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STATE OF GEORGIA
COUNTY OF FULTON

Reference: Deed Book: 8527
Page: 445

AMENDED AND RESTATED DECLARATION OF CONDOMINIUM FOR RIVER RUN CONDOMINIUM

IMPORTANT NOTICE:

CLOSING ATTORNEYS SHOULD CONTACT THE ASSOCIATION FOR ESTOPPEL CERTIFICATES REGARDING BOTH ASSESSMENTS/ CHARGES DUE ON UNITS AND ANY UNCURED ARCHITECTURAL VIOLATIONS OR UNAUTHORIZED IMPROVEMENTS TO UNITS, PURSUANT TO THE PROVISIONS HEREOF.

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PREPARED BY:

WEISSMAN, NOWACK,
CURRY & WILCO, P.C.
ATTORNEYS AT LAW

Mindy C. Waitsman, Esquire

WHEREAS, Calibre Properties, Inc., a Georgia corporation, recorded a Declaration of Condominium for River Run Condominium, on June 23, 1983, in Deed Book 8527, Page 445, *et seq.*, Fulton County, Georgia Records ("Original Declaration"), as amended; and

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

Deed Book/Page
10904/462 *et seq.*
10904/469 *et seq.*

WHEREAS, a plat related to the Condominium was filed in Condominium Plat Book 6, Page 86, Fulton County, Georgia Records; and

WHEREAS, floor plans relating to the Condominium were filed in Condominium File Cabinet No. 2, Drawer No. 156, Fulton County, Georgia Records; and

WHEREAS, Article 11, Section 11.1 of the Declaration and Article 6, Section 6.7 of the Bylaws for River Run Condominium Association ("Original Bylaws"), provide for amendment of those instruments in accordance with O.C.G.A. Section 44-3-93, which provides for amendment by the assent of owners of units to which at least two-thirds (2/3) of the votes in the River Run Condominium Association, Inc. ("Association") pertain; and

WHEREAS, members of the Association to which at least two-thirds of the total votes in the Association pertain desire to amend the Declaration and Bylaws and have approved this Amended and Restated Declaration and Bylaws; and

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

**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM
FOR
RIVER RUN CONDOMINIUM**

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1. **NAME.**

The name of the condominium is River Run Condominium (hereinafter sometimes called "River Run " or the "Condominium," as further defined herein), which condominium is submitted to the Georgia Condominium Act, O.C.G.A. § 44-3-70, *et seq.* (1991 and Supp. 2002).

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** means the Georgia Condominium Act, O.C.G.A. § 44-3-70, *et seq.* (1991 and Supp. 2002), as such Act may be amended from time to time.

(b) **Architectural Control Committee** or **ACC** means the committee established to exercise the architectural review powers set forth in Paragraph 11 hereof, which shall be the Board of Directors of the Association unless by resolution the Board appoints a separate Architectural Control Committee.

(c) **Area of Common Responsibility** means and refers 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** means the Articles of Incorporation of River Run Condominium Association, Inc., filed with the Secretary of State of the State of Georgia.

(e) **Association** means River Run Condominium Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

(f) **Association Legal Documents** means this Declaration and all exhibits hereto, the Bylaws, the Articles of Incorporation, the plats, floor plans and all rules and regulations and architectural guidelines for the Association, all as may be supplemented or amended.

(g) **Board** or **Board of Directors** means the body responsible for management and operation of the Association.

(h) **Bylaws** mean the Bylaws of River Run Condominium Association, Inc., attached to this Declaration as Exhibit "B" and incorporated herein by this reference.

(i) **Common Elements** 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.

(j) **Common Expenses** 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.

(k) **Community-Wide Standard** means 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.

(l) **Condominium** means all that property described in Exhibit "A" attached hereto and incorporated herein by this reference and submitted to the provisions of the Act by this Declaration.

(m) **Condominium Instruments** mean this Declaration and all exhibits hereto, including the Association's Bylaws, and the Plat and Floor Plans, all as may be supplemented or amended from time to time.

(n) **Director** means any member of the Board of Directors of the Association, as further defined in Article 3 of the Bylaws.

(o) **Domestic Partner** means any adult who cohabitates 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.

(p) **Effective Date** means the date that this Declaration is recorded in the Fulton County, Georgia land records.

(q) **Electronic Record** means information created, transmitted, received or stored by electronic means and retrievable in human perceivable form, such as email, web pages, electronic documents, and facsimile transmissions.

(r) **Electronic Signature** means a signature created, transmitted, received or stored by electronic means and includes, but is not limited to, a secure electronic signature.

(s) **Eligible Mortgage Holder** means a holder of a first Mortgage secured by a Unit in the Condominium who has requested in writing notice of certain items as set forth in this Declaration.

(t) **Floor Plans** means the floor plans for River Run Condominium, filed in the Condominium File Cabinet 2, Drawer 156 of the Fulton County, Georgia records, incorporated herein by this reference.

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

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

(w) **Mortgage** means 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.

(x) **Mortgage or Mortgage Holder** means the holder of any Mortgage.

(y) **Occupant** means any Person staying overnight in a Unit for a total of more than 30 days, either consecutive or nonconsecutive, in any calendar year, regardless of whether such Person is a tenant or the Owner of such Unit.

(y) **Officer** means an individual who is elected by the Board to serve as President, Vice President, Secretary, or Treasurer, or such other subordinate officers as the Board may determine necessary.

(z) **Owner** shall mean the record titleholder of a Unit within the Condominium, but shall not include a Mortgage Holder. For purposes hereof, the holder of a tax deed on a Unit shall be deemed the Owner thereof, notwithstanding the fact that there may exist a right of redemption on such Unit.

(aa) **Person** means any individual, corporation, limited liability company, firm, association, partnership, trust, or other legal entity.

(bb) **Plat** means the plat of survey for River Run Condominium, filed in Condominium Plat Book, 6, Page 86, Fulton County, Georgia records, incorporated herein by this reference.

(cc) **Secure Electronic Signature** means 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.

(dd) **Unit** means 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 OF PROPERTY**

The Condominium subject to this Declaration and the Act is located in Land Lot 366 of the 6th District of Fulton County, Georgia, being more particularly described in Exhibit "A" attached to this Declaration and incorporated herein by this reference.

4. **UNITS AND BOUNDARIES.**

The Condominium is divided into 83 separate Units with each unit appurtenant percentage of undivided interest in the Common Elements and the Limited 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 Plat and the Floor Plans. Each Unit includes that part of the structure, which lies within the following boundaries:

(a) **Unit Boundaries.** To the extent that walls, floors, or ceilings are designated as the boundaries of the units or of any specified units, all doors and windows therein and all lath, wallboard, plasterboard, plaster, paneling, molding, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces thereof shall be deemed a part of such units; but all other portions of such walls, floors, or ceilings shall be deemed a part of the common elements;

Subject to paragraph (b) of this subsection, all space, interior partitions, and other fixtures and improvements within the boundaries of a unit shall be deemed a part of that unit;

(b) **Additional Information to Interpret Unit Boundaries as provided in the Act.** 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, including but not limited to dryers and plumbing fixtures within a Unit shall be part of the Unit.

If any chutes, flues, ducts, conduits, wires, pipes or other apparatus lies partially within and partially outside of the designated boundaries of the Unit, any portion thereof which serves only that Unit shall be deemed to be a part of that Unit, while any portions thereof which serve more than one (1) Unit or any portion of the Common Elements shall be deemed a part of the Common Elements except that any chimney, fireplace flue, and damper shall not be deemed part of a Unit but shall be considered a Limited Common Element assigned to such Unit as set forth below. (All chimney caps, however, are Common Elements.)

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

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

5. COMMON ELEMENTS.

The Common Elements consist of all portions of the Condominium not located within the boundaries of a Unit. Ownership of the Common Elements shall be by the Unit Owners as tenants-in-common. The percentage of undivided interest in and to the Common Elements attributable to each Unit is equal. 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 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 enter or encroach upon the lawful rights of the other Owners.

In addition to all of its other powers and duties necessary for the administration of the Condominium, the Board of Directors has the right 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 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 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.

6. LIMITED COMMON ELEMENTS.

(a) The Limited Common Elements are those portions of the Common Elements, which are reserved for the exclusive use of those persons who are entitled to the use of one or more (but less than all) of the Units. Limited Common Elements may be assigned subsequently only in connection with expansions of the Condominium. The Limited Common Elements located on the condominium and the units to which they are assigned are:

(i) any patio, porch or deck attached to and serving only one (1) Unit is assigned as a Limited Common Element to the Unit to which it is attached and which it serves;

(ii) any chimney (including the flue, damper and chimney cap) adjoined and connected to a Unit or Units are assigned as Limited Common Elements to the Unit or Units to which they are adjoined and connected;

(iii) any flue or ducts connected to a dryer that serves one Unit;

(iv) any breezeways, mailbox, and utility meters assigned to a Unit are a limited common element.

(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 Sections 44-3-82(b) and (c) of the Act. A Common Element not previously assigned as a Limited Common Element may be so assigned and a Limited Common Element may be reassigned by the Board, without the need for a vote of the Association, upon written application to the Association by

the Unit Owner or Owners for whose exclusive use such Common Element is requested or whose use of the Limited Common Element previously assigned is directly affected. Upon such application, the Association shall prepare and execute an amendment to the Declaration assigning the Common Element as a Limited Common Element or reassigning the Limited Common Element, which amendment shall be executed by the Owner or Owners making such application. Such amendment shall be delivered and become effective as provided in Section 44-3-82 of the Act.

7. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES.

(a) **Membership.** All Unit Owners, by virtue of their ownership of a fee or undivided fee interest in any Unit in the Condominium, are members of the River Run Condominium Association, Inc. This is not intended to include Persons who hold an interest merely as security for the performance of an obligation, but the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more Persons, shall have more than one (1) membership per Unit owned.

(b) **Voting.** The Owner or collective Owners of the Unit shall be entitled to one (1) equally weighted vote for such Unit. When more than one (1) Person holds an ownership interest in any Unit, the vote for such Unit shall be exercised as those Owners determine among themselves, otherwise the Unit's vote shall be suspended if more than one (1) Person seeks to exercise it.

8. ALLOCATION OF LIABILITY FOR COMMON EXPENSES.

(a) **General Allocations.** Except as provided below or elsewhere in the Act or Condominium Instruments, the amount of all Common Expenses shall be assessed equally against all the Units.

(b) **Specific Special Assessments.** Notwithstanding the above, the Board of Directors shall have the power to levy specific 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 do so 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.

(i) Any Common Expenses benefiting less than all of the Units or significantly disproportionately benefiting all Units may be specifically specially assessed equitably among all of the Units that are benefited according to the benefit received. Except for expenses for maintenance, repair or replacement of Limited Common Elements, which may be specifically specially assessed, expenses incurred for the maintenance, repair or replacement of the Area of Common Responsibility, shall not be specifically 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 Units including attorneys' fees incurred in enforcing the Declaration, Bylaws or Association rules, may be specifically specially assessed against such Units.

For purposes of this subparagraph, nonuse shall constitute a benefit to less than all Lots or a significant disproportionate benefit among all Lots only when such nonuse results in an identifiable, calculable reduction in cost to the Association.

(c) The Condominium currently is served by a common water and sewer meter. The Board shall have the authority to assess as a specific special assessment, as provided in subparagraph (b)(i) above, individual Unit utility usage charges, based on either a "residential utility billing" system or sub-metering.

If the Board chooses to impose a "residential utility billing" system, the Board shall have the right to add a charge for the cost of overhead for such services. "Residential Utility Billing" systems base utility

charges upon a Unit's square footage as a percentage of the total square footage of all Units in the Condominium together with a factor based on the number of Occupants for each Unit. This is the system currently in place for water/gas service to the Condominium, although it may be replaced with a submetering system at a later date.

If the Board chooses to install submitters for each Unit (which decision shall be in the sole discretion of the Board), the costs of doing so shall be charged back to the Units as specific special assessments. Thereafter, the Board shall have the authority to assess individual Unit utility usage charges as specific special assessments based on readings of the submeters. In the alternative, the Board has the right to specifically specially assess the Units based upon reasonable estimates of utility usage charges with adjustments after periodic submeter readings. The Board also shall have the right to add a charge for the overhead for such sub-metering and meter reading.

9. **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; (iii) specific special assessments against any particular Unit which are established pursuant to the terms of this Declaration, including but not limited to reasonable fines imposed in accordance with the terms of this Declaration; and (iv) Capital Contribution Assessments.

All such assessments, together with charges, interest, costs, and reasonable attorney's fees actually incurred (including post-judgment attorney fees, costs and expenses), 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. The Association, in the Board's discretion, may, but shall not be obligated to, record a notice of such lien in the Fulton County, Georgia records evidencing the lien created under the Act and this Declaration.

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 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, the Association's failure to provide services or 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 the annual assessment, any part or installment thereof or any other fine, special assessment or charge is not paid in full within 10 days of the due date, or such later date as may be provided by the Board:

(1) a late charge equal to the greater of \$10.00 or 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;

(2) interest at the rate of 10 percent per annum, or such higher rate as may be authorized by the Act, shall accrue from the due date; and

(3) upon 30 days written notice to the Owner, the Board may accelerate and declare immediately due all of that Owner's unpaid installments. Upon acceleration, that Owner shall thereby lose the privilege of paying any and all assessments and charges in installments for that fiscal year, unless such privilege is otherwise reinstated in the Board's sole discretion.

(ii) If assessments, fines or other charges, or any part thereof, remain unpaid more than 30 days after the assessment payments first become delinquent, the Owner's and Occupant's rights to vote and use the Common Elements shall be automatically suspended until all amounts owed are paid in full (provided, however, the Board may not deny ingress or egress to or from a Unit) and 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, including reasonable attorney's fees actually incurred. Enforcement under this subparagraph is not dependent upon or related to other restrictions and/or other actions.

(iii) If any assessment or other charge is delinquent for 30 days or more, in addition to all other rights provided in the Act and herein, the Association shall have the right upon 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 may only suspend any utility or service paid for as a Common Expense but only 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 or service has been suspended shall not be entitled to use any such utility or service 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. § 16-8-5. The utility or service shall not be required to be restored until all judgments are paid in full, at which time the Association shall direct the utility or service provider to restore the utility or service. Enforcement under this subparagraph is not dependent upon or related to other restrictions and/or other actions.

(iv) If any assessment, fine or other charge, or any part thereof, is delinquent for 30 days or more, the Association may suspend the Owner's and/or Occupant's right to bring or park vehicles on the Common Elements or 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 handicap 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 10 days prior to the date of such suspension.

(v) If part payment of assessments or other charges is made, the amount received may be applied first to post-judgment attorney's fees, costs and expense, then to costs and attorney's fees not reduced to a judgment, then to interest, then to late charges, then to delinquent assessments and then to current assessments. Late charges may be assessed on delinquencies that are created by the application of current payments to outstanding delinquent assessments or charges.

(d) **Computation of Operating Budget and Assessment.** Prior to the beginning of each fiscal year, the Board shall prepare a budget covering the estimated costs of operating the Condominium during the coming year, and the Board shall establish the annual assessment or installments for the coming year. The Board shall cause the budget and notice of the assessment(s) to be delivered to each member at least 30 days prior to the due date for such assessment, or the first installment thereof. The budget and the assessment shall become effective unless disapproved at a duly called Association annual meeting by a vote of a majority of the total Association membership; 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 21 days prior to the proposed effective date thereof and at least 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.

The budget shall not operate as a limitation on expenditures by the Board, but, rather, the budget is merely an estimate of Common Expenses on which the Board may base the annual assessments.

(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. In order to be effective, any special assessment (except as provided in Paragraph 9(b) regarding the power to impose specific special assessments and Paragraph 16(b) 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 \$200.00 per Unit or such higher amount as may be authorized by the Act, must first be approved by at least a majority of the eligible Owners.

(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 subparagraph (d) of this Paragraph. A copy of the capital reserve budget shall be distributed to each member in the same manner as the operating budget.

(g) **Capital Contribution Assessment Upon Transfer of Lots.** In addition to all other assessments, fees and charges provided for herein, the purchaser or grantee of every Unit shall be assessed and be subject to a non-refundable, non-prorated capital contribution assessment ("Capital Contribution Assessment") upon each and every conveyance or transfer of the Unit to any person other than to the spouse or heir of the Owner. The Capital Contribution Assessment shall be an amount equal to two months assessments applicable to such Unit at the time of such conveyance or transfer.

The Capital Contribution Assessment shall be due and payable by the purchaser or grantee at the time of conveyance or transfer of the Unit and shall be collected at the closing of each such conveyance or transfer. The Capital Contribution Assessment shall not constitute an advance payment of annual assessments. The Capital Contribution Assessment shall constitute a specific special assessment and continuing lien against such Unit, and a personal obligation of the Owner of such Unit, from the time it is due until it is paid in full.

(h) **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 such Unit. The Association shall respond in writing within five business days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding \$10.00, 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.

(i) **Surplus Funds and Common Profits.** Pursuant to 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, be: (1) distributed to the Owners; (2) credited to the next assessment chargeable to the Owners in proportion to the liability for Common Expenses attributable to each Unit; or (3) added to the Association's capital reserve account as set forth in subparagraph (f) above.

(j) **Foreclosure Administration Fee.** It is recognized that foreclosures of mortgages on Units create substantial administrative and other burdens on the Association. These additional burdens on the Association include, but are not limited to, having to monitor the status of mortgages and legal periodicals to determine when foreclosures occur, searching the Fulton County, Georgia land records to determine the names of the purchasers at foreclosure sales, contacting the foreclosure purchasers/owners regarding foreclosure-purchaser responsibilities and assessment obligations and updating Association records multiple times to deal with just a single Unit. Pursuant to this Declaration and Section 44-3-80 of the Act, the Association is authorized to assess individual Owners certain fees and expenses occasioned by and benefiting just those Owners or those Owners' Units. In accordance with these provisions, and in addition to annual assessments, special assessments, and other charges provided for in this Declaration, any Person who acquires a Unit at a foreclosure sale of the mortgage on such Unit, or by deed in lieu of a foreclosure, will be required to pay the Association a Foreclosure Administration Fee of \$ 750.00 at the time the foreclosure deed or deed in lieu of foreclosure is recorded in the Fulton County, Georgia records. The Foreclosure Administration Fee shall constitute a specific assessment as described in this Declaration.

10. **MAINTENANCE RESPONSIBILITY.**

(a) **By the Owner.** Each Owner shall have the obligation to maintain and keep in good repair all portions of his or her Unit and all improvements made by the Owner to the Limited Common Elements assigned to the Unit except any portion of a Unit which is expressly made the maintenance obligation of the Association as set forth in subparagraph (b) below. This maintenance responsibility shall include, but not be limited to the following: all glass surfaces (including exterior cleaning), windows, window frames (except for periodic painting, staining and/or cleaning of the exterior window frames), casings and locks (including caulking of windows); all doors, doorways, door frames, and hardware that are part of the entry system of the Unit (except for periodic painting, staining and/or cleaning of the exterior surface of entry doors and door frames); all exterior lights attached to the Unit; all portions of the heating and air conditioning system, including the air conditioning compressor and the fan coil serving the Unit; all pipes, lines, ducts, conduits, condensation lines, or other apparatus which serve only the Unit, whether located within or without a Unit's boundaries (including all electricity, water, sewer, or air conditioning pipes, lines, ducts, conduits, condensation lines, or other apparatus serving only the Unit); all chimney flues serving only the Unit, all dryer vents and flues serving only the Unit, and for those Units with patio gardens, all landscaping and maintenance of the patio and garden other than pinestraw.

In addition, each Unit Owner shall have the responsibility:

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

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

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

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

Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Elements by an Owner or Occupant which is the responsibility of the Association hereunder (including, but not limited to landscaping of Common Elements) shall be performed at the sole expense of such Owner or Occupant, and the Owner or Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair. The Owner may not add anything to a Limited Common Element that would impair the Association's easement across, on and through a Limited Common Element or would impair the safety, security, ingress or egress of the Association or other Owners. In the event the Owner's alteration or addition does impair the Association's easements or the rights of other Owners, the Association will remove the alteration or addition. All costs incurred as a result of such alteration or addition will be specially assessed against the Owner and may be collected as provided herein.

(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, provided, however, the cost of maintenance and repair of Limited Common Elements may be assessed against the Unit Owner to whom the Limited Common Element is assigned under Paragraph 9(b);

(ii) any decks or patios including the surface, subsurface, supports, rails and rail spindles but excluding all improvements made to the Limited Common Elements;

(iii) all portions of the roof(s) and the roof(s) support systems, including the roof(s) joists and cross braces, even if such roof(s) joists and cross braces are located within a Unit;

(iv) periodic painting, staining and/or cleaning of exterior surfaces of the Condominium building(s), exterior window frames, and entry doors and door frames facing the hallway of the Condominium, on a schedule to be determined by the Board of Directors;

(v) all yard areas that are outside of the enclosed yard areas that are assigned as Limited Common Elements to certain Units;

(vi) all Limited Common Element chimneys and chimney caps the cost of which may be assessed against the Owner of the Unit to which the chimney and fireplace flue are attached, pursuant to Paragraph 9(b).

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 9(b).

(vii) all privacy fences enclosing patios that are assigned as Limited Common Elements.

(viii) all boards under the door thresholds that are part of the siding system.

The foregoing maintenance shall be performed consistent with the Community-Wide Standard.

If, during the course of performing its maintenance responsibilities hereunder, the Association discovers that maintenance, repair or replacement is required of an item which is the Owner's responsibility, and such maintenance, repair or replacement must be performed for the Association to properly complete its maintenance project, then the Association may perform such work on behalf of the Owner and at the Owner's sole expense, without prior notice to the Owner, such being deemed an emergency situation hereunder.

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

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 Association shall have the authority to delegate to such persons, firms or corporations of its choice, such duties as are approved by the Board of Directors.

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

(c) Measures Related to Insurance Coverage.

(i) The Board of Directors, upon resolution, shall have the authority to require all or any Unit Owner(s) to do any act or perform any work involving portions of the Condominium which are the maintenance responsibility of the Unit Owner, which will, in the Board's sole discretion, decrease the possibility of fire or other damage in the Condominium, reduce the insurance premium

paid by the Association for any insurance coverage or otherwise assist the Board in procuring or maintaining such insurance coverage. This authority shall include, but need not be limited to, requiring Owners to install 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 all Owners to turn off cut-off valves, which may now or hereafter be installed, during winter months for outside water spigots; requiring Owners to insulate pipes sufficiently or take other preventive measures to prevent freezing of water pipes, requiring Owners to make improvements to the Owner's Unit, and such other measures as the Board may reasonably require so long as the cost of such work does not exceed \$500.00 per Unit in any 12 month period.

(ii) In addition to, and not in limitation of, any other rights the Association may have, if any Unit Owner does not comply with any requirement made by the Board of Directors pursuant to subparagraph (c)(i) above, the Association, upon 15 days' written notice (during which period the Unit Owner may perform the required act or work without further liability), may perform such required act or work at the Unit Owner's sole cost. Such cost shall be added to and become a part of the assessment to which the Owner is subject, shall become and be the personal obligation of the Owner and a lien against the Unit, and shall be collected as provided herein for the collection of assessments. The Association shall have all rights necessary to implement the requirements mandated by the Board pursuant to subparagraph (f)(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.

(d) **Mold and/or Mildew.** Mold and/or mildew can grow in any portion of the Condominium that is exposed to a regular source of moisture. Therefore, the Association and the Unit Owners agree to: (i) promptly investigate to determine the source of the problem and the extent of the condition upon the discovery of any water leaks; (ii) repair any such leaks in their respective areas of maintenance responsibility in a good and workmanlike condition; (iii) insure that any building material which has absorbed water or moisture as a result of a water leak and has not been completely dried as part of the repair of the water or moisture damage is removed and replaced; and (iv) clean any area where mold and/or mildew appears with industry-accepted product designed to inhibit the growth of mold and/or mildew.

(e) **Inspection, Maintenance, Repair and Replacement of High-Risk Components.** The Board may, from time to time, after notice to all Owners and an opportunity for members comment, determine that certain portions of the Units required to be maintained by the Owners, or certain objects or appliances within the 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 might include smoke detectors and water heaters. Those items determined by the Board to pose such a particular risk are referred to herein as "High-Risk Components."

At the same time that it designates a High-Risk Component, or at a later time, the Board may require one or more of the following with regard to the 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 or her obligations regarding High-Risk Components, 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 Association Legal Instruments enter the Unit for the purpose of inspecting, repairing, maintaining, or replacing the High-Risk Component, as the case may be, and charge all costs of doing so back to the Owner as a specific assessments.

(f) **Failure to Maintain.** If the Board of Directors determines that any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair, or replacement of items of which he or she is responsible hereunder, other than those measures addressed in subparagraph (c)(ii) above, 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 sole 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 10 days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within 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 the personal obligation of the Owner and a lien against the Unit, and shall be collected as provided herein for the collection of assessments.

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

11. **ARCHITECTURAL CONTROLS.**

(a) **Architectural Control Committee.** The Architectural Control Committee ("ACC") shall constitute a standing committee of the Association. The ACC shall consist of the Board unless the Board delegates to other Persons the authority to serve on the ACC. At all times, however, the chairperson of the ACC shall be a Board member. The ACC shall have the authority to select and employ professional consultants to assist it in discharging its duties, the cost of such consultants to be paid by the Owner of any Unit for which plans and specifications have been submitted for approval. The Owner of any such Unit shall be responsible for paying the full costs of each review, whether or not submitted plans and specifications are approved by the ACC, and the ACC may require payment of all such costs prior to approval of plans and specifications. The ACC also may charge reasonable fees to cover the cost of review or inspections performed hereunder, and any such fees shall be published in the design standards.

(b) **Architectural Standards.** Except as otherwise provided herein, no Owner, Occupant, or any other person may, without first obtaining written approval of the ACC,:

(i) make any encroachment onto the Common Elements or Limited Common Elements;

(ii) make any exterior change, alteration, or construction (including painting and landscaping); and

(iii) erect, place or post any object, sign, clothesline, speaker, playground equipment, light, storm door or window, fountain, flag, personalized or customized exterior door mat, or thing on the exterior or roof(s) of the building(s), in any windows (other than appropriate window treatments as provided herein), on any Limited Common Elements, or on any other Common Elements.

However, 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 the Unit. In addition, reasonable seasonal decorative lights may be displayed between Thanksgiving and January 15.

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

(i) **Alterations to the Interiors of the Units.** Except as provided herein, no Owner or Occupant may make any alteration within a Unit which involves connecting to Common Element pipes, lines, conduits and/or other apparatus for access to common utilities without prior written ACC approval including, but not limited to, installation of washers and dryers or modifying connection of washers and dryers. Except as provided herein, no Owner or Occupant shall make any interior modifications to or place an excessive load on any structural or load bearing portions of a Unit without first obtaining the prior written approval of the ACC. Such approval shall not be granted by the ACC unless the Owner has presented to the ACC a report or drawing prepared by a licensed structural engineer showing that compensating measures will be taken to ensure the structural integrity of the Unit and the Condominium. All building code requirements must be complied with and necessary permits and approvals secured for any modifications. Notwithstanding the above, all Owners desiring to make any interior modifications or alterations to a Unit affecting the Common Elements or structure or load bearing portions of a Unit must make application to the ACC as described below in order for the ACC to make the determination of whether the ACC's approval is required.

Notwithstanding the above, if any Owner acquires an adjoining Unit, such Owner shall have the right (subject to the prior written approval of the Mortgagees of the Units involved) to remove all or any part of any intervening partition or to create doorways or other apertures therein, notwithstanding the fact that such partition may, in whole or part, be part of the Common Elements, so long as no portion of any structural or load bearing portions of the Unit(s) are materially weakened or removed and the ACC has approved the plans described above and no portion of any Common Elements is damaged, destroyed or endangered, other than that partition and any chutes, flues, ducts, conduits, wires or other apparatus contained therein which shall be relocated by such Owner if such facilities serve any other part of the Condominium. The alterations permitted in this Paragraph shall not be deemed an alteration or relocation of boundaries between adjoining Units as defined in O.C.G.A. § 44-3-91.

(ii) **Relocation of Boundaries.** Boundaries between adjoining Units may be relocated only in accordance with the provisions of O.C.G.A. § 44-3-91 and this Declaration.

(iii) **Subdivision of Units.** An Owner may subdivide his Unit only in accordance with the provisions of O.C.G.A. § 44-3-92 and this Declaration.

(d) **Required Action by the Board or ACC.** Applications for approval of any such architectural modification shall be in writing and shall provide such information as the ACC may

reasonably require. Except as may be otherwise determined by the Board, the ACC or its designated representative shall be the sole arbiter of such application and may withhold approval for any reason, including purely aesthetic considerations. The Association, acting through the Board, shall be entitled to stop any construction which is not in conformance with approved plans. The Board or ACC may publish written architectural standards for exterior and Common Element alterations or additions, and any request in substantial compliance therewith shall be approved; provided, however, each such requested change shall be in harmony with the external design of the existing buildings and Units and the location in relation to surrounding structures and topography of the vicinity.

The standard for approval of such improvements shall include, but not be limited to: (1) aesthetic consideration, (2) materials to be used, (3) compliance with the Community-Wide Standard, this Declaration, or the design standards which may be adopted by the Board or ACC, (4) harmony with the external design of the existing buildings, Units and structures, and the location in relation to surrounding structures and topography, and (5) any other matter deemed to be relevant or appropriate by the Board or ACC.

If the Board or ACC fails to approve or to disapprove such application within 45 days after the application and all information as the Board or ACC may reasonably require have been submitted, then the Owner submitting the application may issue written notice, via certified mail, to the Association President, informing the President of the Owner's intent to proceed with the modification as identified in the application. Unless the Association issues a written disapproval of the application within 10 days of receipt of the Owner's notice, the approval will not be required and this subparagraph will be deemed complied with as to the items specifically identified in the application; provided, however, even if the requirements of this subparagraph are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement that is otherwise in violation of the Declaration, the Bylaws, or the rules and regulations of the Association or of any applicable zoning or other laws.

(e) **Encroachments onto Common Elements.** The ACC, subject to this Paragraph, may permit Unit Owners to make encroachments onto the Common Elements as it deems acceptable. Such permission or approval, if granted, shall be provided in writing to the Owner. If any Owner or Occupant makes any other exterior change, alteration, or construction (including landscaping) upon the Common Elements or Limited Common Elements without permission or approval as described in this Paragraph, he or she does so at his or her sole risk and expense. The Board may require that such unapproved 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.

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

(g) **Limitation of Liability.** Review and approval of any application pursuant to this Paragraph may be made on any basis, including solely the basis of aesthetic considerations, and neither the Board of Directors nor the ACC shall bear any responsibility for ensuring the design, quality, structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes, zoning regulations, and other governmental requirements. Neither the Association, the Board of Directors, the ACC, nor member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner, design, or quality of approved construction or modifications to any Unit, nor may any action be brought against the Association, the Board of Directors, the ACC, or any member thereof, for any such injury, damage or loss.

(h) **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 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.

(i) **Commencement of Construction.** All changes, modifications and improvements approved by the ACC hereunder must be commenced within six months from the date of approval. If not commenced within such time, then such approval shall be deemed revoked by the ACC, unless the ACC gives a written extension for commencing the work. All work approved by the ACC hereunder shall be completed in its entirety within 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.

12. **USE RESTRICTIONS.**

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

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

(a) **Use of Units.**

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

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

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

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

(i) **Number of Occupants.** The maximum number of Occupants in a Unit shall be limited to two people per bedroom in the Unit, (as such bedrooms are depicted on the original Plat and Floor Plans filed in the Fulton County, Georgia records). "Occupancy," for purposes hereof, shall be defined as staying overnight in a dwelling for a total of more than 30 days, either consecutive or nonconsecutive, in any calendar year. This occupancy restriction shall not apply to require the removal of any person lawfully occupying a Unit on the Effective Date hereof. Upon written application, the Board shall grant variances to this restriction to comply with provisions of the Fair Housing Amendments Act of 1988 or any amendments thereto.

If an Owner of a Unit is a corporation, partnership, trust or other legal entity not being a natural person, the entity shall designate in writing to the Board the name(s) of the person(s) who will occupy the Unit. The designated person(s) to occupy the Unit may not be changed more frequently than once every six months without the express written consent of the Board as determined in the Board's sole discretion.

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

(c) **Use of Common Elements Including Amenities.** There shall be no obstruction of the Common Elements, nor shall anything be kept, parked, or 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, Owner(s) and/or Occupant(s) may reserve portions of the Common Elements for use for a period of time as set by the Board. Any such Owner(s) and/or Occupant(s) who reserve a portion of the Common Elements as provided herein shall assume, on behalf of himself/herself/themselves and his/her/their Occupants, 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(s) of the Condominium building(s) by the Owners, Occupants, their family members, guests, tenants, invitees, agents or contractors. The Association and its agents and contractors shall have access to the roof(s) for performing its maintenance and repair responsibility. There shall be no gardening or landscaping on the Common Elements by Owners or Occupants without the prior written consent of the Board.

The Association shall not be liable to the Owner of any Unit or such Owner's Occupant, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements.

All Owners and Occupants are prohibited from using the detention pond area for any recreational purpose.

(d) Use of Limited Common Elements, Balconies, Patios and Decks. Except as otherwise provided herein, the use of the Limited Common Elements assigned to the Units is restricted exclusively to the Owners of the Unit to which such Limited Common Elements are assigned, and said Owner's Occupants, guests, family members 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. Objects over 42 inches in height, grills, bicycles, laundry garments, towels and objects other than potted plants and patio furniture, except as may be authorized by the Board, shall not be placed on a balcony, patio or deck. Objects shall not be permitted to hang over or be attached to any exterior balcony, patio, deck, or wall or to otherwise protrude outside of the vertical plane formed by the exterior surface of the balcony, patio, deck or wall. Penetration of the surfaces of a balcony, patio, deck, wall or floor is prohibited.

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

The dwelling Units in the Condominium are built in close proximity to one another, resulting in the sharing of common walls, floors and ceilings. As a result, noise and vibration may be detectable between Units or between Units and the Common Elements. Therefore, an Owner or Occupant shall not conduct activities within a Unit or use a Unit in a manner that interferes with or causes disruption to the use and quiet enjoyment of another Unit by its respective Owner and Occupant.

Furthermore, noxious, destructive, offensive or unsanitary activity shall not be carried on upon the Condominium. No Owner or Occupant may use or allow the use of the Unit or any portion of the Condominium at any time, in any way, which may endanger the health or property of other Occupants, unreasonably annoy, disturb or cause embarrassment or discomfort to other Owners or Occupants, or, in the Board's discretion, constitute a nuisance. The intention of this provision is to grant the Association and aggrieved Owners and Occupants a right of redress for actions, activities or conduct which unreasonably disturbs or impairs the peaceful and safe enjoyment of the Condominium. In this regard, specific unauthorized and unreasonable annoyances or disturbances shall include, but not be limited to, the following:

(i) Any fighting, screaming, shouting, excessively loud talking, whistling, or playing of music or television, raucous behavior or insobriety either outside of a Unit at any time or within a Unit if such conduct can be heard in the normal course of activities in any other Unit(s);

(ii) The use of any alarm, equipment, or device, mechanical or otherwise, which creates or produces excessively loud sounds or any vibrations either outside of a Unit at any time or within a Unit if such sounds can be heard or vibrations felt in the normal course of activities in any other Unit(s);

(iii) Any threatening or intimidating conduct towards any resident, guest or pet at the Condominium;

(iv) Any conduct which, in the Board's reasonable discretion, creates any danger or risk of injury to others or damage to property at the Condominium or which creates any threat to health or safety of any other resident or pet;

(v) Any excessively loud play or playground activities either outside of a Unit at any time or within a Unit if such conduct can be heard in the normal course of activities in any other Unit(s);

(vi) Any conduct which creates any noxious or offensive odor either outside of a Unit at any time or within a Unit if such odors can be detected in the normal course of activities in any other Unit(s);

(vii) Any smoking in a Unit or on the Condominium that results in second-hand smoke transferring or spreading into other Unit(s);

(viii) Any incessant or excessive pet noises, including dog barking, if such conduct can be heard in the normal course of activities in any other Unit;

(ix) Any construction or similar activities in a Unit that can be heard in other Units between the hours of 9:00 p.m. and 7:30 a.m.; or

(x) Any similar action or activity outside of a Unit on the Condominium, or which occurs inside a Unit but which interferes with the peaceful use and enjoyment of other Units or the Common Element by any other Owner, members of his or her family, guests, invitees, or Occupants of his or her Unit.

However, nothing herein shall be construed to affect the rights of an aggrieved Owner or Occupant to proceed individually against a violator hereof for relief from interference with his or her property or personal rights, and the Board may, in its discretion, require aggrieved individuals to seek redress personally for interference with their personal property rights before the Association intervenes and commences enforcement action hereunder. No claim for any loss, damage or otherwise shall exist by an aggrieved Owner or Occupant against the Association for failure to enforce the provisions hereof if the aggrieved Owner or Occupant has not personally pursued all available remedies against the violator for redress provided under Georgia law.

No Unit Owner or Occupant may use or allow the use of the Unit or the Common Elements in any manner which creates noises between the hours of 11:00 p.m. and 7:30 a.m. which can be heard by persons in another Unit that will, in the Board's sole discretion, unreasonably interfere with the rights, comfort or convenience of any other Owner, members of his or her family, guests, invitees, or Occupants of his or her Unit.

No Owner, Occupant or agent of such Owner or Occupant shall do any work which, in the Board's reasonable opinion, 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 Condominium, without prior written consent of all Association members and their Mortgagees.

No damage to or waste of the Common Elements, or any part thereof, shall be permitted by any Owner or any Occupant, guest or invitee of any Owner. Each Owner and Occupant 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 or Occupant, or the Owner's or Occupant's guest or invitee.

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

(g) **Pets.** No Owner or Occupant may keep any pets other than generally recognized household pets on any portion of the Condominium, and, other than fish, no Owner or Occupant may keep more than two pets per Unit. Notwithstanding the above, the two pet limitation shall not apply to require an Owner or Occupant to remove any pet owned and kept at the Condominium by such Owner or Occupant on the Effective Date hereof. Any Owner or Occupant permitted to keep more than two pets hereunder may not replace pets that die or are otherwise removed from the Condominium until the number of pets kept in such Unit is less than two.

Notwithstanding the above, an Owner or Occupant at any time may petition the Board for permission to keep more than two pets or, and the Board may, but is not obligated to, approve such petition.

No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose. No structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Common Elements, including Limited Common Elements, without prior written ACC approval. No pets are allowed on any portion of the Common Elements; provided, however, an Owner or Occupant may walk a pet across the Common Elements to enter or exit the Condominium property. All pets must be kept on a leash and be under the physical control of a responsible person at all times while on the Common Elements, but excluding the Limited Common Elements provided, however, pets need not be leashed within fenced patio or porch areas when attended by a person. Feces left by pets upon the Common Elements or in Units, including the pet owner's Unit, must be removed promptly by the owner of the pet or the person responsible for the pet. The Board of Directors may adopt further rules regulating pets at the Condominium, including rules limiting the number, type and/or weight of pets.

No potbellied pigs, venomous snakes, pit bulldogs, rottweillers, doberman pinschers, or other animals determined in the Board's sole discretion to be dangerous may be brought onto or kept on the Condominium at any time. The Board may require that any pet which, in the Board's opinion, endangers the health of any Owner or Occupant or creates a nuisance or unreasonable disturbance, be permanently removed from the Condominium upon seven days written notice. If the Owner or Occupant fails to comply with such notice, the Board may remove the pet and/or obtain a court order requiring the Owner or Occupant to do so. Without prior notice to the pet's owner, the Board may remove any pet, which, in the Board's sole discretion, presents an immediate danger to the health, safety or property of any community member.

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

(h) **Parking.** No Owner or Occupant may keep or bring onto the Condominium more than a reasonable number of vehicles per Unit at any time, as determined by the Board; provided, however, the Board may adopt reasonable rules limiting the number of vehicles which may be parked on the Condominium. Vehicles permitted under this subparagraph may be parked only in designated, lined parking spaces or other areas authorized in writing by the Board.

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

inoperable. A vehicle shall be considered "stored" if it remains on the Condominium for 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 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 (RV's and motor homes), vehicles used primarily for commercial purposes, vehicles with 50% or more of the exterior surface rusted and vehicles with commercial writings on their exteriors other than Sheriff's, Marshall's, or police officer's 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 any other provisions of the Declaration, Bylaws or 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 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 24 hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six 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 vehicle owner or user.

If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's Unit, is obstructing the flow of traffic, is parked on any grassy area, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed or booted immediately. If a vehicle is towed or booted in accordance with this subparagraph, neither the Association nor any director, Officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing or booting 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.

(i) **Heating of Units in Colder Months.** In order to prevent breakage of water pipes during colder months of the year resulting in damage to any portion of the Condominium, increased Common Expenses, and increased insurance premiums or cancellation of insurance policies due to numerous damage claims, the thermostats within the Units shall be maintained with the heat in an "on" position and at a minimum temperature setting of 55 degrees Fahrenheit (except during power failures or periods when heating equipment is broken) whenever the temperature is forecasted to or does reach 32 degrees Fahrenheit or below. Owners and Occupants of Units shall take all steps possible on a timely basis to keep heating equipment, including, but not limited to, the thermostat, in good working order and repair. At any time during the months specified above when the heating equipment is not working properly, the Lot Owner or Occupant shall immediately inform the Association of this failure of the equipment and of the time needed to repair the equipment. The Board may fine any Owner or Occupant up to \$500.00 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.

(j) **Signs.** Except as may be provided for herein or as may be required by legal proceedings, no signs, advertising posters, political placards or billboards of any kind shall be erected, placed, or permitted to remain on the Condominium without the prior written consent of the Board or its designee, except that one professional security sign not to exceed six inches by six inches in size may be displayed from within a Unit, and one professionally lettered "For Rent" or "For Sale" sign not to exceed two feet by two feet in size may be displayed from within a Unit being offered for sale or for lease. The Board also shall have the authority to adopt regulations permitting temporary signs on the front door of a 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.

(k) **Rubbish, Trash, and Garbage.** All rubbish, trash, and garbage shall be regularly removed from the Unit and shall not be allowed to accumulate therein. No garbage or trash shall be placed on the Common Elements or Limited Common Elements outside the Unit, temporarily or otherwise, except in trash dumpsters. Rubbish, trash, and garbage shall be disposed of in appropriate sealed bags and either placed in the trash dumpsters, or proper receptacles designated by the Board for collection or removed from the Condominium. No such receptacle or rubbish, trash, and garbage shall be placed upon the curb adjacent to the Condominium property more than 12 hours before such items are scheduled to be collected or removed from the Condominium. All receptacles shall be removed within 12 hours of the time upon which rubbish, trash, and garbage was scheduled to be collected or removal from the Condominium. No furniture or large items may be placed in the trash dumpsters or by the curb.

(l) **Impairment of Dwellings and Easements.** An Owner shall do no act nor any work that will impair the structural soundness or integrity of another Unit or impair any easement or hereditaments, nor do any act nor allow any condition to exist which will adversely affect the other Units or their Owners or Occupants.

(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.** No garage sale, carport sale, yard sale, flea market, or similar activity shall be conducted in any portion of the Condominium without prior written Board consent. If so permitted, any such activities shall be subject to all reasonable conditions that the Board may impose.

(o) **Window Treatments.** Unless otherwise approved in writing by the Board, all windows in Units shall have window treatments and any portion thereof visible from outside the Unit shall be white, off-white or a neutral color that blends with the exterior colors.

(p) **Antennas 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, that the Association shall have the right to erect, construct and maintain such devices. The following shall apply to all Unit Owners:

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

(ii) No direct broadcast satellite (DBS) antenna or multi-channel multi-point distribution service (MMDS) antenna larger than one 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 antennas one meter or less in diameter and television broadcast service antennas 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 antennas, including, but not limited to, those requirements relating to maintenance and removal of satellite dish or antenna.

(q) **Grilling.** The use of outdoor grills on any portion of the Condominium building(s), including without limitation, the decks, balconies, patios, streets and driveways is prohibited; provided, however, Owners and Occupants are permitted to use grills located on the Common Elements that were provided by the Association, if any.

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

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

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

The Association shall not be liable to the Owner of any Unit or such Owner's Occupant, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements.

(s) **Replacing Carpet with Tile or Hardwood Floors.** As of the effective date, 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 Unit which is located immediately above another Unit without first obtaining written approval of the Architectural Control Committee. Among other factors, the Architectural Control Committee may consider whether the change will cause noise to any Unit below which will exceed the average noise level in Units below Units with carpeted floors and that the weight of such proposed flooring is appropriate and will not cause problems to the structure or subflooring.

The Owner applying for such approval shall provide the Architectural Control Committee with information regarding these factors, as well as other information requested by 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 the Architectural Control Committee. Notwithstanding anything to the contrary stated herein, at least seventy-five percent (75%) of each room within a Unit located above another 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 Units with carpeted floors.

(t) **Move In/Move Out.** A Unit Owner or Occupant shall not move furniture, 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. All furniture and other household items must be removed from the Condominium upon move out.

13. LEASING.

In order to protect the equity of the individual Unit Owners at River Run Condominium, and to carry out the purpose for which the Condominium was formed by preserving the character of the Condominium as a homogenous residential community of predominantly owner occupied homes, leasing of Units shall be governed by the restrictions imposed by this Paragraph. Except as provided herein, leasing of Units is prohibited.

(a) Definitions.

(i) "Effective Date" means the date this Amendment is recorded in the Fulton County, Georgia land records.

(ii) "Grandfathered Owner" means an Owner who is lawfully leasing his or her Unit on the Effective Date. To qualify as a Grandfathered Owner, the Owner must, within 30 days of the Effective Date, provide the Board with a copy of the lease in effect on the Effective Date. Grandfathering shall apply only to the Unit owned by such Grandfathered Owner on the Effective Date. Grandfathering shall automatically expire and any lease of the Unit shall automatically terminate on the earlier of: (1) the date the Grandfathered Owner conveys title to the Grandfathered Lot to any Person (other than the Owner's spouse); (2) the date the Grandfathered Owner is shown on the Association's books and records to be more than 30 days past due in any assessment or charge.

(iii) "Grandfathered Unit" means the Unit owned by a Grandfathered Owner on the Effective Date hereof.

(iv) "Leasing" means the regular, exclusive occupancy of a Unit by any person(s) other than: (1) the Owner or a parent, child or spouse of an Owner, or (2) a person who occupies the Unit with the Owner or parent, child or spouse of the Owner occupying the Unit as his or her primary residence.

(b) Leasing Permit and Restriction. No Owner of a Unit may lease his or her Unit unless: (1) the Owner is a Grandfathered Owner, (2) the Owner is not a Grandfathered Owner but has received a written leasing permit from the Board of Directors authorizing leasing, or (3) the Owner is not a Grandfathered Owner but has received a hardship leasing permit from the Board as provided below.

Non-Grandfathered Owners who want 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 will allow an Owner to lease his or her Unit, provided that such leasing is in strict accordance with the terms of the permit and this Paragraph. The Board of Directors shall have the authority to establish conditions as to the duration and use of such permits consistent with this Paragraph. All leasing permits and hardship leasing permits shall be valid only as to a specific Owner and Unit and shall not be transferable between either Units or Owners (including a subsequent Owner of a Unit where a permit was issued to the Owner's predecessor in title).

An Owner's request for a leasing permit shall be approved if the number of current, outstanding permits issued plus Grandfathered Units is less than 28 Units.

Leasing permits and hardship leasing permits are automatically revoked upon the happening of any of the following events: (1) the sale or transfer of the Unit to a third party (excluding sales or transfers to an Owner's spouse); or (2) the failure of an Owner to lease his or her Unit for one hundred twenty (90) consecutive days at any time after the issuance of a leasing permit or (3) the occupancy of the Unit by the Owner. The Board also shall have the power to revoke any Leasing Permit or Hardship Permit issued to any Owner if the Unit is shown on the Association's books and records to be more than 30 days past due in any assessment or charge, if the Owner is in violation of the Association Legal Documents; or .

If the number of current leasing permits issued and Grandfathered Units is more than 28 Units, then no additional leasing permits shall be issued (except for hardship leasing permits) until that number falls below 28 Units. Owners who have been denied a leasing permit shall automatically be placed on a waiting list for a leasing permit and shall be issued a permit, if they so desire, when such number falls below 28 Units and the Owner is current on all assessments and in compliance with the Association's Legal Documents. 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.

(c) Hardship Leasing Permits. If the failure to lease will result in an undue hardship to the Owner, then the Owner may seek to lease on a hardship basis by applying to the Board of Directors for a hardship leasing permit. The Board shall have the authority to issue or deny requests for hardship leasing permits in its discretion after considering the following factors: (1) the nature, degree, and likely duration of the hardship, (2) the harm, if any, which will result to the Properties if the permit is approved, (3) the number of hardship leasing permits which have been issued to other Owners, (4) the Owner's ability to cure the hardship, and (5) whether previous hardship leasing permits have been issued to the Owner.

A "hardship" as described herein shall include, but not be limited to, the following situations: (1) an Owner must relocate his or her 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) an Owner dies and the Unit is being administered by his or her estate; or (3) an Owner takes a leave of absence or temporarily relocates out of the metropolitan-Atlanta area and intends to return to reside in the Unit within one (1) year.

Hardship leasing permits shall be valid for a term not to exceed one (1) year. Owners may apply for additional hardship leasing permits at the expiration of a hardship leasing permit, if the circumstances warrant. Hardship leasing permits shall be automatically revoked if, during the term of the permit, the Owner is approved for and receives a leasing permit.

(d) Leasing Provisions. When leasing is permitted under this Section, it shall be governed by the following provisions:

(i) **Notice.** At least seven (7) days before entering into a lease, 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. If a lease is disapproved, the Board shall notify the Owner of the action to be taken to bring the lease in compliance with the Declaration and any rules and regulations adopted pursuant thereto.

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

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

- (A) **Compliance with Declaration, Bylaws, and Rules and Regulations.** The Owner and lessee shall comply with all provisions of the Declaration, Bylaws and Association rules and shall control the conduct of all other occupants and guests of the leased Unit in order to ensure such compliance. The Owner shall cause all occupants of his or her Unit to comply with the Declaration, Bylaws and Association rules, and shall be responsible for all violations by such occupants, notwithstanding the fact that such Occupants are fully liable and may be sanctioned for any such violation.

If a Unit is leased or occupied in violation of this Paragraph or if the Owner, lessee, or a person living with the lessee, violates the Declaration, Bylaws, or a rule or regulation, the Association's Board of Directors shall be authorized, in addition to all other available remedies, to levy fines against the lessee and/or the Owner, to suspend all voting and/or Common Element use privileges of the Owner, Occupants and unauthorized tenant(s) and to suspend all common services to the Unit paid for by the Association as a common expense, including water service to the Unit, subject to the provisions of this Declaration and the Bylaws.

If a Unit is leased or occupied in violation of this Paragraph, the Association may require the Owner to evict the tenant. If the Owner, lessee, or a person living with the lessee, violates the Declaration, Bylaws, or a rule or regulation, such violation is deemed to be a default under the terms of the lease and shall authorize the Owner or the Association, as more fully described herein, to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney in fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. Alternatively, the Association may require the Owner to evict the violating tenant. If the Association proceeds to evict the lessee, any costs, including reasonable attorney's fees actually incurred and court costs associated with the eviction shall be an assessment and lien against the Unit.

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

(e) **Applicability of this Paragraph.** Notwithstanding the above, this Paragraph shall not apply to any leasing transaction entered into by the Association, or by any first Mortgagee who becomes the Owner of a Unit through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage. 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.

This Paragraph shall not apply to any leasing transaction entered into by 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.

14. **SALE OF UNITS.**

A Unit Owner intending to make a transfer or sale of a Unit or any interest in a Unit shall give written notice to the Board of Directors of such intention within seven days after execution of the transfer or sales documents. The Unit Owner shall furnish to the Board as part of the notice (i) the name and address of the intended grantee; and (ii) such other information as the Board may reasonably require. This Paragraph shall not be construed to create a right of first refusal in the Association or in any third party.

At the closing of the conveyance or transfer of the Unit to any person other than to the spouse or heir of the Owner, the purchaser/grantee shall pay to the Association the non-refundable, non-prorated Capital Contribution Assessment, as set forth in Paragraph 9(g) above.

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

15. **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 part of the building or structure; and (b) appliances, such as those used for refrigerating, ventilating, cooking, dishwashing, laundering, security or housekeeping. In the alternative, the Association's insurance policy may exclude improvements and betterments made by the Unit Owner and may exclude the finished surfaces of perimeter and partition walls, floors, and ceilings within the Units (i.e., paint, wallpaper, paneling, other wall covering, tile, carpet and any floor covering), provided, however, floor covering does not mean unfinished hardwood or unfinished parquet flooring.

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

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

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

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

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

(i) ordinance or law coverage, demolition cost coverage and increased cost of construction coverage;

(ii) 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;

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

(iv) 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;

(v) 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

(vi) 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 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 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, as amended, and officers' and directors' liability insurance in such amounts as the Board may determine. The public liability insurance shall contain a cross liability endorsement;

(iii) fidelity bonds, if reasonably available, covering Officers, directors, employees, and other persons who handle or are responsible for handling Association funds. Such bonds, if reasonably available, shall be in an amount consistent with the best business judgment of the Board of Directors, but in no event less than three (3) 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 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 (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.

(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 Unit Owner and the Mortgagee. This is a covenant for the benefit of any such Mortgagee and may be enforced by any such Mortgagee.

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

(i) **Insurance Deductibles.** In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the person or persons who would be responsible for such loss in the absence of insurance. If the loss affects more than one (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 this, if the insurance policy provides that the deductible will apply to each Unit separately or to each occurrence, each Unit Owner shall be responsible for paying the deductible pertaining to his or her Unit, if any. If any Owner or Owners fail to pay the deductible when required under this subparagraph, then the Association may pay the deductible and assess the cost to the Owner or Owners pursuant to Paragraph 8 of this Declaration; provided, however, where the deductible

is for insurance required under the Act, no Owner shall be assigned more than Two Thousand Five Hundred and No/100 Dollars (\$2,500.00), 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 Unit Owner.

16. **REPAIR AND RECONSTRUCTION.**

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

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

(b) **Source and Allocation of Proceeds.** If the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair due to failure of the Association to maintain coverage as provided in Paragraph 15 of this Declaration, the additional cost shall be a Common Expense. If, for any reason, the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair, as determined by the Board, the additional costs shall be assessed against the Owners of the Unit(s) damaged in proportion to the damage to the Units or against all Owners, in the case of insufficient funds to cover damage to the Common Elements. This assessment shall not be considered a special assessment as discussed in Paragraph 9(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.

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

(d) **Encroachments.** Encroachments upon or in favor of Units 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 Unit Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the architectural plans under which the Condominium was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the reconstructed building shall stand.

(e) **Construction Fund.** The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from assessments against Unit Owners on account of

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

17. EMINENT DOMAIN.

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

18. EASEMENTS.

(a) **Use of Common Elements; Limitations.** Every Owner shall have the right to use the Common Elements, subject to all the governing provisions set forth in the Georgia Condominium Act, the Georgia Non-profit Corporation Code, this Declaration, the Bylaws, which include but are not limited to the following:

(i) The right of the Association to control the use through rules and regulations, to limit use to the Owners and their authorized Occupants and to provide for the exclusive use of portions of the Common Elements by an Owner and his authorized Occupants at certain times;

(ii) The right of the Association to limit the number of guests of Owners;

(iii) The right of each Owner to the exclusive use of the Limited Common Elements appurtenant to his Unit;

(iv) The right of the Association to suspend the use of the Common Elements;

(v) The right of the Association to charge admission and other fees for the use of a particular recreational or other facility, which fees, unless paid separately, shall be added to the next Assessment payable by the using Owner;

(vi) The right of the Association to suspend the voting rights of an Owner and the right of an Owner to use the Common Elements for any period during which any assessment or charge against his or her Unit which is provided for herein remains unpaid and for a reasonable period of time for an infraction of the Declaration, Bylaws, or rules and regulations. In no event shall any Owner be denied access to his Unit at any time;

(vii) The right of the Association to borrow money as may be set forth in the Bylaws; provided, however, the lien and encumbrance of any such mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges herein reserved or established for any Unit or Unit Owner, or holder of any Mortgage, irrespective of when executed, encumbering any Unit (Any provision in this Declaration or in any such Mortgage given by the Association to the contrary notwithstanding, the exercise of any rights therein by the holder thereof in the event of a default thereunder shall not cancel or terminate any rights, easements or privileges herein reserved or established for the benefit of any Unit or Unit Owner, or the holder of any Mortgage, irrespective of when executed, encumbering any Unit.);

(viii) The right of the Association to grant permits, licenses or easements across the Common Elements, as authorized in this Declaration or the Bylaws; and

(ix) The right of the Association to dedicate or transfer all or any portion of the Common Elements subject to such conditions as may be agreed to by the members of the Association.

Any Unit Owner may delegate his or her right of use and enjoyment in and to the Common Elements and facilities located thereon to the members of his or her family, his or her tenants and guests, and shall be deemed to have made a delegation of all such rights to the Occupants of his or her Unit, if leased.

(b) **Easement for Entry.** The Association has an easement to enter into Units for maintenance, emergency, security, or safety purposes, which right may be exercised by the Association's Board of Directors, Officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after reasonable notice to the Owner or Occupant of the Unit. For the purposes of this 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 require 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. The failure to exercise the rights herein or to exercise said rights in a timely manner shall not create liability to any of the above-referenced parties, it being agreed that no duty to enter a Unit shall exist.

(c) **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.

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

(e) **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 benefited Owner to maintain, replace and repair any pipe, line, conduit, duct or wire owned by such Owner, even if such pipe, line conduit, duct or wire is located within the boundaries of a Unit of another Owner. In such circumstance, the benefited Owner shall repair all incidental damage to any Unit resulting from performance of any such work. All Unit Owners hereby covenant and agree that as 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.

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

(f) **Public in General.** The easements and rights created in this Paragraph do not, are not intended to, and shall not be construed to create any easements or rights in or for the benefit of the general

public; provided, however, nothing set forth herein shall in any way limit or restrict any existing easements or rights already granted to the public as such easements or rights are previously recorded in the Fulton County, Georgia records. The Board of Directors hereby reserves the right to close temporarily, to the extent reasonably practicable, upon written notice (which may be given by posting in conspicuous locations upon the relevant portion of the Condominium), all or any portion of the Condominium that, in the reasonable opinion of the Board, may be legally necessary to prevent a dedication thereof, or any accrual of any rights therein, in the general public or in any Person other than the Persons for which such easements are expressly created in this Declaration.

19. **MORTGAGEE'S RIGHTS.**

(a) **General.** This Article sets forth the rights of Mortgagees of Condominium Units. These rights are required by Mortgagees and the regulations applicable to them in order to make loans available to Unit Owners to purchase or refinance their Condominium Units. Some of these provisions are for the benefit of all Mortgagees, others are for First Mortgagees only, and still others are for Registered Mortgagees only.

(i) In the event of any conflict or inconsistency between the provisions of this Article and any other provisions of this Declaration or the Bylaws, the provisions of this Article shall control.

(ii) No provision of this Article may be amended without the approval of at least two-thirds of the First Mortgagees.

(iii) In any situation requiring action, approval or consent by a certain number, percentage or fraction of First Mortgagees, the vote applicable to the First Mortgage shall be exercised as a whole by the holder of record of such First Mortgage, even if the definition of the term "Mortgagee" could include more than one person (such as the holder of a Mortgage as well as an insurer and/or a servicer). If a fraction (or percentage) is involved and any Condominium Units are not subject to a First Mortgage, that Condominium Unit shall be included in the denominator but not in the numerator.

(b) **Right to Notices and Information.** Each Registered Mortgagee shall be entitled to the following notices and information:

(i) Immediate written notice from the Association of any default by an Owner in the performance of his obligations under this Declaration, the Bylaws or the rules and regulations of the Association which is not cured within 60 days, specifically including any delinquency in payment of an Assessment.

(ii) 30 days prior written notice of, and the right to designate a representative to attend and observe all meetings of Owners, but not meetings of the Board of Directors.

(iii) Immediate written notice of any condemnation loss, damage, destruction or any other casualty loss which affects a material portion of the Common Elements (if the reasonably estimated cost of repair exceeds \$10,000) or the Unit encumbered by its Mortgage (if the reasonably estimated cost of repair exceeds \$1,000).

(iv) Immediate written notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(v) 30 days prior written notice of any proposed action that would require the consent of a specified number, fraction or percentage of Mortgagees.

(vi) Copies of annual financial reports within 120 days after the end of the Association's fiscal year.

(c) **Restrictions on Certain Actions.** Except as provided by the Act in case of condemnation or substantial loss to the Units and/or Common Elements, neither the Association nor the Owners shall be entitled to do any of the following unless the First Mortgagees of Condominium Units to which at least two-thirds of the Votes appertain have given their prior written approval:

- (i) By act or omission, seek to abandon or terminate the Condominium.
- (ii) Except for Assessments specially allocated pursuant to Paragraph 9 hereof and the distribution of hazard insurance proceeds pursuant to Paragraph 15, change the prorata interest or obligations of any Condominium Unit for the Purpose of levying Assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards.
- (iii) Partition or subdivide any Condominium Unit.
- (iv) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements (except the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements).
- (v) Use hazard insurance proceeds for losses to any part of the Submitted Property (whether to Units or to Common Elements) for other than the repair, replacement or reconstruction of such Submitted Property.

Notwithstanding the foregoing and pursuant to Section 44-3-93 of the Act, neither the Association nor the Owners shall be entitled to change the prorata share of ownership of any Condominium Unit or the Common Elements unless the First Mortgages of Condominium Units to which 100 percent of the Votes appertain have given their prior written approval.

(d) **Financial Statements and Records.** The Association shall make available to every Unit Owner and Mortgagee during normal business hours, at the principal office of the Association, Condominium Instruments, Articles of Incorporation, Bylaws, rules and regulations, financial statements and all other books and records of the Association.

(e) **Require Professional Management.** Any institutional First Mortgagee may be written notice to the Association require the Association to hire professional management for a one year period beginning within 90 days after the notice.

20. **AUTHORITY AND ENFORCEMENT.**

The Condominium shall be used only for those uses and purposes set out in this Declaration. Every Owner and Occupant shall comply with this Declaration, the Bylaws and rules and regulations of the Association, and any lack of compliance therewith shall entitle the Association and, in an appropriate case, one or more aggrieved Unit Owners, to take action to enforce the terms of the Declaration, Bylaws or rules and regulations. In addition to any rights the Association may have against an Owner's family, guests, tenants or Occupants, as a result of such person's violation of the Condominium Instruments, the Association may take action under this Declaration against the Owner as if the Owner committed the violation in conjunction with the Owner's family, guests, tenants or Occupants.

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 and/or to use the Common Elements for violation of any duty imposed under the Declaration, Bylaws or Association rules. However, nothing herein shall authorize the Association or the Board of Directors to deny ingress and egress to or from a Unit. If any Occupant of a Unit violates the Declaration, Bylaws or Association rules, a fine may be imposed against the Owner and/or Occupant, as set forth below. The failure of the Board to enforce any provision of the Declaration, Bylaws or Association rules shall not be deemed a waiver of the right of the Board to do so thereafter.

In any enforcement action taken by the Association under this Paragraph, to the maximum extent permissible, all costs incurred by the Association in abating a violation or otherwise taking action to enforce the Declaration, Bylaws or Association rules, including reasonable attorney's fees actually incurred, may be assessed against the violating Owner and/or Occupant pursuant to Paragraph 9 above.

(a) **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, unless and until the Association has sent or delivered written notice to the violator as provided in subsection (i) below. However, compliance with this subparagraph shall not be required for the following: (i) late charges on delinquent assessments; (ii) suspension of voting rights if an Owner is shown on the Association's records to be more than thirty (30) days delinquent in any payment due the Association, in which case suspension of the right to vote shall be automatic; (iii) suspension of the right to use the Common Elements if an Owner is shown on the Association's records to be more than thirty (30) days delinquent in any payment due the Association, in which case suspension of the right to use the Common Elements shall be automatic; provided, however, suspension of parking privileges shall require compliance with Paragraph 9(c)(iv) above; and suspension of common utility services, which shall require compliance with the provisions of Paragraph 9(c)(iii) above.

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

(ii) **Hearing.** If a written request for hearing is received from the violator within 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. Failure to request a timely hearing as provided herein shall result in loss of the right to challenge and request reconsideration of the fines.

(b) **Additional Enforcement Rights.** Notwithstanding anything to the contrary herein contained, the Board may elect to enforce any provision of the Declaration, the Bylaws, or the rules and regulations by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking regulations) and/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 subparagraph (a) above.

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, except in the case of an emergency, the violating Owner or Occupant is given at least two days prior written notice requesting that the violation be removed and abated and the property restored to substantially the same condition as existed prior to the structure, thing or condition being placed on the property and causing the violation. Such removal, abatement and restoration shall be accomplished at the violator's sole cost and expense. If the Association exercises its right subject to this subparagraph, all costs of self-help, including but not limited to, reasonable attorney's fees actually incurred, shall be assessed against the violating Owner or Occupant and shall constitute a lien against the Unit. All such amounts shall be collected as an assessment pursuant to this Declaration. Additionally, the Association shall have the authority to record in the Fulton County land records a notice of violation identifying any uncured violation of the Declaration, Bylaws or rules and regulations regarding the Unit.

(c) **Failure to Enforce.** Notwithstanding the above, no right of action shall exist against the Association for failure of enforcement where: (i) the Board determines that the Association's position is not strong enough to justify taking enforcement action; (ii) a particular violation is not of such a material nature as to be objectionable to a reasonable person or justify the expense and resources to pursue; or (iii) the Owner or party asserting a failure of enforcement possesses an independent right to bring an enforcement action therefore at law or in equity and has failed to do so.

21. **AMENDMENTS.**

(a) **Member Approval Procedure.** Except where a higher vote is required for action under any other provisions of the Declaration, these Bylaws or by the Act, this Declaration may be amended with the approval of Owners holding 66 2/3% of the total Association vote. Notice of a meeting, if any, at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the Fulton County, Georgia land records.

(b) **Default Approval Procedure After Owner Non-response.** It is recognized that, when Owners fail to participate in an amendment vote because of apathy or other reasons which are not based on any disagreement with a proposed amendment, important amendments to the Declaration or Bylaws may have no chance of approval, with the supermajority voting requirements established under the Act. It also is recognized that supermajority voting requirements are important for Owner actions which are as significant as amending the Declaration or these Bylaws. To balance these competing concerns, this subparagraph establishes a mechanism which provides every eligible Owner an opportunity to issue a vote of approval, disapproval or abstention on proposed amendments to the Declaration or Bylaws, but also a realistic mechanism for approving important amendments, without the damaging consequences of Owner non-response.

The Board shall issue notice of all proposed amendments to each Owner. With each such notice, the Board shall include a copy of the proposed amendment, along with a consent form or ballot, which complies with the requirements of the Declaration and Bylaws. Each such consent form or ballot shall give Owners an opportunity to vote for, vote against or abstain from voting on the proposed amendment.

If the amendment is not approved or defeated by sufficient vote within 60 days of the amendment notice described above, then the Board may seek to obtain default approval from Owners under this subparagraph. In such case, the Board shall send default approval notice, by certified mail, to all Owners who have not returned consents or ballots on a proposed amendment within that 60-day period. This default approval notice also shall include a consent form or ballot, as provided above, along with a statement that the Owner's failure to return an executed consent form or ballot, marked with a vote for, a vote against, or an abstention from voting on the amendment, within 30 days of the date of such default approval notice, will be deemed consent to such amendment. If the Board does not receive such consent or ballot within that 30-day period, the Owner shall be deemed to have consented to and approved the amendment.

(c) **Eligible Mortgage Holder Approval.** In addition to approval by the Owners as provided above, material amendments to the Declaration and these Bylaws must be approved by Eligible Mortgage Holders who represent at least 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 30 days after the Eligible Mortgage Holder receives notice of the proposed amendment sent by certified or registered mail, return receipt requested.

(d) **Amendments to Comply with Law or Conform Documents.** Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the Owners, may amend the Declaration and these Bylaws to comply with any applicable state, city or federal law, including but not limited to, compliance with applicable guidelines of the Federal National Mortgage Association ("Fannie

Mae"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA"), or to resolve conflicts between the Declaration, these Bylaws, the Articles, and applicable laws.

(e) **Validity of Amendments.** No Person shall be permitted to bring any legal action to challenge the validity of an amendment to the Declaration or these Bylaws more than one year after the recording thereof in the Cobb County, Georgia land records.

22. **GENERAL PROVISIONS.**

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

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

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

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

(e) **Electronic Records, Notices and Signatures.** Notwithstanding any other portion of this Declaration, records, signatures and notices shall not be denied validity or effectiveness hereunder solely on the grounds that they are transmitted, stored, made or presented electronically. The relevant provisions of the Bylaws shall govern the giving of all notices required by this Declaration.

(f) **Duration.** The covenants and restrictions of this Declaration shall run with and bind the Property perpetually to the extent provided in the Act.

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

(h) **Preparer.** This Declaration was prepared by Mindy C. Waitsman, Weissman, Nowack, Curry & Wilco, P.C., One Alliance Center, 4th Floor, 3500 Lenox Road, Atlanta, Georgia 30326.

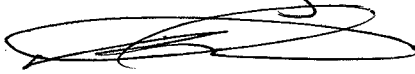
[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned Officers of River Run Condominium Association, Inc., hereby certify that the above amendment to the Original Declaration and the following amendment to the Original Bylaws were duly adopted by the required majority of the Association and its membership, with any required notices duly given.

This 25 day of July, 2008.

RIVER RUN CONDOMINIUM ASSOCIATION, INC.

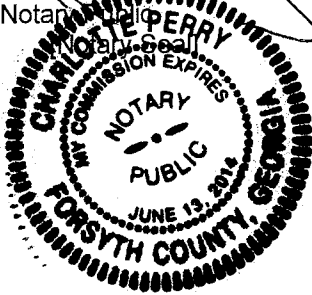
Sworn to and subscribed to before me
this 25 day of July, 2008.

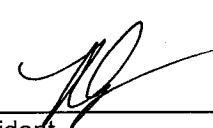


Witness

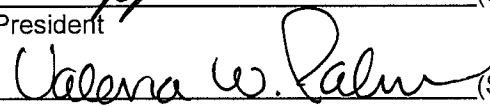


Notary



By:  (Seal)

President

Attest:  (Seal)

Secretary

[CORPORATE SEAL]

EXHIBIT "A1"**Description of Submitted Property**

All that tract of land in Land Lot 366 of the 6th District, Fulton County, Georgia described as follows:

BEGINNING AT AN IRON PIN, at the intersection of the South right-of-way line of Roberts Drive (60 foot right of way) and the west land lot line of Land Lot 366, said district and county; thence following the South right-of-way line of Roberts Drive North 65 degrees 20 minutes 18 seconds East 19.45 feet to a point; thence continuing along said right-of-way line 272.67 feet along the arc of a curve which is North of a chord (chord bearing North 73 degrees 24 minutes 33 seconds East, a chord distance of 271.76 feet) to a point; thence continuing along said right-of-way line North 81 degrees no minutes 18 seconds East 112.81 feet to an iron pin; thence south 17 degrees 37 minutes 40 seconds East 1,245.06 feet to an iron pin on the southwest right-of-way line of State Route 400; thence along said right-of-way line South 21 degrees (12 minutes 09 seconds West 190.16 feet to an iron pin on the Vine dividing land lots 366 and 367 said district and county; thence continuing along said land lot line North 28 degrees 58 minutes 10 seconds West 1,442.15 feet to THE POINT OF BEGINNING, being more particularly shown on that certain survey entitled "River Run, a Condominium" prepared by Jack R. Busby (Registered Land Surveyor No. 1875) of J.S. Ross & Associates, dated June 3, 1983 and recorded simultaneously herewith.

EXHIBIT "A2"

Description of Additional Property

When this Declaration of Condominium was originally drafted, it was anticipated that the land would be submitted to the Georgia Condominium Act in phases as presales requirements were met under FNMA requirements. Presale requirements for the entire development were met and therefore phasing is not required.

Therefore, all of the land is submitted to the Georgia Condominium Act by this Declaration of Condominium and is described on Exhibit A, hereto. No Additional Property will be added to the Condominium.

EXHIBIT "B"

BYLAWS

OF

RIVER RUN CONDOMINIUM ASSOCIATION, INC.

COPYRIGHT ©2010 All rights reserved. These Bylaws may be used only in connection with the ownership and sale of a unit at River Run Condominium and the operation of the River Run Condominium Association, Inc.

PREPARED BY:

**WEISSMAN, NOWACK,
CURRY & WILCO, P.C.**
ATTORNEYS AT LAW

MINDY C. WAITSMAN, ESQUIRE

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1. GENERAL PROVISIONS

A. Applicability.

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

B. Name.

The name of the corporation is River Run Condominium Association, Inc. ("Association").

C. Definitions.

The terms used herein shall have their generally accepted meanings or the meanings specified in Paragraph 2 of the Declaration.

D. 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 more fully provided below, an Owner's spouse or Domestic Partner may exercise the membership powers and privileges of the Owner. If more than one Person holds title to a Unit, the membership shall be shared in the same proportion as the title, but there shall be only one membership and one 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 the Unit. Membership may be transferred only in connection with the transfer of the Unit.

E. Entity Members.

If 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, manager or member of such limited liability company, partner of such partnership, beneficiary or other designated agent of such trust, or representative of such other legal entity shall be eligible to represent such entity 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, and any office or directorship held, shall terminate automatically upon the termination of such person's relationship with the entity that is the Owner of the Unit. 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 may be filled in accordance with these Bylaws.

F. Voting.

Each Unit shall be entitled to one 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 Person owns a Unit, the vote for such Unit shall be exercised as they determine between or among themselves. In no event shall more than one vote be cast with respect to any Unit. If only one co-Owner or only an Owner's spouse or Domestic Partner attempts to cast the vote for a Unit, it shall be conclusively presumed that such vote is authorized for the Unit. If the co-Owners or an Owner and his or her spouse or Domestic Partner disagree about how to cast the Unit's vote, and two or more of them attempt to cast the Unit's vote, such Persons shall not be recognized and such votes shall not be counted.

If a Unit is shown on the books and records of the Association to be more than 30 days past due in any assessment or charge or if the voting rights for such Unit have been suspended, neither the Owner of such Unit nor the Owner's spouse or Domestic Partner shall be eligible to: (1) vote, either in person or by proxy; (2) act as proxy for any other Owner; (3) issue a written consent; (4) be elected to the Board of Directors; or (5) vote as a Director (if on the Board of Directors when such Unit became delinquent or had its voting rights suspended). In establishing the total number of eligible votes for a quorum, a majority, or any other purposes, such Unit shall not be counted as an eligible vote.

G. Electronic Communications.

(1) Records and Signatures.

Whenever the Association's Legal Instruments require that a document, record or instrument be "written" or "in writing," the requirement is deemed satisfied by an electronic record if the Board of Directors has affirmatively published regulations permitting an electronic record or document as a substitute for a written item.

Whenever these Bylaws require a signature on a document, record or instrument, an electronic signature satisfies that requirement only if: (a) the Board of Directors has affirmatively published regulations permitting an electronic signature as a substitute for a written signature; and (b) the electronic 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 (c) the Board of Directors reasonably believes that the signatory affixed the electronic signature with the intent to sign the electronic document, and that the electronic document has not been modified since the signature was affixed.

(2) Verification and Liability for Falsification.

The Board of Directors may require reasonable verification of any electronic signature, document, record or instrument. Absent or pending verification, the Board of Directors may refuse to accept any electronic signature or electronic record that, in the Board's sole discretion, is not clearly authentic. Neither the Board of Directors nor the Association shall be liable to any Owner or any other Person for accepting or acting in reliance upon an electronic signature or electronic record that the Board of Directors reasonably believes to be authentic, or rejecting any such item which the Board of Directors reasonably believes not to be authentic. Any Owner or Person who negligently, recklessly or intentionally submits any falsified electronic record or unauthorized electronic signature shall fully indemnify the Association for actual damages, reasonable attorneys' fees actually incurred and expenses incurred as a result of such acts.

2. MEMBERSHIP MEETINGS AND ACTIONS

A. Annual Meetings.

The purpose of the annual membership meeting shall be to elect Directors of the corporation and conduct other business that shall come before the meeting. The regular annual membership meeting shall be held during the months November or December each year, with the date, time, and location to be set by the Board of Directors. No annual membership meeting of the Association shall be set on a legal holiday.

B. Special Meetings.

Special membership meetings of the Association may be called for any purposes at any time by the Board of Directors or upon written petition of 15 percent of the Owners. Any such written petition by the Owners must identify the special meeting purpose on each page of the petition and must be for a purpose on which the Association membership is authorized to act under these Bylaws or the

Declaration. The petition, with original signatures, must be submitted to the Association's Secretary. The Secretary shall then verify that the required number of Owners have joined in the petition and shall submit all proper petitions to the Association's President. The President shall then promptly call a special membership meeting for all lawful purposes stated in the petition at a date, time and location selected by the President. The Secretary shall send notice of such special membership meeting in accordance with these Bylaws within 30 days of the date of delivery of the petition to the Secretary. Except as provided herein, no business may be conducted at a special membership meeting unless notice thereof is included in the meeting notice.

C. Notice of Meetings.

The Secretary shall give notice of each annual or special membership meeting to the record Owner(s) of each Unit or to the Unit address at least 21 days prior to each annual membership meeting and at least seven days prior to each special membership meeting. The notice shall state the date, time and location of the meeting, and for any special meeting, the purpose of the meeting. Giving notice as provided in these Bylaws shall be considered proper service of notice.

D. Waiver of Notice.

Waiver of notice of a membership meeting shall be deemed the equivalent of proper notice. Any Owner may, in writing, waive notice of any membership meeting, 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 improper notice of the date, time, and location thereof and of any specific business being conducted at such meeting, unless such Owner specifically objects to improper notice at the time the meeting is called to order or the Owner objects to improper notice of the specific business before the business is put to a vote.

E. Quorum.

The presence, in person or by proxy at the beginning of the meeting, of Owners (or their spouses or Domestic Partners) entitled to cast ten percent of the eligible votes of the Association shall constitute a quorum. Once a quorum is established for a meeting, it shall conclusively be presumed to exist until the meeting is adjourned and shall not need to be reestablished. In establishing the total number of eligible votes for a quorum, if a Unit is shown on the books and records of the Association to be more than 30 days past due in any assessment or charge or if the voting rights for a Unit have been suspended, that Unit not be counted as an eligible vote.

F. Adjourned and Reconvened Meetings.

Any membership meeting may be adjourned, to be reconvened at a later date or time, by vote of the Owners holding a majority of the votes represented at such meeting, regardless of whether a quorum is present. Any business that could have been transacted properly at the original session of the meeting may be transacted at the reconvened session. No additional notice of such reconvened session shall be required if the original session is adjourned for a period not exceeding 10 days.

G. Proxies.

Any Owner (or his or her spouse or Domestic Partner) entitled to vote may do so by written proxy. To be valid, a proxy must be signed, dated, and presented to the Board of Directors at or before registration of the membership meeting for which it is to be used. The Board of Directors may accept proxies by whatever means they deem acceptable. A proxy is revoked only if the Owner giving the proxy: (1) attends and votes in person at the meeting (attendance alone does not invalidate the proxy); or (2) signs and delivers to the Board of Directors a written statement revoking the proxy or substituting another Person as proxy. A proxy is also revoked by notice to the Board of Directors (before the proxy is

exercised) of the death or incapacity of the Owner giving the proxy. A proxy holder may not appoint a substitute proxy holder unless expressly authorized to do so in the proxy.

H. Action Taken Without A Meeting.

In the Board's discretion, any action that may be taken by the Owners at any annual or special membership meeting may be taken without a meeting by written ballot or written consent as provided herein.

(1) Written 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.

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

Except for amendments to recorded documents that become effective upon recording and except for actions that specifically set a later effective date, approval of any action taken by written ballot shall be effective upon the receipt of the number of approvals necessary to take such action.

(2) Written Consent.

Approval by written consent shall be valid only when the number of written consents received equals or exceeds the number of votes that would be required to approve the matter at a meeting. Consents shall be filed with the minutes of the membership meetings. Except for amendments to recorded documents that become effective upon recording, and except for actions that specifically set a later effective date, approval of any action taken by written consent shall be effective 10 days after sending the notice of approval described below.

(3) Notice to Members of Approval.

If an action of the Association membership is approved by written ballot or written consent, the Board of Directors shall issue notice of such approval to all Owners.

I. Order and Conduct of Business.

The President shall establish the agenda for and preside at and the Secretary shall keep the minutes of all membership meetings. The President may designate another person to preside over meetings, or portions thereof. The Board of Directors may establish rules of conduct and the order of business for all membership meetings. When not in conflict with the Declaration, these Bylaws, the Articles of Incorporation or meeting procedures adopted by the Board of Directors, Roberts Rules of Order (latest edition) shall govern all membership meetings. The Board of Directors may order the removal of anyone attending a membership meeting who, in the opinion of the Board of Directors, disrupts the conduct of the business at such meeting.

3. BOARD OF DIRECTORS

A. Composition and Selection.

(1) Number and Eligibility.

A Board of Directors shall govern the affairs of the Association. The Board of Directors shall be composed of five persons ("Directors"). The Directors shall be Owners of Units or spouses or Domestic Partners of such Owners. No Owner and his or her spouse or Domestic Partner may serve on the Board of Directors at the same time, and no co-Owners may serve on the Board of Directors at the same time. If, at the time of an election, a Unit is shown on the books and records of the Association to be more than 30 days past due in any assessment or charge or if the voting rights for a Unit have been suspended, no person representing such Unit shall be eligible for election to the Board of Directors.

(2) Term of Office.

Those Directors serving on the Effective Date of these Bylaws shall remain in office until the terms for which they were elected expire. Successor Directors shall be elected as provided herein. Those persons receiving the most votes shall be elected to the number of positions to be filled. At the expiration of the term of office of each member of the Board of Directors, and at each annual membership meeting thereafter, a successor shall be elected to serve for a term of 3 years, commencing on the date of the election and expiring at the third annual membership meeting after such election. A member of the Board of Directors shall hold office until his or her respective successor is elected, he or she is removed or he or she resigns. At the expiration of a Director's term of office, if a successor cannot be elected for any reason, the existing Director shall continue to hold office and begin serving another term until his or her successor is elected to fill the remainder of such new term.

(3) Removal of Directors.

(a) Removal by the Owners.

At any duly called membership meeting, for which the notice given called for a vote to remove any Director(s), such Director(s) may be removed with or without cause by a majority of the total Association membership. A successor may then and there be elected to fill the vacancy created. Any Director whose removal has been proposed by the Association membership shall be given an opportunity to be heard at the meeting. To ensure a Director has a chance to present a statement to the membership, the Owners' vote to remove a Director cannot be accomplished by written ballot or written consent. For the purpose of this Paragraph, no Owner may vote more than his or her own vote and the vote of four proxies. However, a Director may vote any number of proxies.

(b) Removal by the Board of Directors.

Any Director may be removed by the vote of the other Association Directors if: (1) he or she is absent from 3 or more meetings of the Board of Directors in any fiscal year; (2) his or her Unit is shown on the books and records of the Association to be more than 30 days past due in any assessment or charge; (3) the voting rights for his or her Unit have been suspended; or (4) he or she was appointed by the other Directors to fill a vacancy.

(4) Vacancies.

Vacancies in the Board of Directors caused by any reason, except the removal of a Director by vote of the Association membership, shall be filled by a vote of the remaining Directors. Unless earlier removed, the successor so selected shall hold office for the remainder of the term of the Director position being filled.

(5) Compensation.

Directors shall not be compensated for services performed within the scope of their duties as Association Directors unless authorized by a vote of the Association membership. However, Association Directors may be compensated for performing maintenance or other services as set forth in Paragraph 3(A)(6) below. Compensation, as may be authorized herein, can include payment but shall not include a waiver of assessments or other Association charges. Directors also may be reimbursed for the expenses incurred in carrying out their duties as Association Directors upon the approval of such expenses by the Board of Directors. The Association may give the Directors nominal gifts or tokens of appreciation for recognition of services performed by them. For purposes hereof, reasonable food and beverages purchased for meetings of the Board of Directors shall not be considered compensation.

(6) Director Conflicts of Interest.

Nothing herein shall prohibit a Director from entering into a contract and being compensated for services or supplies furnished to the Association in a capacity other than as Director, provided that the Director's interest is disclosed to the Board of Directors and the non-interested voting Directors approve such contract. The interested Director shall not count for purposes of establishing a quorum of the Board of Directors during a vote on such contract and, if present at a meeting (if any), must leave the room during the discussion on such matter.

(7) Nomination.

Nomination for election to the Board of Directors shall be made from the floor at the meeting, or, if elections are conducted by mail-in ballot or electronically in lieu of a meeting, by the method and date proscribed by the Board of Directors. The Board of Directors also may appoint a nominating committee to make nominations prior to the meeting. Each nominee shall be given a reasonable opportunity to communicate his or her qualifications to the membership prior to the election.

(8) Elections.

Directors shall be elected at the annual membership meeting or by mail-in or electronic ballot in lieu of such meeting. If elections are held at the annual membership meeting, voting shall be by written ballot unless dispensed with by unanimous consent or unless a slate of candidates is unopposed and is accepted by acclamation. The nominees receiving the most votes shall fill the directorships for which elections are held. There shall be no cumulative voting.

B. Meetings.**(1) Regular Meetings.**

Regular meetings of the Board of Directors shall be held at least every three months at such time and place as determined by the Board of Directors.

(2) Special Meetings.

The President is authorized to call a special Board of Directors meeting. In addition, the President is required to call a special Board of Directors meeting at the request of at least a majority of the Directors.

(3) Notice of Meetings.

Except as provided in this Paragraph, the President or Secretary shall give each Director at least two-days notice of any Board of Directors meeting. A newly elected Board of Directors may meet

immediately following their election without notice. Regularly scheduled Board of Directors meetings may be held without notice, provided the schedule for such meetings is announced to the Directors.

(4) Waiver of Notice.

Waiver of notice of a Board of Directors meeting shall be deemed the equivalent of proper notice. Any Director may, in writing, waive notice of any Board of Directors meeting, either before or after such meeting. Attendance at a Board of Directors meeting by a Director shall be deemed waiver by such Director of improper notice unless such Director objects to improper notice at the time the meeting is called to order. If all Directors are present at any Board of Directors meeting, no notice shall be required and any business may be transacted at such meeting.

(5) Quorum and Voting.

The presence of Directors entitled to cast one-half of the eligible votes of the Board of Directors shall constitute a quorum for the transaction of business. One or more Directors who participate in a Board of Directors 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 such meeting can hear each other. Directors may not participate in Board of Directors meetings by proxy.

Unless otherwise provided herein, all decisions of the Board of Directors shall be by majority vote. No Director shall participate in any vote of the Board of Directors if at the time of the vote his or her Unit is shown on the books and records of the Association to be more than 30 days past due in any assessment or charge or if the voting rights for such Unit have been suspended.

(6) Conduct of Meetings.

The President shall establish the agenda for and preside at and the Secretary shall keep the minutes of all Board of Directors meetings. The President may establish rules of conduct and the order of business for all meetings of the Board of Directors.

If the Board of Directors allows Owners to attend their meetings, then except as expressly authorized by the Board of Directors, only Directors may participate in any discussion or deliberation at a Board of Directors meeting. Notwithstanding the above, the Directors may adjourn a Board of Directors meeting and reconvene in executive session with only the Directors and other people authorized by the Board of Directors present. In executive session, the Board of Directors may discuss and vote upon personnel matters, litigation in which the Association is or may become involved, delinquent accounts, violations of the Declaration, Bylaws and/or Association rules, 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 of Directors may order the removal of any meeting guest who, in opinion of a majority of the Directors present at the meeting, either disrupts the conduct of business at the Board of Directors meeting or fails to leave such meeting upon request after an announcement that the Board of Directors will reconvene in executive session.

(7) Action Without a Meeting.

The Board of Directors can take action outside of a properly called meeting if a majority of the eligible Directors consent in writing to such action. Such signed, written consents from a majority of the eligible Directors must describe the action taken outside a meeting and shall be filed with the minutes of the Board of Directors meetings.

C. Authority.**(1) Powers and Duties.**

The Board of Directors shall manage the affairs of the Association and have every right, power and privilege authorized or implied herein and under Georgia law to effectuate such responsibilities. Unless otherwise required by the Declaration, the Act or the Georgia Nonprofit Corporation Code, the Board of Directors may perform all of its responsibilities without a vote of the Association membership. The Board of Directors may delegate any and all of its functions, in whole or in part, to any other entity. In addition to the duties imposed by these Bylaws, the Board of Directors shall have the power to do the following (by way of explanation and not limitation):

- (a) control, manage, operate, maintain, repair, replace, and improve all portions of the Common Elements as defined in the Declaration;
- (b) grant and accept permits, licenses, utility easements, leases, and other easements;
- (c) acquire, hold and dispose of tangible and intangible personal property and real property;
- (d) make, delete and amend reasonable rules and regulations governing the use of the Condominium;
- (e) enforce by legal means the provisions of the Declaration, these Bylaws and the rules and regulations as provided in the Declaration and the Act;
- (f) bring or defend any actions or proceedings which may be instituted on behalf of or against the Owners concerning the Association or the Common Elements;
- (g) prepare and adopt an annual budget and establish the contribution from each Owner to the Common Expenses;
- (h) establish the means and methods of collecting assessments as provided in the Declaration
- (i) deposit Association funds in a financial depository or institution that the Board of Directors shall approve, or otherwise invest the proceeds in accordance with any limitations set forth in O.C.G.A. Section 14-3-302, and use such funds to administer the Association;
- (j) designate the signatories of all Association bank and other financial accounts;
- (k) obtain and carry insurance against casualties and liabilities as provided in the Declaration and pay the premium cost thereof;
- (l) make or contract for the making of repairs, additions and improvements to, or alterations of, the Common Elements after damage or destruction by fire or other casualty, in accordance with the other provisions of the Declaration and these Bylaws;
- (m) designate, hire, dismiss and contract with the personnel necessary to operate the Association and the personnel necessary to maintain, repair, replace and improve the Common Elements and, where appropriate, compensate such personnel; and

(n) purchase equipment, supplies and material to be used by Association personnel in the performance of their duties.

(2) **Management Agent.**

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

(3) **Borrowing.**

The Board of Directors, on behalf of the Association, shall have the power to borrow money to maintain, repair, restore or replace the Common Elements without the approval of the Association membership. The Board of Directors, on behalf of the Association, also shall have the power to borrow money for other purposes with the approval of at least a majority of those eligible voters voting by ballot or written consent or the approval of a majority of those eligible voters present or represented by proxy at a duly called membership meeting.

(4) **Committees.**

(a) **Nominating Committee.**

The Board of Directors may appoint a nominating committee to nominate candidates for election to the Board of Directors.

(b) **Architectural Control Committee.**

The Board of Directors may establish an Architectural Control Committee to administer the architectural controls as provided in the Declaration.

(c) **Other Committees.**

There shall be such other committees as the Board of Directors shall determine with the powers and duties that the Board of Directors shall authorize.

(d) **Service on Committees.**

Unless otherwise provided by the Board of Directors, the Board of Directors in its discretion may appoint and remove the members and chairpersons of each committee.

D. Liability and Indemnification.

The Association shall indemnify every Director, officer and committee member against any and all expenses, including attorney's fees, reasonably incurred by or imposed upon such Director, officer 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 a Director, officer, or committee member, whether or not such person is a Director, officer or committee member at the time such expenses are incurred subject to the limitations below.

The Directors, officers, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, or for injury or damage caused by any such Director, officer, or committee member in the performance of his or her duties, except for his or her own individual willful misfeasance or

malfeasance. The Directors and officers 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 Directors or officers may also be members of the Association), and the Association shall indemnify and forever hold each such Director and officer free and clear 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 Director, officer, or committee member, or former Director, officer, or committee member, may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and, if obtainable, Directors' and officers' liability insurance to fund this obligation, and the insurance shall be written as provided in the Declaration.

4. OFFICERS

A. Designation and Qualification.

The principal Officers of the Association shall be the President, Vice President, Secretary, and Treasurer. The President, Vice President and Secretary must be Directors, but the Treasurer need not be a Director. Except for the offices of Secretary and Treasurer, which may be held by the same person, no person may hold more than one office simultaneously.

B. Election and Terms of Offices.

The Board of Directors shall elect the Association officers annually at the first Board of Directors meeting following each annual membership meeting. The Association Officers shall serve until a successor is elected, the Board of Directors removes the Officer, or the Officer resigns.

C. Removal of Officers.

The Board of Directors may remove any Officer with or without cause.

D. Vacancies.

The Board of Directors may fill any vacancy in any office arising because of death, resignation, removal, or otherwise. Unless earlier removed, the successor so selected shall hold office for the remainder of the term of the officer position being filled.

E. President.

The President shall be the chief executive officer of the Association and shall establish the agenda for and preside at all meetings of the membership and the Board of Directors. The President may appoint another person to preside membership meetings, or portions thereof. The President shall have all the general powers and duties that are incident to the office of the president of a corporation organized under the Georgia Nonprofit Corporation Code.

F. Vice President.

The Vice President shall act in the President's absence and shall have the same powers, duties, and responsibilities as the President when so acting.

G. Secretary.

The Secretary shall keep the minutes of all meetings of the membership and the Board of Directors. The Secretary also shall keep all Association books and records and perform all duties

incident to the office of the secretary of a corporation organized under the Georgia Nonprofit Corporation Code.

H. Treasurer.

The Treasurer shall have the responsibility for the Association's funds and securities. The Treasurer shall keep full and accurate financial records and books of account showing all receipts and disbursements of the Association, prepare all required financial statements and tax returns, deposit all Association funds in such depositories as may be designated by the Board of Directors, and prepare the budget as provided in the Declaration. The Treasurer may delegate all or a part of the above responsibilities to a management agent.

I. Other Officers.

The Board of Directors may appoint one or more assistant treasurers, assistant secretaries, or other officers or subordinate officers with such titles and duties as defined by the Board of Directors. Any assistant, subordinate or other officers shall not be required to be Directors.

J. Agreements, Contracts, Deeds, Leases, Etc.

At least two officers of the Association (or such other person(s) as may be designated by resolution of the Board of Directors) shall execute all agreements, contracts, deeds, leases, checks, promissory notes, and other instruments of the Association.

5. MISCELLANEOUS

A. Notices.

(1) Method of Giving Notices.

Unless otherwise prohibited by these Bylaw or the Declaration, all notices and other communications required by these Bylaws or the Declaration shall be in writing and shall be given by:

- (a) Personal delivery to the addressee;
- (b) United States mail, first class, postage prepaid;
- (c) Statutory overnight delivery;
- (d) Electronic mail;
- (e) Facsimile; or
- (f) A secure web site, provided that notice shall be deemed given via web site only upon proof that the addressee has retrieved the message.

(2) Address For Notices.

Notices given by one of the methods described above shall be given:

- (a) If to a Unit Owner, to the address, electronic mail address or facsimile number that 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;

(b) If to an Occupant, to the address, electronic mail address or facsimile number that 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

(c) If to the Association, the Board of Directors or the managing agent, to the respective 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.

B. Fiscal Year.

The fiscal year of the Association shall be the calendar year unless otherwise set by resolution of the Board of Directors.

C. Financial Statements.

Financial statements shall be prepared annually in the manner provided by the Board of Directors. Financial statements must be made available to Owners and to the holder, insurer or guarantor of any first mortgage on a Unit within 120 days of the end of the Association's fiscal year.

D. Financial Review.

A financial review of the Association's accounts shall be performed annually in the manner provided by the Board of Directors. The Board of Directors shall give a financial report to the Owners at the annual membership meeting. Thereafter, a majority of the total Association membership may require that an independent accountant audit the Association's accounts, as a Common Expense. The audit, if applicable, shall be made available to the holder, insurer, or guarantor of any first mortgage on a Unit upon submission of a written request therefor.

E. Amendment.

(1) **Member Approval Procedure.** Except where a higher vote is required for action under any other provisions of the Declaration, these Bylaws or by the Act, these Bylaws may be amended with the approval of Owners holding 66-2/3% of the total Association vote. Notice of a meeting, if any, at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the Fulton County, Georgia land records.

(2) **Default Approval Procedure After Owner Non-response.** It is recognized that, when Owners fail to participate in an amendment vote because of apathy or other reasons which are not based on any disagreement with a proposed amendment, important amendments to the Declaration or Bylaws may have no chance of approval, with the supermajority voting requirements established under the Act. It also is recognized that supermajority voting requirements are important for Owner actions which are as significant as amending the Declaration or these Bylaws. To balance these competing concerns, this subparagraph establishes a mechanism which provides every eligible Owner an opportunity to issue a vote of approval, disapproval or abstention on proposed amendments to the Declaration or Bylaws, but also a realistic mechanism for approving important amendments, without the damaging consequences of Owner non-response.

The Board shall issue notice of all proposed amendments to each Owner. With each such notice, the Board shall include a copy of the proposed amendment, along with a consent form or ballot, which complies with the requirements of these Bylaws. Each such consent form or ballot shall give Owners an opportunity to vote for, vote against or abstain from voting on the proposed amendment.

If the amendment is not approved or defeated by sufficient vote within 60 days of the amendment notice described above, then the Board may seek to obtain default approval from Owners under this subparagraph. In such case, the Board shall send default approval notice, by certified mail, to all Owners who have not returned consents or ballots on a proposed amendment within that 60-day period. This default approval notice also shall include a consent form or ballot, as provided above, along with a statement that the Owner's failure to return an executed consent form or ballot, marked with a vote for, a vote against, or an abstention from voting on the amendment, within 30 days of the date of such default approval notice, will be deemed consent to such amendment. If the Board does not receive such consent or ballot within that 30-day period, the Owner shall be deemed to have consented to and approved the amendment.

(3) **Eligible Mortgage Holder Approval.** In addition to approval by the Owners as provided above, material amendments to the Declaration and these Bylaws must be approved by Eligible Mortgage Holders who represent at least 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 30 days after the Eligible Mortgage Holder receives notice of the proposed amendment sent by certified or registered mail, return receipt requested.

(4) **Amendments to Comply with Law or Conform Documents.** Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the Owners, may amend the Declaration and these Bylaws to comply with any applicable state, city or federal law, including but not limited to, compliance with applicable guidelines of the Federal National Mortgage Association ("Fannie Mae"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA"), or to resolve conflicts between the Declaration, these Bylaws, the Articles, and applicable laws.

(5) **Validity of Amendment.** No person shall be permitted to bring any legal action to challenge the validity of an amendment to the Declaration of these Bylaws more than one year after the recording thereof in the Fulton County, Georgia land records.

F. Books and Records.

To the extent provided in O.C.G.A. Section 14-3-1602, and upon written request received at least five business days before the date requested for an inspection, all Association Owners and any Eligible Mortgage Holder shall be entitled to inspect the Association's books and records at a reasonable time and location specified by the Association. The Association can limit the length of time of each inspection, but such time limit shall not be less than two hours per inspection. The Association may impose a reasonable charge, covering the cost of labor, materials and copies of any documents, including but not limited to the customary copy charge and hourly fee of the Association's agent supervising such inspection. To prevent abuse of an Owner's inspection rights, records previously inspected by an Owner are not subject to inspection again by the same Owner more than once per quarter.

Notwithstanding anything to the contrary, the Board of Directors may limit or preclude the inspection of confidential or privileged documents, including but not limited to, attorney/client privileged communication, executive session meeting minutes, and financial records or accounts of other Owners. Minutes of all meetings of the membership and the Board of Directors become official Association records when approved by the membership or the Board of Directors, as applicable.

G. Conflicts.

The duties and powers of the Association shall be those set forth in the Act, the Georgia Nonprofit Corporation Code, the Declaration, the Articles of Incorporation, and these Bylaws, together with those reasonably implied to affect the purposes of the Association. If there is a conflict or inconsistency between the Act, the Georgia Nonprofit Corporation Code, the Declaration, the Articles of Incorporation or these Bylaws, such laws and documents, in that order, shall prevail.

H. **No Discrimination.**

No action shall be taken by the Association or the Board of Directors that would unlawfully discriminate against any person on the basis of race, creed, color, religion, sex, national origin, familial status or handicap.

I. **Captions.**

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

J. **Gender and Grammar.**

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

K. **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.

[Certification Continued on Next Page]

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of River Run Condominium Association, Inc., a Georgia corporation;

That the foregoing Bylaws constitute the Amended and Restated Bylaws of said Association, as duly adopted by the Board of Directors and the members of the Association on the 24th day of July, 2010.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 24th day of July, 2010.

RIVER RUN CONDOMINIUM ASSOCIATION, INC.


Secretary VALERIA W. PALMER (Seal)

[CORPORATE SEAL]

MW: 363103_1.DOC(2171)


July 24, 2010

