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DECLARATION OF CONDOMINIUM
FOR
ROSWELL COURT, A CONDOMINIUM

THIS INSTRUMENT ESTABLISHES THE CONDOMINIUM FORM OF OWNERSHIP FOR
THE PROPERTY DESCRIBED HEREIN PURSUANT TO THE GEORGIA CONDOMINIUM
ACT, O.C.G.A. SECTION 44-3-70, *ET SEQ.*

DECLARATION OF CONDOMINIUM
FOR
ROSWELL COURT, A CONDOMINIUM
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DECLARATION OF CONDOMINIUM

FOR

ROSWELL COURT, A CONDOMINIUM

THIS DECLARATION is made by **JWNSP ROSWELL, LLC**, a Georgia limited liability company (hereinafter called the "Declarant").

WITNESSETH

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

WHEREAS, certain improvements have been constructed on the property described in Exhibit "A" attached hereto as shown on the Plat(s) and the Plans (as such terms are defined below); and

WHEREAS, Declarant has duly incorporated Roswell Norcross Street Condominium Association, Inc. as a nonprofit membership corporation under the laws of the State of Georgia; and

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

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

Article 1

Name

The name of the condominium is Roswell Court Condominium (hereinafter sometimes called the "Condominium," as further defined herein).

Article 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, O.C.G.A., Section 14-3-101, et seq. Unless the context otherwise requires, certain terms used in this Declaration, the Bylaws and the Articles of Incorporation shall be defined as follows:

2.1. Act means the Georgia Condominium Act, O.C.G.A. Section 44-3-70, et seq., as may be amended from time to time.

2.2. Additional Property means that property described on Exhibit "B", attached hereto and incorporated herein, which may be submitted to the Condominium as provided in this Declaration.

2.3. Architectural Control Committee or ACC means the committee established to exercise the architectural review powers set forth in Article 12 hereof.

2.4. Area of Common Responsibility means the Common Elements, together with those areas, if any, which by the terms of this Declaration or by agreement with any other Person become the Association's responsibility.

2.5. Articles or Articles of Incorporation means the Articles of Incorporation of Roswell Norcross Street Condominium Association, Inc., which have been filed with the Secretary of State of Georgia, as may be amended from time to time.

2.6. Association means Roswell Norcross Street Condominium Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

2.7. Board or Board of Directors means the elected body responsible for management and operation of the Association, as further described in the Bylaws.

2.8. Bylaws means the Bylaws of Roswell Norcross Street Condominium Association, Inc., attached hereto as Exhibit "D" and incorporated herein by this reference, as may be amended from time to time.

2.9. Commercial Unit means that portion of the Condominium designated on the Floor Plans as "Office/Retail Unit" and intended for ownership and use for commercial purposes, as more particularly described herein and shall include the undivided ownership in the Common Elements assigned to the Unit hereunder.

2.10. 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 herein.

2.11. 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, including the Limited Common elements, as applicable, and incurred as provided in the Master Declaration.

2.12. 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 and the ACC.

2.13. Condominium means all that property described in Exhibit "A", attached hereto and incorporated herein by this reference, submitted to the provisions of the Act by this Declaration, and any property described on Exhibit "B" attached hereto which is later submitted to the provisions of the Act and this Declaration.

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

2.15. Declarant shall mean and refer to **JWNSP ROSWELL, LLC**, a Georgia limited liability company and its successor, successor-in-title or assigns taking title to any portion of the property described in Exhibit "A" or Exhibit "B" hereof for the purpose of development and/or sale and designated as Declarant in a recorded instrument by the then holder of rights of Declarant hereunder. Any or all of the rights of Declarant set forth in this Declaration or the Articles of Incorporation or the Bylaws may be transferred or assigned in whole or in part to other Persons, provided that, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration, the Articles of Incorporation or the Bylaws. No such transfer or assignment shall be effective unless it is in a written instrument signed by Declarant and recorded in the public real estate records of the county where the property is located.

2.16. Development Period means the period of time during which the Declarant owns any portion of the Condominium or has the unilateral right to subject Additional Property to the Condominium pursuant to Article 24; provided, however, the Development Period. The Declarant may, but shall not be obligated to, unilaterally relinquish its rights under this Declaration and terminate the Development Period by recording a written instrument to that effect in the Fulton County, Georgia land records.

2.17. Eligible Mortgage Holder means a holder of a first Mortgage on a Unit, secured by the Unit, who has requested notice of certain matters as set forth herein.

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

2.19. 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.

2.20. Master Association means Roswell Court Community Association, Inc., a Georgia nonprofit corporation, its successors and assigns.

2.21. Master Declaration means that that certain Master Declaration of Protective Covenants, Conditions, Restrictions and Easements for Roswell Court, as amended, supplemented, renewed, or extended from time to time.

2.22. Mortgage means 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.

2.23. Mortgagee or Mortgage Holder means the holder of any Mortgage.

2.24. Occupant means any Person occupying all or any portion of a Unit for any period of time, regardless of whether such Person is a tenant or the Owner of such property.

2.25. Owner means any record title holder of a Unit in the Condominium, but shall not include a Mortgage Holder.

2.26. Person means any individual, individual acting in a fiduciary capacity, corporation, limited partnership, limited liability company, general partnership, joint stock company, joint venture, association, company or other organization, recognized as a separate legal entity under Georgia law.

2.27. Plans means any and all floor plans for Roswell Court Condominium filed in the Floor Plan Condominium Book of the Fulton County, Georgia records, as may be amended from time to time.

2.28. Plat means any and all plats of survey or condominium plats for Roswell Court Condominium filed in the Condominium Plat Book of the Fulton County, Georgia records, as may be amended from time to time.

2.29. Residential Unit means any Unit in the Condominium except for the Commercial Units as that term is defined herein.

2.30. Total Association Vote means the votes attributable to the entire membership of the Association (including votes of Declarant) as of the record date for such action, whether or not such members are present or represented at the meeting, if any, where such votes are to be cast, but specifically excluding the votes of any Owners whose voting rights have been suspended as provided in the Condominium Instruments. If, for example, and without limitation, two-thirds (2/3) of the Total Association Vote is required to approve a matter, such matter must receive more than two-thirds (2/3) of the votes attributable to all existing members of the Association as of the record date for such action (including votes of Declarant and excluding the votes of any Owners whose voting rights have been suspended as provided in the Condominium Instruments), whether or not such members are present or represented at the meeting, if any, where such votes are to be cast. As a further illustration, if a Majority vote is required to approve a matter (and the term Total

Association Vote is not used), such matter must receive the affirmative vote of more than fifty percent (50%) of the votes cast by the members entitled to vote on the matter.

2.31. Unit means that portion of the Condominium intended for individual ownership and use, as more particularly described herein and shall include the undivided ownership in the Common Elements assigned to the Unit hereunder.

Article 3

Location, Property Description, Plat and Plans

The Condominium subject to this Declaration and the Act is more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference. Plat and Plans relating to the Condominium will be filed in the Fulton County, Georgia land records at the time the Condominium is submitted to this Declaration. The Plat and Plans are incorporated herein by reference as fully as if the same were set forth in their entirety herein. The Declarant has the right to file additional Plats and Plans describing Units and may revise and re-record the Plat and Plans as hereinafter provided. During the Development Period, Declarant reserves the right, but shall have no obligation, to make improvements and changes to all or part of the Common Elements and the Units owned by Declarant or its affiliates (other than changes to the location of Unit boundaries unless expressly permitted herein), including, without limitation, addition and realignment of parking spaces, renovation and installation of changes to utility systems and facilities, rearrangement and installation of security and refuse facilities, work relating to building exteriors, and extension of the drives and utility lines and pipes located on the Condominium.

Article 4

Units and Boundaries

The Condominium will be initially divided into ten (10) Units, being five (5) Commercial Units and five (5) Residential Units and the Common Elements. Each Unit consists of an office/retail space or a residential dwelling and its appurtenant percentage of undivided interest in the Common Elements as shown on Exhibit "C" attached to this Declaration and incorporated herein by this reference. 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 Floor Plans. In interpreting deeds and plans, the existing physical boundaries of a Unit as originally constructed or of a Unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in any deed or plan, regardless of settling or lateral movement of the building in which the Unit was located, and regardless of minor variance between the boundaries shown on the plans or in a deed and those of the Unit.

The ownership of each Unit shall include, and there shall pass with each Unit as appurtenances thereto whether or not separately described in the conveyance thereof, an undivided, appurtenant right, title and interest in the Common Elements attributable to such Unit as shown on Exhibit "C" attached hereto and incorporated herein by this reference, together with membership in the Association. Every portion of a Unit and all Common Elements contributing to the support of an abutting Unit shall be burdened with an easement of support for the benefit of such abutting

Unit. Each Unit includes that part of the structure which lies within the boundaries described in subsections 4.1 and 4.2 below.

4.1. Vertical Boundaries. The vertical boundaries of each Unit, as shown on the Plat(s) and Plans and extended to intersections with each other, shall be the vertical planes formed by the interior face of the wall framing of the outer walls of the Unit separating the Unit from the exterior of the building or the Common Elements. The Unit shall include the wallboard or other material comprising the walls of the Unit extending to the intersection of each wall with each other wall and the upper and lower horizontal boundaries of the Unit and the framing shall be part of the Common Elements.

4.2. Horizontal Boundaries. The lower horizontal boundaries of a Unit shall be the plane formed by the upper surface of the concrete slab on which the first floor of the Unit is constructed and the uppermost surface of the subflooring of the Unit on the second floor, with the flooring and underlayment constituting part of the Unit and the concrete slab and subflooring constituting part of the Common Elements. The upper horizontal boundary shall be the plane formed by the uppermost, unexposed surface of the wall board or other material comprising a part of the ceiling enclosing the uppermost story of the Unit, if constituting a frame ceiling, or, if an exposed structure ceiling the lowermost surface of the ceiling material so that all structural framing and components of the roof shall be Common Elements and the wallboard, ceiling tile or other material comprising the ceiling, including, without limitation, the panels, parcel grid and support system associated with a suspended ceiling, shall constitute a portion of the Unit. Each Residential Unit includes a pull-down stair accessing the attic area above the Unit. The pull-down stair is required by building code and is part of the Residential Unit. The attic space above each Residential Unit is part of the Common Elements and not part of the Residential Unit. The attic space is not constructed or intended to be used for storage by the Owner or Occupant.

4.3. Attachments. A Unit shall include all attachments to the exterior walls of a Unit which are a part thereof, which protrude beyond said boundaries, including, without limitation, heating and air conditioning units. Each Unit shall also include all conduits, ducts, utility meters, plumbing, heating, electrical and air conditioning systems (including furnaces, compressors, components, pipes, wire, conduits, ducts, and the like) which serve the Unit exclusively; all windows, glass surfaces and doors (including frames of windows and doors) serving the Unit. If any chute, flue, duct, conduit, wire, bearing wall, bearing column or any other apparatus lies partially within and partially outside the designated boundaries of a Unit, any portion thereof which serves only that Unit shall be deemed to be a part of that Unit, while all 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. 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/or 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 such heating and/or air conditioning systems, and appliances and plumbing fixtures within a Unit shall be part of the Unit.

In interpreting deeds and plans, the existing physical boundaries of a Unit as originally constructed or reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in any deed

or plan, regardless of settling or lateral movement of the building in which the Unit is located, and regardless of minor variance between the boundaries shown on the plans or in a deed and those of the Unit.

4.4. Subdivision and Partition of Units; Relocation of Boundaries. In accordance with the provisions of the Act (Section 44-3-91) and with the written consent of the Declarant during the Development Period and, thereafter, with the written consent of the Board of Directors, the boundaries between adjoining Commercial Units may be relocated from time to time; provided, however, the Declarant or the Board, as the case may be, may withhold consent for such relocation of boundaries for any reason. In accordance with the provisions of the Act (Section 44-3-92) and with the written consent of the Declarant during the Development Period and, thereafter, with the written consent of the Board of Directors, any Commercial Unit in the Condominium may be subdivided from time to time into two (2) or more Commercial Units; provided, however, the Declarant or the Board, as the case may be, may withhold consent for such subdivision for any reason. In the event that any Commercial Unit is subdivided as provided herein, the entire square footage and undivided interest in the Common Elements of the subdivided Commercial Unit shall be allocated among the Commercial Units created by the subdivision as provided herein and in the Act. Notwithstanding anything herein to the contrary, no Residential Unit may be subdivided for the purpose of creating two (2) or more Units therefrom and no Owner shall have the right of partition of a Residential Unit. The Board has the right and authority to approve or disapprove any application for partition, relocation of boundaries and/or subdivision of a Commercial Unit hereunder; provided, however, during the Development Period, it shall be mandatory that the Board approve any such application upon request made by the Declarant. Partition, relocation of boundaries and/or subdivision of Units other than as provided in this Section is prohibited. Notwithstanding anything herein to the contrary, (i) the Declarant shall have the right to relocate boundaries between Units owned by the Declarant or its affiliates without the approval of the Association, the Board, the ACC or any other Person or group, and the Board shall take such steps as may be necessary to have the required amendment(s) to the Declaration executed on behalf of itself and the Association, if and as necessary; and (ii) the Declarant shall have the right to subdivide a Unit or Units owned by the Declarant or its affiliates without the approval of the Association, the Board, the ACC or any other Person or group, and the Board shall take such steps as may be necessary to have the required amendment(s) to the Declaration executed on behalf of itself and the Association, if and as necessary.

Article 5 Common Elements

The Common Elements consist of all portions of the Condominium not located within the boundaries of a Unit, which Common Elements include, but are not limited to, certain utilities, walls, roof, and exterior walls. Pursuant to Section 44-3-78 of the Act, each Unit is allocated an appurtenant percentage of undivided interest in the Common Elements as shown on Exhibit "C" attached hereto; such undivided interest being determined by dividing the approximate square footage of a particular Unit by the square footage of all Units within the Condominium. Such undivided interest in the Common Elements may be altered only with the consent of all Owners and Mortgagees, or such lesser number as may be prescribed by the Act, expressed in a duly recorded amendment to this Declaration, except as provided in Section 13.3(b) hereof and except

in the case of expansion of the Condominium as provided in Article 24 hereof. 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 Occupant 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 and Occupants.

Article 6
Limited Common Elements

6.1. General. The Limited Common Elements located on the Condominium and the Units to which they are assigned are:

(a) any portion of any heating and/or air conditioning system or other utility system (including the duct work from such system) which serves more than one (1) Unit, but less than all Units, is assigned as a Limited Common Element to the Units so served;

(b) the portion of the Common Elements on which there is located any portion of the heating and/or air conditioning system (including the duct work from such system) serving one (1) or more Units, but less than all Units, is assigned as Limited Common Element to the Unit(s) so served;

(c) any balcony, deck, patio or porch 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;

(d) any entry, landing, hallway, elevator, stairs or walkway serving the Residential Units, but not the Commercial Units, is assigned as a Limited Common Element to the Residential Unit(s) to which it is attached and which it serves;

(e) any utility meter and/or utility meter area serving more than one (1) Unit, but less than all Units, is assigned as a Limited Common Element to the Unit(s) so served; and

(f) any shutter, window box and any other apparatus described in Section 44-3-75(a)(5) of the Act designed to serve only one (1) Unit shall be a Limited Common Element appertaining to that Unit exclusively if and to the extent the same is not included within the boundaries of the Unit.

6.2. Assignment and Reassignment. The Board, without need for a membership vote, is hereby authorized to assign and reassign Limited Common Elements and to assign Common Elements, not previously assigned, as Limited Common Elements, provided that any such assignment or reassignment shall be made in accordance with the provisions of O.C.G.A. Sections 44-3-82(b) and (c), as modified and supplemented herein. A Common Element not previously assigned as a Limited Common Element may be so assigned by the Board, and a Limited Common Element may be reassigned by the Board, without need for a membership vote, upon written application to the Board by the Owner or Owners requesting the exclusive use of such Common

Element, or in the case of a reassignment of a Limited Common Element, upon written application to the Board by the Owner(s) of the Unit(s) to which the Limited Common Element appertains and the Owner(s) of the Unit(s) to which the Limited Common Element is to be reassigned provided, however, during the Development Period, the written consent of the Declarant shall be required prior to any such assignment or reassignment. The Board has the right and authority to approve or disapprove any such application; provided, however, during the Development Period, it shall be mandatory that the Board approve any such application upon request made by the Declarant. Upon Board approval of the application, an amendment to the Declaration assigning the Common Element as a Limited Common Element or reassigning the Limited Common Element shall be prepared and executed on behalf of the Association, without need for a membership vote, which amendment shall be executed by the Owner or Owners making such application. Such amendment shall be delivered and become effective as provided in O.C.G.A. Section 44-3-82. Assignments and reassignments of Limited Common Elements and assignments of Common Elements other than as provided in this subsection are prohibited.

Article 7

Association Memberships and Allocation of Votes

(a) All Owners, by virtue of their ownership of an interest in a Unit, are members of Association and shall be entitled to vote on all matters upon which members of the Association are entitled to vote as provided in the Articles of Incorporation, Declaration and Bylaws. Every Person who is the record owner of a fee or undivided fee interest in any Unit subject to this Declaration shall have a membership in the Association. The foregoing is not intended to include Mortgagees and the conveyance of a security interest shall not terminate the Owner's membership. No Owner, whether one or more Persons, shall have more than one membership per Unit. Membership shall be appurtenant to and may not be separated from ownership of a Unit. The rights and privileges of membership, including the right to hold office, may be exercised by a member or the designee of a member, but in no event shall more than one office be held for each Unit owned. This Section is not intended to prohibit the same individual from being both an officer and a director of the Association. Nothing in this Section shall restrict the number of votes cast or the number of the officers and directors appointed by the Declarant. The Owner(s) of a Unit shall be entitled to cast one (1) vote for each Unit in which such Owner(s) holds the interest required for membership, which shall be appurtenant to such Unit. When more than one (1) Person holds an ownership interest in a Unit, the vote for such Unit shall be exercised as those Owners themselves determine and advise the Secretary prior to any meeting or referendum. The vote attributable to a Unit shall be suspended in the event more than one (1) Person seeks to exercise it. The membership rights of an Owner which is not a natural person may be exercised by an officer, director, partner or trustee, or by an individual designated from time to time by the Owner in a written instrument delivered to the secretary of the Association. The Board of Directors may suspend the voting rights of an Owner for any period during which any past due assessment against any Unit of the Owner remains unpaid; and, for a reasonable period of time for an infraction of the Declaration, Bylaws or rules and regulations.

(b) The Condominium is located within a mixed-use development which includes the Association and the Master Association. In addition to being subject to the terms of this Declaration, each Owner, upon accepting title to a Unit will be subject to the terms of the Master

Declaration and the jurisdiction of the Master Association. Every Unit shall be subject to assessment by the Master Association for its pro rata share of the Master Association's common expenses ("Master Association Assessment").

Article 8

Association Rights and Restrictions

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

(a) in accordance with O.C.G.A. Section 44-3-105, and as otherwise provided herein, to enter any portion of the Condominium for maintenance, emergency, security or safety purposes, or otherwise to discharge its powers or responsibilities hereunder, which right may be exercised by the Association's Board, officers, agents, employees or managers; except in an emergency situation, entry into Units shall be only during reasonable hours and after reasonable notice to the Owner or Occupant; for purposes hereof, 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 an individual or animal might be injured or sick and require immediate medical attention; no one exercising the rights granted in this subsection 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 for any of the above-referenced parties, it being deemed and agreed that no duty to enter a Unit and/or any other portion of the Condominium shall exist;

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

(c) to enforce use restrictions and other provisions of the Condominium Instruments, and rules and regulations of the Association by the imposition of reasonable monetary fines and suspension of use and voting privileges as provided in Section 44-3-76 of the Act, as amended. These powers, however, shall not be construed as limiting any other legal means of enforcing the Condominium Instruments, use restrictions or rules and regulations of the Association. Any fines imposed in accordance with Section 44-3-76 of the Act shall be an assessment against the Unit and may be collected in the manner provided for collection of other assessments;

(d) to grant permits, licenses, utility easements, and other easements across, over, through and under the Common Elements without a vote of the Owners; provided however, that the written consent of Declarant shall be required during the Development Period;

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

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

- (g) to represent the Owners in dealing with governmental entities with respect to the Area of Common Responsibility;
- (h) to require each Owner to install separate utility meters for each Owner's Unit at the Owner's cost, or to install such meters and assess the costs thereof against each Unit as provided herein;
- (i) to acquire, hold, and dispose of tangible and intangible personal property and real property;
- (j) to approve contractors or subcontractors who have access to the Condominium for the purpose of making repairs, improvements or modifications to Units based on criteria adopted by the Board, which may include, without limitation, insurance requirements, deposits for use of any trash receptacle, if any, and construction deposits to be paid to the Association; costs for repair of damage to the Condominium due to or as a result of such work may be deducted from construction deposits and any additional costs may be specifically assessed against the Unit pursuant to Section 9.7 hereof;
- (k) to designate certain hours during which furniture, personal property, construction materials and other over-sized items may be moved in or out of the Condominium and to establish reasonable rules and regulations associated therewith from time to time; and
- (l) at the sole expense of the Association, without need for a membership vote, and without the consent of any affected Owner, to relocate any portion of the air conditioning, heating, plumbing, ventilating, exhaust, electrical or other utility 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;

Article 9

Allocation of Liability for Common Expenses and Assessments

9.1. Allocation of Liability for Common Expenses. Except as otherwise provided herein, each Unit is hereby allocated liability for Common Expenses apportioned in accordance with the percentage of undivided interest in the Common Elements appurtenant to the Unit, as shown on Exhibit "B" hereof. Except as provided below, or elsewhere in the Act or Condominium Instruments, the amount of all Common Expenses shall be assessed against all of the Units in accordance with the allocation of liability for Common Expenses described above provided, however, the Association may levy charges equally among Units for services or other items provided to Owners upon request, or which provide proportionate or uniform benefit to the Units.

9.2. 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 including, without limitation, the maintenance of real and personal property and the establishment and maintenance of a reasonable reserve fund for the replacement of improvements to the Common Elements that the Association

is obligated to maintain, all as may be more specifically authorized from time to time by the Board of Directors.

9.3. 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) general special assessments; and (iii) specific assessments against any particular Unit, established pursuant to this Declaration, including, but not limited to, reasonable fines imposed hereunder. All sums lawfully assessed by the Association against any Unit Owner or Unit, whether for the share of the Common Expenses pertaining to that Unit, for fines, or otherwise, including without limitation, late charges, interest, costs of collection, reasonable attorneys' fees actually incurred and if the Board so elects, the fair rental value of the Unit, and all reasonable charges made to any Unit Owner or Unit for materials furnished or services rendered by the Association at the Owner's request to or on behalf of the Unit Owner or Unit, shall, from the time the same become due and payable, be the personal obligation of the Unit Owner and constitute a lien in favor of the Association on the Unit prior and superior to all other liens whatsoever except: (a) liens for ad valorem taxes on the Unit; (b) the lien of any first priority mortgage covering the Unit and the lien of any mortgage recorded prior to the recording of this Declaration; (c) the lessor's lien provided for in Section 44-3-86 of the Act, if any; and (d) the lien of any secondary purchase money mortgage covering the Unit, provided that neither the grantee nor any successor grantee on the mortgage is the seller of the Unit. The recording of this Declaration shall constitute record notice of the existence of the lien, and no further recordation of any claim of lien for assessments shall be required. Not less than thirty (30) days after notice is sent by certified mail or statutory overnight delivery, return receipt requested, to the Unit Owner both at the address of the Unit and at any other address or addresses which the Unit Owner may have designated to the Association in writing, the lien may be foreclosed by the Association by an action, judgment, and foreclosure in the same manner as other liens for the improvement of real property, subject to superior liens or encumbrances, but any such court order for judicial foreclosure shall not affect the rights of holders of superior liens or encumbrances to exercise any rights or powers afforded to them under their security instruments. The notice provided for in this Section 8.2 shall specify the amount of the assessments then due and payable together with authorized late charges and the rate of interest accruing thereon. Such amounts shall also be the personal obligation of each Person who was the Owner of such Unit at the time when the assessment fell due. Each Owner and each successor-in-title to the Unit shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors; unless otherwise provided by the Board, the annual assessments shall be paid in equal quarterly installments due on the first day of each quarter. No Owner may be exempted from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, non-use of the Common Elements, the Association's failure to perform its obligations required under this Declaration, 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. Notwithstanding anything contained herein to the contrary, pursuant to Section 44-3-80(d)(2) of the Act, for a period of twenty-four (24) months after the date this Declaration is initially recorded, the Declarant may be exempt from paying assessments for Common Expenses assessed against any unsold and unoccupied Units owned by the Declarant (the "Exemption Period"); provided, however, during the Exemption Period, the Declarant must pay

Common Expenses incurred which exceed the amounts assessed for Common Expenses against other Unit Owners within the Condominium. Further, during the Exemption Period, no portion of the payment collected from Unit purchasers or Owners for capital contributions, start-up funds, initiation fees, contributions to capital reserves and assessments for reserves for deferred maintenance, depreciation or other reserves of any kind, if any, may be used for the payment of Common Expenses.

9.4. 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.

(a) If any installment of annual assessments or any part thereof is not paid in full when due or if any other charge is not paid when due, a late charge equal to the greater of Ten and no/100 Dollars (\$10.00) or Ten percent (10%) of the amount of each assessment or installment thereof not paid, or such higher amounts as may be authorized by the Act, may be imposed without further notice or warning to the delinquent Owner and interest at the rate of ten percent (10%) per annum or such higher rate as permitted by the Act from time to time shall accrue on each assessment or installment thereof and any late charge pertaining thereto from the date the same was first due and payable, which amounts shall be included in the personal obligation of the Unit Owner and the lien for assessments hereunder.

(b) If partial payment of assessments and related charges is made, the amount received may be applied in the following order, and no restrictive language on any check or draft shall be effective to change the order of application:

(i) first, to any unpaid late charges, interest charges, and specific assessments (including, but no limited to, fines) in the order of their coming due;

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

(iii) next, to any unpaid installments of the annual assessment or special assessments in the order of their coming due; and

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

(c) If assessments, fines or other charges or any part thereof due from an Owner are not paid when due, a notice of delinquency may be given to that Owner stating that if the assessment, fine or charge remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board of Directors may accelerate and declare immediately due all of that Owner's unpaid assessments, fines or other charges, including, without limitation, installments of the annual assessment and of any special assessment. If an Owner fails to pay all assessments and related charges currently due within ten (10) days of the date of the notice of delinquency, the Board of Directors may then accelerate and declare immediately due all unpaid assessments, fines

or other charges, including, without limitation, installments of the annual assessment and of any special assessment, without any further notice being given to the delinquent Owner. Upon acceleration, that Owner shall lose the privilege of paying the annual assessment in installments for that fiscal year.

(d) If assessments, fines and other charges or any part thereof remain unpaid more than thirty (30) days after the assessment payments first become delinquent, the Association, acting through the Board, may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the Bylaws, the Act, and Georgia law and/or suspend the Owner's and/or Occupant's right to vote in a matters coming before the members, in which case such Owner's vote shall not count for purposes of establishing a quorum or taking any action which requires a vote of the Owners under the Act or the Condominium Instruments, and right to use the Common Elements; provided, however, the Board may not limit pedestrian, medical, fire, police or other health, safety, service or emergency vehicles ingress to and egress from the Unit, deny the Owner and Occupants ingress to and egress from the Unit, or deny necessary parking of clearly and properly identified handicapped vehicles used by handicapped Owners or Occupants protected by the Fair Housing Amendments Act of 1988. Enforcement under this subsection is not dependent upon or related to other restrictions and/or actions.

(e) In the event any assessment, fine or other charge is delinquent for thirty (30) days or more, in addition to all other rights provided in the Act and this Declaration, and subject to the provisions of Section 44-3-76 of the Act, as amended, where applicable, upon ten (10) days written notice water, gas, electricity, heat, and air conditioning services being provided to a Unit or Unit Owner by the Association, if any, may be terminated for failure to pay assessments and other amounts due pursuant to this Article 8, subject to the suspension standards and notice requirements imposed on the institutional providers providing such services to the Condominium, only after a final judgment or final judgments in excess of a total of Seven Hundred Fifty and No/100 Dollars (\$750.00) are obtained in favor of the Association from a court of competent jurisdiction. An 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. Section 18-8-5. The utility services shall not be required to be restored until the judgment or judgments and any reasonable utility provider charges or other reasonable costs incurred in suspending and restoring such services are paid in full. All Association expenses for termination and restoration of any services pursuant to this Section, including reasonable attorneys' fees actually incurred, shall be an assessment and a lien against the Unit and shall be collected as provided herein for the collection of assessments. The notice requirement of this section shall be deemed complied with if the notice is sent by certified mail, return receipt requested, to the Unit address and to any other address the Owner of the Unit has designated in writing to the Association. Enforcement under this subsection is not dependent upon or related to other restrictions and/or other actions, except as provided in this subsection.

9.5. Computation of Operating Budget and Assessment. It shall be the duty of the Board to prepare and deliver to the members a budget covering the estimated costs and expenses of operating the Condominium during the coming year, which may include a capital contribution or reserve in accordance with a capital budget separately prepared. The Board shall cause the budget and notice of the assessments to be levied against each Unit for the following year to be delivered

to each member at least thirty (30) days prior to the due date for payment of the assessment (or the first installment thereof). The budget and the assessment shall become effective unless disapproved at a duly called and constituted meeting of the Association by members holding a Majority of the Total Association Vote and, during the Development Period, the Declarant; provided, however, if a quorum is not obtained at such meeting, the budget shall become effective even though a vote to disapprove the budget could not be called at the meeting; provided, further, that any increase in the budget and the assessment which constitutes a monthly maintenance fee increase in excess of the percentage equal to the annual rate of inflation as measured by the Consumer Price Index for All Urban Consumers for the immediately preceding twelve (12) month period may be disapproved by Unit Owners holding a Majority of the Total Association Vote. In the event that the membership disapproves the proposed budget or the Board fails for any reason to determine the budget for the succeeding year, then and until such time as a budget has been determined as provided herein, the budget in effect for the current year shall continue for the succeeding year. In such case, the Board may propose a new budget at any time during the year at a special meeting of the Association. The proposed budget and assessment shall be delivered to the members at least thirty (30) days prior to the proposed effective date thereof and at least seven (7) days prior to the special meeting. The approval procedure set forth above for budgets considered at annual meetings shall also apply to budgets considered at special meetings. Annual assessments include any sums the Board determines necessary for the continued ownership, operation and maintenance of the Common Elements, operating expenses of the Association, payment for any items of betterment and the establishment of reserve funds as the Board shall deem proper. Annual assessments may include, without limitation, sums for property taxes, insurance premiums, legal and accounting fees, management fees, charges for utilities, cleaning and janitor services, landscape maintenance, termite bond, water usage fees and other related charges, expenses and liabilities incurred as provided herein and in the Articles of Incorporation and Bylaws for indemnification of officers and directors and in connection with the enforcement of rights and duties of the Association against Owners and others.

9.6. Special Assessments. In addition to the annual assessment provided for in Section 9.5, the Board may at any time levy a special assessment against all Owners, notice of which shall be sent to all Owners. Any special assessment which would cause the average total of special assessments levied in one fiscal year to exceed one-sixth of the annual common expense assessment per Unit shall be subject to approval by a Majority of the Total Association Vote prior to becoming effective (except as provided in Section 9.7 regarding the power to assess specifically pursuant to O.C.G.A. Section 44-3-80 and Section 11.2 regarding repair or reconstruction of casualty damage to or destruction of all or part of the Condominium). In addition, during the Development Period, all special assessments must have the consent of the Declarant prior to becoming effective.

9.7. Specific Assessments. The Board shall have the power to levy specific assessments pursuant to this subsection and the Act as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future, including, without limitation, with respect to any expenses for which the Board has not previously exercised such power. Initiation fees, fines levied pursuant to this Declaration and/or the Bylaws and the costs of maintenance performed by the

Association for which the Owner is responsible under Article 16 of this Declaration shall be specific assessments. The Board of Directors may also specifically assess Units for Association expenses as follows:

(a) any expenses of the Association benefiting less than all of the Units or significantly disproportionately benefiting all Units may be specially assessed equitably among all of the Units which are benefited according to the benefit received.

(b) any expenses of the Association benefiting occasioned by the conduct of less than all of those entitled to occupy all of the Units, or by the Occupant(s), licensees or invitees of any such Unit(s), may be specially assessed against such Unit(s).

(c) any expenses of the Association incurred for services or items provided to Owners upon request therefor or which provide proportionate or uniform benefit to the Units, may be specifically assessed among all of the Units which are benefited.

9.8. Capital Budget and Contribution. The Board may prepare an annual capital budget or evaluation which takes into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board may set the required capital contribution, if any, in an amount sufficient to permit meeting the Association's projected capital needs both as to amount and timing by annual assessments over the period of the budget. Any required capital contribution shall be included within the budget and assessment as provided in Section 9.5 hereof. Notwithstanding any other provisions of the Condominium Instruments, during the time Declarant has the authority to appoint and remove directors of the Association, Declarant and the Board shall not be required to prepare a capital budget, set a capital contribution, or otherwise collect amounts for capital reserves. The Board shall at all times have the exclusive right to make expenditures from the Association capital reserve account to pay for emergency or unanticipated expenses incurred by the Association or to cure a financial shortfall resulting from inaccurate expense allocation. Such expenditures from the Association capital reserve account shall be made in the Board's sole discretion, and shall not require the approval of the Owners.

9.9. 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 or its managing agent setting forth the amount of assessments past due and unpaid, including any late charges, interest, fines, or other charges against a Unit. Such request shall be delivered to the registered office of the association, and shall state an address to which the statement is to be directed. The Association shall respond in writing within five (5) business days of receipt of the request for a statement; provided, however, the Association may require the payment of a reasonable fee not to exceed Ten and No/100 Dollars (\$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.

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

Expenses shall, at the option of the Board of Directors, either be distributed to the Owners or credited to the next assessment chargeable to the Owners in proportion to the liability for Common Expenses attributable to each Unit, or added to the Association's reserve account, if any.

9.11. Capitalization of Association. Upon each and every conveyance of record title to a Unit to an Owner thereof other than Declarant or its affiliates, a contribution shall be made by or on behalf of the new Owner to the working capital of the Association in an amount equal to the greater of Five Hundred and 00/100 Dollars (\$500.00) or one-sixth (1/6) of the annual assessment for such Unit for that year. This contribution shall be in addition to, not in lieu of, any other assessments levied on the Unit and shall not in any way be construed as part of or identical to any such assessments or as an advance payment of any such assessments. This contribution shall be collected at the closing of the Unit and disbursed to the Association for use in covering operating and other expenses (including reserves) incurred by the Association pursuant to the terms of this Declaration and the Bylaws.

Article 10 Insurance

10.1. General. The Association shall obtain and maintain at all times, as a Common Expense, insurance as required by Section 44-3-107 of the Act together with such other insurance as the Board of Directors may determine to be necessary or advisable from time to time. Such insurance shall run to the benefit of the Association, the Board of Directors, all officers, agents and employees of the Association, the Owners, and their respective Mortgagees, and all other Persons entitled to occupy any Unit, as their interests may appear. The Association's insurance policy may exclude improvements and betterments made by the Owners and may exclude the finished surfaces of interior walls, floors, and ceilings within the structures (i.e., paint, wallpaper, paneling, other wall covering, tile, carpet and any floor covering); and unless the Association otherwise provides notice in writing to the Owners, the improvements and betterments to a structure made by the individual Owners shall be excluded from this required coverage. 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. At least every two (2) years the Board shall conduct an insurance review to verify that the policies in force are adequate to meet the Association's needs and to satisfy O.C.G.A. Section 44-3-107. Such responsibility may be performed, and shall be deemed reasonably performed, by the Board requesting the Association's insurance agent to so verify. The insurance required by this Article 10 may be satisfied by a master insurance policy obtained by the Master Association if such policy meets the minimum requirements of Section 44-3-107 of the Act. In such event any reference in this Article 10 to the Association shall be deemed to include a reference to the Master Association.

The Board shall use reasonable efforts to obtain policies that will provide the following:

(a) 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;

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

(c) 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 Owners, the Board, or any of their agents, employees or household members, nor be canceled for nonpayment of premiums;

(d) 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 and all Mortgagees of Units; and

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

10.2. Company. 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.

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

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

10.5. Other Insurance. In addition to the insurance required above, the Board shall obtain as a Common Expense:

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

(b) public liability insurance in amounts no less than required by O.C.G.A. Section 44-3-107, 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;

(c) 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 which in the best business judgment of the

Board of Directors reflects the estimated maximum amount of funds, including reserve funds, that will be in the custody of the Association or its management agent at any time while the policy is in force, or any lesser amount of fidelity coverage allowable under the applicable Fannie Mae guidelines and shall contain waivers of any defense based upon the exclusion of persons serving without compensation; provided, however, fidelity coverage may be less than the foregoing based on the implementation of financial controls which take one or more of the following forms: (i) 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; (ii) the management company, if any, maintains separate records and bank accounts for each association that uses such company's 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 must sign any checks written on the reserve account; and

(d) such other insurance as the Board may determine to be necessary.

10.6. Exclusions. Insurance carried by the Association as a Common Expense shall not be required to include any part of a Unit which is not depicted on the original Plat or Plans or included in the original mortgage, nor shall the Association include public liability insurance for individual Owners for liability arising within the Unit.

10.7. No Priority for Disbursement. Nothing contained herein gives any Owner or other party a priority over any rights of first Mortgagees as to distribution of insurance proceeds. Any insurance proceeds payable to the Owner of a Unit on which there is a Mortgagee endorsement shall be disbursed jointly to such Owner and the Mortgagee. This is a covenant for the benefit of any such Mortgagee and may be enforced by any such Mortgagee.

10.8. Owner Insurance. By virtue of taking title to a Unit, each Owner acknowledges that the Association has no obligation to provide any insurance for any improvements to the Unit made by the Owner or any personal property of the Owner or Occupants, except as may otherwise be provided herein, and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall be obligated to obtain and maintain at all times insurance covering those portions of the Unit and such Owner's personal property to the extent not insured by policies maintained by the Association and a liability policy covering damage or injury occurring on or in a Unit. Upon request by the Board, the Unit Owner shall furnish a copy of such insurance policy or policies to the Association. The policies required hereunder shall be in effect at all times. In the event that any such Unit Owner fails to obtain insurance or to provide copies of the policy or policies as required by this section, the Association may, but shall not be obligated to, 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 Article 9 hereof.

10.9. Insurance Deductibles. In the event of an insured loss, any required deductible shall be paid by the Person or Persons who would be responsible for such loss in the absence of insurance. If the loss affects more than one Unit or a Unit and the Common Elements, the cost of the deductible may be apportioned equitably by the Board among the parties suffering loss in proportion to each affected Person's portion of the total cost of repair or otherwise as the Board

determines to be equitable. Notwithstanding this, if the insurance policy provides that the deductible will apply to each Unit separately or to each occurrence, each Owner shall be responsible for paying any deductible pertaining to such Owner's Unit. If any Owner fails to pay the deductible when required hereunder, then the Association may pay the deductible and assess the cost to the Owner and such Owner's Unit as a specific assessment pursuant to Section 9.7 hereof; provided, however, where the deductible is for insurance required under the Act, no Owner shall be assigned more than Five Thousand and No/100 Dollars (\$5,000.00), or such higher amount as authorized by the Act, as the cost of the deductible for any one occurrence.

10.10. 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 any payment owed to the Association, including, without limitation, any assessment under Article 9 hereof, the Association may retain and apply such proceeds to the delinquency. Any surplus remaining after application of the proceeds to any delinquency shall be paid by the Association to the affected Owner.

Article 11 Repair and Reconstruction

In the event of damage to or destruction of all or any part of the Condominium insured by the Association as a result of fire or other casualty, unless the Owner(s) of any damaged Unit(s) together with the Unit Owners of other Units to which two-thirds (2/3) of the votes in the Association pertain, elect not to proceed with the reconstruction and repair of the structure, the Board or its agent shall arrange for and supervise the prompt repair and restoration of the structure to the extent that the same is covered by the Association's insurance. In the event of substantial damage or destruction, each institutional holder of a first Mortgage shall be entitled to written notice of the damage, and nothing in the Condominium Instruments shall be construed to afford a priority to any Owner with respect to the distribution of proceeds to any Unit. Notwithstanding the foregoing, each Unit Owner hereby appoints the Association as its attorney-in-fact for the purpose of and with respect to the filing and adjustment of all claims, the collection and appropriate disposition of the proceeds thereof, the negotiation of losses and execution of releases of liability, and the execution of all documents and performance of all acts necessary to carry out the duties as set forth in this Article 11.

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

11.2. Source and Allocation of Proceeds. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, as determined by the Board, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, the additional costs shall be assessed against

the Unit(s) damaged in proportion to the damage to such Unit(s) or against all Units in proportion to each Owner's respective undivided interest in the Common Elements in the case of insufficient funds to cover damage to the Common Elements. This assessment shall not be considered a special assessment as provided in Section 9.6 hereof. 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.

11.3. Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the plans and specifications under which the Condominium was originally constructed, except where changes are necessary to comply with current applicable building codes or where improvements not in accordance with the original plans and specifications are approved by the Board. To the extent insurance proceeds are available, the Association may reconstruct or repair Owner improvements damaged as a result of fire or other casualty. As finish levels can have varying degrees, such repairs or reconstruction will be complete only to the extent they are covered by the Association's insurance, and, then, only to the extent of being "paint ready." Components that may require repair or reconstruction, such as tile and trim, will be reinstated only to the extent of readily available matching or similar materials (trim and such will also be finished to "paint-ready"). Due to the uncontrollability of quality of repair and reconstruction, items such as faux paint treatment, wallpaper, ceiling/wall applique, and any other finishes that the Board deems unreasonable, will not be the responsibility of the Association. Accessibility around personal belongings for workers to perform such repairs is the responsibility of the Owner. Removal, storage, or other protective measures of personal items are also the responsibility of the Owner. If the removal, storage or other protective measures are not taken by the Owner and damage occurs due to the repair and reconstruction process, the Declarant, the Association, and the officers, directors, agents or employees of either, will not be liable for such damage. Upon completion of such repairs or reconstruction, the Association will perform cursory cleaning. As a level of cleaning is subjective, the Association will not be responsible for a detailed cleaning. The Board has sole discretion on defining what is reasonable for the level, quality and extent of the repair or reconstruction and subsequent cleaning. 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.

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

11.5. Construction Fund. The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from assessments on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair as set forth in this Section, 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.

Article 12
Architectural Controls

12.1. Architectural Standards. Except as provided herein, no Owner, Occupant, or any other Person (including, without limitation, the Association) may make any encroachment onto the Common Elements or make any exterior or interior change, alteration, or construction in or to a Unit (including utility work, alteration or installation of alarms and/or alarm systems), nor erect, place or post any object, sign, clothesline, speaker, playground equipment, light, storm door or window, door knob or knocker, artificial vegetation, exterior sculpture, fountains, flags, or thing on the exterior of the buildings, in any windows (except window treatments as provided herein), on any Limited Common Elements or on any other Common Elements, without first obtaining the prior written approval of the Architectural Control Committee ("ACC"). In addition to approval by the ACC, any and all of the foregoing shall be subject to prior written approval by the Master Association, as provided in the Master Declaration. Any application disapproved by the Master Association shall be disapproved by the ACC. In addition, no Owner, Occupant, or any other Person 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 approval from the ACC. All building code requirements must be complied with and necessary permits and approvals secured for any modifications. The standard for approval of such improvements shall include, but not be limited to, aesthetic consideration, materials to be used, harmony with the external design of the existing buildings, Units and structures, and the location in relation to surrounding structures and topography. Notwithstanding the above, Declarant and its affiliates shall not be required to obtain any approvals under this Section. Furthermore, this Article may not be amended during the Development Period without the Declarant's written consent. Applications for approval of any such modification or addition shall be in writing and shall provide such information as the ACC may reasonably require. The ACC shall be the sole arbiter of such application and each may withhold approval for any reason, including purely aesthetic considerations, and each 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, interior and Common Element alterations or additions. The ACC may allow such encroachments on the Common Elements as it deems acceptable. If the ACC fails to approve or to disapprove such application within forty-five (45) days after the application and all information as may be reasonably required have been submitted to it, approval will not be required and this subsection will be deemed complied with; provided, however, even if the requirements of this subsection 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, applicable zoning conditions, zoning codes and building codes.

12.2. Architectural Control Committee. During the Development Period, Declarant, or such other Person(s) as Declarant may appoint from time to time, shall serve as the ACC. There shall be no surrender of these rights prior to their expiration as provided above, except by written instrument in recordable form executed by Declarant. The Declarant may delegate certain authority of the ACC to the Association for such periods of time as the Declarant in its sole discretion may decide. Upon expiration or permanent surrender of such rights, the ACC shall constitute a standing committee of the Association and shall consist of the Board unless the Board delegates to other

Owners the authority to serve on the ACC, which Owners shall thereafter serve and may be removed in the Board's discretion. The chairperson of the ACC appointed by the Board shall be a Board member.

12.3. Condition of Approval. As a condition of approval for requested construction, change, addition, or alteration, an Owner, on behalf of such Owner and such Owner's successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance of such construction, change, modification, addition, or alteration. It is the responsibility of each Owner to determine on such Owner's own behalf what modifications have been made to such Owner's Unit by any predecessor-in-interest. In the discretion of the ACC, an Owner may be made to verify such condition of approval by written instrument in recordable form acknowledged by such Owner. The ACC may also establish such other conditions of approval as each may determine necessary or appropriate, including reasonable construction commencement and completion times.

12.4. Limitation of Liability. Review and approval of any application hereunder may be made on any basis, including solely the basis of aesthetic considerations only. The Board, the ACC, their respective members, the Association, the Declarant and its affiliates, and their respective officers, directors, employees and agents, shall not bear any responsibility for ensuring the design quality, structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes, zoning regulations and other governmental requirements. The Board, the ACC, their respective members, the Association, the Declarant and its affiliates, and their respective officers, directors, employees and agents, shall not be held liable for any injury, damages or loss arising out of the manner or quality of approved construction or modifications to any portion of the Common Elements or any Unit.

12.5. No Waiver of Future Approvals. Each Owner acknowledges that the Board and ACC members will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. Each Owner further acknowledges that different architectural and other standards may be adopted and/or applied for different parts of the Condominium, based on street visibility, location of proposed modification in a building, or other criteria reasonably determined. Approval hereunder shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

12.6. Enforcement. Any construction, alteration, or other work done in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board or Declarant, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to do so, the Board or Declarant shall have the right to enter the property and do so. All costs thereof, including, without limitation, reasonable attorney's fees actually incurred, shall be chargeable to, and collectable from, such Owner and/or shall be an assessment and lien against such Owner's Unit, collectable in the manner provided under Article 9 for the collection of assessments. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the design and development guidelines, if any, may be excluded by the Association

from the Condominium, subject to any applicable notice and hearing procedures contained in the Bylaws. In any such event, neither the Declarant, the Association nor the officers, directors, members, employees and agents of either of them shall be held liable to any Person for exercising the rights granted by this paragraph including claims for damages resulting from the removal of the nonconforming structure in accordance herewith. If any Owner or Occupant makes any change, alteration, or construction (including landscaping) upon the Common Elements in violation hereof, such Owner or Occupant does so at such Owner's or Occupant's sole risk and expense, and subject to possible removal by the Board at any time. However, if the change, alteration or construction is permitted to remain on the Common Elements, it shall so remain without reimbursement to the Owner or Occupant for any expense such Owner or Occupant may have incurred in making the change, alteration or construction. In addition to any other remedies available to the Association or Declarant, in the event of noncompliance with this Article, the Association, acting through the Board, or Declarant may record in the appropriate land records a notice of violation hereunder naming the violating Owner. In addition to the foregoing, Declarant or the Board shall have the authority and standing to pursue any and all remedies available at law and equity to enforce the provisions of this Article, including, without limitation, the right to levy fines against non-complying Owners and Occupants in accordance with this Declaration and the Bylaws.

12.7. Commencement and Completion of Construction. All changes, modifications and improvements approved hereunder must be commenced within one hundred eighty (180) days from the date of approval. If such work is not commenced within such time period, then such approval shall be deemed revoked unless the ACC gives a written extension for commencing the work. All work approved hereunder shall be completed in its entirety within ninety (90) days from the date of commencement, unless otherwise agreed in writing by the ACC. All approved changes, modifications, and improvements must be completed in their entirety. An Owner may not construct only a portion or part of an approved change, modification, or improvement.

Article 13 Use Restrictions

Each Owner shall be responsible for ensuring that their Occupants, guests, and invitees comply with all provisions of the Condominium Instruments and the Association's rules and regulations as well and the Master Declaration and the Master Association's rules and regulations. 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 any Occupants, guests or invitees, as a result of such person's violation of the Condominium Instruments or the rules and regulations of the Association, the Association may take action hereunder against the Owner as if the Owner committed the violation in conjunction with their Occupants, guests, or invitees. In addition to the following use restrictions, the Board may adopt rules and regulations in accordance with the terms hereof and in accordance with the Bylaws.

13.1. Rules and Regulations. The Board of Directors may, from time to time, with the consent of Declarant and without a vote of the members, promulgate, modify or delete rules and regulations applicable to the Condominium. Such rules and regulations shall be distributed to all Owners prior to the date that they are to become effective and shall thereafter be binding upon all

Owners and Occupants until and unless overruled, canceled or modified by a Majority of the Total Association Vote and the consent of Declarant.

13.2. Use of Units. The Declarant shall have the sole and exclusive authority to designate the intended use of the Units within the Condominium as a Commercial Unit or a Residential Unit. All such designations shall be contained in the recorded Floor Plans for the Condominium, in this Declaration or in a Supplementary Declaration.

(a) Commercial Units. Each Commercial Unit may be used for limited commercial purposes as provided herein. Subject to any applicable zoning ordinances, commercial use shall include the use of property for professional, office, business, retail sales, and bank or other financial institution purposes. There shall be no residential use of a Commercial Unit. Declarant, during the Development Period, and thereafter the Board of Directors, may permit any additional commercial use consistent with the overall scheme of development for the Condominium and/or issue rules regarding permitted commercial uses from time to time. Notwithstanding anything herein to the contrary, any and all uses of Commercial Units shall be subject to review and approval by Declarant during the Development Period. In the event that any permitted use leads to an increase in fire or other insurance premiums on policies maintained by the Association, the Owner of the Commercial Unit causing such increase shall be assessed the cost of such increase, which assessment may be collected in the manner provided for the collection of other assessments as provided in Article 9 hereof.

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

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

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

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

(iv) the business activity does not unreasonably increase traffic in Roswell Court (other than by a reasonable number of deliveries by couriers, express mail carriers, parcel delivery services and other such similar delivery services);

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

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

(vii) the business activity does not result in a materially greater use of Common Elements, or the Common Property under the Master Declaration or Association or Master Association's facilities or 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: (1) such activity is engaged in full- or part-time; (2) such activity is intended to or does generate a profit; or (3) a license is required therefor. The Board shall have the sole discretion to determine what, if anything, is unreasonable about a particular business activity.

This subsection shall not apply to activities of the Association, Declarant or affiliates of Declarant. Leasing of a Residential Unit shall not be considered a trade, business or business activity.

13.3. 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:

(a) Alterations to the Interiors of the Units. No Owner or Occupant may make any alteration which involves connecting to Common Element pipes, lines, conduits and/or other apparatus for access to common utilities without prior written Board approval. No Owner or Occupant shall make any modifications (interior or exterior) to, or place an excessive load on, any structural or load bearing portions of a Unit or building without prior written Board approval. Such approval shall not be granted by the Board unless the Owner has presented to the Board 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, the building and the Condominium. All building code requirements must be complied with by the Owner or Occupant and necessary permits and approvals secured by the Owner or Occupant for any modifications. Notwithstanding the above, an Owner desiring to make any modifications or alterations to a Unit, regardless of whether such Owner believes that such modifications will affect the Common Elements or structure or load bearing portions of a Unit or building, must make application to the Board in order for the Board to make the determination of whether the Board's approval is required.

In accordance with O.C.G.A. Section 44-3-90, if any Owner acquires an adjoining Unit, such Owner shall have the right (subject to the prior written approval of the ACC, the Mortgagees of the Units involved, and the Declarant during the Development Period) 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 (aa) no

portion of any structural or load bearing wall, column or other portion of the building or Unit(s) is materially weakened or removed, (bb) the Board has approved plans for the foregoing, and (cc) 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 by this subsection shall not be deemed an alteration or relocation of boundaries between adjoining Units.

(b) Relocation of Boundaries. Boundaries between adjoining Units may be relocated only in accordance with the provisions of O.C.G.A. Section 44-3-91 and this Declaration and, during the Development Period, only with the prior written consent of the Declarant. The Declarant shall have the right to relocate boundaries between Units owned by the Declarant or its affiliates without the approval of the Association, the Board, the ACC or any other Person or group, and the Board shall take such steps as may be necessary to have the required amendment(s) to the Declaration executed on behalf of itself and the Association, if and as necessary.

(c) Subdivision of Units. No Unit shall be subdivided into a smaller Unit or Units. Notwithstanding anything to the contrary contained herein, the Declarant shall have the right to subdivide a Unit or Units owned by the Declarant or its affiliates without the approval of the Association, the Board, the ACC or any other Person or group, and the Board shall take such steps as may be necessary to have the required amendment(s) to the Declaration executed on behalf of itself and the Association, if and as necessary.

13.4. Use of Common Elements. There shall be no obstruction of the Common Elements, nor shall anything be kept on, parked on, stored on or removed from any part of the Common Elements, without prior written Board consent, except as specifically provided herein. There shall be no use of the roofs of the Condominium building by the Owners, or Occupants or their guests, invitees, agents, or by anyone else. The Association and its agents and contractors shall have access to the roofs for performing the Association's maintenance and repair responsibility, and otherwise as determined by the Board. This subsection shall not apply to the Declarant or its affiliates during the Development Period.

13.5. Use of Limited Common Elements. Use of the Limited Common Elements is restricted exclusively to the Owner(s) and Occupants of the Unit(s) to which such Limited Common Elements are assigned, and their guests 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.

(a) Exterior Porches. No laundry, garments, towels or objects other than potted plants, electric grills and patio furniture, shall be placed on any deck, patio, balcony or porch, except as may be authorized by the Board of Directors. Objects shall not be permitted to hang over or be attached to any deck, patio, balcony or porch or to otherwise protrude outside of the vertical plane formed by the exterior surface of a deck, patio, balcony or porch. In addition, the following shall be prohibited subject to prior review and approval in accordance with Article 12 hereof: placement of any object or thing on or about any deck, patio, balcony or porch; any change,

alteration or construction to, on or about any such deck, patio, balcony or porch; penetration or enclosure of any such deck, patio, balcony or porch and any other activity or matter involving any such deck, patio, balcony or porch; provided, however, usual and customary items and activities by Owner(s), Occupants, guests, and invitees consistent with the Community-Wide Standard shall be permitted.

(b) Grand Foyers. As shown on the Plans, Residential Units 8-B and 9-B share a grand foyer and Residential Units 11-B and 12-B share a grand foyer. No furniture or other objects, shall be placed in any grand foyer, except as may be authorized by the Board of Directors. Furniture shall not be permitted to interfere with the full use of any grand foyer by the Owner(s) and Occupants, and their guests and invitees. Unless approved in accordance with Article 12 hereof, Owners and Occupants shall not place or install any object or thing in or about any grand foyer; change or alter any such grand foyer; or enclose of any portion of such grand foyer; provided, however, usual and customary items and activities by Owner(s) and Occupants, and their guests, and invitees shall be permitted. The cost of reasonable repair and maintenance of each grand foyer shall be shared by the Owners of the appurtenant Units in equal proportions. If a grand foyer is destroyed or damaged by fire or other casualty, then to the extent not fully repaired and restored by the Association, either Owner may restore it, and the other Owner shall contribute one-half of the cost of restoration, without prejudice, however, to the right of any Owner to call for a larger contribution from any other Owner under any rule of law regarding liability for negligent or willful acts or omissions.

13.6. Prohibition of Damage, Nuisance and Noise. Without prior written consent of the affected party, nothing shall be done or kept on the Condominium which would increase the rate of insurance for the Association or the Master Association or any Unit, which would be in violation of any statute, rule, ordinance, regulation, permit or other governmental requirements, or which would increase the Common Expenses. It is the nature of multi-family properties (of which the Condominium is a part) that dwelling Units are built in close proximity to one another (resulting in sharing of common walls, floors and ceilings) and that noise is frequently audible from one Unit to the next no matter how much sound proofing is attempted. It is therefore mandatory, for the mutual interest and protection of all Owners, lessees and other Occupants within the Condominium, to recognize that acoustical privacy is achieved only through understanding and compliance with certain limitations and restrictions. It is recognized that sound insulation from an adjacent occupancy in a manner comparable to a detached single-family residence is impossible to attain, and Owners and Occupants hereby acknowledge and accept that limitation. Owners and Occupants acknowledge that there will usually be some audio awareness of one's neighbors, depending upon the situation. Modification of design of the structures, or related components thereof, by Owners and Occupants could alter sound insulation. Accordingly, all such modifications are regulated by this Declaration, and the Owners and Occupants should review the Declaration for further information with respect to sound attenuation. Additionally, all furniture parts in contact with the floor should have rubber castors or felt pads to minimize noise and vibration attributable to moving furniture. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on a Unit and the Limited Common Elements. No property within the Condominium shall be used, in whole or in part, for the storage of any property or thing that will cause such property to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance,

thing or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of surrounding property. No plants, animals, device or thing of any sort shall be maintained in the Condominium whose activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the Condominium by other Owners and Occupants. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells, or other sound devices, except security devices used exclusively for security purposes, screaming, shouting, excessively loud talking, fighting, raucous behavior, insobriety, playing loud music or television, use of any alarm, equipment, or device, mechanical or otherwise which creates or produces excessively loud sounds or any vibrations, or any conduct which creates any noxious or offensive odors outside a home shall be permitted, located, used or placed on any Unit, or any portion thereof. The inconvenience complained of shall not be fanciful, or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary, reasonable person as determined in a particular instance by the Board. All Owners and Occupants acknowledge and understand that the Declarant and others under Declarant's direction or consent will be constructing certain portions of the Condominium and adjacent areas that are not part of the Condominium and no such construction or noise associated therewith shall be deemed a nuisance or discomfort pursuant to the terms hereof. No Owner, Occupant or agent of such Owner or Occupant shall do any work which, in the reasonable opinion of the Board, 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 real property thereto, without in every such case the unanimous, prior written consent of all members of the Association and their Mortgagees. No damage to or waste of the Common Elements, or any part thereof, shall be permitted by any Owner, their Occupants, guests, or invitees. Each Owner shall indemnify and hold harmless the Association, the other Owners, the Declarant and its affiliates, and the directors, officers, employees and agents of each of the foregoing, from and against any and all loss to any such Person resulting from any such damage or waste caused by such Owner, their Occupants, guests, or invitees.

13.7. 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. Owners and Occupants of Residential Units shall park vehicles owned or used on a regular basis by said Owners or Occupants in the garage of the Unit prior to utilizing any of the exterior parking spaces serving Roswell Court.

13.8. Abandoned Personal Property. Personal property, other than vehicles as provided for in Section 13.10 hereof, is prohibited from being stored, kept, or allowed to remain unattended upon any portion of the Common Elements, without prior written Board permission. If the Board determines that a violation exists, then, not less than twenty-four hours (24) 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 the personal property and either discard or store the personal property in a location which the Board may determine, and the Board shall have no obligation to return or replace such property or reimburse the owner of the property. The notice shall include the name and telephone number of the Person which will remove the property and the name and telephone number of an individual to contact regarding the alleged violation. The Board, in its discretion, may determine that an emergency situation exists and may exercise its removal rights

hereunder without prior notice to the property owner; provided, however, in such case, the Board shall give the property owner, if known, notice of the removal of the property and the location of the property within three (3) days after the property is removed. The Declarant, its affiliates, the Association, and any director, officer, employee or agent of any of the foregoing, shall not 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.

13.9. Heating of Units in Colder Months. In order to prevent breakage of water pipes during colder months of the year resulting in damage to the Condominium, increased Common Expenses, and increased insurance premiums or cancellation of insurance policies due to numerous damage claims, the thermostats within the Units shall be maintained with the heat in an "on" position and at a minimum temperature setting of fifty-five degrees (55°) Fahrenheit (except during power failures or periods when heating equipment is broken) whenever the temperature is forecasted to or does reach thirty-two degrees (32°) Fahrenheit or below. Owners and Occupants 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. If during the periods specified above the heating equipment is not working properly, the Owner or Occupant shall immediately inform the Board of this failure of the equipment and of the time needed to repair the equipment. The Board may fine any Owner or Occupant and/or cause the water service to the violator's Unit to be discontinued for violation hereof, in addition to any other remedies of the Association.

13.10. Signs. No sign, advertising poster or billboard of any kind shall be displayed, erected, placed, or permitted to remain within the Condominium without prior written approval pursuant to Article 12 hereof, except: (a) one (1) professional security sign consistent with the Community-Wide Standard not to exceed four inches (4") by four inches (4") in size displayed from within a Unit; (b) such signs as may be required by legal proceedings; (c) in connection with a bona-fide offer to sell or lease a Unit, one (1) professionally lettered "For Sale" or "For Rent" sign consistent with the Community-Wide Standard may be displayed from within a Unit, but only if (i) the sign has a maximum area of four (4) square feet, and (ii) the content of the sign and anything else attached to, associated with or in the vicinity of the sign states or conveys only that the Unit is for sale or for rent and the name and telephone number of the person to contact for additional information; and (d) subject to approval of the size, material, color and location of said sign in accordance with the provisions of Article 12 hereof, one (1) sign identifying the business of the Owner or Occupant of a Commercial Unit. Neon lights and flashing strobe lights are expressly prohibited. Notwithstanding these restrictions, the Declarant and the Board shall have the right to enact reasonable rules and regulations governing the placement of signs on the Condominium, including, without limitation, rules and regulations concerning the size, type, color, material, location of any combination thereof of signs. Declarant or the Board may impose a fine against any Owner or Occupant of up to One Hundred Fifty and No/100 Dollars (\$150.00) per day for violations of this Section in addition to any other remedies of the Association. Any fine imposed pursuant to this Section shall be deemed an assessment against the Unit and may be collected in the same manner as provided herein for collection of assessments. The foregoing restrictions on signs shall not apply to signs erected by or on behalf of Declarant.

13.11. 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 Units and Owners:

(a) No transmission antenna, of any kind, may be erected anywhere on the Condominium, including the Units, without prior approval pursuant to Article 12 hereof.

(b) No direct broadcast satellite (DBS) antenna or multi-channel multi-point distribution service (MMDS) antenna larger than one (1) meter in diameter shall be placed, allowed or maintained upon the Condominium, including the Units and the Limited Common Elements.

(c) DBS and MMDS satellite dishes or antennas one (1) meter or less in diameter and television broadcast service antennas may only be installed within Units and any Limited Common Element exclusively serving the Unit in accordance with Federal Communication Commission (FCC) rules and the rules and regulations of the Association (pursuant to Article 12 hereof), 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 dishes or antennas.

13.12. Refuse. All rubbish, trash and garbage shall be regularly removed from the Units and any Limited Common Elements and shall not be allowed to accumulate therein. No garbage or trash shall be placed on the Common Elements outside the Units, temporarily or otherwise, except in trash chutes and related receptacles provided by the Association for that purpose. Rubbish, trash and garbage shall be disposed of in plastic bags and either placed in the trash dumpster(s) or proper trash receptacles designated by the Board for collection or removal from the Condominium in accordance with any and all rules that may be enacted by the Board of Directors from time to time. Trash, garbage, debris, or other waste matter of any kind may not be burned within the Condominium. The Association shall have the right, but not the obligation, to designate a private trash removal company for the entire Condominium or any portion thereof, including, without limitation, all Commercial Units or all Residential Units therein, as the case may be. Notwithstanding the foregoing, the Association reserves the right, but is not obligated, to contract with a private trash removal company for the benefit of all Owners and Occupants within the Condominium or any portion thereof and include a fee for such service as part of a general assessment pursuant to Article 9 of this Declaration. While the removal of normal household or business-related trash, as the case may be, will be covered by any such contract, additional charges may be incurred for the removal of used appliances or other large items. Any such additional charges incurred by the Association may be specifically assessed against the applicable Unit pursuant to Section 9.7 hereof. Trash pick up shall also be subject to such reasonable rules and regulations as the Board of Directors may adopt from time to time.

13.13. Unsightly 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 Units.

13.14. Garage Sales. Garage sales, yard sales, flea markets, or similar activities are prohibited unless approved in writing by the Board.

13.15. Window Treatments. The color of all window treatments visible from outside the Unit must be white or off-white, unless otherwise approved in accordance with Article 12 hereof. Bed sheets, blankets, paper and similar type items shall not be used as window treatments. No foil or other reflective material shall be used on any windows for sunscreens, blinds, shades or any other purpose. No window treatments shall be installed or maintained in windows of a Commercial Unit except with prior written approval in accordance with Article 12 hereof or otherwise in accordance with applicable rules and regulations adopted thereunder, if any.

13.16. Grilling. The use of outdoor grills, except for electric grills, on or in the Condominium, including, without limitation, the balconies, patios, porches and decks, is prohibited.

13.17. Replacing Carpet with Tile or Hardwood Floors. Other than the Declarant, no Owner, Occupant, or any other Person may replace carpeting within a Residential Unit with a tile, marble, vinyl or hardwood floor, or other hard surfaced flooring material, without first obtaining approval as set forth in Article 12 hereof. Among other factors, it may be considered whether the change will cause noise to any other property which will exceed the average noise level in property below Residential Units with carpeted floors and whether the weight of the proposed flooring is appropriate and will not cause problems to the structure or subflooring. The Owner applying for such approval shall provide information regarding these factors, as well as other information requested regarding the proposed flooring and its effect.

13.18. Transient Use. No transient tenants or Occupants shall be accommodated in a Unit.

13.19. Solar Devices. No device which is designed or used for collection of or heating by solar energy or other similar purposes shall be placed, allowed or maintained upon any portion of the Condominium, including any Unit, without the prior written consent of the Board or its designee.

13.20. Exterior Colors. As exterior maintenance of Units, including, without limitation, painting, is the responsibility of the Association, no Person may paint or otherwise alter the exterior of any Unit or improvements constructed or maintained thereon without the prior written consent of the Board or its designee.

13.21. Declarant Right. Notwithstanding any provisions contained in this Declaration to the contrary, during the Development Period, it shall be expressly permissible for Declarant and its affiliates, contractors, agents, employees, assigns and representatives to maintain and carry on,

upon such portion of the Condominium as Declarant may deem necessary, such facilities and activities as in the Declarant's sole opinion may be reasonably required, convenient or incidental to the repair (if any) and sale of the Units, including, but without limitation, business offices, signs, model units, construction trailers and sales offices. The right to maintain and carry on such facilities and activities shall include specifically the right to use the parking facilities in the Condominium for such purposes and to use the Units owned by Declarant and its affiliates as model units and as offices for the sale of the Units and related activities.

13.22. Hazardous and Toxic Materials. No portion of the Condominium shall be used for the temporary or permanent storage of any "hazardous or toxic material"; provided, however, that this prohibition shall not apply to: (i) supplies for cleaning and maintenance in commercially reasonable amounts required for use in the ordinary course of business or for household use, provided such items are incidental to the use of the Units and are stored and used in compliance with all applicable laws, or (ii) standard office supplies in commercially reasonable amounts required for use in the ordinary course of business, provided such items are incidental to the use of the Units and are stored and used in compliance with all applicable laws. "Hazardous or toxic material" shall include all materials or substances which have been determined to be hazardous to health or the environment, including, without limitation hazardous waste (as defined in the Resource Conservation and Recovery Act); hazardous substances (as defined in the Comprehensive Emergency Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act); gasoline or any other petroleum product or by-product or other hydrocarbon derivative; toxic substances, (as defined by the Toxic Substances Control Act); insecticides, fungicides or rodenticide, (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act); asbestos and radon and any other substances determined to be hazardous under the Occupational Safety and Health Act or regulations promulgated thereunder. Each Owner and Occupant assumes sole responsibility and liability for compliance with applicable federal, state and local laws and regulations and this Section and hereby agrees to indemnify and hold Declarant, the Association and their respective officer, directors and agents harmless from any claim, fine, penalty, loss, damage or other liability arising out of any release or storage of any hazardous or toxic material by such Owner or Occupant or otherwise on or from such Owner's or Occupant's Unit or any Limited Common Element appurtenant thereto.

Article 14

Leasing

14.1. General. Units may be leased only in their entirety; no fraction or portion may be leased without prior written Board approval. All leases must be for an initial term of at least one (1) year, except with written Board approval, which shall not be unreasonably withheld in cases of undue hardship. The Owner must provide the lessee copies of the Declaration, Bylaws, and the rules and regulations and the lease form shall provide that the Owner has made available to 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.

14.2. Notice. 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 Persons occupying the Unit, the phone number of the lessee and the Owner's address and

phone number other than at the Unit and other such information as the Board may reasonably require.

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

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

Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any guest or invitee of the lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from violations of the Declaration, Bylaws and rules and regulations of the Association adopted thereunder, including the power and authority to terminate the lease without liability upon such violation(s) and to evict the lessee and/or the Occupant(s) as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof, it being hereby agreed that in such instance the Association shall have standing to terminate the lease and initiate dispossessory proceedings against the lessee and/or the Occupant(s). In the event the Association proceeds to evict the lessee and/or the Occupant(s) of a Unit, 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 of the Association, if any.

(c) Liability for Assessments. When a Unit Owner who is leasing his or her Unit fails to pay any annual or special assessment or any other charge for a period of more than

thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board of Directors, 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.

14.4. Rules and Regulations. The Board shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Declaration and Bylaws, in order to enforce the provisions of this Section. Any transaction which does not comply with this Article shall be voidable at the option of the Board of Directors.

14.5. Exemption. This Article shall not apply to any leasing transaction entered into by the Declarant, the Association or an institutional 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.

Article 15 Sale of Units

(a) Except for the Declarant, an Owner intending to make a transfer or sale of a Unit or any interest in a Unit shall give written notice to the Board of such intention within seven (7) days after execution of the transfer or sales documents. The 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 provision shall not be construed to create a right of first refusal in the Association or in any third party.

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

Article 16 Maintenance Responsibility; Services

16.1. Maintenance by the Owner. Except to the extent otherwise provided in Section 16.2 hereof, each Owner shall have the obligation to maintain and keep in good repair all portions of such Owner's Unit. This maintenance responsibility shall include, but not be limited to, the following: all glass surfaces (including exterior cleaning), windows, window frames and casings

and locks (including caulking of windows); all doors, doorways, door frames, and hardware that are part of the entry system of the Unit (except for periodic painting or staining of the exterior surface of entry doors and door frames which is covered in Section 16.2 below); the air conditioning compressor serving the Unit and the fan coil; heating and air conditioning equipment and meters assigned as Limited Common Elements of the Unit or otherwise serving the Unit; and all pipes, lines, ducts, conduits, or other apparatus which serve only the Unit, whether located within or without a Unit's boundaries (including all gas, electricity, water, sewer, or air conditioning pipes, lines, ducts, conduits, or other apparatus serving only the Unit).

In addition, each Owner shall have the responsibility:

(a) to keep in a neat, clean and sanitary condition any Limited Common Elements serving such Owner's Unit;

(b) to perform such Owner's responsibility in such manner so as not to unreasonably disturb other persons in other Units;

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

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

16.2. Maintenance by the Association. To the extent not otherwise maintained by an Owner as provided in Section 16.1 hereof, or by the Master Association as provided in the Master Declaration, the Association shall maintain and keep in good repair as a Common Expense the Common Elements, other than the Limited Common Elements. Maintenance by the Association shall include all portions of the roof and the roof support systems, including the roof joists and cross braces. In addition, the Association's maintenance obligation shall include periodic exterior painting and/or staining of exterior surfaces of the Condominium buildings and of entry doors and door frames, all on a schedule to be determined by the Board from time to time. 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 shall be performed at the sole expense of such Owner or Occupant, and the Owner or Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

The Association shall not be liable for injury or damage to person or property caused by or resulting from the elements, the Owner of any Unit, any other Person, any utility, rain, snow or ice which may leak or flow from any portion of the Common Elements, or any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder. The

Association shall not be liable to any Owner, or any Owner's Occupants, guests or invitees, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements. The Association shall not be liable to any Owner, or any Owner's Occupants, guests or invitees, for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Section 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 any inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or any action taken by the Association to comply with any law, ordinance, order or directive of any municipal or other governmental authority.

The Association shall repair incidental damage to any Unit resulting from performance of work which is the responsibility of the Association. As 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 reinstated only to the extent of readily available matching 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 finishes that the Board deems unreasonable, will not be the responsibility of the Association. Accessibility around personal belongings for workers to perform such repairs is the responsibility of the Owner. Removal, storage, or other protective measures of personal items are also the responsibility of the Owner. If the removal, storage or other protective measures are not taken by the Owner and damage occurs due to the repair process, the Association will not be liable for such damage. Upon completion of such repairs, the Association will perform cursory cleaning. As a level of cleaning is subjective, the Association will not be responsible for a detailed cleaning. The Board has sole discretion on defining what is reasonable for the level, quality and extent of the repair and subsequent cleaning. 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.

Upon resolution approved by the Board and approved by the board of directors of the Master Association, the Association may assign responsibilities for any or all operation and/or maintenance under this Declaration to the Master Association and the costs shall be assessed against the Units as set forth in the Master Declaration.

16.3. Failure to Maintain. If the Board determines that any Owner has failed or refused to discharge properly such Owner's obligation with regard to the maintenance, repair, or replacement of items of which such Owner is responsible hereunder, then the Association shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board. Unless the Board determines that an emergency exists, the Owner shall have ten (10) days from the date of the notice 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 such ten (10) day period and diligently pursue completion of such

replacement or repair. If the Board determines that an emergency exists or that an Owner has not complied with the demand given by the Association as herein provided, then the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs shall be added to and become a part of the assessment to which such Owner is subject, shall become and be a lien against the Unit, and shall be collected as provided herein for the collection of assessments. If the Board determines that the need for maintenance or repair is caused through the willful or negligent act of any Owner or Occupant or their guests, or invitees, then the Association may assess the cost of any such maintenance, repair, or replacement against the Owner's or Occupant's Unit, and the cost thereof shall become a lien against the Unit, and shall be collected as provided herein for the collection of assessments.

16.4. Measures Related to Insurance Coverage.

(a) The Board, upon resolution, shall have the authority to require all or any Owner(s) to do any act or perform any work involving portions of the Condominium which are the maintenance responsibility of the Owner which will, in the Board's sole discretion, decrease the possibility of fire or other damage in the Condominium, reduce the insurance premium paid by the Association for any insurance coverage, or otherwise assist the Board in procuring or maintaining such insurance coverage. This authority shall include, but need not be limited to, requiring Owners to install smoke detectors, requiring Owners to make improvements to the Owner's Unit, and such other measures as the Board may reasonably require, so long as the cost of such work does not exceed Three Hundred Dollars (\$300.00) per Unit in any twelve (12) month period.

(b) In addition to, and not in limitation of, any other rights the Association may have, if any Owner does not comply with any requirement made by the Board pursuant to Section 16.4(a) above, the Association, upon fifteen (15) days' written notice (during which period the Owner may perform the required act or work without further liability), may perform such required act or work at the Owner's sole cost. Such cost shall be an assessment and a lien against the Unit as provided herein. The Association shall have all rights necessary to implement the requirements mandated by the Board pursuant to Section 16.4(a), 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.

16.5. 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. These variances shall not constitute a waiver by the Board of the right to adopt and enforce maintenance standards under this Section. No decision or interpretation by the Board shall constitute a binding precedent with respect to subsequent decisions or interpretations of the Board.

16.6. Mold, Mildew and Water Intrusion. Mold and/or mildew may grow in any portion of the Condominium. The Association and each Owner shall make routine mold, mildew and water intrusion inspections of the portions of the Condominium for which each is responsible to maintain pursuant to this Article and which are accessible without having to conduct invasive testing. Upon discovery of any mold, mildew or water intrusion, the responsible party shall, in a good and

workmanlike manner, immediately repair the source of any water intrusion and remediate or replace any building materials that are affected. Remediation of mold and mildew shall be performed in accordance with industry-accepted methods in place at the time of such remediation. Notwithstanding anything to the contrary contained herein, Declarant shall have no obligation to perform any invasive testing or inspections, maintenance or repairs in accordance with this Section and shall not be held liable for any loss or damage caused by the failure of the Association or an Owner to perform their obligations herein.

16.7. Life-Safety Systems. The Association or the Master Association may operate and maintain certain fire lines and/or other life safety systems within the Condominium. Owners and Occupants shall not tamper with or disengage any portion of any life-safety systems that serve the Condominium, and all fire control devices (such as smoke detectors and call boxes), regardless of whether such items are located within the boundaries of a Unit. Any Owner of a Unit containing any life safety system maintained by the Association or the Master Association shall upon request provide contact information for the Owner or Occupant and keep such information current so that the Owner or Occupant may be notified if access to the Unit is necessary.

16.8. Water Service. The Association shall maintain, repair and replace the master water meter(s) serving the Condominium if and to the extent not maintained by the applicable water utility company, and all pipes serving more than one Unit connecting to the master water meter(s). The Association or the Master Association shall be responsible for the administration of expenses associated with the master water meter serving the Condominium. The Association shall pay all usage charges for water supplied to the Condominium through the master water meter. A sub-meter has been installed in the water line to each Unit and all charges for water usage may be assessed to each Unit for its share based on usage. The assessment for water usage for each Unit shall be determined by the Board of Directors and is expected to be based on the number of gallons used and supplied to each Unit, but may be calculated by using estimates based on averages or other techniques; so long as the same method is used for each Unit.

Article 17 Mortgagee's Rights

17.1. Termination. Any election to terminate the Condominium regime shall require approval of Owners of Units to which four fifths (4/5) or more of the total eligible votes in the Association pertain and all Mortgagees of such Units; provided however, during the Development Period, the agreement shall be that of the Declarant and the Unit Owners of Units to which four fifths (4/5) or more of the total eligible votes in the Association pertain, exclusive of any Unit or Units then owned by Declarant, and the Mortgagees of those Units.

17.2. Assessments. Where the Mortgagee holding a first Mortgage of record or a secondary purchase money Mortgage of record (provided that neither the grantee nor any successor grantee on the secondary purchase money Mortgage is the seller of the Unit), or other purchaser of a Unit, obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, such Person shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from

Owners of all the Units, including such Person, its successors and assigns. Additionally, such Person shall be responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed.

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

- (a) any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing its Mortgage;
- (b) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to its Mortgage for a period of sixty (60) days;
- (c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; and
- (d) any proposed action that requires the consent of a specified percentage of Mortgagees.

17.4. Financial Statement. Any holder, insurer or guarantor of a first Mortgage shall be entitled, upon written request, to receive within a reasonable time after request, a copy of the audited financial statements of the Association for the immediately preceding fiscal year, free of charge to the Mortgagee so requesting.

17.5. Applicability of Certain Provisions. Notwithstanding anything to the contrary herein contained, the right of any first Mortgagee to take the following action(s) shall not be impaired:

- (a) foreclose or take title to a Unit pursuant to remedies contained in its Mortgage; or
- (b) take a deed or assignment in lieu of foreclosure; or
- (c) sell, lease, or otherwise dispose of a Unit acquired by the Mortgagee.

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

17.7. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of any Mortgagee holding a Mortgage encumbering such Owner's Unit.

17.8. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within sixty (60) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

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

Article 18

General Provisions

18.1. Security and Safety. The Declarant and the Association may, but shall not be obligated to, maintain or support certain activities within the Condominium designed to make the Condominium and the Units safer than they otherwise might be. HOWEVER, THE ASSOCIATION, THE MASTER ASSOCIATION, THE DECLARANT, ITS PARTNERS AND AFFILIATES, ANY SUCCESSOR DECLARANT, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, COMMITTEES, MEMBERS, SHAREHOLDERS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS, SHALL NOT IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE CONDOMINIUM, NOR SHALL ANY OF THE FOREGOING BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR OF INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. NO REPRESENTATION OR WARRANTY IS MADE THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM CANNOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR SECURITY MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. FURTHERMORE, THERE IS NO GUARANTEE FROM ANYONE THAT NON-UNIT OWNERS AND NON-OCCUPANTS WILL NOT GAIN ACCESS TO THE CONDOMINIUM AND COMMIT CRIMINAL ACTS ON THE CONDOMINIUM NOR IS THERE ANY GUARANTEE THAT CRIMINAL ACTS ON THE CONDOMINIUM WILL NOT BE COMMITTED BY OTHER UNIT OWNERS OR OCCUPANTS. EACH OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS TO INFORM ITS TENANTS THAT THE ASSOCIATION, THE MASTER ASSOCIATION, THE DECLARANT, ITS PARTNERS AND AFFILIATES, ANY SUCCESSOR DECLARANT, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, COMMITTEES, MEMBERS, SHAREHOLDERS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS, ARE NOT INSURERS AND THAT EACH PERSON USING THE CONDOMINIUM ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO PROPERTY, TO UNITS, AND TO THE CONTENTS OF UNITS AND THE STRUCTURES THEREON RESULTING FROM ACTS OF THIRD PARTIES.

OWNERS, OCCUPANTS AND THEIR GUESTS AND INVITEES SHALL USE THE COMMON ELEMENTS, INCLUDING THE LIMITED COMMON ELEMENTS, AND ALL OTHER PORTIONS OF THE CONDOMINIUM NOT CONTAINED WITHIN A UNIT AT

THEIR OWN RISK AND SHALL ASSUME SOLE RESPONSIBILITY FOR THEIR PERSONAL BELONGINGS USED OR STORED THEREON. ALL OWNERS AND OCCUPANTS SHALL HAVE AN AFFIRMATIVE DUTY AND RESPONSIBILITY TO INSPECT THE COMMON ELEMENTS AND ALL PORTIONS OF THE CONDOMINIUM NOT CONTAINED WITHIN A UNIT FOR ANY DEFECTS, PERILS OR OTHER UNSAFE CONDITIONS RELATING TO THE USE AND ENJOYMENT THEREOF. THE ASSOCIATION, MASTER ASSOCIATION, DECLARANT, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES AND AGENTS SHALL NOT BE HELD LIABLE FOR PERSONAL INJURY TO ANY PERSON OCCURRING ON THE COMMON ELEMENTS, INCLUDING THE LIMITED COMMON ELEMENTS, NOR FOR LOSS OR DAMAGE TO PERSONAL BELONGINGS USED OR STORED THEREON OR ON ANY OTHER PORTION OF THE CONDOMINIUM. NOR SHALL THE ASSOCIATION, MASTER ASSOCIATION, DECLARANT, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES AND AGENTS BE LIABLE TO ANY OWNER OR OCCUPANT FOR LOSS OR DAMAGE, BY THEFT OR OTHERWISE, OF ANY PROPERTY OF SUCH OWNER OR OCCUPANT.

18.2. Dispute Resolution. Prior to filing a lawsuit against the Association, the Board, or any officer, director, or property manager of the Association, an Owner or Occupant must request and attend a hearing with the Board. Any such request shall be in writing and shall be personally delivered to any member of the Board 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 grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the Person requesting the hearing. The Board shall schedule this hearing for a date not less than seven (7) nor more than twenty-one (21) days from the date of receipt of the request.

18.3. Right of Action. All Owners hereby acknowledge and agree that the Association shall not be entitled to institute any legal action against anyone on behalf of any or all of the Owners which is based on any alleged defect in any Unit or the Common Elements, or any damage allegedly sustained by any Owner by reason thereof, but rather, that all such actions shall be instituted by the Person(s) owning such Units or served by such Common Elements or allegedly sustaining such damage. Notwithstanding the above, once the Declarant no longer has the right to appoint and remove directors and officers of the Association, as set forth in Section 5.1 of the Bylaws, the Board may negotiate the resolution of any alleged defect(s) in the Common Elements on behalf of the Owners and shall have the right and authority to settle and release on behalf of any and all of the Owners claims, causes of action, damages and suits involving the same. Any such settlement and release shall bind all Owners and their successors and assigns. This subsection may not be amended without the written consent of the Declarant.

18.4. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the total Association vote. This subsection shall not apply, however, to (i) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (ii) the imposition and collection of assessments as provided in Article 9

hereof, (iii) proceedings involving challenges to ad valorem taxation, (iv) counterclaims brought by the Association in proceedings instituted against it, or (v) actions brought by the Association against any contractor, vendor, or supplier of goods or services arising out of a contract for goods or services to which the Association is a party. This subsection shall not be amended unless such amendment is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above and such amendment is consented to in writing by the Declarant.

18.5. 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.

18.6. Disclosures. Every Owner, by acceptance of a deed to a Unit, acknowledges that it will be subject to and bound by the Condominium Instruments.

Each Owner and Occupant also acknowledges the following:

(a) that the Condominium is located adjacent to thoroughfares and may be affected by traffic and noise from time to time, and such thoroughfares may be improved or widened in the future;

(b) that the views from an Owner's Unit may change over time due to among other things, additional development and the removal or addition of landscaping;

(c) that no representations are made regarding the zoning of adjacent property or that the category to which adjacent property is zoned may not change in the future;

(d) that no representations are made regarding the schools that currently, or which may in the future, serve the Condominium;

(e) that because in every development there are conditions that different purchasers may find objectionable, including but not limited to traffic congestion and related noise, Owner acknowledges that there may be conditions outside of the property that Owner finds objectionable and that it shall be the sole responsibility of Owner to become acquainted with neighborhood conditions that could affect the Unit;

(f) that no representations are made that the Unit is or will be soundproof or that sound may not be transmitted from one Unit to another, or from any other portion of the Buildings or adjacent property, because in all multi-unit there will be some sound transmission;

(g) that the Plans and the dimensions and gross square footage calculations shown thereon are only approximations which such square footage calculations have been determined based generally on the boundaries of a Unit as defined herein;

(h) that no representations are made regarding the uses or zoning of the Condominium or a particular Unit or whether or not any particular business use of the Unit would be permitted under the applicable zoning ordinances or any rules and regulations governing the Condominium;

(i) that it is the nature of multi-family and mixed-use projects (of which this Condominium is a part) that Units are built in close proximity to one another (resulting in sharing of common walls, floors and ceilings) and noise is frequently audible from one Unit to the next, no matter how much sound proofing is attempted. It is therefore mandatory, for the mutual interest and protection of all Owners, Occupants and their guests within the Condominium, to recognize that acoustical privacy is achieved only through understanding and compliance with certain limitations and restrictions. The design and construction of this Condominium attempts to meet the recognized standards and criteria related to sound insulation in construction practice today. It is recognized, however, that sound insulation from an adjacent Unit in a manner comparable to a single-family detached residence is impossible to attain. Owner acknowledges that there will usually be some audio awareness of one's neighbors, depending upon the situation. Within the basic design of the Condominium, efforts have been made to minimize airborne noise, structure-borne noise and impact noise transmission from and to each Unit. Modification of design of the structures, or related components thereof, by Owner could alter the resultant expected insulation. Accordingly, all such modifications will be regulated as provided in this Declaration. Additionally, all furniture parts in contact with the floor should have rubber castors or felt pads to minimize noise and vibration attributable to moving furniture as well as scratching of finishes;

(j) that concrete and hardwood surfaces and other uncovered surfaces within a Unit may transmit noise, and such noise shall not constitute a use of a Unit that interferes with or causes disruption to the use and quiet enjoyment of another Unit by its respective Owner and/or occupant;

(k) that noise and odor related to retail and other businesses may emanate from the Commercial Units in the Condominium;

(l) that the Unit may trap humidity created by usual and customary activities within the Unit (cooking, bathing, laundering, etc.). As a result, condensation may appear on the interior portion of windows and glass surfaces and fogging of windows and glass surfaces may occur due to temperature disparities between the interior and exterior surfaces, and result in staining, damage to surrounding seals, caulk, paint, wood work, and sheetrock, and potentially mold and/or mildew; and

(m) that Declarant or a related entity will be constructing portions of the Condominium and engaging in other construction activities related to the construction of Common Elements, other portions of the buildings, and other portions of the development. Such construction activities may, from time to time, produce certain conditions on the Condominium, including, without limitation: (i) noise or sound that is objectionable because of its volume, duration, frequency or shrillness; (ii) smoke; (iii) noxious, toxic, or corrosive fumes or gases; (iv) obnoxious odors; (v) dust, dirt or flying ash; (vi) unusual fire or explosion hazards; (vii) temporary interruption of utilities; and/or (viii) other conditions that may threaten the security or safety of

Persons on the Condominium. Notwithstanding the foregoing, Owner agrees that such conditions on the Condominium resulting from construction activities shall not be deemed a nuisance or discomfort to Owner and shall not cause Declarant and its agents or the Association to be deemed in violation of any provision of this Declaration.

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

18.8. Contracts Executed During Declarant Control. All contracts or leases executed by or on behalf of the Association during the period in which the Declarant has the right to appoint the directors and officers of the Association under the Bylaws shall contain a termination clause permitting the Association to terminate the contract or lease at any time, without cause and without penalty, upon not more than ninety (90) days' prior written notice. Each Owner acknowledges that Declarant and its affiliates may provide services utilized by communities such as the Condominium, including, but not limited to, property management and landscape services. Each Owner consents and agrees that the Association, acting through the Declarant-appointed Board, may enter into service contracts with Declarant and its affiliates on its own authority and without approval of any third party.

18.9. Variances. Notwithstanding anything to the contrary contained herein, the Board or its designee, shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws and any rule, regulation or use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Condominium.

Article 19 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 by condemnation or eminent domain shall, at the option of the Board, be: (a) distributed to the Owners pursuant to O.C.G.A. Section 44-3-97(a), as amended, (b) credited to future assessments due from the Owners, or (c) allocated to the Owners and deposited into the Association's operating account or reserve account to be applied to Common Expenses. Each institutional 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 Owner in the distribution of proceeds.

Article 20 Easements

20.1. Use and Enjoyment. Each Owner and Occupant shall have a right and non-exclusive easement of use and enjoyment in and to the Common Elements (including the right of

access, ingress and egress to and from such Owner's or Occupant's Unit over those portions of the Condominium designated for such purpose), and such non-exclusive easement shall be appurtenant to and shall pass with the title to such Unit, subject to (i) the rights of the Owners to the exclusive use of the Limited Common Elements assigned to their respective Units, (ii) the right of the Association to control the use and enjoyment of the Common Elements as provided by the terms of this Declaration, including, but not limited to, the right of the Association to suspend voting and use privileges as provided herein and/or in the Bylaws, and (iii) the right of the Association to have access to the Units and Common Elements to discharge its rights and obligations under the Condominium Instruments, including, without limitation, the maintenance responsibility of the Association. Every portion of a Unit and all 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. All portions of the Condominium also shall be subject to easements of encroachment as provided in the Act.

20.2. Declarant Easements. During the Development Period, Declarant and its affiliates, contractors, representatives, agents, assigns and employees shall have (i) an easement on, over, through, under and across the Condominium for the construction, installation, maintenance and use of signs, sales offices, business offices, construction trailers, promotional facilities and model units on the Condominium, together with such other facilities as in the opinion of Declarant may be reasonably required, convenient or incidental to the completion, renovation, improvement, development or sale of the Condominium and/or the Units therein, and (ii) a transferable easement on, over, through, under and across the Common Elements for the purpose of making improvements on the Condominium or any portion thereof, for the purpose of installing, replacing, repairing and maintaining all utilities serving the Condominium, and for the purpose of doing all things reasonably necessary and proper in connection therewith.

20.3. Utilities. To the extent that a sprinkler system, if any, 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 access to and 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. Maintenance, replacement and repair of any such sprinkler system, utility line, pipe, line, conduit, duct or wire shall be as otherwise set forth in this Declaration. In such circumstance, the Person for whose benefit such work is being done shall be responsible for repair of all incidental damage to any Unit resulting from performance of any such work. All Owners hereby covenant and agree that as finish levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready." Components that may require repair or replacement, such a tile and trim, will be repaired only to the extent of readily available materials or similar materials (trim and such will also be finished to "paint ready"). Due to the uncontrollability of quality of repair, items such as faux paint treatment, wallpaper, ceiling/wall applique, and any other similar types of finishes will not be the responsibility of the benefited Person.

20.4. Pest Control; Sprinkler Testing. The Association may, but shall not be obligated to, dispense chemicals for the extermination of insects and pests within the Units and Common

Elements. In addition, sprinklers, if any, may need periodic testing, although it is not the obligation or responsibility of the Association to do so. In the event the Association chooses to provide such pest control or in the event sprinkler testing is to be conducted, the Association and contractors, representatives, agents and other Persons authorized by the Board shall have an easement to enter Units for the purpose of testing sprinklers and/or dispensing chemicals for the extermination of insects and pests within the Units and Common Elements, as applicable. Owners shall either provide a key to the Unit for purpose of such entry or have someone available at such times as are designated by the Board to allow entry into the Unit for these purposes. The Declarant, its affiliates, and the Association, the Master Association and the directors, officers, employees and agents of any of the foregoing, shall not be liable for any illness, damage or injury caused by the testing of sprinklers or the dispensing of chemicals as described herein.

20.5. Easements in Favor of Additional Property Owner. There is reserved to Declarant and its successors and assigns, including, without limitation, any purchaser of the Additional Property or any portion thereof, a non-exclusive easement upon, across, above and under all property within the Condominium, exclusive of the Units, for developing the Additional Property or portions thereof, whether or not such property is developed as part of the Condominium. In accordance therewith, it shall be expressly permissible for Declarant and its successors and assigns to maintain and carry on, upon such portion of the Condominium as Declarant or its successors and assigns may deem necessary, such facilities and activities as in the sole opinion of Declarant or its successors and assigns may be required, convenient or incidental to development, construction and sales activities related to developing the Additional Property or portions thereof, whether or not such property is developed as part of the Condominium, including, but without limitation, the following:

(a) the right of access, ingress and egress for vehicular and pedestrian traffic over, under, on or in the Condominium;

(b) the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Condominium; and

(c) the right to carry on sales and promotional activities on the Condominium and the right to construct and operate business offices, signs, construction trailers, residences, promotional facilities, model units and sales offices; Declarant and its affiliates may use residences, offices or other Units owned or used by Declarant or its affiliates as model units and sales offices.

Rights exercised pursuant to this reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at such Person's sole expense.

Article 21
Amendments

Except where a higher vote is required for action under any other provisions of this Declaration or by the Act, in which case such higher vote shall be necessary to amend such provision, this Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent, of the members of the Association holding sixty-seven (67%) percent or more of the Total Association Vote. During the Development Period, any amendment to this Declaration shall require the written consent of Declarant. 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. The consent of the requisite number of Owners to any amendment shall be evidenced by the execution of the amendment by said Owners, or, in the alternative, the sworn statement of the President or any Vice President or the Secretary of the Association attached to or incorporated in the amendment, which sworn statement states unequivocally that the consent of the required number of Owners was obtained and that any notices required by this Declaration, the Bylaws, the Articles of Incorporation and Georgia law were given. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the land records of the county in which the Condominium is located. Any amendment duly certified and recorded shall be conclusively presumed to have been duly adopted in accordance with this Declaration. Owners whose voting rights have been suspended pursuant to this Declaration or the Bylaws shall not be counted toward the amendment requirement.

In addition to the above, material amendments to this Declaration that are of a material adverse nature to Mortgagees are subject to approval by Mortgage Holders who represent at least fifty-one percent (51%) of the votes of Units that are subject to Mortgages. Notwithstanding the above, the approval of any proposed amendment by a Mortgage Holder shall be deemed implied and consented to if the Mortgage Holder fails to submit a response to any written proposal for an amendment within sixty (60) days after the Mortgage Holder receives notice of the proposed material amendment sent by certified or registered mail, return receipt requested.

Notwithstanding the foregoing, the Association, acting through the Board of Directors, without the necessity of a vote from the Owners, may amend this Declaration or the Bylaws (aa) to comply with any applicable state, city, county or federal law, (bb) to bring the Condominium into compliance with applicable rules, regulations and/or requirements of the Fannie Mac, the Federal Home Loan Mortgage Corporation, the U.S. Department of Housing and Urban Development, and/or the U.S. Department of Veterans Affairs, and (cc) to correct scrivener's errors; provided however, during the Development Period, no such amendment shall be effective unless and until approved in writing by the Declarant.

No provision of this Declaration or the Bylaws which grants rights to the Master Association shall be amended without the prior written consent of the board of directors of the Master Association.

Notwithstanding any other provision to the contrary in this Declaration, without the written consent of the Owners of the Commercial Units attached to and recorded with such amendment,

no amendment adopted hereunder shall: (i) modify, alter, or delete the permissible uses of the Commercial Units; or (ii) modify, alter or delete any rights, privileges, easements, protections, or defenses of the Owners of the Commercial Units; or (iii) materially interfere with the ownership or operation of the Commercial Units.

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

Article 22
Severability

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

Article 23
Declarant Rights

23.1. Sale and Leasing of Units. Notwithstanding anything to the contrary contained herein, the Declarant shall have the right to sell or lease Units and to erect and maintain signs to facilitate such sales or leases as it, in its sole discretion, deems appropriate and shall not be required to comply with the provisions of this Declaration regarding signs and sales and leases.

23.2. Construction and Sale Period. Notwithstanding any provisions in the Condominium Instruments and any related documents, during the Development Period, it shall be expressly permissible for Declarant and any builder or developer approved by Declarant to maintain and carry on, and a nonexclusive easement within the Condominium shall exist in favor of the foregoing, upon such portion of the Condominium as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient or incidental to Declarant's and such builder's or developer's development, construction and sales activities related to property described on Exhibit "A" to this Declaration, including, but without limitation, the right of entry into Units when necessary, and except in an emergency situation, only during reasonable hours after reasonable notice to the Owner or Occupant of the Unit; the right of access, ingress or egress for vehicular and pedestrian traffic over, under, on or in the Condominium; the right to tie into any portion of the Condominium with streets, driveways, parking areas and walkways; the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), install, lay, replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Condominium; the right to carry on sales and promotional activities in the Condominium; and the right to construct and operate business offices, signs, construction trailers, model Units and sales offices. Declarant and any such builder or developer may use Units or offices owned or leased by Declarant or such builder or developer as model Units and sales offices. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet

enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

23.3. Control. The Declarant shall have the right to appoint and remove any member or members of the Board of Directors and any officer of the Association. The Declarant's authority to so appoint and remove members of the Board of Directors and any officer of the Association shall expire on the first to occur of the following:

(a) the expiration of seven (7) years after the date this Declaration is recorded in the Office of the Clerk of the Superior Court of Fulton County, Georgia;

(b) unless the Declarant at that time has an unexpired option to add Additional Property, the date as of which Units to which four-fifths (4/5) of the undivided interests in the Common Elements pertain shall have been conveyed by the Declarant to Unit Owners other than a Person or Persons constituting the Declarant; or

(c) the date on which the Declarant voluntarily relinquishes such right by executing and recording, in the Office of the Clerk of the Superior Court of Fulton County, Georgia, a written declaration of intent which shall become effective as specified in such declaration.

Article 24

Expansion of the Condominium

Declarant reserves the right and option to expand the Condominium by adding to the Condominium and submitting to this Declaration all or any part of the Additional Property on one or more occasions. Except for zoning and other governmental requirements, there are no limitations as to the location of improvements on the Additional Property. The Additional Property may be added as a whole at one time, or portions may be added at different times, or all or portions may not be added at all. There are no limitations fixing the boundaries of any portion of the Additional Property that may be submitted to the Declaration, and there are no limitations regulating the order in which portions of the Additional Property may be submitted to this Declaration. However, there is no obligation or guarantee to expand the Condominium at all, or to submit any of the Additional Property to this Declaration, or to develop and/or construct the Additional Property or any portion thereof in any manner similar to the then existing Condominium.

This right and option shall expire seven (7) years from the date of recording of this Declaration; provided, however, that Owners of Units to which two-thirds (2/3) of the total vote in the Association appertain, excluding any votes appurtenant to any Unit or Units then owned by the Declarant, may consent to the extension of this expansion option within one (1) year prior to the date upon which the option would have otherwise expired.

The maximum number of Units that may be created on the Additional Property and added to the Condominium is eight (8). The maximum number of Units per acre that may be created on the Additional Property and added to the Condominium is eight (8).

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No assurances are made that any improvements will be made on all or any of the Additional Property which may be submitted to this Declaration. A portion of the Additional Property shall be subject to the use restrictions set forth herein when such portion is added to the Condominium. No assurances are made that the Units which may be built on all or any portion of the Additional Property will be identical or similar to the Units or each other. All improvements to be located on a portion of the Additional Property which is being submitted to the Condominium shall be substantially complete prior to its submission to the Condominium. The Declarant shall have the right to assign Limited Common Elements on the Additional Property in accordance with the provisions hereof. The undivided interests in the Common Elements are allocated among the Units as shown on Exhibit "C" attached hereto, such undivided interest being determined by dividing the approximate square footage of a particular Unit by the square footage of all Units within the Condominium, and, upon the expansion of the Condominium to include a portion of the Additional Property, may be reallocated on the same basis.

Any expansion under this Section shall be affected by Declarant's executing and recording the amendments to this Declaration and the plats and plans required by the Act at Declarant's sole expense. The Units thereby created and added shall be owned by Declarant, but the Common Elements shall be owned by all of the Owners.

Article 25
Preparer

This Declaration was prepared by David N. Dorough, Jr., Dorough & Dorough, LLC, 160 Clairemont Avenue, Suite 650, Decatur, Georgia 30030.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed under seal, this 29th day of November, 2017.

DECLARANT: **JWNSP ROSWELL, LLC**, a Georgia limited liability company

By: [Signature] (SEAL)
Name: Steward A. Sparks, III
Title: Authorized Representative

Signed, sealed, and delivered in the presence of:

[Signature]
WITNESS

[Signature]
NOTARY PUBLIC

My Commission Expires: 9/10/2020

[NOTARY SEAL]



CONSENT OF LIEN HOLDER

HAMILTON STATE BANK ("Lender"), as holder of that certain Deed to Secure Debt, Assignment of Rents and Security Agreement, dated October 11, 2016 and recorded October 19, 2016 in Deed Book 56749, Page 683, *et seq.*, Fulton County, Georgia land records (hereinafter referred to as the "Security Deed"), encumbering all or a portion of the property described in Exhibit "A" hereof, hereby consents to the Declaration of Condominium for Roswell Court, a Condominium, and agrees that any foreclosure of the security title and interest under Security Deed or any other instrument that Lender holds shall be subject to the Declaration and any amendments thereto with respect to the property described in Exhibit "A".

This 13th day of November, 2017.

LENDER: **HAMILTON STATE BANK**

By: J. Cleve Massee
Name: J. Cleve Massee
Title: Senior Vice President

Signed, sealed, and delivered
in the presence of:

[BANK SEAL]

Sheila Gifford
WITNESS

Jody Strike
NOTARY PUBLIC

My Commission Expires: 1/21/19

[NOTARY SEAL]



EXHIBIT "A"
Legal Description

ALL THAT TRACT OR PARCEL OF LAND LYING and being in Land Lots 425 and 426 of the 1st District, 2nd Section, City of Roswell, Fulton County, Georgia, being designated as **Roswell Court Condominium, Units 8A-12A & Units 8B-12B**, containing 10,906 square feet (0.250 acres), as shown on that certain **Condominium Plat of Roswell Court (f.k.a. Norcross Street)** for JWNSP Roswell, LLC, dated November 2, 2016, last revised November 29, 2017, prepared by GeoSurvey, Ltd., containing the seal and certification of Craig A. Jennings, Georgia Registered Land Surveyor No. 3043, said property being more particularly described as follows:

Beginning at a nail set at the southern corner of the mitered intersection of the southern right-of-way of Norcross Street (variable public right-of-way) with the eastern right-of-way of Forrest Street (variable public right-of-way); thence along said mitered intersection North 63 degrees 35 minutes 48 seconds East a distance of 73.04 feet to a point located on the southern right-of-way of Norcross Street; thence along said southern right-of-way of Norcross Street, proceed North 86 degrees 48 minutes 36 seconds East a distance of 23.53 feet to a point, said point being the TRUE POINT OF BEGINNING.

From the TRUE POINT OF BEGINNING as thus established, continuing along said southern right-of-way of Norcross Street, proceed North 86 minutes 14 minutes 29 seconds East a distance of 25.28 feet to a point; thence South 03 minutes 59 minutes 49 seconds East a distance of 0.65 feet to a point; thence North 86 degrees 14 minutes 29 seconds East a distance of 25.73 feet to a point; thence North 03 degrees 59 minutes 49 seconds West a distance of 0.99 feet to a point; thence North 86 degrees 14 minutes 29 seconds East a distance of 25.16 feet to a point; thence South 03 degrees 59 minutes 49 seconds East a distance of 0.63 feet to a point; thence North 86 degrees 14 minutes 29 seconds East a distance of 25.51 feet to a point; thence North 03 degrees 59 minutes 49 seconds West a distance of 0.81 feet to a point; thence North 86 degrees 14 minutes 29 seconds East a distance of 25.19 feet to a point; thence leaving said southern right-of-way of Norcross Street, proceed South 03 degrees 53 minutes 23 seconds East a distance of 86.30 feet to a point; thence South 86 degrees 00 minutes 11 seconds West a distance of 19.79 feet to a point; thence South 03 degrees 59 minutes 49 seconds East a distance of 2.00 feet to a point; thence South 86 degrees 00 minutes 11 seconds West a distance of 11.00 feet to a point; thence North 03 degrees 59 minutes 49 seconds West a distance of 2.00 feet to a point; thence South 86 degrees 00 minutes 11 seconds West a distance of 36.46 feet to a point; thence South 03 degrees 59 minutes 49 seconds East a distance of 2.00 feet to a point; thence South 86 degrees 00 minutes 11 seconds West a distance of 6.50 feet to a point; thence North 03 degrees 59 minutes 49 seconds West a distance of 2.00 feet to a point; thence South 86 degrees 00 minutes 11 seconds West a distance of 19.10 feet to a point; thence South 03 degrees 59 minutes 49 seconds East a distance of 2.00 feet to a point; thence South 86 degrees 00 minutes 11 seconds West a distance of 11.00 feet to a point; thence North 03 degrees 59 minutes 49 seconds West a distance of 2.00 feet to a point; thence South 86 degrees 00 minutes 11 seconds West a distance of 19.85 feet to a point; thence North 03 degrees 59 minutes 49 seconds West a distance of 86.31 feet to a point, said point being the TRUE POINT OF BEGINNING.

EXHIBIT "B"
Additional Property Legal Description

ALL THAT TRACT OR PARCEL OF LAND LYING and being in Land Lots 425 and 426 of the 1st District, 2nd Section, City of Roswell, Fulton County, Georgia, as shown on that certain **Condominium Plat of Roswell Court (f.k.a. Norcross Street)** for JWNSP Roswell, LLC, dated November 2, 2016, last revised November 29, 2017, prepared by GeoSurvey, Ltd., containing the seal and certification of Craig A. Jennings, Georgia Registered Land Surveyor No. 3043, said property being more particularly described as follows:

BEGINNING at a nail set at the southern corner of the mitered intersection of the southern right-of-way of Norcross Street (variable public right-of-way) with the eastern right-of-way of Forrest Street (variable public right-of-way); thence along said mitered intersection North 63 degrees 35 minutes 48 seconds East a distance of 73.04 feet to a point located on the southern right-of-way of Norcross Street; thence along said southern right-of-way of Norcross Street, proceed North 84 degrees 41 minutes 16 seconds East a distance of 61.07 feet to a point; thence continuing along said southern right-of-way, proceed North 86 degrees 55 minutes 04 seconds East a distance of 101.10 feet to a point; thence leaving said southern right-of-way of Norcross Street, proceed South 01 degrees 58 minutes 23 seconds East a distance of 151.37 feet to a point; thence North 86 degrees 35 minutes 41 seconds West a distance of 28.68 feet to a point; thence South 05 degrees 09 minutes 12 seconds West a distance of 97.51 feet to a point; thence North 89 degrees 11 minutes 34 seconds West a distance of 62.89 feet to a point; thence North 87 degrees 04 minutes 52 seconds West a distance of 128.91 feet to a point located on the eastern right-of-way of Forrest Street (variable public right-of-way); thence along said eastern right-of-way of Forrest Street, proceed North 00 degrees 59 minutes 21 seconds West a distance of 31.38 feet to a point; thence continuing along said right-of-way North 00 degrees 59 minutes 21 seconds West a distance of 149.94 feet to a point; thence North 00 degrees 59 minutes 21 seconds West a distance of 14.37 feet to a point; thence North 63 degrees 35 minutes 48 seconds East a distance of 73.04 feet to a point, said point being the POINT OF BEGINNING.

Deed Book 58209 Pg 343

EXHIBIT "C"
Undivided Interest In Common Elements

<u>Unit Number</u>	<u>Approximate Square Footage</u>	<u>% Undivided Interest in Common Elements</u>
8-A (Commercial)	1,118	4.99%
9-A (Commercial)	1,118	4.99%
10-A (Commercial)	1,118	4.99%
11-A (Commercial)	1,118	4.99%
12-A (Commercial)	1,118	4.99%
8-B (Residential)	3,329	14.85%
9-B (Residential)	3,329	14.85%
10-B (Residential)	3,513	15.65%
11-B (Residential)	3,329	14.85%
12-B (Residential)	3,329	14.85%
Total	22,419	100.00%

Deed Book 58209 Pg 344

EXHIBIT "D"

BYLAWS

OF

ROSWELL NORCROSS STREET CONDOMINIUM ASSOCIATION, INC.

Prepared By:
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BYLAWS
OF
ROSWELL NORCROSS STREET CONDOMINIUM ASSOCIATION, INC.

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BYLAWS

OF

ROSWELL NORCROSS STREET CONDOMINIUM ASSOCIATION, INC.

Article 1

Name and Location

1.1. Name. The name of the association is Roswell Norcross Street Condominium Association, Inc., a Georgia nonprofit membership corporation (hereinafter referred to as the "Association").

1.2. Location. The principal office of the Condominium shall be located in the State of Georgia at such place as shall be designated from time to time by the Board of Directors. Meetings of members and directors may be held at such places within the State of Georgia as may be designated from time to time by the Board of Directors.

Article 2

Definitions

The terms used in these Bylaws, unless otherwise specified, shall have the meanings specified in the Declaration of Condominium for Roswell Court, a Condominium recorded in the Office of the Clerk of the Superior Court of Fulton County, Georgia (hereinafter called the "Declaration") or the meaning given in Section 44-3-71 of the Georgia Condominium Act or the Georgia Nonprofit Corporation Code (O.C.G.A. Section 14-3-101 *et seq.*) (the "Nonprofit Code"). Statutory references shall be construed as meaning the referenced statute or portion thereof as the same may exist from time to time.

Article 3

Membership and Voting Rights

3.1. Membership. A Unit Owner 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. If title to a Unit is held by more than one (1) Person, the membership shall be shared in the same proportion as the title, but there shall be only one (1) membership 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 to which it appertains and shall be transferred automatically by conveyance of that Unit and may be transferred only in connection with the transfer of title to the Unit.

3.2. Voting Rights. The Association shall have one (1) class of voting membership which shall consist of all Owners. Owners shall be entitled to exercise voting rights as provided in the Georgia Condominium Act, the Declaration, the Articles of Incorporation and as prescribed herein. The number of votes allocated to each Unit is as set forth in the Declaration. When a Unit is owned

by other than one (1) or more natural persons, the person entitled to cast the vote for such Unit shall be designated by a certificate signed by the record Owner of such Unit and filed with the Secretary of the Association. Each such certificate shall be valid until revoked, superseded by a subsequent certificate or a change occurs in the Ownership of such Unit. When a Unit is owned by more than one (1) natural person, they may, without being required to do so, designate the person entitled to cast the vote for such Unit as provided above. In the event they do not designate such a person, the following provisions shall apply:

(a) If only one (1) Owner is present at a meeting, the person present shall be counted for purposes of a quorum and may cast the vote for the Unit without establishing the concurrence of any absent person.

(b) If more than one (1) of such Owners, whether or not all of them, are present at a meeting and concur, any one (1) of the Owners may cast the vote for the Owners.

(c) If more than one (1) of such Owners, whether or not all of them, are present at a meeting and are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to vote on that subject at that meeting.

The votes of the Owners shall be cast under such rules and procedures as may be prescribed in the Declaration, Bylaws or by law.

3.3. Suspension of Voting Rights. During any period in which an Owner shall be in default in payment of any assessment, the voting rights applicable to such Unit may be suspended by the Board of Directors until such assessment has been paid. Voting rights may also be suspended by the Board of Directors for the period of any violation of any provision of the Condominium Instruments or Association rules.

3.4. Majority Vote Required. Unless otherwise provided in the Declaration or these Bylaws, all actions of the Association shall be by Majority vote.

Article 4 Meetings of Owners

4.1. Annual Meetings. The first annual meeting of the Owners shall be called by the President upon request of the Declarant and shall be held within twelve (12) months following the incorporation of the Association. Each subsequent regular annual meeting of the Owners shall be held on the same day of the same month of each year thereafter unless otherwise provided by the Board of Directors; provided, however, such meeting shall be called not less frequently than annually. If the day for the annual meeting of the Owners is a legal holiday, the meeting will be held on the first day following which is not a legal holiday. At the annual meeting, comprehensive reports of the affairs, finances, and budget projections of the Association shall be made to the Unit Owners in attendance.

4.2. Special Meetings. Special meetings of the Owners may be called at any time by the Board of Directors, or upon written request of at least fifteen percent (15%) of the Owners. Only business within the purpose or purposes described in the meeting notice may be conducted at a special meeting.

4.3. Notice of Meetings. Written notice of each meeting of the Owners shall be given by, or at the direction of, the Secretary or person authorized to call the meeting at least twenty-one (21) days in advance of any annual or regularly scheduled meeting, and at least (7) seven days in advance of any other meeting and shall state the time, place and purpose of such meeting. Such notice shall be delivered personally or sent by United States mail, postage prepaid, statutory overnight delivery, or issued electronically in accordance with Chapter 12 of Title 10 of the Official Code of Georgia Annotated, the "Georgia Electronic Records and Signatures Act," to all Owners of record at such address or addresses as any of them may have designated, or, if no other address has been so designated, at the address of their respective Units.

4.4. Waiver of Notice. Waiver of notice of a meeting of the members shall be deemed the equivalent of proper notice. Any member may, in writing or by electronic transmission signed by the member entitled to the notice and delivered to the Association for inclusion in the minutes or filing with the Association's records, waive notice of any meeting of the members, either before or after such meeting. Attendance at a meeting by an Owner, whether in person, by representative, or represented by proxy, shall be deemed waiver by such Owner of notice of the time, date, and place thereof unless such Owner specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a meeting shall also be deemed waiver of notice of all business transacted at such meeting unless objection to lack of notice is raised before the business, of which proper notice was not given, is put to a vote.

4.5. Membership List. After the record date for any meeting is established by the Board of Directors, the Secretary shall prepare an alphabetical list of the names and addresses of all of the members who are entitled to notice of the meeting. Beginning at least two (2) business days after notice is given of the meeting for which the list was prepared, the list of members shall be available for inspection: (1) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting or upon request; or (2) for any member or a member's agent or attorney, during ordinary business hours at the Association's principal office or at a reasonable place identified in the meeting notice in the city where the meeting will be held. In the event that the Association makes the list available on an electronic network, the Association may take reasonable steps to ensure that such information is available only to members of the Association. In addition, the list shall be available for inspection at the meeting or any adjournment thereof.

4.6. Quorum. The presence at the meeting of Owners and/or proxies entitled to cast more than one-third (1/3) of the votes of the membership shall constitute a quorum for any action except as otherwise expressly provided in the Georgia Condominium Act or in the Declaration. 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. If, however, such quorum shall not be present or represented at any meeting, the Owners and/or proxies entitled to cast a majority of the votes thereat shall have the

power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented; provided however, if a new record date for the adjourned meeting must be established under the Nonprofit Code, notice of the adjourned meeting must be given to the members of the Association of record as of the new record date. Owners whose voting rights have been suspended pursuant to the Declaration or these Bylaws shall not be counted toward the quorum requirement.

4.7. Proxies. Except as otherwise provided herein, any member entitled to vote may do so by written proxy duly executed by the member setting forth the meeting at which the proxy is valid. To be valid, a proxy must be signed either personally or by an electronic transmission, dated, and filed with the Secretary prior to the opening of the meeting for which it is to be used. An electronic transmission must contain or be accompanied by information from which it can be determined that the member, the member's agent, or the member's attorney in fact authorized the electronic transmission. Proxies may be delivered to the Board by personal delivery, U.S. mail or electronic transmission to the Secretary or other officer or agent authorized to tabulate votes. Every proxy shall be revocable and shall automatically cease upon: (a) receipt of notice by the Secretary of the death or judicially declared incompetence of a member; (b) receipt by the Secretary or other officer or agent authorized to tabulate votes of written revocation signed by the member; (c) receipt by the Secretary or other officer or agent authorized to tabulate votes of a subsequent appointment form signed by the member; (d) attendance by the member and voting in person at any meeting; (e) conveyance by an Owner of the Unit to which the vote to be cast by proxy appertains, in which case the Owner shall be deemed to have revoked such proxy; or (f) the expiration of eleven (11) months from the date of the proxy appointment form. A proxy holder may not appoint a substitute proxy holder unless expressly authorized to do so in the proxy. Members whose voting rights have been suspended hereunder may not act as proxy for any other member. Each proxy shall be effective only for the meeting specified therein and any adjournment thereof.

4.8. Order of Business. The order of business at all annual meetings of the Owners shall, unless otherwise determined by the Board of Directors, be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting.
- (c) Reading of minutes of preceding meeting.
- (d) Reports of officers.
- (e) Report of Board of Directors.
- (f) Reports of committees, if any.
- (g) Election of Directors.
- (h) Unfinished business.

(i) New business.

4.9. Decisions of Owners. Unless otherwise expressly provided in the Georgia Condominium Act, the Declaration or these Bylaws, a Majority of the votes cast on any particular issue shall be necessary to adopt decisions at any meeting of the Owners. During such time as the Declarant has the right to appoint and remove the officers and directors of the Association, no decision or resolution duly adopted by the Owners shall be effective or valid until the Declarant's written approval or consent shall have been obtained.

4.10. Conduct of Meetings. The President shall preside over all meetings of the Owners and the Secretary shall keep the minutes of the meetings and record in a minute book all resolutions duly adopted as well as a record of all transactions occurring at such meetings. The latest edition of Roberts Rules of Order shall govern the conduct of all meetings of the Owners when not in conflict with the Georgia Condominium Act, the Declaration or these Bylaws.

4.11. Action in Lieu of Meeting. In the Board's discretion, any action that may be taken by the Association members at any annual, regular, or special meeting may be taken without a meeting if the Board delivers a consent form or a ballot in writing or by electronic transmission to every member entitled to vote on the matter.

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

All solicitations for votes by ballot in writing or by electronic transmission shall: (1) indicate the number of responses needed to meet the quorum requirements; (2) state the percentage of approvals necessary to approve each matter other than election of directors; and (3) specify the time by which a ballot must be received by the Association in order to be counted. A ballot in writing or by electronic transmission may not be revoked. The Association shall maintain such ballots in its file for at least three (3) years.

(b) Written Consent. Approval by consent in writing or by electronic transmission shall be valid only when the vote represented by consent in writing or by electronic transmission equals or exceeds the requisite majority of the voting power for such action. Executed consents in writing or by electronic transmission shall be included in the minutes or filed with the Association's records. No consent in writing or by electronic transmission signed pursuant to the Georgia Nonprofit Corporation Code shall be valid unless: (1) the consenting member has been furnished the same material that, pursuant to the Georgia Nonprofit Corporation Code, would have been required to be sent to members in a notice of a meeting at which the proposed action would have been submitted to the members for action; or (2) the written consent contains an express waiver of the right to receive the material otherwise required to be furnished. The record date for such action

shall be the date that the first member signs a consent. Such action shall be approved when the Secretary receives a sufficient number of consents dated within seventy (70) days of the record date for such action. If an action of the members is approved by consent in writing or by electronic transmission hereunder, the Board shall issue written notice of such approval to all members who did not sign written consents. Membership approval shall be effective ten (10) days after written notice is issued; provided, however, if the consent is to an amendment to the Declaration or Bylaws which must be recorded, the effective date shall be no earlier than the date of recording of such amendment.

4.12. Record Date. The Board of Directors shall fix in advance a record date for a determination of members entitled to notice of and to vote at any meeting of members or any adjournment thereof, or to make a determination of members for any other purpose, such date to be not more than seventy (70) days before the date on which the particular action requiring such determination of members is to be taken.

Article 5 Board of Directors

5.1. Directors Appointed by Declarant. The Declarant shall have the right to appoint and remove any member or members of the Board of Directors and any officer of the Association as provided in the Declaration. The directors and officers appointed by the Declarant need not be Owners or residents in the Condominium.

5.2. Number and Qualifications. During the period that the Declarant has the right to appoint and remove the officers and directors of the Association as provided above, the Board of Directors shall consist of one (1) to three (3) members as determined by Declarant in writing from time to time. Following expiration of the period of the Declarant's right to appoint and remove the officers and directors of the Association, the Board of Directors of the Association shall be composed of three (3) directors and at least one (1) director shall be the Owner of a Residential Unit and one (1) director shall be the Owner of a Commercial Unit. With the exception of those persons appointed as directors by the Declarant, each such person shall be a member of the Association or the representative of a member.

5.3. Election and Term of Office. Prior to the termination of the Declarant's right to appoint and remove the officers and directors of the Association, the Declarant shall give at least seven (7) days' written notice to each member of a special meeting of the members, to be held not more than ninety (90) days prior to the date of such termination, to elect a new board of directors. At such meeting, and at each annual meeting thereafter (or pursuant to Section 4.11 hereof) the Owners shall elect three (3) directors for a term of one (1) year each. Except in the case of death, resignation or removal, each director elected by the members shall serve until the next annual meeting and until a successor has been duly elected and qualified. Persons receiving the largest number of votes at any election of directors shall be elected whether or not such number constitutes a majority of the votes cast. Cumulative voting shall not be permitted. Notwithstanding anything herein to the contrary, following expiration of the period of the Declarant's right to appoint and remove the officers and directors of the Association, directors shall be elected from the Condominium hereunder so that in every year the Board shall be composed of at least one (1) director representing a Commercial Unit

and at least one (1) director representing a Residential Unit; provided, however, that in the event a qualified candidate for election to the Board from a particular type of Unit cannot be located, the director shall be elected from the Condominium at large without regard to the particular type of Unit which that director represents.

5.4. Removals; Vacancies. Following expiration of the period of the Declarant's right to appoint and remove the officers and directors of the Association, any director may be removed from the Board of Directors with or without cause, by a majority vote of the Owners. In the event of death or resignation of a director, a successor shall be selected by the remaining members of the Board of Directors. In the event of removal of a director, a successor shall be elected by the Owners. Any successor elected shall serve for the unexpired term.

5.5. Annual Organization Meeting. A meeting of the Board of Directors shall be held within ten (10) days following each annual meeting, at such time and place as shall be fixed by the newly elected directors at such annual meeting, and no notice shall be necessary in order legally to constitute such meeting.

5.6. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by the Board of Directors. Notice of the time and place of regular meetings shall be given to every director by mail, in person, by telephone, or by facsimile transmission at least three (3) days prior to the date of such meeting.

5.7. Special Meetings. Special meetings of the Board of Directors may be called by the President on two (2) days notice to every director given by mail, in person, by telephone, or by facsimile transmission, and stating the time, place and purpose of the meeting. Special meetings shall be called by the President or Secretary in like manner and on like notice on the written request of directors entitled to cast at least two (2) votes at such meetings.

5.8. Waiver of Notice; Action without Meeting. Any director may, at any time, in writing or by electronic transmission signed by the director entitled to the notice and delivered to the Association for inclusion in the minutes or filing with the Association's records, waive notice of any Board meeting, and such waiver shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any meeting of the Board of Directors need be specified in any written waiver of notice. Attendance by a director at any Board meeting shall also constitute a waiver of notice by such director of the time and place of such meeting unless the director at the beginning of the meeting (or promptly upon his or her arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote or assent to action taken at the meeting. If all directors are present at any Board meeting, no notice shall be required and any business may be transacted at such meeting. Any Board action required or permitted to be taken at any meeting may be taken without a meeting if a majority of the directors consent in writing or by electronic transmission to such action. Such consent(s) in writing or by electronic transmission must describe the action taken, be signed by no fewer than a majority of the directors, and be delivered to the Association for inclusion in the minutes for filing with the Association's records reflecting the action taken. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

5.9. Voting; Quorum of the Board; Adjournment of Meetings. At all meetings of the Board of Directors, each director shall be entitled to cast one vote. The presence in person of directors representing at least two-thirds (2/3) of the votes of the Board of Directors shall be a quorum at any Board of Directors meeting and a majority of the votes present and voting shall bind the Board of Directors and the Association as to any matter within the powers and duties of the Board of Directors. One or more directors who participate in a meeting by means of telephone or electronic communication shall be deemed present and in attendance for all purposes at such meeting, provided all persons participating in the meeting can hear each other. Directors may not participate in meetings by proxy.

5.10. Powers and Duties. The Board of Directors shall have the powers and duties necessary for administration of the affairs of the Association and may do all such acts and things except as by law or the Declaration may not be delegated to the Board of Directors by the Owners. In exercising its powers and duties, the Board of Directors shall take as its standard the maintenance of the general character of the Condominium as a mixed-use condominium in the quality of its maintenance, use and occupancy. Such powers and duties of the Board of Directors shall be exercised in accordance with and subject to all provisions of the Georgia Condominium Act, the Declaration and these Bylaws and shall include without limitation powers and duties to:

- (a) Operate, care for, maintain, repair and replace the Common Elements and employ personnel necessary or desirable therefor;
- (b) Determine common expenses of the Association;
- (c) Collect assessments from the Owners;
- (d) Adopt and amend rules and regulations covering the details of the operation and use of the Condominium;
- (e) Open bank accounts on behalf of the Association and designate the signatories required therefor;
- (f) Manage, control and otherwise deal with the Common Elements, including power to shut-off common services and other interruptions of the normal functioning of the buildings to facilitate performance of any maintenance or repair work or the making of additions, alterations or improvements by the Association or the Owners pursuant to provisions of the Declaration (The Board of Directors shall use reasonable efforts to minimize disruption to the use of Units by Owners and Occupants.);
- (g) Purchase, lease or otherwise acquire Units offered for sale or lease or surrendered by an Owner to the Association;
- (h) Own, sell, lease, encumber, and otherwise deal in, but not vote with respect to, Units owned by the Association;

- (i) Obtain and maintain insurance for the Condominium pursuant to the provisions of the Declaration;
- (j) Make additions and improvements to and alterations of the Common Elements;
- (k) Make repairs to and restoration of the Condominium after damage or destruction by fire or other casualty, or as a result of condemnation;
- (l) Enforce by any legal or equitable remedies available all obligations of the Owners to the Association. Such enforcement power shall include, without limitation, the power to levy fines against Owners for default in the performance of said obligations in such amounts as from time to time the Board of Directors may deem proper in the circumstances, counting each day a violation continues after notice from the Board of Directors as a separate violation;
- (m) Appoint accountants for the Association;
- (n) Employ a manager or managing agent for the Association;
- (o) Conduct litigation on behalf of the Association;
- (p) Make contracts in connection with the exercise of any of the powers and duties of the Board of Directors;
- (q) Prepare and adopt an annual budget, in which there shall be established the contribution of each Owner to the common expenses; and
- (r) Take all other actions the Board of Directors deems necessary or proper for the sound management of the Condominium and fulfillment of the terms and provisions of the Georgia Condominium Act and the Condominium Instruments.

The Board of Directors shall not be obligated to take any action or perform any duty requiring an expenditure of funds unless in its opinion it shall have sufficient available funds of the Association.

5.11. Borrowing. The Board of Directors shall have the power to borrow money without the approval of the members of the Association; provided, however, the Board shall obtain membership approval in the same manner as for special assessments, in the event that the total amount of such borrowing exceeds or would exceed Ten Thousand and No/100 Dollars (\$10,000.00).

5.12. Fining Procedure. The Board shall not impose a fine (a late charge shall not constitute a fine) unless and until the following procedure is followed:

(a) Written notice shall be delivered to the member by personal delivery at the Unit or first-class or certified mail sent to the address of the member shown on the Association's records, specifying:

(1) the nature of the violation, the fine to be imposed and the date, not less than ten (10) days or, in the event of an unapproved sign, twenty-four (24) hours, from the date of the notice, that the fine will take effect;

(2) that the violator may, within ten (10) days from the date of the notice or, in the event of an unapproved sign, twenty-four (24) hours from the date of the notice, request a hearing before the Board regarding the fine imposed;

(3) the name, address and telephone numbers of a person to contact to request a hearing;

(4) that any statements, evidence, and witnesses may be produced at the hearing; and

(5) that all rights to have the fine reconsidered are waived if a hearing is not requested within ten (10) days of the date of the notice or, in the event of an unapproved sign, twenty-four (24) hours from the date of the notice.

(b) If a hearing is requested, it shall be held before the Board in executive session, and the violator shall be given a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing. Except for the display of unapproved signs, the fine shall run from the date that a decision is made by the Board at the conclusion of the hearing or such later date as the Board may determine.

Article 6 Officers

6.1. Designation. The principal officers of the Association shall be the President, Secretary and Treasurer, all of whom shall be appointed by the Declarant for such time as provided in the Declaration. The Board of Directors may appoint Vice-Presidents, an Assistant Treasurer, an Assistant Secretary, and such other officers as in its judgment may be necessary. The President shall be a member of the Board of Directors. Any other officers may be, but shall not be required to be, members of the Board of Directors.

6.2. Election of Officers. After the expiration of the period of the Declarant's right to appoint and remove the officers and directors of the Association, the officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board of Directors and shall hold office at the pleasure of the Board of Directors. Any vacancy in an office shall be filled by the Board of Directors at a regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purpose.

6.3. Removal of Officers. Except for those officers appointed by Declarant, the Board of Directors may remove any officer, either with or without cause, and appoint a successor.

6.4. Multiple Offices. The offices of Vice-President, Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant hereto. This Section shall not apply to officers appointed by Declarant.

6.5. President. The President shall be the chief executive of the Association, shall preside at all meetings of the Owners and of the Board of Directors, and shall have all of the general powers and duties which are incident to the office of president of a corporation, including, but not limited to, the power to appoint committees from time to time as he may, in his sole discretion, deem appropriate to assist in the conduct of the affairs of the Association.

6.6. Vice President. The Vice President shall take the place of the President and perform those duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint another member of the Board of Directors to act in the place of the President on an interim basis. The Vice President shall also perform such other duties as shall, from time to time, be imposed by the Board of Directors or by the President.

6.7. Secretary. The Secretary shall keep the minutes of all meetings of the Owners and of the Board of Directors and shall have charge of such books and papers as the Board of Directors may direct and shall be responsible for authenticating records of the Association. The Secretary shall, in general, perform all the duties incident to the office of secretary of a corporation and such other duties as shall, from time to time, be imposed by the Board of Directors or by the President.

6.8. Treasurer. The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial statements; shall be responsible for the deposit of all monies and other valuable effects in the name of the Association, in such depositories as may from time to time be designated by the Board of Directors, and shall, in general, perform all the duties incident to the office of treasurer of a corporation and such other duties as shall, from time to time, be imposed by the Board of Directors or by the President.

6.9. Compensation. Unless otherwise expressly provided by the Board of Directors, no officer shall receive compensation from the Association for acting as such, but shall be entitled to reimbursement from the Association as a common expense for reasonable out-of-pocket disbursements made in the performance of official duties.

Article 7
Miscellaneous

7.1. Liability and Indemnification of Officers and Directors. To the extent allowed by the Georgia Nonprofit Corporation Code, the Association shall indemnify every officer and director against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer or director 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 such officer or director is made a party by reason of being or having been an officer or director, whether or not such person is an officer or director at the time such expenses are incurred. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, or for injury or damage caused by any such officer or director in the performance of Association duties, except for their own individual willful misfeasance or malfeasance. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association, and the Association, to the extent allowed by the Nonprofit Code, shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall, as a Common Expense, maintain adequate general liability insurance and, if reasonably obtainable, officers' and directors' liability insurance to fund this obligation.

7.2. Books and Records. The Association shall keep such books and records as required by law and shall make the same available for inspection by any Owner, any institutional holder of a first mortgage on a Unit, and their respective agents and attorneys, for any proper purpose at any reasonable time.

7.3. Conflicts. In the event of any conflict between the Declaration and these Bylaws, the Declaration shall control.

7.4. Fiscal Year. The fiscal year of the Association shall be the Calendar year, unless otherwise designated by the Board of Directors.

7.5. Electronic Records, Signatures and Documents. To the extent permitted by Georgia law, the Declaration and these Bylaws, the Association and its officers, directors and members, Owners and Occupants may perform any obligation or exercise any right by use of any technological means providing sufficient security, reliability, identification and verifiability, which technological means have been approved by the Board in its sole discretion.

7.6. Amendment. Except where a higher vote is required for action under any other provisions of these Bylaws, the Declaration or by the Act, in which case such higher vote shall be necessary to amend such provision, these Bylaws may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent, of the members of the Association holding sixty-seven (67%) percent or more of the Total Association Vote thereof. During the Development Period, any amendment to these Bylaws shall require the written consent of

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CATHELENE ROBINSON
Clerk of Superior Court
Fulton County, Georgia

Declarant. Notice of any meeting at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. Any member may evidence consent to any amendment in writing without the necessity of a meeting or to supplement votes received at a meeting. The consent of the requisite number of Owners to any amendment shall be evidenced by the execution of the amendment by said Owners, or, in the alternative, the sworn statement of the President or any Vice President or the Secretary of the Association attached to or incorporated in the amendment, which sworn statement states unequivocally that the consent of the required number of Owners was obtained and that any notices required by the Declaration, these Bylaws, the Articles of Incorporation and Georgia law were given. No amendment shall be effective until it is filed for record in the office of the Clerk of Superior Court of Fulton County, Georgia. Any amendment so certified and recorded shall be conclusively presumed to have been duly adopted. Owners whose voting rights have been suspended pursuant to the Declaration or these Bylaws shall not be counted toward the amendment requirement.

In addition to the foregoing, the Association, acting through the Board of Directors and without any further consent or action on the part of the members, may amend these Bylaws for those specific purposes permitted under Georgia law.

Any action to challenge the validity of an amendment adopted under this Section must be brought within one (1) year after the recording of the amendment in the Office of the Clerk of Superior Court of Fulton County. No action to challenge such amendment may be brought after such time.