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DECLARATION OF CONDOMINIUM
FOR
EASTLAND GATES CONDOMINIUM
DEKALB COUNTY, GEORGIA

CONDOMINIUM PLAT RECORDED AT CONDOMINIUM PLAT BOOK 170, PAGE 109

CONDOMINIUM PLANS RECORDED IN CONDOMINIUM PLANS CABINET 170, PAGE 113

RECIPROCAL EASEMENT AGREEMENT BETWEEN THE PROVIDENCE GROUP AT EASTLAND,
L.L.C. AND EAST ATLANTA VENTURES, L.L.C. RECORDED AT DEED BOOK 17888, PAGE 188, ET SEQ.

DECLARATION OF CONDOMINIUM

TABLE OF CONTENTS

1. NAME2

2. DEFINITIONS2

3. LOCATION AND DESCRIPTION OF THE PROPERTY.....4

4. UNITS AND BOUNDARIES5

5. COMMON ELEMENTS6

6. LIMITED COMMON ELEMENTS.....7

7. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES8

8. ALLOCATION OF LIABILITY FOR COMMON EXPENSES8

9. ASSOCIATION RIGHTS AND RESTRICTIONS.....9

10. ASSESSMENTS.....10

11. INSURANCE14

12. REPAIR AND RECONSTRUCTION.....18

13. ARCHITECTURAL CONTROLS19

14. USE RESTRICTIONS.....21

15. LEASING29

16. SALE OF UNITS32

17. MAINTENANCE RESPONSIBILITY32

18. MORTGAGE HOLDER’S RIGHTS.....36

19. GENERAL PROVISIONS37

20. EMINENT DOMAIN.....39

21. EASEMENTS.....40

22. AMENDMENTS42

23. SEVERABILITY.....42

24. CONDOMINIUM EXPANSION42

25. DISPUTE RESOLUTION AND LIMITATION ON LITIGATION.....44

26. PREPARER47

DECLARATION OF CONDOMINIUM
FOR
EASTLAND GATES CONDOMINIUM

This Declaration is made on the date set forth below by **The Providence Group at Eastland, L.L.C.**, a Georgia limited liability company, for the purpose of submitting the Property, as defined below, to the Georgia Condominium Act.

1. NAME.

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

2. DEFINITIONS.

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

- a) Act shall mean the Georgia Condominium Act, O.C.G.A. §44-3-70, et seq., as such act may be amended from time to time.
- b) Additional Property shall mean all interests, rights and title to the property, or any portion of the property, described in Exhibit "B" attached hereto and incorporated herein, including, without limitation, all improvements, buildings, structures, fixtures, equipment, machinery and apparatus located thereon, and all hereditaments and appurtenances thereto.
- c) Architectural Control Committee or ACC shall mean the committee established to exercise the architectural review powers set forth in Paragraph 13 hereof.
- d) Area of Common Responsibility shall mean and refer to the Common Elements, together with those areas, if any, which by the terms of this Declaration or by contract or agreement with any other person or entity become the responsibility of the Association. The Area of Common Responsibility specifically includes, but is not limited to, all obligations of the Association under the terms of the Reciprocal Easement Agreement.
- e) Articles or Articles of Incorporation shall mean the Articles of Incorporation of the Association, which have been filed with the Secretary of State of the State of Georgia.

- f) Association shall mean Eastland Gates Condominium Association, Inc., a Georgia nonprofit corporation, its successors or assigns.
- g) Board or Board of Directors shall mean the elected body responsible for management and operation of the Association.
- h) Bylaws shall mean the Bylaws of the Association, attached to this Declaration as Exhibit "D" and incorporated herein by this reference.
- i) Common Elements shall mean those portions of the property subject to this Declaration which are not included within the boundaries of a Unit, as more particularly described in this Declaration.
- j) Common Expenses shall mean the expenses incurred or anticipated to be incurred by the Association for the general benefit of the Condominium, including, but not limited to those expenses incurred for maintaining, repairing, replacing, and operating the Area of Common Responsibility.
- k) Condominium shall mean all that property described in Exhibit "A" attached hereto and incorporated herein by this reference, submitted to the provisions of the Act by this Declaration, together with all or such portions of the property described on Exhibit "B" hereto that are submitted to the provisions of the Act and this Declaration by a duly executed and recorded amendment to this Declaration (also referred to herein as "Property").
- l) Condominium Instruments shall mean this Declaration and all exhibits to this Declaration (including the Bylaws of the Association), the Articles, the Reciprocal Easement Agreement, the Plat and the Plans, all as may be supplemented or amended from time to time.
- m) Declarant shall mean The Providence Group at Eastland, L.L.C., a Georgia limited liability company, which is the owner of the Property and has executed this Declaration. The term "Declarant" includes any successor-in-title thereto who comes to stand in the same relation to the Condominium as the Declarant, specifically including any Person who acquires the Declarant's interest pursuant to the foreclosure of a deed to secure debt or similar instrument encumbering Declarant's interest in the Property. From the time of the recordation of any amendment to the Declaration expanding this Condominium, all persons who execute that amendment or on whose behalf that amendment is executed, as required by the Act, shall also come within this definition. This term does not include, in its capacity as such, any mortgagee, any lien holder, any person having an equitable interest under any contract for the sale and/or lease of a Unit, or any occupant of a Unit under a lease.
- n) Limited Common Elements shall mean a portion of the Common Elements reserved for the exclusive use of those entitled to occupy one (1) or more, but less than all, Units, as more particularly set forth in this Declaration.

- o) Majority means those eligible votes, Owners, or other group, as the context may indicate, totaling more than fifty (50%) percent of the total eligible number.
- q) Mortgage shall refer to any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation, including, but not limited to, a transfer or conveyance of fee title for such purpose.
- r) Mortgage Holder shall mean the holder of any Mortgage.
- s) Occupant shall mean any Person occupying all or any portion of a Unit for any period of time, regardless of whether such Person is a tenant or the Owner of such Unit.
- t) Owner shall mean the record title holder of a Unit within the Condominium, but shall not include a Person who is only a Mortgage Holder.
- u) Person shall mean any individual, corporation, firm, association, partnership, trust, or other legal entity.
- v) Plans shall mean the floor plans for Eastland Gates Condominium filed in the Dekalb County, Georgia condominium plan records as set forth on the cover page of this Declaration, together with any plans of any units located on any of the Additional Property submitted to this Declaration, and any additions, revisions and amendments thereto, as may be filed for record.
- w) Plat shall mean the plat of survey for Eastland Gates Condominium filed in the Dekalb County, Georgia condominium plat records as set forth on the cover page of this Declaration, and any plats showing the addition of any of the Additional Property submitted to this Declaration, and any revisions and amendments thereto, as may be filed for record.
- x) Reciprocal Easement Agreement shall mean the Reciprocal Easement Agreement between The Providence Group at Eastland, L.L.C. and East Atlanta Ventures, L.L.C. recorded in the Dekalb County, Georgia Records at the deed book and page indicated on the cover page of this Declaration.
- y) Unit shall mean that portion of the Condominium intended for individual ownership and use as more particularly described in this Declaration and shall include the undivided ownership in the Common Elements assigned to the Unit by this Declaration.

3. LOCATION AND DESCRIPTION OF THE PROPERTY.

The Condominium subject to this Declaration and the Act is located in Land Lots 143 and 144 of the 15th District, Dekalb County, Georgia, being more particularly described in Exhibit "A" attached to this Declaration, which exhibit is specifically incorporated herein by this reference. The Plat and Plans relating to the Condominium will be filed in the Dekalb County, Georgia records as each Unit is submitted to this Declaration. The Declarant has the right to file additional plats and plans from time to time as necessary or appropriate to further describe the

Units, to correct incorrect plats or plans, or to comply with the Act. The Plat and Plans are incorporated herein by reference as fully as if the same were set forth in their entirety herein.

So long as Declarant owns a Unit, Declarant reserves the right, but shall have no obligation, to make improvements and changes to all or part of the Common Elements, Limited Common Elements, and the Units owned by Declarant (other than changes to the location of Unit boundaries unless expressly permitted herein), and to perform and/or exercise Declarant's and the Association's rights and obligations under the Reciprocal Easement Agreement including, without limitation, the right to align or realign parking spaces and parking areas, install or change utility systems and facilities, rearrange and install security and refuse facilities and perform work relating to building exteriors.

4. UNITS AND BOUNDARIES.

- a) Number of Units. The Units initially being submitted to the Condominium are delineated on the Plat and Plans. Each Unit consists of a dwelling and its appurtenant percentage of undivided interest in the Common Elements. Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the Act and the Condominium Instruments. If Declarant expands the Condominium pursuant to the Paragraph entitled "Condominium Expansion" set forth below to include all or part of the Additional Property, then the Condominium shall contain no more than two hundred five (205) residential Units. The exact number of additional Units and the identifying numbers shall be specified in the Amendment(s) executed and recorded by Declarant submitting all or portions of the Additional Property from time to time. After the recordation of the above amendment(s), all Units located in the portion of the Additional Property submitted thereby shall become Units in the Condominium and the portion(s) of the Additional Property submitted by said amendment(s) shall become part of the Property as defined above.
- b) Boundaries of the Units. 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 boundaries of each of the Units and any additional Units are as follows:
 - (i) Horizontal (upper and lower) Boundaries. The upper horizontal boundary of each Unit is the unexposed surface of the finished sheetrock that creates the ceiling of the uppermost story(ies) of such Unit. The lower horizontal boundary of each Unit is the material abutting the subfloor or slab that creates the lowermost story(ies) of such Unit. The subfloor (including the wood layer and the light-weight concrete layer, if any) or slab that creates the lowermost story(ies) of such Unit is part of the Common Elements and is specifically excluded.

- (ii) Vertical (lateral) Boundaries. The vertical boundaries of the Units are the unexposed surface of the finished sheetrock that forms the vertical walls of the Units.

All interior finished surfaces of all perimeter walls, floors and ceilings of a Unit, including the dry-wall, plaster, carpeting and carpet pad, hardwood flooring, other surface flooring and other material creating the finished visible surfaces of the walls, floors or ceilings, are specifically included within the boundaries of a Unit.

All entry doors and windows, including the frames for such items, shall be Limited Common Elements and are specifically excluded.

Heating and air conditioning systems serving a single Unit (including any part of any such system located outside the boundaries of the Unit), all duct work for heating and air conditioning systems and all interior partitions, appliances, fixtures and improvements within a Unit shall be part of the Unit.

If any chutes, flues, ducts, conduits, wires, pipes, sewer drains, water services or meters or other apparatus lie partially within and partially outside of the designated boundaries of the Unit, any portion thereof which serves only that Unit shall be deemed to be a part of that Unit, while any portions thereof which serves more than one Unit or any portion of the Common Elements shall be deemed a part of the Common Elements.

In interpreting deeds and plans, the existing physical boundaries of a Unit as originally constructed, or 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 Plans, 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.

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

5. COMMON ELEMENTS.

The Common Elements consist of all portions of the Condominium not located within the boundaries of a Unit.

Ownership of the Common Elements shall be by the Unit Owners as tenants-in-common. The percentage of undivided interest in and to the Common Elements attributable to each Unit shall be the percentage set forth on Exhibit "C" attached hereto and incorporated herein by this

reference. If Declarant expands the Condominium to include any portion of the Additional Property, then the undivided interest in the Common Elements allocated to each Unit shall be reallocated by the Board of Directors and the Declarant so that each Unit in the Condominium, after the addition of the portion of the Additional Property, shall have an undivided interest in the Common Elements equal to the percentage interest of similar Units with similar heated square footage, and the undivided interest of each Unit, including additional Units, shall be contained in a table recorded with the amendment adding such Additional Property to the Condominium.

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 for the Limited Common Elements or as otherwise provided herein, each Owner and the Association may use the Common Elements for the purposes for which they are intended, but no such use shall enter or encroach upon the lawful rights of the other Owners.

6. LIMITED COMMON ELEMENTS.

- a) The Limited Common Elements located on the Condominium and the Unit(s) to which they are assigned are:
- (i) all windows, window wells, exterior doors, garage doors, stoops and doorsteps (and attached iron or wooden rails) designed to serve a single Unit, any shutters, front stoops and porches and window boxes attached to the exterior of a Unit, and any patio, courtyard, porch, deck or terrace area adjoining a Unit and reasonably accessible only from such Unit is assigned as a Limited Common Element to the Unit(s) to which it is connected;
 - (ii) the portion of the Common Elements on which there is located any portion of the air conditioning or heating system exclusively serving a particular Unit or Units is assigned as a Limited Common Element to the Unit or Units so served;
 - (iii) any utility meter which serves only one Unit is assigned as a Limited Common Element to the Unit so served;
 - (iv) the driveway located directly in front of the garage portion of each Unit is assigned as a Limited Common Element to the Unit in front of which it is located; and
 - (v) any mailbox or mail slot assigned to a Unit is a Limited Common Element to the Unit to which it is assigned.
- b) The Association's Board of Directors, without need for a membership vote, is hereby authorized to assign and to reassign Limited Common Elements, provided that such assignment or reassignment shall be made in accordance with the provisions of Section 44-3-82 of the Act. A Common Element not previously assigned as a Limited Common Element may be so assigned and a Limited Common Element may be reassigned by the Board, without the need for a vote of the Association, upon

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

7. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES.

All Unit Owners, by virtue of their ownership of a fee or undivided fee interest in any Unit in the Condominium, excluding Persons holding such interest under a Mortgage, are members of the Association, and, except as otherwise provided herein or in the Bylaws, shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to the Declaration and in accordance with the Bylaws. Subject to the provisions of the Condominium Instruments, each Owner shall be entitled to one (1) vote for each Unit in which he or she holds the interest required for membership. If the Declarant expands the Condominium to include any portion of the Additional Property, then the vote allocated to each Unit shall be reallocated so that the Owner of each Unit in the Condominium after the addition of the portion of the Additional Property shall be entitled to (1) vote.

8. ALLOCATION OF LIABILITY FOR COMMON EXPENSES.

- a) Except as provided below, or elsewhere in the Act or Condominium Instruments, the amount of all Common Expenses shall be assessed against all the Units in accordance with the percentage of undivided interest in the Common Elements appurtenant to the Unit as set forth in Section 5 hereof. If the Declarant expands the Condominium to include any portion of the Additional Property, then the liability for Common Expenses allocated to each Unit hereof shall be reallocated so that each Unit in the Condominium, after the addition of the portion of the Additional Property, shall be liable for Common Expenses based upon the assessments set forth by the Board of Directors and Declarant for like Units equal to the set ratios of each such Unit, including additional Units. New Units' assessments shall be based upon the assessments and ratios set by the Board of Directors and Declarant for the Units.
- b) The Board of Directors shall have the power to assess specially pursuant to this Paragraph and to Section 44-3-80(b) of the Act as, in its discretion, it shall deem appropriate. Failure of the Board of Directors to exercise its authority under this Paragraph shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Paragraph in the future with respect to any expenses, including an

expense for which the Board has not previously exercised its authority under this Paragraph.

- (i) Any Common Expenses benefiting less than all of the Units or significantly disproportionately benefiting all Units may be specially assessed equitably among all of the Units which are benefited according to the benefit received.
- (ii) Other than for Limited Common Elements expressly designated as such herein, expenses incurred for the maintenance, repair, or replacement of the Area of Common Responsibility shall not be specially assessed.
- (iii) Any Common Expenses occasioned by the conduct of less than all of those entitled to occupy all of the Units or by the Occupant(s), licensees or invitees of any such Unit or Units may be specially assessed against such Unit or Units.
- (iv) Other than for Limited Common Elements expressly designated as such herein, nothing contained in subparagraphs (i) and (ii) above shall permit the Association to specially or disproportionately allocate Common Expenses for the periodic maintenance, repair and replacements of any portion of the Common Elements or the Units which the Association has the obligation to maintain, repair or replace.

9. ASSOCIATION RIGHTS AND RESTRICTIONS.

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

- a) to enter the Units for maintenance, emergency, security, or safety purposes, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. This right shall extend to correct, repair and replace any water meter reading devices or fire sprinklers located in a Unit. Except in an emergency situation, entry shall be only during reasonable hours and after reasonable notice to the Owner or Occupant of the Unit;
- b) to make and to enforce reasonable rules and regulations governing the use of the Condominium, including the Units, Limited Common Elements and Common Elements;
- c) to enforce use restrictions, other Declaration and Bylaws provisions, and rules and regulations by the imposition of reasonable monetary fines, suspension of use and voting privileges, and the exercise of self-help (specifically including but not limited to the towing of vehicles that are in violation of the parking rules and regulations), all as provided in Section 44-3-76 of the Act, as amended, and all to the fullest extent permitted under the law and in equity;

- d) to grant permits, licenses, right of way, utility easements, and other easements;
- e) to control, manage, operate, maintain, improve and replace all portions of the Area of Common Responsibility;
- f) to act on behalf of and in the name of the Condominium in the event of damage or destruction as a result of casualty loss, condemnation or eminent domain, in accordance with the provisions of the Act and this Declaration;
- g) to acquire, hold, and dispose of tangible and intangible personal property and real property;
- h) to close permanently or temporarily any portion of the Common Elements (excluding the Limited Common Elements) with thirty (30) days prior notice to all Owners, except that, in emergency situations requiring a temporary closing, prior notice shall not be required so long as notice is given within three (3) days after the closing explaining the reason for the closing. Notwithstanding the above, the Owners may re-open closed Common Elements by a majority of the total Association vote, cast at a duly called special or annual meeting;
- i) to establish a construction deposit in a reasonable amount determined by the Board of Directors to be paid by all Owners making modifications, alterations or additions to their Units in order to protect the Condominium against damage due to the transportation and use of construction materials in the Condominium. Costs for repair of such damage may be deductible from the construction deposit and any additional expenses may be specifically assessed against the Unit under subparagraph 8(b) (ii) above; and
- j) to exercise reasonable business judgment in the decision to pursue enforcement action in any particular case, without waiver of the Association's right to enforce the same provision at a later time under other circumstance or preclude the Association from enforcing any other covenants, restriction or rule.

10. ASSESSMENTS.

- a) Purpose of Assessment. The Association shall have the power to levy assessments as provided herein and in the Act. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of Units in the Condominium as may be more specifically authorized from time to time by the Board.
- b) Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Unit, by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges; (ii) special assessments, such assessments to be established and collected as hereinafter provided; and (iii) specific assessments against any particular Unit which are established pursuant to the terms of this Declaration,

including but not limited to reasonable fines imposed in accordance with the terms of this Declaration.

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

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

- c) Delinquent Assessments. All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner shall be in default.
- (i) If any monthly installment of annual assessments or any part thereof is not paid in full by the tenth (10th) day of the month or if any other charge is not paid within ten (10) days of the due date, a late charge equal to the greater of ten (\$10.00) dollars or ten (10%) percent of the amount not paid, or such higher amounts as may be authorized by the Act, may be imposed without further notice or warning to the delinquent Owner and interest at the rate of ten (10%) percent per annum or such higher rate as may be permitted by the Act shall accrue from the due date.
 - (ii) If part payment of assessments and related charges is made, the amount received may be applied first to costs and attorney's fees, then to late charges, then to interest, then to delinquent assessments, and then to current assessments.
 - (iii) If assessments, fines or other charges or any part thereof due from an Owner remain delinquent and unpaid for a period greater than fifteen (15) days from the date due, a notice of delinquency may be given to that Owner stating that if the assessment, fine or charge remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board of Directors may accelerate and declare immediately due all of that Owner's unpaid installments of the annual assessment and of any special assessment. If an Owner fails to pay all assessments and related charges

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

- (iv) If assessments and other charges or any part thereof remain unpaid more than thirty (30) days after the assessment payments first become delinquent, the Association, acting through the Board of Directors, may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the Bylaws, the Act and Georgia law and suspend the Owner's and/or Occupant's right to vote and the right to use the Common Elements; provided, however, the Board may not limit ingress or egress. Enforcement under this subparagraph is not dependent upon or related to other restrictions and/or other actions.
- (v) If any assessment or other charge is delinquent for thirty (30) days or more, in addition to all other rights provided in the Act and herein, the Association shall have the right upon ten (10) days written notice, and in compliance with any requirements set forth in the Act, to suspend any utility services, the cost of which are an Association Common Expense, including, but not limited to, water, electricity, heat, air conditioning and cable television, to that Unit until such time as the delinquent assessments and all costs permitted under this Paragraph including reasonable attorney's fees, are paid in full. Any costs incurred by the Association in discontinuing and/or reconnecting any utility service, including reasonable attorney's fees, shall be an assessment against the Unit.

Notwithstanding the above, the Board may suspend water, electricity, heat, air conditioning or cable television service paid for as an Association Common Expense only to the extent permitted by applicable law after a final judgment in a minimum amount as required by the Act is obtained in favor of the Association from a court of competent jurisdiction, the Association provides the notice required to be provided by the institutional provider of such service prior to suspension of such service, and the Association complies with any other requirements of O.C.G.A §44-3-76. The utility services shall not be required to be restored until all judgments and any reasonable utility provider charges or other reasonable costs incurred in suspending and restoring such services are paid in full, at which time the Association shall direct the utility provider to restore the service.

- d) Computation of Operating Budget and Assessment. Prior to the beginning of the Association's fiscal year, it shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Condominium during the coming year. The Board shall cause the budget and notice of the assessments to be levied against

each Unit for the following year to be delivered to each member at least thirty (30) days prior to the Association's annual meeting. The budget and the assessment shall become effective unless disapproved at a duly called and constituted annual meeting of the Association by a vote of a majority of the total Association vote; provided, however, if a quorum is not obtained at the annual meeting, the budget shall become effective even though a vote to disapprove the budget could not be called at this meeting.

Notwithstanding the foregoing, in the event that the membership disapproves the proposed budget or the Board fails for any reason to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the current year, as increased by a percentage equal to the annual rate of inflation as measured by the Consumer Price Index for All Urban Consumers for the immediately preceding 12-month period, shall continue for the succeeding year. In such case, the Board may propose a new budget at any time during the year at a special meeting of the Association. The proposed budget and assessment shall be delivered to the members at least thirty (30) days prior to the proposed effective date thereof and at least seven (7) days prior to the special meeting. The approval procedure set forth above for budgets considered at annual meetings shall also apply to budgets considered at special meetings.

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

- e) Special Assessments. In addition to the annual assessment provided for in subparagraph (b) above, the Board, at any time, and in addition to any other rights it may have, may levy a special assessment against all Owners, notice of which shall be sent to all Owners. Any special assessment (except as provided in Paragraph 8(b) regarding the power to assess specially pursuant to Section 44-3-80(b) of the Act and Paragraph 12(b) herein, regarding repair or reconstruction of casualty damage to or destruction of all or part of the Condominium) which would cause the average total of special assessments levied in one fiscal year to exceed the amount allowed per Unit pursuant to Section 44-3-80(g)(2) of the Act shall be approved by a majority of the total Association vote prior to becoming effective.
- f) Capital Budget and Contribution. The Board of Directors shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by equal annual assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within the budget and assessment as provided in subparagraph (d) of this Paragraph. A copy of the capital budget shall be distributed to each member in the same manner as the operating budget.

Notwithstanding any other provisions of this Declaration, during the time the Declarant appoints the directors and officers of the Association pursuant to Article III, Section 2 of the Bylaws, Declarant shall not be required to prepare a capital budget, set any other capital contribution, or otherwise collect amounts for capital reserves. Any capital contribution collected by the Association shall not be collected against a Mortgagee which takes title to a Unit pursuant to foreclosure.

- g) Statement of Account. Any Owner, Mortgagee, Person having executed a contract for the purchase of a Unit, or lender considering a loan to be secured by a Unit, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against a Unit. The Association shall respond in writing within five (5) days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding such 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 herein.
- h) Surplus Funds and Common Profits. Pursuant to Section 44-3-108 of the Act, common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common profits to the payment of Common Expenses shall, at the option of the Board of Directors, either be distributed to the Owners or credited to the next assessment chargeable to the Owners in proportion to the liability for Common Expenses attributable to each Unit, or added to the Association's reserve account.
- i) Working Capital Fund. The Association shall have a working capital fund to meet unforeseen expenditures or to purchase any additional equipment or services. The initial working capital fund shall be equal to two (2) months of the estimated assessments for common expenses for each Unit and shall be collected at the time the sale of a Unit by Declarant is closed. The amounts paid into the working capital fund shall not be an advance payment of regular assessments.

11. INSURANCE.

The Association shall obtain and maintain at all times, as a Common Expense, insurance as required by Section 44-3-107 of the Act, as amended, and as required herein, and if and to the extent necessary, such other insurance as is required by the Federal National Mortgage Association ("Fannie Mae"), Federal Home Loan Mortgage Corporation ("Freddie Mac"), the Department of Housing and Urban Development ("HUD") or the Veterans Administration ("VA").

To the extent available at reasonable cost, the Association's insurance policy shall cover the property contained within a Unit, as built to the specifications of the original sales contract of such Unit, including fixtures, improvements and alterations that are a part of the building or structure, and appliances, such as those used for refrigerating, ventilating, cooking, dishwashing, laundering, security or housekeeping. As determined by the Board of Director's in its sole

discretion, the Association's insurance policy shall exclude the following: (a) improvements and betterments made by the Unit Owner; (b) the finished surfaces of perimeter and partition walls, floors, and ceilings within the Units (i.e., paint, wallpaper, paneling, tile, carpet, and any wall or floor covering not a part of the original sales contract of such Unit.); and (c) structures covered by builder's risk insurance.

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

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

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

- a) The Board of Directors shall utilize reasonable efforts to secure a blanket hazard insurance policy providing "all risk" coverage in an amount equal to full replacement cost, before application of deductibles, of all improvements located on the condominium property. If "all risk" coverage is not reasonably available at reasonable cost, the Board shall obtain, at a minimum, fire and extended coverage, including coverage for vandalism and malicious mischief, in like amounts. The Board of Directors shall use reasonable efforts to obtain policies that will provide the following:
 - (i) the insurer waives its rights of subrogation of any claims against directors, officers, the managing agent, the individual Owners, Occupants, and their respective household members;
 - (ii) any "other insurance" clause contained in the master policy shall expressly exclude individual Unit Owners' policies from its operation;
 - (iii) until the expiration of thirty (30) days after the insurer gives notice in writing to the Mortgagee of any Unit, the Mortgagee's insurance coverage will not be affected or jeopardized by any act or conduct of the Owner of such Unit, the other Unit Owners, the Board of Directors, or any of their

agents, employees, or household members, nor be canceled for nonpayment of premiums;

Deed Book 18993 Pg 720

- (iv) the policy may not be canceled, substantially modified, or subjected to non-renewal without at least thirty (30) days prior notice in writing to the Board of Directors and all Mortgagees of Units;
 - (v) an agreed value endorsement and an inflation guard endorsement;
 - (vi) the deductible amount allocated to any one Unit Owner shall not exceed the deductible amount allowable per casualty loss as required by the Act;
 - (vii) any Insurance Trust Agreement will be recognized; and
 - (viii) the Association policy will be primary, even if a Unit Owner has other insurance that covers the same loss.
- b) All policies of insurance shall be written with a company licensed to do business in the State of Georgia and, if reasonably available, shall carry a "B+" or better rating from A. M. Best Company. The company shall provide insurance certificates to each Owner and each Mortgagee upon request.
- c) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- d) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Unit Owners or their Mortgage Holders. Each Unit Owner shall notify the Board of Directors of all structural improvements made by the Unit Owner to his or her Unit.
- e) In addition to the insurance required hereinabove, the Board shall obtain as a Common Expense:
- (i) worker's compensation insurance, if and to the extent necessary, to meet the requirements of law;
 - (ii) public liability insurance in amounts no less than required by Section 44-3-107 of the Act, as amended, and officers' and directors' liability insurance in such amounts as the Board may determine;
 - (iii) fidelity bonds, if reasonably available, covering officers, directors, employees, and other persons who handle or are responsible for handling Association funds. Such bonds, if reasonably available, shall be in an amount consistent with the best business judgment of the Board of Directors, but in no event less than three (3) month's assessments plus a reasonable amount to cover all or a reasonable portion of reserve funds in

the custody of the Association at any time during the term of the bond; provided, however, fidelity coverage herein required may be reduced based on the implementation of financial controls which take one or more of the following forms: (a) the Association or management company, if any, maintains a separate bank account for the working account and the reserve account, each with appropriate access controls and the bank in which funds are deposited sends copies of the monthly bank statements directly to the Association; (b) the management company, if any, maintains separate records and bank accounts for each association that uses its services and the management company does not have the authority to draw checks on, or to transfer funds from, the Association's reserve account; or (c) two (2) members of the Board of Directors must sign any checks written on the reserve account;

- (iv) such other insurance as the Board of Directors may determine to be necessary.
- f) Insurance carried by the Association as a Common Expense shall not be required to include any part of a Unit which is not depicted on the original plats and plans or included in the original Mortgage, nor shall the Association include public liability insurance for individual Owners for liability arising within the Unit.
- g) Nothing contained herein gives any Owner or other party a priority over the rights of first Mortgagees as to distribution of insurance proceeds. Any insurance proceeds payable to the Owner of a Unit on which there is a Mortgagee endorsement shall be disbursed jointly to such Unit Owner and the Mortgagee. This is a covenant for the benefit of any such Mortgagee and may be enforced by any such Mortgagee.
- h) Every Unit Owner covenants and agrees with all other Owners and with the Association that each Owner shall maintain at all times insurance covering those portions of his or her Unit to the extent not insured by policies maintained by the Association, as well as a liability policy covering damage or injury occurring in or on such Unit. The Board has the right, but not the obligation, to require the Unit Owner to furnish a copy of such insurance policy or policies to the Association. In the event that any such Unit Owner fails to obtain insurance as required by this subparagraph, the Association has the right, but not the obligation, 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 this Declaration.
- i) In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the person or persons who would be responsible for such loss in the absence of insurance. If the loss affects more than one Unit or a Unit and the Common Elements, the cost of the deductible may be apportioned equitably by the Board among the parties suffering loss in proportion to each affected Owner's portion of the total cost of repair. Notwithstanding this, if the insurance policy provides that the deductible will apply to each Unit separately or to each occurrence, each Unit Owner shall be responsible for paying the deductible pertaining

to his or her Unit, if any. If any Owner or Owners fail to pay the deductible when required under this subparagraph, then the Association may pay the deductible and assess the cost to the Owner or Owners pursuant to Paragraph 8 of this Declaration; provided, however, where the deductible is for the insurance required under the Act, no Unit Owner shall be assigned an amount that exceeds that which is provided for in the Act, as the cost of the deductible for any one casualty loss.

12. REPAIR AND RECONSTRUCTION.

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

- a) Cost Estimates. Immediately after a fire or other casualty causing damage to the Condominium, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring the structures (including any damaged Unit) to substantially the condition which existed before such casualty, allowing for the changes or improvements necessitated by changes in applicable building codes. Such costs may also include professional fees and premiums for such bonds as the Board of Directors determines to be necessary.
- b) Source and Allocation of Proceeds. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, as determined by the Board of Directors, 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 Owners of the Unit(s) damaged in proportion to the damage to the Units or against all Owners, in the case of insufficient funds to cover damage to the Common Elements. This assessment shall not be considered a special assessment as discussed in Paragraph 10(e). If after repair and reconstruction is completed there is a surplus of funds, such funds shall be common funds of the Association to be used as directed by the Board of Directors.
- c) 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 of Directors.
- d) 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 Unit Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the

architectural plans under which the Condominium was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the reconstructed building shall stand.

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

13. ARCHITECTURAL CONTROLS.

- a) During Declarant Sales Period. Until such time as the Declarant no longer owns any of the Condominium Units, there shall be no Architectural Control Committee and all encroachments onto the Common Elements or Limited Common Elements, any change, alteration or construction in or on any Unit (other than re-painting or redecoration of the interior surface of a Unit), and any erection, placement or posting of any object, sign, antenna, stereo speaker, clothesline, light, flag, or thing on the exterior of any Unit, in any windows (except window treatments as provided herein), or on any Limited Common Elements or any Common Elements, that is desired to be made or done by any person other than Declarant must receive the prior written approval of the Declarant. Granting or withholding such approval shall be within the sole discretion of the Declarant.
- b) After Declarant Sales Period. At such time as the Declarant no longer owns any of the Condominium Units, an Architectural Control Committee shall be appointed by the Board of Directors and, except for the Declarant, no Owner, Occupant, or any other person may make any encroachment onto the Common Elements or Limited Common Elements, or make change, alteration, or construction in or on any Unit (other than re-painting or redecoration of the interior surface of a Unit), nor erect, place or post any object, sign, antenna, stereo speaker, clothesline, playground equipment, light, fountains, flags, or thing on the exterior of any Unit, in any windows (except window treatments as provided herein), on any Limited Common Elements, or on any other Common Elements, without first obtaining the written approval of the ACC. 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.

No Owner or Occupant may make any alteration within a Unit which involves connecting to Common Element pipes, lines, conduits and/or other apparatus of access to common utilities (including but not limited to the installation of washers and dryers and the moving or alteration of any lighting or electrical outlet on any horizontal or vertical boundary of a Unit) without prior written ACC approval. No

Owner or Occupant shall breach any horizontal or vertical boundary of a Unit, make any interior modifications to any structural or load bearing portions of a Unit, or make any alteration that would impair the fire protection rating of the Condominium. Interior modifications may only be made in accordance with any construction guidelines as may be adopted by the ACC. All building code requirements must be complied with and necessary permits and approvals secured for any modifications.

- (i) Applications. Application for approval of any such architectural modification 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 may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction which is not in conformance with approved plans. The Board or ACC may publish written architectural standards for exterior and Common Element alterations or additions, and any request in substantial compliance therewith shall be approved; provided, however, each such requested change shall be in harmony with the external design of the existing buildings and Units and the location in relation to surrounding structures and topography of the vicinity.

Subject to this subparagraph (i), the Board may allow such encroachments on the Common Elements and Limited Common Elements as it deems acceptable. In the event that the ACC fails to approve or to disapprove such application within forty-five (45) days after the application and all information as the ACC may reasonably require have been submitted, its approval will not be required and this subparagraph (i) will be deemed complied with; provided, however, even if the requirements of this subparagraph are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement that is otherwise in violation of the Declaration, the Bylaws, or the rules and regulations.

- (ii) Condition of Approval. As a condition of approval for a requested architectural change, modification, addition, or alteration, an Owner, on behalf of himself or herself and his or her successors-in-interests, shall assume all responsibilities for maintenance, repair, replacement and insurance of such change, modification, addition, or alteration. In the discretion of the Board or ACC, an Owner may be made to verify such condition of approval by written instrument in recordable form acknowledged by such Owner on behalf of himself or herself and all successors-in-interest.
- (iii) Limitation of Liability. Review and approval of any application pursuant to this Paragraph is made on the basis of aesthetic considerations only, and neither the Declarant, the Board of Directors nor the ACC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes and other governmental requirements. Neither the

Declarant, the Association, the Board of Directors, the ACC, nor any member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Unit.

- (iv) No Waiver of Future Approvals. Each Owner acknowledges that the members of the Board of Directors and ACC will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. The approval of either the Board of Directors or the ACC of any proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Board of Directors or the ACC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.
- (v) Enforcement. Any construction, alteration, or other work done in violation of this Paragraph shall be deemed to be nonconforming. Upon written request from the Board or the ACC, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the Board or its designees shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs thereof, including reasonable attorney's fees, may be assessed against the benefited Unit and collected as an assessment pursuant to this Declaration.

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

14. USE RESTRICTIONS.

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

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

- a) Use of Units. Each Unit shall be used primarily for residential purposes, and no trade or business of any kind may be conducted in or from a Unit or any part of the Condominium, including business uses ancillary to a primary residential use, except as provided herein. An Owner or Occupant residing in a Unit zoned for residential use may conduct such 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 the exterior of the Unit; (ii) the business activity is limited to and conforms to all other zoning requirements for home operations; (iii) the business activity does not involve unreasonable visitation of the Unit by clients, customers, employees, suppliers or other business invitees; (iv) the business activity does not increase traffic in the Condominium other than deliveries by couriers, express mail carriers, parcel delivery services and other such delivery services; (v) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the ability of the Association to obtain insurance coverage; (vi) the business activity is consistent with the primarily residential character of the Condominium and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Condominium, as may be determined in the sole discretion of the Board of Directors; and (vii) the business activity does not result in a materially greater use of Common Element facilities or Association services.

The terms “business” and “trade,” as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider’s family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefore.

- b) Alteration of Units. Subject to the other provisions of this Declaration, Unit Owners may make alterations to the interiors of their Units, relocate the boundaries between adjoining Units, and subdivide their Units as follows:
- (i) Alterations to the Interiors of the Units. Except to the extent prohibited by the Condominium Instruments and subject to any restrictions and limitations specified therein, any Owner may make any improvements or alterations within his Unit that do not materially impair the structural integrity of any structure or otherwise materially lessen the support of any portion of the Condominium. No Owner shall do anything which would change the exterior appearance of his Unit or of any other portion of the Condominium without first obtaining the prior written approval of Declarant or the Architectural Control Committee under Article 13 hereof.

- (ii) Combining Two Units. If any Owner acquires an adjoining Unit, such Owner shall have the right (subject to the prior written approval of the Mortgagees of the Units involved) to remove all or any part of any intervening partition or to create doorways or other apertures therein, notwithstanding the fact that such partition may, in whole or in part, be part of the Common Elements, so long as all applicable building codes are complied with and no portion of any Common Elements is damaged, destroyed or endangered, other than that partition and any chutes, flues, ducts, conduits, wires or other apparatus contained therein, which items shall be relocated by such Owner if such facilities serve any other part of the Condominium. The alterations permitted by this subparagraph shall not be deemed an alteration or relocation of boundaries between adjoining Units.
 - (iii) Relocation of Boundaries. Boundaries between adjoining Units may be relocated only in accordance with the provisions of O.C.G.A. § 44-3-91 and, for so long as Declarant owns a Unit, 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, and the Association shall execute the required Amendment to the Declaration.
 - (iv) Subdivision of Units. No Owner, other than Declarant, may subdivide his Unit. The Declarant shall have the right to subdivide Units owned by the Declarant or its affiliates without the approval of the Association, and the Association shall execute the required amendment to the Declaration.
- c) No Outbuildings. No structure of a temporary character, trailer, tent, shack, carport, garage, barn or other building shall be erected by an Owner or Occupant on any portion of the Condominium, other than by Declarant, at any time, either temporarily or permanently, without the written approval of the Board.
 - d) Use of Common Elements Including Amenities. There shall be no obstruction of the Common Elements, nor shall anything be kept on, parked on, stored on or removed from any part of the Common Elements without the prior written consent of the Board, as specifically provided herein. This prohibition shall not apply to the Declarant.
 - e) Use of Limited Common Elements. Use of the Limited Common Elements is restricted exclusively to the Owners of the Unit to which such Limited Common Elements are assigned and said Owner's family members, guests, tenants, and invitees. The Limited Common Elements are reserved for exclusive use, but shall not be construed or interpreted to be separate and apart from the Common Elements in general, and the restrictions applicable to the Common Elements shall also apply to the Limited Common Elements. There shall be no planting other than potted plants on front stoops, courtyards, porches, decks, terrace areas or patios. Objects over forty-two (42) inches in height, except as may be specifically authorized by the

Board, are prohibited from the front stoops, courtyards, porches, decks, terrace areas and patios. Penetration of any front stoop, courtyard, porch, deck, terrace area or patio structure is prohibited. Grilling shall only be permitted in accordance with municipal, county and state ordinances and laws.

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

Noxious, destructive or offensive activity shall not be carried on upon the Condominium. No Owner or Occupant of a Unit may use or allow the use of the Unit or any portion of the Condominium at any time, in any way or for any purpose which may endanger the health, unreasonably annoy or disturb or cause embarrassment, or discomfort to other Owners or Occupants, or in such a way as to constitute, in the sole opinion of the Board of Directors, a nuisance. In addition, no Owner or Occupant of a Unit may use or allow the use of the Unit or the Common Elements in any manner which creates disturbing noises, including, without limitation, use of stereo speakers or equipment that will, in the sole discretion of the Board of Directors, interfere with the rights, comfort or convenience of the other Owners or Occupants. Nothing herein, however, shall be construed to affect the rights of an aggrieved Owner to proceed individually for relief from interference with his or her property or personal rights.

No Owner, Occupant or agent of such Owner or Occupant shall do any work which, in the reasonable opinion of the Association's Board of Directors or its designee, would jeopardize the soundness or safety of the Condominium or any structure created 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 or member of his or her family or any invitee of any Owner. Each Owner shall indemnify and hold the Association and the other Owners harmless against all loss to the Association or other Owners resulting from any such damage or waste caused by such Owner, members of his or her family, guests, invitees, or Occupants of his or her Unit.

- g) Firearms and Fireworks. The display or discharge of firearms or fireworks on the Common Elements or Limited Common Elements is prohibited; provided, however, that the display of lawful firearms on the Common Elements or Limited Common Elements is permitted by law enforcement officers and also is permitted for the limited purpose of transporting the firearms across the Common Elements or Limited Common Elements to or from the Owner's Unit. The term "firearms" includes "B-B"

guns, pellet guns, and other firearms of all types, regardless of size. The term "fireworks" shall include those items listed in O.C.G.A. § 25-10-1, as amended.

- h) Pets. No animals other than dogs, cats, aquarium fish and birds are permitted on any portion of the Condominium. An Owner or Occupant may keep one dog or cat per Unit. Any Owner or Occupant who desires to have one additional dog or cat must seek prior written approval from the Board of Directors. The approval by the Board of one additional dog or cat for a Unit Owner or Occupant shall not be deemed to constitute a waiver of the right to withhold approval as to any similar animal for another Unit Owner or Occupant.

The following dog breeds (or mixes thereof) are not permitted at all on the Condominium: German shepherd, Doberman pinscher, chow, akita, rottweiler, pit bull and husky. No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose. Animals may not be left unattended outdoors or kept unattended outdoors, including on or in any balcony or patio. Animals must be kept on a leash and be under the physical control of a responsible person at all times while outdoors on the Common Elements. Any feces left upon the Common Elements by an animal must be removed by the owner of the animal or the person responsible for the animal

No animal determined to be dangerous, trained to be used for protection or which has an aggressive nature, in the Board's sole and absolute discretion, may be brought onto or kept on the Condominium at any time. The Board may, without notice, have removed by the appropriate animal control authority any animal that presents an immediate danger to the health, safety or property of any resident.

Each Owner and Occupant who keeps an animal on the Condominium agrees to indemnify and hold the Association and its directors, officers and agents harmless from any loss, claim or liability of any kind whatsoever arising by reason of such animal. The Board shall have the ability to make specific exceptions to the above rules on a case-by-case basis if necessary to comply with federal or state law.

- i) Streets and Parking. The Association shall have the right to promulgate rules regulating the use of all streets and parking areas. All Owners' vehicles must be parked in garages or driveways. All driveways adjacent to Units are designated Limited Common Elements and may only be used by the Owner or Occupants to whom the driveway is assigned, and their guests and family. The designated, lined parking spaces not designated as Limited Common Elements shall be for guest parking only.

Disabled or stored vehicles, commercial vehicles, boats and other watercraft, trailers, and recreational vehicles (RV's, campers and motor homes) are prohibited from being parked on the Condominium. For purposes of this subparagraph, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously inoperable. A vehicle shall be considered "stored" if it remains on the Condominium without being driven for fourteen (14) consecutive days or longer without prior written Board permission. This section shall not apply to emergency vehicle repairs

or to commercial vehicles that are temporarily parked for the purpose of servicing Units or the Condominium.

If any vehicle is parked on any portion of the Condominium in violation of this section or in violation of the Association's rules and regulations, the Board, in accordance with the requirements of applicable law, may cause the removal of the vehicle by a towing company and neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow.

- j) Heating of Units in Colder Months. In order to prevent breakage of water pipes during colder months of the year resulting in damage to any portion of the Condominium, increased Common Expenses, and increased insurance premiums or cancellation of insurance policies due to numerous damage claims, the thermostats within the Units shall be maintained with the heat in an "on" position and at a minimum temperature setting of fifty-five (55°) degrees Fahrenheit (except during power failures or periods when heating equipment is broken) whenever the temperature is forecasted to or does reach thirty-two (32°) degrees Fahrenheit or below. Owners and Occupants of Units shall take all steps possible on a timely basis to keep heating equipment, including, but not limited to, the thermostat, in good working order and repair. The Board of Directors may fine any Owner or Occupant and/or may cause the water service to the violator's Unit to be discontinued for violation of this subparagraph, in addition to any other remedies of the Association.
- k) Signs. Except as may be required by legal proceedings, and except for signs which may be erected by Declarant related to the development and sale of Units, no signs, advertising posters or billboards of any kind shall be erected, placed, or permitted to remain on the Condominium without the prior written consent of the Board or its designee. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association.
- l) Rubbish, Trash, and Garbage. All rubbish, trash, and garbage shall be regularly removed from the Unit and shall not be allowed to accumulate therein. No garbage or trash shall be placed on the Common Elements or Limited Common Elements outside the Unit, temporarily or otherwise, except in trash dumpsters. Rubbish, trash, and garbage shall be disposed of in sealed bags and either placed in the trash dumpsters, or proper receptacles designated by the Board for collection or removed from the Condominium. Rubbish, trash or garbage may not be kept, stored or placed on any stoop, balcony, patio or lawn area.
- m) Unightly or Unkempt Conditions. The pursuit of hobbies or other activities, including, but not limited to the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Condominium. Clothing, bedding, rugs, mops, appliances, indoor furniture, and other

household items shall not be placed or stored outside the Unit. Appropriate outdoor items, such as outdoor furniture, may be kept on balconies or patios.

- n) Garage Sales. Garage sales, yard sales, flea markets, or similar activities are prohibited.
- o) Window Treatments. The color and type of all window treatments visible from a Unit must be white or off-white. No bed sheets, newspaper, tin foil or similar material shall be used as a window treatment.
- p) Antennas. No direct broadcast satellite (DBS) antenna or multi-channel multi-point distribution service (MMDS) antenna larger than one (1) meter in diameter may be placed, allowed or maintained upon any portion of the Condominium, including a Unit. HAM radios, two way radios and other hobby or professional radio communication transmission equipment are prohibited.

Declarant or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus of any size for a master antenna, cable, or other communication system for the benefit of all or a portion of the Property. So long as the Association does not install a centralized antenna or dish, the Association shall permit a DBS or MMDS one meter or less or a standard TV antenna to be placed inside the Unit. DBS and MMDS antennas one (1) meter or less in diameter and television broadcast service antennas may only be installed in accordance with Federal Communication Commission (FCC) rules and rules and regulations of the Association authorized by the FCC or both, as may be amended from time to time. If an acceptable signal cannot be received inside the Unit, then approval for an alternate location must be requested and approved by the ACC prior to installation. The ACC is not required to permit satellite dishes or television antennae outside the boundaries of a Unit. The ACC may choose to permit them in alternate locations on other portions of the Condominium in its sole and absolute discretion.

- q) Tile, Marble, Vinyl or Hardwood Floors. Other than Declarant, all Owners and Occupants must cover at least sixty (60%) percent of all tile, marble, vinyl, hardwood, or other hard surfaced flooring material on the interior of a Unit which is located above another Unit with carpeting, area rugs or such other like material so as to minimize noise levels to the Unit below.
- r) Replacing Carpet with Tile or Hardwood Floors. Other than the Declarant, no Owner, Occupant, or any other person may replace carpeting with a tile, marble, vinyl or hardwood floor, or other hard surfaced flooring material, on the interior of a Unit which is located above another Unit without first obtaining written approval of the Declarant or the Board, as applicable. Among other factors, the Declarant or the Board, as applicable, may consider whether the change will cause noise to any Unit below which will exceed the average noise level in Units that are situated below Units with carpeted floors.

The Owner applying for such approval shall provide the Declarant or the Board, as applicable, with information requested by the Declarant or the Board regarding the proposed flooring and its effect. In addition, any Owners installing hard surfaced floors in Units located above another Unit shall use insulation consisting of six millimeters of Acousticork or its equivalent and shall acknowledge and agree that not less than sixty percent (60%) of the total floor space of the Unit shall be covered with rugs or other similar floor covering.

The Owner applying for such approval shall provide the Declarant or the Board with information regarding these factors, as well as other information requested by the Declarant or the Board regarding the proposed flooring and its effect; provided, however, the noise level requirements shall be considered to be met if the Owner provides a sound transmission test that the proposed flooring will create a noise level less than a standard level set by reasonable regulation of the Declarant or the Board.

- s) Abandoned Personal Property. Personal property, other than vehicles as provided for in subparagraph (i) shall not be kept, or allowed to remain for more than twenty-four (24) hours upon any portion of the Common Elements, other than on a Limited Common Element, without prior written Board permission. If the Board determines that a violation exists, then, not less than two (2) days after written notice is placed on the personal property and/or on the front door of the property owner's Unit, if known, the Board may remove and either discard or store the personal property in a location which the Board may determine and shall have no obligation to return, replace or reimburse the owner of the property. The notice shall include the name and telephone number of the person or entity which will remove the property and the name and telephone number of a person to contact regarding the alleged violation.

The Board, in its discretion, may determine that an emergency situation exists and may exercise its removal rights hereunder without prior notice to the property owner; provided, however, in such case, the Board shall give the property owner, if known, notice of the removal of the property and the location of the property within three (3) days after the property is removed.

Neither the Association nor any officer or agent thereof shall be liable to any person with 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.

- t) Declarant Rights. Notwithstanding any provisions contained in this Declaration to the contrary, until such time as the Declarant no longer owns any of the Condominium Units, it shall be expressly permissible for Declarant, its contractors, agents, employees, assigns and representatives, to maintain and carry on, upon such portion of the Condominium as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the completion and sale of the Condominium Units, including, but without limitation, business offices, signs, model Units and sales offices. The right to maintain and carry on such facilities and activities shall include specifically the right

to use the parking facilities on the Condominium for such purposes and to use the Units owned by Declarant as model Units and as offices for the sale of the Condominium Units and related activities and the right to keep the entrance gate unlocked and open during the sales office hours. Furthermore, until such time as the Declarant no longer owns any of the Condominium Units, no amendment to or modification of any use restrictions, rules or design guidelines shall be adopted without the prior written consent and approval of Declarant, and the Association shall not exercise any authority that would impair the rights of the Declarant under this Declaration or interfere with Declarant's development of, construction on, or marketing of any portion of the Property, or diminish the level of services being provided by the Association.

15. LEASING.

In order to protect the equity of the individual Unit Owners at the Condominium, preserve the character of the Condominium as a community of predominantly owner-occupied homes, and comply with the eligibility requirements for financing in the secondary mortgage market, leasing of Units shall be governed by the restrictions imposed by this Paragraph. **Except as provided herein, the leasing of Units shall be prohibited.**

- a) Definitions. The terms "leasing", "lease" or "leased" shall mean the regular, exclusive occupancy of a Unit by any person(s) other than the Owner, for which the Owner receives any consideration or benefit; provided however, that leasing shall not include the occupancy of the Unit by the child or parent of an Owner or the occupancy by a roommate of an Owner who occupies the Unit with the Owner as a primary residence.
- b) General. Any Owner of a Unit may apply in writing to the Board to be a "Leasable Unit" (which shall mean a Unit authorized to be leased). Upon approval of such written application, the Unit shall become a Leasable Unit, so long as no more than twenty-five (25%) percent of the Units are designated as Leasable Units at any one time. If the designation of a Unit as a Leasable Unit would result in more than twenty-five (25%) percent of the Units being designated as Leasable Units, such Unit shall be placed at the end of a waiting list to be a Leasable Unit. At such times as less than twenty-five (25%) percent of the Units are Leasable Units, the Board shall notify the Owner of the Unit at the top of the waiting list that it has become a Leasable Unit, and such Owner shall have ninety (90) days within which to lease the Unit or it shall automatically revert to a Unit that may not be leased. Any Leasable Unit shall automatically convert to a Unit without the ability to lease if the Unit is not subject to an approved lease for ninety (90) or more consecutive days.
- c) Undue Hardship. In addition to the provisions of subparagraph (b) above, so long as no more than thirty (30%) percent of all Units are leased, the Board shall be empowered to allow reasonable leasing of a Unit upon application in accordance with this Paragraph to avoid undue hardship, including but not limited to the following situations: (1) a Unit Owner must relocate his or her residence outside the Atlanta metropolitan area and cannot, within six (6) months from the date that the Unit was

placed on the market, sell the Unit except at a price below the current appraised market value, after having made reasonable efforts to do so; (2) where the Owner dies and the Unit is being administered by his or her estate; and (3) the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Unit, in which case the Unit Owner must reapply every year for renewal of the hardship exception. Those Owners who have complied with this subparagraph, have demonstrated that the inability to lease their Unit would result in undue hardship, and have obtained the requisite written Board approval may lease their Units for such duration as the Board reasonably determines is necessary to prevent undue hardship.

Any Owner who believes that he or she must lease his or her Unit to avoid undue hardship shall submit a written application to the Board setting forth the circumstances necessitating the leasing, a copy of the proposed lease, and such other information as the Board may reasonably require. Leasing in the case of undue hardship shall be permitted only upon the Board's written approval of the Owner's application. Any transaction which does not comply with this Paragraph shall be voidable at the Board's option.

d) Leasing Provisions. Leasing which is authorized hereunder shall be governed by the following provisions:

- (i) Notice. At least seven (7) days prior to entering into the lease of a Unit, the Owner shall provide the Board with a copy of the proposed lease agreement. The Board shall approve or disapprove the form of said lease. In the event a lease is disapproved, the Board shall notify the Owner of the requisite action to be taken in order to bring the lease in compliance with the Declaration and any rules and regulations adopted pursuant thereto.
- (ii) General. Units may be leased only in their entirety; no fraction or portion may be leased without prior written Board approval. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board may maintain and, upon request, provide a form which is deemed acceptable. There shall be no subleasing of Units or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than one (1) year, except with written Board approval, which shall not be unreasonably withheld in cases of undue hardship. Within ten (10) days after executing a lease agreement for the lease of a Unit, the Owner shall provide the Board with a copy of the lease and the name of the lessee and all other people occupying the Unit. The Owner must provide the lessee copies of the Declaration, Bylaws, and the rules and regulations. Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease.
- (iii) Liability for Assessments, 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:

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

- (bb) 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 Condominium Common Elements and/or the use of any and all recreational facilities, parking facilities and other amenities pursuant to the terms of any other agreement.

- (cc) Liability for Assessment. When a Unit Owner who is leasing his or her Unit fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.
- e) Applicability of this Section. Subsections (b) and (c) of this section on Leasing (which limit the percentage of Units leased) shall not apply to any leasing transaction entered into by the Declarant, the Association or the holder of any first Mortgage on a Unit who becomes the Owner of a Unit through foreclosure or any other means to the satisfaction of the indebtedness secured by such Mortgage.

16. SALE OF UNITS.

Within ten (10) days after receiving title to a Unit, the purchaser of the Unit shall give written notice to the Board of Directors of his or her ownership of any Unit. Upon failure of an Owner to give the required notice within the ten (10) day time period provided herein, the Board may levy fines against the Unit and the Owner thereof, and assess the Owner for all costs incurred by the Association in determining his or her identity.

Upon each transfer of title to a Unit (other than a transfer to a mortgagee pursuant to a foreclosure), the Association shall collect a non-refundable contribution to the working capital fund of the Association from the purchaser of such Unit in the amount of two (2) months of the general assessments. The working capital fund is more specifically referred to in the "ASSESSMENTS" section of this Declaration.

17. MAINTENANCE RESPONSIBILITY.

- a) By the Owner. Each Owner shall have the obligation to maintain and keep in good repair all portions of his or her Unit. In addition, the Owner shall have the obligation to keep all Limited Common Elements serving his or her Unit in clean, sanitary and

orderly condition, including but not limited to periodic window cleaning. In addition, each Unit Owner shall have the responsibility:

- (i) To perform his or her obligations hereunder in such manner so as not to unreasonably disturb other persons in other Units.
 - (ii) To promptly report to the Association or its agent any defect or need for repairs, for which the Association is responsible.
 - (iii) To pay for the cost of repairing, replacing or cleaning up any item which is the responsibility of the Unit Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to perform), or to pay for the cost of repairing, replacing, or cleaning up any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of the Unit Owner, his or her family, tenants or guests, with the cost thereof to be added to and become part of the Unit Owner's next chargeable assessment.
- b) By the Association. The Association shall maintain and keep in good repair as a Common Expense the Area of Common Responsibility, including the Limited Common Elements (except for the obligation to keep the Limited Common Elements in clean and orderly condition, which is the responsibility of the Owner to which each such Limited Common Element is assigned). Pursuant to Paragraph 8(b) hereof, the cost of maintenance and repair of the Limited Common Elements may be assessed against the Unit Owner to whom such Limited Common Element is assigned.

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

The Association and Declarant shall not be liable for injury or damage to person or property caused by the elements or by the Owner of any Unit, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder. The Association shall not be liable to the Owner of any Unit or such Owner's Occupant, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements. The Association shall not be liable to any Owner, or any Owner's Occupant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Paragraph where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of

assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, 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 finished 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 Unit Owner. Removal, storage, or other protective measures of personal items are also the responsibility of the Unit Owner. If the removal, storage or other protective measures are not taken by the Unit Owner and damage occurs due to the repair process, the Board 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 of Directors.

- c) Moisture Maintenance. Each Owner of a Unit and the Association, with respect to any area of any building not within a Unit, agree to (i) immediately repair any water leaks or moisture problems in their respective area of maintenance responsibility in a good and workman-like condition; (ii) insure that any building material which has absorbed water or moisture as a result of a water leak and has not been completely dried as part of part of the repair of the water or moisture damage is removed and replaced; (iii) regularly inspect the parts of the Unit or building which they respectively maintain for the existence of moisture, mold, mildew or fungus; and (iv) promptly and regularly clean any area where moisture, mold, fungus or mildew appear with bleach or other such similar product designed to inhibit the growth of mold, mildew or fungus.
- d) Failure to Maintain. If the Board of Directors determines that any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair, or replacement of items of which he or she is responsible hereunder, then the Association shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at

the Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board of Directors.

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

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

e) Measures Related to Insurance Coverage.

- (i) The Board of Directors, upon resolution, shall have the authority to require all or any Unit Owner(s) to do any act or perform any work involving portions of the Condominium which are the maintenance responsibility of the Unit Owner, which will, in the Board's sole discretion, decrease the possibility of fire or other damage in the Condominium, reduce the insurance premium paid by the Association for any insurance coverage or otherwise assist the Board in procuring or maintaining such insurance coverage. This authority shall include, but need not be limited to, requiring Owners to install 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 (\$300.00) dollars per Unit in any twelve (12) month period.
- (ii) In addition to, and not in limitation of, any other rights the Association may have, if any Unit Owner does not comply with any requirement made by the Board of Directors pursuant to subparagraph (d)(i) above, the Association, upon fifteen (15) days' written notice (during which period the Unit Owner may perform the required act or work without further liability), may perform such required act or work at the Unit Owner's sole cost. Such cost shall be 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 subparagraph (d)(i) of this Paragraph, including, but not limited to, a right

of entry during reasonable hours and after reasonable notice to the Owner or Occupant of the Unit, except that access may be had at any time without notice in an emergency situation.

18. MORTGAGE HOLDER'S RIGHTS.

- a) Except as may be specifically provided otherwise in this Declaration in the event of the expansion of the Condominium to include portions of the Additional Property, the Association or the membership may not do the following unless at least fifty-one (51%) percent of the first Mortgage Holders and sixty-seven (67%) percent of the Unit Owners give their consent:
- (i) by act or omission seek to abandon or terminate the Condominium;
 - (ii) change the pro rata interest or obligations of any individual Unit for the purpose of (1) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or (2) determining the pro rata share of ownership of each Unit in the Common Elements;
 - (iii) partition or subdivide any Unit;
 - (iv) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements (the granting of easements or licenses, as authorized herein, shall not be deemed a transfer within the meaning of this clause); or
 - (v) use hazard insurance proceeds for losses to any portion of the Condominium (whether to Units or to Common Elements) for other than the repair, replacement, or reconstruction of such portion of the Condominium.

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

- b) Where the Mortgage Holders holding a first Mortgage of record or other purchaser of a Unit obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Units, including such acquirer, its successors and assigns. Additionally, such acquirer shall be responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed.

- c) Upon written request to the Association, identifying the name and address of the holder and the Unit number or address, any eligible Mortgage Holder will be entitled to timely written notice of:
- (i) any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit on which there is a first Mortgage held by such eligible Mortgage Holder;
 - (ii) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to a first Mortgage held by such eligible Mortgage Holder which remains unsatisfied for a period of sixty (60) days, and any default in the performance by an individual Unit Owner of any other obligation under the Condominium Instruments which is not cured within sixty (60) days;
 - (iii) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or
 - (iv) any proposed action which would require the consent of a specified percentage of eligible Mortgage Holders, as specified herein.
- d) Any holder of a first Mortgage shall be entitled, upon written request, to receive within a reasonable time after request, a copy of the financial statement of the Association for the immediately preceding fiscal year, free of charge to the Mortgage Holder so requesting.
- e) Notwithstanding anything to the contrary herein contained, the provisions of Paragraphs 15 and 16 governing sales and leases shall not apply to impair the right of any first Mortgage Holder to:
- (i) foreclose or take title to a Unit pursuant to remedies contained in its Mortgage; or
 - (ii) take a deed or assignment in lieu of foreclosure; or
 - (iii) sell, lease, or otherwise dispose of a Unit acquired by the Mortgage Holder.

19. **GENERAL PROVISIONS.**

- a) Security. The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve safety on the Condominium; however, each Owner, for himself or herself and his or her tenants, guests, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security on the Condominium. It shall be the responsibility of each Owner to protect his or her person and property and all responsibility to provide such security shall lie solely with each Unit Owner. Neither Declarant nor the Association shall be held liable for any loss or damage by

- reason of failure to provide adequate security or ineffectiveness of safety measures undertaken. Each Owner further acknowledges that the Declarant will not be responsible or liable for any loss or damage resulting from any gates or entrances being open to allow access for construction vehicles, work crews and sales activities.
- b) Parking Spaces and Vehicles. Neither the Declarant nor the Association shall be held liable for loss or damage to any property, including but not limited to any vehicle and any items in any vehicles, placed or kept in any parking area on the Condominium or the Additional Property. Each Owner or Occupant who places or keeps a vehicle and/or any personal property in a vehicle or parking area does so at his or her own risk.
- h) Unit Keys. Each Owner, by acceptance of a deed to a Unit, agrees to provide the Association, if the Association should so request, with a key to the Unit to be used by the Association for pest control as provided in Paragraph 21(f) of this Declaration and for maintenance, emergency, security or safety purposes as provided in Paragraph 9(a) of this Declaration. Neither the Declarant nor the Association shall be liable for any loss or damage due to its holding such key, or use of such key for the purposes described above, and each Unit Owner shall indemnify and hold harmless the Declarant, the Association and its officers and directors against any and all expenses, including attorney's fees, reasonably incurred by or imposed upon the Declarant, the Association or its officers or directors in connection with any action, suit, or other proceeding (including settlement of any such action, suit or proceeding) brought by the Unit Owner or the Unit Owner's family, tenants, guests, employees, invitees, or licensees against the Declarant, the Association, its officers or directors arising out of or relating to its holding or use of such key for the purposes described above.
- d) Use of Names.
- (i) No person shall use the name "Eastland Gates" any derivative of such name in any printed or promotional materials without Declarant's prior written consent. However, Owners may use the name "Eastland Gates" in printed or promotional materials where such term is used solely to specify the particular property is located within Eastland Gates Condominium, and the Association shall be entitled to use the words "Eastland Gates" in its name.
- (ii) The Association shall not use any mark of Declarant or its affiliates without prior written consent. Any use by the Association of names, marks or symbols of Declarant or any of its affiliates shall inure to the benefit of Declarant or such affiliate and shall be subject to periodic review for quality control. The Association may enter into license agreements with Declarant, terminable with or without cause and in a form specified by Declarant in its sole discretion, with respect to any permissive use of any such names, marks or symbols.
- e) Enforcement.

- (i) Each Owner and occupant of a Unit shall comply strictly with this Declaration, the Bylaws, and Rules and Regulations of the Association, as any of the same may be amended from time to time. Any lack of such compliance shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association or, in any proper case, by one or more aggrieved Owners, on their own behalf or as a class action. Inasmuch as the enforcement of the provisions of this Declaration, the Bylaws and Rules and Regulations of the Association is essential for the effectuation of the general plan of the Condominium and for the protection of present and future Owners, it is hereby declared that any breach thereof cannot be adequately compensated by recovery of damages, and that the Association, or any aggrieved Owner, in addition to all other remedies, may require and shall be entitled to the remedy of injunction to restrain any such violation or breach or threatened violation or breach.
- (ii) Should the Association employ legal counsel to enforce this Declaration, the Bylaws or Rules and Regulations of the Association, all costs incurred in such enforcement, including reasonable attorney's fees actually incurred, shall be paid by the violating Owner and shall be an assessment and a lien against the Unit collectible as provided herein.
- (iii) No delay, failure or omission on the part of the Association or any aggrieved Owner in exercising any right, obligation, power or remedy shall operate as a waiver or bar or otherwise affect its right to exercise or enforce any right, power or remedy provided for herein. No right of action shall accrue nor shall any action be brought or maintained by anyone whomsoever against the Association for or on account of any failure to bring any action on account of any violation or breach, or threatened violation or breach of the provisions of this Declaration, the Bylaws or the Rules and Regulations, however long continued, or for adopting provisions which may be deemed unenforceable.
- (iv) Each Owner hereby acknowledges and agrees that the Association shall not be entitled to institute any legal action against anyone on behalf of any or all of the Unit Owners which is based on any alleged defect in any Unit or the Common Elements, or any damage allegedly sustained by any Unit Owner by reason thereof, but rather, that all such action shall be instituted by the Unit Owners owning such Units or served by such Common Elements or allegedly sustaining such damage.
- f) Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Declarant, the Association, or the Owner of any property subject to this Declaration, and their respective legal representatives, heirs, successors and assigns. To the maximum extent permitted by Georgia law, the covenants, terms, conditions and restrictions of this Declaration shall have perpetual duration.

20. EMINENT DOMAIN.

In the event of a taking by condemnation or by eminent domain, the provisions of the Act shall prevail and govern; provided, however, that any proceeds received for a taking of the Common Elements (other than Limited Common Elements) by condemnation or eminent domain shall, at the option of the Board, either be allocated to the Owners pursuant to O.C.G.A. § 44-3-97 (a), as amended, or be deposited into the Association's operating account or reserve account to be applied to Common Expenses. Each 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 Unit Owner in the distribution of proceeds to such Unit.

21. EASEMENTS.

- a) Use and Enjoyment. Each Unit Owner and Occupant shall have a right and easement of use and enjoyment in and to the Common Elements (including the right of access, ingress and egress to and from his or her Unit over those portions of the Condominium designated for such purpose), and such easement shall be appurtenant to and shall pass with the title to such Unit, subject to the rights of the Unit Owners to the exclusive use of the Limited Common Elements assigned to their respective Units and to the right of the Association to control the use and enjoyment of the Common Elements as provided by the terms of this Declaration including, but not limited to, the right of the Association to suspend voting and use privileges as provided herein.
- c) Easements between the Condominium and the Additional Property. The Condominium is subject to and benefited by a Reciprocal Easement Agreement between the Condominium and the Additional Property, as well as easements for the installation, replacement, repair and maintenance of utilities serving the Condominium and/or the Additional Property. Additionally, in the event that any Unit or a portion thereof encroaches on the Additional Property in a manner permitted for encroachments by Units on the Common Elements pursuant to subsection (c) below or pursuant to the Act, an easement for such encroachments upon the Additional Property is hereby granted.
- d) Encroachments. If any portion of the Common Elements encroaches upon any Unit, or if any Unit encroaches upon any other Unit or upon any portion of the Common Elements, as a result of the construction, reconstruction, repair, renovation, restoration, shifting, settlement or movement of any portion of the Condominium, a valid easement for the encroachment and for the maintenance, repair and replacement thereof shall exist so long as the encroachment exists. In the event that any building, any Unit, any adjoining Unit, or any adjoining portion of the Common Elements shall be partially or totally damaged or destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then repaired or reconstructed, encroachments of portions of the Common Elements, due to such repair or reconstruction, shall be permitted, and valid easements for such encroachments and the maintenance, repair and replacement thereof shall exist.

- e) Rights of Association. There shall be a general easement in favor of the Association, its directors, officers, agents, and employees (including, without limitation, any manager employed by the Association) to enter upon the Condominium or any portion thereof and to take access through the Units for the installation, maintenance, repair and replacement thereof and for the purpose of performing their respective duties. Each Unit Owner shall afford to other Unit Owners and to the Association, their respective Owner's Unit as may be reasonably necessary to enable them to exercise and discharge their respective powers and responsibilities. Except in the event of emergencies, such easements are to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with the permission of the Unit Owner or occupant of a Unit directly affected thereby. The Board of Directors of the Association shall have the power to grant and accept easements over and through the Condominium and over and through property adjoining the Condominium, as may be applicable, for the installation, maintenance, repair and replacement of utilities and for other public purposes consistent with the intended use of the Common Elements.
- f) Support. Every portion of a Unit and all Limited 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.
- g) Pest Control. The Association may, but shall not be obligated to, dispense chemicals for the extermination of insects and pests within the Units and Common Elements. In the event the Association chooses to provide such pest control, the Association and its duly authorized contractors, representatives, and agents shall have an easement to enter Units for the purpose of dispensing chemicals for the exterminating of insects and pests within the Units and Common Elements. Unit Owners shall either provide a key to the Unit for purpose of such entry or have someone available at such times as are designated by the Board of Directors to allow entry into the Unit for this purpose. The Association shall not be liable for any illness, damage, or injury caused by the dispensing of these chemicals for this purpose.
- h) Declarant Easements. For so long as Declarant owns any Unit primarily for the purpose of sale, Declarant and its duly authorized contractors, representatives, agents, and employees shall have: (1) an easement for the maintenance of signs, a sales office, a business office, promotional facilities and model Units on the Condominium (which easement specifically includes the right to keep the entrance gate open during the normal business hours of the sales office), 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 Unit; and (2) a transferable easement on, over, through, under and across the Common Elements, and Limited 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.

- i) Easements Shown on Plats. The Property shall be subject to all easements, borders, buffers and the like which are shown and depicted on the Plats as affecting and burdening the Property.

22. 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 two-thirds of the total Association vote. During the time that the Declarant has the right to appoint the directors and officers of the Association, any amendment shall be consented to by Declarant and the unit Owners of units to which two thirds of the votes of the Association pertain (exclusive of any vote or votes appurtenant to any unit or units then owned by the Declarant). Notice of any meeting at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the Dekalb County, Georgia land records.

In addition to the above, material amendments to this Declaration must be approved by eligible Mortgage Holders who represent at least fifty-one (51%) percent of the votes of Units that are subject to Mortgages held by such eligible Mortgage Holders. An eligible Mortgage Holder is defined as a holder of a First Mortgage who provides a written request to the Association (such request to state the name and address of such holder and the Unit number of the subject property) to notify it of any proposed action requiring the consent of a specified percentage of eligible Mortgage Holders. The approval of any proposed amendment by an eligible Mortgage Holder shall be deemed implied and consented to if the eligible Mortgage Holder fails to submit a response to any written proposal for an amendment within thirty (30) days after the eligible Mortgage Holder receives notice of the proposed amendment sent by certified or registered mail, return receipt requested.

Notwithstanding the foregoing, Declarant or the Board of Directors, without the necessity of a vote from the owners, may amend this Declaration to comply with any applicable state, city or federal law, and/or to bring the Condominium into compliance with applicable guidelines of the Federal National Mortgage Association ("Fannie Mae"), Federal Home Loan Mortgage Corporation ("Freddie Mac"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA").

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

23. SEVERABILITY.

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

24. CONDOMINIUM EXPANSION.

- a) Declarant hereby expressly reserves the option to expand the Condominium from time to time and at any time to include any one or more portions of the Additional Property, with up to a total of two hundred five (205) Units contained thereon, all of which shall be restricted exclusively to residential use. In order for Declarant to exercise its option reserved hereby, Declarant shall execute and record one or more amendments to this Declaration thereby submitting any portion of the Additional Property to the Act as a part of the Condominium within seven (7) years after the recording of this Declaration. If two-thirds of the votes in the Association (exclusive of votes appurtenant to Units owned by the Declarant) first consent, the Declarant shall be entitled to extend the option period during which portions of the Additional Property can be submitted to the Condominium for any length determined by the Declarant and approved by said two-thirds vote, provided Declarant exercises the option to extend said period and obtains the consent of the required votes during the twelve months preceding the expiration of the original seven (7) year period. During the seven (7) year option period and any extension thereof, Declarant may expand the Condominium from time to time to include any portion of the Additional Property in any order and any size or location by recording amendments to this Declaration signed only by Declarant and plans showing all Units on the portion of the Additional Property submitted thereby. If Declarant records any of the above-described amendments, then the portion of the Additional Property described in the Amendment shall become a part of the Condominium on the date of recordation, including, without limitation, all Units, Common Elements and Limited Common Elements located on the portion of the Additional Property submitted thereby. The Declarant may terminate the option to expand the Condominium reserved hereby by executing and recording an amendment to that effect signed by Declarant and any mortgagee as required by the Section entitled "Amendments" herein. Except as stated herein, there are no other limitations on Declarant's right to expand the Condominium to add the Additional Property. Any portion of the Additional Property may be added at any time, at different times, and in any order and in any size, dimension or location during the option period. There is no limitation as to the exact boundaries of the portions of the Additional Property that may be added to the Condominium from time to time and at different times. There is no limitation on the Declarant's reserved right to create limited common elements within any portion of the Additional Property or to designate common elements therein which may be subsequently assigned as limited common elements, as well as no limitations on the types, sizes, and maximum number of such limited common elements within each such portion.
- b) Declarant has no obligation to add the Additional Property or any portion thereof to the Condominium even if buildings and improvements are constructed on the Additional Property. The Additional Property can be used for rental apartment use or

any other use permitted by applicable governmental requirements, as they may change, from time to time.

- c) There is no limitation as to the location of any improvements that may be made on any portion of the Additional Property or the types of units that may be constructed on the Additional Property. Although Declarant makes no assurances that the units built on the Additional Property will be substantially identical to the Units in the Condominium, Declarant does, however, assure that any structures erected on the Additional Property will be compatible with the structures previously submitted to the Condominium in terms of quality of construction and that all improvements on the Additional Property, or portion thereof being added to the Condominium, shall be substantially completed before such property is added to the Condominium. Declarant shall have the right to designate different horizontal and vertical boundaries for the units built on the Additional Property if and to the extent that the unit boundaries designated herein are not adequate or desirable, in the Declarant's sole and absolute discretion, to define the unit boundaries of the units constructed on the Additional Property.
- d) There is no obligation to build amenities on the Additional Property and no limitation on the types of amenities that may be built on the Additional Property. If Declarant builds recreational or other amenities on a portion of the Additional Property and adds such Additional Property to the Condominium, the expenses of the Condominium may increase, thus possibly increasing the budget of the Condominium and each Unit owner's assessment therefor.
- e) Declarant further assures that, in the event that HUD holds, insures or guarantees any mortgage in the Condominium at the time of expansion, no Additional Property shall be added to the Condominium without HUD's prior written consent.

25. DISPUTE RESOLUTION AND LIMITATION ON LITIGATION.

Declarant, Unit Owners, Occupants, the Association and its officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties"), agree that it is in the best interest of all concerned to encourage a resolution of disputes involving the Condominium and this Declaration without the emotional and financial costs of litigation. Instead, the Bound Parties agree to the following dispute resolution procedures.

- a) Claims. Unless specifically exempted below, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to the interpretation, application, or enforcement of the Condominium Instruments or the rights, obligations, and duties of any Bound Party under this Declaration. The following shall not constitute a Claim and shall not be subject to the provisions of this Section:
 - (i) any suit by the Association against a Bound Party to enforce the provisions of the "Assessments" section of this Declaration;

- (ii) any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary to maintain the status quo and preserve the Association's ability to enforce the provisions of the "Architectural Controls" and "Use Restrictions" sections of this Declaration;
 - (iii) any suit between Owners that does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Condominium Instruments;
 - (iv) any suit in which any indispensable party is not a Bound Party.
- b) Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice to each Respondent and to the Board stating plainly and concisely:
 - (i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;
 - (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises); and
 - (iii) the Claimant's proposed resolution or remedy; and
 - (iv) that Claimant will meet with the Respondent to discuss in good faith ways to resolve the Claim.
- c) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation.
- d) Binding Arbitration. In the event the Claim cannot be resolved by Claimant and Respondent(s) within 30 days after the date of the above notice (or within such other period as may be agreed upon by the parties), then Claimant shall have one (1) year from the date the claim arose to give written notice to Respondent(s) and the Board of the Claimant's submission of the Claim to binding arbitration (the "Notice of Arbitration"), which arbitration shall be the sole remedy with respect to a Claim, unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may be reasonably necessary to comply with the above obligation to attempt to resolve the Claim by good faith negotiation. In the event the parties do not agree to toll the statute of limitations, if the Claim is not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided that nothing herein shall release or discharge Respondent from any liability to Persons other than Claimant.
- e) Additional Rules for Binding Arbitration.

- (i) Any arbitration pursuant to this Agreement shall be conducted by one (1) arbitrator, and the arbitration proceeding shall be held in Atlanta, Georgia. Claimant and Respondent(s) shall mutually select the arbitrator, or if they are unable to agree upon an arbitrator within twenty (20) days of the sending of the Notice of Arbitration, the arbitrator shall be chosen in accordance with the American Arbitration Association rules from a panel of individuals, each of whom shall be required to have at least ten (10) years of commercial or residential real estate experience in the Southeastern United States. The administrator of the arbitration shall be the American Arbitration Association.
 - (ii) In all cases in which an arbitrator is required to render a decision under this Section, each party to the dispute shall submit to the arbitrator, within twenty (20) days of his selection, its preliminary proposal for resolution of the Dispute, and each party shall deliver a copy of its preliminary proposal to the other party(ies). Each party shall then have a period of ten (10) days to submit comments on the other party's proposal to the other party(ies). Within seven (7) days after the expiration of such ten (10) day period, each of the parties shall submit to the arbitrator its final proposal for resolution of the Claim. The arbitrator shall be required to make a final judgment as the sole resolution of the Dispute within ten (10) days of receipt of each party's final proposal.
 - (iii) Each party agrees that it shall not have a remedy of punitive or exemplary damages against the other in any Claim and hereby waives any right or claim to punitive or exemplary damages it may have now or which may arise in the future in connection with any Claim.
 - (iv) This Section is an agreement to arbitrate and is specifically enforceable under the applicable arbitration laws of the State of Georgia. The arbitration award shall be final, binding and conclusive and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent under the laws of the State of Georgia.
 - (v) The party asserting the claim shall be responsible for all filing fees. All other fees and costs associated with the arbitration proceeding shall be determined by the arbitrator in accordance with the American Arbitration Association rules.
- f) Consensus for Association Litigation. Except as provided in this Section entitled "Dispute Resolution and Limitation on Litigation", the Association shall not commence a judicial or administrative proceeding without first providing written notice of such proposed action to each Member and obtaining the approval of at least seventy-five percent (75%) of the Members. This Paragraph shall not apply, however, to (i) actions brought by the Association to enforce the Condominium

Instruments (including, without limitation, the foreclosure of liens); (ii) the collection of assessments; (iii) proceedings involving challenges to ad valorem taxation; or (iv) counterclaims brought by the Association in proceedings instituted against it. This Paragraph shall not be amended unless such instrument is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

26. PREPARER.

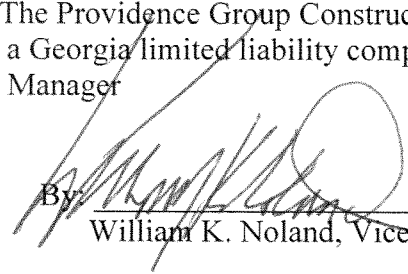
This Declaration was prepared by Darla Grinstead McKenzie, Morris, Manning & Martin, L.L.P., 5775-C Peachtree-Dunwoody Road, Suite 150, Atlanta, GA 30342.

IN WITNESS WHEREOF, Declarant has executed this Declaration this 25th day of July, 2006

DECLARANT: THE PROVIDENCE GROUP AT EASTLAND, L.L.C., a Georgia limited liability company

By: The Providence Group Construction, LLC, a Georgia limited liability company, its Manager

Signed, sealed, and delivered this 26th day of July, 2006 in the presence of


By: _____
William K. Noland, Vice President



WITNESS

NOTARY PUBLIC
[NOTARY SEAL]

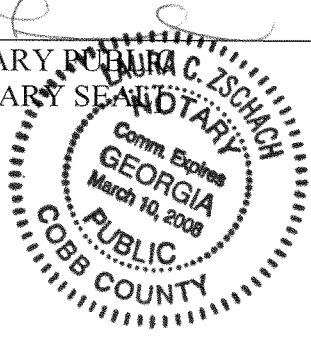


EXHIBIT "A"**LEGAL DESCRIPTION
Overall – Condominium Plat**

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 143 & 144 of the 15th District of DeKalb County, Georgia and being more particularly described as follows:

Commencing at a point formed by the intersection of the westerly right-of-way line of Glynn Drive (50' R/W) and the southerly right-of-way line of Eastland Road (previously 60' R/W); thence in a westerly direction, along the southerly right-of-way line of Eastland Road a distance of 366.40 feet to a 3/4" iron bar found, thence along said right-of-way line South 01 degrees 12 minutes 16 seconds East a distance of 10.50 feet to the **POINT OF BEGINNING**; thence leaving said right-of-way line and running South 01 degrees 12 minutes 16 seconds East a distance of 937.95 feet to a 1" open top pipe found on the line common to Land Lots 114 & 143; thence following the southerly line of Land Lot 143 South 88 degrees 47 minutes 44 seconds West a distance of 325.00 feet to a an iron pin set; thence continuing along said Land Lot Line South 88 degrees 57 minutes 44 seconds West a distance of 199.80 feet to a 1/4" rod; thence leaving said Land Lot Line and running North 00 degrees 58 minutes 16 seconds West a distance of 943.45 feet to an iron pin set on the southerly right-of-way line of Custer Avenue (previously 70' R/W) (said point being 40' from the centerline of Custer Avenue); thence along a curve to the right an arc distance of 162.94 feet, said curve having a radius of 915.75 feet and a chord bearing North 86 degrees 19 minutes 36 seconds East a distance of 162.73 feet to a point on the southerly right-of-way line of Eastland Road; thence along said right-of-way of Eastland Road the following courses and distances: following a curve to the right an arc distance of 66.24 feet to a point, said arc having a radius of 1139.53 feet and a chord bearing South 87 degrees 22 minutes 11 seconds East a distance of 66.23 feet to a point; thence South 86 degrees 59 minutes 18 seconds East a distance of 135.57 feet to a point; thence along a curve to the left an arc distance of 157.25 feet, said arc having a radius of 1040.93 feet and a chord bearing North 88 degrees 19 minutes 09 seconds East a distance of 157.10 to the **POINT OF BEGINNING**.

Less and except the parcels designated as Parcel 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 (all of the parcels designated as "Future Development") on the Plat recorded at the plat book and page designated on the cover page of this Declaration.

EXHIBIT "B"LEGAL DESCRIPTION
Overall

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 143 & 144 of the 15th District of DeKalb County, Georgia and being more particularly described as follows:

Commencing at a point formed by the intersection of the westerly right-of-way line of Glynn Drive (50' RW) and the southerly right-of-way line of Eastland Road (60' RW); thence in a westerly direction, along the southerly right-of-way line of Eastland Road a distance of 366.40 feet to a 3/4" iron bar found, said point being the POINT OF BEGINNING; thence leaving said right-of-way line and running South 01 degrees 12 minutes 16 seconds East a distance of 948.44 feet to a 1" open top pipe found on the line common to Land Lots 114 & 143; thence following the southerly line of Land Lot 143 South 88 degrees 47 minutes 44 seconds West a distance of 325.00 feet to an iron pin set; thence continuing along said Land Lot Line South 88 degrees 57 minutes 44 seconds West a distance of 199.80 feet to a 1/4" rod; thence leaving said Land Lot Line and running North 00 degrees 58 minutes 16 seconds West a distance of 949.50 feet to an iron pin set on the southerly right-of-way line of Custer Avenue (70' RW), thence following said right-of-way line along a curve to the right an arc distance of 196.32 feet, said arc having a radius of 955.00 feet and a chord which bears North 87 degrees 40 minutes 30 seconds East a distance of 195.97 feet to an iron pin set; thence continuing along said right-of-way line North 01 degrees 12 minutes 16 seconds West a distance of 5.14 feet to a point on the southerly right-of-way line of Eastland Road; thence following said right-of-way line South 86 degrees 58 minutes 22 seconds East a distance of 159.51 feet to an iron pin set; thence continuing along said right-of-way line along a curve to the left an arc distance of 166.11 feet, said arc having a radius of 1,030.00 feet and a chord which bears North 88 degrees 23 minutes 30 seconds East a distance of 165.93 feet to the POINT OF BEGINNING.

Said Tract containing 11.421 acres.

Less and except all property submitted to the Condominium as described in EXHIBIT "A".

EXHIBIT "C"

**UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS
AND LIABILITIES FOR COMMON EXPENSES**

The undivided percentage interest of all of the Lower Units (Odd Numbered Units) combined is 41.18%. The undivided percentage interest of all of the Upper Units (Even Numbered Units) is 58.82%.

The undivided percentage interest of each of the Lower Units (Odd Numbered Units) is 41.18% divided by the total number of Lower Units in the Condominium. The undivided percentage interest of each of the Upper Units (Even Numbered Units) is 58.82% divided by the total number of Upper Units in the Condominium.

EXHIBIT "D"
BYLAWS
OF
EASTLAND GATES CONDOMINIUM ASSOCIATION, INC.

Article I.
General

Section 1. Applicability. These Bylaws provide for the self-government of Eastland Gates Condominium Association, Inc., in accordance with the Georgia Condominium Act ("Act"), the Articles of Incorporation filed with the Secretary of State and the Declaration of Condominium for Eastland Gates Condominium, which will be recorded in the DeKalb County, Georgia land records ("Declaration").

Section 2. Name. The name of the corporation is Eastland Gates Condominium Association, Inc. ("Association").

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

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

Section 5. Entity Members. In the event an Owner is a corporation, partnership, trust, or other legal entity not being a natural person or persons, then any natural person who is an officer, director, or other designated agent of such corporation, partner of such partnership, beneficiary or other designated agent of such trust, or manager of such other legal entity shall be eligible to represent such entity or entities in the affairs of the Association. Such person's relationship with the Association shall terminate automatically upon the termination of such person's relationship with the entity or entities which are the Owner, and termination of the person's relationship with the Association will create a vacancy in any elected or appointed position within the Association in which such person may have been serving and such vacancy will be filled in accordance with these Bylaws.

Section 6. Voting. Each Unit shall be entitled to one equal vote, which vote may be cast by the Owner, the Owner's spouse, the cohabitant of the Owner, or by a lawful proxy as provided below. When more than one (1) Person owns a Unit, the vote for such Unit shall be exercised as they determine between or among themselves, but in no event shall more than one

(1) vote be cast with respect to any Unit. If only one (1) co-owner attempts to cast the vote for a Unit, it shall be conclusively presumed that such co-owner is authorized on behalf of all co-owners to cast the vote for such Unit. In the event of disagreement between or among co-owners and an attempt by two (2) or more of them to cast such vote or votes, such Persons shall not be recognized and such vote or votes shall not be counted. No Owner shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors, if that Owner is shown on the books or management accounts of the Association to be more than thirty (30) days delinquent in any payment due the Association or if the Owner has had its voting rights suspended for the infraction of any provision of the Declaration, these Bylaws, or any rule of the Association. If the voting rights of an Owner have been suspended, that Owner shall not be counted as an eligible vote for purposes of establishing a Majority or a quorum.

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

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

Article II.

Meetings of Members

Section 1. Annual Meetings. The regular annual meeting of the members shall be held during the 60-day period immediately preceding the last day of each fiscal year, with the date, hour, and place to be set by the Board of Directors.

Section 2. Special Meetings. Special meetings of the members may be called for any purpose at any time by the President or Secretary, by request of any member of the Board of Directors, or upon written petition of at least fifteen percent (15%) of the Owners. Any such written petition by the members must be submitted to the Association's Secretary. The Secretary shall then verify that the required number of members have joined in the petition and shall submit all proper petitions to the Association's President. The President shall then promptly call a special meeting for the purpose stated in the petition, and the Secretary shall send notice of the meeting in accordance with these Bylaws.

Section 3. Notice of Meetings. It shall be the duty of the Secretary to mail or deliver to each Owner of Units of record or to the Units a notice of each annual or special meeting of the

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

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

Section 5. Quorum. Except as may be provided elsewhere, the presence of Owners, in person or by proxy, entitled to cast one-quarter (1/4) of the eligible votes of the Association shall constitute a quorum. Once a quorum is established for a meeting, it shall conclusively be presumed to exist until the meeting is adjourned and shall not need to be reestablished. Owners whose voting rights have been suspended pursuant to the Declaration or these Bylaws shall not be counted as eligible votes toward the quorum requirement.

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

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

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

(a) A written ballot shall: (1) set forth each proposed action; and (2) provide an opportunity to vote for or against each proposed action.

(b) Approval by written ballot pursuant hereto shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(c) All solicitations for votes by written ballot 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 corporation in order to be counted.

(d) A written ballot may not be revoked. The Association shall maintain such ballots in its file for a period of at least three (3) years.

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

Article III. **Board of Directors**

A. Composition and Selection.

Section 1. Composition. The affairs of the Association shall be governed by a Board of Directors. During the time the Declarant has the right to appoint and remove directors and officers of the Association, the Board shall be composed of one or more persons to be selected by the Declarant. After Declarant's right to appoint has terminated, the Board shall be composed of seven (7) persons who shall be elected by majority vote of all Owners. Except for directors appointed by the Declarant hereunder, the directors shall be Owners or spouses or cohabitants of such Owners; provided, however, no Owner and his or her spouse or cohabitant may serve on the Board at the same time, and no co-owners may serve on the Board at the same time.

Section 2. Term of Office. Notwithstanding anything to the contrary herein, Declarant shall have exclusive authority to appoint and remove directors and officers, with or without cause, for the period of time set forth herein. Declarant's right to appoint and remove directors and officers shall cease upon the earlier of one of the following events to occur: (i) the expiration of seven (7) years after the recording of this Declaration, (ii) the date as of which eighty percent (80%) of all undivided interest in the Common Elements shall have been conveyed by Declarant to Unit Owners other than a successor to Declarant; provided that the Declarant's authority to appoint and remove shall not expire due solely to the conveyance of eighty (80%) percent of the undivided interest in the Common Elements until the earlier of: (a) the addition of all of the Additional Property to the Condominium in which an unexpired option

exists; or (b) the expiration of the time period in which Declarant is entitled to expand the Condominium as provided herein; or (iii) surrender by Declarant of such authority by an express amendment to this Declaration executed and recorded by Declarant and consented to by holders of first mortgages on Units owned by Declarant.

At the first election of directors of the Association following the expiration or termination of the Declarant's right to appoint directors hereunder, the three (3) directors receiving the most votes shall be elected for a term of two (2) years and the remaining four (4) directors elected shall have a term of one (1) year. At the expiration of the term of office of each Board member, and at each annual meeting thereafter, a successor shall be elected to serve for a term of two (2) years. The Board members shall hold office until their respective successors shall have been elected by the Association.

Section 3. Removal of Members of the Board of Directors. At any regular or special meeting of the Association duly called, any one or more Board members, except for directors appointed by Declarant hereunder, may be removed with or without cause by a Majority of the members of the Association and a successor may then and there be elected to fill the vacancy thus created. Further, any director who has had three (3) consecutive unexcused absences from regularly scheduled Board meetings or is more than sixty (60) days past due in the payment of any assessment may be removed by the vote of a Majority of the other directors. Any director whose removal has been proposed shall be given at least ten (10) days notice of the calling of the meeting to consider his or her removal and the purpose thereof and shall be given an opportunity to be heard at the meeting.

Section 4. Vacancies. Vacancies in the Board caused by any reason, except the removal of a director by vote of the membership or by Declarant, shall be filled by a vote of the Majority of the remaining directors, even though less than a quorum, at any meeting of the Board of Directors. The successor so selected shall hold office for the remainder of the term of the director being replaced.

Section 5. Compensation. Directors shall not be compensated for services as such unless and only to the extent that compensation is authorized by a Majority vote of the members. Directors may be reimbursed for the expenses incurred in carrying out their duties as directors upon approval of such expenses by the Board of Directors.

Section 6. Director Conflicts of Interest. Nothing herein shall prohibit a director from entering into a contract and being compensated for services or supplies furnished to the Association in a capacity other than as director, provided that the director's interest is disclosed to the Board and the contract is approved by a Majority of the directors who are at a meeting of the Board of Directors at which a quorum is present, excluding the director with whom the contract is made. The interested director shall not count for purposes of establishing a quorum of the Board. The interested director shall be entitled to be present at any meeting at which the proposed contract is discussed and to discuss the proposed contract unless requested by any other director to leave the room during the discussion.

Section 7. Nominations and Declarations of Candidacy. Prior to the election of directors, the Board shall prescribe the opening date and the closing date of a reasonable filing period in which all eligible persons who have an interest in serving as a director may file as a candidate for such positions. The Board shall also have the right to establish such other rules and regulations as it deems appropriate to conduct the nomination of directors in a fair, efficient and cost-effective manner. Each candidate shall be given a reasonable, uniform opportunity to communicate his or her qualifications to the members and to solicit votes.

Section 8. Elections. All members of the Association eligible to vote in an election shall be entitled to cast their entire vote for each directorship to be filled. There shall be no cumulative voting. The directorships for which elections are held shall be filled by that number of candidates receiving the most votes. Voting for election of Board members shall be by written ballot (unless dispensed by unanimous consent at such meeting at which such voting is conducted).

B. Meetings.

Section 1. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by the Board, but such meetings shall be held at least once every six (6) months. The newly elected Board shall meet within ten (10) days after each annual meeting of the membership.

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

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

Section 4. Conduct of Meeting. The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings. A Majority of directors shall constitute a quorum for the transaction of business. One or more directors who participate in a meeting by means of telephone or electronic communication shall be deemed present and in attendance for all purposes at such meeting, provided all persons participating in the meeting can hear each other.

Section 5. Open Meetings. All meetings of the Board shall be open to all members, but members other than directors may not participate in any discussion or deliberation unless expressly so authorized by the Board. Notwithstanding the above, the Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation

in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

Section 6. Action Without a Meeting. Any action by the Board required or permitted to be taken at any meeting may be taken without a meeting if a majority of the directors consent in writing to such action. Such written consents must describe the action taken and be signed by no fewer than a majority of the directors and such written consent or consents shall be filed with the minutes of the Board of Directors.

C. Powers and Duties.

Section 1. Powers and Duties. Except as specifically provided otherwise in the Act, the Georgia Nonprofit Corporation Code, the Declaration, the Articles of Incorporation of the Association or these Bylaws, all powers inherent in or expressly granted to the Association may be exercised by the Board of Directors, acting through the officers of the Association, without any further consent or action on the part of the Members. The Board of Directors shall also have the responsibility of discharging all of the duties imposed upon the Board of Directors under the terms and provisions of the aforesaid instruments. By way of explanation, but not limitation, the Board of Directors shall have the power to and shall be responsible for the following:

- (a) preparation and adoption of an annual budget, in which there shall be established the contribution of each Owner to the Common Expenses;
- (b) making assessments to defray the Common Expenses, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment;
- (c) providing for the operation, care, upkeep, and maintenance of all of the Area of Common Responsibility as more particularly described in Section 17 of the Declaration;
- (d) designating, hiring, and dismissing the personnel necessary for the operation of the personnel in the performance of their duties;
- (e) collecting the assessments, depositing the proceeds thereof in a financial depository or institution which it shall approve, or otherwise investing the proceeds in accordance with any limitations set forth in O.C.G.A. §14-3-302, and using the proceeds to administer the Association;
- (f) making and amending rules and regulations and imposing sanctions for violation thereof, including, without limitation, monetary fines;
- (g) opening of bank or other financial accounts on behalf of the Association and designating the signatories required;

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

(i) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it, and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(j) obtaining and carrying insurance against casualties and liabilities, as provided in the Act and the Declaration, and paying the premium cost thereof;

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

(l) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred; and

(m) contracting with any Person for the performance of various duties and functions. The Board shall have the power to enter into common management agreements with trusts, condominium associations, or other associations or corporations. Any and all functions of the Association shall be fully transferable by the Board, in whole or in part, to any other entity.

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

Section 3. Borrowing. The Board of Directors shall have the power to borrow money for the purpose of maintenance, repair, restoration, or improvement of the Common Elements and facilities, and for other purposes, with the approval of a Majority of the members of the Association.

Section 4. Liability and Indemnification of Officers and Directors. The Association shall indemnify every officer and director against any and all expenses, including attorney's 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 he or she may be 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 subject to the limitations below. 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 his or her duties, except for his or her 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 (except to the extent that such officers or directors may also be members of the Association), and the Association 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 and, if obtainable, officers' and directors' liability insurance to fund this obligation, and the insurance shall be written as provided in the Declaration.

D. Committees.

Section 1. Architectural Control Committee. The Board shall establish an Architectural Control Committee for the purpose of establishing and maintaining architectural standards in the Condominium as provided in the Declaration.

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

Section 3. Service on Committees. Unless otherwise provided in these Bylaws or in the resolution authorizing a particular committee, the members of any committee shall be appointed by the President and shall serve at the pleasure of the Board of Directors. Any committee member may be removed with or without cause at any time and with or without a successor being named.

Article IV. Officers

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

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

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

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

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

may in his or her discretion decide is appropriate to assist in the conduct of the affairs of the Association.

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

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

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

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

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

Article V. Rule Making and Enforcement

Section 1. Authority and Enforcement. The Condominium shall be used only for those uses and purposes set out in the Declaration. The Board of Directors shall have the authority to make, modify, repeal and enforce reasonable rules and regulations governing the conduct, use, and enjoyment of Units and the Common Elements; provided that the rules or regulations must be in furtherance of, and not contrary to, the uses and purposes set forth in the Declaration, and provided further that copies of all such rules and regulations shall be furnished to all Owners and Occupants. Following the expiration of the Declarant's right to appoint and remove Directors as set forth in Article III, Section 2 herein, any rule or regulation may be repealed by the affirmative vote or written consent of a Majority of the total Association vote at an annual or special meeting of the membership. Every Owner and Occupant shall comply with the Declaration, Bylaws and rules and regulations of the Association, and any lack of compliance therewith shall entitle the Association and, in an appropriate case, one or more aggrieved Unit Owners, to take action to enforce the terms of the Declaration, Bylaws or rules and regulations.

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

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

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

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

Section 3. Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Board may elect to enforce any provision of the Declaration, the Bylaws, or the rules and regulations by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to

enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedure set forth in Section 2) of this Article. In any such action, to the maximum extent permissible, the Owner or Occupant responsible for the violation for which abatement is sought shall be responsible for reasonable attorney's fees actually incurred.

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

Article VI. **Miscellaneous**

Section 1. Notices. Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) If to a Unit Owner, at the address which the Unit Owner has designated in writing and filed with the Secretary, or if no such address has been designated, at the address of the Unit of such Owner;

(b) If to an Occupant, at the address of the Unit occupied; or

(c) If to the Association or the Board of Directors, at the principal office of the Association, if any, or at such other address as shall be designated in writing and filed with the Secretary.

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

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

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

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

Section 6. Financial Review. A financial review of the accounts of the Association shall be performed annually in the manner provided by the Board and a financial statement prepared. However, after having received the Board's financial statement review at the annual meeting, the Owners may, by a majority of the Association vote, require that the accounts of the Association be audited as a Common Expense by an independent accountant. Such statement shall be made available to the holder, insurer, or guarantor of any first mortgage on a Unit upon submission of a written request and must be available within one hundred twenty (120) days of the fiscal year end of the Association.

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

Section 8. Amendment. Except where a higher vote is required for action under a particular provision of the Declaration or Bylaws, in which case such higher vote shall be necessary to amend, these Bylaws may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members holding two-thirds (2/3) of the total vote of the Association. As long as Declarant has the right to appoint directors and officers of the Association as provided in Article III, Section 2 of these Bylaws, any amendment to these Bylaws shall require the written consent of Declarant. Notice of any meeting at which an amendment will be considered shall state that fact and the subject matter of the proposed amendment. No amendment shall become effective until it is certified by the President and Secretary of the Association and recorded in the DeKalb County, Georgia land records. Any amendment duly certified and recorded shall be conclusively presumed to have been duly adopted in accordance with the Bylaws.

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

Section 9. Books and Records.

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

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

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

(iii) its Declarations or restated Declarations and all amendments to them currently in effect;

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

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

(vi) any rules governing the condominium or association;

(vii) any books, records or financial statements of the association;

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

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

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

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

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

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

(ii) accounting records of the Association; and

(iii) the membership list only if for a purpose related to the member's interest as a member. Without the consent of the Board, a membership list or any part thereof may not be used to solicit money or property unless such money or property will be used solely to solicit the

votes of the members in an election to be held by the Association; used for any commercial purpose; or sold to or purchased by any person.

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

After Recording Return to:
Darla Grinstead McKenzie, Esq.
Morris, Manning & Martin, L.L.P.
5775-C Peachtree Dunwoody Road
Suite 150
Atlanta, Georgia 30342
Re: Eastland Gates

CONSENT AND ASSIGNMENT

EAST ATLANTA VENTURES, L.L.C., a Georgia Limited Liability Company (hereinafter "Owner") is the Owner of certain of the property described in Exhibit "A" of the Declaration of Condominium for Eastland Gates Condominium to which this Consent is attached.

The Owner, acting not as declarant, but in its capacity as the Owner of said property, hereby consents to the execution and recording of the above-referenced Declaration of Condominium for Eastland Gates Condominium and agrees that Owner's property shall be subject to and is hereby submitted to the provisions of such Declaration and any and all amendments recorded thereto.

IN WITNESS WHEREOF, Owner has caused this instrument to be executed under seal by its duly authorized officers on this 25th day of July, 2006.

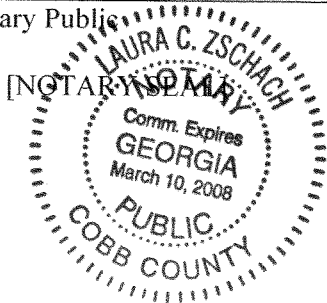
Signed and sealed
in the presence of:

[Signature]
Witness
[Signature]

EAST ATLANTA VENTURES, L.L.C.,
a Georgia Limited Liability Company (SEAL)

BY: [Signature]
William K. Noland, Vice President

Notary Public



After recording please return to:
Darla Grinstead McKenzie
Morris, Manning & Martin, L.L.P.
5775C Peachtree Dunwoody Road
Suite 150
Atlanta, Georgia 30342
Re: Eastland Gates

Deed Book 16669 Page 255
Cross reference to: Deed to Secure Debt 771
at Deed Book 16669, Page 255, et
seq., DeKalb County, Georgia
Records

CONSENT AND JOINDER

The undersigned INTEGRITY BANK (the "Lender") is the holder of that certain Deed to Secure Debt and Security Agreement between EAST ATLANTA VENTURES, L.L.C. ("Borrower") and the Lender, recorded at Deed Book 16669, Page 255, et seq., DeKalb County, Georgia records, as may be previously or hereinafter modified, amended or restated (hereinafter "Security Deed").

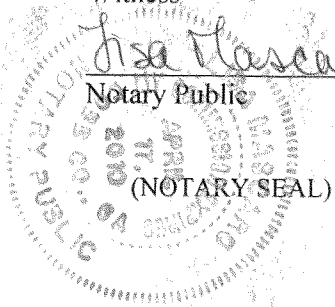
The Lender, acting not as declarant, but in its limited capacity as holder of the Security Deed, does hereby consent to and join in the execution and recording of the Declaration of Condominium for Eastland Gates Condominium (hereinafter "Declaration"). It is the intention and agreement of the Lender, and the effect of this instrument, that the Declaration not be terminated by a subsequent judicial or non-judicial foreclosure under the Security Deed, but rather that the Declaration remain in full force and effect after such foreclosure. The execution by the Lender of this Consent and Joinder shall not be deemed to diminish, impair, limit, repudiate or forgive any obligation of the Borrower under the Security Deed or any related loan documents and Borrower shall remain fully liable to Lender for the faithful performance of all obligations thereunder.

IN WITNESS WHEREOF, the Lender has caused this instrument to be executed under seal by its duly authorized officer as of the 25 day of July, 2006

Signed and sealed
in the presence of:

Lisie M. Hammond
Witness

Lisa Mascaro
Notary Public



Lisa Mascaro
Notary Public, Cobb County, State of Georgia
My commission expires April 17, 2010

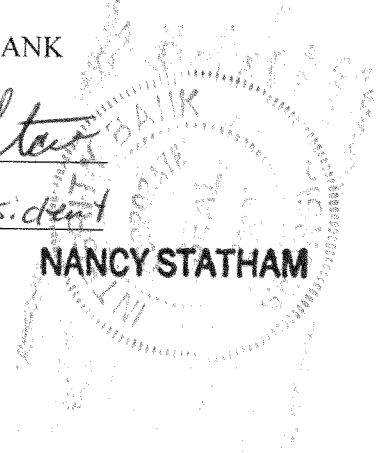
LENDER: INTEGRITY BANK

BY: Nancy Statham

TITLE: Vice President

(BANK SEAL)

NANCY STATHAM



Deed Book 18993 Pg 772
Linda Carter
Clerk of Superior Court
DeKalb County, Georgia

After recording please return to:
Darla Grinstead McKenzie
Morris, Manning & Martin, L.L.P.
5775C Peachtree Dunwoody Road
Suite 150
Atlanta, Georgia 30342
Re: Eastland Gates

Cross reference to: Construction
Deed to Secure Debt and Security
Agreement recorded at Deed Book
17924, Page 707, et seq., DeKalb
County, Georgia Records

CONSENT AND JOINDER

The undersigned INTEGRITY BANK (the "Lender") is the holder of that certain Construction Deed to Secure Debt and Security Agreement between THE PROVIDENCE GROUP AT EASTLAND, L.L.C. ("Borrower") and the Lender, recorded at Deed Book 17924, Page 707, et seq., DeKalb County, Georgia records, as may be previously or hereinafter modified, amended or restated (hereinafter "Security Deed").

The Lender, acting not as declarant, but in its limited capacity as holder of the Security Deed, does hereby consent to and join in the execution and recording of the Declaration of Condominium for Eastland Gates Condominium (hereinafter "Declaration"). It is the intention and agreement of the Lender, and the effect of this instrument, that the Declaration not be terminated by a subsequent judicial or non-judicial foreclosure under the Security Deed, but rather that the Declaration remain in full force and effect after such foreclosure. The execution by the Lender of this Consent and Joinder shall not be deemed to diminish, impair, limit, repudiate or forgive any obligation of the Borrower under the Security Deed or any related loan documents and Borrower shall remain fully liable to Lender for the faithful performance of all obligations thereunder.

IN WITNESS WHEREOF, the Lender has caused this instrument to be executed under seal by its duly authorized officer as of the 25 day of July, 2006

Signed and sealed
in the presence of:

Lulu Hammond
Witness

Lisa Mascaro
Notary Public

Lisa Mascaro
Notary Public, Cobb County, State of Georgia
My commission expires April 17, 2010

(NOTARY SEAL)

LENDER: INTEGRITY BANK

BY: Nancy Statham

TITLE: Vice President

NANCY STATHAM

(BANK SEAL)

