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Attention: L. Hutch Moore

**DECLARATION OF CONDOMINIUM
FOR
MELROSE PARK CONDOMINIUM**

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BOOK 26912PG001

TABLE OF CONTENTS

1.	NAME	-1-
2.	DEFINITIONS	-1-
3.	LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS.....	-3-
4.	UNITS AND BOUNDARIES.....	-3-
5.	COMMON ELEMENTS	-4-
6.	LIMITED COMMON ELEMENTS.....	-5-
7.	ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES	-6-
8.	ALLOCATION OF LIABILITY FOR COMMON EXPENSES	-6-
9.	ASSOCIATION RIGHTS AND RESTRICTIONS	-7-
10.	ASSESSMENTS	-7-
11.	INSURANCE	-10-
12.	REPAIR AND RECONSTRUCTION.....	-13-
13.	ARCHITECTURAL CONTROLS.....	-14-
14.	USE RESTRICTIONS	-17-
15.	LEASING.....	-23-
16.	SALE OF UNITS	-26-
17.	MAINTENANCE RESPONSIBILITY.....	-26-
18.	MORTGAGEE'S RIGHTS	-29-
19.	GENERAL PROVISIONS	-31-
20.	EMINENT DOMAIN.....	-32-
21.	EASEMENTS.....	-33-

Table of Contents (Continued)

22.	AMENDMENTS	-34-
23.	SEVERABILITY	-36-
24.	DECLARANT RIGHTS	-36-
25.	PREPARER.....	-36-

EXHIBITS

DESCRIPTION OF SUBMITTED PROPERTY.....	"A"
UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS AND LIABILITIES FOR COMMON EXPENSES	"B"
BYLAWS.....	"C"

STATE OF GEORGIA
COUNTY OF FULTON

DECLARATION OF CONDOMINIUM

FOR

MELROSE PARK CONDOMINIUM

THIS DECLARATION is made on the date set forth below by Melrose Park, L.L.C., a Georgia limited liability company (hereinafter referred to as "Declarant");

W I T N E S E T H

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

WHEREAS, a plat related to the Condominium prepared by Eston Pendley and Associates, Inc. dated February 10, 1999 and last amended on March 16, 1999, was filed in Condominium Plat Book 11, Page(s) 86-88, Fulton County, Georgia Records; and

WHEREAS, floor plans relating to the Condominium prepared by Ray Engineering, Inc. were filed in Condominium File Cabinet No. 2, Folder No. 381, of the Fulton County, Georgia Records; and

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;

NOW, THEREFORE, Declarant hereby declares that the real property described in Exhibit "A" of this Declaration, including the improvements 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 provisions of the Georgia Condominium Act and the covenants, conditions, restrictions, easements, assessments, and liens set forth 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 pro-

DECLARATION OF CONDOMINIUM

FOR

MELROSE PARK CONDOMINIUM

1. NAME.

The name of the condominium is Melrose Park Condominium (hereinafter sometimes called "Melrose Park" 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. (Michie 1982).

2. DEFINITIONS.

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

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

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

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

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

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

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

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

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

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

~~BOOK 26905 PG 305~~ EC

BOOK 26912 PG 005

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

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

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

(m) Convertible Space means a portion of a structure within the Condominium, which portion may be converted in accordance with this Declaration and the Act into one or more Units or Common Elements, including, but not limited to, Limited Common Elements.

(n) Declarant shall mean Melrose Park, L.L.C., a Georgia limited liability company, its respective successors and assigns.

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

(p) Floor Plans shall mean the floor plans for Melrose Park Condominium, filed in the condominium file cabinet of the Fulton County, Georgia records.

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

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

(s) 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.

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

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

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

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

(x) Survey shall mean the plat of survey for Melrose Park Condominium, filed in the condominium plat book of the Fulton County, Georgia records.

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

3. LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS.

The Condominium subject to this Declaration and the Act is located in Land Lots 48 and 49, of the 14th District of Fulton County, Georgia, being more particularly described in Exhibit "A" attached to this Declaration, which exhibit is specifically incorporated herein by this reference. The Survey and Floor Plans relating to the Condominium will be filed in the Fulton County, Georgia records at the time the Property 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, addition and realignment of parking spaces, addition and reconfiguration of storage spaces, renovation and installation of changes to utility systems and facilities, rearrangement and installation of security and refuse facilities, work relating to building exteriors, and extension of the drives and utility lines and pipes located on the Condominium.

4. UNITS AND BOUNDARIES.

The Condominium will be divided into one hundred (100) separate residential Units, Convertible Space, if any, as shown on the Floor Plans, which may be converted to a Unit or Units, the Limited Common Elements, and the Common Elements. Each Unit consists of a dwelling and its appurtenant percentage of undivided interest in the Common Elements. Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the Act and the Condominium Instruments. The Units are depicted on the Survey and the Floor Plans. Each Unit includes that part of the structure which lies within the following boundaries:

(a) Vertical Boundaries. The perimetrical or vertical boundaries of each Unit shall be the vertical planes of the outermost unfinished surfaces of the gypsum board constituting the walls of the Unit. The vertical boundaries include the gypsum board, on the Unit side of the walls, as they are extended to their intersections with each other and the upper and lower horizontal boundaries of the Unit.


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

(b) Horizontal Boundaries.

(i) If the Unit is on the top floor of the building, the upper horizontal boundary of each such Unit located in the Condominium is the upper surface of the gypsum board comprising the upper most story of the Unit. The lower horizontal boundary of each such Unit located in the Condominium is the uppermost surface of the wood floor truss structure with lightweight concrete comprising the lowermost story of such Unit.

(ii) If the Unit is on the bottom floor of the building, the upper horizontal boundary of each such Unit located in the Condominium is the lowermost surface of the wood floor truss system with lightweight concrete comprising the uppermost story of such Unit. The lower horizontal boundary of each such Unit located in the Condominium is the uppermost surface of the concrete slab on which the Unit is constructed, with the flooring, if any, constituting part of the Unit and the concrete subflooring and building foundation not constituting part of the Unit.

(iii) If the Unit is not on the top or bottom floors of the building, the upper horizontal boundary of each such Unit located in the Condominium is the lowermost surface of the wood floor truss system with lightweight concrete comprising the uppermost story of such Unit. The lower horizontal boundary of each such Unit located in the Condominium is the uppermost surface of the wood floor truss system with lightweight concrete comprising the lowermost story.

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

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

(d) Convertible Space. As shown on the Floor Plans, a portion of the Condominium has been designated "Convertible Space." The Declarant, with the consent of the mortgagees thereof, may convert all or any part of the Convertible Space into one or more Units and/or Common Elements, including, without limitation, Limited Common Elements. Any such conversion shall be deemed to have occurred at the time of the recordation of appropriate instruments pursuant to O.C.G.A. §44-3-83(d) and §44-3-88(b).

It is the intention of the Declarant to convert the Convertible Space into one or more residential condominium Units, Common Elements and/or Limited Common Elements. Provided, however, notwithstanding the foregoing, upon conversion of the Convertible Space, Declarant or any purchaser or successor of Declarant expressly reserves the right to make such architectural modifications as such party in his or her sole discretion agrees to undertake with respect to the build-out of the Convertible Space. Upon conversion of all or any part of the Convertible Space in such manner, votes in the Association shall be reallocated so that each newly-created Unit shall have one vote.

5. COMMON ELEMENTS.

The Common Elements consists of all portions of the Condominium not located within the boundaries of a Unit. The Common Elements include, without limitation, certain utilities, garbage

dumpsters and/or trash bins, fences surrounding the Condominium property, keypad security system, paving, walls, landscape areas, courtyard areas, outside parking area, mail kiosk, the foundation, roof, and exterior walls of the building, stairs, stairwells, breezeways, entry foyers, mechanical rooms, maintenance room, light fixtures, laundry room, barbecue pits and grills, fountains, concrete tables and chairs and limited access gated entry system.

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

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

6. LIMITED COMMON ELEMENTS.

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

(i) Breezeways, entry foyers, hallways, corridors, and stairs serving more than one but less than all Units, as shown on the Floor Plans, are assigned as Limited Common Elements to the Units which they serve;

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

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

(iv) Parking spaces may be initially assigned or reassigned by amendment to this Declaration as provided in Subparagraphs (b) and (c) below;

(v) Storage spaces may be initially assigned or reassigned by amendment to this Declaration as provided in subparagraphs (b) and (c) below;

(vi) Each Unit is assigned one (1) mailbox at the Common Element mail kiosk.

(b) The Association's 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, without the need for a vote of the Association, upon written application to the Association by the Unit Owner or Owners for whose exclusive use such Common Element is requested or whose use of the Limited Common Element previously assigned is directly affected. Upon such application, the

Association shall prepare and execute an amendment to the Declaration assigning the Common Element as a Limited Common Element or reassigning the Limited Common Element, which amendment shall be executed by the Owner or Owners making such application. Such amendment shall be delivered and become effective as provided in Section 44-3-82 of the Act. An amendment to assign a Common Element, not previously assigned as a Limited Common Element shall not require the approval of the Association or the Board, if the request is made by the Declarant, or its affiliate. Such a request made by any other Person shall require the Board's consent.

(c) For so long as Declarant owns any Unit primarily for the purpose of sale, Declarant shall have the right to sell to Unit Owners one (1) or more parking spaces and storage spaces to be assigned as Limited Common Elements pursuant to subparagraphs (a) and (b) above. The proceeds of the sale of parking spaces and storage spaces as Limited Common Elements shall belong to the Declarant.

7. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES.

All Unit Owners, by virtue of their ownership of a fee or undivided fee interest in any Unit in the Condominium, excluding Persons holding such interest under a Mortgage, are members of the Melrose Park Condominium Association, Inc., and, except as otherwise provided herein or in the Bylaws, shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to the Declaration and in accordance with the Bylaws. Subject to the provisions of the Condominium Instruments, the Owner or collective Owners of a Unit 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 amount of all Common Expenses shall be assessed against all the Units in accordance with the percentage of undivided interest in the Common Elements appurtenant to the Unit.

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

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

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

(c) The Condominium currently is served by a common water meter. The Board shall have the authority to install submeters and assess individual Units utilities usage charges, including a right to

add a charge for the cost of overhead for such submetering, against individual Units and/or to install separate utility meters for the Units.

9. ASSOCIATION RIGHTS AND RESTRICTIONS.

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

(a) to enter into Units for maintenance, emergency, security, or safety purposes, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after reasonable notice to the Owner or Occupant of the Unit;

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

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

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

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

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

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

(h) at the sole expense of the Association, without need for a membership vote, and without the consent of any affected Unit Owner, to relocate any portion of the air conditioning, heating, plumbing, ventilating, exhaust or electrical system serving a particular Unit, provided that after such relocation, the system serving the Unit is of equal or better quality than existed prior to the relocation; and

(i) to establish a construction deposit in a reasonable amount determined by the Board of Directors to be paid by all Owners making modifications, alterations or additions to their Units in order to protect the Condominium against damage due to the transportation and use of construction materials in the Condominium. Costs for repair of such damage may be deductible from the construction deposit and any additional expenses may be specifically assessed against the Unit under 8(b)(ii) above.

10. ASSESSMENTS.

(a) Purpose of Assessment. The Association shall have the power to levy assessments as provided herein and in the Act. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and

enjoyment of the Owners and Occupants of Units in the Condominium as may be more specifically authorized from time to time by the Board.

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

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

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

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

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

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

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

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

(v) If any assessment or other charge is delinquent for thirty (30) days or more, in addition to all other rights provided in the Act and herein, the Association shall have the right upon ten (10) days written notice, and in compliance with any requirements set forth in the Act, to suspend any utility or service, the cost of which are a Common Expense, including, but not limited to, water, electricity, heat, air conditioning and cable television, to that Unit until such time as the delinquent assessments and all costs permitted under this Paragraph, including reasonable attorney's fees, are paid in full. Any costs incurred by the Association in discontinuing and/or reconnecting any utility service, including reasonable attorney's fees, shall be an assessment against the Unit.

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

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

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

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

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

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

Notwithstanding any other provisions of this Declaration, during the time the Declarant appoints the directors and officers of the Association pursuant to Article III, Section 2 of the Bylaws, Declarant (i) may collect a non-refundable contribution to the capital fund of the Association from the initial purchaser of each Unit in the amount of two (2) months of the general assessments, and (ii) shall not be required to prepare a capital budget, set any other capital contribution, or otherwise collect amounts for capital reserves. Any capital contribution collected by the Declarant shall not be collected against a Mortgagee which takes title to a Unit pursuant to foreclosure.

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

(h) Surplus Funds and Common Profits. Pursuant to Section 44-3-108 of the Act, common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common profits to the payment of Common Expenses 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 reserve account.

11. INSURANCE.

The Association shall obtain and maintain at all times, as a Common Expense, insurance as required by Section 44-3-107 of the Act, as amended, and as required herein. To the extent reasonably available at reasonable cost, the Association's insurance policy shall cover any of the following types of property contained within a Unit, regardless of ownership: (a) fixtures, improvements and alterations that are a part of the building or structure; and (b) appliances, such as those used for refrigerating, ventilating,

cooking, dishwashing, laundering, security or housekeeping. If such insurance is not reasonably available, the Association's insurance policy may exclude improvements and betterments made by the Unit Owner and may exclude the finished surfaces of perimeter and partition walls, floors, and ceilings within the Units (i.e., paint, wallpaper, paneling, other wall covering, tile, carpet and any floor covering; provided, however, floor covering does not mean unfinished hardwood or unfinished parquet flooring).

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

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

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

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

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

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

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

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

BOOK 26912PG015

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

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

water loss is not required
↓
neither
is
structural

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

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

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

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

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

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

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

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

(f) Insurance carried by the Association as a Common Expense shall not be required to include any part of a Unit which is not depicted on the original plats and plans or included in the original