.

(d) Measures Related to Insurance Coverage.

(i) The Board of Directors, upon resolution, shall have the authority to require all or any Unit Owner(s) to do any act or perform any work involving portions of the Condominium which are the maintenance responsibility of the Unit Owner, which will, in the Board's sole discretion, decrease the possibility of fire or other damage in the Condominium, reduce the insurance premium paid by the Association for any insurance coverage or otherwise assist the Board in procuring or maintaining such insurance coverage. This authority shall include, but need not be limited to, requiring Owners to install smoke detectors, requiring Owners to make improvements to the Owner's Unit, and such other measures as the Board may reasonably require so long as the cost of such work does not exceed five hundred (\$500.00) dollars per Unit in any twelve (12) month period.

(ii) In addition to, and not in limitation of, any other rights the Association may have, if any Unit Owner does not comply with any requirement made by the Board of Directors pursuant to subparagraph (d)(i) above, the Association, upon fifteen (15) days written notice (during which period the Unit Owner may perform the required act or work without further liability), may perform such required act or work at the Unit Owner's sole cost. Such cost shall be an assessment and a lien against the Unit as provided herein. The Association shall have all rights necessary to implement the requirements mandated by the Board pursuant to subparagraph (d)(i) of this Paragraph, including, but not limited to, a right of entry during reasonable hours and after reasonable notice to the Owner or Occupant of the Unit, except that access may be had at any time without notice in an emergency situation.

18. MORTGAGEE'S RIGHTS.

(a) Unless at least two-thirds (2/3) of the first Mortgagees or Unit Owners give their consent, the Association or the membership shall not:

(i) by act or omission seek to abandon or terminate the Condominium;

(ii) change the pro rata interest or obligations of any individual Unit for the purpose of (1) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or (2) determining the pro rata share of ownership of each Unit in the Common Elements;

(iii) partition or subdivide any Unit in any manner inconsistent with the provisions of this Declaration;

(iv) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements (the granting of easements or licenses, as authorized herein, shall not be deemed a transfer within the meaning of this clause); or

(v) use hazard insurance proceeds for losses to any portion of the Condominium (whether to Units or to Common Elements) for other than the repair, replacement, or reconstruction of such portion of the Condominium.

The provisions of this subparagraph shall not be construed to reduce the percentage vote that must be obtained from Mortgagees or Unit Owners where a larger percentage vote is otherwise required by the Act or the Condominium Instruments for any of the actions contained in this Paragraph.

(b) Where the Mortgagee holding a first Mortgage of record, a secondary purchase money Mortgage of record (provided that neither the grantee nor any successor grantee on the secondary purchase money Mortgage is the seller of the Unit) or other purchaser of a Unit obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Units, including such acquirer, its successors and assigns. Additionally, such acquirer shall be responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed.

(c) Upon written request to the Association, identifying the name and address of the holder and the Unit number or address, any Eligible Mortgage Holder will be entitled to timely written notice of:

(i) any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit on which there is a first Mortgage held by such Eligible Mortgage Holder;

(ii) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to a first Mortgage held by such Eligible Mortgage Holder which remains unsatisfied for a period of sixty (60) days, and any default in the performance by an individual Unit Owner of any other obligation under the Condominium Instruments which is not cured within sixty (60) days;

(iii) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or

(iv) any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders, as specified herein.

(d) Upon written request to the Association, identifying the name and address of the holder and the Unit number or address, any Eligible Mortgage Holder, or insurer or guarantor of a first mortgage on a Unit, will be entitled to timely written notice of:

(i) any proposed amendment of the Condominium Instruments effecting a change in (a) the boundaries of any Unit or the exclusive easement rights appertaining thereto; (b) the interests in the Common Elements or Limited Common Elements appertaining to any Unit or the liability for Common Expenses appertaining thereto; (c) the number of votes in the Association appertaining to any Unit; or (d) the purposes to which any Unit or the Common Elements are restricted;

(ii) any proposed termination of the Condominium;

(iii) any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit on which there is a first Mortgage held by such Eligible Mortgage Holder;

(iv) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to a first Mortgage held by such Eligible Mortgage Holder which remains unsatisfied for a period of sixty (60) days, and any default in the performance by an individual Unit Owner of any other obligation under the Condominium Instruments which is not cured within sixty (60) days;

(v) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or



(vi) any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders, as specified herein.

(e) Any holder of a first Mortgage shall be entitled, upon written request, to receive within a reasonable time after request, a copy of the financial statement of the Association for the immediately preceding fiscal year, free of charge to the Mortgagee so requesting.

(f) Notwithstanding anything to the contrary herein contained, the provisions of Paragraphs 15 and 16 governing sales and leases shall not apply to impair the right of any first Mortgagee to:

(i) foreclose or take title to a Unit pursuant to remedies contained in its Mortgage; or

(ii) take a deed or assignment in lieu of foreclosure; or

(iii) sell, lease, or otherwise dispose of a Unit acquired by the Mortgagee.

19. GENERAL PROVISIONS.

(a) **SECURITY.** THE ASSOCIATION MAY, BUT SHALL NOT BE REQUIRED TO, FROM TIME TO TIME, PROVIDE MEASURES OR TAKE ACTIONS WHICH DIRECTLY OR INDIRECTLY IMPROVE SAFETY ON THE CONDOMINIUM; HOWEVER, EACH OWNER, FOR HIMSELF OR HERSELF AND HIS OR HER TENANTS, GUESTS, LICENSEES, AND INVITEES, ACKNOWLEDGES AND AGREES THAT THE ASSOCIATION IS NOT A PROVIDER OF SECURITY AND SHALL NOT HAVE A DUTY TO PROVIDE SECURITY ON THE CONDOMINIUM. FURTHERMORE, THE ASSOCIATION DOES NOT GUARANTEE THAT NON-UNIT OWNERS AND NON-OCCUPANTS WILL NOT GAIN ACCESS TO THE PROPERTY AND COMMIT CRIMINAL ACTS NOR DOES THE ASSOCIATION GUARANTEE THAT CRIMINAL ACTS WILL NOT BE COMMITTED BY OTHER UNIT OWNERS OR OCCUPANTS. IT SHALL BE THE RESPONSIBILITY OF EACH OWNER TO PROTECT HIS OR HER PERSON AND PROPERTY AND ALL RESPONSIBILITY TO PROVIDE SUCH SECURITY SHALL LIE SOLELY WITH EACH UNIT OWNER. THE ASSOCIATION SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SAFETY MEASURES UNDERTAKEN.

(b) Dispute Resolution. Prior to filing a lawsuit against the Association, the Board, or any officer, director, or property manager of the Association, a Unit Owner or Occupant must request and attend a hearing with the Board of Directors. Any such request shall be in writing and shall be personally delivered to any member of the Board of Directors or the property manager, if any, of the Association. The Owner or Occupant shall, in such request and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Owner's or Occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date not less than seven (7) nor more than twenty-one (21) days from the date of receipt of the request.

(c) Parking Spaces, Vehicles and Storage Spaces. The Association shall not be held liable for loss or damage, including water damage, to any property placed or kept in any parking space or storage space in the Condominium. Each Owner or Occupant with use of a parking space or storage space who places or keeps a vehicle and/or any personal property in the vehicle, parking space or storage space does so at his or her own risk.

(d) Unit Keys. Each Owner, by acceptance of a deed to a Unit, agrees to provide the Association, upon its request, with a key to the Unit to be used by the Association for maintenance, emergency, security or safety purposes as provided in Paragraph 9(a) of this Declaration and for pest control, if necessary, as provided in Paragraph 22 (e) of this Declaration. All keys provided to the Association shall be secured in a locked key box and held and maintained by designated member(s) of the Board of Directors. The Association shall not be liable for any loss or damage due to its holding such key, or use of such key for the purposes described above and each Unit Owner shall indemnify and hold harmless the Association and its officers and directors against any and all expenses, including attorney's fees, reasonably incurred by or imposed upon the Association or its officers or directors in connection with any action, suit, or other proceeding (including settlement of any such action, suit or proceeding) brought by the Unit Owner or the Unit Owner's family, tenants, guests, employees, invitees, or licensees against the Association, its officers or directors arising out of or relating to its holding or use of such key for the purposes described above.

(e) Right of Action. All Owners hereby acknowledge and agree that the Association shall not be entitled to institute any legal action against anyone on behalf of any or all of the Owners which is based on any alleged defect in any Unit or the common elements, or any damage allegedly sustained by any Owner by reason thereof, but rather, that all such actions shall be instituted by the Person(s) owning such Units or served by such common elements or allegedly sustaining such damage.

20. EMINENT DOMAIN. In the event of a taking by condemnation or by eminent domain, the provisions of the Act shall prevail and govern; provided, however, that any proceeds received for a taking of the Common Elements (other than Limited Common Elements) by condemnation or eminent domain shall, at the option of the Board, either be allocated to the Owners pursuant to O.C.G.A. § 44-3-97(a), as amended, or be deposited into the Association's operating account or reserve account to be applied to Common Expenses. Each holder of a first Mortgage shall be entitled to written notice of any such condemnation proceedings, and nothing in the Condominium Instruments shall be construed to give a priority to any Unit Owner in the distribution of proceeds to such Unit.

21. EASEMENTS.

(a) Use and Enjoyment. Each Unit Owner and Occupant shall have a right and easement of use and enjoyment in and to the Common Elements (including the right of access, ingress and egress to and from his or her Unit over those portions of the Condominium designated for such purpose), and such easement shall be appurtenant to and shall pass with the title to such Unit, subject to (i) the rights of the Unit Owners to the exclusive use of the Limited Common Elements assigned to their respective Units; (ii) to the right of the Association to control the use and enjoyment of the Common Elements as provided by the terms of this Declaration including, but not limited to, the right of the Association to suspend voting and use privileges as provided herein; and (iii) the right of the Association to have access to the Units and Limited Common Elements assigned to a Unit to discharge its rights and obligations, under the Condominium Instruments, including without limitation, the maintenance responsibility of the Association.

(b) Support. Every portion of a Unit and all Limited Common Elements contributing to the support of an abutting Unit shall be burdened with an easement of support for the benefit of such abutting Unit.

(c) Encroachments. The Units and Common Elements shall be subject to easements of encroachment as set forth in the Act.

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(d) Utilities. To the extent that the sprinkler system or any utility line, pipe, wire, or conduit serving any Unit, Units or the Common Elements shall lie wholly or partially within the boundaries of another Unit or the Common Elements, such other Unit, Units, or the Common Elements shall be burdened with an easement for the use, maintenance, repair and replacement of such sprinkler system, utility line, pipe, wire or conduit, such easement to be in favor of the Unit, Units, or Common Elements served by the same and the Association. It shall be the obligation of the benefited Owner to maintain, replace and repair any pipe, line, conduit, duct or wire owned by such Owner, even if such pipe, line conduit, duct or wire is located in the Unit of another Owner. In such circumstance, the benefited Owner shall repair all incidental damage to any Unit resulting from performance of any such work. All Unit Owners hereby covenant and agree that as finished levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready." Components that may require repair or replacement, such as tile and trim, will be reinstated only to the extent of readily available materials or similar materials (trim and such will also be finished to "paint-ready"). Due to the uncontrollability of quality of repair, items such as faux paint treatment, wallpaper, ceiling/wall applique, and any other similar types of finishes, will not be the responsibility of the benefited Owner.

(e) Pest Control. The Association may but shall not be obligated to dispense chemicals for the extermination of insects and pests within the Units and Common Elements. In the event the Association chooses to provide such pest control, the Association and its duly authorized contractors, representatives, and agents shall have an easement to enter Units for the purpose of dispensing chemicals for the exterminating of insects and pests within the Units and Common Elements. Unit Owners shall either provide a key to the Unit for purpose of such entry or have someone available at such times as are designated by the Board of Directors to allow entry into the Unit for this purpose. The Association shall not be liable for any illness, damage, or injury caused by the dispensing of these chemicals for this purpose.

## 22. AMENDMENTS.

Except where a higher vote is required for action under any other provisions of this Declaration or by the Act, in which case such higher vote shall be necessary to amend such provision, this Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members of the Association holding two-thirds (2/3) of the total Association vote. Notice of any meeting at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the Fulton County, Georgia land records.

In addition to the above, amendments to this Declaration which materially affect the rights of Eligible Mortgage Holders must be approved by Eligible Mortgage Holders who represent at least fifty-one (51%) percent of the votes of Units that are subject to Mortgages held by Eligible Mortgage Holders. Notwithstanding the above, the approval of any proposed amendment by an Eligible Mortgage Holder shall be deemed implied and consented to if the Eligible Mortgage Holder fails to submit a response to any written proposal for an amendment within thirty (30) days after the Eligible Mortgage Holder receives notice of the proposed amendment sent by certified or registered mail, return receipt requested. Material amendments are those which establish, provide for, govern or regulate any of the following:

- (a) Voting;
- (b) Assessments, assessment liens or subordination of such liens;
- (c) Reserves for maintenance, repair and replacement of the Common Elements;
- (d) Insurance or fidelity bonds;

- (e) Rights to use of the Common Elements;
- (f) Responsibility for maintenance and repair of the Condominium;
- (g) Expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium;
- (h) Boundaries of any Unit;
- (i) The interests in the Common Elements or Limited Common Elements;
- (j) Convertibility of Units into Common Elements or of Common Elements into Units;
- (k) Leasing of Units;
- (l) Imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey his or her Unit in the Condominium;
- (m) Establishment of self-management by the Condominium Association where professional management has been required by any of the agencies or corporations set forth below; and
- (n) Amendment of any provisions which are for the express benefit of Eligible Mortgage holders or insurers or guarantors of first mortgages on Units in the Condominium.

Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the owners, may amend this Declaration to comply with any applicable state, city or federal law, and/or to bring the Condominium into compliance with applicable rules and regulations of the Federal National Mortgage Association ("Fannie Mae"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA") pursuant to federal law.

Any action to challenge the validity of an amendment adopted under this Paragraph must be brought within one (1) year of the effective date of such amendment. No action to challenge such amendment may be brought after such time.

23. SEVERABILITY.

Invalidation of any one of these covenants or restrictions by judgment or court order or otherwise shall in no way affect the application of such provision to other circumstances or affect any other provision(s), which shall remain in full force and effect.

24. PREPARER.

This Declaration was prepared by Seth G. Weissman of Weissman, Nowack, Curry & Wilco, P.C., Two Midtown Plaza, 15<sup>th</sup> Floor, 1349 West Peachtree Street, Atlanta, Georgia 30309.

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IN WITNESS WHEREOF, the undersigned officers of Muscogee Condominium Association, Inc. hereby certify that the above amendment to the original Declaration and the following amendment to the original Bylaws were duly adopted by the required majority of the Association and its membership.

This 20<sup>th</sup> day of December, 1999.

**MUSCOGEE CONDOMINIUM ASSOCIATION,**  
a Georgia nonprofit corporation

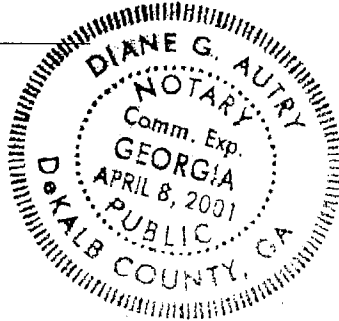
By: Steven Ethridge  
Name: Steven Ethridge  
Title: President

Attest: Susan Pullman  
Name: SUSAN PULLMAN  
Title: Secretary

Signed, sealed, and delivered  
this 20<sup>th</sup> day of December, 1999  
in the presence of:

Jane C. Kotabe  
Witness

Diane G. Autry  
Notary Public  
[NOTARY SEAL]  
F:\DOCS\07134\doc\Declaration.amd.07.doc



[CORPORATE SEAL]

EXHIBIT "A"

Description Of Submitted Property

ALL THAT TRACT or parcel of land lying and being in the City of Atlanta in Land Lot 112 of the 17<sup>th</sup> District of Fulton County, Georgia, and being more particularly described by a survey by White & Cook, Inc. for Trafalgar Investments, Inc. dated October 29, 1978, revised November 2, 1978, and November 28, 1978, as follows:

BEGINNING at an iron pin on the north side of Muscogee Avenue 249.8 feet west as measured along the north side of Muscogee Avenue from the northwest corner of the intersection of Muscogee Avenue and Peachtree Road; running thence north 87 degrees 54 minutes 05 seconds west along the north side of Muscogee Avenue, 149.89 feet to an iron pin found; thence north 02 degrees 00 minutes 30 seconds east 264.49 feet to an iron pin set; thence north 87 degrees 30 minutes 25 seconds west, 100 feet to an iron pin set; thence north 01 degree 57 minutes 35 seconds east, 134.23 feet to a point; thence south 88 degrees 31 minutes 20 seconds east, 100 feet to a point; thence south 01 degree 56 minutes 35 seconds west, 100 feet to an iron pin found; thence south 87 degrees 47 minutes 10 seconds east, 99.94 feet to an iron pin found; thence south 01 degree 55 minutes 10 seconds west, 100 feet to a point; thence south 87 degrees 33 minutes 22 seconds east, 49.96 feet to an iron pin found; thence south 02 degrees 03 minutes 15 seconds west, 200 feet to the iron pin on the north side of Muscogee Avenue at the POINT OF BEGINNING, being improved property having located thereon two, two-story apartment buildings known as No. 31 Muscogee Avenue, N.W., Atlanta, Georgia.

EXHIBIT "B"

Undivided Percentage Interest In The Common Elements  
And Liabilities For Common Expenses

Unit Number	Ownership Percentage
1	.0583
2	.0583
3	.0583
4	.0583
5	.0583
6	.0583
7	.0583
8	.0583
9	.0583
10	.0583
11	.0583
12	.0583
14	.0750
15	.0750
16	.0750
17	.0750

EXHIBIT "C"

Parking Space Assignments

Unit Number	Parking Space(s) Assigned
1	27, 28
2	26
3	17, 25
4	18, 24
5	7, 22
6	16, 20
7	10, 23
8	11, 21
9	12
10	14, 15
11	19
12	13
14	1, 9
15	4, 5
16	2, 8
17	3, 6



EXHIBIT " D"

Storage Space Assignments

Unit Number	Storage Space(s) Assigned
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
14	14
15	15
16	16
17	17

**EXHIBIT "E"**

**BYLAWS**

**OF**

**MUSCOGEE CONDOMINIUM ASSOCIATION, INC.**

**WEISSMAN, NOWACK, CURRY, & WILCO, P.C.**

Attorneys

Two Midtown Plaza, 15<sup>th</sup> Floor  
1349 West Peachtree Street  
Atlanta, Georgia 30309  
(404) 885-9215

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**BYLAWS**  
**OF**  
**MUSCOGEE CONDOMINIUM ASSOCIATION, INC.**

Article I  
General

Section 1. Applicability. These Bylaws provide for the self-government of Muscogee Condominium Association, Inc., in accordance with the Georgia Condominium Act, the Articles of Incorporation filed with the Secretary of State and the Declaration of Condominium for Muscogee Condominium, recorded in the Fulton County, Georgia land records ("Declaration").

Section 2. Name. The name of the corporation is Muscogee Condominium Association, Inc., ("Association").

Section 3. Definitions. The terms used herein shall have their generally accepted meanings or such meanings as are specified in Paragraph 2 of the Declaration.

Section 4. Membership. An Owner of a Unit shall automatically become a member of the Association upon taking title to the Unit and shall remain a member for the entire period of ownership. As may be more fully provided below, a spouse or a cohabitant of a member may exercise the powers and privileges of the member. If title to a Unit is held by more than one (1) Person, the membership shall be shared in the same proportion as the title, but there shall be only one (1) membership and one (1) vote per Unit. Membership does not include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. Membership shall be appurtenant to the Unit and shall be transferred automatically by conveyance of that Unit and may be transferred only in connection with the transfer of title.

Section 5. Entity Members. In the event an Owner is a corporation, partnership, trust, or other legal entity not being a natural person or persons, then any natural person who is an officer, director, or other designated agent of such corporation, partner of such partnership, beneficiary or other designated agent of such trust, or manager of such other legal entity shall be eligible to represent such entity or entities in the affairs of the Association. Such person's relationship with the Association shall terminate automatically upon the termination of such person's relationship with the entity or entities which are the Owner, and termination of the person's relationship with the Association will create a vacancy in any elected or appointed position within the Association in which such person may have been serving and such vacancy will be filled in accordance with these Bylaws.

Section 6. Voting. Each Unit shall be entitled to one equal vote, which vote may be cast by the Owner, the Owner's spouse, the cohabitant of the Owner, or by a lawful proxy as provided below. When more than one (1) Person owns a Unit, the vote for such Unit shall be exercised as they determine between or among themselves, but in no event shall more than one (1) vote be cast with respect to any Unit. If only one (1) co-owner attempts to cast the vote for a Unit, it shall be conclusively presumed that such co-owner is authorized on behalf of all co-owners to cast the vote for such Unit. In the event of disagreement between or among co-owners and an attempt by two (2) or more of them to cast such vote or votes, such Persons shall not be recognized and such vote or votes shall not be counted. No Owner shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors, if that Owner is shown on the books

or management accounts of the Association to be more than thirty (30) days delinquent in any payment due the Association or if the Owner has had its voting rights suspended for the infraction of any provision of the Declaration, these Bylaws, or any rule of the Association. If the voting rights of an Owner have been suspended, that Owner shall not be counted as an eligible vote for purposes of establishing a Majority or a quorum.

Section 7. Majority. As used in these Bylaws, the term "majority" shall mean those votes, Owners, or other group as the context may indicate totaling more than fifty (50%) percent of the total number of eligible votes, Owners, or other group, respectively. Unless otherwise specifically stated, the words "majority vote" mean more than fifty (50%) percent of those voting in person or by proxy. Except as otherwise specifically provided in the Declaration or these Bylaws, all decisions shall be by majority vote.

Section 8. Purpose. The Association shall have the responsibility of administering the Condominium, establishing the means and methods of collecting the contributions to the Common Expenses, arranging for the management of the Condominium and performing all of the other acts that may be required to be performed by the Association pursuant to the Act, the Georgia Nonprofit Corporation Code and the Declaration. Except as to those matters which the Act, the Declaration or the Georgia Nonprofit Corporation Code specifically require to be performed by the vote of the Association membership, the administration of the foregoing responsibilities shall be performed by the Board of Directors as more particularly set forth below.

## Article II Meetings of Members

Section 1. Annual Meetings. The regular annual meeting of the members shall be held during the fourth quarter of each year with the date, hour, and place to be set by the Board of Directors.

Section 2. Special Meetings. Special meetings of the members may be called for any purpose at any time by the President or Secretary, by request of any two (2) members of the Board of Directors, or upon written petition of Owners holding at least twenty-five (25%) percent of the total Association vote. Any such written petition by the members must be submitted to the Association's Secretary. The Secretary shall then verify that the required number of members have joined in the petition and shall submit all proper petitions to the Association's President. The President shall then promptly call a special meeting for the purpose stated in the petition, and the Secretary shall send notice of the meeting in accordance with these Bylaws.

Section 3. Notice of Meetings. It shall be the duty of the Secretary to mail or deliver to each Owner of Units of record or to the Units a notice of each annual or special meeting of the Association at least thirty (30) days prior to each annual meeting and at least seven (7) days prior to each special meeting. The notice shall state the purpose of any special meeting, as well as the time and place where it is to be held. The notice of an annual meeting shall state the time and place of the meeting. If any Owner wishes notice to be given at an address other than his or her Unit, the Owner shall have designated by notice in writing to the Secretary such other address. The mailing or delivering of a notice of meeting in the manner provided in this Section shall be considered proper service of notice.

Section 4. Waiver of Notice. Waiver of notice of meeting of the Owners shall be deemed the equivalent of proper notice. Any Owner may, in writing, waive notice of any meeting of the Owners, either before or after such meeting. Attendance at a meeting by an Owner, whether in person or represented by proxy, shall be deemed waiver by such Owner of notice of the time, date, and place thereof unless such Owner specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at

a special meeting shall also be deemed waiver of notice of all business transacted at such meeting unless objection to lack of notice is raised before the business, of which proper notice was not given, is put to a vote.

Section 5. Quorum. Except as may be provided elsewhere, the presence of Owners, in person or by proxy, entitled to cast one-half (1/2) of the eligible votes of the Association shall constitute a quorum. Once a quorum is established for a meeting, it shall conclusively be presumed to exist until the meeting is adjourned and shall not need to be reestablished. Owners whose voting rights have been suspended pursuant to the Declaration or these Bylaws shall not be counted as eligible votes toward the quorum requirement.

Section 6. Adjournment. Any meeting of the Owners may be adjourned from time to time for periods not exceeding ten (10) days by vote of the Owners holding the Majority of the votes represented at such meeting, regardless of whether a quorum is present. Any business which could be transacted properly at the original session of the meeting may be transacted at a reconvened session, and no additional notice of such reconvened session shall be required.

Section 7. Proxy. Any member entitled to vote may do so by written proxy duly executed by the member setting forth the meeting at which the proxy is valid. To be valid, a proxy must be signed, dated, and filed with the Secretary prior to the opening of the meeting for which it is to be used. Proxies may be delivered to the Board by personal delivery, U.S. mail or facsimile transmission to any Board member or the property manager. Proxies may be revoked only by written notice delivered to the Association, except that the presence in person by the giver of a proxy at a meeting for which the proxy is given shall automatically invalidate the proxy for that meeting. A proxy holder may not appoint a substitute proxy holder unless expressly authorized to do so in the proxy.

Section 8. Action Taken Without a Meeting. In the discretion of the Board, any action that may be taken at any annual or special meeting of members may be taken without a meeting if the Association delivers a written consent form or ballot to every member entitled to vote on the matter.

(a) A written ballot shall: (1) set forth each proposed action; and (2) provide an opportunity to vote for or against each proposed action.

(b) Approval by written ballot pursuant hereto shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(c) All solicitations for votes by written ballot shall: (1) Indicate the number of responses needed to meet the quorum requirements; (2) State the percentage of approvals necessary to approve each matter other than election of directors; and (3) Specify the time by which a ballot must be received by the corporation in order to be counted.

(d) A written ballot may not be revoked. The Association shall maintain such ballots in its file for a period of at least three (3) years.

Section 9. Order of Business. At all meetings of the Association, Roberts Rules of Order (latest edition) shall govern when not in conflict with the Declaration, these Bylaws or the Articles of Incorporation, unless the Owners present at a particular meeting vote to suspend Robert's Rules at that meeting.

Article III  
Board of Directors

A. Composition and Selection.

Section 1. Composition. The affairs of the Association shall be governed by a Board of Directors. The Board shall be composed of a minimum of three (3) or a maximum of five (5) persons, the exact number as determined by resolution of the Board. Except for directors appointed by the Declarant hereunder, the directors shall be Owners or spouses or cohabitants of such Owners; provided, however, no Owner and his or her spouse or cohabitant may serve on the Board at the same time, and no co-owners may serve on the Board at the same time.

Section 2. Term of Office. If three (3) directors are elected to the Board of Directors, two (2) of the directors shall be elected for a term of two (2) years and one (1) director shall be elected for a term of one (1) year. If five (5) directors are elected to the Board of Directors, three (3) of the directors shall be elected for terms of two (2) years and two (2) directors shall be elected for terms of one (1) year. At the expiration of the term of office of each Board member, and at each annual meeting thereafter, a successor shall be elected to serve for a term of two (2) years. The Board members shall hold office until their respective successors shall have been elected by the Association.

Section 3. Removal of Members of the Board of Directors. At any annual or special meeting of the Association duly called, any one or more Board members, except for directors appointed by Declarant hereunder, may be removed with or without cause by a Majority of the members of the Association and a successor may then and there be elected to fill the vacancy thus created. Further, any director who has had three (3) consecutive unexcused absences from regularly scheduled Board meetings or is more than sixty (60) days past due in the payment of any assessment may be removed by the vote of a Majority of the other directors. Any director whose removal has been proposed shall be given at least ten (10) days notice of the calling of the meeting to consider his or her removal and the purpose thereof and shall be given an opportunity to be heard at the meeting.

Section 4. Vacancies. Vacancies in the Board caused by any reason, except the removal of a director by vote of the membership or by Declarant, shall be filled by a vote of the Majority of the remaining directors, even though less than a quorum, at any meeting of the Board of Directors. The successor so selected shall hold office for the remainder of the term of the director being replaced.

Section 5. Compensation. Directors shall not be compensated for services as such unless and only to the extent that compensation is authorized by a Majority vote of the members. Directors may be reimbursed for the expenses incurred in carrying out their duties as directors upon approval of such expenses by the Board of Directors.

Section 6. Director Conflicts of Interest. Nothing herein shall prohibit a director from entering into a contract and being compensated for services or supplies furnished to the Association in a capacity other than as director, provided that the director's interest is disclosed to the Board and the contract is approved by a Majority of the directors who are at a meeting of the Board of Directors at which a quorum is present, excluding the director with whom the contract is made. The interested director shall not count for purposes of establishing a quorum of the Board. The interested director shall be entitled to be present at any meeting at which the proposed contract is discussed but shall not be entitled to discuss the proposed contract during the discussion.



Section 7. Nomination. Nomination for election to the Board shall be made by a Nominating Committee which shall be appointed by the Board of Directors at least thirty (30) days prior to the annual meeting to serve a term of one (1) year and shall consist of at least one (1) Board member and at least one (1) member of the Association who is not a Board member. The members of the Nominating Committee shall be announced at the annual meeting. The Nominating Committee may nominate any number of qualified individuals, but not less than the number of directors to be elected. The nominations shall be made at least fourteen (14) days prior to the annual meeting. Nominations shall also be allowed from the floor at the meeting. Each candidate shall be given a reasonable opportunity to communicate his or her qualifications to the membership prior to the election. No member shall be nominated for election to the Board, nor permitted to run for election, if more than thirty (30) days past due in the payment of any assessment. Failure to comply with this Section shall in no way invalidate the election of directors who were not nominated in accordance with the provisions hereof.

Section 8. Elections. Election to the Board of Directors shall be voice vote unless a majority of the Owners present at the annual meeting elects to conduct a vote by written ballot. The directorships for which elections are held shall be filled by those candidates receiving the most votes. There shall be no cumulative voting.

B. Meetings.

Section 9. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by the Board, but such meetings shall be held at least once every six (6) months. The newly elected Board shall meet within ten (10) days after each annual meeting of the membership.

Section 10. Special Meetings. Special meetings of the Board may be called by the President on two (2) days' notice to each director given by mail, in person, by telephone, or by facsimile transmission, which notice shall state the time, place, and purpose of the meeting. Special meetings of the Board shall be called by the President, Vice President, Secretary, or Treasurer in like manner and on like notice on the written request of at least two (2) directors.

Section 11. Waiver of Notice. Any director may, at any time, in writing, waive notice of any meeting of the Board, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall also constitute a waiver of notice by him or her of the time and place of such meeting. If all directors are present at any Board meeting, no notice shall be required and any business may be transacted at such meeting.

Section 12. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings. A Majority of directors shall constitute a quorum for the transaction of business. One or more directors who participate in a meeting by means of telephone or electronic communication shall be deemed present and in attendance for all purposes at such meeting, provided all persons participating in the meeting can hear each other.

Section 13. Open Meetings. All meetings of the Board shall be open to all members, but members other than directors may not participate in any discussion or deliberation unless expressly so authorized by the Board. Notwithstanding the above, the Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

Section 14. Action Without a Meeting. Any action by the Board required or permitted to be taken at any meeting may be taken without a meeting if a majority of the directors consent in writing to such action. Such written consents must describe the action taken and be signed by no fewer than a majority of the directors and such written consent or consents shall be filed with the minutes of the Board of Directors.

C. Powers and Duties.

Section 15. Powers and Duties. The Board of Directors shall manage the affairs of the Association and shall have all the powers and duties necessary for the administration of the Condominium and may do all such acts and things as are not by the Act, the Declaration, the Articles of Incorporation, or these Bylaws directed to be done and exercised exclusively by the members. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to and shall be responsible for the following, in the way of explanation, but not limitation:

- (a) preparation and adoption of an annual budget, in which there shall be established the contribution of each Owner to the Common Expenses;
- (b) making assessments to defray the Common Expenses, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment;
- (c) providing for the operation, care, upkeep, and maintenance of all of the Area of Common Responsibility as defined in Paragraph 17 of the Declaration;
- (d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and the maintenance, repair, and replacement of the Common Elements, Association property, and the Area of Common Responsibility and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;
- (e) collecting the assessments, depositing the proceeds thereof in a financial depository or institution which it shall approve, or otherwise investing the proceeds in accordance with any limitations set forth in O.C.G.A. 14-3-302, and using the proceeds to administer the Association;
- (f) making and amending rules and regulations and imposing sanctions for violation thereof, including, without limitation, monetary fines;
- (g) opening of bank or other financial accounts on behalf of the Association and designating the signatories required;
- (h) making or contracting for the making of repairs, additions, and improvements to, or alterations of the Common Elements in accordance with the other provisions of the Declaration and these Bylaws, after damage or destruction by fire or other casualty;
- (i) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it, and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(j) obtaining and carrying insurance against casualties and liabilities, as provided in the Act and the Declaration, and paying the premium cost thereof;

(k) paying the costs of all services rendered to the Association or its members and not directly chargeable to specific Owners;

(l) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred; and

(m) contracting with any Person for the performance of various duties and functions. The Board shall have the power to enter into common management agreements with trusts, condominium associations, or other associations or corporations. Any and all functions of the Association shall be fully transferable by the Board, in whole or in part, to any other entity.

Section 16. Management Agent. The Association may, but shall not be required to, hire a professional management agent or agents, at a compensation established by the Board, to perform such duties and services as the Board of Directors shall authorize. The Board shall use reasonable efforts in any management contract to provide for termination of such contract by the Association with or without cause and without penalty, upon no more than thirty (30) days written notice. No management contract shall have a term in excess of one (1) year.

Section 17. Borrowing. The Board of Directors shall have the power to borrow money for the purpose of maintenance, repair, restoration, or improvement of the Common Elements and facilities, and for other purposes, with the approval of a Majority of the members of the Association.

Section 18. Liability and Indemnification of Officers, Directors and Committee Members. The Association shall indemnify every officer, director and committee member against any and all expenses, including attorney's fees, reasonably incurred by or imposed upon such officer, director or committee member in connection with any action, suit, or other proceeding (including settlement of any such action, suit, or proceeding, if approved by the then Board of Directors) to which he or she may be made a party by reason of being or having been an officer, director or committee member, whether or not such person is an officer, director or committee member at the time such expenses are incurred subject to the limitations below. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, or for injury or damage caused by any such officer, director or committee member in the performance of his or her duties, except for his or her own individual willful misfeasance or malfeasance. The officers, directors and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers, directors and committee members may also be members of the Association), and the Association shall indemnify and forever hold each such officer, director or committee member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or committee member or former officer or director may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and, if obtainable, officers' and directors' liability insurance to fund this obligation, and the insurance shall be written as provided in the Declaration.

D. Committees.

Section 19. Architectural Control Committee. The Board shall constitute the Architectural

Control Committee for the purpose of establishing and maintaining architectural standards in the Condominium as provided in the Declaration.

Section 20. Other Committees. There shall be such other committees as the Board shall determine with the powers and duties that the Board shall authorize.

Section 21. Service on Committees. Unless otherwise provided in these Bylaws or in the resolution authorizing a particular committee, the members of any committee shall be appointed by the President and shall serve at the pleasure of the Board of Directors. Any committee member may be removed with or without cause at any time and with or without a successor being named.

#### Article IV Officers

Section 1. Designation. The principal officers of the Association shall be the President, the Secretary and the Treasurer, all or any of which may be the same person. A Vice President may be elected at the discretion of the Board.

Section 2. Election of Officers. The Association officers shall be elected annually by the Board at the first Board meeting following each annual meeting of the members and shall hold office at the pleasure of the Board and until a successor is elected.

Section 3. Removal of Officers. Upon the affirmative vote of a Majority of the members of the Board, any officer may be removed, either with or without cause, and a successor may be elected.

Section 4. Vacancies. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board for the unexpired portion of the term.

Section 5. President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the members and of the Board. The President shall have all the general powers and duties which are incident to the office of the president of a corporation organized under the Georgia Nonprofit Corporation Code, including, but not limited to, the power to appoint committees from among the members from time to time as he or she may in his or her discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 6. Vice President. The Vice President, if any, shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting.

Section 7. Secretary. The Secretary shall keep the minutes of all meetings of the members and of the Board of Directors and shall have charge of such books and papers as the Board of Directors may direct, and shall, in general, perform all duties incident to the office of the secretary of a corporation organized under Georgia law.

Section 8. Treasurer. The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, for preparing all required financial statements and tax returns, and for the deposit of all monies and other valuable effects in the name of the Association or the managing agent in such depositories as may from time to time be designated by the Board of Directors. The Treasurer shall be responsible for the preparation of the budget as provided in the Declaration. The Treasurer may

delegate all or a part of the preparation and notification duties associated with the above responsibilities to a management agent.

Section 9. Other Officers. Other offices may be created by the Board, and the Board members which hold such offices shall have such titles and duties as are defined by the Board.

Section 10. Agreements, Contracts, Deeds, Leases, Etc. All agreements, contracts, deeds, leases, checks, promissory notes, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by resolution of the Board of Directors.

## Article V Rule Making and Enforcement

Section 1. Authority and Enforcement. The Condominium shall be used only for those uses and purposes set out in the Declaration. The Board of Directors shall have the authority to make, modify, repeal and enforce reasonable rules and regulations governing the conduct, use, and enjoyment of Units and the Common Elements; provided, copies of all such rules and regulations shall be furnished to all Owners and Occupants. Any rule or regulation may be repealed by the affirmative vote or written consent of a Majority of the total Association vote at an annual or special meeting of the membership. Every Owner and Occupant shall comply with the Declaration, Bylaws and rules and regulations of the Association, and any lack of compliance therewith shall entitle the Association and, in an appropriate case, one or more aggrieved Unit Owners, to take action to enforce the terms of the Declaration, Bylaws or rules and regulations.

The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the Owner's Unit, and to suspend an Owner's right to vote or to use the Common Elements for violation of any duty imposed under the Declaration, these Bylaws, or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Association or the Board to limit ingress and egress to or from a Unit. In the event that any Occupant of a Unit violates the Declaration, Bylaws, or a rule or regulation and a fine is imposed, notice of such violation shall be sent to the Owner and Occupant, and the fine shall first be assessed against such Occupant; provided, however, if the fine is not paid by the Occupant within the time period set by the Board, the Unit Owner shall pay the fine upon notice from the Association, and the fine shall be an assessment and a lien against the Unit until paid. The failure of the Board to enforce any provision of the Declaration, Bylaws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

Section 2. Fining and Suspension Procedure. The Board shall not impose a fine, suspend the right to vote or suspend the right to use the Common Elements (provided, however, if an Owner is shown on the books or management accounts of the Association to be more than thirty (30) days delinquent in any payment due the Association, suspension of the right to vote and the right to use the Common Elements shall be automatic; provided further, however, suspension of common utility services shall require compliance with the provisions of Paragraph 10(c)(v) of the Declaration, where applicable), unless and until the Association has sent or delivered written notice to the violator as provided in subsection (a) below. Any such fine or fines may be effective or commence upon the sending of such notice or such later date as may be set forth in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge such fine under subsection (b) below.

(a) Notice. If any provision of the Declaration or Bylaws or any rule or regulation of the Association is violated, the Board shall send the violator written notice identifying the violation and fine(s) being imposed and advising the violator of the right to request a hearing before the Board to contest the

violation or fine(s) or to request reconsideration of the fine(s). Fine(s) may be effective or commence upon the sending of such notice or such later date specified in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge the fine. In the event of a continuing violation, each day the violation continues or occurs again constitutes a separate offense, and fines may be imposed on a per diem basis without further notice to the violator.

(b) Hearing. If a written request for hearing is received from the violator within ten (10) days of the date of the violation notice provided above, then the Board shall schedule and hold in executive session a hearing affording the violator a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing. The Board may establish rules of conduct for such hearing, which may include limits on time and on the number of participants who may be present at one time.

Section 3. Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Board may elect to enforce any provision of the Declaration, the Bylaws, or the rules and regulations by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedure set forth in Section (2) of this Article. In any such action, to the maximum extent permissible, the Owner or Occupant responsible for the violation for which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

The Association or its duly authorized agent shall have the power to enter a Unit or upon any portion of the Common Elements to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates the Declaration, the Bylaws, or the rules and regulations; provided, however, written notice shall be given to the Owner of the Unit at least two (2) days prior to the time that any items of construction are altered or demolished. All costs of self-help, including reasonable attorney's fees, shall be assessed against the violating Unit Owner and shall be collected as provided herein for the collection of assessments.

## Article VI Miscellaneous

Section 1. Notices. Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) If to a Unit Owner, at the address which the Unit Owner has designated in writing and filed with the Secretary, or if no such address has been designated, at the address of the Unit of such Owner;

(b) If to an Occupant, at the address of the Unit occupied; or

(c) If to the Association or the Board of Directors, at the principal office of the Association, if any, or at such other address as shall be designated in writing and filed with the Secretary.

Section 2. Severability. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws or the Declaration.

Section 3. Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of these Bylaws or the intent of any provision thereof.

Section 4. Gender and Grammar. The use of the masculine gender in these Bylaws shall be deemed to include the feminine gender, and the use of the singular shall be deemed to include the plural whenever the context so requires.

Section 5. Fiscal Year. The fiscal year of the Association may be set by Board resolution, and, in the absence thereof, shall be the calendar year.

Section 6. Financial Review. A financial review of the accounts of the Association shall be performed annually in the manner provided by the Board and a financial statement prepared. However, after having received the Board's financial statement review at the annual meeting, the Owners may, by a majority of the Association vote, require that the accounts of the Association be audited as a Common Expense by an independent accountant. Such statement shall be made available to the holder, insurer, or guarantor of any first mortgage on a Unit upon submission of a written request and must be available within one hundred twenty (120) days of the fiscal year end of the Association.

Section 7. Conflicts. The duties and powers of the Association shall be those set forth in the Act, the Georgia Nonprofit Corporation Code, the Declaration, these Bylaws, and the Articles of Incorporation, together with those reasonably implied to affect the purposes of the Association; provided, however, that if there are conflicts or inconsistencies between the Act, the Georgia Nonprofit Corporation Code, the Declaration, these Bylaws, or the Articles of Incorporation, then the provisions of the Act, the Georgia Nonprofit Corporation Code, as may be applicable, the Declaration, the Articles of Incorporation and these Bylaws, in that order, shall prevail, and each Owner of a Unit, by acceptance of a deed or other conveyance therefor, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies.

Section 8. Amendment. Except where a higher vote is required for action under a particular provision of the Declaration or Bylaws, in which case such higher vote shall be necessary to amend, these Bylaws may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members holding two-thirds (2/3) of the total vote of the Association. As long as Declarant has the right to appoint directors and officers of the Association as provided in Article III, Section 2 of these Bylaws, any amendment to these Bylaws shall require the written consent of Declarant. Notice of any meeting at which an amendment will be considered shall state that fact and the subject matter of the proposed amendment. No amendment shall become effective until it is certified by the President and Secretary of the Association and recorded in the Fulton County Georgia land records. Any amendment duly certified and recorded shall be conclusively presumed to have been duly adopted in accordance with the Bylaws.

Any action to challenge the validity of an amendment adopted under this Section must be brought within one (1) year of the amendment's effective date. No action to challenge any such amendment may be brought after such time.

Section 9. Books and Records.

(a) All members of the Association and any holder of a first Mortgage shall be entitled to inspect the following records at a reasonable time and location specified by the Association, upon written request at least five (5) days before the date on which the member or mortgagee wishes to inspect and copy: