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Bill McDaniel, Clerk

DECLARATION OF CONDOMINIUM  
FOR  
LONGSTREET'S CHARGE CONDOMINIUMS

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**DECLARATION OF CONDOMINIUM  
FOR  
LONGSTREET'S CHARGE CONDOMINIUMS**

THIS DECLARATION OF CONDOMINIUM FOR LONGSTREET'S CHARGE CONDOMINIUMS ("Declaration") is made as of the date set forth on the signature page hereof by Longstreet's Charge Properties, LLC, a Georgia limited liability company ("Declarant").

Declarant is the owner of that real property located in Walker County, Georgia, which is described on Exhibit A to this Declaration, such description being incorporated by this reference. By this Declaration, Declarant submits such property, together with all of the improvements located thereon (collectively, the "Condominium"), to the condominium form of ownership and to the provisions of the Georgia Condominium Act, O.C.G.A. Section 44-3-70, *et seq.*, as amended (the "Act").

From and after the date on which this Declaration is recorded in the public records of Walker County, Georgia, the Condominium shall be owned, held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered, subject to all of the terms, provisions, covenants, and restrictions of this Declaration and of the Act.

1. NAME.

The name of the condominium is Longstreet's Charge Condominiums.

2. DEFINITIONS.

The terms used in this Declaration, the By-Laws, 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, capitalized terms used in this Declaration, the By-Laws, and the Articles of Incorporation shall be defined as follows:

(a) "Act": The Georgia Condominium Act, O.C.G.A. Section 44-3-70, *et seq.*, as it may be amended.

(b) "Area of Common Responsibility": 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.

(c) "Articles of Incorporation" or "Articles": The Articles of Incorporation of Longstreet's Charge Condominium Association, Inc., as filed with the Secretary of State of Georgia. The Articles are attached to this Declaration as Exhibit C and incorporated herein by reference.

(d) "Association": The Longstreet's Charge Condominium Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

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- (e) **"Board"**: The Association's board of directors; the elected body responsible for management and administration of the Association and serving as the governing body of the Association.
- (f) **"By-Laws"**: The By-Laws of Longstreet's Charge Condominium Association, Inc., as may be amended. The initial By-Laws are attached to this Declaration as Exhibit D and incorporated herein by this reference.
- (g) **"Common Elements"**: That portion of the property subject to this Declaration which is not included within the boundaries of a Unit, as more particularly described in this Declaration.
- (h) **"Common Expenses"**: The expenses incurred or anticipated to be incurred by the Association for the general benefit of all Units, including, but not limited to, those expenses incurred for maintaining, repairing, replacing, and operating the Common Elements, including the Limited Common Elements.
- (i) **"Condominium"**: All that real property described in Exhibit A, attached hereto and incorporated herein by this reference, together with the improvements thereon, submitted to the provisions of the Act by this Declaration.
- (j) **"Condominium Instruments"**: This Declaration, all exhibits to this Declaration, the By-Laws, the Articles, and the Plats and Plans Recorded pursuant to the Act, all as they may be supplemented or amended from time to time.
- (k) **"Declarant"**: Longstreet's Charge Properties, LLC, a Georgia limited liability company, or its successors, successors-in-title, or assigns, who takes title to any portion of the property described in Exhibits A for the purpose of development or sale as a part of the Condominium and who is designated as Declarant in a Recorded instrument executed by the immediately preceding Declarant.
- (l) **"Declaration"**: This Declaration of Condominium for the Longstreet's Charge Condominiums, as Recorded, and as may be amended.
- (m) **"Limited Common Element"**: A portion of the Common Elements reserved for the exclusive use of those entitled to occupy one or more, but less than all, Units, as more particularly set forth in this Declaration.
- (n) **"Majority"**: Those eligible votes, Owners, or other group as the context may indicate, totaling more than 50% of the total eligible number.
- (o) **"Mortgage"**: Any mortgage, deed to secure debt, deed of trust, or other instrument granting a lien upon or security interest in the title to a Unit.

(p) **"Mortgagee"**: The holder of any Mortgage. An **"Eligible Mortgagee"** shall be the holder of a first or second priority purchase money Mortgage who has requested notice of certain items as set forth in this Declaration.

(q) **"Occupant"**: 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.

(r) **"Owner"**: The record title holder of a fee simple or undivided fee simple interest in a Unit, but does not include a Mortgagee. If a Unit is owned by more than one Person, the term "Owner" shall refer to all such Co-Owners collectively, who shall be jointly and severally responsible for the obligations of an Owner and shall share the rights of an Owner under the Condominium Instruments and the Act.

(s) **"Percentage Interest"**: The Percentage Interest appurtenant to each unit is derived from a fraction, the numerator of which is the number of square feet within the unit and the denominator of which is the total number of square feet for all units in the Longstreet's Charge Condominium (the "Percentage Interest"). The Percentage Interest initially allocated to each unit is set forth on Exhibit E, attached hereto and incorporated herein by this reference. Such Percentage Interest represents the Unit Owner's ownership percentage of the undivided common interest in the Common Elements, the percentage vote that such Unit Owner shall have as a member of the Association, and the Unit Owner's percentage share of Assessments to be levied hereunder.

(t) **"Person"**: An individual, corporation, firm, association, partnership, trust, or other legal entity.

(u) **"Plat(s) and Plan(s)"**: Collectively, the plats of survey of the Condominium and plans for each building containing a Unit in the Condominium, Recorded contemporaneously with this Declaration, as each may be revised and amended from time to time. The Plats and Plans are incorporated herein by this reference. The initial Plats and Plans Recorded with this Declaration are described on Exhibit B.

(v) **"Record," "Recording," or "Recorded"**: To file, the filing, or filed of Record in the Office of the Clerk of the Superior Court of Walker County, Georgia, or such other place which is designated as the official location for recording documents affecting title to real estate.

(w) **"Unit"**: That portion of the Condominium intended for individual ownership and use as described in Paragraph 4 and on the Plats and Plans, together with the undivided ownership interest in the Common Elements assigned to the Unit by this Declaration.

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

The Condominium is located in the City of Chickamauga, Walker County, Georgia. The real property which initially is submitted by this Declaration to the Act is more particularly described in Exhibit A.

#### 4. UNITS AND BOUNDARIES.

(a) General. The Condominium shall consist of Units, the Common Elements, and the Limited Common Elements, all as described in this Declaration and depicted on the Plats and Plans.

Each Unit consists of the dwelling structure depicted on the Plats and Plans, any appurtenances thereto and an equal undivided percentage interest in the Common Elements. Each Unit shall be covered as a separately designated and legally described freehold estate subject to the Act and the Condominium Instruments, and there shall pass with title to each Unit as appurtenances thereto (whether or not separately described in the conveyance thereof), its undivided right, title, and interest in the Common Elements and membership in the Association. The undivided interest in the Common Elements may not be separated from title to the Unit to which it is assigned and any attempt to convey such undivided interest separate from conveyance of the Unit shall be null and void. Each Owner is entitled to exclusive possession of his or her Unit together with an interest in and right to use, in common with others, the Common Elements and any Limited Common Elements assigned to such Unit.

(b) Boundaries. Each Unit includes that part of the structure which lies within the following boundaries:

(i) Vertical (Perimeter) Boundaries. The vertical or perimetrical boundaries of each Unit shall be the vertical planes formed by and extending from the boundaries of the dwelling structure as shown on the Plats and Plans. The Unit shall include the dwelling and all other improvements located within the boundaries of such Unit.

(ii) Horizontal Boundaries. The horizontal boundaries of each Unit shall be the horizontal planes formed by the Units' floor and ceiling as shown on the Plats and Plans.

Each Unit may be legally described by the identifying number or symbol as shown on the Plats and Plans.

(c) Subdivision of Units. Units shown on the Plats and Plans may not be further subdivided except by the Declarant as set forth herein.

#### 5. COMMON ELEMENTS.

The Common Elements include all parts of the Condominium not located within the boundaries of a Unit, including the Limited Common Elements and all other items or fixtures which are specifically identified in this Declaration or the Plats and Plans as Common Elements. The Unit Owners shall own the Common Elements as tenants-in-common.

Pursuant to Section 44-3-78 of the Act, each Unit is initially allocated its Percentage Interest in the Common Elements.

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Except as otherwise provided herein, the Percentage Interest in the Common Elements 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 below for Limited Common Elements, easements granted or reserved, 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 other Owners.

6. LIMITED COMMON ELEMENTS.

(a) Limited Common Elements. The Limited Common Elements and the Unit(s) to which they are assigned are as follows:

- (i) each porch or patio shown on the Plats and Plans which is enclosed by the boundaries of adjacent Units or shared by adjacent Units is assigned as a Limited Common Element of the Unit whose door adjoins such porch or patio;
- (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 a Limited Common Element to the Unit or Units so served;
- (iii) any gas, electric, or other utility meter which serves only one Unit is assigned as a Limited Common Element to the Unit so served; and
- (iv) that portion of sewer system serving an individual Unit (i.e., that portion which extends from the common trunk line to the Unit) is assigned as a Limited Common Element to the Unit so served.

(b) Association's Assignment and Reassignment Rights. Additional Limited Common Elements may be assigned by Declarant in the deed conveying a Unit or by description on the Plats and Plans. In addition, the Board, 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 upon written application to the Association by the Owner or Owners for whose exclusive use such Common Element is requested and the affirmative vote or written consent, or any combination thereof, of Owners holding two-thirds (2/3) of the total Association vote. Upon such application and approval, the Association shall prepare and execute an amendment to the Declaration assigning the Common element as a Limited Common Element. Such amendment shall be delivered and become effective as provided in Section 44-3-82 of the Act.

(c) Maintenance Responsibility. Except as otherwise provided in Paragraph 17, the Owner of the Unit(s) served by a Limited Common Element shall be responsible for all maintenance and repair, and the cost thereof, of such Limited Common Element. Any Common Expenses associated with the maintenance, repair, renovation, restoration, or replacement of the Limited Common Elements shall be assessed in accordance with Section 44-3-80(a) of the Act or as otherwise provided in this Declaration.

7. ASSOCIATION OF MEMBERSHIP AND ALLOCATION OF VOTES.

The owner of each Unit, by virtue of ownership of a fee or undivided fee interest in a Unit, is a member of the Association, and, except as otherwise provided in this Declaration or the By-Laws, shall be entitled to exercise the vote allocated to such Unit on all matters upon which members of the Association are entitled to vote pursuant to the Act and the Condominium Instruments. Each Owner shall be entitled to a vote equal to its Unit's Percentage Interest as set forth in Exhibit D.

8. ALLOCATION OF LIABILITY FOR COMMON EXPENSES.

Except as otherwise specifically provided in this Declaration or the By-Laws, the liability for the Common Expenses of the Association shall be allocated according to the Unit's Percentage Interest as set forth in Exhibit D subject to the following:

(a) Common Expenses benefiting less than all of the Units may be specially assessed equitably among the Units so benefited as the Board determines appropriate in its reasonable discretion, pursuant to Section 44-3-80(b)(1) of the Act, including, without limitation, any utility charges billed to the Association for which a Unit is individually sub-metered.

(b) Common Expenses, including expenses related to maintenance or insurance, caused by the conduct of the Occupants of less than all of the Units or by the licensees or invitees of less than all of the Units, may be specially assessed against the Unit or Units whose Occupants, licensees, or invitees caused such expenses, as provided in Section 44-3-80(b)(2) of the Act.

(c) Common Expenses significantly disproportionately benefiting all of the Units may be assessed equitably among all of the Units according to the benefit received, as the Board determines appropriate in its reasonable discretion, pursuant to Section 44-3-80(b)(3) of the Act.

The Board's failure to exercise its authority under this Paragraph shall not be grounds for any action against the Association or the Board 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 Common Expenses.

No reallocation of liability for Common Expenses pursuant to this Declaration shall affect any Common Expense assessments or installment thereof due and payable prior to such reallocation.



9. ASSOCIATION RIGHTS.

In addition to, and not in limitation of, all other rights it may have under the Act, the Georgia Nonprofit Corporation Act, and the Condominium Instruments, the Association, acting through its Board or such Association employees or agents as the Board may authorize, shall have the right and authority.

(a) to enter into Units and any enclosed porch or patio as reasonably necessary for emergency, security, or safety purposes, and for performing its maintenance responsibilities hereunder, which right may be exercised by the Board, its officers, agents, employees, managers, and all police officers, firefighters, 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 to do the following:

(b) make reasonable rules and regulations governing the use of the Condominium, including the Units, Limited Common Elements, and Common Elements, which rules and regulations shall be binding upon all Owners, Occupants, guests, and invitees until and unless overruled, canceled, or modified at a meeting of the Association by the vote, in person or by proxy, of Owners holding at least a Majority of the total Association vote, and by the vote of Declarant, so long as Declarant has the right to appoint at least a majority of the members of the Board pursuant to Paragraph 19;

(c) enforce use restrictions, other provisions of the Condominium Instruments, and Association 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, and by any other legal means. Any fines imposed in accordance with Section 44-3-76 of the Act shall be considered an assessment against the Unit, shall be secured by a lien in favor of the Association, and may be collected in the manner provided for collection of other assessments under this Declaration and the Act;

(d) grant permits, licenses, utility easements, and other easements over the Common Elements;

(e) control, manage, operate, maintain, improve and replace all portions of the Condominium for which the Association is assigned maintenance responsibility under this Declaration;

(f) repair, restore, or reconstruct 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) represent the Owners in dealings with governmental entities on matters related to the Condominium;

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(h) assign the Association's right to future income, including the right to receive assessments, to secure money borrowed to fund Common Expenses;

(i) enter into contracts, agreements for maintenance of the Condominium, covenants to share costs, or other similar agreements, on behalf of itself and the Owners, with other owners associations or similar entities, including, without limitation, agreements or covenants which provide that the Association shall contribute toward the cost of maintaining property and facilities which are not part of the Condominium but which benefit the Association and the Owners, such as property and facilities subject to easements which benefit the Condominium and Owners; and

(j) close or cease operation of any portion of the Common Elements (excluding the Limited Common Elements), temporarily or permanently, and to discontinue or suspend non-essential services which the Association provides to the Owners; provided, the Board shall give the Owners at least 30 days' prior notice of any permanent closure, cessation of operation, or discontinuation of service. Subject to compliance with applicable laws and ordinance, the Owners may require that the Association re-open or resume operation of the Common Elements, or resume discontinued services, upon the vote or written consent, or any combination thereof, of Owners entitled to cast a Majority of the total Association votes.

#### 10. ASSESSMENTS.

(a) Purpose of Assessments. The Association is authorized to levy assessments, as provided in this Declaration, the By-Laws, and the Act, for the purpose of defraying the Common Expenses.

(b) Creation of the Lien and Personal Obligation for Assessments. The Owner of each Unit, by acceptance of a deed therefor, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments levied pursuant to the Association's operating budget, as described in subparagraph (c) below; (ii) special assessments levied pursuant to subparagraph (d) below; (iii) other assessments for Limited Common Elements as provided in Paragraphs 6 and 8 and (iv) specific assessments levied against the Owner's Unit as authorized pursuant to Paragraph 8 or as otherwise specifically authorized in the Condominium Instruments or the Act, including, but not limited to, reasonable fines imposed in accordance with the terms of this Declaration or the By-Laws.

All assessments, together with late charges, interest, costs of collection (including, but not limited to, reasonable attorneys' fees actually incurred, whether or not suit is filed), and if the Board so elects, the fair rental value of the Unit, all as provided for in subparagraph (e) below and Section 44-3-109 of the Act, shall be the personal obligation of the Person who was the Owner of such Unit at the time the assessment became due and shall be a charge and continuing lien on the Unit against which each assessment is levied. The Association's lien shall have the priority provided in the Act. Upon conveyance of a Unit, the grantor and grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of such conveyance.

Declarant shall be responsible for all Common Expenses incurred prior to the conveyance of the first Unit. Thereafter, the Owner of each Unit, including Declarant for the period of its ownership of any Unit, shall be liable for assessments for its share of Common Expenses, which assessments shall be paid in such manner and on such dates as the Board may fix by resolution. 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, non-use 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.

(c) Computation of Operating Budget and Annual Assessment. At least 30 days prior to the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses to be incurred during the coming year, separately reflecting general Common Expenses and expenses to be incurred for one or more but less than all the Units pursuant to Paragraph 8 and the Act. The budget shall include amounts to be placed in a reserve budget adopted pursuant to subparagraph (f) below. The budget shall also take into account any surplus from prior years, to the extent not previously added to reserves.

The Board shall cause the budget and notice of the annual assessments to be levied against each Unit for the following year to be delivered to each member at least 30 days prior to the beginning of the fiscal year for which such budget is to be effective. The proposed budget shall automatically become effective on the date set forth in the notice.

Notwithstanding the foregoing, in the event that the membership disapproves the proposed budget or the Board fails for any reason to determine the budget for any year, then until such time as a budget has been determined as provided herein, the budget in effect for the current year shall continue in effect for the succeeding year. In such case, the Board may propose a new budget at any time during the year, subject to the foregoing procedures.

(d) Special Assessments. If the Association incurs or expects to incur unbudgeted Common Expenses or the annual assessment otherwise proves inadequate for any year, the Board may, at any time, and in addition to any other rights it may have, levy a special assessment to cover the additional Common Expenses. Any such special assessment shall be levied against all Units according to the Unit's Percentage Interest as set forth in Exhibit E, or against the Units which are responsible for the additional expense under Paragraph 8, as appropriate. Notice of any such special assessment shall be sent to the Owner of each Unit against which such special assessment is made at least 30 days prior to the due date thereof. Except as otherwise permitted under the Act, any special assessment in excess of an average of \$200.00 per Unit in any fiscal year (exclusive of any special assessment for Limited Common Expenses) shall be subject to the approval of a Majority of the Owners.

(e) Delinquent Assessments. All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner failing to make such payment shall be in default.

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(i) If any monthly installment of annual assessments or any part thereof is not paid in full by the 10<sup>th</sup> day of the month or if any other charge is not paid within 10 days of the due date, a late charge equal to the greater of \$10.00 dollars or 10% 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 10% 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 shall be applied in the following order, and no restrictive language on any check or draft shall be effective to change the order of application:

(1) respectively, to any unpaid late charges, interest charges, and specific assessments (including, but not limited to, fines) which are not the subject matter of suit in the order of the due date;

(2) to costs of collection, including reasonable attorneys' fees actually incurred by the Association;

(3) to any unpaid installments of the annual assessment of special assessments which are not the subject matter of suit in the order of their due date;

(4) if the Board so elects, to the fair rental value of the Unit during the pendency of suit and prior to satisfaction of any judgment which remains unpaid. (The fair rental value of the Units, for purposes of this Paragraph, shall be established by the Board from time to time); and

(5) respectively to any unpaid late charges, interest, specific assessments (including, but not limited to, fines), and installments of the annual assessment or special assessments which are the subject matter of suit in the order of their due date.

(iii) If assessments, fines, or other charges or any part thereof due from an Owner remain delinquent and unpaid for a period greater than 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 10 days from the date of the notice of delinquency, the Board may accelerate and declare immediately due all of that Owner's unpaid installments of the annual assessment and of any special assessments. If an Owner fails to pay all assessments and related charges currently due within 10 days of the date of the notice of delinquency, the Board may then accelerate and declare immediately due all installments of the annual assessment and of any special assessment, without given any further notice to the delinquent Owner. Upon acceleration, such 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 for more than 30 days after the assessment payments first become delinquent, the Association, acting through the Board, may institute suit to collect all amounts due pursuant to the provisions

of the Declaration, the By-Laws, the Act, and Georgia law, and suspend the Owner's and/or Occupant's right to use the Common Elements; provided, however, the Board may not limit ingress or egress to or from the Unit.

(v) In the event any assessment is delinquent for 60 days or more, in addition to all other rights provided in the Act and this Declaration, the Association shall have the right upon 10 days' written notice, to suspend any utility services, the cost of which are a Common Expense of the Association, including, but not limited to, water, electricity, heat, air condition, gas, and cable television, to that Unit until such time as the delinquent assessments and all costs permitted pursuant to this subparagraph are paid in full. Any costs incurred by the Association in discontinuing and/or reconnecting any utility service, including reasonable attorneys' fees, shall be an assessment against the Unit and shall be collected as provided herein for the collection of assessments. The notice requirement of this subparagraph shall be deemed satisfied if the notice is sent by certified mail to the Unit address and to any other address which the Unit Owner has provided in writing to the Association.

(f) Capital Budget and Reserve Contribution. The board shall prepare, and thereafter review on an annual basis, a capital budget which shall take into account the number and nature of replaceable assets maintained by the Association, the expected life of each asset, and the expected repair or replacement cost over the useful life of each asset. The Board shall establish an amount to be contributed on annual basis to reserve funds to permit meeting the projected capital needs of the Association over the period of the budget. The required capital contribution, if any, shall be included in the budget and the notice of assessment as provided in subparagraph (c) above. 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, 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 5 days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding \$10.00, 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 shall be, at the option of the Board, either distributed to the Owners or credited to the next assessment chargeable to the Owners equitably, or added to the Association's reserve account.

(i) Working Capital Fund. Upon acquisition of record title to a Unit by the first Owner thereof other than Declarant, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixth (1/6) of the

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annual assessment levied against the Unit for that year. This amount shall be collected at closing on each Unit and disbursed to the Association for deposit to the general operating fund for use in covering initial operating expenditures or to purchase additional equipment or services. The working capital funds shall not be used to defray any of Declarant's development expenses, construction costs, or other financial obligations to the Association while Declarant is in control of the Association pursuant to Paragraph 19.

11. INSURANCE.

(a) Owner Responsibility. Every Unit Owner shall be obligated to obtain and maintain at all times insurance covering the structure and improvements on his or her Unit to the extent not insured by policies maintained by the Association, and shall furnish a copy of such insurance policy or policies to the Association within ten (10) days of any written request from the Board. 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.

(b) Association Responsibility. The Association shall obtain and maintain at all times, as a Common Expense, insurance as required by Section 44-3-107 of the Act and as required herein. On a periodic basis, the Board shall arrange for an insurance review to determine if the policies then in force are adequate to meet the needs of the Association and to satisfy the requirements of the Act. The review shall be performed by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in Walker County, Georgia.

The Association shall obtain a blanket hazard insurance policy or policies affording, at a minimum, fire and extended coverage, including coverage for vandalism and malicious mischief, on all insurable improvements on the Area of Common Responsibility, regardless of ownership; provided, the Association need not obtain coverage for (i) any part of a Unit which is not depicted on the original Plats and Plans or included in the original Mortgage; (ii) improvements to Units or Limited Common Elements made by the Owners; and (iii) any structures or portions thereof covered by builder's risk insurance, provided that the Association is named as an additional insured on the builder's risk insurance policy. Notwithstanding this minimum coverage requirement, the Board shall use reasonable efforts to secure a blanket hazard insurance policy providing "all risk" coverage.

The hazard insurance policy shall provide coverage in an amount equal to the full replacement value of the structures and improvements insured within the Condominium, before application of any deductible. Unless the Association otherwise provides notice in writing to the Owners, the improvements and betterments made by the individual Unit Owners shall be excluded from this required coverage. However, each Owner shall have the right to obtain additional coverage for such improvements, betterments, or personal property at his or her own expense.

In accordance with Section 44-3-107 of the Act, the Association shall also obtain a liability insurance policy or policies providing coverage for bodily injury, death, and property damage, in the amount of at least \$500,000 for injury, including death, to a single person; \$1 million for injury or injuries, including death, arising out of a single occurrence; and \$50,000.00 for property damage; or, in the alternative, a liability policy affording coverage for bodily injury and property damage with a combine single limit in the amount not less than \$1,050,000.00. Such insurance shall cover the Association, its Board and officers, all agents and employees of the Association, the Owners, the Mortgagees, and all other Persons entitled to occupy any Unit, as their interest may appear, for all occurrences commonly insured against arising out of or in connection with the use, ownership, or maintenance of portions of the Condominium which the Association is obligated to maintain. The policies shall not provide coverage for individual Owners or Occupants for liability arising within their Units.

All such insurance coverage shall be written in the name of the Association as trustee for itself, each of the Owners, and the Mortgagees, in any. All policies shall be written with a company licensed to do business in the State of Georgia. The insurance company shall provide insurance certificates to each Owner and each Mortgagee upon request. In addition, the Board shall use reasonable efforts to obtain policies that 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 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, 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 non-renewal without at least 30 days' prior notice in writing to the Board and all Mortgagees of Units;
- (v) an agreed value endorsement and an inflation guard endorsement; and
- (vi) the deductible amount per occurrence shall not exceed \$1,000.00.

The Association policies 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 the amount of coverage required hereunder. In the event of an insured loss, the deductible shall be treated as a Common Expense; provided, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with Article VII, Section 2 of the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners,

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their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units in accordance with Paragraph 8.

(c) No Contribution. 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, Occupants, or their Mortgagees.

(d) Mortgagee Protection. 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.

## 12. CASUALTY LOSSES.

(a) Payment of 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 Owner shall be responsible for paying the deductible pertaining to his, her or its Unit, if any. If any Owner fails to pay the deductible when required under this subparagraph, then the Association may pay the deductible and assess the cost to the Owner pursuant to Paragraph 10; provided, if the deductible is for insurance required under the Act, no Owner shall be responsible for more than \$1,000.00, or such higher amount as the Act may authorize, of such deductible for any one occurrence.

(b) Obligation to Repair and Reconstruct. 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 80% 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 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 institutional holder of a first Mortgage shall be entitled to written notice of the damage, and nothing in the Condominium Instruments shall be construed to afford priority to any Unit Owner with respect to the distribution of insurance proceeds for any such Unit.

(c) Cost Estimates. Immediately after a fire or other casualty causing damage to the Condominium, the Board 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 determines to be necessary.



(d) Source and Allocation of Proceeds. If the Board determines that the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, or if the insurance proceeds are otherwise inadequate to pay the actual costs of repair and reconstruction, the Board may levy an assessment to cover the additional costs. Any such assessment shall be levied against all Owners, if the damaged property is maintained as a general Common Expense, or against the Owners of the benefited Unit(s), if the maintenance or cost of maintaining the damaged property is the responsibility of the Unit Owner. Such an assessment shall not be subject to the limitation on special assessments set forth in Paragraph 10(d). If there is a surplus of funds after repair and reconstruction is complete, such funds shall be common funds of the Association to be used as the Board may direct.

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

(f) 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 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.

(g) Construction Fund. The net proceeds of insurance and such additional funds as the Association collects from assessments against Owners in account of a casualty shall constitute a construction fund which the Association shall disburse in payment of the cost of reconstruction and repair in the manner set forth in this Paragraph. The Association shall disburse such funds 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 the Board may designate.

### 13. ARCHITECTURAL CONTROLS.

(a) Architectural Standards. Except as provided herein, no Owner, Occupant, or any other Person except the Association may make any encroachment onto the Common Elements or Limited Common Elements, or make any exterior change, alteration (including painting and landscaping), or addition to a Unit or the Common Elements (including the Limited Common Elements), nor erect, install, place, or post any object, sign, flag, light, sculpture, artificial or real vegetation, storm door or window, or other thing on any portion of a Unit which is visible from outside of the Unit, without first obtaining the written approval of the Board or its designee in accordance with the procedures set forth below. The Board may allow such encroachments on the Common Elements and Limited Common Elements as it deems appropriate pursuant to this Paragraph 13.

(b) Alterations within Units. Owners may make any improvements, renovations, or alterations within their Units that do not conflict with the requirements of this Declaration without obtaining Board approval. No Person other than the Association 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 first obtaining the written approval of the Board or its designee.

(c) Application Procedures. Applications for approval of any architectural modification, addition, or alteration shall be in writing and shall include detailed plans and specifications for the proposed modification, addition, or alteration, in addition to such other information as the Board or its designee may reasonably require. The Board or its designee may publish written standards for permitted alternations or additions. The Board or its designee shall be the sole arbiter of each 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 its designee may consider, but shall not be limited to consideration of, uniformity of appearance, quality of the proposed work, materials to be used, and harmony with the design of other portions of the Condominium. After final plans and specifications have been approved, no changes may be made in the approved plans or specifications without the consent of the Board or its designee.

(d) Condition of Approval. As a condition of approval for a requested modification, addition, or alteration, an Owner, on behalf of himself, herself or itself and his, her or its successors-in-interest, shall assume all responsibilities for the maintenance, repair, replacement, and insurance of such modification, addition, or alteration. In the discretion of the Board or its designee, an Owner may be required to evidence his, her or its agreement and understanding of such condition of approval through the acknowledgment, on behalf of himself, herself or itself and all successor-in-interest, of a written instrument in recordable form.

(e) Limitation of Liability. Review and approval of any application pursuant to this Paragraph may be made on the basis of aesthetic considerations only, and Declarant, the Board, and their designees 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. Declarant, the Association, the Board, their designees, or any member of any of the foregoing, shall not be held liable for any injury, damage, or loss arising out of the manner or quality of approved construction or modifications.

(f) No Waiver of Future Approvals. Each Owner acknowledges that the member of the Board and any committee which it may designate to exercise its authority under this Paragraph will change from time to time and that interpretation, application, and enforcement of the architectural standards may vary accordingly. The approval of either the Board or its designee 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 or its designee of any proposals, plans and specifications, or drawings for any work done or proposed, 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 subsequently or additionally submitted for approval or consent.

(g) **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, the violating Owner shall, at his, her or its 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, in addition to instituting judicial proceedings. All costs thereof, including reasonable attorneys' fees, may be assessed against the Unit whose Owner or Occupant is responsible for the violation and may be collected as an assessment pursuant to this Declaration.

The Board may exclude from the Condominium any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Paragraph and the architectural standards, subject to the notice and hearing procedures contained in the By-Laws. Declarant, the Association, and its officers or directors shall not be held liable to any Person for exercising the rights granted by this subparagraph.

In addition to the foregoing, the Board 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 decisions made hereunder.

#### 14. RESTRICTIONS ON USE, CONDUCT, AND OTHER MATTERS.

The covenants and restrictions set forth in this Paragraph and elsewhere in this Declaration and the By-Laws shall be binding upon all Owners and Occupants of Units, and their invitees and guests, and shall be enforceable against any of them in accordance with the procedures set forth in the By-Laws. Without the necessity of amending this Declaration, the Board may adopt rules and regulations which supplement, expand, define, or clarify the restrictions set forth in this Paragraph. The Board shall be authorized to deal directly with any Occupant, invitee, or guest of a Unit who is found to be violating the provisions of the Condominium Instruments or the rules and regulations adopted by the Board, without notice to the Owner, if such violator is not the Owner.

(a) **Residential Use.** 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 (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from the exterior of the Unit; (b) the business activity does not involve visitation of the Unit by employees, clients, customers, suppliers, or other business invitees; (c) the business activity conforms to all zoning requirements for the Condominium; (d) the business activity does not increase traffic in the Condominium; (e) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the ability of the Association to obtain insurance coverage; and (f) 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 may be determined in the Board's sole discretion.

The terms "business" and "trade" as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the use of a Unit by an on-site management company operating on behalf of the Association shall not be considered a trade or business within the meaning of this subparagraph.

(b) Single Family Occupancy. Occupancy of each Unit shall be limited to a single family or, in the alternative, that number of unrelated persons equal to the number of bedrooms in the Unit (as depicted on the Plans) plus one additional person. For purposes of this subparagraph (b), "occupancy" means staying overnight in a Unit for a total of more than 30 days, either consecutive or nonconsecutive, in any calendar year. "Single family" means any number of persons, all of whom are interrelated by blood, adoption, or marriage, and no more than one additional person who is not so related. The phrase "by blood" shall be deemed to encompass only children, grandchildren, grandparents, brothers, sisters, nieces, nephews, parents, aunts, uncles and first cousins, and no other degree of kinship. "Marriage" shall include common law marriage as provided for under Georgia law, and "by marriage" shall include in-laws and step-relatives.

(c) Timesharing. No Unit shall be made subject to any type of timesharing, fraction-sharing, or similar program whereby the right to exclusive use of a Unit rotates among members of the program on a fixed or floating time schedule over a period of years.

(d) Animals and Pets. No animals, reptiles, birds, or other non-human living creatures shall be raised, bred, or kept on any part of the Condominium, except that a reasonable number of dogs, cats, birds, fish, or other usual and common household pets may be kept in a Unit. Unless the Board in its discretion, determines otherwise, a reasonable number of dogs and cats, collectively, in any Unit shall be presumed to be two and the Board's consent is required for keeping additional dogs and/or cats in a Unit. In any event, animals may not be kept, bred, or maintained for any commercial purpose, may not endanger the health of or unreasonably disturb the Owner or Occupants of any other Units, and may not create a nuisance. No pit bull dogs or other breeds of dogs which the Board has determined in its sole discretion to have dangerous tendencies may be brought onto or kept on the Condominium at any time by an Owner, Occupant, or guest of an Owner or Occupant.

At all times when pets are outside a Unit, they must be kept on a leash or otherwise contained so as to be under the complete physical control of a responsible person. The keeping of pets and their ingress, egress, and travel upon the Common Elements shall be subject to such rules and regulations as the Board may promulgate. Failure to comply with these restrictions or such rules and regulations shall be grounds for the Board to bar the pet from use or travel upon

the Common Elements. In addition, any pet which endangers the health of any Owner or Occupant of a Unit or which creates a nuisance or an unreasonable disturbance, as may be determined in the sole discretion of the Board, must be permanently removed from the Condominium upon seven days' written notice from the Board.

(e) Signs. No person shall erect, post, or place any sign of any kind on the Common Elements without the Board's prior approval. "For Sale" and "For Rent" signs are prohibited and may not be displayed in any Unit or on any portion of the Common Elements or within 500 feet of the property described in Exhibit A; provided, the Board may provide a bulletin board or other display area on the Common Elements where Owners can place notices regarding Units available for sale or lease.

(f) Rubbish, Trash, and Garbage. The Owner or Occupant of each Unit shall ensure that all rubbish, trash, and garbage is regularly removed from the Unit and is not allowed to accumulate. All trash, rubbish, and garbage shall be placed in receptacles in designated locations within the Condominium.

(g) Use of Common Elements. Except for the right of ingress and egress over the Common Elements, the Owners are prohibited from using any portion of the Condominium outside of their respective Units and the Limited Common Elements assigned to their respective Units, except as the Board may expressly allow, and then subject to such rules and regulations as the Board may adopt. Use of the Limited Common Elements is restricted exclusively to the Owners and Occupants of the Unit to which such Limited Elements are assigned, and their family members, guests, tenants, and invitees.

With the Board's prior written approval and subject to any restrictions the Board may impose, an Owner or Occupant may reserve portions of the Common Elements for use for a specified period of time. Each Owner or Occupant shall assume, on behalf of himself or herself and any guests, 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.

(h) Impairment of Units and Easements. No person shall do any act or work that will impair the structural soundness or integrity of its Unit, another Unit or the Common Elements, nor impair any easement, nor do any act nor allow any condition to exist which will adversely affect the other Units or their Owners or Occupants.

(i) Nuisance. No person shall make use of any Unit or any portion of the Condominium in any way or for any purpose which may endanger the health of or unreasonably annoy or disturb other Owners or Occupants of any Unit, or which, in the Board's opinion, constitutes a nuisance. No Owner or Occupant shall do, keep, or store anything on the Condominium which would increase the rate of insurance on the Condominium, which would be in violation of any statute, rule, ordinance, regulations, permit, or other validly imposed requirements of any governmental body, or which would otherwise increase the Common Expenses, without the prior approval of the Board.

(j) Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities such as, but not limited to, the assembly and disassembly of mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Condominium.

(k) Control Over Employees. No Person other than such officers, directors, or managing agent of the Association as the Board may authorize, shall direct, supervise, or in any manner attempt to assert any control over the Association's employees, if any.

(l) Window Treatments. No blinds, shades, screens, decorative panels, or other window treatments or coverings, except for draperies in or lined with white, off-white, or light beige, or vertical or horizontal blinds in white, off-white or light beige, shall be attached to, hung, or used in connection with any window or door in a Unit in such a manner as to be visible from outside of the Unit, without the Board's prior written consent. Any type of reflective film or coating of any window, glass door, or glazed surface of any structure visible from outside the Unit is prohibited.

(m) Noise. No Owner or Occupant of a Unit may use or allow the use of the Unit, the Common Elements, or the Limited Common Elements between the hours of 11:00 p.m. and 7:30 a.m. in any manner which creates levels of noise that can be heard by persons in another Unit of which, in the Board's opinion, interferes with the rights, comfort, or convenience of the other Owners or Occupants.

(n) Firearms and Fireworks. The display or discharge of firearms or fireworks on the Common Elements is prohibited, except that the display of lawful firearms on the Common Elements is permitted for the limited purpose of transporting the firearms across the 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 listed in O.C.G.A. Section 25-10-1, as amended.

(o) Parking. No Owner or Occupant may keep or bring onto the Condominium more than 2 vehicles per Unit at any time without the prior written consent of the Board; provided, however, this provision shall not prohibit an Owner or Occupant from having guests or service vehicles park in visitor parking areas on the Condominium. Vehicles shall be parked only in the driveway of each Unit or in designated parking spaces.

Disabled and stored vehicles are prohibited from being parked on the Condominium. Boats, boat trailers, trucks with a load capacity of one ton or more, full-size vans (excluding mini-vans used as passenger vehicles), recreational vehicles (RV's and motor homes), vehicles used primarily for commercial purposes, and vehicles with commercial writing on their exteriors are also prohibited from being parked on the Condominium, except in such areas, if any, as the Board may designate for parking of such 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; provided that, no such vehicle shall be authorized to remain

on the Common Elements overnight or for any other purpose without the prior written consent of the Board.

For purposes of this subparagraph, a vehicle shall be considered "disabled" if it does not have a current license tag or is inoperable. A vehicle shall be considered "stored" if it remains on the Condominium without being used for 7 consecutive days or longer without the prior written permission of the Board.

If any vehicle is parked on any portion of the Condominium in violation of this subparagraph 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 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 24 hours after such notice is placed on the vehicle the violations continues or thereafter occurs again within 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.

If a vehicle is parked anywhere other than designated parking areas or in a fire lane, is blocking another vehicle, is obstructing the flow of traffic, is parked in a space which as been assigned as a Limited Common Element to 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, Declarant, the Association, and their officers or agents shall not be liable to any Person for any claim of damage as a result of the towing activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow.

(p) Abandoned Personal Property. Personal property, other than an automobile as provided for in subparagraph (o) of this Paragraph, is prohibited from being stored, kept, or allowed to remain for a period of more than 24 hours upon any portion of the Common Elements other than on a Limited Common Element, except as the Board may approve. The Board may remove and either discard or store any such personal property in a location which the Board may determine in its discretion. Prior to taking any such action, the Board shall place a notice on the personal property and/or on the door of the owner's Unit, if known, specifying the nature of the violation and stating that after 2 days the property may be removed and either discarded or stored. 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. If 2 days after such notice, the violation continues, or thereafter occurs again within 6 months of such notice, the personal property may be removed in accordance with the original notice, without further notice to the owner or user of the personal property.

Notwithstanding anything to the contrary, the Board, in its discretion, may determine that an emergency situation exists, and the Board may cause the personal property which was abandoned or stored in violation of this subparagraph to be removed and either discarded or stored in a location which the Board may determine; provided, however, the Board shall give to

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the owner, if known, notice of the removal of the property and the location of the personal property, within 3 days after the personal property is removed.

If personal property is removed in accordance with this subparagraph, Declarant, the Association, and their officers or agents shall not be liable to any person for any claim of damage resulting from the removal activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to remove abandoned or improperly stored personal property, as set forth herein.

15. LEASING.

(a) "Leasing," for purposes of this Declaration, means regular, exclusive occupancy of a Unit by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument.

(b) Units may be leased only in their entirety; no fraction or portion consisting of less than the entire Unit may be leased. Limited Common Elements may not be leased separately from the Unit to which they are assigned. There shall be no subleasing of Units or assignment of leases unless prior written approval is obtained from the Board. All leases must be for an initial term of not less than 1 year; provided, however, that the Board shall have the power to allow leases for an initial term of less than 1 year, on such terms and conditions as the Board may establish, upon a showing by the Owner that such a lease is required to avoid undue hardship to the Owner.

(c) All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board shall maintain in its files and, upon request, shall provide to any Owner a form which it deems acceptable. Within 7 days after executing a lease agreement for the lease of a Unit, the Unit Owner shall provide the Board with a copy of the lease and the name of the lessee and all other individuals occupying the Unit. The Unit Owner must make available to the lessee copies of the Declaration, By-Laws, and the Association's rules and regulations.

Any lease of a Unit shall be deemed to contain the following provisions, whether or not expressly stated therein, and each Owner and each lessee, by occupancy of a Unit, 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 on the Unit:

(A) Compliance With Declaration, By-Laws, and Rules and Regulations. The lessee shall comply with all provisions of the Declaration, By-Laws, 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 compliance with the foregoing. The Owner shall cause all Occupants of his or her Unit to comply with the Declaration, By-Laws, 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 violation of the Declaration, By-Laws, and rules and regulations adopted



pursuant thereto. In the event that the lessee, or a person living with the lessee, violates the Declaration, By-Laws, 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 shall be assessed against the lessee in accordance with Article VII, Section 2 of the By-Laws. 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, By-Laws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any person living with the 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, By-Laws, 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. In the event the Association proceeds to evict the lessee, any costs, including attorneys' fees and court costs, associated with the eviction shall be an assessment and lien against the Unit.

(B) Use of Common Elements. Except where the Owner also occupies the unit, 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 of the Condominium, including, but not limited to, the use of any and all recreational facilities.

(C) Liability for Assessment. 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 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.

16. TRANSFER OF TITLE TO UNITS.

A Unit Owner intending to sell or otherwise transfer title to a Unit shall give written notice to the Board of such intention within 7 days after entering into any agreement to sell or transfer the Unit. 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

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require. This Paragraph shall not be construed to create a right of first refusal in the Association or in any third party.

Within 7 days after taking title to a Unit, the new Owner shall give written notice to the Board of his or her ownership of the Unit. Upon failure of a Owner to give the required notice within the seven-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.

17. MAINTENANCE RESPONSIBILITY.

(a) By the Owner. Each Unit Owner shall maintain and keep in good repair all portions of his or her Unit and Limited Common Elements appurtenant to such Unit unless such maintenance responsibility is assigned to the Association under subparagraph (b) hereof.

(b) By the Association. Except for those Limited Common Elements which are maintained by Unit Owners, the Association shall maintain and keep in good repair, as a Common Expense, the Common Elements, including, without limitation, any landscaping, sidewalks, paths, entry features, entrance signage, mailbox kiosks, lighting systems serving the entire Condominium (whether installed on a Unit or the Common Elements), irrigation systems, detention ponds, parking lots or paved areas, private streets, perimeter fencing, open space, recreational facilities, and all other improvements located on the Common Elements.

In addition, the Association shall maintain, repair, and replace, as a Common Expense, the landscaping, driveway, and other exterior portions of each Unit, including exterior siding and trim on dwellings; roof shingles, sheathing, exterior windows and roof flashing; and porches, including porch roofs and railings. However, the interior doors and windows (including the interior trim of any windows) shall be the maintenance responsibility of the individual Unit Owner.

(c) Failure to Maintain. If the Board determines that any Owner has failed or refused to discharge properly his or her obligation to maintain, repair, or replace any items for which such Owner is responsible hereunder or that the need for maintenance, repair, or replacement which is the responsibility of the Association hereunder is caused by the willful or negligent act of any Owner, or the Occupants, lessees, invitees, or licensees of such Owner's Unit, then the Association may provide any necessary maintenance, repair, or replacement and assess the cost thereof to the Owner and such Owner's Unit pursuant to Paragraph 10 of this Declaration, in accordance with the procedures set forth below.

Except in an emergency situation, the Association shall give the Owner written notice of the Association's intent 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. In the case of a situation in which the Owner has failed to fulfill his or her obligation, unless the Board determines that an emergency exists, the Owner shall have a period of 10 days to complete the requested maintenance or repair,

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or if the maintenance or repair is not capable of completion with such time period, to commence replacement or repair within 10 days. If the Board determines that an emergency exists or 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 during non-business hours 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.

(d) Measures Related to Insurance Coverage.

(i) The Board, upon resolution, shall have the authority to require all or any Owner(s) to do any act or perform any work involving portions of the Condominium which are the maintenance responsibility of the 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, including requiring Owners to make improvements to their Units, and such other measures as the Board may reasonably require so long as the cost of such work does not exceed \$500.00 per Unit in any twelve-month period.

(ii) In addition to, and not in limitation of, any other rights which the Association may have, if any Owner does not comply with any reasonable requirement made by the Board pursuant to subparagraph (i) above, the Association, upon 15 days' written notice (during which period the Owner may perform the required act or work without further liability), may perform such required act or work at the Owner's sole cost and expense. Such cost shall be added to and become a part of the assessment obligation of such Owner and shall become a lien against the Unit and shall be collected in the manner provided for collection of assessments in Paragraph 10. The Association shall have all rights necessary to implement the requirements mandated by the Board pursuant to subparagraph (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; provided that, the Association need not adhere to any time limitation or notice requirement in an emergency situation.

(e) Maintenance Standards and Interpretation. The maintenance standards and the enforcement thereof, and the interpretation of maintenance obligations under this Declaration may vary from one Board term to another. These variances shall not constitute a waiver by the Board of the right to adopt and enforce maintenance standards under this Paragraph. No decision or interpretation by the Board shall constitute a binding precedent with respect to subsequent decisions or interpretations of the Board.

18. MORTGAGE RIGHTS.

(a) Unless at least 4/5<sup>ths</sup> 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;

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(ii) change the pro rata interest or obligations of any individual unsold 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 unsold Unit in the Common Elements;

(iii) partition or subdivide any unsold Unit;

(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 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 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 Mortgagee 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 Mortgagee;

(ii) any delinquency in the payment of assessments or charges owed by an Owner of Unit subject to a first Mortgage held by such Eligible Mortgagee which remains unsatisfied for a period of 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 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 Mortgagees, as specified herein.

(d) In addition to the approval of Owners required under Paragraph 25, to the extent it affects Units that are subject to a Mortgage held by an Eligible Mortgagee, the approval of Eligible Mortgagees holding Mortgages on the Units comprising at least a 51% of the Units that are subject to a Mortgage held by an Eligible Mortgagee shall be required to materially amend or add any provision to the Declaration, By-Laws, or Articles of Incorporation governing any of the following:

- (i) voting rights;
- (ii) increases in assessments or limitation on such increases, assessment liens, or the priority of such liens;
- (iii) reductions in reserves for maintenance, repair, and replacement of the Common Elements;
- (iv) responsibility for maintenance and repairs;
- (v) reallocation of interest in the Common Elements or Limited Common Elements, or rights to their use;
- (vi) redefinition of Unit boundaries;
- (vii) convertibility of Units into Common Elements or vice versa;
- (viii) expansion or contraction of the Condominium, or the addition, annexation, or withdrawal of property from the Condominium;
- (ix) hazard insurance or fidelity bond requirements;
- (x) imposition of any new restriction on the right of an Owner to sell, transfer, or otherwise convey such Owner's Unit;
- (xi) establishment of self-management by the Association if professional management has previously been required by an Eligible Holder;
- (xii) restoration or repair of the Condominium after damage or partial condemnation; or
- (xiii) any provisions that are for the express benefit of Mortgage holders, guarantors, or insurers.

(e) To the extent not inconsistent with Georgia law, any election to terminate the legal status of the Condominium:

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(i) after substantial destruction or condemnation occurs shall require the approval of the Eligible Mortgagees holding first Mortgages on Units comprising at least 51% of the Units that are subject to Mortgages held by Eligible Mortgagees; and

(ii) otherwise shall require the approval of the Eligible Mortgagees holding first Mortgages on Units comprising at least 67% of the Units subject to Mortgages held by Eligible Mortgagees.

(f) Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

(g) Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

(h) 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.

(i) Notwithstanding anything to the contrary herein contained, the provisions of Paragraphs 15 and 16 governing leases and sales 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. DECLARANT RIGHTS.

Notwithstanding anything to the contrary contained elsewhere in the Act, this Declaration or any other Condominium Instrument, in accordance with the Act and this Declaration, Declarant shall have the following rights:

(a) Modification and Reconfiguration. Declarant hereby reserves the right, exercisable at its sole option, to modify or reconfigure any unsold Units. Upon any modification or reconfiguration, Declarant shall record an amended plat or a supplemental or amended Declaration.

(i) This option to modify or reconfigure shall continue until Declarant no longer has the right to appoint the Board pursuant to Subparagraph (c).

(ii) If Declarant exercises its option to modify or reconfigure, the Condominium, the undivided interest in the Common Elements, the liability for Common Expenses, and votes in the Association shall be reallocated. Each Unit's undivided interest in the Common Elements shall be computed in accordance with the formula set forth in Paragraph 2, subparagraph (s). Each Owner's obligation for the Common Expenses shall be calculated in accordance with the provisions of Paragraphs 8 and 10.

(iii) This modification or reconfiguration right may be exercised by Declarant in its sole discretion, and the consent of Unit Owners shall not be required. Declarant shall have the unilateral right to reallocate percentages of undivided interests in the Common Elements, liability for payment of Common Expenses, and allocation of votes in the Association, in the manner described in subparagraph (ii) above and pursuant to the limitations set forth in the *Condominium Instruments* and the Act. Declarant shall exercise the option by adopting, executing, and Recording an amendment to this Declaration and by Recording such plats, certifications, and plans as may be required by the Act.

(b) Development and Sale Rights. Declarant hereby reserves for itself, its affiliates, and their duly authorized agents, representatives, and employees, an easement over, under, across, and to the Condominium for the purpose of construction and improvement of Units, Common Elements, Limited Common Elements, and common facilities; provision of warranty services to Owners; maintenance of sales or leasing offices, management offices, signs, and models on the Condominium; and carrying on sales and marketing activities in connection with the Condominium, for so long as Declarant owns any Unit in the Condominium, unless earlier relinquished in writing signed by Declarant. Declarant may maintain one or more offices and models on the Common Element or in Units which Declarant owns, but only in connection with the management, sale, or rental of Units in the Condominium. There shall be no limit on the number, size, location, or relocation of such offices and models. This subparagraph shall not be amended, nor shall the rights of Declarant or its affiliates hereunder be further restricted, without the prior written consent of Declarant.

(c) Right to Appoint Association's Board. Declarant shall have the right to appoint and remove the members of the Board until the first to occur of the following:

(i) the expiration of 3 years after the date on which this Declaration is Recorded;

(ii) unless Declarant has an unexpired option to expand the Condominium in accordance with subparagraph (a) and the Act, the date on which Units to which 4/5<sup>ths</sup> of the undivided interest in the Common Elements shall have been transferred by Declarant to Unit Owners other than a Person or Persons constituting Declarant; or

(iii) the date on which Declarant voluntarily relinquishes such right by executing and Recording an amendment to this Declaration, which shall become effective as specified in such amendment.

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(d) Sales and Leases. Notwithstanding anything to the contrary contained herein, Declarant and its affiliates shall have the right to sell or lease Units and to erect and maintain signs to facilitate such sales or leases as they, in its sole discretion, deem appropriate, and shall not be required to comply with the provisions of this Declaration or any Association rules and regulations regarding signs, sales, and leases.

(e) Unsold Units. Declarant shall enjoy the rights and fulfill the duties of an Owner with respect to any unsold Units which it owns.

(f) Right to Notice of Design or Construction Claims. No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within the Condominium in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless Declarant and any builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the Owner of the property to discuss the Owner's concerns and conduct their own inspection.

(g) Future easements. Declarant shall have the right to grant, modify or enter into easements, dedications, agreements, licenses, restrictions, reservations, covenants and rights of way to modify the real property boundary lines and to plat or replat portions of the real property for the development of the Condominium and adjacent property owned by the Declarant.

## 20. SECURITY AND SAFETY.

Declarant or the Association may, but shall not be obligated to, provide systems and measures and take actions designed to enhance safety and security within the Condominium. Each Owner and Occupant acknowledges and understands that security systems installed or maintained and measures undertaken by Declarant or the Association may malfunction, be temporarily inoperable, or be shut down from time to time for maintenance or repair, and that even when operating, neither Declarant nor the Association can assure that such systems and measures may not be circumvented nor that they will always provide the level of protection which they are designed to provide.

Each Owner and Occupant, for himself and herself and his or her family members, guests, licensees, and invitees, acknowledges and agrees that Declarant and the Association are not insurers or guarantors of security and shall have no duty to protect persons or personal property on the Condominium from loss, damage, or injury arising from the unlawful or negligent acts of third persons. It shall be the sole responsibility of each Owner and Occupant and each other person entering upon the Condominium to protect his or her own person and property. Neither the Association, its Board, managing agent, employees, nor Declarant shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of safety measures undertaken.

## 21. EMINENT DOMAIN.



In the event of a taking by condemnation or by eminent domain, the provisions of the Act shall 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 Board's option, either be allocated to the Owners pursuant to O.C.G.A. Section 44-3-97(a), as amended, or be deposited into the Association's operating account or reserve account to be applied to the Common Expenses. Each Eligible Mortgagee 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.

## 22. EASEMENTS.

(a) Use and Enjoyment of Common Elements. Each Unit Owner and Occupant shall have a right and easement of use and enjoyment in and to the Common Elements (including a perpetual, unrestricted 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 the rights of the Unit Owners to the exclusive use of the Limited Common Elements assigned to their respective Units and to the right of the Association to control the use and enjoyment of the Common Elements as provided by the terms of this Declaration.

(b) Association's Easements for Maintenance, Lighting Installation, Emergency, and Enforcement. The Association shall have an easement of access, ingress, and egress over, across, under, through, and upon each Unit, in addition to any other portion of the Condominium, to perform its maintenance responsibilities under the Condominium Instruments, including maintaining landscaping, lawns, utilities, and exterior portions of the structure on each Unit, as described in Paragraph 17. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons and to inspect for the purpose of ensuring compliance with and enforcing the Condominium Instruments. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in the event of an emergency, such entry shall be permitted only at reasonable times during daylight hours and only after giving prior notice to the Unit Owner.

In addition, the Association shall have the right to enter upon any Unit to install, maintain, operate, replace, and repair lighting systems or equipment, (e.g., photo cell-powered lighting), which serve the Condominium at large.

(c) Declarant's Easement to Inspect and Right to Correct. Declarant reserves for itself and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the Condominium, including Units, and a perpetual non-exclusive easement of access throughout the Condominium to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the consent of the Owner. The Person exercising this easement shall promptly repair, at such Person's own expense, any damage resulting from such exercise.

23. DISPUTE RESOLUTION AND LIMITATION ON LITIGATION.

(a) Agreement to Encourage Resolution of Disputes Without Litigation.

(1) Declarant, the Association and its officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Paragraph (collectively, "Bound Parties"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Condominium without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subparagraph (a)(2) below, unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in subparagraph (b) in a good faith effort to resolve such Claim.

(2) As used in this Paragraph, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to

(i) the interpretation, application, or enforcement of the Condominium Instruments;

(ii) the rights, obligations, and duties of any Bound Party under the Condominium Instruments; or

(iii) the design or construction of improvements within the Condominium, other than matters of aesthetic judgment under Paragraph 13, which shall not be subject to review;

except that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in subparagraph (b) below:

(i) any suit by the Association to collect assessments or other amounts due from any Owner;

(ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Paragraphs 13, 14, and 17 of this Declaration;

(iii) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Condominium Instruments;

(iv) any suit in which any indispensable party is not a Bound Party; and

(v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by subparagraph (b)(1) below, unless the

party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Paragraph.

(b) Dispute Resolution Procedures.

(1) Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice to each Respondent and to the Board stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;
- (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (iii) the Claimant's proposed resolution or remedy; and
- (iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(2) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(3) Mediation. If the parties have not resolved the Claim through negotiation within 30 days of the date of the notice described in subparagraph (b)(1) above (or within such other period as the parties may agree upon), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the Walker County, Georgia or Hamilton County, Tennessee area.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all fees charged by the mediator.

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#### Alternative Dispute Resolution Process

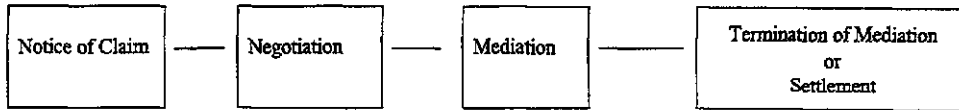


Diagram 23.1 – Alternative Dispute Resolution Process

(4) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this subparagraph (b). In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

(c) Initiation of Litigation by Association.

In addition to the compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association shall not initiate any judicial or administrative proceeding unless first approved by a vote of 75% of the total eligible vote of the Association, except that no such approval shall be required for actions or proceedings:

- (1) initiated during the period in which Declarant is entitled to appoint directors pursuant to Paragraph 19 of this Declaration;
- (2) initiated to enforce the provisions of this Declaration, including collection of assessments and foreclosures of liens;
- (3) initiated to challenges ad valorem taxation or condemnation proceedings;
- (4) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or
- (5) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This subparagraph (c) shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

#### 24. GENERAL PROVISIONS.

(a) Compliance and Enforcement. Each Owner shall comply, and shall be responsible for ensuring that the Owner's family, guests, tenants, and Occupants comply, with all

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provisions of the Condominium Instruments and the Association's rules. 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 in the event of any such person's violation of the Condominium Instruments, the Association may take enforcement action as authorized in this Declaration, the By-Laws, and the Act against the Owner as if the Owner committed the violation in conjunction with such person. An aggrieved Owner shall also have standing to enforce the Condominium Instruments and the Association rules and regulations by action at law or in equity.

(b) No Discrimination. No action shall be taken by the Association or the Board which would discriminate against any person on the basis of race, creed, color, national origin, religion, sex, familial status, or handicap.

(c) Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the By-Laws, the Articles of Incorporation, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

(d) 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.

## 25. 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 (as provided for in the By-Laws), or any combination thereof, of the members of the Association holding at least 67% of the total eligible vote of the Association. In addition, the approval of Eligible Mortgagees shall be obtained to the extent required under Paragraph 18. Notwithstanding the foregoing, so long as Declarant has the right to appoint the Association's Board as provided in Paragraph 19, this Declaration may be amended only with the expressed written consent of Declarant. 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 Walker County, Georgia land records.

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

## 26. PREPARER.

This Declaration was prepared by Michael J. Stewart, Chambliss, Bahner & Stophel, P.C., 1000 Tallan Building, Two Union Square, Chattanooga, Tennessee 37402.

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IN WITNESS WHEREOF, Declarant has executed this Declaration this 24 day of October, 2003.

DECLARANT:

LONGSTREET'S CHARGE PROPERTIES, LLC,  
a Georgia limited liability company

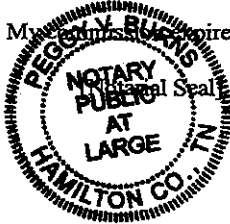
By: B. Paul Vaughn  
Its: PRESIDENT

Signed, sealed, and delivered this  
24 day of October, 2003.

John Min  
WITNESS

Peggy V. Burns  
NOTARY PUBLIC

My commission expires: 11-20-2006



[SIGNATURES CONTINUE ON NEXT PAGE]

Exhibit A

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Legal Description

All that tract or parcel of land lying and being in Land Lots 280 and 281, in the Ninth District and Fourth Section of Walker County, Georgia, being a portion of the lands conveyed to Ted D. Cash by deed from Fred H. Simonton, Jr., et al, dated September 18, 1974, and recorded in Deed Book 401, Page 458, in the Office of the Super Court Clerk of Walker County, Georgia, and being described as follows: To find the true point of beginning, start at the intersection of the southeast line of Cove Road and the northeast line of Euclid Avenue and proceed South 55 degrees 10 minutes, 11 seconds east 91.52 feet to the true point of beginning; thence North 40 degrees 58 minutes 39 seconds East 90.36 feet; thence North 41 degrees 46 minutes 44 seconds East 85.41 feet; thence North 40 degrees 47 minutes 56 seconds East 59.37 feet to a P.K. nail; thence South 58 degrees 38 minutes 34 seconds East 100.00 feet to an iron pin; thence South 23 degrees 43 minutes 31 second East 50.36 feet to a railroad spike; thence South 58 degrees 38 minutes 34 seconds East 116.00 feet to the west line of the Central of Georgia Railroad; thence South 30 degrees 55 minutes 00 seconds West 310.00 feet along the lands of the Center of Georgia Railroad to the North line of Euclid Avenue; thence North 55 degrees 10 minutes 11 seconds West 299.83 feet to the point of beginning. According to a survey of Max Randall Compton dated June 16, 2003; P.O. Box 339; Chickamauga, Georgia 30707.

Being a portion of the same property conveyed by deed recorded in Book 1199, Page 656, in the Walker County, Georgia Superior Court Clerk's Office.

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Exhibit BPlats and Plans Recording Information:Plats

The plats of survey for the Condominium are recorded in the Office of the Clerk of the Superior Court of Walker County, Georgia, as follows:

Condominium Plat Book	Pages
12	294

Floor Plans

The floor plans for the Condominium are recorded in the Office of the Clerk of the Superior Court of County Walker County, Georgia, as follows:

Condominium Plat Book	Pages
12	295
12	296

At such time as the Declarant may exercise its option to modify or reconfigure any Units pursuant to Paragraph 19(a) of this Declaration, the Declarant shall amend this exhibit to include a reference to the recording data for the plat and floor plans of the Units so added.



Exhibit C

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Articles of Incorporation of Longstreet's Charge Condominium Association, Inc.

*[see attached]*

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**Secretary of State**

**Corporations Division  
315 West Tower**

**#2 Martin Luther King, Jr. Dr.  
Atlanta, Georgia 30334-1530**

CONTROL NUMBER: 0358064  
EFFECTIVE DATE: 10/22/2003  
JURISDICTION : GEORGIA  
REFERENCE : 0163  
PRINT DATE : 10/24/2003  
FORM NUMBER : 311

MICHAEL J. STEWART  
CHAMBLISS, BARNER & STOPHEL, P.C.  
1000 TALLAN BLDG. TWO UNION SQUARE  
CHATTANOOGA, GA 37402

**CERTIFICATE OF INCORPORATION**

I, Cathy Cox, the Secretary of State and the Corporations Commissioner of the State of Georgia, do hereby certify under the seal of my office that

**LONGSTREET'S CHARGE CONDOMINIUM ASSOCIATION, INC.  
A DOMESTIC NONPROFIT CORPORATION**

has been duly incorporated under the laws of the State of Georgia on the effective date stated above by the filing of articles of incorporation in the Office of the Secretary of State and by the paying of fees as provided by Title 14 of the Official Code of Georgia Annotated.

WITNESS my hand and official seal in the City of Atlanta and the State of Georgia on the date set forth above.



Cathy Cox  
Secretary of State

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ARTICLES OF INCORPORATION  
OF  
LONGSTREET'S CHARGE CONDOMINIUM ASSOCIATION, INC.

Article 1. Name. The name of the corporation is Longstreet's Charge Condominium Association, Inc. (the "Association").

Article 2. Principal Office. The initial principal office of the Association is 720 Cherry Street, Chattanooga, Tennessee 37402.

Article 3. Duration. The Association shall have perpetual duration.

Article 4. Applicable Statute. The corporation is organized pursuant to the provisions of the Georgia Nonprofit Corporation Code, O.C.G.A. § 14-3-101, *et seq.*, as amended.

Article 5. Purposes and Powers. The Association does not contemplate pecuniary gain or profit, direct or indirect, to its members.

(a) By way of explanation and not of limitation, the purposes for which the Association is formed are:

(i) to be and constitute the condominium association to which reference is made in the Declaration of Condominium for The Longstreet's Charge Condominiums. A Condominium ("Declaration"), executed by Longstreet's Charge Properties, LLC ("Declarant"), and recorded in the Walker County, Georgia, land records, to perform all obligations and duties of the Association, and to exercise all rights and powers of the Association, as specified herein, in the By-Laws of the Association ("By-Laws"), and as provided by law; and

(ii) to provide an entity for the furtherance of the interests of the Owners of Units in the Condominium (as such capitalized terms are defined in the Declaration).

(b) In furtherance of its purposes, the Association shall have the following powers, which, unless indicated otherwise by the Declaration, By-Laws, or the Georgia Condominium Act, O.C.G.A. § 44-3-70, *et seq.*, as amended (the "Act"), may be exercised by the board of directors:

(i) all of the powers conferred upon nonprofit corporations by common law and the statutes of the State of Georgia in effect from time to time and all of the powers conferred upon condominium associations pursuant to the Act;

(ii) all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in these Articles, the By-Laws, or the Declaration, including, without limitation, the following:

(1) to fix, levy, and collect assessments and other charges to be levied pursuant to the Declaration and By-Laws;

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(2) to manage, control, operate, maintain, repair and improve property subjected to the Declaration or any other property for which the Association by rule, regulation, declaration, or contract has a right or duty to provide such services;

(3) to enforce covenants, conditions, or restrictions affecting any property to the extent the Association may be authorized to do so under the Declaration or By-Laws;

(4) to engage in activities which will actively foster, promote, and advance the common interests of all owners of property subject to the Declaration;

(5) to buy or otherwise acquire, sell or otherwise dispose of mortgage or otherwise encumber, exchange, lease, hold, use, operate, and otherwise deal in and with real, personal, and mixed property of all kinds and any right or interest therein for any purpose of the Association;

(6) to borrow money;

(7) to enter into, make, perform or enforce contracts of every kind and description, and to do all other acts necessary, appropriate, or advisable in carrying out any purpose of the Association, with or in association with any other association, corporation or other entity or agency, public or private;

(8) to act as agent, trustee, or other representative of other corporations, firms, or individuals, and as such to advance the business or ownership interests in such corporations, firms, or individuals;

(9) to adopt, alter, and amend or repeal the By-Laws as may be necessary or desirable for the proper management of the affairs of the Association; provided, however, such By-Laws may not be inconsistent with or contrary to any provisions of the Declaration; and

(10) to provide any and all supplemental municipal services as may be necessary or proper.

(c) The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers which may now or hereafter be allowed or permitted by law; and the powers specified in each of the paragraphs of this Article 5 are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph or provisions of this Article 5.

Article 6. Membership. The Association shall be a membership corporation without certificates or shares of stock. Each Person who is the Owner of a Unit in the Condominium (as such capitalized terms are defined in the Declaration) is a member and shall be entitled to vote as set forth in the Declaration and the By-Laws.

Article 7. Board of Directors. The business and affairs of the Association shall be conducted, managed, and controlled by a board of directors. The initial board of directors shall consist of the following two individuals: R. Paul Vaughn and W. Duane Horton.

The number, qualification, and term of office of directors and the method of election, removal, and filling of vacancies on the board of directors shall be as set forth in the By-Laws. The board may delegate its operating authority to such companies, individuals, or committees as it may determine appropriate.

Article 8. Liability and Indemnification of Directors. The liability of directors to the Association or its members for monetary damages for breach of duty of care or other duty as a director shall be eliminated or limited to the fullest extent allowed under the Georgia Nonprofit Corporation Code. Such limitation of liability shall not limit the personal liability of a director of the Association:

(i) for any appropriation, in violation of his or her duties, of any business opportunity of the Association;

(ii) for any acts or omissions not in good faith or which involve intentional misconduct or knowing violations of the law; or

(iii) for any transaction from which the director received an improper personal benefit.

Any repeal or modification of this Article 8 by the members of the Association shall not adversely affect any right or protection of a director or the Association existing at the time of such repeal or modification.

To the extent consistent with the Georgia Nonprofit Corporation Code, as it exists on the date hereof or as it may hereafter be amended, the Association shall indemnify its officers and directors as required by the Declaration and By-Laws.

Article 9. Dissolution. The Association may be dissolved only upon a resolution duly adopted by the board of directors, the affirmative vote of members who are Owners of not less than two-thirds (2/3) of the Units (other than Declarant), and the consent of Declarant so long as Declarant is the owner of any Unit in the Condominium or has the authority unilaterally to expand the Condominium.

Article 10. Amendments. These Articles may be amended only upon a resolution duly adopted by the board of directors, the affirmative vote of at least sixty-seven percent (67%) of the total eligible votes of the members, and the consent of Declarant so long as Declarant is the owner of any Unit in the Condominium or has the authority unilaterally to expand the Condominium. In addition, any material amendment shall require the consent of Eligible Mortgagees holding Mortgages on at least fifty-one percent (51%) of the Units in the Condominium subject to a Mortgage held by an Eligible Mortgagee, as such terms are defined in the Declaration.

Article 11. Incorporator. The name and address of the incorporator is Michael J. Stewart, Chambliss, Bahner & Stophel, P.C., 1000 Tallan Building, Two Union Square, Chattanooga, Tennessee 37402.

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Article 12. Registered Agent and Office. The initial registered office of the Association is 417 Middleview Drive, Ringgold, Catoosa County, Georgia 30736, and the initial registered agent at such address is W. Duane Horton.

IN WITNESS WHEREOF, the undersigned incorporator has executed these Articles of Incorporation.

Michael J. Stewart  
Michael J. Stewart, Incorporator  
Chambliss, Bahner & Stophel, P.C.  
1000 Tallan Building  
Two Union Square  
Chattanooga, Tennessee 37402

Date: 10/20/03

SECRETARY OF STATE  
2003 OCT 22 A 11:06  
CORPORATIONS DIVISION

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Exhibit D

Bylaws of Longstreet's Charge Condominium Association, Inc.

*[see attached]*

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BY-LAWS  
OF  
LONGSTREET'S CHARGE CONDOMINIUM ASSOCIATION, INC.



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BY-LAWS  
OF  
LONGSTREET'S CHARGE CONDOMINIUM ASSOCIATION, INC.

**Article I.    GENERAL**

**Section 1.    Applicability.**

These By-Laws provide for the governance of Longstreet's Charge Condominium Association, Inc., in accordance with the Georgia Condominium Act, O.C.G.A. § 44-3-70, *et seq.*, as amended (the "Act"), the Articles of Incorporation of Longstreet's Charge Condominium Association, Inc., filed with the Secretary of State for the State of Georgia, as they may be amended (the "Articles"), and the Declaration of Condominium for Longstreet's Charge Condominium Association, Inc., recorded by Longstreet's Charge Properties, LLC (the "Declarant") in the Walker County, Georgia land records, as it may be amended (the "Declaration").

**Section 2.    Name.**

The name of the corporation is Longstreet's Charge Condominium Association, Inc. (the "Association").

**Section 3.    Definitions.**

Capitalized terms used in these By-Laws shall have the meanings as defined herein and in the Declaration. Unless the context otherwise requires, all other terms used in these By-Laws generally shall have their normal, commonly accepted meanings or the meanings specified in the Act.

**Section 4.    Purpose.**

In addition to the purposes set forth in the Articles, the Association shall be responsible for 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 by the Act, the Articles and the Declaration. Except as to those matters which either the Act, the Condominium Instruments, or the Georgia Nonprofit Corporation Code specifically make subject to a vote of the membership, the Board may carry out such responsibilities without a vote of the membership.

**Article II. MEMBERSHIP AND VOTING RIGHTS****Section 1. Membership.**

The Owner of each Unit in the Condominium shall automatically become a member of the Association upon taking record title to such Unit and shall remain a member for the entire period of such ownership. If record title to a Unit is held by more than one Person, the membership shall be shared in the same manner as the title, but there shall be only one membership.

Membership does not include Persons who hold an interest in a Unit 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, shall be transferred automatically by transfer of record title to the Unit, and may be transferred only in connection with the transfer of record title.

**Section 2. Voting.**

Except as otherwise provided by these By-Laws, each member shall be entitled to the number of votes equal to the Percentage Interest allocated to the Unit or Units as set forth in the Schedule of Percentage Interest. A vote may be cast by the Owner of the Unit or by a lawful proxy. In the event the Owner is a corporation, partnership, trust, or other legal entity, other than a natural person, the vote may be cast by the president, managing partner, executor, or chief executive officer of such legal entity or his or her designee. When more than one Person owns a particular Unit, the vote for such Unit shall be exercised as they determine between or among themselves, but in no event shall more than the number of votes allocated to a Unit as set forth in the Schedule of Percentage Interest.

No Owner shall be eligible to vote, either in person or by proxy, or to be elected to the Board, if such Owner is shown on the records or management accounts of the Association as being more than 60 days delinquent in any payment due to the Association, or is under suspension for the infraction of any provision of the Declaration, these By-Laws, or any rule. If the votes attributable to any Unit have been suspended, neither the votes, the Unit to which they are attributable, nor the Owner thereof shall be counted for purposes of determining the number of eligible votes, Owners, or Units with respect to any matter requiring approval under the Condominium Instruments.

Except as otherwise specifically provided in the Condominium Instruments, any decision requiring a vote or approval of the Owners or members shall be determined by a Majority of the votes cast.

Section 3. Proxies.

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 dated and filed with the Secretary prior to the opening of the meeting for which it is to be used. Proxies may be filed by personal delivery to the Secretary, by U.S. mail, or by telefax transmission to the office of the Association or the Association's property manager with confirmation of receipt. A proxy may be revoked only by written notice delivered to an officer of the Association prior to exercise of such proxy, except that attendance at the meeting of the member who has given a proxy shall automatically invalidate the proxy for that meeting unless otherwise expressly stated in the proxy. A proxy holder may not appoint a substitute proxy holder unless expressly authorized to do so in the proxy. No proxy shall be valid for a period longer than 11 months after the date of its execution, unless otherwise provided in the proxy.

Section 4. Action without a Meeting; Consent.

Any action which the Act, the Georgia Nonprofit Corporations Code, or the Condominium Instruments require to be taken at a meeting of the members may be taken without a meeting if written consent to such action is signed by the Owners of all Units. Any other action requiring consent or approval of members may be obtained by obtaining the requisite vote or approval at a meeting, the requisite written consent, or any combination thereof, provided that the total number of votes cast equals, at a minimum, the required quorum for a meeting. The consent form for obtaining any such written consent shall:

- (a) be in writing and shall be delivered or sent to the Owners of all Units; provided, however, that written consents to be counted in combination with an affirmative vote at an Association meeting need only be sent or delivered to those Owners who did not vote in person or by proxy at such meeting and shall be sent or delivered no more than 21 days following the date of the meeting;
- (b) state the date by which it must be received by the Association in order to be counted. Such date shall not be less than 7 nor more than 120 days from the date the written consents are sent or delivered;
- (c) identify by whose authority it was prepared and delivered and the name and location of the person authorized to receive it on behalf of the Association;
- (d) specify the number of votes necessary to approve the action;
- (e) clearly describe, in sufficient detail, the nature of the matter requiring action;
- (f) afford a choice between approval and disapproval of each matter; and

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(g) be signed and dated by the voting Owner, and identify the Unit for which such Owner is voting.

The Association shall maintain the written consents approving any action in its files for a period of at least 4 years.

### Article III. MEETINGS OF MEMBERS

#### Section 1. Annual Meetings.

The first annual meeting of the members of the Association shall be held within 1 year of the date of incorporation. Subsequent annual meetings shall be held at a time, date, and place set by the Board.

#### Section 2. Special Meetings.

Special meetings of the members may be called for any purpose, at any time, by the President or the Secretary. In addition, the President or Secretary shall call a special meeting upon the request of two or more members of the Board or upon a written petition signed by members entitled to cast at least 25% of the total votes in the Association. Any such petition shall state the purpose or purposes for which the meeting is requested and the issue or issues to be considered by the membership, which issues shall be limited to matters upon which the members are entitled to vote under the Act, the Georgia Nonprofit Corporations Code, or the Condominium Instruments.

#### Section 3. Notice of Meetings.

It shall be the duty of the Secretary to mail or deliver to each Unit Owner a notice of each annual or special meeting of the Association at least 21 days prior to each annual meeting and at least 7 days prior to each special meeting. The notice shall state the time and place of the meeting, and in the case of a special meeting, the purpose of such meeting. Notices shall be delivered personally or mailed to each Unit Owner at the address of the Unit, unless the Owner has notified the Secretary in writing of a different address for notices, in which case notice shall be delivered or mailed to such other address. The mailing or delivery of a notice of meeting in the manner provided in this Section shall be considered prior service of notice.

#### Section 4. Waiver of Notice.

Waiver of notice of meeting of the member shall be deemed the equivalent of proper notice. Any member may waive notice in writing of any meeting of the membership, either before or after such meeting. Attendance at a meeting by an Owner, whether in person or by proxy, shall be deemed a waiver by such Owner and all co-Owners of his or her Unit of notice of the time, date, and place of such meeting, unless such Owner specifically objects to the lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed a waiver of notice of all business transacted at such meeting unless an objection is raised prior to the transaction of business at such meeting as to the lack of proper notice.

Section 5. Quorum.

Except as may be provided elsewhere, the presence, in person or by proxy, of members entitled to cast at least 25% of the total Association vote shall constitute a quorum for the transaction of business.

Section 6. Adjournment.

Any meeting of the members may be adjourned from time to time for periods not exceeding 7 days by vote of the Majority of the eligible 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 an adjourned session, and no additional notice of such adjourned session shall be required.

Section 7. Conduct of Business.

The latest edition of Roberts Rules of Order shall govern the conduct of any meeting of the membership when not in conflict with the Condominium Instruments, unless the Board votes to dispense with or modify such rules by resolution. Unless otherwise provided in the notice calling the meeting, the order of business for any annual meeting shall be: Roll Call, Proof of Notice, Reading of Minutes, Officers' Reports, Old Business, Elections (if any), New Business, and Adjournment.

**Article IV. BOARD OF DIRECTORS**

A. Composition and Selection.

Section 1. Number and Qualification.

The affairs of the Association shall be governed by a Board consisting of 2 to 5 directors, as specified below, each of whom shall have 1 equal vote. Except for those directors appointed by Declarant pursuant to Paragraph 19 of the Declaration, the directors shall be Owners or spouses of Owners. In the case of an Owner which is a corporation, partnership, limited liability company, trust, or other legal entity, the officer, director, partner, trustee, employee, or other individual whom the Owner designates in writing to the Secretary of the Association as the representative of such Owner shall be eligible to serve as a director; provide, any such individual serving as a director shall be deemed to have resigned as a director upon the Association's receipt of notice from the designating Owner of termination of such individual's relationship with such Owner. No more than 1 person at a time may serve as a director for any one Unit.

Section 2. Selection of Directors and Term of Office.

(a) Directors During Declarant Control Period. The Board initially shall consist of the 2 directors identified in the Articles of Incorporation, each of whom shall serve, and may be removed and replaced, at the discretion of Declarant so long as Declarant is entitled to appoint

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directors pursuant to Paragraph 19 of the Declaration (the "Declarant Control Period"). Declarant may, but shall not be obligated to, permit the Owners to elect 1 or more directors to serve during the Declarant Control Period and, in such event, the number of directors on the Board may be increased by Board resolution to a total of 5. The terms of all such directors, whether appointed or elected pursuant to this subparagraph, shall expire upon election of their successors pursuant to Section 2(b) below.

(b) Directors After Declarant Control Period. Upon termination of the Declarant Control Period, the number of directors shall be fixed at 5. Within 60 days thereafter, the President shall call a meeting of the members at which an election shall be held to elect all 5 directors. The 3 candidates receiving the greatest number of votes shall be elected to serve until the second annual meeting following their election and the 2 candidates receiving the next greatest number of votes shall be elected to serve until the first annual meeting following their election; provided, in the event that 2 or more candidates receive the same number of votes and such determination is not possible. The directors shall decide among themselves who shall serve which terms. Upon expiration of the initial term of each director so elected and thereafter, successors shall be elected to serve for two-year terms or until the successors are elected, whichever is longer. Directors may be elected to serve any number of consecutive terms.

(c) Nominations. At least 30 days prior to any election of directors, the Board shall appoint a Nominating Committee consisting of at least 1 member of the Board and at least 2 other members of the Association who are not then serving as directors. The Nominating Committee may nominate any number of qualified individuals, but not less than the number of nominations shall be announced at least 14 days prior to the election. Nominations shall also be allowed from the floor, if the election is held at a meeting, or if the election is held by ballot without a meeting, space shall be provided on the ballot to write in the name of a candidate. Each candidate nominated prior to the balloting shall be given a reasonable opportunity to communicate his or her qualifications to the membership prior to the close of the balloting. No member shall be nominated for election to the Board, nor permitted to run for election, if more than 30 days delinquent in the payment of any assessment. Failure to comply with this paragraph shall not invalidate the election of directors who were not nominated in accordance with the provisions hereof.

(d) Election Procedures. Subject to Article II, Section 2 of these By-Laws, for each election, the members shall be entitled to cast the entire vote attributable to their respective Units for each directorship to be filled. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled who receive the most votes shall be elected. Voting shall be by written ballot unless dispensed with by unanimous consent at the meeting at which the election is to be conducted.

### Section 3. Removal of Directors.

At any duly called regular or special meeting of the Association, any director elected by the members may be removed, with or without cause, by a Majority of the total votes represented in person or by proxy at such meeting, and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the members shall be



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given at least 10 days' notice of the calling of the meeting and the purposes thereof and shall be given an opportunity to be heard at the meeting prior to a vote being taken on the issue of his or her removal. Additionally, any director elected by the members who has had 3 consecutive unexcused absences from Board meetings, or who in more than 60 days delinquent in the payment of any assessment, may be removed from office upon the affirmative vote of a Majority of the total number of directors.

Section 4. Vacancies.

Vacancies on the Board caused by any reason, other than the removal of a director by vote of the membership or by Declarant, may be filled by a vote of a Majority of the remaining directors, even though less than a quorum, at any Board meeting. Each person so selected shall serve until a successor shall be elected at the next annual or special meeting of the membership to fill the unexpired portion of the term. Vacancies on the Board caused by removal of a director by vote of the Association shall be filled by the membership in accordance with Section 3.

B. Meetings.

Section 1. Organizational Meeting.

The first Board meeting after each election of directors shall be held within 10 days after the election at such time and place as a Majority of the directors may determine.

Section 2. Regular Meetings.

Board meetings shall be held regularly at such time and place as the Board shall determine by resolution, with at least 1 meeting during each calendar quarter. No notice shall be required for Board meetings held in accordance with a regular schedule which the Board has adopted by resolution.

Section 3. Special Meetings.

Special meeting of the Board may be called by the President or by any two directors.

Section 4. Notice; Waiver of Notice.

(a) Notices of Board meetings shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The notice shall be given to each director by (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (iv) facsimile, computer, or other electronic mail, messaging, or communication device, with printed confirmation of successful transmission. All such notices shall be given at or sent to the director's telephone number, fax, number, electronic mail address, or mailing or physical address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least 5 business days before the date set for the meeting. Notices

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given by personal delivery, telephone, or other device shall be delivered or transmitted at least 72 hours before the time set for the meeting.

(b) Any director may, at any time, in writing, waive notice of any Board meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any Board meeting shall also constitute a waiver of notice by him or her at 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 the meeting.

Section 5. Quorum; Telephonic Participation.

A majority of directors shall constitute a quorum for the transaction of business at any Board meeting. One or more directors may participate in and vote during any regular or special meeting of the Board by telephone conference call or similar communication equipment by means of which all persons participating in the meeting can hear each other at the same time, and those directors so participating shall be deemed present at such meeting and counted for purposes of establishing a quorum is established.

Section 6. Conduct of Meetings.

The President shall preside over all Board meetings. The Secretary shall keep a minute book recording therein all resolutions which the Board adopts and all transactions and proceedings occurring at Board meetings. Except as modified or dispensed with by Board resolution, the latest edition of Roberts Rules of Order shall govern the conduct of Board meetings when not in conflict with the Act, the Condominium Instruments, or any Board resolution.

Section 7. 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 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 sessions.

Section 8. 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 all of the directors consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board.

C. Powers and Duties.

Section 1. Powers.

The Board shall manage the affairs of the Association and shall have all the powers and duties necessary for the administration of the Condominium, including the adoption of rules and regulations, and may do all such acts and things as are not by the Declaration, the Articles of Incorporation, or these By-Laws directed to be done and exercised exclusively by the members. Except as otherwise set forth herein and in the Declaration, the Board may enter into contracts on behalf of the Association with any Person for the performance of various duties and functions as it deems appropriate in the exercise of its business judgment. Except to the extent restricted by law, the Board may transfer any and all functions of the Association, in whole or in part, to any other entity.

Section 2. Duties.

In addition to such other duties as the Condominium Instruments may specially impose upon the Board, the Board shall be responsible for the following:

(a) preparation and adoption of an annual budget, in which there shall be established the contribution of each Owner to the Common Expenses;

(b) levying assessments to defray the Common Expenses, establishing the means and methods of collection such assessments, and establishing the period of the installment payments of the annual assessment. Unless otherwise determined by the Board, the annual assessment for each Unit's proportionate share of the Common Expenses shall be payable in equal monthly installments, with each monthly installment due and payable in advance of the first day of each month;

(c) providing for the operation, care, upkeep, and maintenance of all of the Area of Common Responsibility;

(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 bank depository which it shall approve, and using the proceeds to administer the Association;

(f) opening of bank accounts on behalf of the Association and designating the signatories required;

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- (g) 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 By-Laws, after damage or destruction by fire or other casualty;
  - (h) obtaining and carrying insurance casualties and liabilities, as provided in the Act and the Declaration, and paying the premium cost thereof;
  - (i) paying the costs of all services rendered to the Association or its members and not directly chargeable to specific Owners;
  - (j) 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
  - (k) imposing sanctions for violations of, and otherwise enforcing by any legal means, the provisions of the Condominium Instruments and Association rules and regulations, and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; provided, the decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case, (A) the Association's position is not strong enough to justify taking any or further action; (B) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; (C) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or (D) it is not in the Association's best interest, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action. Such a decision shall not be construed as a waiver of the Association's right to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction, or rule.

#### **Article V. OFFICERS**

##### **Section 1. Designation.**

The principal officers of the Association shall be the President, Secretary, and Treasurer, all of whom shall be appointed by Declarant during the Declarant Control Period and thereafter shall be elected by and from the Board. The Board may appoint a Vice President to serve in the President's absence, in addition to such other subordinate officers as in its judgment may be necessary. The President and Secretary shall be directors; other officers may be, but shall not be required to be, directors. Except for the offices of Secretary and Treasurer, which may be held by the same person, no person may hold more than one office.

##### **Section 2. Election of Officers.**

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

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Section 3. Removal of Officers.

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

Section 4. President.

The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association 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.

Section 5. 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 6. Secretary.

The Secretary shall ensure that minutes of all Association and Board meetings are kept and that all resolutions adopted and all other transactions occurring at such meetings are recorded in the Association's corporate books. The Secretary shall have charge of such books and papers as the Board may direct and shall, in general, perform all duties incident to the office of the secretary of a corporation organized in accordance with Georgia law. If no Vice President is appointed, the Secretary shall act in the President's absence and shall have all the powers, duties, and responsibilities of the President when so acting.

Section 7. Treasurer.

The Treasurer shall have the responsibility for the Association's funds and securities and shall, together with such managing agent, 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 depositing all monies and other valuable effects in the name of the Association in such depositories as the Board may designate from time to time. The Treasurer shall cause the budget to be prepared as provided below.

Section 8. Managing Agent.

The Association may retain a managing agent to assist the officers in the performance of their duties.

**Article VI. MANAGEMENT AND ADMINISTRATION**

Section 1. Compensation.

Directors and officers of the Association may be compensated for their service only if and to the extent authorized by a Majority of the votes represented in person or by proxy at a

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meeting of the membership. Directors and officers shall be entitled to reimbursement for expenses incurred on behalf of the Association in carrying out their duties as directors or officers upon a Majority vote of the entire Board.

Section 2. Conflicts of Interest.

An officer or director shall not be precluded from entering into a contract and being compensated for services or supplies furnished to the Association in a capacity other than as an officer or director, provided that (a) the officer's or director's interest is disclosed to the Board, and (b) the contract is approved by a Majority of the directors present at a Board meeting at which a quorum is established, excluding any director having an interest in the transaction (although any such director may be counted for purposes of establishing a quorum). The interested director shall be entitled to be present at any meeting at which the proposed contract is discussed and to discuss the proposed contract unless another director requests that he or she leave the room during the discussion.

Section 3. Management Agent.

The Association, acting through the Board, may employ for the Condominium a professional management agent or agents at compensation established from time to time by the Board to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policy-making authority or ultimate responsibility for those duties set forth in Article IV, Section C.1. Declarant or its affiliate may be employed as managing agent or manager. The Board may delegate to one of its members the authority to act on the Board's behalf on all matters relating to the duties of the managing agent or manager, if any, which might arise between Board meetings.

The Association shall not be bound, either directly or indirectly, by any management contract executed during the Declarant Control Period unless such contract contains a right of termination which may be exercised by the Association, with or without cause and without penalty, at any time after termination of the Declarant Control Period upon not more than 90 days' written notice.

No remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association. Any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board.

Section 4. Committees.

The Board may establish such committees as it deems desirable to serve such purposes as the Board may designate by resolution establishing the committee. Unless such resolution otherwise provides, the members of a committee shall be appointed by the Board and shall serve at the pleasure of the Board. The Board may remove any committee member, with or without cause, at any time and with or without a successor being named.

Section 5. Agreements, Contracts, Deeds, Leases, Checks, Etc.

All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by an officer or by such person or persons as may be designated by Board resolution.

Section 6. Borrowing.

The Association, acting through the Board, shall have the power to borrow money for the purpose of repair or restoration of Common Elements without the approval of the members of the Association. The Association, acting through the Board, may also borrow money for other purposes; provided, the Board shall obtain membership approval in the same manner as required for a special assessment under the Declaration if the proposed borrowing is (a) for the purpose of modifying or improving the Common Elements beyond the initial standard or adding amenities to the Condominium, or (b) for any other purpose if the total amount of such borrowing exceeds or would exceed \$15,000.00 outstanding debt at any one time.

Section 7. Indemnification of Officers, Directors and Committee Members.

The Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under the Articles of Incorporation and Georgia law. The Association shall indemnify and forever hold each officer, director, and committee member harmless from any and all liability to others on account of any contract, commitment, or action taken in good faith on behalf of the Association. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonable available.

Section 8. Accounts and Reports.

(a) The following accounting standards shall be followed unless the Board by resolution specifically determines otherwise;

- (i) accounting and controls should conform to generally accepted accounting principles; and
- (ii) cash accounts of the Association shall not be commingled with any other accounts.

(b) Commencing at the end of the quarter in which the first Unit is sold and closed, financial reports shall be prepared for the Association at least quarterly containing:

- (i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;
- (ii) a statement reflecting all cash receipts and disbursements for the preceding period;
- (iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;
- (iv) a balance sheet as of the last day of the preceding period; and
- (v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report.

An annual report consisting of at least the following shall be made available to all Members within 120 days after the close of the fiscal year: (i) a balance sheet; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines, by an independent public accountant; provided, upon written request of any holder, guarantor, or insurer of any first Mortgage on a Unit, the Association shall provide an audited financial statement. During the Declarant Control Period, the annual report shall include certified financial statements.

#### Section 9. Fiscal Year.

The fiscal year shall be set by Board resolution. In the absence of a Board resolution, the fiscal year shall run from January 1 to December 31 of each year.

#### Section 10. Books and Records.

All members of the Association, every director, and any holder, insurer, or guarantor of a first Mortgage on a Unit, or the duly appointed representative of any of the foregoing, shall, upon written request to the Association, be entitled to inspect the books and records of the Association and current copies of the Condominium Instruments and the Association rules. Such right to inspect shall be limited to purposes reasonably related to the requesting party's interest in a Unit. Such inspection shall be during normal business hours at the office of the Association or such other reasonable place as the Board may designate as the depository of such books and records. The party conducting the inspection shall be entitled to make copies of documents upon payment of the reasonable cost of reproducing the same, except that a director shall be entitled to a copy of documents requested in his or her capacity as a director at the Association's expense.

### Article VII. ENFORCEMENT

#### Section 1. Authority and Sanctions.

The Board shall have the power to impose reasonable fines for violations of the Declaration, By-Laws, or any rule or regulation of the Association, which fines shall constitute a



lien upon the Unit owned or occupied by the violator, and to suspend an Owner's or Occupant's right to use recreational facilities within the Common Elements and the Owner's right to vote, for any violation of any duty imposed under the Declaration, these By-Laws, or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Association or the Board to limit ingress or egress to or from a Unit. In the event that any Occupant of a Unit violates the Declaration, By-Laws, or a rule or regulation and a fine is imposed, 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. The failure of the Board to enforce any provision of the Act or of the Declaration, By-Laws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

Section 2. Notice and Hearing Procedure.

The Board shall not impose a fine (a late charge shall not constitute a fine) or suspend the right to use recreational facilities within the Common Elements unless and until the following procedure is followed:

(a) Notice. Written notice shall be given to the violator specifying:

- (i) the nature of the alleged violation and the proposed sanction to be imposed;
- (ii) that the violator may, within 10 days from the date of the notice, submit a written request to the Association or managing agent, if any, for a hearing to challenge the allegations, the proposed sanctions, or both;
- (iii) the name and address of the person to whom any such request for a hearing is to be addressed;
- (iv) that the alleged violator shall be entitled to make a statement, and present relevant evidence and witnesses on his or her behalf at the hearing; and
- (v) that all rights to have the sanction reconsidered are waived if a hearing is not requested within 10 days of the date of the notice.

(b) Hearing. If the alleged violator timely challenges the proposed action, the Board shall set a time and date for a hearing to be held in executive session, and the alleged violator shall be given a reasonable opportunity to be heard and to present relevant evidence and witnesses on his or her behalf. The Board shall give the alleged violator at least 10 days' prior written notice of the time, date, and place of the hearing. A copy of the notice, together with a statement of the date and manner of delivery, shall be signed by the person who delivered such notice and filed in the Association records along with minutes containing a written statement of the results of the hearing and the sanction, if any, imposed. This Section 2(b) shall be deemed complied with if a hearing is held and the violator attends and is provided an opportunity to be heard, notwithstanding the fact that the notice requirements contained herein are not technically followed.

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Section 3. Additional Enforcement Rights.

Notwithstanding anything to the contrary in this Article, the Association, acting through its Board, may elect to enforce any provision of the Act, the Declaration, these By-Laws, or the rules and regulations by:

- (a) self-help (specifically including, but not limited to, the towings of vehicles that are in violation of parking rules and regulations), except that judicial proceedings shall be instituted before the Association may alter or demolish any items of construction undertaken by an Owner; or
- (b) 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 this Article. In the event of 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 attorneys' fees actually incurred.

Article VIII. MISCELLANEOUS

Section 1. Notices.

Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these By-Laws 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 an Owner, at the address of such Owner's Unit, unless the Owner has designated a different address by written notice filed with the Secretary, in which case at such different address; or
- (b) if to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as the Board shall designate by notice to the Owners in accordance with subsection (a) hereof.

Section 2. Severability.

The invalidity of any part of these By-laws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these By-Laws.

Section 3. Captions: Gender and Grammar.

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 By-Laws or the intent of any provision thereof. The use of the masculine gender in these By-Laws shall be deemed to include the feminine and neuter genders, and the use of the singular shall be deemed to include the plural whenever the context so requires.

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Section 4. Conflicts.

In the event of conflicts among the Act, the Declaration, and these By-Laws, the provisions of the Act and the Declaration (in that order) shall control.

Section 5. Amendments.

These By-Laws may be amended by the affirmative vote, written consent, or any combination thereof, of the members holding at least 67% of the total vote of the Association. In addition, the requisite approval of Eligible Mortgagees shall be obtained if required under Paragraph 18 of the Declaration. 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 recorded in the office of the Clerk of the Superior Court of Walker County, Georgia.

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Exhibit E**Percentage Interest of Units**

<u>Description</u>	<u>SF</u>	<u>% of Total</u>
Unit T 1	1385	6.32%
Unit T 2	1058	4.82%
Unit T 3	1250	5.70%
Terrace Level	3693	
Unit M 1	1630	7.43%
Unit M 2	1208	5.50%
Unit M 3	987	4.50%
Unit M 4	895	4.08%
Unit M 5 & M6	1353	6.16%
Unit M 7	1207	5.50%
Unit M 8	1670	7.61%
Unit M 9	1061	4.83%
Unit M 10	857	3.90%
Unit M 11	1177	5.36%
Main Level	12045	
Unit S 1	1681	7.66%
Unit S 2	1421	6.47%
Unit S 3	1429	6.51%
Unit S 4	1680	7.65%
Scenic Level	6211	
Project Total	21949	100.00%