
Return to:

Jane C. Kotake, Esq.
Weissman, Nowack, Curry & Wilco, P.C.
One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326

DECLARATION OF CONDOMINIUM

FOR

LUXE CONDOMINIUM

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

One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326
(404) 926-4500

COPYRIGHT © 2008. Weissman, Nowack, Curry & Wilco, P.C. All rights reserved. This Declaration may be used only in connection with the property more commonly known as Luxe Condominium and the operation of the Luxe Condominium Association, Inc.

STATE OF GEORGIA
COUNTY OF FULTON

DECLARATION OF CONDOMINIUM

FOR

LUXE CONDOMINIUM

THIS DECLARATION is made on the date set forth below by Midtown Partners 222, LLC, a Delaware limited liability company (hereinafter referred to as "Declarant").

WITNESSETH

WHEREAS, Declarant is the owner of the real property that is located in Fulton County, Georgia and is described in Exhibit "A" attached hereto and incorporated herein by this reference;

WHEREAS, a plat of survey for the Condominium prepared by Landair Surveying Company dated October 28, 2008, was filed in Condominium Plat Book 19, Page(s) 50-51, Fulton County, Georgia Records;

WHEREAS, floor plans for the Condominium prepared by Niles Bolton Associates, Inc., were filed in Condominium Floor Plan Book 43, Page(s) 45, Fulton County, Georgia Records;

WHEREAS, Declarant desires to subject the real property described in Exhibit "A" hereto, including the improvements thereof, to the provisions of this Declaration and to the Georgia Condominium Act; and

NOW, THEREFORE, Declarant hereby declares that the real property described in Exhibit "A" of this Declaration, including the improvements located and to be located thereon, is hereby submitted and made subject to the form of ownership set forth in the Georgia Condominium Act, and is hereby subjected to the provisions of this Declaration. By virtue of the recording of this Declaration, said property shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the provisions of the Georgia Condominium Act and the covenants, conditions, restrictions, easements, assessments, and liens set forth and/or described in this Declaration, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property subject to this Declaration, and shall be binding on all Persons having any right, title or interest in all or any portion of the real property subject to this Declaration, their respective heirs, legal representatives, successors, successors in title and assigns, and shall be for the benefit of all owners of the property subject to this Declaration.

TABLE OF CONTENTS

1.	NAME.....	2
2.	DEFINITIONS.....	2
3.	LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS.....	6
4.	UNITS AND BOUNDARIES.....	7
5.	COMMON ELEMENTS.....	8
6.	LIMITED COMMON ELEMENTS.....	9
7.	ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES.....	10
8.	ALLOCATION OF LIABILITY FOR COMMON EXPENSES.....	11
9.	ASSOCIATION RIGHTS AND RESTRICTIONS.....	11
10.	ASSESSMENTS.....	13
11.	INSURANCE.....	17
12.	REPAIR AND RECONSTRUCTION.....	20
13.	ARCHITECTURAL CONTROLS.....	21
14.	USE RESTRICTIONS.....	28
15.	LEASING.....	40
16.	TRANSFER OR SALE OF UNITS.....	45
17.	MAINTENANCE RESPONSIBILITY.....	45
18.	MORTGAGEE'S RIGHTS.....	51
19.	GENERAL PROVISIONS.....	53
20.	EMINENT DOMAIN.....	59
21.	EASEMENTS.....	59
22.	AMENDMENTS.....	62
23.	SEVERABILITY.....	64
24.	DECLARANT RIGHTS.....	64
25.	PREPARER.....	64

Exhibits

DESCRIPTION OF SUBMITTED PROPERTY "A"

UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS AND
LIABILITIES FOR COMMON EXPENSES "B"

PARKING SPACE ASSIGNMENTS "C"

STORAGE SPACE ASSIGNMENTS..... "D"

SIGNAGE CONTROL – COMMERCIAL UNITS "E"

BYLAWS..... "F"

DECLARATION OF CONDOMINIUM**FOR****LUXE CONDOMINIUM**1. NAME.

The name of the condominium is Luxe Condominium (hereinafter sometimes called "Luxe" or the "Condominium," as further defined herein), which Condominium is hereby submitted by Declarant to the Georgia Condominium Act, O.C.G.A. § 44-3-70, *et seq.*, as amended.

2. DEFINITIONS.

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

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

(b) Architectural Control Committee or ACC shall mean the committee established to exercise the architectural review powers set forth in Paragraph 13 hereof, which shall be the Board of Directors of the Association unless by resolution the Board appoints a separate Architectural Control Committee. The Architectural Control Committee shall consist of at least three (3) members, one of which shall be an Owner of a Commercial Unit or designated by such Owner as described in Article I, Section 5 of the Bylaws.

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

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

(e) Assessment Exemption Period shall have the same meaning as set forth in Subparagraph 10(j) of this Declaration.

(f) Association shall mean Luxe Condominium Association, Inc., a Georgia nonprofit corporation, and its successors or assigns.

(g) Board or Board of Directors shall mean the board of directors of the Association, which shall be the body responsible for the management and operation of the Association.

(h) Building shall mean the structure in which the Units and the Common Elements are located, and which is located on the Condominium.

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

(j) Commercial Limited Common Elements shall mean the areas identified herein or on the Floor Plans as a Commercial Limited Common Element.

(k) Commercial Limited Common Expenses shall mean any and all costs associates with, or relating to, the maintenance, insurance, repair, replacements, alteration and/or operation of the Commercial Limited Common Elements.

(l) Commercial Patio Area shall mean the portion of the Commercial Limited Common Elements designated as the "Commercial Patio Area" on the Floor Plans.

(m) Commercial Units shall mean a Unit shown on the Floor Plans as a "Commercial Unit" or "CU" (which may be followed by a number to distinguish one (1) Commercial Unit from another) , and which may be used for business or commercial uses as set forth more particularly in Paragraph 14 of this Declaration. References herein to "Units" shall include Commercial Units unless the context prohibits or it is otherwise expressly provided.

(n) Common Elements shall mean those portions of the property subject to this Declaration, which are not included within the boundaries of a Unit, as more particularly described in this Declaration. Some components of the Condominium that are typical "common elements" of a condominium have instead been designated as Residential Limited Common Elements or Commercial Limited Common Elements. References herein to Common Elements also shall include the Residential Limited Common Elements and the Commercial Limited Common Elements unless the context would prohibit or it is otherwise expressly provided.

(o) Common Expenses shall mean the expenses incurred by the Association for the general benefit of the Condominium, including, but not limited to, those expenses incurred for the operation, management, maintenance, repair, replacement or protection of the general Common Elements, the costs of carrying out the powers and duties of the Association, and any other expense, whether or not included, in the foregoing, designated as a "Common Expense" by the Act, this Declaration, the Articles or the Bylaws. For all purposes of this Declaration, "Common Expenses" shall also include, without limitation, the following as same may related only to the general Common Elements (and not as applicable to the Residential Limited Common Elements and/or the Commercial Limited Common Elements): (i) all reserves required by the Act or otherwise established by the Association, regardless of when reserve funds are expended; (ii) the cost of a master antenna television system or duly franchised cable television service obtained pursuant to a bulk contract serving all Units (as distinguished from any antennae, receivers or other equipment which may be installed within or adjacent to the Commercial Units as elsewhere provided herein); (iii) the cost of any bulk contract for broadband, telecommunications, satellite and/or internet services, if any, serving all Units; (iv) if applicable, costs relating to reasonable in-house and/or interactive communications and surveillance systems; (v) real property taxes, assessments and other maintenance expenses attributable to any Units acquired by the Association; (vi) any lease or maintenance agreement payments required under leases or maintenance agreements for mechanical or other equipment and/or supplies, including, without limitation, leases for trash compacting, recycling, and/or laundry equipment, if the same is leased by the Association rather than being owned by it; (vii) any all costs, expenses, obligations (financial or otherwise) and/or liabilities of the Association and/or running with the land pursuant to any restriction, covenant, condition, limitation, agreement, reservation and easement now or hereafter recorded in the Official Records; (viii) all expenses related to the installation, repair, maintenance, operation, alteration and/or replacement of the Life-Safety Systems (as hereinafter defined); (ix) any unpaid share of Common Expenses or assessments extinguished by foreclosure of a superior lien of by deed in lieu of foreclosures; (x) costs of insurance (as more specifically set forth in Paragraph 11 hereof); (xi) costs of water and sewer, electricity, gas and other utilities which are not consumed by and metered to individual Units; and (xii) costs resulting from damage to the Condominium which are necessary to satisfy any deductible

and/or to effect necessary repairs which are in excess of insurance proceeds received as a result of such damage. Common Expenses shall not include any separate obligations of individual Owners. References herein to Common Expenses also shall include Residential Limited Common Expenses and Commercial Limited Common Expenses unless the context would prohibit or it is otherwise expressly prohibited.

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

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

(r) Declarant shall mean Midtown Partners 222, LLC, a Delaware limited liability company, its respective successors-in-title and assigns and any other Person as further set forth in Section 44-3-71(13) of the Act, provided that such successors and/or assignees are designated in writing by Declarant as its successor-in-title and/or assignee of the rights of Declarant set forth herein. The expiration of the Declarant Control Period shall not terminate or alter the status of the above-referenced entity and its successor-in-title and/or assign, as Declarant hereunder or divest it of other rights specifically reserved to Declarant herein.

(s) Declarant Control Period shall mean the period of time during which the Declarant is authorized to appoint and remove the members of the Board of Directors as provided in Article III, Part A, Section 2 of the Bylaws.

(t) Domestic Partner shall mean any adult who cohabits with an Owner and who has been designated as the Owner's Domestic Partner in a written statement, signed by the Owner and filed with the Association's secretary. A person shall no longer be a Domestic Partner upon the secretary's receipt of a written termination notice, signed by either the Owner or the Domestic Partner.

(u) Electronic Document shall mean information created, transmitted, received or stored by electronic means and retrievable in humanly perceivable form including, without limitation, e-mail, web pages, electronic documents, and facsimile transmissions.

(v) Electronic Signature shall mean a signature created, transmitted, received or stored by electronic means and includes, but is not limited to, a Secure Electronic Signature.

(w) Eligible Mortgage Holder shall mean those holders of first Mortgages secured by a lien on a Unit in the Condominium who have requested notice of certain items as set forth in this Declaration.

(x) Floor Plans shall mean the floor plans for Luxe Condominium, filed in the condominium file cabinet of the Official Records.

(y) Guest Suite shall mean that portion of the Common Elements shown on the Floor Plans as the "Guest Suite".

(z) Life-safety Systems shall mean and refer to any and all emergency lighting, emergency generators, audio and visual signals, safety systems, sprinklers and smoke detection systems, which are now or hereafter installed in the Building, whether or not within the Units. All such Life-safety Systems, together with all conduits, wiring, electrical connections and systems related thereto, regardless of where located, shall be deemed Common Elements hereunder. Without limiting the generality of the foregoing, when the contents shall so allow, the Life-safety Systems shall also be deemed to include all means of

emergency ingress and egress, which shall include all stairways and stair landings. Notwithstanding the breadth of the foregoing definition, nothing herein shall be deemed to suggest or imply that the Building or the Condominium contains all such Life-safety Systems.

(aa) Limited Common Elements shall mean those portions of the Common Elements reserved for the exclusive use of those Persons entitled to occupy one (1) or more, but less than all of the Units, as more particularly set forth in this Declaration. References herein to Common Elements also shall include all Limited Common Elements unless the context would prohibit or it is otherwise expressly provided.

(bb) Maintenance Manual shall mean those certain maintenance criteria, maintenance manuals, and warranty requirements for the Building provided by Declarant to the Association in accordance with Subparagraph 17(g) (ii) hereof.

(cc) Majority shall mean more than fifty percent (50%) of the total eligible number.

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

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

(ff) Occupant shall mean any Person (i) staying overnight in a Residential Unit for a total of more than thirty (30) days, either consecutive or nonconsecutive, in any calendar year, regardless of whether such Person is a tenant or the Owner of such Unit, (ii) occupying the Guest Suite for residential purposes for any period of time, or (iii) regularly occupying a Commercial Unit for commercial or business purposes as an owner or employer of such business.

(gg) O.C.G.A. shall mean the Official Code of Georgia Annotated, as may be amended.

(hh) Official Records shall mean the official land records of the Clerk of the Superior Court of Fulton County, Georgia.

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

(jj) Permittee shall mean any Occupant and any officer, agent, employee, licensee, customer, vendor, supplier, guest, invitee or contractor of an Owner or Declarant.

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

(ll) Recreation Deck shall mean the portion of the Residential Limited Common Elements designated as the "Recreation Deck" on the Floor Plans, and shall include, without limitation, the fitness facility, steam room and showers, spa room, swimming pool, outdoor kitchen, business center and club room.

(mm) Residential Limited Common Elements shall mean the areas identified herein or on the Floor Plans as a Residential Limited Common Element.

(nn) Residential Limited Common Expenses shall mean any and all costs associated with, or relating to, the maintenance, insurance, repair, replacements, alteration and/or operation of the Residential Limited Common Elements.

(oo) Residential Unit shall mean each of the Units other than Commercial Units. References herein to "Units" shall include Residential Units unless the context prohibits or it is otherwise expressly provided.

(pp) Secure Electronic Signature shall mean an electronic or digital method executed or adopted by a Person with the intent to be bound by or to authenticate a record, which is unique to the Person using it, is capable of verification, is under the sole control of the Person using it, and is linked to data in such a manner that if the data is changed, the electronic signature is invalidated.

(qq) Survey shall mean the plat of survey for Luxe Condominium filed in the condominium plat book of the Official Records.

(rr) Telecommunications Activity shall have the same meaning as more specifically set forth in Subparagraph 21(f)(iv) hereof.

(ss) Telecommunications Agreement shall have the same meaning as more specifically set forth in Subparagraph 21(f)(iv) hereof.

(tt) Telecommunications Easement shall have the same meaning as more specifically set forth in Subparagraph 21(f)(iv) hereof.

(uu) Telecommunications Easement Area shall collectively refer to the rooftop areas of the Building, as shown on the Floor Plans, the airspace to a height of fifteen feet (15') above such rooftop areas, and such area in the elevator machine rooms to be located by the Board of Directors, the telecommunications rooms located within the Building, the vertical and horizontal chase space between such areas in the Common Elements, and such other portions of the Common Elements that Declarant and its successors, assigns, and Permittees need in order to install, operate, maintain and connect Telecommunications Equipment and to utilize the Telecommunications Easement.

(vv) Telecommunications Equipment shall have the same meaning as more specifically set forth in Subparagraph 21(f)(iv) hereof.

(ww) Total Association Vote shall mean all of the eligible votes attributed to members of the Association (including votes attributable to Declarant), and the consent of Declarant for so long as Declarant owns a Unit.

(xx) Unit shall mean that portion of the Condominium intended for individual ownership and use as more particularly described in this Declaration and shall include the undivided ownership in the Common Elements assigned to such Unit by this Declaration. Excepts where specifically excluded, or the context otherwise requires, references to "Unit" shall be deemed to include the Residential Units and the Commercial Units.

3. LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS

The Condominium subject to this Declaration and the Act is located in Land Lot 106 of the 17th District of Fulton County, Georgia, all as more particularly described in Exhibit "A" attached to this Declaration, which Exhibit is specifically incorporated herein by this reference. The Survey and Floor

Plans relating to the Condominium will be filed in the Official Records at the time the Condominium is submitted to this Declaration. The Survey and Floor Plans are incorporated herein by reference as fully as if the same were set forth in their entirety herein.

So long as Declarant owns a Unit, Declarant reserves the right, but shall have no obligation, to make improvements and changes to all or part of the Common Elements and the Units owned by Declarant (other than changes to the location of Unit boundaries unless expressly permitted herein), including, without limitation: the addition, realignment, and renumbering of parking spaces; the addition, reconfiguration, and renumbering of storage spaces; the renovation and installation of changes to utility systems and facilities; the rearrangement and installation of security and refuse facilities; work relating to building exteriors; and extension of the drives and utility lines and pipes constituting a part of the Condominium.

4. UNITS AND BOUNDARIES.

The Condominium will be divided into one hundred sixteen (116) separate Residential Units, Common Elements, some of which will be assigned as Limited Common Elements, and one (1) Commercial Unit. Each Unit consists of a dwelling or commercial space, as applicable, and its appurtenant percentage of undivided interest in the Common Elements. Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the Act and the Condominium Instruments. The Units are depicted on the Survey and the Floor Plans. Each Unit includes that part of the structure, which lies within the following boundaries:

(a) Vertical Boundaries. The perimetrical or vertical boundaries of each Unit shall be the vertical planes formed by the outermost surface of the studs in the walls separating the Unit from the exterior wall of the building and the walls separating the Unit from the hallway of the floor on which the Unit is located in the building. With respect to common walls between the Units, the perimetrical or vertical boundary of the Units served thereby shall be the centerline of such wall. The vertical boundaries include the wallboard or other material comprising the wall of the Unit.

(b) Horizontal Boundaries – Residential Units.

(i) If the Unit is located on the uppermost residential floor of the Building, the upper horizontal boundary of such Unit shall be the vertical plane formed by the uppermost surface of the wallboard or other material comprising the ceiling of the Unit, with such material constituting part of the Unit. The lower horizontal boundary of such Unit shall be the vertical plane formed by the uppermost surface of the concrete slab located between the flooring of such Unit and the ceiling of the Unit located below.

(ii) If the Unit is located on the lowermost residential floor of the Building, the upper horizontal boundary of such Unit shall be the vertical plane formed by the uppermost surface of the wallboard or other material comprising the ceiling of the Unit, with such material constituting part of the Unit. The lower horizontal boundary of such Unit shall be the vertical plane formed by the uppermost surface of the concrete slab located between the flooring of such Unit and the ceiling of the Common Elements located below.

(iii) If the Unit is not located on the uppermost or lowermost residential floors of the Building, the upper horizontal boundary of such Unit shall be the vertical plane formed by the uppermost surface of the wallboard or other material comprising the ceiling of the Unit, with such material constituting part of the Unit. The lower horizontal boundary of such Unit shall be the

vertical plane formed by the uppermost surface of the concrete slab located between the flooring of such Unit and the ceiling of the Unit located below.

(c) Horizontal Boundaries – Commercial Units. The upper horizontal boundary of a Commercial Unit shall be the vertical plane formed by the uppermost surface of the wallboard or other material comprising the ceiling of the Commercial Unit, with such material constituting part of the Commercial Unit. The lower horizontal boundary of such Unit shall be the vertical plane formed by the uppermost surface of the concrete subflooring on which the Commercial Unit is constructed, with the flooring, if any, constituting part of the Commercial Unit and the concrete subflooring and Building foundation not constituting part of the Commercial Unit.

(d) Additional Information to Interpret Unit Boundaries. Where there are apertures in any boundary, including, but not limited to, windows, doors, bay windows and skylights, such boundaries shall be extended to include the windows, doors and other fixtures located in such apertures, including all framework, window casing and weather stripping thereof, together with exterior surfaces made of glass or other transparent materials; provided, however, that the exteriors of the doors facing interior Common Element hallways shall not be included in the boundaries of the Unit and shall therefore be Common Elements. Heating and air conditioning systems serving a single Unit (including any part of any such system located outside the boundaries of the Unit), all duct work for heating and air conditioning systems and appliances and plumbing fixtures within a Unit shall be part of the Unit. If any chutes, flues, ducts, conduits, wires, pipes or other apparatus lies partially within and partially outside of the designated boundaries of the Unit, any portion thereof that serves only that Unit shall be deemed to be a part of that Unit (and not a Limited Common Element), while any portions thereof that serve more than one (1) Unit or any portion of the Common Elements shall be deemed a part of the Common Elements. Further, notwithstanding anything to the contrary stated herein, the structural components of the Building, and the Life-safety Systems, regardless of where located, are expressly excluded from the Units and are instead deemed Common Elements.

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

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

5. COMMON ELEMENTS.

The Common Elements consist of all portions of the Condominium not located within the boundaries of a Unit. The Common Elements include, without limitation: certain utility infrastructures, Residential Limited Common Elements; Commercial Limited Common Elements; Life-safety Systems; Guest Suite; lobbies; trash chutes; ventilation shafts; stairwells, elevators and related shafts and equipment; certain electrical rooms and closets; certain mechanical rooms and closets; storage rooms; corridors; hallways; limited access entry systems, fences; entry feature and lighting for same; paving; walls; retaining walls; the foundation; roofs; exterior walls of the Building; landscape areas; parking facility and lighting for same; mail area; compactor; concierge desk; restrooms; Recreation Deck, and all other lighting in any Common Element of the Building.

Ownership of the Common Elements shall be by the Owners as tenants-in-common. The percentage of undivided interest in and to the Common Elements attributable to each Unit is set forth in Exhibit "B" attached hereto and incorporated herein by this reference. Such percentages of undivided interest may be altered only by the written 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 or any other Person shall bring any action for partition or division of the whole or any part thereof except as provided in the Act. Except as provided for Limited Common Elements or as otherwise provided herein, each Owner and the Association may use the Common Elements for the purposes for which they are intended, but no such use shall encroach upon the lawful rights of the other Owners.

6. LIMITED COMMON ELEMENTS.

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

(i) a balcony, patio or courtyard (including attached railing) attached to and exclusively serving a Residential Unit, as more specifically shown on the Floor Plans, is assigned as a Limited Common Element to the Residential Unit so served;

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

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

(v) a Commercial Unit may be assigned a Commercial Patio Area, as more specifically shown on the Floor Plans, as a Limited Common Element.

(vi) any utility meter that serves only one (1) Unit is assigned as a Limited Common Element to the Unit so served; and

(vii) each Unit is assigned one (1) mailbox or mail slot, to be initially assigned in the sole discretion of Declarant.

(b) The Residential Limited Common Elements are more specifically shown on the Floor Plans and include, without limitation, the following areas:

(i) the Recreation Deck;

- (ii) the Guest Suite;
- (iii) the residential lobby located on the ground level of the Building;
- (iv) the two (2) twenty-two (22) stop elevators serving the Building shown as ELEV #1 and ELEV #2 on the Floor Plans;
- (v) all hallways and corridors not serving the Commercial Units;
- (vi) any mechanical rooms not serving the Commercial Units; and
- (vii) other portions of the Condominium not serving the Commercial Units, as shown on the Floor Plans.

(c) The Commercial Limited Common Elements are more specifically shown on the Floor Plans and include, without limitation, portions of the Condominium not serving the Residential Units, as shown on the Floor Plans as well as the elevator serving the Building shown as ELEV #3 on the Floor Plans.

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

(e) For so long as Declarant owns any Unit, Declarant shall have the right to sell to Owners one (1) or more parking spaces and/or storage spaces to be assigned as Limited Common Elements pursuant to Subparagraphs (a)(iii) and (d) above. The proceeds of the sale of parking spaces and/or storage spaces as Limited Common Elements shall belong to Declarant.

7. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES.

All Owners, by virtue of their ownership of a fee or undivided fee interest in any Unit in the Condominium, excluding Persons holding such interest under a Mortgage, are members of Luxe Condominium Association, Inc., and, except as otherwise provided herein or in the Bylaws, shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to this Declaration and in accordance with the Bylaws. Subject to the provisions of the Condominium Instruments, the Owner or collective Owners shall be entitled to one (1) equally weighted vote for such Unit.

8. ALLOCATION OF LIABILITY FOR COMMON EXPENSES.

(a) Except as provided below, or elsewhere in the Act or Condominium Instruments, the percentage of undivided interest in the Common Elements and the percentage share of the Common Expenses, appurtenant to each Unit, is as set forth on Exhibit "B-1" attached hereto, the same having been determined based upon the total square footage of the applicable Unit in uniform relationship to the total square footage of each other Unit.

(b) The percentage of undivided interest in the Residential Limited Common Elements and the percentage share of the Residential Limited Common Expenses, appurtenant to each Residential Unit, is as set forth on Exhibit "B-2" attached hereto, the same having been determined based upon the total square footage of the applicable Residential Unit in uniform relationship to the total square footage of each other Residential Unit.

(c) The percentage of undivided interest in the Commercial Limited Common Elements and the percentage share of the Commercial Limited Common Expenses, appurtenant to each Commercial Unit, is as set forth on Exhibit "B-3" attached hereto, the same having been determined based upon the total square footage of the applicable Commercial Unit in uniform relationship to the total square footage of each other Commercial Unit.

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

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

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

(e) In the event the Condominium is served by common utility meters, the Board shall have the authority to install submeters and assess individual Unit utilities usage charges as special assessments as provided in Subparagraph (d)(i) above. This shall include the right to add a charge for the cost of overhead for such submetering, against individual Units and/or to install separate utility meters for the Units.

9. ASSOCIATION RIGHTS AND RESTRICTIONS.

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

(a) to enter into Units for maintenance, emergency, or life-safety purposes, which right may be exercised by the Board of Directors, and/or its officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after reasonable notice to the Owner or Occupant of the Unit. For the purposes of this Paragraph, an emergency justifying immediate entry into a Unit shall include, but not be limited to, the following situations: a water or other utility leak, fire, strong foul odor, obvious insect infestation or sounds indicating that a Person or animal might be injured or sick and requires immediate medical attention. No one exercising the rights granted in this Subparagraph shall be liable for trespass, damages, or in any other manner by virtue of exercising such rights, except as provided in the Act. The failure to exercise the rights herein granted or to exercise said rights in a timely manner shall not create liability to any of the above-referenced parties, it being agreed that no duty to enter a Unit shall exist;

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

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

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

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

(f) to represent and act on behalf of the Owners in the event of damage or destruction as a result of casualty loss in accordance with the provisions of the Act and Paragraph 12 of this Declaration;

(g) to represent and act on behalf of the Owners in the event of any loss resulting from condemnation or eminent domain in accordance with the provisions of the Act and Paragraph 20 of this Declaration;

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

(i) to enter into an agreement or bulk contract on behalf of all Owners and the Association to provide television or telecommunications services to the Units;

(j) to collect security deposits in reasonable amounts, as determined by the Board of Directors in its sole discretion, to protect against any damage to the Condominium, including, without limitation, damage resulting from: moving in or out of a Unit; the transportation and use of construction materials on the Condominium; and the alteration, modification, or addition to a Unit and any Limited Common Element appurtenant thereto. Costs for repair of such damage may be deducted, and the removal of any rubbish, trash and garbage (including construction debris) resulting from the alteration or modification to a Unit and any Limited Common Element appurtenant thereto may be deducted from the security deposit, and any additional expenses may be specifically assessed against the Unit under Subparagraph 8(d)(ii) above;

(k) to approve contractors or subcontractors who have access to the Condominium for the purpose of making repairs or improvements to Units based on rules and regulations promulgated and adopted by the Board of Directors that may include, without limitation: financial stability of the contractors and/or subcontractors; history of compliance with the Condominium Instruments and rules

and regulations of the Association; and other factors that may be reflective of quality and ability. The Board of Directors may also impose insurance requirements and collect other non-refundable fees for use of elevators and the trash receptacle;

(l) to regulate and control any approved contractor or subcontractor's access to the Condominium, including the Units;

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

(n) to close permanently or temporarily any portion of the Common Elements (excluding the Limited Common Elements, and any Common Elements the use of which is reasonably necessary for access to or from a Unit) with thirty (30) days prior notice to all Owners, except that, in emergency situations requiring a temporary closing, prior notice shall not be required so long as notice is given within three (3) days after the closing explaining the reason for the closing. Notwithstanding the above, the Owners may re-open closed Common Elements by a Majority vote of the Total Association Vote, cast at a duly called special or annual meeting; and

(o) to hire, contract with, employ, manage oversee and coordinate a concierge who will or a concierge service that will assist all Owners and Occupants with personal services, including, but not limited to, obtaining tickets for events in the Atlanta metropolitan area, arranging limousine, taxi and airport transportation in the Atlanta area, coordinating maintenance and repairs to the interior of Units, arranging housekeeping for the interior of Units and accepting hand-delivered packages. All costs and expenses associated with specific concierge services provided to an Owner or Occupant shall be paid by such Owner or Occupant in accordance with the payment schedule established by the concierge service; and

(p) to enter into joint agreements and contracts with other Persons for the provision of services, including, without limitation, management, landscaping, concierge, property monitoring services, and trash removal services.

NOTWITHSTANDING ANYTHING TO THE CONTRARY STATED HEREIN, THE ASSOCIATION SHALL NOT BE OBLIGATED TO TAKE ANY ACTION TO ENFORCE ANY COVENANT, USE RESTRICTION, OR RULE THAT THE BOARD, IN EXERCISE OF ITS BUSINESS JUDGMENT, DETERMINES IS OR IS LIKELY TO BE CONSTRUED AS INCONSISTENT WITH APPLICABLE LAW OR IN ANY CASE IN WHICH THE BOARD REASONABLY DETERMINES THAT THE ASSOCIATION'S POSITION IS NOT STRONG ENOUGH TO JUSTIFY TAKING SUCH ACTION. SUCH A DECISION SHALL NOT BE CONSTRUED A WAIVER OF THE RIGHT OF THE ASSOCIATION TO ENFORCE SUCH PROVISION AT A LATER TIME UNDER OTHER CIRCUMSTANCES OR ESTOP THE ASSOCIATION FROM ENFORCING ANY OTHER COVENANT, USE RESTRICTION OR RULE.

10. ASSESSMENTS.

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

(b) Creation of the Lien and Personal Obligation For Assessments. Each Owner of any Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges; (ii) special assessments, such assessments to be established and collected as hereinafter provided; and (iii) specific assessments against any particular Unit that are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines imposed and/or established by the Board of Directors in accordance with the terms of this Declaration and/or the Act.

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

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Unless otherwise provided, the annual assessments shall be paid in equal monthly installments due on the first day of each calendar month. Except as otherwise provided in Paragraph 10(j), no Owner may exempt him or herself from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, nonuse of the Common Elements, nonuse of services provided by the Association or its agents, the Association's failure to perform its obligations required hereunder, or an inconvenience or discomfort arising from the Association's performance of its duties. The lien provided for herein shall have priority as provided in the Act. Notwithstanding anything to the contrary stated herein, except to the extent provided otherwise in this Paragraph, Declarant shall have no obligation to fund budgetary deficits of the Association.

The Board of Directors shall have the right to: (i) not spend the full amount budgeted for any particular line item in the budget, (ii) spend more than what has been budgeted, and (iii) shift revenues within the budget from one line to another. Notwithstanding anything to the contrary stated herein, during the Declarant Control Period, Declarant or the Declarant appointed Board of Directors shall be authorized to unilaterally adopt a new or revised budget to reflect costs that were not contemplated at the time the initial, estimated operating budget for the Association was developed, or to reflect unanticipated changes in the costs of a line item in such budget.

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

(i) If any monthly installment of annual assessments or any part thereof is not paid in full by the tenth (10th) day of the month, or if any other charge is not paid within ten (10) days of the due date, a late charge equal to the greater of Ten Dollars (\$10) or ten percent (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 ten percent (10%) per annum or such higher rate as may be permitted by the Act shall accrue from the due date thereof;

(ii) If part payment of assessments and related charges is made, the amount received may be applied first to costs and reasonable attorneys' fees actually incurred, then to late charges, then to interest, then to delinquent assessments, and then to current assessments;

(iii) If assessments, fines or other charges or any part thereof due from an Owner remain delinquent and unpaid for a period greater than fifteen (15) days from the date due, a notice of delinquency may be given to that Owner stating that if the assessment, fine or charge

remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board of Directors may accelerate and declare immediately due all of that Owner's unpaid installments of the annual assessment and of any special assessment without any further notice being given to the delinquent Owner. Upon acceleration, that Owner shall thereby lose the privilege of paying the annual assessment in monthly installments for that fiscal year;

(iv) If assessments and other charges or any part thereof remain unpaid more than thirty (30) days after they become delinquent, the Association, acting through the Board, may institute suit to collect all amounts due pursuant to the provisions of this Declaration, the Bylaws, the Act and Georgia law, including reasonable attorneys' fees actually incurred, and suspend the Owner and/or Occupant's right to vote and/or use the Common Elements, including the right to bring or park vehicles on the Common Elements, use the Guest Suite, or to have guests bring or park vehicles on the Common Elements. However, the Board may not limit pedestrian, medical, fire, police or other health, safety, service or emergency vehicle ingress or egress to or from the Unit or deny necessary parking of clearly and properly identified handicapped vehicles used by handicapped Owners or Occupants protected by the Fair Housing Amendments Act of 1988. Prior to suspending parking privileges, the Association shall provide the delinquent Owner or Occupant written notice of its intention to do so, sent by certified mail not less than ten (10) days prior to the date of such suspension; and

(v) If any assessment or other charge is delinquent for thirty (30) days or more, and the Association has obtained judgment(s) totaling more than Seven Hundred Fifty Dollars (\$750) against the Owner or encumbering the Unit, then, in addition to all other rights provided under Georgia law and herein, the Association shall have the right, in compliance with any requirements set forth in the Section 44-3-76 of the Act, to suspend water, electricity, gas, heat, air conditioning, cable or satellite television, internet access or other internet-based services, or any other or utility service to the Unit paid for as a Common Expense by the Association. Any costs incurred by the Association in discontinuing and/or reconnecting any utility or service, including reasonable attorneys' fees actually incurred, shall be an assessment against the Unit. The utility or service shall not be required to be restored until the judgment(s) is (are) paid in full, at which time the Association shall make arrangements for restoration of the utility or service. An Owner whose utility or service has been suspended hereunder shall not be entitled to use any such utility or service from any source, and any such unauthorized use shall be considered a theft of services under O.C.G.A. Section 16-8-5.

Notwithstanding the above, if cable television, satellite, or internet service or any other service not constituting a utility is provided by the Association as a Common Expense, that service may be suspended upon ten (10) days written notice to the delinquent Owner, without obtaining any judgment against the Owner or encumbering the Unit. Enforcement under this Subparagraph is not dependent upon or related to other restrictions and/or other actions.

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

Notwithstanding the foregoing, in the event that the membership disapproves the proposed budget or the Board of Directors fails for any reason to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the current year shall continue for the succeeding year. In such case, the Board of Directors may propose a new budget at any time during the year at a special meeting of the Association. The proposed budget and assessment shall be delivered to the members at least twenty-one (21) days prior to the proposed effective date thereof and at least seven (7) days prior to the special meeting. The approval procedure set forth above for budgets considered at annual meetings shall also apply to budgets considered at special meetings.

(e) Special Assessments. In addition to the annual assessment provided for in Subparagraph (b) above, the Board of Directors may, at any time, and in addition to any other rights it may have, levy a special assessment against all Owners, notice of which shall be sent to all Owners. Any special assessment (except as provided in Subparagraph 8(d) regarding the power to assess specially pursuant to Section 44-3-80(b) of the Act and Subparagraph 12(b) herein, regarding repair or reconstruction of casualty damage to or destruction of all or part of the Condominium) that would cause the average total of special assessments levied in one (1) fiscal year to exceed Two Hundred Dollars (\$200) per Unit or such higher amount as is authorized by the Act, shall be approved by a Majority of the Total Association Vote prior to becoming effective.

(f) Capital Reserve Budget and Contribution. The Board of Directors shall annually prepare a capital reserve budget that shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital reserve contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital reserve budget, with respect both to amount and timing by equal annual assessments over the period of the budget. The annual capital reserve contribution required, if any, shall be fixed by the Board and included within the budget and assessment as provided in Paragraph 10(d). A copy of the capital reserve budget shall be distributed to each member in the same manner as the operating budget.

(g) Statement of Account. Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Unit, or a lender considering a loan to be secured by a Unit, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against a Unit. The Association shall respond in writing within five (5) business days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding Ten Dollars (\$10), or such higher amount as may be authorized by the Act, as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Unit as of the date specified therein.

(h) Surplus Funds and Common Profits. Pursuant to Section 44-3-108 of the Act, common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common profits to the payment of Common Expenses shall, at the option of the Board of Directors, either be distributed to the Owners or credited to the next assessment chargeable to the Owners in proportion to the liability for Common Expenses attributable to each Unit, or added to the Association's capital reserve account as set forth in Subparagraph (f) above. Notwithstanding the foregoing, any surplus funds remaining after the application of such common profits to the payment of Common Expenses at the end of the first fiscal year (excluding amounts designated for reserves) shall be distributed to the Owners in proportion to the liability for Common Expenses attributable to each Unit.

If the Board of Directors reasonably determines that during a fiscal year there will likely be a surplus of funds at the end of such fiscal year (excluding amounts designated for reserves), the Board of

Directors may, but shall not be required to, reduce the amount of the annual assessment to be collected from the Owners for the remainder of that fiscal year. Any Owner who has already paid the entire annual assessment at the time of such reduction shall, in the discretion of the Owner, either receive a refund of the overpayment or a credit of the amount of the overpayment towards the annual assessment of the Association for the following fiscal year. Notwithstanding the above, the Association may first apply the amount of any overpayment toward any other amount the Owner may owe to the Association.

(i) Working Capital Fund. Declarant, on behalf of the Association, shall establish a working capital fund to meet unforeseen Association expenditures, to purchase any additional equipment or services for the Association, or to pay for capital improvements. A non-refundable contribution to the working capital fund of the Association shall be paid by the purchaser of a Unit at the closing of each sale or resale of a Unit in the amount of two (2) months of the general assessment to be charged to such Unit. During the Declarant Control Period, the working capital funds shall be deposited into a separate reserve account and shall not be used to pay for Common Expenses except as permitted in Section 44-3-80 of the Act. Notwithstanding anything to the contrary herein, the contribution to the working capital fund shall not be due from: (i) any grantee who is the Domestic Partner, spouse or former spouse of the grantor; (ii) any grantee that is a wholly-owned entity of the grantor; (iii) any grantee to whom a Unit is conveyed by a will or through the law of intestacy; or (iv) any grantee of a Unit who obtains title pursuant to judicial or nonjudicial foreclosure of any first Mortgage of record or secondary purchase money Mortgage of record (provided that neither the grantee nor any successor grantee on the Mortgage is the seller of the Unit).

(j) Assessment Exemption Period. Notwithstanding anything to the contrary stated herein, Declarant shall be excused from the payment of assessments to the extent permitted by the Act for a period (the "Assessment Exemption Period") commencing on the date this Declaration is recorded in the Official Records, and ending on the following date, whichever occurs first: (i) the date being twenty-four (24) months after the date this Declaration was recorded in the Official Records; (ii) the date being the latest date permitted in the Act; (iii) the date determined by Declarant, as provided in a written notice to the Association; or (iv) upon the date Declarant does not own any unoccupied Unit in the Condominium. During the Assessment Exemption Period, as to the portion of assessments assessed pursuant to Section 44-3-80(c) of the Act, the Declarant shall pay such Common Expenses incurred by the Association during the Assessment Exemption Period that exceed the amounts assessed against other Owners.

Additionally, during the Assessment Exemption Period: (i) no capital contributions, start-up funds, initiation fees, or contributions to capital reserve accounts that are receivable from Unit purchasers or Owners and payable to the Association at closing may be used for payment of Common Expenses; (ii) no portion of the payment of assessments collected from Owners intended to be utilized for reserves for deferred maintenance, reserves for depreciation, or other reserves, as shown on the operating budget for the Condominium may be used for payment of Common Expenses; and (iii) no prepayments of assessments made by Owners shall be used for the payment of Common Expenses prior to the time the assessments would otherwise be due.

11. INSURANCE.

The Association, acting through its Board of Directors 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, and as determined by the Board of Directors with regards to both limits of insurance and coverage. In accordance with the Act, the property insurance shall, at a minimum, afford fire and extended coverage insurance for and in an amount consonant with the full replacement value of the buildings and other structures on the Condominium, except as otherwise provided. The property insurance shall recognize the difference between the finished Units conveyed by Declarant and the unfinished shell Units conveyed by Declarant and shall be required to provide coverage to repair or reconstruct the Units according to the as-built plans

and specifications for each Unit constructed by Declarant. Such coverage for finished Units shall include all of the Units and the fixtures initially installed therein by Declarant and replacements thereof up to the value of those initially installed by Declarant, but shall not include, any improvements or additions (including wall coverings and fixtures) made by or on behalf of any Owner other than those made by Declarant, and shall not include furnishings and other personal property within a Unit. The coverage for the shell Units shall only repair or reconstruct those portions of the Unit constructed by Declarant. All other portions of the Unit shall be considered improvements or additions made by or on behalf of the Owner and shall be insured by the Owner. The list of Units attached hereto as Exhibit "B-1" shall denote the shell Units with a ("S").

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

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

All insurance coverage for the Association shall be written in the name of the Association as trustee for itself, each of the Owners, and the Mortgagees of Owners, if any. It shall be the duty of the Board of Directors at least every two (2) years to conduct an insurance review to determine if the policy in force is adequate to meet the needs of the Association and to satisfy the requirements of Section 44-3-107 of the Act. Such responsibility may be performed, and shall be deemed reasonably performed, by the Board requesting the Association's insurance agent to verify that insurance policies in existence meet the needs of the Association and satisfy the requirements of Section 44-3-107 of the Act.

(a) The Board of Directors shall utilize commercially reasonable efforts to secure a blanket hazard insurance policy providing "special perils" coverage in an amount equal to full replacement cost, before application of deductibles, of all structures located on the Condominium as required by Section 44-3-107 of the Act. If "special perils" coverage is not reasonably available at reasonable cost, the Board shall obtain, at a minimum, fire and extended coverage, including coverage for vandalism and malicious mischief, in like amounts. The Board shall use commercially reasonable efforts to obtain policies that will provide the following:

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

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

(iii) until the expiration of ten (10) 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 Owners, the Board of Directors, or any of their agents, employees, or household members, nor be canceled for nonpayment of premiums;

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

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

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

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

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

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

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

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

(iii) if reasonably available, fidelity bonds or employee dishonesty insurance, covering officers, directors, employees, and other Persons who handle or are responsible for handling Association funds. Such bonds or insurance, if reasonably available, shall be in an amount consistent with the best business judgment of the Board of Directors, but in no event less than three (3) months assessments plus a reasonable amount to cover all or a reasonable portion of reserve funds in the custody of the Association at any time during the term of the bond; provided, however, fidelity coverage herein required may be reduced based on the implementation of financial controls that take one (1) or more of the following forms: (a) the Association or management company, if any, maintains a separate bank account for the working account and the reserve account, each with appropriate access controls and the bank in which funds are deposited sends copies of the monthly bank statements directly to the Association; (b) the management company, if any, maintains separate records and bank accounts for each association that uses its services and the management company does not have the authority to draw checks on, or to transfer funds from, the Association's reserve account; or (c) two (2) members of the Board of Directors must sign any checks written on the reserve account; and

(iv) such other insurance as the Board of Directors may determine to be necessary or desirable including, for example coverage of the following types of property contained within a Unit, regardless of ownership: (A) fixtures, improvements and alterations that are part of the building or structure; and (B) appliances, such as those used for refrigerating, ventilating, cooking, dishwashing, laundering, security or housekeeping.

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

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

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

(i) Insurance Deductibles. In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the Person or Persons who would be responsible for such loss in the absence of insurance. If the loss affects more than one (1) 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 the foregoing, 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 or Owners fail to pay the deductible when required under this Subparagraph, then the Association may pay the deductible and assess the cost to the Owner or Owners pursuant to Paragraph 8 of this Declaration; provided, however, where the deductible is for insurance required under the Act, no Owner shall be assigned more than Two Thousand Five Hundred Dollars (\$2,500), or such higher amount as authorized by the Act, as the cost of the deductible for any one (1) occurrence.

(j) Payment of Claims to Delinquent Owners. Notwithstanding anything to the contrary herein, in the event of an insured loss under the Association's master hazard insurance policy for which the Association receives from the insurer payment for a loss sustained by an Owner who is delinquent in the payment of assessments owed to the Association under Paragraph 10 hereof, then the Association may retain and apply such proceeds to the delinquency. Any surplus remaining after application of the proceeds to any delinquency shall be paid by the Association to the affected Owner.

(k) Coverage by Unit Owner. The insurance purchased by the Association shall not cover claims against an Owner due to accidents occurring within his, her or its Unit, nor casualty or theft losses to the contents of an Owner's Unit or Limited Common Elements. It shall be the obligation of the individual Owners, if such Owner so desires, to purchase and pay for insurance as to all such other risks not covered by the insurance carried by the Association.

12. REPAIR AND RECONSTRUCTION.

In the event of damage to or destruction of all or any part of the Condominium as a result of fire or other casualty, unless provided otherwise in this Declaration, the Board of Directors or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the structure. In the event of substantial damage or destruction, each holder of a first Mortgage shall be entitled to written notice of the

damage, and nothing in the Condominium Instruments shall be construed to afford a priority to any Owner with respect to the distribution of proceeds to any such Unit.

(a) Cost Estimates. As soon as is reasonably possible after a fire or other casualty causing damage to the Condominium, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring the structures (including any damaged Unit) to substantially the condition that 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 or insurance as the Board of Directors determines to be necessary.

(b) Source and Allocation of Proceeds. If the proceeds of insurance that the Association is required to obtain as provided in Paragraph 11 hereof are not sufficient to defray the costs of reconstruction and repair as determined by the Board of Directors, the additional costs shall be assessed against all Owners in accordance with the percentage of undivided interest in the Common Elements appurtenant to the Unit as set forth in Exhibit "B-1" attached hereto and incorporated herein by this reference; provided, however, if the Association has obtained insurance as provided in Paragraph 11 and the proceeds are not sufficient to defray the costs of reconstruction and repair of a Unit such cost shall be assessed against the Owner(s) of the Unit(s) damaged in proportion to the damage to the Units. These assessments shall not be considered a special assessment as described in Subparagraph 10(e). If there are surplus funds after repair and reconstruction is completed, such funds shall be common funds of the Association to be used as directed by the Board of Directors.

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

(d) Encroachments. Encroachments upon or in favor of Units that 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.

(e) Construction Fund. The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from assessments against Owners on account of such casualty shall constitute a construction fund that shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Paragraph to be disbursed by the Association in appropriate progress payments to such contractor(s), supplier(s), and personnel performing the work or supplying materials or services for the repair and reconstruction of the structures as are designated by the Board of Directors.

13. ARCHITECTURAL CONTROLS.

(a) During Declarant Control. Except as specifically authorized by this Paragraph, during the Declarant Control Period, there shall be no Architectural Control Committee and all encroachments onto the Residential Limited Common Elements or the Common Elements (but excluding the Commercial Limited Common Elements), exterior change, alteration or construction (including painting

and landscaping), and any erection, placement or posting of any object, sign, clothesline, speaker, playground equipment, light, fountain, personalized or customized exterior door mat, or thing on the exterior or roof of the Building, in any windows of the Residential Units (except window treatments as provided herein), or on any Residential Limited Common Elements or the Common Elements (but excluding the Commercial Limited Common Elements), must receive the prior written approval of Declarant. However, the following items shall be allowed:

- (i) a mezuzah or comparable religious symbol not larger than three inches (3") in width and nine inches (9") in height may be posted on the doorframe of a Residential Unit; and
- (ii) reasonable seasonal decorative lights may be displayed between Thanksgiving and January 15.

Granting or withholding such approval shall be within the sole discretion of Declarant. All references in the Condominium Instruments to the Architectural Control Committee or ACC shall refer to Declarant during the Declarant Control Period. Notwithstanding anything to the contrary stated herein, the initial improvements constructed on the Condominium and all architectural modifications thereto that are made by Declarant shall not be subject to approval pursuant to this Paragraph.

(b) After Declarant Control. After expiration of the Declarant Control Period, an Architectural Control Committee shall be appointed by the Board of Directors and no Owner, Occupant, or any other Person may make any encroachment onto the Residential Limited Common Elements or the Common Elements (but excluding the Commercial Limited Common Elements), or make any exterior change, addition, alteration or construction (including painting and landscaping), nor erect, place or post any object, sign, clothesline, speaker, playground equipment, light, fountain, flag, personalized or customized exterior door mat, or thing on the exterior or roof of the Building, in any windows of the Residential Units (except window treatments as provided herein), or on any Residential Limited Common Elements or the Common Elements (but excluding the Commercial Limited Common Elements), without first obtaining the written approval of the ACC. However, the following items shall be allowed:

- (i) a mezuzah or comparable religious symbol not larger than three inches (3") in width and nine inches (9") in height may be posted on the doorframe of a Residential Unit; and
- (ii) reasonable seasonal decorative lights may be displayed between Thanksgiving and January 15.

The standard for approval of such improvements shall include, but not be limited to, aesthetic consideration, materials to be used, harmony with the external design of the existing buildings, Units and structures, the location in relation to surrounding structures and topography, and the impact of such approval, if any, on the increase or decrease of sounds and vibrations between the Units and between the Units and the Common Elements. Notwithstanding the foregoing, Declarant shall not be required to obtain any approvals under this Paragraph for so long as Declarant shall own a Unit for sale.

(c) National Flags. Notwithstanding anything to the contrary herein, an Owner may display one (1) national flag of the United States not exceeding twelve (12) square feet in size on a flag holder located on each balcony, patio or courtyard assigned exclusively as a Limited Common Element to a Unit. No flag holder shall be affixed to the exterior façade of the Building. No flag shall hang over or otherwise protrude outside of the vertical plane formed by the exterior surface of the balcony, patio or courtyard wall. No flag shall be displayed in a manner inconsistent with any provision of the Freedom to Display the American Flag Act of 2005, or any applicable law. By taking title to a Unit, all Owners agree and

acknowledge that the Board, on behalf of the Association, has a substantial interest in protecting the aesthetic appearance of the Condominium and therefore may adopt additional reasonable restrictions pertaining to the time, place, or manner of displaying the flag of the United States.

(d) Alterations to the Interior of a Unit and/or Limited Common Elements Assigned to the Unit. Subject to the other provisions of this Declaration, alterations to the interiors of Units, relocation of the boundaries between adjoining Units, and subdivision of Units are subject to the following restrictions:

(i) Structural Alterations and Other Modifications. Notwithstanding anything to the contrary stated herein, no Owner or Occupant may make any of the following alterations to or within a Unit and/or a Limited Common Element assigned to the Unit without first making a complete application to the Architectural Control Committee pursuant to Subparagraph 13(d) below, and obtaining the prior written approval of the Architectural Control Committee: (A) an alteration that involves connecting to or relocating pipes, lines, conduits and/or other apparatus for access to common utilities (provided, however, an Owner shall not relocate or make any connection to a Common Element pipe, line, conduit and/or other apparatus for access to common utilities if such connection will impair or have an adverse effect to the utilities or service of utilities to another Unit); or (B) an alteration that requires penetration of any walls within a Unit and/or a Limited Common Element assigned to the Unit

In addition, each Owner and Occupant acknowledges and understands that the Unit has been designed to comply with the following minimum load requirements permitted by the building code: superimposed dead load of twenty-five (25) pounds per square foot; live load of forty (40) pounds per square foot for typical floor framing generally (includes the weight of partitions, ceiling, mechanical/electrical/plumbing and floor covering); live load of forty (40) pounds per square foot for sleeping areas; live load of sixty (60) pounds per square foot (reducible by up to 40%) for balconies with an area of less than one hundred (100) square feet; and a live load of one hundred (100) pounds per square foot (reducible by up to 40%) for roof terraces with an area of more than one hundred (100) square feet (collectively referred to as the "Load Specifications"). Therefore, no Owner or Occupant may make any alteration or improvement to a Unit and/or a Limited Common Element assigned to the Unit that places a load on any structural or load bearing portions of a Unit and/or a Limited Common Element assigned to the Unit that exceeds the foregoing Load Specifications (which may occur from activities including, but not limited to, the installation of thick setting tile or other heavy flooring materials or the placement or installation of any heavy improvements within a Unit and/or a Limited Common Element of the Unit) without first making a complete application to the Architectural Control Committee pursuant to Subparagraph 13(d) below, and obtaining the prior written approval of the Architectural Control Committee.

Notwithstanding anything to the contrary stated herein, no Owner or Occupancy may make any alteration within common walls shared by a Unit with another Unit that involves the installation or location of speakers, amplifiers, or any other similar items that create noise and/or vibrations.

Approval for an alteration to or within a Unit and/or a Limited Common Element assigned to the Unit described above shall not be granted by the Architectural Control Committee unless the Owner or Occupant of the Unit has presented to the Architectural Control Committee the following information and/or documentation, and any other information as the Architectural Control Committee may reasonably require: (1) a report or drawing prepared and certified by the structural engineer of record (or if such party is not reasonably available, a structural engineer licensed in the State of Georgia), which report or drawing shall demonstrate that such proposed alterations will not in any way affect or impair the structural soundness or integrity of the Unit or any of the adjoining Units; (2) building plans for the proposed alterations; (3) all necessary permits or approvals required

by governmental authorities for the proposed alterations; and (4) a certificate of insurance from applicant's contractor, which names the Association and the Owner of the Unit as an additional insured. In addition, within seven (7) days of completion of an approved alteration described above, the Architectural Control Committee shall be provided with a copy of the certificate of occupancy, and an inspection report prepared and certified by the structural engineer of record (or if such party is not reasonably available, a structural engineer licensed in the State of Georgia).

(ii) Relocation of Boundaries.

(A) Residential Units. An Owner may relocate the boundaries of his, her or its Residential Unit only in accordance with the provisions of Section 44-3-91 of the Act and this Declaration. As long as Declarant owns a Residential Unit for sale, an Owner must obtain the prior written consent of Declarant and the Board of Directors in order to relocate the boundaries of his, her or its Residential Unit. After Declarant no longer owns a Residential Unit for sale, an Owner must obtain the prior written consent only of the Board of Directors in order to relocate the boundaries of his, her or its Residential Unit. Declarant shall have the right to relocate boundaries between adjoining Residential Units owned by Declarant without the approval of the Board of Directors for as long as Declarant owns a Unit in the Condominium, and the Board of Directors shall, in such event, execute the required amendment to this Declaration.

(B) Commercial Units. Boundaries between adjoining Commercial Units may be relocated only in accordance with the provisions of O.C.G.A. § 44-3-91 and this Declaration. As long as Declarant owns a Commercial Unit for sale, an Owner must obtain the prior written consent of Declarant in order to relocate the boundaries of his or her Commercial Unit. After Declarant no longer owns a Commercial Unit for sale, no prior written consent is required in order to relocate the boundaries a Commercial Unit. Declarant shall have the right to relocate boundaries between adjoining Commercial Units owned by Declarant without the approval of the Board of Directors for as long as Declarant owns a Unit in the Condominium. The Board of Directors shall execute the required amendment to this Declaration if requested by Declarant or Owner and such relocation meets the requirements of this Subparagraph.

(iii) Subdivision of Units.

(A) Residential Units. No Residential Unit shall be subdivided into a smaller Residential Unit or Units.

(B) Commercial Units. An Owner may subdivide a Commercial Unit only in accordance with the provisions of O.C.G.A. § 44-3-92 and this Declaration. As long as Declarant owns a Commercial Unit for sale, an Owner must obtain the prior written consent of Declarant in order to subdivide his or her Commercial Unit. After Declarant no longer owns a Commercial Unit for sale, no prior written consent is required. Declarant shall have the right to subdivide a Commercial Unit owned by Declarant without the approval of the Board of Directors. The Board of Directors shall execute the required amendment to this Declaration if requested by Declarant or Owner and such subdivision meets the requirements of this Subparagraph.

(e) Applications. Applications for approval of any such architectural modification shall be in writing and shall provide such information as the ACC may reasonably require, including, but not limited to, the name, address, and phone number of any contractor or sub-contractor that will be performing work on

the Unit, and copies of all permits required under the laws and regulations of the appropriate jurisdiction. Once an application and all required information is received by the ACC, the ACC shall stamp the application as being complete and shall then forward to the applicant a written notice of application completion (the "Notice of Application Completion"). The ACC shall be the sole arbiter of such application and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction that is not in conformance with approved plans. The Board or ACC may publish written architectural standards for exterior and Common Element alterations or additions, and any request in substantial compliance therewith shall be approved; provided, however, each such requested change shall be in harmony with the external design of the existing buildings and Units and the location in relation to surrounding structures and topography of the vicinity.

In the event that the ACC fails to approve or to disapprove such application within forty-five (45) days after the date of the Notice of Application Completion, ACC approval will not be required and this Paragraph will be deemed complied with; provided, however, even if the requirements of this Paragraph are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement that is otherwise in violation of this Declaration, the Bylaws, or the rules and regulations of the Association.

(f) Appeal. In the event that the ACC or its designated representative disapproves any application or part thereof, an Owner shall have the right to appeal the ACC's decision to the Board of Directors. The Board shall rule on the appeal within forty-five (45) days of receiving written notice requesting an appeal from the Owner. In ruling on the appeal, the Board shall consider all relevant materials presented to it by either the Owner or the ACC, the decision of the ACC, and the application of the Owner to the ACC. The Board of Directors shall have the final authority to approve, disapprove, or conditionally approve or disapprove the application of the Owner. If the Board does not receive written notice from the Owner by certified mail requesting an appeal within fourteen (14) days from the date of the ACC's notice to the Owner of its decision, the decision of the ACC shall become final and all rights of appeal shall terminate and thereafter be void.

(g) Encroachments onto Common Elements. The ACC may, subject to this Paragraph, permit Owners to make encroachments onto the Common Elements as it deems acceptable in its sole and absolute discretion.

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

(i) Limitation of Liability. Review and approval of any application pursuant to this Paragraph is made on the basis of aesthetic considerations only, and the Declarant, the Association, the Board of Directors, the ACC, and the members of any of the foregoing, 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. In addition, Declarant, the Association, the Board of Directors, the ACC, and the members of any of the foregoing shall not be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Unit.

(j) No Waiver of Future Approvals. Each Owner acknowledges that the members of the Board of Directors and ACC will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. Each Owner further acknowledges that the Board of Directors and ACC may adopt different architectural standards for different parts of the Condominium, based on street visibility and location of the proposed modification in the building. The approval of either the Board of Directors or the ACC of any proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Board of Directors, or the ACC shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

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

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

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

(l) Commencement of Construction. All changes, modifications and improvements approved by the ACC hereunder must be commenced within six (6) months from the date of approval. If not commenced within six (6) months from the date of such approval, then such approval shall be deemed automatically revoked by the ACC, unless the ACC gives a written extension for commencing the work. All work approved by the ACC hereunder shall be completed in its entirety within ninety (90) days from the date of commencement, unless otherwise agreed in writing by the ACC. All approved changes, modifications, and improvements must be completed in their entirety. An Owner may not construct only a portion or part of an approved change, modification, or improvement.

(m) Signs, Advertising Posters, Political Placards, Banners, Stickers, Billboards, Speakers, Lighting, Awnings, Canopies or Shutters.

(i) Residential Units. Except as may be provided for herein or as may be required by legal proceedings, and except for signs that may be erected by Declarant related to the development and sale of Units, no signs, advertising posters, flyers, political placards or billboards of any kind shall be erected, placed, or permitted to remain on the Condominium without the prior written consent of the Board or its designee. The Board also shall have the

authority to adopt regulations permitting temporary signs on the front door of a Residential Unit announcing births, birthdays or other events for limited periods of time. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association.

(ii) Commercial Units. Signs related to business activities in Commercial Units may be erected only with the prior written approval of the ACC. The Owners of the Commercial Units shall be permitted to erect signs identifying the business as set forth herein; provided, however, such signs shall comply with all relevant zoning ordinances.

(A) Signs related to business activities in Commercial Units may be erected only if the signs comply with the sign requirements set forth on Exhibit "E" attached hereto and incorporated herein by this reference ("Signage Control – Commercial Units") or with the prior written approval of the ACC; provided, however, such signs shall also comply with all relevant zoning ordinances. Notwithstanding anything to the contrary stated in this Declaration, for as long as Declarant owns a Unit in the Condominium, Declarant shall have the right to amend Exhibit "E" without the prior written consent of the Association or any Owner.

(B) Variance. If, during the period that Declarant owns at least one (1) Commercial Unit for the purposes of sale, Declarant desires to obtain a variance from local laws relating to signs, advertising posters, political placards, banners, stickers, billboards, speakers, lighting, awnings, canopies or shutters to be placed on the Condominium, Declarant shall be permitted to seek, and if necessary, shall be authorized to act on behalf of the other Owners in seeking, such a variance without the prior written consent of the Association or any Owner, and Declarant's efforts to obtain such a variance shall not be opposed by the Association or any Owner, and if Declarant receives a variance, Declarant may cause such nonconforming signage to be placed on the Condominium.

(C) "Grandfathered" Items. Notwithstanding anything to the contrary stated herein, any and all signs, advertising posters, political placards, banners, flags, stickers, billboards, speakers, lighting, awnings, canopies or shutters that are approved by the Architectural Control Committee shall be deemed to be "grandfathered" and shall not be removed without the written consent of the benefited Owner or Occupant of a Commercial Unit. Moreover, the provisions of this Subparagraph 13(m) shall not apply to Declarant.

(n) Antennae and Satellite Dishes. Except as provided below, no satellite dish, antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained on any portion of the Condominium, including the Unit or Limited Common Elements; provided, however, the Association shall have the right to erect, construct and maintain such devices. The following shall apply to all Owners:

(i) No transmission antenna, of any kind, may be erected anywhere on the Condominium, including the Units, without written approval of the Association or the Architectural Control Committee.

(ii) No direct broadcast satellite (DBS) antenna or multi-channel multi-point distribution service (MMDS) antenna larger than one (1) meter in diameter shall be placed,

allowed or maintained upon the Condominium, including the Units and the Limited Common Elements.

(iii) DBS and MMDS satellite dishes or antennae one (1) meter or less in diameter and television broadcast service antennae may only be installed in accordance with Federal Communication Commission (FCC) rules and the rules and regulations of the Association, both as may be amended from time to time.

In the event of a transfer of the Unit which includes a satellite dish or antenna, the grantee shall assume all responsibility for the satellite dish or antenna and shall comply with this Declaration, the Bylaws and the rules and regulations regarding satellite dishes and antennae, including, but not limited to, those requirements relating to maintenance and removal of satellite dish or antenna.

To the extent allowed by FCC rules and regulations, the Association shall maintain at its expense a master DBS dish or antenna system that Owners and Occupants shall be required to utilize in lieu of individual DBS dishes and antennae.

(o) Replacing Carpet with Tile or Hardwood Floors. Other than Declarant, no Owner, Occupant, or any other Person may replace carpeting with a tile, marble, vinyl, hardwood floor, or other hard surfaced flooring material, on the interior floor of a Residential Unit that is located immediately above another Unit, without first obtaining written approval of Declarant or the Architectural Control Committee, as applicable, as set forth in this Paragraph. Among other factors, Declarant or the Architectural Control Committee, as applicable, may consider whether the change will cause noise to any Unit below that will exceed the average noise level in Units below Residential Units with carpeted floors and that the weight of such proposed flooring is appropriate and will not cause problems to the structure or subflooring.

The Owner applying for such approval shall provide Declarant or the Architectural Control Committee, as applicable, with information regarding these factors, as well as other information requested by Declarant or the Architectural Control Committee regarding the proposed flooring and its effect; provided, however, the noise level requirements shall be considered to be met if the Owner provides a sound transmission test that the proposed flooring will create a noise level less than a standard level set by reasonable regulation of Declarant or the Architectural Control Committee, as applicable. Notwithstanding anything to the contrary stated herein, at least eighty percent (80%) of each room within a Residential Unit located above another Residential Unit (excluding the kitchen and bathrooms) shall have area rugs or carpet unless the flooring is sound proofed so as not to exceed the noise level in Residential Units with carpeted floors.

14. USE RESTRICTIONS.

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

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

(b) Use of Units.

(i) Residential Units. Each Residential Unit shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Residential Unit or any part of the Condominium (other than in a Commercial Unit, as more specifically set forth in Subparagraph (ii) below), except that the Owner or Occupant residing in a Residential Unit may conduct ancillary business activities within the Residential Unit so long as, in the opinion of the Board of Directors:

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

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

(C) the business activity is legal and conforms to all zoning requirements for the Condominium;

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

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

(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 determined in the Board's sole and absolute discretion; and

(G) the business activity does not result in a materially greater use of Common Element facilities or Association services.

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 that 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: (1) such activity is engaged in full or part-time; (2) such activity is intended to or does generate a profit; or (3) a license is required therefor.

(ii) Commercial Units. Each Commercial Unit shall be used only for such lawful commercial use or business purposes permitted by applicable zoning ordinance, use restrictions, and this Declaration, provided such commercial or business activity does not constitute a nuisance or hazardous or offensive use, or threaten the security or life-safety of other residents of the Condominium, as may be determined in the reasonable discretion of the Board. There shall be no residential use of a Commercial Unit. An activity that is permitted under applicable zoning ordinances and this Declaration shall not constitute a public or private nuisance. Except as

otherwise specifically provided for herein, no tenant, employee, visitor, guest or invitee of a Commercial Unit shall have access, ingress, or egress to or through any portion of the Condominium except said Commercial Unit and the Commercial Limited Common Elements.

(A) Prohibited Uses. Notwithstanding the foregoing, no part of a Commercial Unit may be used for any of the following purposes:

- (1) cinema/movie theater;
- (2) bowling alley;
- (3) skating rink;
- (4) video game room, amusement gallery or amusement arcade;
- (5) pool hall;
- (6) massage parlor or facility that hosts obscene, nude or semi-nude live performances;
- (7) adult book store or adult video store where obscene, pornographic or "adult" materials or paraphernalia, including, but not limited to, movies, videotapes, devices, books, magazines, or other related items are sold or displayed;
- (8) facilities used for the sale, display or advertisement of any paraphernalia used in the preparation or consumption of controlled substances;
- (9) facilities used for the operation of any liquor store, package store, or other store primarily selling and/or manufacturing alcoholic beverages;
- (10) funeral home or store selling caskets;
- (11) industrial or manufacturing uses;
- (12) automotive supplies and parts; and
- (13) a restaurant serving food of the type which would require the installation of additional ventilation equipment in the Commercial Unit and/or the use of grease traps.

(B) Permitted Uses. Notwithstanding the foregoing, Commercial Units may be used for any of the following purposes:

- (1) tailoring, custom dressmaking or other millinery establishments;
- (2) antique store or art gallery;
- (3) small shop selling grocery or convenience items;
- (4) office;

(5) a day spa providing services such as skin care, nail care, and therapeutic massage;

(6) coffee shop;

(7) restaurants (not otherwise prohibited by Subparagraph 14(b)(ii)(A)(13) above); and

(8) uses that are ancillary to the permitted uses specified herein.

(C) Proposed Uses. Any proposed use of any part of a Commercial Unit that is not prohibited in Subparagraph (A) above but is not specified as a permitted use in Subparagraph (B) above, shall be submitted for the review, consideration and approval or disapproval of the Board of Directors.

(c) Number of Occupants. The maximum number of Occupants in a Residential Unit shall be limited to two (2) people per bedroom in the Residential Unit (as such bedrooms are depicted on Floor Plans). If an Owner of a Residential Unit is a corporation, partnership, trust or other legal entity not being a natural person, the entity shall designate in writing to the Board of Directors the name(s) of the person(s) who will occupy the Residential Unit. The designated Person(s) to occupy the Residential Unit may not be changed more frequently than once every six (6) months without the express written consent of the Board as determined in the Board's sole discretion. Notwithstanding anything to the contrary stated herein, no Owner other than Declarant may permit his or her Residential Unit to be occupied for more than ten (10) consecutive days without the Owner also residing in the Residential Unit.

(d) Use of Common Elements Including Amenities.

(i) General. There shall be no obstruction of the Common Elements, nor shall anything be kept on, parked on, stored on or removed from any part of the Common Elements without the prior written consent of the Board, except as specifically provided herein. With prior written Board approval, and subject to any restrictions imposed by the Board (including restrictions limited the hours of operation), an Owner or Occupant may reserve portions of the Common Elements for use for a period of time as set by the Board. Use of the Common Elements may also be subject to other rules and regulations of the Association. Any such Owner or Occupant who reserves a portion of the Common Elements as provided herein shall assume, on behalf of himself, herself or itself, and his, her or its guests and family, all risks associated with the use of the Common Elements and all liability for any damage or injury to any Person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Association, its agents or employees. There shall be no use of the roof of the Building by an Owner or Occupant or their respective family members, guests, tenants, invitees, agents or contractors; provided, however, the Association and its agents and contractors shall have access to the roof for performing its maintenance and repair responsibility. Furthermore, there shall be no gardening or landscaping on the Common Elements by Owners or Occupants without the prior written consent of the Board. This Paragraph shall not apply to Declarant for so long as Declarant shall own a Unit for sale.

Notwithstanding anything to the contrary stated herein, an Owner shall not be permitted to use the Common Elements, including the amenities, if such Owner's Unit is occupied by Occupants other than the Owner. Furthermore, in accordance with Subparagraph 10(c)(iv) hereof, the right of an Owner and/or Occupant to use the Common Elements may be suspended by the Association,

acting through the Board, if assessments and other charges or any part thereof remain unpaid more than thirty (30) days after they become delinquent.

This Subparagraph shall not apply to the Declarant, for so long as Declarant owns any Unit.

(ii) Planned Gathering. Use of the Common Elements by an Owner or Occupant and more than six (6) guests shall constitute a "planned gathering," which shall be registered with the Board. In order to conduct a "planned gathering" on a portion of the Common Elements, an Owner or Occupant shall first reserve the desired portion of the Common Elements in accordance with Subparagraph (i) above.

(iii) Use by Occupant(s) of a Guest Suite. Notwithstanding anything to the contrary stated herein, all Occupants of a Guest Suite shall be entitled to use and enjoy the Association's amenities on the same terms and conditions as all other Owners, except that the Association may require said Occupants of a Guest Suite to carry and present a temporary pass issued by the Association to gain access to the amenities.

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

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

(ii) Balconies and Patios – Residential Units. No objects other than potted plants and patio furniture shall be placed on a balcony or patio. This prohibition applies to objects such as, but not limited to, grills (excluding electric grills), umbrellas, bicycles, laundry garments, towels and objects other than potted plants and patio furniture, except as may be authorized by the Board. Objects shall not be permitted to hang over or be attached to any exterior balcony or patio wall or to otherwise protrude outside of the vertical plane formed by the exterior surface of the balcony or patio wall. Penetration of the surfaces of a balcony or patio wall or floor is prohibited. Enclosure

or screening of a balcony or patio is also prohibited. As used herein, "enclosure" shall mean the permanent enclosure of a balcony or patio into the heated and cooled space within the boundaries of a Unit. Notwithstanding the foregoing, only patio tables and chairs constructed of contemporary-styled natural teak (as defined by the Architectural Control Committee in its reasonable discretion), cast aluminum or wrought iron may be placed on a balcony. Patio tables and chairs constructed of other materials and patio furniture padding covered in synthetic materials are prohibited;

Furthermore, notwithstanding anything to the contrary stated herein, it shall be the sole responsibility of the Owner or Occupant of each Unit to remove all permitted objects from a balcony or patio during periods of high winds to prevent permitted objects from being blown from a balcony or patio and to refrain from engaging in any activity on a balcony or patio that may cause an object to fall from a balcony or patio.

(iii) Commercial Patio Areas. The use of the Commercial Patio Areas shall be subject to the rules and regulations adopted by the Board of Directors, as amended from time to time; and

(iv) Courtyards – Residential Units. Notwithstanding anything to the contrary stated in this Subparagraph 14(e), the restrictions contained in Subparagraph (ii) above shall not be applicable to any courtyard attached to and serving a Residential Unit located on the 6th floor of the Building, and objects (other than those permitted in this Subparagraph 14(e)) may be placed within such courtyards with the consent of the Architectural Control Committee, which consent shall not be unreasonably withheld, conditioned or delayed.

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

In addition, noxious, destructive or offensive activity shall not be carried on within any portion of the Condominium. No Owner or Occupant of a Unit may use or allow the use of the Unit or any portion of the Condominium at any time, in any way or for any purpose which may endanger the health, unreasonably annoy or disturb or cause embarrassment, or discomfort to other Owners or Occupants, or in such a way as to constitute, in the sole opinion of the Board of Directors, a nuisance. Furthermore, no Owner or Occupant of a Unit may use or allow the use of a Unit or the Common Elements in any manner which creates disturbing noises (as more particularly described in Subparagraph (g) below) that will, in the sole discretion of the Board of Directors, interfere with the rights, comfort or convenience of the other Owners or Occupants. Nothing herein, however, shall be construed to affect the rights of an aggrieved Owner to proceed individually for relief from interference with his, her or its property or personal rights.

No Owner, Occupant or agent of such Owner or Occupant shall do any work which, in the reasonable opinion of the Board of Directors or its designee, would jeopardize the soundness or safety of the Condominium or any structure thereon, would reduce the value thereof, or would impair any easement or other interest in the real property thereto, without, in every such case, the prior unanimous, written consent of all members of the Association and their respective Mortgagees.

No damage to or waste of the Common Elements, or any part thereof, shall be permitted by any Owner or member of his, her or its family or any invitee of any Owner. Each Owner shall indemnify and hold the Association and the other Owners harmless against all loss to the Association or other Owners

resulting from any such damage or waste caused by such Owner, members of his, her or its family, guests, invitees, or Occupants of his, her or its Unit.

(g) Restrictions on Sound Producing Activities.

(i) General. No representations are made that the Unit is or will be soundproof or free from vibrations. Sound and vibrations may be transmitted from one Unit to another Unit and from the Common Elements to a Unit. Sound and vibration transmission between Units and between Units and Common Elements is inherent in multi-family construction and residents should expect to hear sounds and vibrations from sources outside of their Units.

Examples of sound and vibration producing activities that arise from a source outside of a Unit (including both the Common Elements and other Units), but that which may be heard or felt inside said Unit, include without limitation the following: the operation or use of elevators; air conditioning compressors; exhaust fans; drainage lines; smoke alarms; trash compactors and trash chutes; toilets; exercise equipment; plumbing systems; jetted tubs; televisions; computers; stereos; alarm clocks; alarm systems; hair dryers and other similar equipment; pets barking; and children and adults walking, running, playing, and talking; playing musical instruments; and engaging in other normal human activities.

(ii) Activities Must Conform to Decibel Standard.

(A) General Decibel Standards. Except as may be otherwise provided herein, no Owner or Occupant shall engage in any activity, on the Condominium property (or allow family members, guests contractors and invitees to do the same) that results in sound levels in other Units to be above the decibel levels permitted for the time periods set forth below:

Days of Week	Time of Day	Maximum Allowable Limits
Monday through Thursday (excluding federal holidays)	<u>DAY</u> 8:00 AM – 10:00 PM	45 dB(A) ¹ 65 dB(C) ²
	<u>NIGHT</u> 10:00 PM – 8:00 AM	35 dB(A) ¹ 60 dB(C) ²
Fridays & Saturday (excluding federal holidays)	<u>DAY</u> 8:00 AM – 11:00 PM	45 dB(A) ¹ 65 dB(C) ²

¹ The A-weighted sound level takes all of the frequencies that the human ear can hear, weights them according to how well the human ear can hear that frequency, and then adds them together to get the total decibel level. This sound level is referred to as “dB(A)”. The human ear does not hear very well at the low and high end frequencies. Therefore, the A-weighted sound level subtracts a large weighting from these high and low values.

² The C-weighted sound level takes all of the frequencies that the human ear can hear and applies a very small weighting to the extremely low and extremely high frequencies. This sound level is referred to as “dB(C),” and this value is used when one wants to get a better assessment of how much low frequency noise is present, such as booming bass music.

Days of Week	Time of Day	Maximum Allowable Limits
	<u>NIGHT</u> 11:00 PM – 9:00 AM on Saturday	35 dB(A) ¹ 60 dB(C) ²
Sunday and federal holidays	<u>DAY</u> 9:00 AM – 10:00 PM	45 dB(A) ¹ 65 dB(C) ²
Sunday and federal holidays	<u>NIGHT</u> 10:00 PM – 8:00 AM on Monday	35 dB(A) ¹ 60 dB(C) ²

(B) Additional Information to Interpret Decibel Standard.

(1) A determination of whether an activity taking place outside of a Unit is generating sound inside a Unit above the permissible decibel limits within a Unit shall be measured at any point within the affected Unit at least one foot (1') away from the wall, floor or ceiling closest to the direction of the offending noise source.

(2) If the existing background ambient sound level, not including the offending noise source, is already higher than the above limits due to typical residential sounds (including, but not limited to, air conditioners, refrigerators, exterior traffic, and similar sounds), then the offending noise source must cause an increase of least three decibels before it shall be considered a violation of the permissible decibel limits within a Unit.

(C) Exceptions. Notwithstanding the above, the limitations against the generation of sound shall not apply to:

(1) Noise from emergency response personnel (including, but not limited to, police, fire and emergency medical technicians) and their corresponding equipment;

(2) Activities engaged in by the Association or its agents or invitees including, but not limited to, the maintenance of the Condominium, approved celebrations on the Condominium, fire drills, and other activities relating to the health, safety and welfare of the Condominium and its residents;

(3) Construction activities and other activities of the Declarant, and its contractors, subcontractors, representatives, agents, associates, employees, tenants, and successors and assigns;

(4) Construction and re-modeling activities within a Unit, provided that such activities are performed in accordance with this Declaration and all applicable laws and only during the portion of week days (excluding federal holidays) where higher decibel level sounds are permitted; and

(5) Special short term activities for which an Owner or Occupant has requested and received written permission of the Board of Directors.

(iii) Additional Rules and Regulations of the Association. The Board of Directors may, but shall not be required to, adopt additional rules and regulations to central sounds and vibrations arising from the Common Elements (including Limited Common Elements) or the Units dealing with sound and/or vibrations other than A-weighted sound and C-weighted sound.

Notwithstanding anything to the contrary stated in this Declaration, an Owner, Occupant, and their respective family members, guests, contractors and invitees are prohibited from engaging in any activity that either constitutes a nuisance or violates any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body (even where such activity does not exceed the decibel ratings set forth above). No live music and/or other entertainment shall take place on a Commercial Patio Area. Notwithstanding the foregoing, ambient, piped music may be utilized on a Commercial Patio Area provided that it does not exceed the decibel ratings set forth above.

(h) Firearms and Fireworks. The display or discharge of firearms or fireworks on the Common Elements or Limited Common Elements is prohibited; provided, however, the display of lawful firearms on the Common Elements or Limited Common Elements is permitted by law enforcement officers and also is permitted for the limited purpose of transporting the firearms across the Common Elements or Limited Common Elements to or from an Owner's Unit. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size, and shall also include, without limitation, slingshots, archery, and other projectile emitting devices. The term "fireworks" shall include those items as listed in O.C.G.A. § 25-10-1, as amended.

(i) Animals. No Owner or Occupant may keep any animal on any portion of the Condominium except as expressly permitted in this Subparagraph. Each Owner or Occupant (regardless of the number of joint Owners and/or Occupants) of a Residential Unit shall keep no more than two (2) dogs and/or cats (for a combined total of two (2)) per Residential Unit. In addition, a reasonable number of other generally recognized household pets, as determined in the Board's sole discretion, weighing less than two (2) pounds each (including by way of illustration, but not limitation, fish, gerbils and small birds) may be kept in a Residential Unit. The keeping of pets on the Condominium shall be subject to the rules and regulations adopted by the Board.

Notwithstanding anything to the contrary contained herein, no Owner or Occupant of a Commercial Unit may keep on any portion of the Condominium any animals or birds, including, but not limited to, the following: cats, dogs, reptiles, insects, vermin, spiders, or rabbits. Notwithstanding anything to the contrary herein, an Owner or Occupant of a Commercial Unit may keep fish as pets in a properly maintained tank or aquarium provided that the same are not being kept or raised for commercial purposes. Notwithstanding the foregoing, animals that have been trained to assist Owners, Occupants or their guests with disabilities shall not be prohibited from the Commercial Units in the Condominium while providing assistance to said individuals.

No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose, and no structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Common Elements, including Limited Common Elements, without the prior written approval of the Architectural Control Committee. All pets (including cats) must be carried, or kept on a leash of no more than six (6) feet in length and in the physical control of a responsible person, at all times when outside of a Unit. Access over the Common Elements with a pet, for the purposes of entering or exiting the Building,

shall be conducted using the most direct route. Feces left upon the Common Elements by pets must be immediately removed by the owner of the pet or the person responsible for the pet.

No potbellied pigs or snakes may be brought onto or kept on the Condominium at any time. In addition, other animals determined in the Board of Director's sole discretion to be dangerous or potentially dangerous shall not be brought onto or kept on the Condominium at any time. The Board of Directors may require that any animal that, in the Board of Director's opinion, endangers or potentially may endanger the health of any Owner or Occupant or creates or potentially may create a nuisance or unreasonable disturbance, be permanently removed from the Condominium upon seven (7) days written notice. If the Owner or Occupant fails to do so, the Board of Directors may (but shall not be obligated to) remove the pet. Any pet that, in the Board of Director's sole discretion, presents an immediate danger to the health, life-safety or property of any community member may be removed by the Board of Directors without prior notice to the pet's owner; provided, however, that the Association, and their directors, officers, and agents shall have no liability for any decision not to remove such a pet.

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

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

Notwithstanding anything to the contrary stated herein, with respect to the handicap parking spaces that may be assigned as Limited Common Elements and shown on the Floor Plans as "HC" or shown as "handicap" or "disabled" parking, such handicap parking spaces shall be assigned subject to the rights of Declarant (for so long as Declarant owns a Unit) or the Association (at such time when Declarant no longer owns a Unit) requiring the Owner to whose Unit such handicap parking space has been assigned as a Limited Common Element (hereinafter, the "Original Owner") to grant a license to use such handicap parking space to another Owner (hereinafter, the "Disabled Owner"), provided that (i) the Disabled Owner (or his, her or its Occupant if such Occupant is leasing such Owner's Unit pursuant to Paragraph 15 of this Declaration) qualifies under applicable laws to use a handicap parking space in public facilities, (ii) the Disabled Owner provides the Original Owner with a license to use the Disabled Owner's parking space located in the Condominium, and (iii) upon such time that the Disabled Owner (or his, her or its Occupant) no longer qualifies as provided in subsection (i) hereof, the licenses shall automatically expire and the Original Owner and the Disabled Owner shall use their respective, original parking spaces.

For so long as Declarant owns a Unit, Declarant may sell more parking spaces (which parking spaces shall thereafter be Limited Common Elements appurtenant to the Unit to which they have been sold) to an Owner and may adopt rules regulating the use of unassigned parking spaces.

Vehicles permitted under this Subparagraph may be parked only in designated, lined parking spaces or other areas authorized in writing by the Board. The Board of Directors may adopt rules and regulations regarding the use of any Common Element parking spaces, including spaces designated for use by guests of a Residential Unit Owner or Occupant.

Between the hours of 10:00 a.m. and 5:00 p.m. parking space numbers R1 through R12, as shown on the Floor Plans, shall be reserved for the exclusive use of the Owner of a Commercial Unit or tenant

thereof, the family members of the Owner or tenant of the Commercial Unit, the employees of the Owner or tenant of the Commercial Unit, and the invitees of the Owner or tenant of the Commercial Unit. Between the hours of 5:00 p.m. and 10:00 a.m. any Owner, Occupant, family member, guest, tenant or invitee of an Owner or Occupant of a Residential Unit may park in parking space numbers R1 through R7, R11 through R13, and R25 through R27, all as shown on the Floor Plans, on a first-come, first-served basis. Notwithstanding the above, customers and clients of the Owner or tenant of a Commercial Unit shall be prohibited from parking in any Limited Common Element parking space assigned to a Residential Unit at all times. Spaces not assigned as a Limited Common Element or reserved for use by Commercial Units are available anytime on a first-come, first-served basis.

Disabled and stored vehicles are prohibited from being parked on the Condominium. For purposes hereof, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously inoperable. A vehicle shall be considered "stored" if it remains on the Condominium without being driven for fourteen (14) consecutive days or longer without prior written Board permission.

Boats, trailers, jet-skis and trailers for same, panel trucks, buses, trucks with a load capacity of one (1) ton or more, vans (excluding vans used by handicapped persons, mini-vans or sport utility vehicles used as passenger vehicles and receiving a "car" or "passenger vehicle" classification by the Georgia Department of Motor Vehicles), recreational vehicles (RVs and motor homes), vehicles used primarily for commercial purposes, and vehicles with commercial writings on their exteriors other than Sheriffs, Marshals, or police officers' vehicles marked as such, are also prohibited from being parked on the Condominium, except in areas, if any, that may be designated by the Board as parking areas for particular types of vehicles. Notwithstanding the above, trucks, vans, commercial vehicles and vehicles with commercial writings on their exteriors shall be allowed temporarily on the Common Elements during normal business hours for the purpose of serving any Unit or the Common Elements; provided, however, no such vehicle shall remain on the Common Elements overnight or for any purpose unless prior written consent of the Board is first obtained.

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

If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's Unit or parking space, is obstructing the flow of traffic, is parked on any grassy area, is parked in a parking space that has been assigned as exclusively serving another Unit, or otherwise creates a hazardous condition, no notice shall be required and the Board or agent of the Association may have the vehicle towed immediately. If a vehicle is towed in accordance with this Subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any Person for any claim of damage as a result of the towing activity. 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 or boot.

(k) Heating and Cooling of Units. In order to prevent breakage of water pipes during colder months of the year and the growth of mold and mildew during warmer months of the year resulting in damage to any portion of the Condominium, increased Common Expenses, and increased insurance premiums or cancellation of insurance policies due to numerous damage claims, the thermostats within

the Units shall be maintained at a setting of no less than fifty-five degrees (55°) Fahrenheit and no more than seventy-eight degrees (78°) Fahrenheit (except during power failures or periods when heating equipment is broken). Owners and Occupants of Units shall take all steps possible on a timely basis to keep heating and cooling equipment, including, but not limited to, the thermostats, in good working order and repair. The Board of Directors may fine any Owner or Occupant and/or may cause the water service to the violator's Unit to be discontinued for violation of this Subparagraph, in addition to any other remedies of the Association.

(l) Rubbish, Trash, and Garbage. All rubbish, trash and garbage shall be regularly removed from a Unit and shall not be allowed to accumulate therein. No rubbish, trash or garbage shall be placed on the Common Elements (except for those portions of the Common Elements designated as recycling areas) or Limited Common Elements outside of the Unit, temporarily or otherwise, and shall be moved to the Condominium trash facilities for collection, or otherwise removed from the Condominium by an Owner or Occupant. Notwithstanding anything to the contrary stated herein, only ordinary household trash shall be disposed of in sealed trash bags (not greater than 13-gallon trash bags) and placed in the trash chute. Cardboard boxes and other large bulky items that do not fit within a 13-gallon trash bag shall be moved to the Condominium trash facilities for collection, or otherwise removed from the Condominium by an Owner or Occupant. All Owners and Occupants shall refrain from using the trash chute between the hours of 10:00 p.m. and 8:00 a.m. In addition, all Owners and Occupants acknowledge that use of the trash chute may create noise and vibration, and that such noise and vibration shall not constitute an interference or disruption to the use and quiet enjoyment of a Unit.

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

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

(o) Window Treatments. The color of window treatments visible from the outside of any portion of a Residential Unit shall be backed in a lining of white or off-white. Under no circumstances shall there be allowed a canopy, awning or sign to be placed by an Owner on the exterior of a Residential Unit or over its balcony.

(p) Grilling. The use of outdoor grills on any portion of the Condominium shall be governed by state laws and local ordinances having jurisdiction over the Condominium.

(q) Abandoned Personal Property. Personal property, other than vehicles as provided for in Subparagraph 14(i), shall not be kept, or allowed to remain for more than one (1) hour upon any portion of the Common Elements, other than on a Limited Common Element, without prior written permission of the Board of Directors. If the Board of Directors determines that a violation exists, then, the Board of Directors may remove and either discard or store the personal property in a location that the Board of Directors may determine and shall have no obligation to return, replace or reimburse the owner of the property; provided, however, in such case, the Board of Directors shall give the property owner, if known, notice of the removal of the property and the disposition of the property within twenty-four (24) hours after the property is removed.

Neither the Association nor any officer or agent thereof shall be liable to any Person for any claim of damage resulting from the removal activity in accordance herewith. The Board of Directors may elect to

impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

(r) Sale Period. Notwithstanding any provisions contained in this Declaration to the contrary, during the period of the sale of the Units it shall be expressly permissible for Declarant, its contractors, agents, employees, assigns and representatives, to maintain and carry on, upon such portion of the Condominium as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the completion and sale of the Units, including, but without limitation, business offices, signs, model Units and sales offices. The right to maintain and carry on such facilities and activities shall include specifically the right to use the parking facilities on the Condominium for such purposes and to use the Units owned by Declarant as model Units and as offices for the sale of the Units and related activities.

(s) Move In/Move Out. An Owner or Occupant shall not move furniture, personal property, construction materials, and other over-sized items in or out of the Condominium except during such hours and according to requirements to be determined by the Board of Directors. Furthermore, an Owner or Occupant shall reserve a date and time with the Board of Directors to use the elevators for moving furniture, personal property, construction materials, and other over-sized items in or out of the Condominium, and during such use of the elevators, the walls of the elevators being used for such purpose shall be covered with padded blankets. The Board of Directors, in its sole discretion, may require a non-refundable security deposit prior to using an elevator for moving furniture, construction materials or other over-sized items. Notwithstanding anything to the contrary stated herein, an Owner or Occupant shall not leave unattended any furniture, personal property, construction materials, and other over-sized items on any portion of the Common Elements for any period of time.

(t) Life-Safety Systems. Owners and Occupants shall not tamper with or disengage any portion of the life-safety systems that serve the Condominium including, without limitation, the sprinkler heads and all branch and feed lines that support such sprinkler heads, and all fire control devices (such as smoke detectors and call boxes), regardless of whether such items are located within the boundaries of a Unit.

(u) Water Beds. No Owner or guest, lessee, invitee or Occupant of a Unit may keep a waterbed in the Condominium building or in his Unit.

15. LEASING.

(a) Residential Units.

(i) General. In order to preserve the character of the Condominium as predominantly owner occupied and to comply with the eligibility requirements for financing in the secondary mortgage market, the leasing of Units shall be governed by the restrictions imposed by this Paragraph. Except as provided herein, the leasing of Units shall be prohibited. "Leasing," for the purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any Person other than the Owner. Notwithstanding the foregoing, "Leasing" shall not include occupancy by a roommate of an Owner who occupies a Residential Unit as such Owner's primary residence. Owners desiring to lease their Units may do so only if they have applied for and received from the Board of Directors either a "Leasing Permit" or a "Hardship Leasing Permit." Such a permit, upon its issuance, will allow an Owner to lease his, her or its Residential Unit provided that such Leasing is in strict accordance with the terms of the permit and this Paragraph. The Board of Directors shall have the authority to establish conditions as to the duration and use of such permits consistent with this Paragraph. All Leasing Permits and Hardship Leasing Permits

shall be valid only as to a specific Owner and Residential Unit and shall not be transferable between either Residential Units or Owners, but shall be transferable to successors in title to the same Residential Unit.

(ii) Leasing Permits. The request of a Person who has entered into a binding purchase and sale agreement to acquire a Residential Unit or of an Owner for a Leasing Permit for a Residential Unit shall be approved if current, outstanding Leasing Permits have not been issued for more than twenty percent (20%) of the total number of Residential Units in the Condominium. A Leasing Permit shall be automatically revoked upon the happening of any of the following events:

(A) the failure of a purchaser to close on the acquisition of the Residential Unit as contemplated in the purchase and sale agreement for any reason whatsoever;

(B) the failure of an Owner to lease his, her or its Residential Unit within ninety (90) days of the Leasing Permit having been issued or the failure of a purchaser to lease his, her or its Residential Unit within ninety (90) days after the date of the closing of the Residential Unit;

(C) the failure of an Owner to have his, her or its Residential Unit leased for any consecutive ninety (90) day period thereafter;

(D) the Residential Unit is marketed for sale (including but, not limited to, listing the Residential Unit or advertising the Residential Unit for sale in any real estate listing service and/or publication, on any online electronic medium and on any newspaper, radio, television or any other medium for advertising) unless there is an existing binding lease agreement for the Residential Unit at the time;

(E) the transfer or conveyance of the Residential Unit to a third party unless there is an existing binding lease agreement for the Residential Unit at the time of the transfer or conveyance; or

(F) the occurrence of the date referenced in a written notification by the Owner to the Association that the Owner will, as of said date, no longer need the Leasing Permit.

If current Leasing Permits have been issued for more than twenty percent (20%) of the total number of Residential Units, no additional Leasing Permits shall be issued (except for hardship Leasing Permits) until the number of outstanding current Leasing Permits falls below twenty percent (20%) of the total number of Residential Units in the Condominium. Owners and purchasers who have entered into a binding purchase and sale agreement to acquire a Residential Unit who have been denied a Leasing Permit shall automatically be placed on a waiting list for a Leasing Permit and shall be issued the same if they so desire when the number of current outstanding Leasing Permits issued falls to twenty percent (20%) or less of the total number of Residential Units in the Condominium. The issuance of a hardship Leasing Permit to an Owner shall not cause the Owner to be removed from the waiting list for a Leasing Permit. An Owner who has been placed on the waiting list for a Leasing Permit shall not transfer his, her or its position on the waiting list.

(iii) Hardship Leasing Permits. If the failure to lease will result in a hardship, the Owner may seek to lease on a hardship basis by applying to the Board of Directors for a Hardship

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

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

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

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

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

(1) Compliance with Declaration, Bylaws, and Rules and Regulations.

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

Any violation of this Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any guest of lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of this Declaration, Bylaws, and/or the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. If the Association proceeds to evict the lessee, any costs, including reasonable attorneys' fees actually incurred and court costs associated with the eviction, shall be an assessment and lien against the Residential Unit.

(2) Use of Common Elements. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Elements, including but not limited to, the use of any and all recreational facilities and other amenities; provided, however, that no lessee may reserve any portion of the Common Elements as provided in Subparagraph 14(d) without the written consent of the Owner.

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

(b) Commercial Units. The Commercial Units may be leased for only those purposes permitted for the Commercial Units as set forth in Subparagraph 14(b), and shall be subject to the following provisions:

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

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

Any violation of this Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any guest of lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of this Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. If the Association proceeds to evict the lessee, any costs, including reasonable attorneys' fees actually incurred and court costs, associated with the eviction shall be an assessment and lien against the Commercial Unit.

(B) Use of Common Elements. The Owner of a Commercial Unit transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner of a Commercial Unit has to use the Common Elements.

(C) Liability for Assessments. When an Owner of a Commercial Unit who is leasing his, her or its Commercial Unit fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner of the Commercial Unit 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 this Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner of the Commercial Unit from any obligation, including the obligation for assessments, for which he, she or it would otherwise be responsible.

(c) Applicability of this Paragraph. Notwithstanding the above, this Paragraph 15 shall not apply to any leasing transaction entered into by Declarant (regardless of whether said lease is entered into prior to or after the expiration of the Declarant Control Period), the Association, or the holder of any first Mortgage on a Unit who becomes the Owner of a Unit through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage; provided, however, the Declarant or holder of any first Mortgage that leases a Unit must still provide the name, address and telephone number of the Person to whom the Unit is being leased. Such parties shall be permitted to lease a Unit without first obtaining a permit in accordance with this Paragraph and such Units shall not be considered as being leased in determining the maximum number of Units that may be leased in accordance with this Paragraph.

16. TRANSFER OR SALE OF UNITS.

An Owner intending to make a transfer or sale of a Unit or any interest in a Unit shall give written notice to the Board of Directors of such intention within seven (7) days after execution of the purchase agreement (in the case of the purchase of a Unit) or transfer or sales documents (in the case of the conveyance of a Unit without a purchase of said Unit). The Owner shall furnish to the Board of Directors the following information as part of the notice: (a) the name and address of the intended grantee; and (b) such other information as the Board of Directors may reasonably require. In addition, the purchase agreement or transfer documents shall attach a copy of this Declaration and Bylaws. This Paragraph shall not be construed to create a right of first refusal in the Association or in any third party.

In addition, a non-refundable contribution to the working capital fund of the Association shall be paid to the Association by the purchaser of a Unit at the closing of each sale or resale of a Unit in the amount of two (2) months of the general assessment charges to such Unit in accordance with Subparagraph 10(i) hereof.

Within seven (7) days after receiving title to a Unit, the new Owner of the Unit shall give written notice to the Board of Directors of his, her or its ownership of the Unit. Upon failure of an Owner to give the required notice within the seven (7) day time period provided herein, the Board of Directors may levy fines against the Unit and the Owner thereof, and assess the Owner for all costs incurred by the Association in determining his, her or its identity.

17. MAINTENANCE RESPONSIBILITY.

(a) By the Owner. Each Owner shall have the obligation to maintain and keep in good repair all portions of his, her or its Unit and all Limited Common Elements assigned to the Unit except any portion of a Unit and/or Limited Common Element that is expressly made the maintenance obligation of the Association as set forth in Subparagraph (b) below. This maintenance responsibility shall include, but not be limited to, the following: casings and locks (including interior caulking of the window wall system); all

doors, doorways, door frames, and hardware that are part of the entry system of the Unit (except for periodic painting, staining and/or cleaning of the exterior surface of Unit entry doors and door frames of the Building); all portions of the heating and air conditioning system, including the air conditioning compressor and the fan coil serving the Unit; and all pipes, lines, ducts, conduits, or other apparatus that serve only the Unit, whether located within or without a Unit's boundaries (including all electricity, water, sewer, or air conditioning pipes, lines, ducts, conduits, or other apparatus serving only the Unit).

All Owners of Units located on residential floors 7 through 21 of the Condominium shall be responsible for cleaning all exterior glass surfaces (windows and doors) accessible to the Owner or Occupant (or their agent) via the Unit's Limited Common Element balcony. The Owners of Units located on the 6th floor shall be responsible for cleaning all exterior glass surfaces (windows and doors) accessible to the Owner or Occupant (or their agent) via the Unit's Limited Common Element courtyard.

In addition, each Owner shall have the responsibility:

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

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

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

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

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

(i) all Common Elements, including, but not limited to, the Limited Common Elements assigned to a Unit; provided, however, the cost of maintenance and repair of a Limited Common Element shall be assessed against the Owner of the Unit to which the Limited Common Element is assigned under Subparagraph 8(a)(i);

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

(iii) periodic cleaning of the exterior glass surfaces (excluding the glass surfaces which are the responsibility of certain Owners pursuant to Paragraph 17(a) above) on a schedule to be determined by the Board of Directors; and

(iv) Life-safety (including, but not limited to, interior sprinkler systems) and building systems.

Additionally, the Association shall have the right, but not the obligation, to conduct a periodic inspection, on a schedule to be determined by the Board of Directors, of all fireplaces and chimney flues and, if, in the Board of Director's sole discretion, a flue needs to be cleaned and/or repaired, the Association shall provide such cleaning and/or repair (even though the flues are considered a portion of the Unit) and the cost of such periodic inspection, cleaning and/or repair may be assessed against the Owner of the Unit served by such flue pursuant to Paragraph 8(b)(i).

The Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that such property is dedicated to any local, state or federal government or quasi-governmental entity; provided, however, that in connection with such assumption, assignment or dedication, the Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Board of Directors determines that such maintenance is necessary or desirable.

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

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

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

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

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

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

(d) Measures Related to Insurance Coverage.

(i) The Board of Directors, upon resolution, shall have the authority to require all or any Owner(s) to do any act or perform any work involving portions of the Condominium that are the maintenance responsibility of the Owner, which will, in the Board's sole discretion decrease the possibility of fire in, or other damage to, the Condominium, reduce the insurance premium paid by the Association for any insurance coverage or otherwise assist the Board in procuring or maintaining such insurance coverage. This authority shall include, but need not be limited to, requiring Owners to install and maintain smoke detectors, requiring Owners to certify that they have checked the batteries for their smoke detectors, requiring Owners to allow the Association to inspect the smoke detectors and replace batteries if needed on a schedule to be determined by the Board of Directors, requiring Owners to make improvements to the Owner's Unit, and such other measures as the Board of Directors may reasonably require so long as the cost of such work does not exceed One Thousand Dollars (\$1,000) per Unit in any twelve (12) month period.

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

(e) Mold Disclosure and Waiver. Mold, mildew, fungi and microbiological organisms (collectively, "Mold"), are present in soil, air and elsewhere in the environment. Mold can proliferate in various environments, including, among others, damp areas such as bathrooms and within walls and partitions. Concerns have been expressed about the possible adverse effects on human health from exposure to Mold. According to the Consumer Product Safety Commission and the American Lung Association, some diseases or illnesses have been linked with biological pollutants in the indoor environment, including some forms of Mold. However, it is believed that many of these conditions may also have causes unrelated to the indoor environment. Therefore, as of the date of this Declaration, it is unknown how many potential health problems relate primarily or exclusively to indoor air quality or Mold. Declarant and the Association are not qualified and have not undertaken to evaluate all aspects of

this very complex issue. Declarant and the Association have not performed any testing or evaluation of, and make no representations or warranties, express or implied, concerning the past, current or future presence or absence of Mold in the Unit, any Limited Common Elements allocated to the Unit, any unfinished perimeter walls located within the Unit, or any other Common Elements or within the vicinity of the Condominium. Declarant and the Association recommend that each Owner, at the Owner's expense conduct its own investigation and consult with such experts as the Owner deems appropriate regarding the occurrence and effects of Mold, the potential sensitivity or special risk the Owner, his, her or its family members, and others individuals, who will occupy or use the Unit.

When excessive moisture or water accumulates indoors, Mold growth can and will occur, particularly if the moisture problem remains unaddressed. There is no practical way to eliminate all Mold in an indoor environment. The key to controlling indoor Mold growth is to control moisture. Each Owner shall maintain the Unit in such a manner as to reduce the potential for increased Mold formation or growth, including, without limitation, keeping dryer and other vents and/or fans clear and functioning and preventing and repairing plumbing, window and other leaks and sources of moisture. Each Owner shall conduct periodic inspections of the Unit, Limited Common Elements assigned to the Unit, and any other portion of the Condominium for which the Owner is responsible to maintain, for the presence of Mold or conditions that may increase the ability of Mold to propagate within the Unit or other portions of the Condominium. Furthermore, each Owner shall monitor the Unit, and any other portion of the Condominium for which the Owner is responsible to maintain, on a continual basis for excessive moisture, water or Mold accumulation. If water or moisture is discovered in or around the Unit, the Owner shall immediately seek to eliminate the source of the water or moisture. Failure to eliminate the source of moisture can result in additional damage and the growth of Mold. Declarant will not be responsible for damages, and each Owner, by taking title to a Unit, hereby waives all rights to damages and subrogation of damages. Each Owner shall defend and indemnify Declarant and the Association and hold Declarant and the Association harmless from damages, including all cases of personal injury or property damage, caused by the presence of Mold and/or water or moisture in the Unit or other portions of the Condominium to the extent that the damages are caused by: (i) the Owner's negligence or failure to properly maintain and monitor the Unit or other portions of the Condominium for which the Owner is responsible for maintaining, or (ii) the Owner's failure to promptly take appropriate corrective measures and minimize any damage caused by water or moisture (including, without limitation, failure to promptly notify and engage the help of appropriate professionals or experts).

(f) Inspection, Maintenance, Repair and Replacement of a High-Risk Component. The Board may, from time to time, after notice to all Owners and an opportunity for members comment, determine that certain portions of a Unit required to be maintained by the Owners, or certain objects or appliances within a Unit, pose a particular risk of damage to other Units and/or the Common Elements if they are not properly inspected, maintained, repaired or replaced. By way of example, but not limitation, these portions, objects or appliances may include washing machine hoses, smoke detectors and water heaters. Those items determined by the Board to pose such a particular risk are referred to herein as a "High-Risk Component." The Board may require one or more of the following with regard to a High-Risk Component:

- (i) that it be inspected at specified intervals by a representative of the Association or by an inspector(s) designated by the Board;
- (ii) that it be replaced or repaired at specified intervals, or with reference to manufacturers' warranties, whether or not the individual component is deteriorated or defective;
- (iii) that it be replaced or repaired with items or components meeting particular standards or specifications established by the Board;

- (iv) that when it is repaired or replaced, the installation include additional components or installments specified by the Board;
- (v) that it be replaced or repaired by contractors having particular licenses, training or professional certification or by contractors approved by the Board; and
- (vi) if the replacement or repair is completed by an Owner, that it be inspected by a Person designated by the Board.

The imposition of requirements by the Board in this provision shall not relieve an Owner of his, her or its obligations regarding a High-Risk Component, including, but not limited to, the obligation to perform and pay for all maintenance, repairs and replacement thereof. If any Owner fails or refuses to maintain, repair or replace a High-Risk Component in accordance with the requirements established by the Board hereunder, the Association may, in addition to all other rights and powers granted to it pursuant to the Condominium Instruments, enter the Unit for the purpose of inspecting, repairing, maintaining, or replacing a High-Risk Component, as the case may be, and charge all costs of doing so back to the Owner as a specific assessment.

(g) Inspection Obligations.

(i) Contract for Services. In addition to the Association's general maintenance obligations set forth in this Declaration, the Association shall, at all times, contract with (subject to the limitations otherwise set forth in this Declaration) or otherwise retain the services of independent, qualified, licensed individuals or entities to provide the Association with inspection services relative to the maintenance, repair and physical condition of the Condominium.

(ii) Inspection Responsibilities. Declarant shall provide the Association with maintenance criteria, maintenance manuals, and warranty requirements for the Building (collectively, the "Maintenance Manual"). The inspectors shall inspect component parts of the Building in accordance with the Maintenance Manual. The Association shall update the Maintenance Manual on a regular basis. The Association shall be responsible for meeting all requirements under such Maintenance Manual.

(iii) Schedule of Inspections. Such inspections shall take place at least annually or as recommended in the Maintenance Manual. The inspectors shall provide written reports of their inspections to the Association promptly following completion thereof. The written reports shall identify any items of maintenance or repair that either require current action by the Association or will need further review and analysis. The Board of Directors shall report the contents of such written reports to the members of the Association at the next meeting of the members following receipt of such written reports or as soon thereafter as is reasonably practicable and shall include such written reports in the minutes of the Association. Subject to the provisions of this Declaration below, the Board of Directors shall promptly cause all matters identified as requiring attention to be maintained, repaired, or otherwise pursued in accordance with prudent business practices and the recommendations of the inspectors.

(iv) Notice to Declarant. For a period of ten (10) years after the conveyance of the last Unit in the Condominium to an Owner other than Declarant, the Association shall, if requested by Declarant, deliver to Declarant ten (10) days advance written notice of all such inspections (and an opportunity to be present during such inspection, personally or through an agent) and shall provide Declarant (or its designee) with a copy of all written reports prepared by the inspectors. If the Association fails to provide any such notice or report, the Association shall

defend, indemnify and hold harmless Declarant from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses and any and all sums paid from settlement of claims, reasonable attorneys' fees, consultant and expert fees, related to the portion of the Condominium that is the subject matter of any such notice or report.

(v) The provisions of this Subparagraph 17(g) shall not apply during the Declarant Control Period.

18. MORTGAGEE'S RIGHTS.

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

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

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

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

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

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

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

(b) Where the Mortgagee holding a first Mortgage of record, a secondary purchase money Mortgage of record (provided that neither the grantee nor any successor grantee on the secondary purchase money Mortgage is the seller of the Unit) or other purchaser of a Unit obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable, nor shall the Unit be subject to a lien, for the share of the Common Expenses or assessments by the Association chargeable to such Unit that 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, and its successors and assigns. Additionally, such acquirer shall be responsible for all charges accruing subsequent to the passage of title of the Unit, including, but not limited to, the pro-rata share of the Common Expense assessment levied against the Unit, as provided in this Declaration, for the applicable portion of the month in which the passage of title of the Unit occurred.

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

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

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

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

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

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

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

(ii) any proposed termination of the Condominium;

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

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

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

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

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

(f) Notwithstanding anything to the contrary herein contained, the provisions of Paragraphs 15 and 16 hereof governing the leasing and sales of units, respectively, 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.

(g) No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Elements.

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

(i) Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board of Directors to respond to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request to approve an amendment to this Declaration, or within sixty (60) days of the date of the Association's request for any other action, provided that such request is delivered to the Mortgagee by certified or registered mail, return receipt requested or by express overnight courier service or personal delivery.

(j) Construction of this Paragraph. Nothing contained in this Paragraph shall be construed to reduce the percentage vote that must otherwise be obtained under the Condominium Instruments or Georgia law for any of the actions set forth in this Paragraph.

19. GENERAL PROVISIONS.

(a) **SECURITY. THE ASSOCIATION OR DECLARANT MAY, BUT SHALL NOT BE REQUIRED TO, FROM TIME TO TIME, PROVIDE MEASURES OR TAKE ACTIONS THAT DIRECTLY OR INDIRECTLY IMPROVE THE SECURITY OF THE CONDOMINIUM; HOWEVER, EACH OWNER, FOR HIMSELF, HERSELF OR ITSELF, AND HIS, HER, OR ITS TENANTS, OCCUPANTS, GUESTS, LICENSEES, AND INVITEES, ACKNOWLEDGES AND AGREES THAT NEITHER THE ASSOCIATION NOR DECLARANT IS A PROVIDER OF SECURITY AND NEITHER ENTITY SHALL HAVE A DUTY TO PROVIDE SECURITY ON OR AT THE CONDOMINIUM. FURTHERMORE, THE ASSOCIATION DOES NOT GUARANTEE THAT NON-OWNERS AND NON-OCCUPANTS WILL NOT GAIN ACCESS TO THE CONDOMINIUM AND COMMIT CRIMINAL ACTS ON THE CONDOMINIUM, NOR DOES THE ASSOCIATION GUARANTEE THAT CRIMINAL ACTS ON THE CONDOMINIUM WILL NOT BE COMMITTED BY OTHER OWNERS OR OCCUPANTS. IT SHALL BE THE RESPONSIBILITY OF EACH OWNER TO PROTECT HIS, HER OR ITS PERSON AND PROPERTY AND ALL RESPONSIBILITY TO PROVIDE SUCH SECURITY SHALL LIE SOLELY WITH EACH OWNER. NEITHER DECLARANT NOR THE ASSOCIATION SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF ITS FAILURE TO PROVIDE ADEQUATE SECURITY OR THE INEFFECTIVENESS OF SAFETY MEASURES UNDERTAKEN.**

(b) Parking Spaces, Vehicles and Storage Spaces. Neither Declarant nor the Association shall be held liable for any loss or damage arising from theft, vandalism, malicious mischief, or any loss or damage resulting from calcium deposits, water or acid damage, to any property placed or kept in any parking space or storage space in the Condominium, or in any area designated by the Board of Directors for

other parking. Each Owner or Occupant with use of a parking space or storage space, or any area designated by the Board of Directors for other parking who places or keeps a vehicle and/or any personal property in the vehicle, parking space, storage space, or in any area designated by the Board of Directors for other parking does so at his, her or its own risk.

(c) Unit Keys. At the request of the Association, each Owner, by acceptance of a deed to a Unit, agrees to provide the Association with a key to the Unit (and the security alarm code, if any) to be used by the Association for maintenance, emergency, or life-safety purposes as provided in Subparagraph 9(a) of this Declaration (and for pest control, if necessary, as provided in Subparagraph 21(e) of this Declaration). Neither Declarant nor the Association shall be liable for any loss or damage due to its holding such key, or use of such key for the purposes described above and each Owner shall indemnify and hold harmless Declarant, the Association and its officers and directors against any and all expenses, including reasonable attorneys' fees actually incurred by or imposed upon Declarant, the Association or its officers or directors in connection with any action, suit, or other proceeding (including settlement of any such action, suit or proceeding) brought by the Owner or the Owner's family, tenants, guests, employees, invitees, Occupants or licensees against Declarant, the Association, its officers or directors arising out of or relating to its holding or use of such key for the purposes described above.

(d) Dispute Resolution.

(i) General. Prior to filing a lawsuit against the Association, the Board, or any officer, director, or property manager of the Association, an Owner or Occupant must request and attend a hearing with the Board of Directors. Any such request shall be in writing and shall be personally delivered to any member of the Board of Directors or the property manager, if any, of the Association. The Owner or Occupant shall, in such request and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Owner or Occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the Person requesting the hearing. The Board shall schedule this hearing for a date not less than seven (7) or more than twenty one (21) days from the date of receipt of the request.

(ii) Claims Pertaining to a Unit. All Owners hereby acknowledge and agree that the Association shall not be entitled to institute, fund, finance, or join in any legal action, suit, or claim against anyone on behalf of any or all of the Owners which is based on any alleged defect in any Unit or any damage allegedly sustained by any Owner by reason thereof, but rather, that all such actions shall be instituted by the Person(s) owning such Units or allegedly sustaining such damage. For the purposes hereof, the Unit shall not be deemed to include the undivided interest in the Common Elements attributable to each Unit.

(A) Procedure. Prior to filing any claim for arbitration described herein or any claim in a court of competent jurisdiction relating to alleged physical damage or defects to a Unit, as soon as reasonably possible after the discovery of any alleged physical damage or defects to the Unit, the Owner shall provide prompt written notice to Declarant describing in detail the basis for such claim and the repairs and/or alterations reasonably necessary to remedy the alleged defect or damage (the "Requested Repairs"). An Owner's failure to provide prompt written notice to Declarant after the Owner's discovery of any alleged physical damage or defects to the Unit shall constitute a waiver by such Owner of any potential obligation of Declarant or its contractors to remedy the alleged physical damage or defects to the Unit and all claims related thereto. Within thirty (30) days of its receipt of such notice, Declarant shall provide the Owner with notice stating whether Declarant intends to perform the Requested Repairs. In the event Declarant elects to perform the

Requested Repairs, the Owner shall provide Declarant and its contractors with the opportunity to perform the Requested Repairs within a reasonable period, including access to the Unit during regular business hours to perform the Requested Repairs. An Owner shall only have the right to file a claim against Declarant or its contractors in the event the Owner provided prompt written notice to Declarant of alleged physical damage or defects to the Unit as provided herein, and Declarant and its contractors subsequently elects not to perform the Requested Repairs or does not perform the Requested Repairs in a competent manner after having the opportunity to perform the Requested Repairs as provided herein.

(B) Limitation Period. The exclusive period of limitation for an Owner or Occupant bringing any claim of any nature against Declarant or its contractors, including, but not limited to, a claim of construction defect or defective design of a Unit, shall be the earliest of: (1) for claims alleging construction defect or defective design, one (1) year from the date that the Owner or Occupant discovered or reasonably should have discovered evidence of the claim; provided, however, in no event shall the limitation period exceed four (4) years from the date Declarant conveyed the Unit to the original Owner unless the basis of the claim was intentionally concealed or willfully concealed by Declarant or its contractors, in which case, the state law governing the limitation period and period of repose shall apply to the claim; (2) for claims other than those alleging construction defect or defective design, two (2) years after the date Declarant conveyed the Unit to the original Owner or such other shorter period specified in any written agreement between Declarant and the Owner to whom Declarant initially conveyed the Unit, unless the basis of the claim was intentional fraud or willful misconduct, in which case, the applicable law governing the limitation period and period of repose shall apply to the claim; or (3) the end of the statutory period provided under applicable law governing the limitation period and period of repose.

(iii) Claims Pertaining to the Common Elements. All Owners hereby acknowledge and agree that no Owner shall be entitled to institute or join in any legal action against anyone which is based on any alleged defect in the Common Elements, but rather, that all such actions shall be instituted by the Association on behalf of the Owners.

(A) Procedure. Prior to filing any claim for arbitration described herein or any claim in a court of competent jurisdiction relating to alleged physical damage or defects to the Common Elements, as soon as reasonably possible after the discovery of any alleged physical damage or defects to the Common Elements, the Association shall provide prompt written notice to Declarant describing in detail the basis for such claim and the repairs and/or alterations reasonably necessary to remedy the alleged defect or damage (the "Requested Repairs"). The Association's failure to provide prompt written notice to Declarant after the Association's discovery of any alleged physical damage or defects to the Common Elements shall constitute a waiver by the Association of any potential obligation of Declarant or its contractors to remedy the alleged physical damage or defects to the Common Elements and all claims related thereto. Within thirty (30) days of its receipt of such notice, Declarant shall provide the Association with notice stating whether the Association intends to perform the Requested Repairs. In the event Declarant elects to perform the Requested Repairs, the Association shall provide Declarant and its contractors with the opportunity to perform the Requested Repairs within a reasonable period, including access to the Common Elements during regular business hours to perform the Requested Repairs. The Association shall only have the right to file a claim against Declarant or its contractors in the event the Association provided prompt written notice to Declarant of alleged physical damage or defects to the Common Elements as provided

herein, and Declarant and its contractors subsequently elects not to perform the Requested Repairs or does not perform the Requested Repairs in a competent manner after having the opportunity to perform the Requested Repairs as provided herein.

(B) Limitation Period. The exclusive period of limitation for the Association to bring any claim of any nature against Declarant or its contractors, including, but not limited to, a claim of construction defect or defective design of the Common Elements, shall be the earliest of: (1) for claims alleging construction defect or defective design, one (1) year from the date that the Association or its agents discovered or reasonably should have discovered evidence of the claim; provided, however, in no event shall the limitation period exceed four (4) years from the date Declarant substantially completed the Common Elements unless the basis of the claim was intentionally concealed or willfully concealed by Declarant or its contractors, in which case, the state law governing the limitation period and period of repose shall apply to the claim; (2) for claims other than those alleging construction defect or defective design of the Common Elements, two (2) years after the Declarant Control Period, unless the basis of the claim was intentional fraud or willful misconduct, in which case, the applicable law governing the limitation period and period of repose shall apply to the claim; or (3) the end of the statutory period provided under applicable law governing the limitation period and period of repose.

(C) Approval by Owners. No judicial or administrative proceeding shall be commenced or prosecuted by the Association, nor shall the Association participate in any land-use or zoning proceedings (unless reasonably necessary to accommodate improvements on the Condominium or to comply with applicable zoning ordinance and use restrictions), unless approved by a vote of the Owners as hereinafter provided. The Board shall prepare a budget of the total estimated cost of the litigation or proceeding which shall be submitted to the Owners for a vote along with the estimate of the total cost of the litigation or proceeding made by the attorney being retained by the Association for the litigation or proceeding. The Association shall assess all Owners by special assessment for the total estimated costs and fees of the proposed litigation or proceeding and no funds from regular periodic assessments or capital contributions may be used for such purpose. The proposed litigation or proceeding, the budget, and the special assessment for litigation, must all be approved by a vote of the Owners representing at least seventy-five percent (75%) of the Total Association Vote; provided, however, votes appurtenant to any Unit or Units then owned by Declarant shall be excluded if the proposed litigation or proceeding relates to a claim against Declarant. This Subparagraph shall not apply, however, to (1) actions involving imposition and collection of assessments as provided herein, (2) action brought by the association to enforce the covenants in this Declaration (including, without limitation, the foreclosure of liens); (3) proceedings involving challenges to ad valorem taxation, or (4) counterclaims brought by the Association in proceedings instituted against it. This Subparagraph shall not be amended unless such amendment is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

(e) Successor Declarants. Any successor to Declarant shall not be responsible or subject to liability by operation of law or through the purchase of Declarant's interest in the Condominium or any portion thereof at foreclosure or otherwise for any act, omission, or matter occurring or arising from any act, omission, or matter occurring prior to the time the successor succeeded to the interest of Declarant.

(f) Services During Declarant Control. Each Owner acknowledges that Declarant and its affiliates may provide services utilized by communities such as the Condominium including, but not limited

to, management services. Each Owner consents and agrees that the Association may enter into service contracts with Declarant and its affiliates.

(g) Disclosures. Each Owner and Occupant acknowledge the following:

(i) The Condominium is located adjacent to thoroughfares that may be affected by traffic and noise from time to time and may be improved and/or widened in the future.

(ii) The natural light available to and views from an Owner's Unit may change over time due to, among other circumstances, additional development and the removal or addition of landscaping.

(iii) No representations are made regarding the zoning of adjacent property, or that the category to which adjacent property is zoned may not change in the future.

(iv) No representations are made regarding the schools that currently or may in the future serve the Unit.

(v) Since in every community, there are conditions that different people may find objectionable, it is acknowledged that there may be conditions outside of the Condominium that an Owner or Occupant may find objectionable and that it shall be the sole responsibility of the Owners and Occupants to become acquainted with community conditions that could affect the Unit.

(vi) The Floor Plans and the dimensions and square footage calculations shown thereon are only approximations. Any Owner who is concerned about any representations regarding the Floor Plans should do his/her own investigation as to the dimensions, measurements and square footage of his/her Unit.

(vii) No representations are made that the Unit is or will be soundproof or that sound may not be transmitted from one Unit to another or from the Common Elements to a Unit. Sound transmission between Units and Common Elements is inherent in multi-family construction and is not a warrantable condition. Furthermore, no representations are made that any room, wall, ceiling or floor in any dwelling on the Unit or any pipes located therein will be soundproof.

(viii) Concrete and hardwood surfaces and other uncovered surfaces within a Unit may transmit noise, and such noise shall not constitute a use of the Unit that interferes with or causes disruption to the use and enjoyment of another Unit by its respective Owner and/or Occupant.

(ix) Declarant may be constructing portions of the Condominium and engaging in other construction activities related to the construction of Common Elements. Such construction activities may, from time to time, produce certain conditions on the Condominium, including, without limitation: (A) noise or sound that is objectionable because of its volume, duration, frequency or shrillness; (B) smoke; (C) noxious, toxic, or corrosive fumes or gases; (D) obnoxious odors; (E) dust, dirt or flying ash; (F) unusual fire or explosion hazards; (G) temporary interruption of utilities; and/or (H) other conditions that may threaten the life-safety of Persons on the Condominium. Notwithstanding the foregoing, all Owners and Occupants agree that such conditions on the Condominium resulting from renovation and construction activities shall not be deemed a nuisance and shall not cause Declarant and its agents to be deemed in violation of any provision of this Declaration.

(x) Concrete surfaces may be cracked or may crack in the future.

(xi) A portion of the exterior skin of the building is a hard-coat stucco material.

(xii) The building is constructed with a flat roof system. Rainwater and refuse may accumulate on various portions of the building's roof system and should be anticipated by the Owners and Occupants. Minimizing water intrusion and water penetrations may be possible if the building's roof systems are properly maintained by the parties responsible for providing such maintenance, as more specifically set forth in Paragraph 17 hereof.

(xiii) The Condominium is located in an urban environment and contains both residential and commercial uses. Sound and vibrations may be audible and felt from such things as sirens, whistles, horns, the playing of music, people speaking loudly, trash being picked up, deliveries being made, equipment being operated, elevator motors, HVAC equipment, dogs barking, construction activity, building and grounds maintenance being performed, automobiles, buses, trucks, ambulances, airplanes, trains and other generators of sound and vibrations typically found in an urban area. In addition to sound and vibration, there may be odors (from restaurants, food being prepared and dumpsters) and light (from signs, streetlights, other buildings, car headlights and other similar items) in urban areas and these things are part of the reality and vibrancy of urban living. While some steps have been taken to mitigate sound in the design and construction of the Buildings, neither the Units are not constructed to be totally soundproof or free from vibrations.

(xiv) Declarant shall not be responsible for responding to or taking any affirmative action on behalf of the Association or an individual member of the Association to mitigate, alleviate, remedy or cure any off-site conditions that may directly impact the Condominium or any portion thereof, and such inaction by the Declarant shall not constitute a breach of fiduciary duty by the directors and officers of the Association that are appointed by the Declarant, pursuant to Article III, Part A, Section 2 of the Bylaws of the Association.

(xv) All buildings contain products that have water, powders, solids and industrial chemicals. The water, powders, solids and industrial chemicals will and do contain mold, mildew, fungus, spores and chemicals that may cause allergic or other bodily reactions in certain individuals. Leaks, wet flooring and moisture will contribute to the growth of molds, mildew, fungus or spores. Seller is not responsible for any illness or allergic reactions that an owner or occupant may experience as a result of mold, mildew, fungus or spores. It is the responsibility of each owner to keep the unit clean, dry, well ventilated and free of contamination.

(xvi) Hardwood flooring in a Unit can be damaged or scratched as a result of normal wear and tear including, but not limited to, moving furniture, wearing footwear in the Unit (particularly high-heeled shoes), and dropping items on the floor. Purchaser agrees that such damage and scratches are a normal attribute and expected consequence of having hardwood floors, and such damages and scratches shall not constitute a construction defect.

(xvii) Noise from condensers located on the roof of the Condominium may be audible from within a Unit.

(xviii) Exhaust vents and louvers for venting from bathrooms, kitchens and laundry rooms may be located on or near balconies, and noise, odors and grime may be emitted from such areas.

(xix) Trucks, sport utility vehicles, vans, minivans, large sedans, or any other vehicles other than compact passenger vehicles may not fit into parking spaces.

(xx) Some parking spaces may be framed by columns or other obstructions that may interfere with the use and operation of a vehicle's doors. It may be necessary to let passengers out of the vehicle before pulling the vehicle into the parking space.

(xxi) The height clearance for vehicles in the parking deck is limited and certain vehicles may be too large to enter the parking deck.

(xxii) Water may pond on various portions of the Condominium having impervious surfaces, such as the parking deck, patios, balconies and courtyards as applicable.

(xxiii) The performance and methods and practices of operating heating and cooling systems can be directly affected by the orientation and location of a room or Unit in relation to the sun. Declarant has no obligation other than to initially install a heating and cooling system at the Unit which has been sized and designed based on industry standards for the type and size of unit to be constructed and which functions in accordance with industry standards.

(xxiv) Certain materials used for fixtures in a new home (including, but not limited to, brass/chrome plumbing fixtures, brass/chrome bathroom accessories and, brass/chrome light fixtures) are naturally subject to discoloration, corrosion and/or oxidation over time and that the same do not constitute defects in these materials.

(xxv) Owners acknowledge that (A) wood contains moisture that dries over time; (B) as wood in the home dries it may naturally shrink, crack and cause warping, among other things, sheetrock tears, nail pops, cracks in baseboards and warping of doors; and (C) if any of the above occurs, it is part of the normal aging of the home and not a construction defect. This includes, without limitation, cracks that may occur in crown molding.

(xxvi) Light may emit from adjacent properties.

(xxvii) Railings attached to patios and balconies may "hum".

20. EMINENT DOMAIN.

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

21. EASEMENTS.

(a) Use and Enjoyment. Each Owner and Occupant shall have a right and a non-exclusive easement of use and enjoyment in and to the Common Elements (including the right of access, ingress and egress to and from his, her or its Unit over those portions of the Condominium designated for such purpose), and such non-exclusive easement shall be appurtenant to and shall pass with the title to such Unit, subject to (i) the rights of the Owners to the exclusive use of the Limited Common Elements assigned to their respective Units; (ii) to the right of the Association to control the use and enjoyment of the Common Elements as provided by the terms of this Declaration including, but not limited to, the right of the

Association to suspend voting and use privileges as provided herein; and (iii) the right of the Association to have access to the Units and Limited Common Elements assigned to a Unit to discharge its rights and obligations, under the Condominium Instruments, including without limitation, the maintenance responsibility of the Association.

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

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

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

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

(f) Community Bulletin Board. As part of the Common Elements maintained by the Association, Declarant and/or the Board shall have the right, but not the obligation, to erect on the Condominium a bulletin board primarily for the use of Owners in advertising their Units for sale. For so long as the Association desires to maintain this bulletin board, each Owner and his licensed real estate broker and agent may use the Condominium for access, ingress and egress to and from this bulletin board; provided, however, the use of the bulletin board shall be subject to such reasonable nondiscriminatory rules and regulations as may be adopted or promulgated by the Board regulating the size and duration of such advertisements. Declarant or Board may terminate use of this bulletin board entirely at any time, and no property rights of any kind are created hereby.

(g) Easements Reserved to Declarant.

(i) Marketing and Sales. For so long as Declarant owns any Unit, Declarant and its duly authorized contractors, subcontractors, representatives, agents, associates, employees, tenants and successors and assigns shall have: (A) a nonexclusive easement for access and ingress to, egress from and use of the Common Elements for the placement and maintenance of signs, banners, balloons, decorations, marketing materials and tables, a sales office, a leasing office, a business office, promotional facilities and model Units on any portion of the Condominium, together with such other facilities as in the opinion of Declarant may be reasonably required, convenient or incidental to the completion, renovation, improvement, development, sale or lease of any Unit, or any portion thereof; and (B) a nonexclusive easement to use and enjoy the Common Elements for special events, promotional activities and grand opening celebrations. In connection with the hosting of special events, promotional activities and grand opening celebrations in the Common Elements, Declarant shall be permitted to have live entertainment, and any noise created therefrom shall not be deemed a nuisance and shall not cause Declarant and its representatives, agents, associates, employees, tenants, guests and Occupants to be deemed in violation of any provision of this Declaration.

(ii) Inspection. Declarant (including its affiliates and its or their agents, employees, designees, contractors, successors and assigns) hereby reserves a perpetual, nonexclusive easement for the purpose of access for ingress and egress over the Condominium, including the Units, the Common Elements, and Limited Common Elements, to inspect, examine, survey, photograph, and perform such tests, inspections, studies or other evaluations of the Condominium as Declarant (including its affiliates and its or their agents, employees, designees, contractors, successors and assigns) or others may deem necessary in conjunction with Declarant's review of construction conditions at the Condominium. The foregoing easement shall expire upon the occurrence of the later of the following events: (A) the date upon which Declarant no longer owns any Unit; or (B) three (3) years after the date on which this Declaration is recorded in the Official Records. To the extent that damage is inflicted on the Common Elements, Limited Common Elements, or on any Unit through which access is taken, whether by Declarant or through its agents, employees, contractors, or others, Declarant shall be liable for the prompt repair thereof.

(iii) Construction; Maintenance. Declarant (including its affiliates and its or their agents, employees, designees, contractors, successors and assigns) shall have the right, in its (and their) sole discretion from time to time, to enter the Condominium and take all other action necessary or convenient for the purpose of undertaking and completing the construction and/or renovation of any portion of the Condominium, or any improvements or Units located to or to be located thereon, and/or any improvement located or to be located adjacent thereto, and for repair, replacement and maintenance or warranty purposes, or where the Declarant, in its sole discretion, determines that it is required or desires to do so.

(iv) Telecommunications Easement. Declarant hereby reserves an exclusive (excepting only the rights of the Association as set forth in the final sentence of this Subparagraph) perpetual and irrevocable easement, right and license for itself and its successors, assigns and Permittees to use, sell, lease or assign all or any portion of the Telecommunications Easement Area, for the construction, installation, use, maintenance, repair, replacement, improvement, removal and operation of telecommunications equipment, including without limitation, broadcast antennae and related equipment, cell tower equipment, or other wireless communication antennae and related equipment, cable or satellite television equipment and equipment for high-speed internet access (hereinafter collectively referred to as the "Telecommunications Equipment") (the "Telecommunications Easement"). Declarant, for itself and its successors, assigns and Permittees, also reserves a non-exclusive, perpetual and irrevocable easement right and license over the Telecommunications Easement Area to exercise

its rights set forth above. Without limitation, this easement, right and license shall include the right by Declarant and its successors, assigns and Permittees to construct, install, use, maintain, repair, replace, improve, remove and operate any type of Telecommunications Equipment on the Telecommunications Easement Area. In addition, Declarant, for itself and its successors, assigns and Permittees, reserves a non-exclusive, perpetual and irrevocable easement over other portions of the Building for access to and from the Telecommunications Easement Area and to construct, install, use, maintain, repair, replace, improve, remove, operate and license or allow others to do the same, any utility lines servicing the Telecommunications Equipment, including the right to utilize electrical power from any Common Element, but subject to the right of the Association to charge for the actual costs of such electrical power and any submetering costs associated with determining such costs and provided that such electrical usage shall not cause the Association's electrical capacity to be limited for its own use, and in such event, Declarant and its successors, assigns and Permittees shall cease such use of electrical power or provide additional capacity to the Association's electrical system, at the sole expense of the party exercising the rights set forth in this Subparagraph. Declarant and the Association hereby agree to indemnify each other for any damage or destruction caused to the property of the other in the exercise of any easement rights granted under this Subparagraph. Declarant shall have and hereby reserves unto it and its successors, assigns and Permittees the sole and exclusive right to collect and retain any and all income received from or in connection with the rights described in this Subparagraph. The rights reserved to Declarant under this Subparagraph shall benefit only Declarant and its successors, assigns and Permittees, and no Owner or successor-in-title to any portion of the Condominium shall have any rights with respect to Telecommunications Easement Area or to any income derived from or in connection with the easements granted in this Subparagraph, except as expressly provided in the last sentence of this Subparagraph. Notwithstanding anything to the contrary stated herein, the Association shall have a non-exclusive easement, right and license for itself, its agents, successors and assigns to use those portions of the Telecommunications Easement Area that are necessary for the provision of telecommunications and other utility services to the Owners and Occupants.

(v) Amendment. Notwithstanding anything to the contrary contained herein, the provisions of this Subparagraph 21(g) shall not be amended without the written consent of Declarant.

22. AMENDMENTS.

Except where a higher vote is required for action under any other provision of this Declaration or by the Act, in which case such higher vote shall be necessary to amend such provision, this Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members of the Association holding two-thirds (2/3) of the Total Association Vote and such amendment shall otherwise comply with the provisions of Section 44-3-93 of the Act. Moreover, no amendment to this Declaration shall modify, alter, or delete any: (a) provision of this Declaration that benefits Declarant; (b) rights, privileges, easements, protections, or defenses of Declarant; or (c) rights of the Owners or the Association in relationship to Declarant, without the written consent of Declarant attached to and recorded with such amendment, until the later of the following: (i) the date upon which Declarant no longer owns any Unit; or (ii) ten (10) years after the date on which this Declaration is recorded in the Official Records, whichever period of time is longer. Notwithstanding the foregoing, the easements, rights, and licenses reserved to Declarant and its successors, assigns and Permittees in accordance with Subparagraph 21(g) of this Declaration shall not be modified, altered, or deleted without Declarant's written consent.

In addition, no amendment to this Declaration shall (A) modify, alter, or delete the permissible uses of the Commercial Units; (B) interfere with the ownership or operation of the Commercial Units; or (C) modify, alter, or delete any: (1) provision of this Declaration that benefits the Owners of the Commercial Units; (2) rights, privileges, easements, protections, or defenses of the Owners of the Commercial Units; or (3) rights of the Owners or the Association in relationship to the Owners of the Commercial Units, without the written consent of the Owners of the Commercial Units attached to and recorded with such amendment.

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 Official Records.

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

- (A) Voting;
- (B) Assessments, assessment liens or subordination of such liens;
- (C) Reserves for maintenance, repair and replacement of the Common Elements;
- (D) Insurance or fidelity bonds;
- (E) Rights to use of the Common Elements;
- (F) Responsibility for maintenance and repair of the Condominium;
- (G) Expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium;
- (H) Boundaries of any Unit;
- (I) The interests in the Common Elements or Limited Common Elements;
- (J) Convertibility of Units into Common Elements or of Common Elements into Units;
- (K) Leasing of Units;
- (L) Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his, her or its Unit in the Condominium;
- (M) Establishment of self-management by the Association where professional management has been required by any of the agencies or corporations set forth below;

(N) Amendment of any provisions that are for the express benefit of Eligible Mortgage Holders or insurers or guarantors of first Mortgages on Units in the Condominium; and

(O) Restoration or repair of the Condominium (after damage or partial condemnation) in a manner other than that specified in the Condominium Instruments).

Notwithstanding the foregoing, Declarant or the Board of Directors, without the necessity of a vote from the Owners, may unilaterally amend this Declaration to correct any scrivener's error, comply with any applicable state, city or federal law, and/or to bring the Condominium into compliance with any applicable rules and regulations of the Federal National Mortgage Association ("Fannie Mae"), the U.S. Department of Housing and Urban Development ("HUD") and the Department of Veterans Affairs ("VA") pursuant to federal law. Furthermore, Declarant or the Board of Directors, without the necessity of a vote from the Owners, may record additional Surveys and Floor Plans in the Official Records from time to time, as necessary or appropriate to further clarify the description of the Units, to correct incorrect Surveys and Floor Plans, or to comply with the Act.

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

23. SEVERABILITY.

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

24. DECLARANT RIGHTS.

Notwithstanding anything to the contrary herein, and in addition to Declarant's right to appoint and remove officers and directors under Article III, Part A, Section 2 of the Bylaws and other rights set forth herein, Declarant shall have the right, as long as Declarant owns at least one (1) Unit, to conduct such sales, marketing, leasing, administrative and other activities at the Condominium as Declarant deems appropriate for the sale, marketing or leasing of any Unit; and Declarant shall have a non-exclusive easement right across the Common Elements to erect signs, banners, balloons and other decorations and to conduct such other sales, marketing and leasing activities as provided herein. The expiration of the Declarant Control Period shall not terminate or alter the status of the above referenced entity and its respective successors and assigns as Declarant hereunder or divest Declarant of other rights specifically reserved to the Declarant herein. Declarant may also maintain any Unit it owns as a model Unit or as a sales office.

25. PREPARER.

This Declaration was prepared by Jane C. Kotake and Joanne K. Shelley, Weissman, Nowack, Curry & Wilco, P.C., One Alliance Center, 4th Floor, 3500 Lenox Road, Atlanta, Georgia 30326.

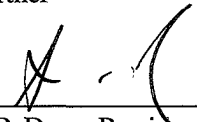
[SIGNATURE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Declarant has executed this Declaration under seal this 11 day of September, 2008.

DECLARANT: **MIDTOWN PARTNERS 222, LLC,**
a Delaware limited liability company

By: SE 110 Luxe Limited Partnership,
a Delaware limited Partnership, its Manager

By: SE 105 Development GP, LLC,
a Delaware limited liability company,
its General Partner

By:  (SEAL)
Alan P. Dean, President

Signed, sealed, and delivered
this 11 day of September, 2008
in the presence of:


Witness

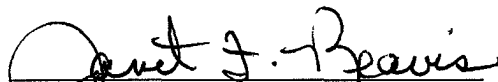

Notary Public
[NOTARY SEAL]



EXHIBIT "A"**Description of Submitted Property**

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 106 OF THE 17TH DISTRICT CITY OF ATLANTA, FULTON COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE TRUE POINT OF BEGINNING COMMENCE AT "X" IN CONCRETE AT INTERSECTION OF WESTERLY RIGHT-OF-WAY LINE OF PIEDMONT AVENUE AND NORTHERLY RIGHT-OF-WAY LINE OF 12TH STREET (50-FOOT R/W); THENCE, PROCEED ALONG SAID RIGHT-OF-WAY LINE OF 12TH STREET SOUTH 87 DEGREES 10 MINUTES 56 SECONDS WEST FOR A DISTANCE OF 145.76 FEET TO A ONE INCH OPEN TOP PIPE FOUND. SAID ONE INCH OTP BEING THE TRUE POINT OF BEGINNING.

FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED RUN ALONG THE NORTHERLY RIGHT-OF-WAY OF 12TH STREET THE FOLLOWING COURSES AND DISTANCES: SOUTH 87 DEGREES 05 MINUTES 44 SECONDS WEST A DISTANCE OF 84.38 FEET TO A 1" OTP FOUND; SOUTH 86 DEGREES 34 MINUTES 46 SECONDS WEST A DISTANCE OF 79.64 FEET TO A ½" OTP FOUND AND SOUTH 86 DEGREES 52 MINUTES 03 SECONDS WEST A DISTANCE OF 152.40 FEET TO A 1" OTP FOUND; THENCE LEAVING SAID RIGHT-OF-WAY OF 12TH STREET AND RUNNING THENCE NORTH 01 DEGREE 34 MINUTES 08 SECONDS WEST A DISTANCE OF 173.60 FEET TO A POINT; THENCE RUNNING NORTH 87 DEGREES 01 MINUTES 10 SECONDS EAST A DISTANCE OF 310.53 FEET TO A POINT; THENCE RUNNING SOUTH 03 DEGREES 30 MINUTES 45 SECONDS EAST A DISTANCE OF 172.65 FEET TO A 1" OTP FOUND LYING ON THE NORTHERLY RIGHT-OF-WAY LINE OF 12TH STREET AND THE TRUE POINT OF BEGINNING; CONTAINING 1.24 ACRES ALL ACCORDING TO THAT CERTAIN PLAT OF SURVEY FOR MIDTOWN PARTNERS 222, LLC, CORUS BANK, NA, AND CHICAGO TITLE INSURANCE COMPANY PREPARED BY H. TATE JONES, GEORGIA RLS NO. 2339 DATED SEPTEMBER 1, 2006, LAST REVISED NOVEMBER 11, 2006.

EXHIBIT "B-1"UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS
AND LIABILITIES FOR COMMON EXPENSESPAGE 1

Unit Number	Unit Type	Percentage of Ownership
CU #1 (S)		3.123%
601	C1	1.232%
602	C2	1.184%
701	A1-B	0.537%
702	B2-B	0.952%
703	B2	0.952%
704	A1	0.537%
705	B1	0.739%
706	B4	0.996%
707	B3	0.950%
708	B1-B	0.739%
801	A1-B	0.537%
802	B2-B	0.952%
803	B2	0.952%
804	A1	0.537%
805	B1	0.739%
806	B4	0.996%
807	B3	0.950%
808	B1-B	0.739%
901	A1-B	0.537%
902	B2-B	0.952%
903	B2	0.952%
904	A1	0.537%
905	B1	0.739%
906	B4	0.996%
907	B3	0.950%
908	B1-B	0.739%
1001	A1-B	0.537%
1002	B2-B	0.952%
1003	B2	0.952%
1004	A1	0.537%
1005	B1	0.739%
1006	B4	0.996%
1007	B3	0.950%
1008	B1-B	0.739%
1101	A1-B	0.537%
1102	B2-B	0.952%
1103	B2	0.952%
1104	A1	0.537%
1105	B1	0.739%
1106	B4	0.996%
1107	B3	0.950%

EXHIBIT "B-1"UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS
AND LIABILITIES FOR COMMON EXPENSESPAGE 2

Unit Number	Unit Type	Percentage of Ownership
1108	B1-B	0.739%
1201	A1-B	0.537%
1202	B2-B	0.952%
1203	B2	0.952%
1204	A1	0.537%
1205	B1	0.739%
1206	B4	0.996%
1207	B3	0.950%
1208	B1-B	0.739%
1401	A1-B	0.537%
1402	B2-B	0.952%
1403	B2	0.952%
1404	A1	0.537%
1405	B1	0.739%
1406	B4	0.996%
1407	B3	0.950%
1408	B1-B	0.739%
1501	A1-B	0.537%
1502	B2-B	0.952%
1503	B2	0.952%
1504	A1	0.537%
1505	B1	0.739%
1506	B4	0.996%
1507	B3	0.950%
1508	B1-B	0.739%
1601	A1-B	0.537%
1602	B2-B	0.952%
1603	B2	0.952%
1604	A1	0.537%
1605	B1	0.739%
1606	B4	0.996%
1607	B3	0.950%
1608	B1-B	0.739%
1701	A1-B	0.537%
1702	B2-B	0.952%
1703	Combined A1 and B2	1.488%
1705	B1	0.739%
1706	B4	0.996%
1707	B3	0.950%
1708	B1-B	0.739%
1801	A1-B	0.537%
1802	B5-B	1.044%

EXHIBIT "B-1"UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS
AND LIABILITIES FOR COMMON EXPENSESPAGE 3

Unit Number	Unit Type	Percentage of Ownership
1803	B5	1.044%
1804	A1	0.537%
1805	B1	0.739%
1806	B4	0.996%
1807	B3	0.950%
1808	B1-B	0.739%
1901	A1-B	0.537%
1902	B5-B	1.044%
1903	B5	1.044%
1904	A1	0.537%
1905	B1	0.739%
1906	B4	0.996%
1907	B3	0.950%
1908	B1-B	0.739%
2001	A1-B	0.537%
2002	B5-B	1.044%
2003	B5-R	1.044%
2004	A1	0.537%
2005	B1	0.739%
2006	B4	0.996%
2007	B3-R	1.082%
2008	B1-R	0.607%
2101	A1-B	0.537%
2102	B5-B	1.044%
2103	B5	1.044%
2104	A1	0.537%
2105	B1	0.739%
2106	B4	0.996%
2107	B3	0.950%
2108	B1-B	0.739%
2201	C3	1.156%
2202	C4	1.171%
2203	D1	1.771%
TOTAL:		100.00%

Note:

1. The percentage of ownership is calculated based on each Unit's approximate square footage as a fraction of the total square footage of all the Units, as such sizes are shown on the Floor Plans.
2. (S) indicates a Shell Unit

EXHIBIT "B-2"

UNDIVIDED PERCENTAGE INTEREST
IN THE RESIDENTIAL LIMITED COMMON ELEMENTS AND LIABILITIES
FOR RESIDENTIAL LIMITED COMMON EXPENSES

PAGE 1

Unit Number	Unit Type	Percentage of Ownership
601	C1	1.272%
602	C2	1.223%
701	A1-A	0.554%
702	B2-B	0.982%
703	B2	0.982%
704	A1	0.554%
705	B1	0.763%
706	B4	1.028%
707	B3	0.981%
708	B1-B	0.763%
801	A1-B	0.554%
802	B2-B	0.982%
803	B2	0.982%
804	A1	0.554%
805	B1	0.763%
806	B4	1.028%
807	B3	0.981%
808	B1-B	0.763%
901	A1-B	0.554%
902	B2-B	0.982%
903	B2	0.982%
904	A1	0.554%
905	B1	0.763%
906	B4	1.028%
907	B3	0.981%
908	B1-B	0.763%
1001	A1-B	0.554%
1002	B2-B	0.982%
1003	B2	0.982%
1004	A1	0.554%
1005	B1	0.763%
1006	B4	1.028%
1007	B3	0.981%
1008	B1-B	0.763%
1101	A1-B	0.554%
1102	B2-B	0.982%
1103	B2	0.982%
1104	A1	0.554%
1105	B1	0.763%
1106	B4	1.028%
1107	B3	0.981%
1108	B1-B	0.763%

EXHIBIT "B-2"

UNDIVIDED PERCENTAGE INTEREST
IN THE RESIDENTIAL LIMITED COMMON ELEMENTS AND LIABILITIES
FOR RESIDENTIAL LIMITED COMMON EXPENSES

PAGE 2

Unit Number	Unit Type	Percentage of Ownership
1201	A1-B	0.554%
1202	B2-B	0.982%
1203	B2	0.982%
1204	A1	0.554%
1205	B1	0.763%
1206	B4	1.028%
1207	B3	0.981%
1208	B1-B	0.763%
1401	A1-B	0.554%
1402	B2-B	0.982%
1403	B2	0.982%
1404	A1	0.554%
1405	B1	0.763%
1406	B4	1.028%
1407	B3	0.981%
1408	B1-B	0.763%
1501	A1-B	0.554%
1502	B2-B	0.982%
1503	B2	0.982%
1504	A1	0.554%
1505	B1	0.763%
1506	B4	1.028%
1507	B3	0.981%
1508	B1-B	0.763%
1601	A1-B	0.554%
1602	B2-B	0.982%
1603	B2	0.982%
1604	A1	0.554%
1605	B1	0.763%
1606	B4	1.028%
1607	B3	0.981%
1608	B1-B	0.763%
1701	A1-B	0.554%
1702	B2-B	0.982%
1703	Combined A1 and B2	1.536%
1705	B1	0.763%
1706	B4	1.028%
1707	B3	0.981%
1708	B1-B	0.763%
1801	A1-B	0.554%
1802	B5-B	1.079%

EXHIBIT "B-2"

UNDIVIDED PERCENTAGE INTEREST
IN THE RESIDENTIAL LIMITED COMMON ELEMENTS AND LIABILITIES
FOR RESIDENTIAL LIMITED COMMON EXPENSES

PAGE 3

Unit Number	Unit Type	Percentage of Ownership
1803	B5	1.079%
1804	A1	0.554%
1805	B1	0.763%
1806	B4	1.028%
1807	B3	0.981%
1808	B1-B	0.763%
1901	A1-B	0.554%
1902	B5-B	1.079%
1903	B5	1.079%
1904	A1	0.554%
1905	B1	0.763%
1906	B4	1.028%
1907	B3	0.981%
1908	B1-B	0.763%
2001	A1-B	0.554%
2002	B5-B	1.079%
2003	B5-R	1.079%
2004	A1	0.554%
2005	B1	0.763%
2006	B4	1.028%
2007	B3-R	1.117%
2008	B1-R	0.627%
2101	A1-B	0.554%
2102	B5-B	1.079%
2103	B5	1.079%
2104	A1	0.554%
2105	B1	0.763%
2106	B4	1.028%
2107	B3	0.981%
2108	B1-B	0.763%
2201	C3	1.193%
2202	C4	1.209%
2203	D1	1.829%
TOTAL:		100.00%

EXHIBIT "B-3"**UNDIVIDED PERCENTAGE INTEREST
IN THE COMMERCIAL LIMITED COMMON ELEMENTS AND LIABILITIES
FOR COMMERCIAL LIMITED COMMON EXPENSES**

Unit Number	Percentage of Ownership
CU #1	100.000%
TOTAL:	100.00%

EXHIBIT "C"**PARKING SPACE ASSIGNMENTS****PAGE 1**

Unit Number	Parking Space Assigned	Additional Parking Space(s) Assigned
601	18	19
602	16	17
701	106	N/A
702	134	135
703	146	147
704	142	N/A
705	190	191
706	76	77
707	130	131
708	194	195
801	105	N/A
802	144	145
803	108	109
804	107	N/A
805	196	197
806	72	73
807	132	133
808	192	193
901	141	N/A
902	128	129
903	112	113
904	143	N/A
905	198	199
906	68	69
907	103	104
908	200	201
1001	37	N/A
1002	110	111
1003	116	117
1004	58	N/A
1005	179	180
1006	66	67
1007	98	99
1008	188	189
1101	36	N/A
1102	126	127
1103	118	119
1104	38	N/A
1105	186	187
1106	64	65
1107	82	83
1108	181	182

EXHIBIT "C"PARKING SPACE ASSIGNMENTSPAGE 3

Unit Number	Parking Space Assigned	Additional Parking Space(s) Assigned
1201	57	N/A
1202	114	115
1203	120	121
1204	59	N/A
1205	163	164
1206	52	53
1207	92	93
1208	183	184
1401	210	N/A
1402	124	125
1403	94	95
1404	209	N/A
1405	169	170
1406	60	61
1407	87	88
1408	165	166
1501	208	N/A
1502	122	123
1503	101	102
1504	207	N/A
1505	177	178
1506	50	51
1507	78	79
1508	167	168
1601	206	N/A
1602	96	97
1603	80	81
1604	205	N/A
1605	173	174
1606	46	47
1607	74	75
1608	175	176
1701	204	N/A
1702	85	86
1703	89	90 and 203
1705	171	172
1706	43	44
1707	70	71
1708	160	161
1801	211	N/A
1802	39	40
1803	26	27
1804	162	N/A
1805	156	157

EXHIBIT "C"PARKING SPACE ASSIGNMENTSPAGE 3

Unit Number	Parking Space Assigned	Additional Parking Space(s) Assigned
1806	41	42
1807	55	56
1808	158	159
1901	138	N/A
1902	34	35
1903	4	5
1904	83	N/A
1905	152	153
1906	29	30
1907	62	63
1908	154	155
2001	91	N/A
2002	6	7
2003	10	11
2004	54	N/A
2005	150	151
2006	32	33
2007	48	49
2008	148	149
2101	45	N/A
2102	12	13
2103	14	15
2104	28	N/A
2105	136	137
2106	8	9
2107	2	3
2108	139	140
2201	22	23
2202	20	21
2203	24	25

EXHIBIT "D"**STORAGE SPACE ASSIGNMENTS**

Unit Number	Storage Space(s) Assigned
901	10
1006	8 & 9
1106	15
1506	43
1606	1
1703	48
1705	47
1706	17
1806	14
1905	27
1906	2
2003	18
2006	16
2007	63
2105	45
2106	46
2203	3

EXHIBIT "E"

Signage Control – Commercial Units

An Owner of a Commercial Unit, on behalf of itself or an Occupant of the Commercial Unit, shall be permitted to place signage on the storefront window system and the exterior façade of the Building in areas immediately above Owner's storefront subject to the following conditions:

1. All signage that is to replace existing signage shall be of a similar size and location as the existing signage that is to be replaced;
2. All signage shall comply with local signage ordinances, except as to signage that Declarant sought and for which Declarant was granted a variance in accordance with Subparagraph 13(m)(ii)(B) below;
3. No signage shall contain or consist of flashing lights, lights with moving parts, or noise (other than noise attendant to the operation of such sign);
4. Any Owner or Occupant that removes signage or other improvement from the exterior façade of the Building shall restore the affected portions of the exterior façade to its original condition; and
5. Notwithstanding anything to the contrary herein contained, the Owner of a Commercial Unit shall comply with the Commercial signage criteria established by the ACC from time to time.

EXHIBIT "F"

BYLAWS

OF

LUXE CONDOMINIUM ASSOCIATION, INC.

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

Attorneys

One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326
(404) 926-4500

COPYRIGHT © 2008. Weissman, Nowack, Curry & Wilco, P.C. All rights reserved. These Bylaws may be used only in connection with the property more commonly known as Luxe Condominium and the operation of the Luxe Condominium Association, Inc.

TABLE OF CONTENTS

I.	General.....	1
	1. Applicability	1
	2. Name.....	1
	3. Definitions	1
	4. Membership	1
	5. Entity Members.....	1
	6. Voting	1
	7. Majority	2
	8. Purpose	2
	9. Electronic Documents and Electronic Signatures.....	2
II.	Meetings of Members	2
	1. Annual Meetings	2
	2. Special Meetings	3
	3. Notice of Meetings.....	3
	4. Waiver of Notice.....	3
	5. Quorum.....	3
	6. Adjournment	3
	7. Proxy.....	3
	8. Action Taken Without a Meeting	4
	9. Order of Business.....	4
III.	Board of Directors.....	4
	A. Composition and Selection.....	4
	1. Composition and Eligibility	4
	2. Directors Appointed by the Declarant	5
	3. Number of Directors and Term of Office	5
	4. Removal of Members of the Board of Directors.....	5
	5. Vacancies	5
	6. Compensation	5
	7. Director Conflicts of Interest.....	5
	8. Nomination	6
	9. Elections	6
	B. Meetings.....	6
	1. Regular Meetings	6
	2. Special Meetings	6
	3. Waiver of Notice.....	6
	4. Conduct of Meetings	6
	5. Open Meetings	7
	6. Action Without a Meeting.....	7
	C. Powers and Duties.....	7
	1. Powers and Duties.....	7
	2. Management Agent	8

3.	Borrowing	8
4.	Liability and Indemnification of Officers and Directors	8
D.	Committees	8
1.	Architectural Control Committee	8
2.	Other Committees	8
3.	Service on Committees.....	8
IV.	Officers	9
1.	Designation	9
2.	Election of Officers	9
3.	Removal of Officers.....	9
4.	Vacancies	9
5.	President	9
6.	Vice President	9
7.	Secretary	9
8.	Treasurer	9
9.	Other Officers	9
10.	Agreements, Contracts, Deeds, Leases, Etc.....	9
V.	Rule Making and Enforcement	10
1.	Authority and Enforcement	10
2.	Fining and Suspension Procedure.....	10
3.	Additional Enforcement Rights	11
VI.	Miscellaneous.....	11
1.	Notices	11
2.	Severability	12
3.	Captions	12
4.	Gender and Grammar.....	12
5.	Fiscal Year	12
6.	Financial Review	12
7.	Conflicts.....	12
8.	Amendment.....	12
9.	Books and Records.....	13

BYLAWS
OF
LUXE CONDOMINIUM ASSOCIATION, INC.

Article I
General

Section 1. Applicability. These Bylaws provide for the self-government of Luxe Condominium Association, Inc., in accordance with the Georgia Condominium Act, O.C.G.A. § 44-3-70, *et seq.*, as may be amended from time to time, the Articles of Incorporation filed with the Secretary of State and the Declaration of Condominium for Luxe Condominium, recorded in the Fulton County, Georgia land records (“Declaration”).

Section 2. Name. The name of the corporation is Luxe Condominium Association, Inc. (“Association”).

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

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

Section 5. Entity Members. In the event an Owner is a corporation, limited liability company, partnership, trust, or other legal entity not being a natural person or persons, then any natural person who is an officer, director, or other designated agent of such corporation, partner of such partnership, beneficiary or other designated agent of such trust, manager of a limited liability company or representative of such other legal entity shall be eligible to represent such entity or entities in the affairs of the Association, including, without limitation, serving on the Board of Directors of the Association. Such person’s relationship with the Association shall terminate automatically upon the termination of such person’s relationship with the entity or entities which are the Owner, and termination of the person’s relationship with the Association will create a vacancy in any elected or appointed position within the Association in which such person may have been serving and such vacancy will be filled in accordance with these Bylaws.

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

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

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

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

Section 9. Electronic Documents and Electronic Signatures

(a) Electronic Documents. Whenever these Bylaws require that a document, record or instrument be "written" or "in writing," the requirement is deemed satisfied by an Electronic Document.

(b) Electronic Signatures. Whenever these Bylaws require a signature, an Electronic Signature satisfies that requirement only if: (i) the signature is easily recognizable as a Secure Electronic Signature which is capable of verification, under the sole control of the signatory, and attached to the electronic document in such a way that the document cannot be modified without invalidating the signature; or (ii) the Board reasonably believes that the signatory affixed the signature with the intent to sign the Electronic Document, and that the Electronic Document has not been modified since the signature was affixed.

(c) Verification and Liability for Falsification. The Board may require reasonable verification of any Electronic Signature or Electronic Document. Pending verification, the Board may refuse to accept any Electronic Signature or Electronic Document that, in the Board's sole discretion, is not clearly authentic. Neither the Board nor the Association shall be liable to any member or any other Person for accepting or acting in reliance upon an Electronic Signature or Electronic Document that the Board reasonably believes to be authentic. Any member or Person who negligently, recklessly or intentionally submits any falsified Electronic Document or an unauthorized Electronic Signature shall fully indemnify the Association for actual damages, reasonable attorneys' fees and expenses incurred as a result of such acts.

Article II Meetings of Members

Section 1. Annual Meetings. The regular annual meeting of the members shall be held during the fourth quarter of each year with the date, hour, and place to be set by the Board of Directors. No annual meeting of the Association shall be set on a legal holiday.

Section 2. Special Meetings. Special meetings of the members may be called for any purpose at any time by the President or Secretary, by request of any two (2) members of the Board of Directors, or upon written petition of Owners holding at least fifteen percent (15%) of the Total Association Vote. Any such written petition by the members must be submitted to the Association's Secretary. The Secretary shall then verify that the required number of members have joined in the petition and shall submit all proper petitions to the Association's President. The President shall then promptly call a special meeting for the purpose stated in the petition setting the date, time and location of the meeting (which is not required to be the date, time or location requested in any petition submitted to the Association), and the Secretary shall send notice of the meeting in accordance with these Bylaws. Any special meeting called pursuant to written petition shall be set within thirty (30) days of the date of the petition.

Section 3. Notice of Meetings. It shall be the duty of the Secretary to mail or deliver to the record Owner of each Unit or to the Units a notice of each annual or special meeting of the Association at least twenty-one (21) days prior to each annual meeting and at least seven (7) days prior to each special meeting. The notice shall state the purpose of any special meeting, as well as the time and place where it is to be held. The notice of an annual meeting shall state the time and place of the meeting. If any Owner wishes notice to be given at an address other than his or her Unit, the Owner shall have designated by notice in writing to the Secretary such other address. The mailing or delivering of a notice of meeting in the manner provided in this Section shall be considered proper service of notice.

Section 4. Waiver of Notice. Waiver of notice of meeting of the Owners shall be deemed the equivalent of proper notice. Any Owner may, in writing, waive notice of any meeting of the Owners, either before or after such meeting. Attendance at a meeting by an Owner, whether in person or represented by proxy, shall be deemed waiver by such Owner of notice of the time, date, and place thereof unless such Owner specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted at such meeting unless objection to lack of notice is raised before the business, of which proper notice was not given, is put to a vote.

Section 5. Quorum. Except as may be provided elsewhere, the presence of Owners, in person or by proxy, entitled to cast one-third (1/3) of the Total Association Vote shall constitute a quorum. Once a quorum is established for a meeting, it shall conclusively be presumed to exist until the meeting is adjourned and shall not need to be reestablished. Owners whose voting rights have been suspended pursuant to the Declaration or these Bylaws shall not be counted as eligible votes toward the quorum requirement.

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

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

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

(a) Ballot. A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

The Board may deliver ballots and consent forms by personal delivery, U.S. Mail, facsimile transmission, e-mail, or other electronic means. Owners shall deliver their vote by ballot or consent form by whatever means is specified by the Board.

All solicitations for votes by written ballot shall: (i) indicate the number of responses needed to meet the quorum requirements; (ii) state the percentage of approvals necessary to approve each matter other than election of directors; and (iii) specify the time by which a ballot must be received by the Board in order to be counted. A written ballot may not be revoked. The Association shall maintain such ballots in its file for at least three (3) years.

(b) Written Consent. Approval by written consent shall be valid only when the number of written consents setting forth the actions taken is received and equals or exceeds the requisite majority of the voting power required to pass such action at a meeting held on the date that the last consent is executed and such action is consented to by the Declarant, if required. Executed written consents shall be included in the minutes or filed with the Association's records. If an action of the members is approved by written consent hereunder, the Board shall issue written notice of such approval to all members who did not sign written consents. Membership approval shall be effective ten (10) days after written notice is issued; provided, however, if the consent is to an amendment to the Declaration or Bylaws which must be recorded, the effective date shall be no earlier than the date of recording of such amendment.

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

Article III Board of Directors

A. Composition and Selection.

Section 1. Composition and Eligibility. The affairs of the Association shall be governed by a Board of Directors. Except for directors appointed by the Declarant hereunder, the directors shall be Owners or spouses or Domestic Partners of such Owners; provided, however, no Owner and his or her spouse or Domestic Partner may serve on the Board at the same time, and no co-owners may serve on the Board at the same time. No persons shall be eligible to be elected to or continue to serve on the Board of Directors if they are shown on the books and records of the Association to be more than thirty (30) days delinquent in the payment of any assessment or charge by the Association. Directors shall not be eligible to serve more than three (3) consecutive two (2) year terms without first resigning from the Board for a time

period which shall be the lesser of: (a) one (1) year; or (b) the period of time from the end of one (1) annual meeting of the Association to the beginning of the next annual meeting of the Association.

Section 2. Directors Appointed by the Declarant. Notwithstanding anything to the contrary herein, Declarant shall have exclusive authority to appoint and remove directors and officers until the earlier of: (1) three (3) years after the recording of the Declaration, (2) the date as of which Units to which eighty percent (80%) of the undivided interests in the Common Elements pertain shall have been conveyed by Declarant to Owners other than a Person constituting the Declarant, or (3) the surrender in writing by Declarant of the authority to appoint and remove officers and directors of the Association.

Section 3. Number of Directors and Term of Office. During the Declarant Control Period, the Board shall consist of two (2) directors. After termination of the Declarant Control Period, the Association shall call a meeting to be held at which Owners shall elect three (3) directors. If such meeting is not the annual meeting, the directors elected shall serve until the next annual meeting. At the first annual meeting after Declarant has surrendered control of the Association, the two (2) directors receiving the highest number of votes shall be elected for terms of two (2) years each and remaining director shall be elected for a term of one (1) year. At each annual meeting thereafter, a successor shall be elected to serve for a term of two (2) years. The members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association.

Section 4. Removal of Members of the Board of Directors. After expiration of the Declarant Control Period, at any annual or special meeting of the Association duly called, any one (1) or more Board members, except for directors appointed by Declarant hereunder, may be removed with or without cause by a majority of the Total Association Vote and a successor may then and there be elected to fill the vacancy thus created. Further, any director who is more than thirty (30) days past due in the payment of any assessment or charge shall be automatically removed from the Board of Directors, even if the director subsequently pays the amount owed, and the vacancy shall be filled as provided in Section 5 below. Any director who has had three (3) consecutive unexcused absences from regularly scheduled Board meetings may be removed by the vote of a majority of the other directors. Any director whose removal has been proposed shall be given at least ten (10) days notice of the calling of the meeting to consider his or her removal and the purpose thereof and shall be given an opportunity to be heard at the meeting.

Section 5. Vacancies. Vacancies in the Board caused by any reason, except the removal of a director by a majority of the Total Association Vote or by Declarant, shall be filled by a vote of the majority of the remaining directors, even though less than a quorum, at any meeting of the Board of Directors. The successor so selected shall hold office until the next annual meeting. Notwithstanding anything to the contrary herein, any director who is an officer, director or other designated agent of an entity member and whose position becomes vacant for any reason, may be replaced by the entity who is the Owner unless there has been a transfer of ownership of the Unit, in which case, the vacancy shall be filled by the remaining directors, even if less than a quorum at any meeting of the directors.

Section 6. Compensation. Directors shall not be compensated for services as such unless and only to the extent that compensation is authorized by a majority of the Total Association Vote. Directors may be reimbursed for the expenses incurred in carrying out their duties as directors upon approval of such expenses by the Board of Directors. Directors also may be given nominal gifts or tokens of appreciation by the Association for recognition of services performed, not to exceed a value of One Hundred Dollars (\$100) per calendar year. For purposes hereof, reasonable food and beverages purchased for Board meeting shall not be considered compensation.

Section 7. Director Conflicts of Interest. Nothing herein shall prohibit a director from entering into a contract and being compensated for services or supplies furnished to the Association in a capacity

other than as director, provided that the director's interest is disclosed to the Board and the contract is approved by a majority of the directors who are at a meeting of the Board of Directors at which a quorum is present, excluding the director with whom the contract is made. The interested director shall not count for purposes of establishing a quorum of the Board. The interested director shall be entitled to be present at any meeting at which the proposed contract is discussed but shall not be entitled to discuss the proposed contract during the discussion. Notwithstanding anything herein, the directors, during the period of Declarant control, shall be authorized on behalf of the Association to enter into contracts with the Declarant and its affiliates as set forth in Paragraph 19(g) of the Declaration.

Section 8. Nomination. Nomination for election to the Board may be made by a Nominating Committee which shall be appointed by the Board of Directors at least thirty (30) days prior to the annual meeting to serve a term of one (1) year and shall consist of at least one (1) Board member and at least two (2) other members of the Association who are not Board members. The members of the Nominating Committee shall be announced at the annual meeting. The Nominating Committee may nominate any number of qualified individuals, but not less than the number of directors to be elected. The nominations shall be made at least fourteen (14) days prior to the annual meeting. Nominations shall also be allowed from the floor at the meeting. Each candidate shall be given a reasonable opportunity to communicate his or her qualifications to the membership prior to the election. No member shall be nominated for election to the Board, nor permitted to run for election, if more than thirty (30) days past due in the payment of any assessment. Failure to comply with this Section shall in no way invalidate the election of directors who were not nominated in accordance with the provisions hereof.

Section 9. Elections. All members of the Association eligible to vote shall be entitled to cast their entire vote for each directorship to be filled. There shall be no cumulative voting. The directorships for which elections are held shall be filled by that number of candidates receiving the most votes. Voting for election of Board members shall be by written ballot (unless dispensed by unanimous consent at such meeting at which such voting is conducted).

B. Meetings.

Section 1. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by the Board, but such meetings shall be held at least once every six (6) months. The newly elected Board shall meet within ten (10) days after each annual meeting of the membership. Notwithstanding the foregoing, during the Declarant Control Period, the Board shall not be required to hold regular meetings.

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

Section 3. Waiver of Notice. Any director may, at any time, in writing, waive notice of any meeting of the Board, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall also constitute a waiver of notice by him or her of the time and place of such meeting. If all directors are present at any Board meeting, no notice shall be required and any business may be transacted at such meeting.

Section 4. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings. A majority of

directors shall constitute a quorum for the transaction of business. One (1) or more directors who participate in a meeting by means of telephone or electronic communication shall be deemed present and in attendance for all purposes at such meeting, provided all persons participating in the meeting can hear each other.

Section 5. Open Meetings. Board meetings need not be open to all members. However, if the Board permits members to attend Board meetings, then members other than directors may not participate in any discussion or deliberation unless expressly so authorized by the Board. Notwithstanding the above, the Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session. The Board may order the removal of any meeting guest who, in the Board's opinion, either disrupts the conduct of business at the meeting or fails to leave the meeting upon request after an announcement of reconvening in executive session.

Section 6. Action Without a Meeting. Any action by the Board required or permitted to be taken at any meeting may be taken without a meeting if a majority of the directors consent to such action in writing, sent via hand delivery, regular first class or electronic mail or facsimile. Such consents must describe the action taken and be signed by no fewer than a majority of the directors and such consents shall be filed with the minutes of the Board of Directors.

C. Powers and Duties.

Section 1. Powers and Duties. The Board of Directors shall manage the affairs of the Association and shall have all of the powers conferred upon nonprofit corporations by common law, the statutes of the State of Georgia in effect from time to time, and all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in these Bylaws, the Articles, the Declaration, or the Georgia Condominium Act, O.C.G.A. § 44-3-70, *et seq.* ("Georgia Condominium Act").

In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to and shall be responsible for the following, in the way of explanation, but not limitation:

(a) 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;

(b) making and amending rules and regulations and imposing sanctions for violation thereof, including, without limitation, monetary fines;

(c) opening of bank or other financial accounts on behalf of the Association and designating the signatories required;

(d) making or contracting for the making of repairs, additions, and improvements to, or alterations of the Common Elements in accordance with the other provisions of the Declaration and these Bylaws, after damage or destruction by fire or other casualty; and

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

Section 2. Management Agent. The Association may, but shall not be required to, hire a professional management agent or agents, at a compensation established by the Board, to perform such duties and services as the Board of Directors shall authorize. The Board shall use reasonable efforts in any management contract to provide for termination of such contract by the Association with or without cause and without penalty, upon no more than thirty (30) days written notice. No management contract shall have a term in excess of one (1) year.

Section 3. Borrowing. Except as may be set forth in Paragraph 18 of the Declaration, the Board of Directors shall have the power to borrow money for the purpose of maintenance, repair, restoration, or improvement of the Common Elements and facilities, and for other purposes, with the approval of a majority of the Total Association Vote.

Section 4. Liability and Indemnification of Officers, Directors and Committee Members. The Association shall indemnify every officer, director, and committee member (including directors, officers, and committee members appointed by Declarant during the Declarant Control Period) against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon such officer, director or committee member in connection with any action, suit, or other proceeding (including settlement of any such action, suit, or proceeding, if approved by the then Board of Directors) to which he or she may be made a party by reason of being or having been an officer, director or committee member, whether or not such person is an officer, director or committee member at the time such expenses are incurred subject to the limitations below. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, or for injury or damage caused by any such officer, director or committee member in the performance of his or her duties, except for his or her own individual willful misfeasance or malfeasance. The Association, in determining whether to indemnify a director, officer or committee member, shall not impute knowledge to said director, officer or committee member from any source whatsoever; rather, any such determination shall be based on the actual knowledge of the director, officer or committee member. The officers, directors and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers, directors and committee members may also be members of the Association), and the Association shall indemnify and forever hold each such officer, director or committee member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or committee member or former officer or director may be entitled. The Association shall maintain, as a Common Expense, adequate general liability and, if obtainable, officers' and directors' liability insurance to fund this obligation, and the insurance shall be written as provided in the Declaration.

D. Committees.

Section 1. Architectural Control Committee. After termination of the Declarant Control Period, the Board shall establish an Architectural Control Committee for the purpose of establishing and maintaining architectural standards in the Condominium as provided in the Declaration. The Architectural Control Committee shall consist of at least three (3) members, one of which shall be an Owner of a Commercial Unit or designated by such Owner as provided in Article I, Section 4 hereof.

Section 2. Other Committees. There shall be such other committees as the Board shall determine with the powers and duties that the Board shall authorize.

Section 3. Service on Committees. Unless otherwise provided in these Bylaws or in the resolution authorizing a particular committee, the members of any committee shall be appointed by the

President and shall serve at the pleasure of the Board of Directors. Any committee member may be removed by the Board with or without cause at any time and with or without a successor being named.

Article IV Officers

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

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

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

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

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

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

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

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

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

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

contracts, deeds, leases, checks, promissory notes, and other instruments of the Association shall be executed by at least one (1) officer or by such other person or persons as may be designated by resolution of the Board of Directors.

Article V
Rule Making and Enforcement

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

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

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

(a) Notice. If any provision of the Declaration or Bylaws or any rule or regulation of the Association is violated, the Board shall send the violator written notice identifying the violation and fine(s) being imposed and advising the violator of the right to request a hearing before the Board to contest the violation or fine(s) or to request reconsideration of the fine(s). Fine(s) may be effective or commence upon the sending of such notice or such later date specified in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge the fine. In the event of a continuing violation, each day the violation continues or occurs again constitutes a separate offense, and fines may be imposed on a per diem basis without further notice to the violator.

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

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

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

Article VI Miscellaneous

Section 1. Notices.

(a) Method of Giving Notice. Unless otherwise prohibited in these Bylaws, all notices, demands, bills, statements, or other communications shall be in writing and shall be given via:

- (i) Personal delivery to the addressee; or
- (ii) United States mail, first class, postage prepaid; or
- (iii) Electronic mail; or
- (iv) Facsimile; or

(v) A secure web site, provided that notice shall be deemed given via web site only upon proof that the addressee has retrieved the message.

(b) Addressee. Notice sent by one of the methods described in subparagraph (a) above shall be deemed to have been duly given:

- (i) If to an Owner, at the address, electronic mail address or facsimile number which the Owner has designated in writing and filed with the Secretary, or if no such address has been designated, at the address of the Unit of such Owner;

(ii) If to an Occupant, at the address, electronic mail address or facsimile number which the Occupant has designated in writing with the Secretary or, if no such address has been designated, at the address of the Unit occupied; or

(iii) If to the Association, the Board or the managing agent, at the postal address, facsimile or electronic mail address of the principal office of the Association or the managing agent, if any, or at such other address as shall be designated in writing and filed with the Secretary. The Secretary shall promptly provide notice to all Owners of any such change in address.

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

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

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

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

Section 6. Financial Review. A financial review of the accounts of the Association shall be audited and a financial statement prepared, as a Common Expense by an independent accountant after the close of each fiscal year; provided, however, such audited statement for the Association's preceding fiscal year is required only if the Condominium has been established for a full fiscal year. Such audited statement shall be made available to the holder, insurer, or guarantor of any first mortgage on a Unit upon submission of a written request and must be available within one hundred twenty (120) days of the Association's fiscal year end.

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

Section 8. Amendment. Except where a higher vote is required for action under a particular provision of the Declaration or Bylaws, in which case such higher vote shall be necessary to amend, these Bylaws may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members holding two-thirds (2/3) of the Total Association Vote. Notwithstanding the foregoing, any amendment to the Bylaws shall require the written consent of Declarant until the later of the following: (a) the date upon which the Declarant no longer owns any Unit at the Condominium or (b) ten (10) years after the date on which the Declaration is recorded in the Official Records, whichever period of time is longer. Moreover, no amendment shall become effective until it is certified by the President and Secretary of the Association and recorded in the Official Records. Any

amendment duly certified and recorded shall be conclusively presumed to have been duly adopted in accordance with the Declaration and Bylaws. Owners whose voting rights have been suspended pursuant to the Declaration or these Bylaws shall not be counted as eligible votes toward the amendment requirement.

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

Notwithstanding the foregoing, Declarant or the Board of Directors, without the necessity of a vote from the Owners, may amend these Bylaws to correct any scrivener's errors, comply with any applicable state, city or federal law, and/or to bring the Condominium into compliance with applicable rules and regulations of the Federal National Mortgage Association ("Fannie Mae"), the Department of Housing and Urban Development ("HUD") and the Department of Veterans Affairs ("VA") pursuant to federal law.

Section 9. Books and Records.

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

(i) its Articles or restated Articles of Incorporation and all amendments to them currently in effect;

(ii) its Bylaws or restated Bylaws and all amendments to them currently in effect;

(iii) resolutions adopted by either its members or Board of Directors increasing or decreasing the number of directors or the classification of directors, or relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of members;

(iv) resolutions adopted by either its members or Board of Directors relating to the characteristics, qualification, rights, limitations, and obligations of members or any class or category of members;

(v) the minutes of all meetings of members and records of all actions approved by the members for the past three (3) years;

(vi) all written communications to members generally within the past three (3) years, including the financial statements furnished for the past three (3) years;

(vii) a list of the names and business or home addresses of its current directors and officers; and

(viii) its most recent annual report delivered to the Secretary of State.

(b) A member may inspect and copy the following records upon written notice at least five (5) business days before the date on which the member wishes to inspect and copy only if the member's demand is made in good faith and for a proper purpose that is reasonably relevant to the member's legitimate interest as a member; the member describes with reasonable particularity the purpose and the records the member desires to inspect; the records are directly connected with this purpose; and the records are to be used only for the stated purpose:

(i) excerpts from minutes of any Board meeting, records of any action of a committee of the Board while acting in place of the Board on behalf of the Association, minutes of any meeting of the members, and records of action taken by the members or the Board without a meeting, to the extent not subject to inspection under subsection 9(a);

(ii) accounting records of the Association; and

(iii) the membership list only if for a purpose related to the member's interest as a member. Without the consent of the Board, a membership list or any part thereof may not be: used to solicit money or property unless such money or property will be used solely to solicit the votes of the members in an election to be held by the Association; used for any commercial purpose; or sold to or purchased by any person.

The Association may impose a reasonable charge, covering the cost of labor and material, for copies of any documents provided to the Member.

Notwithstanding anything to the contrary, the Board may limit or preclude member inspection of confidential or privileged documents, including attorney/client privileged communications, executive session meeting minutes, and financial records or accounts of other members. Minutes for any Board or Association meetings do not become effective and an official Association record until approved by the Board or Association membership, as applicable, at a subsequent meeting.