

## **SECTION 2**

# **DECLARATION AND BYLAWS**

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**DECLARATION OF CONDOMINIUM**  
**FOR**  
**MIDTOWN ON EIGHTH CONDOMINIUM**

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**TABLE OF CONTENTS**

1.	NAME .....	-1-
2.	DEFINITIONS .....	-1-
3.	LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS.....	-3-
4.	UNITS AND BOUNDARIES.....	-3-
5.	COMMON ELEMENTS.....	-4-
6.	LIMITED COMMON ELEMENTS.....	-4-
7.	ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES .....	-5-
8.	ALLOCATION OF LIABILITY FOR COMMON EXPENSES.....	-6-
9.	ASSOCIATION RIGHTS AND RESTRICTIONS .....	-6-
10.	ASSESSMENTS .....	-7-
11.	INSURANCE.....	-10-
12.	REPAIR AND RECONSTRUCTION.....	-13-
13.	ARCHITECTURAL CONTROLS .....	-14-
14.	USE RESTRICTIONS .....	-17-
15.	LEASING .....	-24-
16.	SALE OF UNITS.....	-27-
17.	MAINTENANCE RESPONSIBILITY .....	-27-
18.	MORTGAGEE'S RIGHTS .....	-29-
19.	GENERAL PROVISIONS .....	-32-
20.	EMINENT DOMAIN.....	-34-
21.	EASEMENTS .....	-34-
22.	AMENDMENTS .....	-35-
23.	SEVERABILITY.....	-37-
24.	DECLARANT RIGHTS .....	-37-

Table of Contents (continued)

26. PREPARER..... -37-

**EXHIBITS**

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

STATE OF GEORGIA  
COUNTY OF FULTON

**DECLARATION OF CONDOMINIUM**

**FOR**

**MIDTOWN ON EIGHTH CONDOMINIUM**

THIS DECLARATION is made on the date set forth below by Midtown on 8th, LLC, a Georgia limited liability company (hereinafter referred to as "Declarant");

W I T N E S E T H

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

WHEREAS, a plat of survey related to the Condominium prepared by Woolley & Associates, Inc. dated \_\_\_\_\_, was filed in Condominium Plat Book \_\_\_\_\_, Page(s) \_\_\_\_\_, Fulton County, Georgia Records; and

WHEREAS, floor plans relating to the Condominium prepared by Rowhouse Architects, Inc. were filed in Condominium Floor Plan Book \_\_\_\_\_, Page(s) \_\_\_\_\_, of the Fulton County, Georgia Records; and

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

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

**DECLARATION OF CONDOMINIUM**

**FOR**

**MIDTOWN ON EIGHTH CONDOMINIUM**

1. **NAME.**

The name of the condominium is Midtown on Eighth Condominium (hereinafter sometimes called "Midtown on Eighth" or the "Condominium", as further defined herein), which condominium is hereby submitted by Declarant to the Georgia Condominium Act, O.C.G.A. §44-3-70, et seq. (Michie 1982).

2. **DEFINITIONS.**

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

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

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

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

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

(e) Association shall mean Midtown on Eighth Condominium Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

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

(g) Bylaws shall mean the Bylaws of Midtown on Eighth Condominium Association, Inc., attached to this Declaration as Exhibit "D" and incorporated herein by this reference.

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

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

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

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

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

(m) Declarant shall mean Midtown on 8th, LLC, a Georgia limited liability company, its respective successors and assigns, as further set forth in Section 44-3-71(13) of the Act.

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

(o) Floor Plans shall mean the floor plans for Midtown on Eighth Condominium, filed in the condominium file cabinet of the Fulton County, Georgia records.

(p) 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.

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

(r) 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.

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

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

(u) 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.

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

(w) Survey shall mean the plat of survey for Midtown on Eighth Condominium, filed in the condominium plat book of the Fulton County, Georgia records.

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

3. LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS.

The Condominium subject to this Declaration and the Act is located in Land Lot 48, of the 14<sup>th</sup> District of Fulton County, Georgia, being more particularly described in Exhibit "A" attached to this Declaration, which exhibit is specifically incorporated herein by this reference. The Survey and Floor Plans relating to the Condominium will be filed in the Fulton County, Georgia records at the time the Property is submitted to this Declaration. The Survey and Floor Plans are incorporated herein by reference as fully as if the same were set forth in their entirety herein.

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

4. UNITS AND BOUNDARIES.

The Condominium will be divided into twenty-eight (28) separate Units, Common Elements and Limited Common Elements. Each Unit consists of a dwelling and its appurtenant percentage of undivided interest in the Common Elements. Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the Act and the Condominium Instruments. The Units are depicted on the Survey and the Floor Plans. Each Unit includes that part of the structure which lies within the following boundaries:

(a) Vertical Boundaries. The perimetrical or vertical boundaries of each Unit shall be the vertical plane of the interior, unexposed surfaces of the brick masonry or other material comprising the walls of the Condominium buildings and the centerline of the wall separating the Unit from the corridors on the floor on which the Unit is located in the Condominium buildings. With respect to common walls between Units, the perimetrical or vertical boundary of the Units served thereby shall be the centerline of such walls. The vertical boundaries include the gypsum board or other material constituting the walls of the Unit and they are extended to their intersections with each other and the upper and lower horizontal boundaries of the Unit.

(b) Horizontal Boundaries.

(i) If the Unit is on the top floor of the building, the upper horizontal boundary of the Unit is the plane formed by the uppermost, unexposed surface of the gypsum board or other material forming the ceiling of such Unit. The lower horizontal boundary of each such Unit is the centerline of the wood truss structure between the flooring comprising the lowermost story of such Unit and the ceiling of the Unit below it.

(ii) If the Unit is on the bottom floor of the building, the upper horizontal boundary of the Unit is the centerline of the wood truss structure between the ceiling comprising the uppermost story of such Unit and the flooring comprising the lowermost story of the Unit above it. The lower horizontal boundary of each such Unit is the centerline of the wood truss structure or concrete slab, whichever the case may be, on which the Unit is constructed, with the flooring, if any, constituting part of the Unit and the concrete subflooring and building foundation not constituting part of the Unit.



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

If any chutes, flues, ducts, conduits, wires, pipes or other apparatus lies partially within and partially outside of the designated boundaries of the Unit, any portion thereof which serve only that Unit shall be deemed to be a part of that Unit, while any portions thereof which serve more than one (1) Unit or any portion of the Common Elements shall be deemed a part of the Common Elements.

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

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

## 5. COMMON ELEMENTS.

The Common Elements consist of all portions of the Condominium not located within the boundaries of a Unit. The Common Elements include, without limitation, certain utilities, fences, entry feature and lighting for same, paving, walls, the foundation, the roof and exterior walls of the building (to the extent such exterior walls are not part of the Units), landscape areas, outside parking area and lighting for same, mail area, stairs, dumpster, all other lighting, personal property, equipment and furniture in any Common Element of the Condominium building and limited access gated entry system.

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

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

## 6. LIMITED COMMON ELEMENTS.

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

(i) breezeways, entry foyers, hallways, corridors, and stairs serving more than one (1) but less than all Units, as shown on the Floor Plans, are assigned as Limited Common Elements to the Units which they serve;

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

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

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

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

(vi) each Unit is assigned one (1) mailbox or mail slot.

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

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

## 7. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES.

All Unit Owners, by virtue of their ownership of a fee or undivided fee interest in any Unit in the Condominium, excluding Persons holding such interest under a Mortgage, are members of the Midtown on Eighth Condominium Association, Inc. and, except as otherwise provided herein or in the Bylaws, shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to the Declaration and in accordance with the Bylaws. Subject to the provisions of the Condominium

Instruments, the Owner or collective Owners of a Unit shall be entitled to one (1) equally weighted vote for such Unit.

8. ALLOCATION OF LIABILITY FOR COMMON EXPENSES.

(a) Except as provided below, or elsewhere in the Act or Condominium Instruments, the amount of all Common Expenses shall be assessed against all the Units in accordance with the percentage of undivided interest in the Common Elements appurtenant to the Unit.

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

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

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

(c) The Condominium currently is served by a common water meter and submeters for individual Units. The Board shall have the authority to assess individual Unit utilities usage charges, based on readings of the submeters, including a right to add a charge for the cost of overhead for such submetering and/or to install separate utility meters for the Units.

9. ASSOCIATION RIGHTS AND RESTRICTIONS.

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

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

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

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

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

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

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

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

(h) 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 Paragraph 8(b)(ii) above;

(i) to approve contractors or subcontractors who have access to the Condominium for the purpose of making repairs or improvements to Units based on criteria adopted by the Board which may include insurance requirements and require deposits for use of elevators and the trash receptacle; and

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

#### 10. ASSESSMENTS.

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

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

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

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

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

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

(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 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, including reasonable attorneys' fees actually incurred, and suspend the Owner's and/or Occupant's right to vote and the right to use the Common Elements; provided, however, the Board may not limit ingress or egress. Enforcement under this subparagraph is not dependent upon or related to other restrictions and/or other actions.

(v) If any assessment or other charge is delinquent for thirty (30) days or more, in addition to all other rights provided in the Act and herein, the Association shall have the right upon ten (10) days written notice, and in compliance with any requirements set forth in the Act, to

suspend any utility or service, the cost of which are a Common Expense, including, but not limited to, water, electricity, heat, air conditioning and cable television, to that Unit until such time as the delinquent assessments and all costs permitted under this Paragraph, including reasonable attorney's fees, are paid in full. Any costs incurred by the Association in discontinuing and/or reconnecting any utility service, including reasonable attorney's fees, shall be an assessment against the Unit.

Notwithstanding the above, only the Board may suspend any utility or service paid for as a Common Expense but only after a final judgment or judgments in excess of a total of \$750.00, or such other amount as required by the Act, are obtained in favor of the Association from a court of competent jurisdiction, the Association provides the notice required to be provided by the institutional provider of such service prior to suspension of such service, and the Association complies with any other requirements of Georgia law. A Unit Owner whose utility or service has been suspended shall not be entitled to use any such utility or service paid for as a Common Expense from any source and any such unauthorized use shall be considered a theft of services under O.C.G.A. §16-8-5. The utility or service shall not be required to be restored until all judgments are paid in full, at which time the Association shall direct the utility or service provider to restore the utility or service. Enforcement under this subparagraph is not dependent upon or related to other restrictions and/or other actions.

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

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

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

(f) Capital Reserve Budget and Contribution. After the expiration of the Declarant's right to appoint and remove officers and directors of the Association, pursuant to Article III, Section 2 of the Bylaws, the Board of Directors shall annually prepare a capital reserve 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 reserve contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital reserve budget, with respect both to amount and timing by equal annual assessments over the period of the budget. The annual capital reserve contribution required, if any, shall be fixed by the Board and included within the budget and assessment as provided in subparagraph (d) of this Paragraph. A copy of the capital reserve budget shall be distributed to each member in the same manner as the operating budget.

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 reserve budget, set any other capital reserve contribution, or otherwise collect amounts for capital reserves.

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

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

(i) Working Capital Fund. The Declarant, on behalf of the Association, shall establish a working capital fund to meet unforeseen expenditures or to purchase any additional equipment or services. The Declarant may collect a non-refundable contribution to the working capital fund of the Association from the initial purchaser of each Unit in the amount of two (2) months of the general assessment charged to such Unit. The Declarant shall not use the working capital funds to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits while it is in control of the Association.

## 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. The Association's insurance policy shall cover any of the following types of property contained within a Unit, regardless of ownership: (a) fixtures, improvements and alterations that are a part of the building or structure; and (b) appliances, such as those used for refrigerating, ventilating, cooking, dishwashing, laundering, security or housekeeping. In the alternative, the Association's insurance policy may exclude improvements and betterments made by the Unit Owner and may exclude the finished surfaces of perimeter and partition walls, floors, and ceilings within the Units (i.e., paint, wallpaper, paneling, other wall covering, tile, carpet and any floor covering; provided, however, floor covering does not mean unfinished hardwood or unfinished parquet flooring).

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

(iii) fidelity bonds, if reasonably available, covering officers, directors, employees, and other persons who handle or are responsible for handling Association funds. Such bonds, if reasonably available, shall be in an amount 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 members of the Board of Directors must sign any checks written on the reserve account; and

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

(f) Insurance carried by the Association as a Common Expense shall not be required to include: (1) any part of a Unit which is not depicted on the original Survey and Floor Plans; or (2) any part of a Unit that was not included as part of the collateral for the initial loan made for the initial purchase of the Unit, nor shall the Association include public liability insurance for individual Owners for liability arising within the Unit.

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

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

(i) Insurance Deductibles. In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the person or persons who would be responsible for such loss in the absence of insurance. If the loss affects more than one Unit or a Unit and the Common Elements, the cost of the deductible may be apportioned equitably by the Board among the parties suffering loss in proportion to each affected owner's portion of the total cost of repair. Notwithstanding this, if the insurance policy provides that the deductible will apply to each Unit separately or to each occurrence, each Unit Owner shall be responsible for paying the deductible pertaining to his or her Unit, if any. If any Owner or Owners fail to pay the deductible when required under this subparagraph, then the Association may pay the deductible and assess the cost to the Owner or Owners pursuant to Paragraph 8 of this Declaration; provided, however, where the deductible is for insurance required under the Act, no Owner shall be assigned more than one thousand dollars (\$1,000.00), or such higher amount as authorized by the Act, as the cost of the deductible for any one occurrence.

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

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

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

(b) Source and Allocation of Proceeds. If the proceeds of insurance are not sufficient to defray the 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) Floor 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 Floor Plans and specifications are approved by the Board of Directors. To the extent insurance proceeds are available, the Association may reconstruct or repair Owner improvements damaged as a result of fire or other casualty.

(d) Encroachments. Encroachments upon or in favor of Units 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 Control. During the time in which the Declarant has the right to appoint directors and officers of the Association under Article III, Section 2 of the Bylaws there shall be no Architectural Control Committee and all encroachments onto the Common Elements or Limited Common Elements, exterior change, alteration or construction (including painting and landscaping), and any erection, placement or posting of any object, sign, clothesline, speaker, playground equipment, light, fountain, flag, or thing on the exterior or roofs of the buildings, in any windows (except window treatments as provided herein), or on any Limited Common Elements or any Common Elements, must receive the prior written approval of the Declarant. However, a mezuzah or comparable religious symbol not longer than three inches (3") in width and nine inches (9") in height may be posted on the door frame of the Unit and reasonable seasonal decorative lights may be displayed between Thanksgiving and January 15<sup>th</sup>. Granting or withholding such approval shall be within the sole discretion of the Declarant. All references in the Condominium Instruments to the Architectural Control Committee or ACC shall refer to the Declarant during the period the Declarant has the right to appoint the officers and directors of the Association.

(b) After Declarant Control. After such time as the Declarant's rights to appoint officers and directors of the Association as provided in Article III, Section 2 of the Bylaws has expired, an

Architectural Control Committee shall be appointed by the Board of Directors and except for the Declarant, so long as the Declarant shall own a Unit for sale, no Owner, Occupant, or any other person may make any encroachment onto the Common Elements or Limited Common Elements, or make any exterior change, alteration, or construction (including painting and landscaping), nor erect, place or post any object, sign, clothesline, speaker, playground equipment, light, fountain, flag, or thing on the exterior or roofs of the buildings, in any windows (except window treatments as provided herein), on any Limited Common Elements, or on any other Common Elements, without first obtaining the written approval of the ACC. However, a mezuzah or comparable religious symbol not longer than three inches (3") in width and nine inches (9") in height may be posted on the door frame of the Unit and reasonable seasonal decorative lights may be displayed between Thanksgiving and January 15<sup>th</sup>. The standard for approval of such improvements shall include, but not be limited to, aesthetic consideration, materials to be used, harmony with the external design of the existing buildings, Units and structures, and the location in relation to surrounding structures and topography. Notwithstanding the above, Declarant shall not be required to obtain any approvals under this Paragraph.

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

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

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

(ii) Relocation of Boundaries. Boundaries between adjoining Units may be relocated only in accordance with the provisions of O.C.G.A. §44-3-91 and this Declaration. As long as Declarant owns a Unit for sale, an Owner must obtain the prior written consent of the Declarant

and the Board of Directors in order to relocate the boundaries of his or her Unit. After Declarant no longer owns a Unit for sale, an Owner must obtain the prior written consent only of the Board of Directors in order to relocate the boundaries of his or her Unit. The Declarant shall have the right to relocate boundaries between Units owned by the Declarant without the approval of the Board of Directors, and the Board of Directors shall execute the required amendment to the Declaration.

(iii) Subdivision of Units. No Unit shall be subdivided into a smaller Unit or Units.

(d) Applications. Applications 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 ACC may publish written architectural standards for exterior and Common Element alterations or additions, and any request in substantial compliance therewith shall be approved; provided, however, each such requested change shall be in harmony with the external design of the existing buildings and Units and the location in relation to surrounding structures and topography of the vicinity.

In the event that the ACC fails to approve or to disapprove such application within forty-five (45) days after the application and all information as the ACC may reasonably require have been submitted, its approval will not be required and this subparagraph 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.

(e) Encroachments onto Common Elements and Limited Common Elements. The ACC subject to this paragraph may permit Unit Owners to make encroachments onto the Common Elements as it deems acceptable. The ACC also may allow encroachments onto the Limited Common Elements by the Owner(s) of the Unit(s) to whom the Limited Common Element is assigned.

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

(g) Limitation of Liability. Review and approval of any application pursuant to this Paragraph is made on the basis of aesthetic considerations only, and neither the Declarant, the Board of Directors or 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, or 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.

(h) No Waiver of Future Approvals. Each Owner acknowledges that the members of the Board of Directors and ACC will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. Each Owner further acknowledges that

the ACC may adopt different architectural standards for different parts of the condominium, based on street visibility and location of the proposed modification in the building. The approval of either the Board of Directors or the ACC of any proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Board of Directors, or the ACC shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

(i) 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. Furthermore, the Board shall have the authority to record in the Fulton County land records notices of violation of the provisions of this Paragraph.

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

(j) Commencement of Construction. All changes, modifications and improvements approved by the ACC hereunder must be commenced within one (1) year from the date of approval. If not commenced within one (1) year from the date of such approval, then such approval shall be deemed revoked by the ACC, unless the ACC gives a written extension for commencing the work. All work approved by the ACC hereunder shall be completed in its entirety within ninety (90) days from the date of commencement, unless otherwise agreed in writing by the ACC. All approved changes, modifications, and improvements must be completed in their entirety. An Owner may not construct only a portion or part of an approved change, modification, or improvement.

#### 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 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 reasonable rules and regulations in accordance with the terms hereof and as specified in the Bylaws.

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

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

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

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

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

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

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

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

(b) Number of Occupants. The maximum number of occupants in a Unit shall be limited to two (2) people per bedroom in the Unit, (as such bedrooms are depicted on the original Survey and Floor Plans filed in the Fulton County, Georgia records). "Occupancy," for purposes hereof, shall be defined as staying overnight in a Unit for a total of more than thirty (30) days, either consecutive or nonconsecutive, in any calendar year. This occupancy restriction shall not apply to require the removal of any person lawfully occupying a Unit on the Effective Date hereof. Upon written application, the Board shall grant variances to this restriction to comply with provisions of the Fair Housing Amendments Act of 1988 or any amendments thereto.

If an Owner of a Unit is a corporation, partnership, trust or other legal entity not being a natural person, the entity shall designate in writing to the Board the name(s) of the person(s) who will occupy the Unit. The designated person(s) to occupy the Unit may not be changed more frequently than once every six (6) months.

(c) Outbuildings. No structure of a temporary character, trailer, tent, shack, carport, garage, barn or other outbuilding shall be erected by any Owner or Occupant, other than the Declarant, on any portion of the Condominium, at any time, either temporarily or permanently, without the prior 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, except as specifically provided herein. There shall be no use of the roofs of the Condominium buildings by the Owners, their family members, guests, tenants, invitees, agents or contractors. The Association and its agents and contractors shall have access to the roofs for performing its maintenance and repair responsibility. There shall be no gardening or landscaping on the Common Elements by Owners or Occupants without the prior written consent of the Board. No pets are allowed in any of the Common Elements except for the designated dog walk area, if any. This subparagraph shall not apply to the Declarant, so long as the Declarant shall own a Unit for sale.

(e) Use of Limited Common Elements, Decks and Patios. Except as otherwise provided herein, the use of the Limited Common Elements assigned to the Units is restricted exclusively to the Owners of the Unit to which such Limited Common Elements are assigned, and said Owner's 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.

(i) Decks and Patios. Objects over forty-two (42) inches in height, grills, bicycles, laundry garments, towels and objects other than potted plants and patio furniture, except as may be authorized by the Board, shall not be placed on a deck or patio. Penetration of a deck or patio is prohibited. Enclosure of a deck or patio also is prohibited.

(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.

It is the nature of multi-family properties (of which this Condominium is a part) that dwelling Units are built in close proximity to one another (resulting in sharing of common walls, floors and ceilings) and noise is frequently audible from one Unit to the next no matter how much sound proofing is attempted. It is therefore mandatory, for the mutual interest and protection of all Owners, lessees and other Occupants within the Condominium, to recognize that acoustical privacy is achieved only through understanding and compliance with certain limitations and restrictions. It is also recognized that sound insulation from an adjacent occupancy in a manner comparable to a single-family residence is impossible to attain and Owners and Occupants hereby acknowledge and accept that limitation. Owners and Occupants acknowledge that there will usually be some audio awareness of one's neighbors, depending upon the situation. All modifications of design of the structures, or related components thereof, by Owners and Occupants could alter the insulation and therefore are regulated by



this Declaration. Owners and Occupants should review the Declaration for further information with respect to sound attenuation. Additionally, all furniture parts in contact with the floor should have rubber castors or felt pads to minimize noise and vibration attributable to moving furniture as well as scratching of finishes.

Noxious, destructive or offensive activity shall not be carried on within 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 a 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.

All Owners and Occupants acknowledge and understand that the Declarant will be renovating and rebuilding certain portions of the Condominium and no such construction or noise associated therewith shall be deemed a nuisance or discomfort pursuant to the terms hereof.

No Owner, Occupant or agent of such Owner or Occupant shall do any work which, in the reasonable opinion of the 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 as listed in O.C.G.A. §25-10-1, as amended.

(h) Pets. No Owner or Occupant may keep any pets other than generally recognized household pets on any portion of the Condominium, and no Owner or Occupant may keep more than a total of two (2) dogs and/or cats per Unit. Notwithstanding the above, a reasonable number of generally recognized household pets, as determined in the Board's sole discretion, weighing less than two (2) pounds each may be kept in Units.

No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose. Pets may not be left unattended outdoors. No structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Common Elements, including Limited Common Elements, without prior written ACC approval. Dogs must be kept on a leash and be under the physical control of a responsible person at all times while outdoors, except that dogs need not be leashed within

fenced deck or patio areas when attended by a person. Feces left upon the Common Elements by dogs must be removed by the owner of the dog or the person responsible for the dog.

No potbellied pigs, snakes, pit bulldogs, rottweillers, doberman pinchers, or other animals determined in the Board's sole discretion to be dangerous may be brought onto or kept on the Condominium at any time. The Board may require that any pet which, in the Board's opinion, endangers the health of any Owner or Occupant or creates a nuisance or unreasonable disturbance, be permanently removed from the Condominium upon seven (7) days written notice. If the Owner or Occupant fails to do so, the Board may remove the pet. Any pet which, in the Board's sole discretion, presents an immediate danger to the health, safety or property of any community member may be removed by the Board without prior notice to the pet's owner.

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

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

For so long as Declarant owns a Unit primarily for the purpose of sale, Declarant may sell more parking spaces (which parking spaces shall thereafter be Limited Common Elements appurtenant to the Unit to which they have been sold) to a Unit Owner and may adopt rules regulating the use of unassigned parking spaces. Vehicles permitted under this subparagraph may be parked only in designated, lined parking spaces or other areas authorized in writing by the Board.

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

Boats, trailers, panel trucks, buses, trucks with a load capacity of one (1) ton or more, vans (excluding mini-vans or utility vehicles used as passenger vehicles and receiving a "car" or "passenger vehicle" classification by the Georgia Department of Motor Vehicles), recreational vehicles (RV's and motor homes), vehicles used primarily for commercial purposes, and vehicles with commercial writings on their exteriors are also prohibited from being parked on the Condominium, except in areas designated by the Board as parking areas for particular types of vehicles. Notwithstanding the above, trucks, vans, commercial vehicles and vehicles with commercial writings on their exteriors shall be allowed temporarily on the Common Elements during normal business hours for the purpose of serving any Unit or the Common Elements, but no such vehicle shall remain on the Common Elements overnight or for any purpose except serving a Unit or the Common Elements, without written Board consent.

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 or agent of the Association may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed. The notice shall include the name and telephone number of the person or entity that will do the towing and the name and telephone number of a person to contact regarding the alleged violation. If twenty-four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six (6) months of such notice, the Board or the agent of the Association may

have the vehicle towed in accordance with the notice, without further notice to the Owner or user of the vehicle.

If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's parking space, is obstructing the flow of traffic, is parked on any grassy area, is parked in a parking space which has been assigned as exclusively serving another Unit, or otherwise creates a hazardous condition, no notice shall be required and the Board or the agent of the Association may have the vehicle towed immediately. If a vehicle is towed in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow.

(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 provided for herein or 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, political placards or billboards of any kind shall be erected, placed, or permitted to remain on the Condominium without the prior written consent of the Board or its designee. The Board 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.

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

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

(o) Window Treatments. All windows of a Unit shall have window treatments. The color of all window treatments visible from outside the Unit must be white or off-white. Bed sheets shall not be used as window treatments.

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

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

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

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

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

(q) Grilling. The use of outdoor grills in any Condominium building, including, without limitation, the decks and patios, is prohibited.

(r) 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 for any claim of damage resulting from the removal activity in accordance herewith. The Board may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

(s) 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, 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 Architectural Control Committee, as applicable, as set

forth in Paragraph 13. Among other factors, the Declarant or the Architectural Control Committee, as applicable, may consider whether the change will cause noise to any Unit below which will exceed the average noise level in Units below Units with carpeted floors and that the weight of such proposed flooring is appropriate and will not cause problems to the structure or subflooring.

The Owner applying for such approval shall provide the Declarant or the Architectural Control Committee, as applicable, with information regarding these factors, as well as other information requested by the Declarant or the Architectural Control Committee regarding the proposed flooring and its effect; provided, however, the noise level requirements shall be considered to be met if the Owner provides a sound transmission test that the proposed flooring will create a noise level less than a standard level set by reasonable regulation of the Declarant or the Architectural Control Committee, as applicable. Notwithstanding the above, at least fifty percent (50%) of each room (excluding the kitchen and bathrooms) shall be carpeted unless the flooring is sound proofed so as not to exceed the noise level in Units with carpeted floors.

(t) Sale Period. Notwithstanding any provisions contained in this Declaration to the contrary, during the period of the sale 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.

#### 15. LEASING.

In order to preserve the character of the Condominium as predominantly owner-occupied, and to comply with the eligibility requirements for financing in the secondary mortgage market, 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) General. Owners desiring to lease their Units may do so only if they have applied for and received from the Board of Directors either a "leasing permit" or a "hardship leasing permit." Such a permit, upon its issuance, will allow an Owner to lease his or her Unit provided that such leasing is in strict accordance with the terms of the permit and this Paragraph. The Board of Directors shall have the authority to establish conditions as to the duration and use of such permits consistent with this Paragraph. All leasing permits and hardship leasing permits shall be valid only as to a specific Unit Owner and Unit and shall not be transferable between either Units or Unit Owners (including a subsequent Owner of a Unit where a permit was issued to the Owner's predecessor in title).

(b) Leasing Permits. An Owner's request for a leasing permit shall be approved if current, outstanding leasing permits have not been issued for more than twenty-five percent (25%) of the total Units (excluding Units owned by the Declarant) in the Condominium. A leasing permit shall be automatically revoked upon the happening of any of the following events: (1) the sale or transfer of the Unit to a third party (excluding sales or transfers to (a) an Owner's spouse, (b) a person cohabitating with the Owner, and (c) a corporation, partnership, company, or legal entity in which the Owner is a principal); (2) the failure of a Unit Owner to lease his or her Unit within ninety (90) days of the leasing permit having been issued; or (3) the failure of a Unit Owner to have his or her Unit leased for any consecutive ninety (90) day period thereafter. If current leasing permits have been issued for more than twenty-five percent (25%) of the total Units (excluding Units owned by the Declarant), no

additional leasing permits shall be issued (except for hardship leasing permits) until the number of outstanding current leasing permits falls below twenty-five percent (25%) of the total Units (excluding Units owned by the Declarant) in the Condominium. Owners who have been denied a leasing permit shall automatically be placed on a waiting list for a leasing permit and shall be issued the same if they so desire when the number of current outstanding leasing permits issued falls to twenty-five percent (25%) or less of the total Units (excluding Units owned by the Declarant) in the Condominium. The issuance of a hardship leasing permit to an Owner shall not cause the Owner to be removed from the waiting list for a leasing permit.

(c) Hardship Leasing Permits. If the failure to lease will result in a hardship, the Owner may seek to lease on a hardship basis by applying to the Board of Directors for a hardship leasing permit. The Board of Directors shall have the authority to issue or deny requests for hardship leasing permits in its discretion after considering the following factors: (1) the nature, degree, and likely duration of the hardship, (2) the harm, if any, which will result to the Condominium if the permit is approved, (3) the number of hardship leasing permits which have been issued to other Owners, (4) the Owner's ability to cure the hardship, and (5) whether previous hardship leasing permits have been issued to the Owner. A "hardship" as described herein shall include, but not be limited to the following situations: (1) 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. Hardship leasing permits shall be valid for a term not to exceed one (1) year. Owners may apply for additional hardship leasing permits. Hardship leasing permits shall be automatically revoked if during the term of the permit, the Owner is approved for and receives a leasing permit.

(d) Leasing Provisions. Leasing which is authorized, pursuant to permit, 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:

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

(b) Use of Common Elements. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Elements, including but not limited to, the use of any and all recreational facilities and other amenities.

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

(e) Applicability of this Paragraph. Notwithstanding the above, this Paragraph shall not apply to any leasing transaction entered into by the Declarant, any member of 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 pursuant to the satisfaction of the indebtedness secured by such Mortgage, and they shall be permitted to lease without obtaining a permit.

16. SALE OF UNITS.

A Unit Owner intending to make a transfer or sale of a Unit or any interest in a Unit shall give written notice to the Board of Directors of such intention within seven (7) days after execution of the transfer or sales documents. The Unit Owner shall furnish to the Board as part of the notice (i) the name and address of the intended grantee; and (ii) such other information as the Board may reasonably require. This Paragraph shall not be construed to create a right of first refusal in the Association or in any third party.

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

17. MAINTENANCE RESPONSIBILITY.

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

In addition, each Unit Owner shall have the responsibility:

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

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

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

(iv) To pay for the cost of repairing, replacing or cleaning up any item which is the responsibility of the Unit Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repairing, replacing, or cleaning up any item which, although the responsibility of the



Association, is necessitated by reason of the willful or negligent act of the Unit Owner, his or her family, tenants or guests, with the cost thereof to be added to and become part of the Unit Owner's next chargeable assessment.

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

(i) all Common Elements, including any Limited Common Elements, but excluding all improvements made to such Limited Common Elements; provided, however, the cost of maintenance and repair of Limited Common Elements may be assessed against the Unit Owner to whom the Limited Common Element is assigned under Paragraph 8(b)(i);

(ii) periodic painting or staining of exterior surfaces of the Condominium buildings, exterior window frames and entry doors and door frames of the hallway of the Condominium, on a schedule to be determined by the Board of Directors; and

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 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, except for injuries or damages arising after the Owner of a Unit has put the Association on notice of a specific leak or flow from any portion of the Common Elements and the Association has failed to exercise due care to correct the leak or flow within a reasonable time thereafter. The Association shall not be liable to the Owner of any Unit or such Owner's Occupant, guest, or family, for loss or damage, by theft or otherwise, of any property 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, or with any order or directive of any municipal or other governmental authority.

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

(c) 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, shall become a lien against the Unit, and shall be collected as provided herein for the collection of assessments.

(d) Measures Related to Insurance Coverage.

(i) The Board of Directors, upon resolution, shall have the authority to require all or any Unit Owner(s) to do any act or perform any work involving portions of the Condominium which are the maintenance responsibility of the Unit Owner, which will, in the Board's sole discretion, decrease the possibility of fire or other damage in the Condominium, reduce the insurance premium paid by the Association for any insurance coverage or otherwise assist the Board in procuring or maintaining such insurance coverage. This authority shall include, but need not be limited to, requiring Owners to install and maintain smoke detectors, requiring Owners to certify that they have checked the batteries for their smoke detectors, requiring Owners to allow the Association to inspect the smoke detectors and replace batteries if needed on a schedule to be determined by the Board of Directors, requiring Owners to make improvements to the Owner's Unit, and such other measures as the Board may reasonably require so long as the cost of such work does not exceed three hundred dollars (\$300.00) per Unit in any twelve (12) month period.

(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. MORTGAGEE'S RIGHTS.

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

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

(ii) change the pro rata interest or obligations of any individual Unit for the purpose of (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 in any manner inconsistent with the provisions of this Declaration;

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

(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 Mortgagees 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 Mortgagee holding a first Mortgage of record, a secondary purchase money Mortgage of record (provided that neither the grantee nor any successor grantee on the secondary purchase money Mortgage is the seller of the Unit) or other purchaser of a Unit obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable 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) Upon written request to the Association, identifying the name and address of the holder and the Unit number or address, any Eligible Mortgage Holder, or insurer or guarantor of a first mortgage on a Unit, will be entitled to timely written notice of:

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

(ii) any proposed termination of the Condominium;

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

(iv) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to a first Mortgage held by such Eligible Mortgage Holder 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;

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

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

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

(f) Notwithstanding anything to the contrary herein contained, the provisions of Paragraphs 15 and 16 governing sales and leases shall not apply to impair the right of any first Mortgagee to:

(i) foreclose or take title to a Unit pursuant to remedies contained in its Mortgage; or

(ii) take a deed or assignment in lieu of foreclosure; or

(iii) sell, lease, or otherwise dispose of a Unit acquired by the Mortgagee.

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

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

(i) Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

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

19. GENERAL PROVISIONS.

(a) **SECURITY. THE ASSOCIATION OR THE DECLARANT 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 NEITHER THE ASSOCIATION NOR THE DECLARANT IS A PROVIDER OF SECURITY AND NEITHER PARTY SHALL HAVE A DUTY TO PROVIDE SECURITY ON THE CONDOMINIUM. FURTHERMORE, THE ASSOCIATION DOES NOT GUARANTEE THAT NON-UNIT OWNERS AND NON-OCCUPANTS WILL NOT GAIN ACCESS TO THE PROPERTY AND COMMIT CRIMINAL ACTS ON THE PROPERTY NOR DOES THE ASSOCIATION GUARANTEE THAT CRIMINAL ACTS ON THE PROPERTY WILL NOT BE COMMITTED BY OTHER UNIT OWNERS OR OCCUPANTS. IT SHALL BE THE RESPONSIBILITY OF EACH OWNER TO PROTECT HIS OR HER PERSON AND PROPERTY AND ALL RESPONSIBILITY TO PROVIDE SUCH SECURITY SHALL LIE SOLELY WITH EACH UNIT OWNER. 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.**

(b) Dispute Resolution. Prior to filing a lawsuit against the Association, the Board, or any officer, director, or property manager of the Association, a Unit Owner or Occupant must request and attend a hearing with the Board of Directors. Any such request shall be in writing and shall be personally delivered to any member of the Board of Directors or the property manager, if any, of the Association. The Owner or Occupant shall, in such request and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Owner's or Occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date not less than seven (7) nor more than twenty-one (21) days from the date of receipt of the request.

(c) Parking Spaces, Vehicles and Storage Spaces. Neither the Declarant nor the Association shall be held liable for loss or damage, including water damage, to any property placed or kept in any parking space or storage space in the Condominium. Each Owner or Occupant with use of a parking space or storage space who places or keeps a vehicle and/or any personal property in the vehicle, parking space or storage space does so at his or her own risk.

(d) Unit Keys. Each Unit Owner, by acceptance of a deed to a Unit, agrees to provide the Association with a key to the Unit and the security alarm code, if any, to be used by the Association for maintenance, emergency, security or safety purposes as provided in Paragraph 9(a) of this Declaration and for pest control, if necessary, as provided in Paragraph 21(e) 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.

(e) Right of Action. All Owners hereby acknowledge and agree that the Association shall not be entitled to institute any legal action against anyone on behalf of any or all of the Owners which is based on any alleged defect in any Unit or the Common Elements, or any damage allegedly sustained by any Owner by reason thereof, but rather, that all such actions shall be instituted by the Person(s) owning such Units or served by such Common Elements or allegedly sustaining such damage. Notwithstanding the above, once the Declarant no longer has the right to appoint and remove directors and officers, as set forth in Article III, Section 2 of the Bylaws, the Association Board of Directors may negotiate the resolution of any alleged defect(s) in the Common Elements and Area of Common Responsibility on behalf of the Unit Owners and shall have the right and authority to settle and release on behalf of any and all of the Unit Owners claims, causes of action, damages and suits involving the same. Any such settlement and release shall bind all Unit Owners and their successors and assigns.

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

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

(i) The Condominium is located adjacent to 8<sup>th</sup> Street and Glendale Terrace which roadways could be improved or widened in the future, the traffic on which may create noise from time to time.

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

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

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

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

(vi) No representations are made that the Unit is or will be soundproof or that sound may not be transmitted from one Unit to another.

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

(viii) The western border of the Condominium abuts a ten (10) foot alley which alley is situated on a steep slope. Under Georgia law, when land abuts an alley, the landowner owns half of the width of the alley adjacent to the owner's property and has an easement to use the other half of the alley. Declarant gives not certification as to the safety and/or noise levels of the alley.

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

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

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

(d) Utilities. To the extent that the sprinkler system or any utility line, pipe, wire, or conduit serving any Unit, Units or the Common Elements shall lie wholly or partially within the boundaries of another Unit or the Common Elements, such other Unit, Units, or the Common Elements shall be burdened with a non-exclusive easement for the use, maintenance, repair and replacement of such sprinkler system, utility line, pipe, wire or conduit, such non-exclusive easement to be in favor of the Unit, Units, or Common Elements served by the same and the Association. It shall be the obligation of the benefited Owner to maintain, replace and repair any pipe, line, conduit, duct or wire owned by such Owner, even if such pipe, line conduit, duct or wire is located within the boundaries of a Unit of another

Owner. In such circumstance, the benefited Owner shall repair all incidental damage to any Unit resulting from performance of any such work. All Unit Owners hereby covenant and agree that as finish levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready". Components that may require repair or replacement, such as tile and trim, will be reinstalled only to the extent of readily available materials or similar materials (trim and such will also be finished to "paint-ready"). Due to the uncontrollability of quality of repair, items such as faux paint treatment, wallpaper, ceiling/wall applique, and any other similar types of finishes, will not be the responsibility of the benefited Owner.

(e) Pest Control. The Association may but shall not be obligated to dispense chemicals for the extermination of insects and pests within the Units and Common Elements. In the event the Association chooses to provide such pest control, the Association and its duly authorized contractors, representatives, and agents shall have an easement to enter Units for the purpose of dispensing chemicals for the exterminating of insects and pests within the Units and Common Elements. 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.

(f) Declarant Easements. For so long as Declarant owns any Unit primarily for the purpose of sale, Declarant and its duly authorized contractors, subcontractors, representatives, agents, associates, employees, tenants and successors and assigns shall have: (1) a non-exclusive easement for access and ingress to, egress from and use of the Common Elements for the placement and maintenance of signs, banners, balloons, decorations, marketing materials and tables, a sales office, a leasing office, a business office, promotional facilities and model Units on any portion of the Condominium, together with such other facilities as in the opinion of Declarant may be reasonably required, convenient or incidental to the completion, renovation, improvement, development, sale or lease of any Unit; (2) a non-exclusive easement to use the Common Elements for special events and promotional activities; (3) a transferable, non-exclusive 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 constructing, installing, replacing, repairing, restoring and maintaining all utilities, buildings, driveways, landscaping and any other improvements on the Condominium Property or serving the Condominium, and for the purpose of doing all things reasonably necessary and proper in connection therewith.

## 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 (2/3) of the total Association vote. As long as Declarant owns a Unit in the Condominium primarily for the purposes of sale, any amendment to this Declaration or the Bylaws shall require the written consent of 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 Fulton 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 percent (51%) of the votes of Units that are subject to Mortgages held by Eligible Mortgage Holders. Notwithstanding the above, the approval of any proposed amendment by an Eligible Mortgage Holder shall be deemed implied and consented to if the Eligible



Mortgage Holder fails to submit a response to any written proposal for an amendment within thirty (30) days after the Eligible Mortgage Holder receives notice of the proposed amendment sent by certified or registered mail, return receipt requested. Material amendments are those which establish, provide for, govern or regulate any of the following:

- (a) Voting;
- (b) Assessments, assessment liens or subordination of such liens;
- (c) Reserves for maintenance, repair and replacement of the Common Elements;
- (d) Insurance or fidelity bonds;
- (e) Rights to use of the Common Elements;
- (f) Responsibility for maintenance and repair of the Condominium;
- (g) Expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium;
- (h) Boundaries of any Unit;
- (i) The interests in the Common Elements or Limited Common Elements;
- (j) Convertibility of Units into Common Elements or of Common Elements into Units;
- (k) Leasing of Units;
- (l) Imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey his or her Unit in the Condominium;
- (m) Establishment of self-management by the Condominium Association where professional management has been required by any of the agencies or corporations set forth below; and
- (n) Amendment of any provisions which are for the express benefit of Eligible Mortgage holders or insurers or guarantors of first mortgages on Units in the Condominium.

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

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

23. SEVERABILITY.

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

24. DECLARANT RIGHTS.

Notwithstanding anything to the contrary herein, and in addition to Declarant's right to appoint and remove officers and directors under Article III, Section 2 of the Bylaws and other rights set forth herein, Declarant shall have the right, as long as Declarant owns at least one Unit, to conduct such sales, marketing, leasing, administrative and other activities at the Condominium as Declarant deems appropriate for the sale, marketing or leasing of any Unit and Declarant shall have a non-exclusive easement right across the Common Elements to erect signs, banners, balloons and other decorations and to conduct such other sales, marketing and leasing activities as provided herein.

25. PREPARER.

This Declaration was prepared by Linda B. Curry and Jane C. Kotake, Weissman, Nowack, Curry & Wilco, P.C., Two Midtown Plaza, 15<sup>th</sup> Floor, 1349 West Peachtree Street, Atlanta, Georgia 30309.

[SIGNATURE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Declarant has executed this Declaration under seal this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**DECLARANT:**            **MIDTOWN ON 8TH, LLC,**  
   a Georgia limited liability company

Signed, sealed, and delivered  
this \_\_\_\_ day of \_\_\_\_\_,  
in the presence of:

By: \_\_\_\_\_ (SEAL)

Title: \_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Notary Public  
[NOTARY SEAL]  
F:\DOCS\07543\003\Docs\DECLARATION.1.doc

**EXHIBIT "A"**  
**Description Of Submitted Property**

**TRACT ONE:**

ALL THAT TRACT OR parcel of land lying and being in Land Lot 48 of the 14<sup>th</sup> District of Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at a point on the south side of Eighth Street one hundred (100) feet west of the southwest corner of the intersection of Eighth Street and Glendale Terrace; running thence west along the south side of Eighth Street sixty (60) feet to the east side of a ten (10) foot alley; thence south along the east side of said alley two hundred and five tenths (200.5) feet; thence east forty-five (45) feet; thence north ninety and five tenths (90.5) feet; thence east fifteen (15) feet; thence north one hundred ten (110) feet to the south side of Eighth Street and the point of beginning. This property is known as 317 8<sup>th</sup> Street in the City of Atlanta, Fulton County, Georgia, according to the present numbering system.

**TRACT TWO:**

ALL THAT TRACT or parcel of land lying and being in Land Lot 48 of the 14<sup>th</sup> District of Fulton County, Georgia, being a part of Lot 12 of Redford Place and Eighth Street Subdivision, according to plat which is recorded in Plat Book 4, page 5, Fulton County Records, and being more particularly described as follows:

BEGINNING at the southwest corner of the intersection of Eighth Street and Glendale Terrace; running thence west along the south side of Eighth Street one hundred (100) feet; thence south one hundred ten (110) feet; thence east one hundred (100) feet to the west side of Glendale Terrace; thence north along the west side of Glendale Terrace one hundred ten (110) feet to the point of beginning. This is the same property described in warranty deed to Grantor recorded in Deed Book 4395, p. 535 of the Fulton County, Georgia records, being known as 323-8<sup>th</sup> Street, according to the present system of numbering.

**TRACT THREE:**

ALL THAT TRACT or parcel of land lying and being in Land Lot 48 of the 14<sup>th</sup> District of Fulton County, Georgia and being more particularly described as follows:

BEGINNING at a point on the west side of Glendale Terrace one hundred ten (110) feet south of the southwest corner of the intersection of Glendale Terrace and Eighth Street; running thence south along the west side of Glendale Terrace ninety and five tenths (90.5) feet; thence west one hundred fifteen (115) feet; thence north ninety and five tenths (90.5) feet; thence east one hundred fifteen (115) feet to the west side of Glendale Terrace and the point of beginning. This is the same property described in the warranty deed to Grantor recorded in Deed Book 4193, page 535 and page 537, Fulton County Records, being known as 890 Glendale Terrace, according to the present system of numbering.

This deed is made subject to all restrictive covenants or record except those which impose a restriction upon the sale or occupancy of the above described property on the basis of race, color or creed.

**EXHIBIT "B"**

**Undivided Percentage Interest In The Common Elements  
And Liabilities For Common Expenses**

<b>Building</b>	<b>Unit Number</b>	<b>Number of Bedrooms</b>	<b>Ownership Percentage</b>
323	1	1	3.367
323	2	1	3.367
323	3	1	3.367
323	4	1	3.367
323	5	1	3.367
323	6	1	3.367
323	7	1	3.367
323	8	1	3.367
317	9	1	3.367
317	10	1	3.367
317	11	1	3.367
317	12	1	3.367
317	13	1	3.367
317	14	1	3.367
317	15	1	3.367
317	16	1	3.367
890	17	2	4.082
890	18	2	4.082
890	19	2	4.082
890	20	2	4.082
890	21	2	4.082
890	22	2	4.082
890	23	2	4.082
890	24	2	4.082
890	25	1	3.368
890	26	1	3.368
317	27	1	3.368
323	28	1	3.368
		<b>TOTAL:</b>	<b>100%</b>

**EXHIBIT "C"**

**Parking Space Assignments**

<b>Unit Number</b>	<b><u>Parking Space(s) Assigned</u></b>
1	
2	
3	
4	
5	
6	
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9	
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27	
28	

**EXHIBIT "D"**

**BYLAWS**

**OF**

**MIDTOWN ON EIGHTH CONDOMINIUM ASSOCIATION, INC.**

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

Attorneys

Two Midtown Plaza, 15<sup>th</sup> Floor  
1349 West Peachtree Street  
Atlanta, Georgia 30309  
(404) 885-9215

## TABLE OF CONTENTS

		<u>Page</u>
I.	GENERAL	
	1. Applicability .....	1
	2. Name .....	1
	3. Definitions .....	1
	4. Membership .....	1
	5. Entity Members .....	1
	6. Voting .....	1
	7. Majority .....	2
	8. Purpose .....	2
II.	MEETINGS OF MEMBERS	
	1. Annual Meetings .....	2
	2. Special Meetings .....	2
	3. Notice of Meetings .....	2
	4. Waiver of Notice .....	2
	5. Quorum .....	3
	6. Adjournment .....	3
	7. Proxy .....	3
	8. Action Taken Without a Meeting .....	3
	9. Order of Business .....	4
III.	BOARD OF DIRECTORS	
	A. <u>Composition and Selection.</u>	
	1. Composition and Eligibility .....	4
	2. Directors Appointed by Declarant .....	4
	3. Number of Directors and Term of Office .....	5
	4. Removal of Members of the Board of Directors .....	5
	5. Vacancies .....	5
	6. Compensation .....	5
	7. Director Conflicts of Interest .....	5
	8. Nomination .....	6
	9. Elections .....	6
	B. <u>Meetings.</u>	
	1. Regular Meetings .....	6
	2. Special Meetings .....	6
	3. Waiver of Notice .....	6
	4. Conduct of Meetings .....	6
	5. Open Meetings .....	7
	6. Action Without a Meeting .....	7



**Table of Contents (Cont'd.)**

	<u>Page</u>
C. <u>Powers and Duties.</u>	
1. Powers and Duties .....	7
2. Management Agent .....	8
3. Borrowing .....	8
4. Liability and Indemnification of Officers and Directors .....	8
D. <u>Committees.</u>	
1. Architectural Control Committee .....	9
2. Other Committees .....	9
3. Service on Committees .....	9
 IV. OFFICERS	
1. Designation .....	8
2. Election of Officers .....	8
3. Removal of Officers .....	8
4. Vacancies .....	8
5. President.....	8
6. Vice President.....	9
7. Secretary .....	9
8. Treasurer .....	9
9. Other Officers .....	9
10. Agreements, Contracts, Deeds, Leases, Etc. ....	9
 V. RULE MAKING AND ENFORCEMENT	
1. Authority and Enforcement.....	9
2. Fining and Suspension Procedure .....	10
3. Additional Enforcement Rights .....	10
 VI. MISCELLANEOUS	
1. Notices.....	11
2. Severability .....	11
3. Captions .....	11
4. Gender and Grammar .....	11
5. Fiscal Year.....	11
6. Financial Review .....	11
7. Conflicts.....	11
8. Amendment.....	11
9. Books and Records.....	12

**BYLAWS**  
**OF**  
**MIDTOWN ON EIGHTH CONDOMINIUM ASSOCIATION, INC.**

Article I  
General

Section 1. Applicability. These Bylaws provide for the self-government of Midtown on Eighth Condominium Association, Inc. in accordance with the Georgia Condominium Act, the Articles of Incorporation filed with the Secretary of State and the Declaration of Condominium for Midtown on Eighth Condominium, recorded in the Fulton County, Georgia land records ("Declaration").

Section 2. Name. The name of the corporation is Midtown on Eighth Condominium Association, Inc. ("Association").

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

Section 4. Membership. An Owner of a Unit shall automatically become a member of the Association upon taking title to the Unit and shall remain a member for the entire period of ownership. As may be more fully provided below, a 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, limited liability company, partnership, trust, or other legal entity not being a natural person or persons, then any natural person who is an officer, director, or other designated agent of such corporation, partner of such partnership, beneficiary or other designated agent of such trust, manager of a limited liability company or representative of such other legal entity shall be eligible to represent such entity or entities in the affairs of the Association. 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, 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 totalling more than fifty percent (50%) of the total number of eligible votes, Owners, or other group, respectively. Unless otherwise specifically stated, the words "majority vote" mean more than fifty percent (50%) of those voting in person or by proxy. Except as otherwise specifically provided in the Declaration or these Bylaws, all decisions shall be by majority vote.

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

## Article II Meetings of Members

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

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

Section 3. Notice of Meetings. It shall be the duty of the Secretary to mail or deliver to 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-third (1/3) 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: (a) the presence in person by the giver of a proxy at a meeting for which the proxy is given shall automatically invalidate the proxy for that meeting; and (b) a later dated proxy shall automatically be deemed to invalidate any previously given proxy. A proxy holder may not appoint a substitute proxy holder unless expressly authorized to do so in the proxy.

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

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

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 Board in order to be counted. A written ballot may not be revoked. The Association shall maintain such ballots in its file for at least three (3) years.

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

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

### Article III Board of Directors

#### A. Composition and Selection.

Section 1. Composition and Eligibility. The affairs of the Association shall be governed by a Board of Directors. Except for directors appointed by the Declarant hereunder, the directors shall be Owners or spouses or 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. Except for directors appointed by the Declarant, all directors must reside in the Community. No persons shall be eligible to be elected to or continue to serve on the Board of Directors if they are shown on the books and records of the Association to be more than sixty (60) days delinquent in the payment of any assessment or charge by the Association. Directors shall not be eligible to serve more than three (3) consecutive two (2) year terms without first resigning from the Board for a time period which shall be the lesser of: (a) one (1) year; or (b) the period of time from the end of one annual meeting of the Association to the beginning of the next annual meeting of the Association.

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

Section 3. Number of Directors and Term of Office. During the period that the Declarant has the authority to appoint directors, the Board shall consist of two (2) persons. Not later than thirty (30) days after termination of the Declarant's right to appoint directors and officers as described in Section 2 of this Article, the Association shall call a meeting to be held at which Owners shall elect three (3) persons. If such meeting is not the annual meeting, the directors elected shall serve until the next annual meeting. At the first annual meeting after Declarant has surrendered control of the Association, two (2) of the directors shall be elected for terms of two (2) years each and the third director shall be elected for a term of one (1) year. At each annual meeting thereafter, a successor shall be elected to serve for a term of two (2) years. The members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association.

Section 4. Removal of Members of the Board of Directors. At any annual 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 entitled to elect said director and a successor may then and there be elected to fill the vacancy thus created. Further, any director who is more than sixty (60) days past due in the payment of any assessment or charge shall be automatically removed from the Board of Directors, even if the director subsequently pays the amount owed, and the vacancy shall be filled as provided in Section 5 below. Any director who has had three (3) consecutive unexcused absences from regularly scheduled Board meetings may be removed by the vote of a Majority of the other directors. Any director whose removal has been proposed shall be given at least ten (10) days notice of the calling of the meeting to consider his or her removal and the purpose thereof and shall be given an opportunity to be heard at the meeting.

Section 5. Vacancies. Vacancies in the Board caused by any reason, except the removal of a director by 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. Notwithstanding anything to the contrary herein, any director who is an officer, director or other designated agent of an entity member and whose position becomes vacant for any reason, may be replaced by the entity who is the Owner unless there has been a transfer of ownership of the Unit, in which case, the vacancy shall be filled by the remaining directors, even if less than a quorum at any meeting of the directors.

Section 6. Compensation. Directors shall not be compensated for services as such unless and only to the extent that compensation is authorized by a Majority 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 7. Director Conflicts of Interest. Nothing herein shall prohibit a director from entering into a contract and being compensated for services or supplies furnished to the Association in a capacity other than as director, provided that the director's interest is disclosed to the Board and the contract is approved by a Majority of the directors who are at a meeting of the Board of Directors at which a quorum is present, excluding the director with whom the contract is made. The interested director shall not count for purposes of establishing a quorum of the Board. The interested director shall be entitled to be present at any meeting at which the proposed contract is discussed but shall not be entitled to discuss the proposed contract during the discussion. Notwithstanding anything herein, the directors, during the period of Declarant control, shall be authorized on behalf of the Association to enter into contracts with the Declarant and its affiliates as set forth in Paragraph 19(h) of the Declaration.

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

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

B. Meetings.

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

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

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

Section 4. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings. A Majority of directors shall constitute a quorum for the transaction of business. One 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 to such action in writing, sent via hand delivery, regular first class or electronic mail or facsimile. Such consents must describe the action taken and be signed by no fewer than a majority of the directors and such consents shall be filed with the minutes of the Board of Directors.

C. Powers and Duties.

Section 1. Powers and Duties. The Board of Directors shall manage the affairs of the Association and shall have all the powers and duties necessary for the administration of the Condominium and may do all such acts and things as are not by the Act, the Declaration, the Articles of Incorporation,

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

(a) 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 defined in Paragraph 17 of the Declaration;

(d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and the maintenance, repair, and replacement of the Common Elements, Association property, and the Area of Common Responsibility and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;

(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 by the Association with or without cause and without penalty, upon no more than thirty (30) days written notice. No management contract shall have a term in excess of one (1) year.

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

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

D. Committees.

Section 1. Architectural Control Committee. 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 shall determine with the powers and duties that the Board shall authorize.

Section 3. Service on Committees. Unless otherwise provided in these Bylaws or in the resolution authorizing a particular committee, the members of any committee shall be appointed by the President and shall serve at the pleasure of the Board of Directors. Any committee member may be removed 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, copies of all such rules and regulations shall be furnished to all Owners and Occupants. Any rule or regulation may be repealed by the affirmative vote or written consent of a Majority of the total Association vote and the consent of the Declarant so long as the Declarant has the right to appoint and remove directors, 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 Unit Owner shall pay the fine upon notice from the Association, and the fine shall be an assessment and a lien against the Unit until paid. The failure of the Board to enforce any provision of the Declaration, Bylaws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

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

(a) Notice. If any provision of the Declaration or Bylaws or any rule or regulation of the Association is violated, the Board shall send the violator written notice identifying the violation and fine(s) being imposed and advising the violator of the right to request a hearing before the Board to contest the violation or fine(s) or to request reconsideration of the fine(s). Fine(s) may be effective or commence upon the sending of such notice or such later date specified in such notice, notwithstanding the violator's

right to request a hearing before the Board to challenge the fine. In the event of a continuing violation, each day the violation continues or occurs again constitutes a separate offense, and fines may be imposed on a per diem basis without further notice to the violator.

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

Section 3. Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Board may elect to enforce any provision of the Declaration, the Bylaws, or the rules and regulations by self-help (specifically including, but not limited to, towing of vehicles that are in violation of the parking rules and regulations or performing maintenance on any Unit upon a failure by the Unit Owner to so do) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedure set forth in Section (2) of this Article. In any such action, to the maximum extent permissible, the Owner or Occupant responsible for the violation for which abatement is sought shall pay all costs, including reasonable 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 Association's fiscal year end. If an audited financial statement by an independent accountant is not required, a mortgage holder may have an audited statement prepared at its own expense.

If Additional Property is submitted to the Condominium so that the Condominium contains fifty (50) Units or more, the accounts of the Association shall be audited as a Common Expense by an independent accountant after the close of each fiscal year. Such audited statement shall be made available to the holder, insurer, or guarantor of any first mortgage on a Unit upon submission of a written request and must be available within one hundred twenty (120) days of the Association's fiscal year end.

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

Section 8. Amendment. Except where a higher vote is required for action under a particular provision of the Declaration or Bylaws, in which case such higher vote shall be necessary to amend, these Bylaws may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members holding two-thirds (2/3) of the total vote of the Association and the Declarant, as long as the Declarant owns a Unit in the Condominium primarily for the purposes of sale. No amendment shall become effective until it is certified by the President and Secretary of the Association and recorded in the Fulton County Georgia land records. Any amendment duly certified and recorded shall be conclusively presumed to have been duly adopted in accordance with the Declaration and Bylaws. Owners whose voting rights have been suspended pursuant to the Declaration or these Bylaws shall not be counted as eligible votes toward the amendment requirement.

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

Section 9. Books and Records.

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

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

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

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

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

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

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

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

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

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

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

(ii) accounting records of the Association; and

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

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

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

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## **SECTION 3**

# **ARTICLES OF INCORPORATION**



## ARTICLES OF INCORPORATION

OF

### MIDTOWN ON EIGHTH CONDOMINIUM ASSOCIATION, INC.

Article 1. Name. The name of the Corporation is Midtown on Eighth Condominium Association, Inc. ("Corporation" or "Association").

Article 2. Duration. The Corporation shall have perpetual duration.

Article 3. Applicable Statute. The Corporation is organized pursuant to the provisions of the Georgia Nonprofit Corporation Code, O.C.G.A. §14-3-1, *et seq.* (Michie).

Article 4. Purposes and Powers. The Corporation does not contemplate pecuniary gain or benefit, direct or indirect, to its members.

(a) In way of explanation and not of limitation, the purposes for which it is formed are:

(i) to be and constitute the Association to which reference is made in the Declaration of Condominium for Midtown on Eighth Condominium, as may hereinafter be amended, filed of record in the Office of the Clerk of the Superior Court of Fulton County, Georgia ("Declaration"), to perform all obligations and duties of the Association, and to exercise all rights and powers of the Association, as specified therein, in the Bylaws of the Association ("Bylaws"), and as provided by law; and

(ii) to provide an entity for the furtherance of the interests of the owners of units in the condominium development as described in the Declaration

(b) In furtherance of its purposes, the Corporation shall have the following powers, which, unless indicated otherwise by the Declaration or Bylaws, may be exercised by the Board of Directors of the Association:

(i) all of the powers conferred upon nonprofit corporations by common law and the statutes of the State of Georgia in effect from time to time; and

(ii) all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in these Articles, the Bylaws, or the Declaration, including, without limitation, the following:

(1) to fix and to collect assessments or other charges to be levied against the units;

(2) to manage, control, operate, maintain, repair, and improve the common area and facilities, and property subsequently acquired by the Corporation, or any property owned by another, for which the Corporation, by rule, regulation, Declaration, or contract, has a right or duty to provide such services;

(3) to enforce covenants, conditions, and restrictions affecting any property to the extent the Association may be authorized to do;

- (4) to engage in activities which will actively foster, promote, and advance the common interests of all owners of units at the development;
- (5) to buy or otherwise acquire, sell, or otherwise dispose of, mortgage, or otherwise encumber, exchange, lease, hold, use, operate, and otherwise deal in and with real, personal, and mixed property of all kinds and any right or interest therein for any purpose of the Corporation;
- (6) to borrow money for any purpose as may be limited in the Declaration;
- (7) to enter into, make, perform, or enforce contracts of every kind and description, and to do all other acts necessary, appropriate, or advisable in carrying out any purpose of the Association, with or in association with any other association, corporation, or other entity or agency, public or private;
- (8) to act as agent, trustee, or other representative of other corporations, firms, or individuals, and as such to advance the business or ownership interests in such corporations, firms, or individuals;
- (9) to adopt, alter, and amend or repeal such bylaws as may be necessary or desirable for the proper management of the affairs of the Association; provided, however, such bylaws may not be inconsistent with or contrary to any provisions of the Declaration or the Georgia Condominium Act, O.C.G.A. §44-3-70, *et seq.*, or the Georgia Nonprofit Corporation Code;
- (10) to participate in mergers and consolidations with other nonprofit corporations upon the affirmative vote of at least two-thirds (2/3) of the total eligible vote of the members; and
- (11) to provide any and all supplemental municipal services as may be necessary or proper.

The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers which may now or hereafter be allowed or permitted by law; and the powers specified in each of the paragraphs of this Article 4 are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph or provision of this Article 4.

Article 5. Membership. The Corporation shall be a membership corporation without certificates or shares of stock. All unit owners, by virtue of their ownership of units in the Condominium, are members of the Association. The members shall be entitled to one (1) vote for each unit in which they hold the interest required for membership, in accordance with the Declaration.

Article 6. Board of Directors. The affairs of the Corporation shall be governed by a Board of Directors, the number, qualification, and method of election of which shall be set in the Corporation's Bylaws. The method of election and term of office, removal and filling of vacancies shall be as set forth in the Bylaws. The board may delegate such operating authority to such companies, individuals, or committees as it, in its discretion, may determine. The initial Board of Directors of the Corporation shall have two (2) directors, and the names and addresses of the persons who are to serve as the initial directors are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Henry P. Lorber	1355 Peachtree Street, N.E., Suite 1560 Atlanta, Georgia 30309

Thomas B. Thoman

305 Silver Oaks Court  
Roswell, Georgia 30075

Article 7. Liability of Directors. To the fullest extent that the Georgia Nonprofit Corporation Code, as it exists on the date hereof or as it may hereafter be amended, permits the limitation or elimination of the liability of directors, no director of the Corporation shall be personally liable to the Corporation or its members for monetary damages for breach of duty of care or other duty as a director. No amendment to or repeal of this Article shall apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of such director occurring prior to such amendment or repeal.

Article 8. Dissolution. The Association may be dissolved upon the affirmative vote or written consent of not less than two-thirds (2/3) of the votes of members other than the Declarant (as such term is defined in the Declaration), the consent of the Declarant (so long as the Declarant owns any property subject to the Declaration or which may be unilaterally subjected to the Declaration by the Declarant). Upon dissolution of the Association, other than incident to a merger or consolidation, so long as the U.S. Department of Veterans Affairs ("VA") is guaranteeing and/or the U. S. Department of Housing and Urban Development ("HUD") is insuring any mortgage in the development, and unless otherwise agreed in writing by HUD or VA, as applicable, any remaining real property assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes. No such restriction shall exist if VA is not guaranteeing or HUD is not insuring any mortgage in the Development; provided, however, HUD and/or VA must be notified of such dissolution.

Article 9. Amendments. These Articles of Incorporation may be amended as provided by the Georgia Nonprofit Corporation Code pursuant to a resolution duly adopted by the Board of Directors and approved by the affirmative vote of the members of the Association entitled to cast at least two-thirds (2/3) of the votes which members present in person or by proxy cast at a meeting of the members of the Association or by members casting at least a total majority of the Association vote, whichever is less; provided that, no members shall be entitled to vote on any amendment to these Articles of Incorporation which is for the sole purpose of complying with the requirements of any governmental (including, without limitation, HUD or VA) or quasi-governmental entity authorized to fund, insure or guarantee mortgages on individual units in the Condominium, which amendment may be adopted by the Board of Directors acting alone.

Article 10. Incorporator. The name and address of the incorporator is as follows:

Linda B. Curry, Esq.  
Weissman, Nowack, Curry & Wilco, P.C.  
Two Midtown Plaza, 15<sup>th</sup> Floor  
1349 West Peachtree Street  
Atlanta, Georgia 30309

Article 11. Registered Agent and Office. The initial registered office of the Corporation is Weissman, Nowack, Curry & Wilco, P.C., Two Midtown Plaza, 15<sup>th</sup> Floor, 1349 West Peachtree Street, Atlanta, Georgia 30309, and the initial registered agent at such address is Linda B. Curry.

Article 12. Initial Principal Office. The mailing address of the initial principal office of the Corporation is 1355 Peachtree Street, N.E., Suite 1560, Atlanta, Georgia 30309.

Article 13. VA/HUD Approval. As long as the Declarant (as such term is defined in the Declaration) has the right to appoint and remove the directors and officers of the Association as provided in the Bylaws, the following actions shall require the prior approval of the VA, so long as the VA is guaranteeing any mortgage in the Community, and HUD, so long as HUD is insuring any mortgage in the Community; annexation of additional property to the Condominium; mergers and consolidations; mortgaging of Common Elements (as such term is defined in the Declaration); dedication of Common Elements to any public entity; dissolution; and amendment of these Articles of Incorporation.

IN WITNESS WHEREOF, the undersigned incorporator has executed these Articles of Incorporation.

---

Linda B. Curry, Esq., Incorporator

Weissman, Nowack, Curry & Wilco, P.C.  
Two Midtown Plaza, 15<sup>th</sup> Floor  
1349 West Peachtree Street  
Atlanta, Georgia 30309  
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# **SECTION 4**

## **CONTRACTS**

**(With a Term Exceeding One  
Year)**

## L E A S E

This LEASE AGREEMENT is entered into this day, September 3, 1996, by and between D.L. Ruffin and J.L. Ruffin, (hereinafter referred to as "Lessor"), and WEB SERVICE CO., INC. (hereinafter referred to as "Lessee"). Lessor hereby does lease to Lessee, and Lessee does hereby accept, the exclusive possession of all common laundry room(s) located on the real property and improvements of 28 units, located at 323 Eight Street, Atlanta, GA 30308, which real property and improvements are herein referred to as the "property." Lessor warrants and represents that only 0 units are plumbed with their own washer or dryer connections.

1. **Representation of owner or agent.** Lessor does hereby warrant and represent that it is the owner of the property, or the authorized agent thereof, acting with full authority to enter into this Lease Agreement, and further, said owner or representative thereof warrants and represents that there is no other lease, license, or other instrument granting the same or similar right in and to the laundry room(s) on the property.
2. **Exclusive use and possession of leased premises.** Lessor does hereby grant, convey, and transfer to Lessee the exclusive use and possession of all common laundry room(s) on the property, which room(s) is/are described as encompassing approximately 125 square feet, for its use as a laundry room(s) [said room(s) is/are hereinafter referred to as the "leased premises"].
3. **Quiet Enjoyment.** Lessee may use, occupy, and possess the leased premises, as set forth above, to the exclusion of all others, and enjoy the quiet and peaceful enjoyment thereof.
4. **Term.** The term of this lease shall be for five(5) year(s), commencing on September 15, 1996.
5. **Rent.** Lessee agrees to pay Lessor as Rent, for the use and possession of the leased premises, an amount equal to the greater of \$5.00 per month, or a percentage of Lessee's gross income from the Leased Premises based on the average per machine daily gross income (double-load machines to be counted as two) as follows: zero percent (0%) of a base amount equal to the first \$.90 per machine, per day, plus one hundred percent(100%) of all monies in excess. (Commencing on the date this lease is entered into, the base amount to be adjusted annually to changes in the Consumer Price Index of the Department of Labor-U.S. City Average). Any applicable gross receipts, sales, use, and similar excise taxes shall be deducted from said Rent. The total number of machines for purposes of calculating the rent will be four(4) unless Lessor and Lessee otherwise agree in writing.
6. **Equipment.** Lessee will be permitted to place personal property and equipment in the leased premises, and the title to such property shall remain at all times that of the Lessee, and at the conclusion of the term of this Lease, or any extension thereof, Lessee will be permitted to remove such personal property and equipment which is remaining on the leased premises.
7. **Insurance.** Lessee shall insure the leased premises against liability for bodily injury and property damage up to the amount of \$10,000,000 and shall hold the Lessor harmless from claims of liability caused by the acts of the Lessee.
8. **Utilities and Maintenance.** Lessor does hereby agree that it will provide all utility service necessary for proper operation and maintenance of laundry equipment which the Lessee deems fit to place within the leased premises; that the Lessee hereby grants to the Lessor a revocable license to come onto the leased premises to perform all necessary janitorial and maintenance services for the leased premises, including but not limited to, maintaining the leased premises in good repair and cleanliness. Lessor warrants that the leased premises comply with all federal, state, and local requirements. The Lessee shall not be responsible for property damage or personal injury due to lack of or inadequacy of a floor drain in the leased premises.

9. Assignment or Transfer. This Lease shall be binding upon the parties hereto, their respective heirs, personal representatives, successors, assigns, or transferees. If any litigation results in connection with this Lease, the successful party shall be entitled to reasonable attorneys' fees.

10. Home Office Approval. This Lease, and any modification and/or addendum(s) to this Lease, shall require written approval of Lessee's Home Office before becoming effective, and shall immediately become effective upon such approval, with or without notification to Lessor.

11. Non-Competition Clause. Lessor agrees that during the life of this Lease, Lessor shall not furnish, provide, lease, rent, or in any manner cause to be installed, or enter into any agreement with anyone other than Lessee to furnish, provide, lease, rent, or in any manner cause to be installed washers and/or dryers in any of the rental units and common laundry facilities on the property. Lessor agrees that washer and dryer connections will not be added in any existing rental unit. The provisions of this paragraph shall be binding upon and inure to the benefit of the heirs, administrators, successors, and assigns of Lessor.

12. Validity of Provisions. The invalidity or illegality of any provision shall not affect the remainder of the Lease.

LESSEE: Web Service Company, Inc.

*Paula W. Huskowitz*  
Sales Representative

APPROVED: WEB SERVICE CO., INC., LESSEE  
HOME OFFICE: 3690 Redondo Beach Ave.  
Redondo Beach, Ca 90278

By *[Signature]*  
Its: *[Signature]*  
Date 9-19-96

LESSOR:

By *D.L. Ruffin*  
D.L. Ruffin

Its: owner

By *J.L. Ruffin*  
J.L. Ruffin

Its: owner

Date September 16, 1996

PAY RENT TO:

NAME: D.L. Ruffin  
C/O: J.L. Ruffin  
Address: P.O. Box 80601  
Atlanta, GA 30366  
TAX ID : 258-20-6305

MEMORANDUM OF LEASE

D.L. Ruffin and J.L. Ruffin 1/24  
D.L. Ruffin JLR

This MEMORANDUM OF LEASE is entered on September 3, 1996, by and between ~~Debra Patrick Realtors~~ (hereinafter referred to as "Lessor"), and WEB SERVICE COMPANY, INC. (hereinafter referred to as "Lessee"). Lessor hereby does lease to Lessee, and Lessee does hereby accept the exclusive possession of all common laundry room(s), and located on the real property and improvements consisting of 28 units, located at 323 Eight Street, Atlanta, GA 30308, which real property and improvements are herein referred to as the "property" and legally described in Exhibit "A" attached hereto, and by this reference, incorporated herein as though fully set forth. Lessor warrants and represents that only 0 units are plumbed with their own washer or dryer connections.

1. Exclusive use and possession of leased premises. Lessor does hereby grant, convey and transfer to Lessee the exclusive use and possession of all common laundry facilities on the property, which facility(ies) is/are presently described as encompassing approximately 125 square feet, for its use as a laundry facility(ies).

2. Term. The term of this Lease is not disclosed herein, but it is not less than 3 years nor more than 20 years from the date of the lease.

3. Assignment or Transfer. This Lease shall be binding upon the parties hereto, their respective heirs, personal representatives, successors, assigns or transferees.

4. Non-Competition Clause. This Lease contains a covenant by the Lessor not to compete, which is binding upon, and inure to the benefit of, the heirs, administrators, successors or assigns of the Lessor.

5. Lessor and Lessee have entered into an unrecorded Lease containing the provisions included herein and certain additional provisions. The provisions of the unrecorded Lease are incorporated herein by this reference. A copy of the unrecorded Lease is available for persons having a legitimate interest in the property, at the home office of Lessee located at 3690 Redondo Beach Avenue, Redondo Beach, California 90278-1165.

LESSEE: WEB SERVICE CO., INC.  
3690 Redondo Beach Ave.  
Redondo Beach, CA 90278

By [Signature]  
Its: [Signature]  
Date 9-19-96

Witness \_\_\_\_\_

LESSOR:  
By Donald L Ruffin  
D.L. Ruffin

Its: owner \_\_\_\_\_

By J.L. Ruffin  
J.L. Ruffin

Its: owner \_\_\_\_\_

Date September 16 1996

Witness: [Signature]

Notary: Jennifer Erdham

Notary Public, DeKalb County, Georgia  
My Commission Expires June 21, 1997



ADDENDUM TO LEASE

*D.L. Ruffin and J.L. Ruffin*  
D.L. Ruffin and J.L. Ruffin

The following is an addendum to a lease dated September 3, 1996 between WEB SERVICE COMPANY INC., LESSEE, and ~~Daddy~~ *Daddy* ~~Patrick Realtors~~, LESSOR, on property located at 323 Eight Street, Atlanta, GA 30308 consisting of 28 multi-housing units.

- 1. LESSEE to pay LESSOR an additional rent of \$1000.00..
- 2. LESSEE to replace existing equipment with new machines.
- 3. LESSEE to provide LESSOR a certificate of insurance naming LESSOR as additional insured.

4. If LESSEE fails to perform satisfactory service and LESSOR notifies LESSEE in writing sent by Certified Mail of said unsatisfactory conditions, and if LESSEE does not correct or make a reasonable attempt to correct said unsatisfactory conditions within 2 working days, then the Lease may be cancelled by either party with 30 day written notice to the other party.

LESSEE: Web Service Company, Inc.

*Bart...*  
Sales Representative

APPROVED: WEB SERVICE CO., INC., LESSEE  
HOME OFFICE: 3690 Redondo Beach Ave.  
Redondo Beach, Ca 90278

By *[Signature]*

Its: *Asst. Sec.*

Date 9-18-96

LESSOR:

By *D.L. Ruffin*  
D.L. Ruffin

Its: owner

By *J.L. Ruffin*  
J.L. Ruffin

Its: owner

Date September 16, 1996

## **SECTION 5**

# **ESTIMATED BUDGET FOR ASSOCIATION**

**MIDTOWN ON EIGHTH CONDOMINIUM  
ESTIMATED 2000 BUDGET (ANNUALIZED)  
28 UNITS**

<u>EXPENSES:</u>	<u>ANNUAL</u>	<u>MONTHLY AVERAGE</u>
<b>UTILITIES</b>		
Electrical	\$ 775.00	\$ 2.31
Water/Sewer	\$ 8,000.00	\$ 23.81
<b>TOTAL</b>	<b><u>\$ 8,775.00</u></b>	<b><u>\$ 26.12</u></b>
<b>CONTRACTED</b>		
Landscaping	\$ 6,300.00	\$ 18.75
Trash Removal	\$ 2,688.00	\$ 8.00
Termite Bond	\$ 2,400.00	\$ 7.14
Pest Control	\$ 1,008.00	\$ 3.00
<b>TOTAL</b>	<b><u>\$12,396.00</u></b>	<b><u>\$ 36.89</u></b>
<b>MAINTENANCE</b>		
General	\$ 3,407.00	\$ 10.14
Janitorial – Halls	\$ 1,200.00	\$ 3.57
<b>TOTAL</b>	<b><u>\$ 4,607.00</u></b>	<b><u>\$ 13.71</u></b>
<b>ADMINISTRATIVE</b>		
Insurance	\$ 4,800.00	\$ 14.28
CPA/Legal	\$ 1,200.00	\$ 3.57
Miscellaneous Supplies	\$ 400.00	\$ 1.19
Management Fee	\$ 8,400.00	\$ 25.00
Bank Charges	\$ 90.00	\$ 0.26
<b>TOTAL</b>	<b><u>\$14,890.00</u></b>	<b><u>\$ 44.30</u></b>
<b>TOTAL EXPENSE</b>	<b>\$40,668.00</b>	<b>\$121.00</b>
Monthly Unit Obligation:	1 Bedroom (Small) 3.367%	\$114.11
	1 Bedroom (Large) 3.368%	\$114.14
	2 Bedroom 4.082%	\$138.34

## **SECTION 6**

# **DECLARANT'S COMMITMENT FOR IMPROVEMENTS**

**MIDTOWN ON EIGHTH CONDOMINIUM  
DECLARANT'S COMMITMENT FOR IMPROVEMENTS**

Except as may be provided in the Declarant's Statement of Condition of Property, Midtown on 8th, LLC, the Declarant, makes no commitment that it will build and/or submit additional units, additional recreational area or other facilities or additional property to Midtown on Eighth Condominium ("Condominium").

**Declarant's Statement Concerning  
Items Required by O.C.G.A. § 44-3-111**

The following items required by Section 44-3-111 of the Georgia Condominium Act are not applicable to Midtown on Eighth Condominium and, therefore, are not in existence as of the date hereof:

- (1) Ground Lease (none required or used);
- (2) Contracts with terms in excess of one year; and
- (3) Recreational Leases (none required or used).

**SECTION 7**  
**PURCHASE AGREEMENT**  
**(SAMPLE)**

MIDTOWN ON EIGHTH CONDOMINIUM

PURCHASE AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between MIDTOWN ON 8TH, LLC, a Georgia limited liability company (hereinafter called "Seller"), and \_\_\_\_\_ (hereinafter called the "Purchaser").

**ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF SELLER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY CODE SECTION 44-3-111 OF THE "GEORGIA CONDOMINIUM ACT" TO BE FURNISHED BY A SELLER TO A BUYER.**

**THIS CONTRACT APPLIES TO A CONDOMINIUM UNIT WHICH IS PART OF A CONVERSION CONDOMINIUM.**

WITNESSETH

In consideration of the purchase price specified below, the mutual covenants and benefits provided for herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, the parties hereto do hereby agree as follows:

1. GENERAL. Seller agrees to sell, and Purchaser agrees to purchase, in accordance with the terms and conditions of this Agreement, Unit \_\_\_\_ ("Unit"), of Midtown on Eighth Condominium, a Condominium development in Land Lot 48 of the 14<sup>th</sup> District of Fulton County, Georgia ("Condominium"), with the property description of the Condominium attached hereto and incorporated herein as Exhibit "A" and the floor plan and specifications for completion of such Unit attached hereto and incorporated herein as Exhibits "B" and "C" respectively. The Condominium was or shall be created pursuant to the Declaration of Condominium for Midtown on Eighth Condominium ("Declaration"), which was or shall be recorded with the Clerk of the Superior Court of Fulton County, Georgia, prior to the closing of the purchase and sale contemplated by this Agreement, and a copy of which is contained within the Disclosure and Condominium Documents Package ("Disclosure Package"), which has been furnished by Seller to Purchaser. Purchaser hereby acknowledges that he or she has received the Disclosure Package, and that the same was furnished to him or her at the time of execution of this Agreement. Execution of this Agreement shall serve as written acknowledgement of receipt of the items specified in Paragraph 11 of this Agreement. Purchaser further understands and acknowledges that pursuant to the Declaration, Seller shall assign and Purchaser shall accept parking space number \_\_\_\_ as a Limited Common Element appurtenant to such Unit. The Unit, together with its percentage of undivided interest in the Common Elements of Midtown on Eighth Condominium, and its interest in the Limited Common Elements assigned to such Unit, is more particularly described in the Declaration, and is shown and delineated on the plat of survey for Midtown on Eighth Condominium, which survey together with unit plans, was or shall be recorded with the Clerk of the Superior Court of Fulton County, Georgia prior to the closing of the purchase and sale contemplated by this Agreement.

2. PURCHASE PRICE. The total purchase price of the Unit shall be \$ \_\_\_\_\_, and shall be paid as follows:

(a) \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), the Earnest Money, shall be consideration for Seller reserving the Unit for Purchaser and Seller agreeing not to sell the Unit to anyone other than Purchaser prior to the date set for closing in Paragraph 3 hereof. Purchaser has paid to Coldwell Banker - The Condo Store ("Holder") the Earnest Money of \$ \_\_\_\_\_ by check, which has been received by Holder. The Earnest Money shall be deposited in a separate escrow/trust account opened by Holder (with Holder retaining the interest if the account is interest bearing) within five (5) banking days from Seller's acceptance of this Agreement and shall be applied toward the purchase price of the Unit at the time of closing. In the event any Earnest Money check is not honored, for any reason, by the bank upon which it is drawn, Holder shall promptly notify Purchaser and Seller. Purchaser shall have three (3) banking days after notice to deliver good funds to Holder. In the event Purchaser does not timely deliver good funds, the Seller shall have the right to terminate this Agreement upon written notice to the Purchaser.

Holder shall disburse Earnest Money only as follows: (a) upon the failure of the parties to enter into a binding agreement; (b) at closing; (c) upon a written agreement signed by all parties having an interest in the funds; (d) upon order of a court or arbitrator having jurisdiction over any dispute involving the Earnest Money; or (e) upon a reasonable interpretation of this Agreement by the Holder. Prior to disbursing the Earnest Money pursuant to a reasonable interpretation of this Agreement, Holder shall give all parties fifteen (15) days notice, stating to whom the disbursement will be made. Any party may object in writing to the disbursement, provided the objection is received by the Holder prior to the end of the fifteen (15) day notice period. All objections not raised in a timely manner shall be waived. In the event a timely objection is made, Holder shall consider the objection and shall do any or a combination of the following: (i) hold the Earnest Money for a reasonable period of time to give the parties an opportunity to resolve the dispute; (ii) disburse the Earnest Money and so notify all parties; and/or (iii) interplead the Earnest Money into a court of competent jurisdiction. Holder shall be reimbursed for and may deduct from any funds interpleaded its cost and expenses, including reasonable attorneys' fees. The prevailing party in the interpleader action shall be entitled to collect from the other party the costs and expenses reimbursed to Holder. No party shall seek damages from Holder (nor shall Holder be liable for same) for any matter relating to the performance of Holder's duties under this Earnest Money Paragraph. If Purchaser breaches Purchaser's obligations or warranties herein, Holder may pay the Earnest Money to Seller by check.

(b) The balance of the purchase price, plus all closing costs which are the responsibility of the Purchaser hereunder, shall be paid by Purchaser in cash or by certified check, at the closing of this purchase and sale.

3. CLOSING. Subject to the provisions of Paragraph 27 hereof which shall automatically extend the closing date until the required pre-sale is met, the closing of the purchase and sale contemplated by this Agreement shall take place on or before \_\_\_\_\_ at the office of Weissman, Nowack, Curry & Wilco, P.C., Two Midtown Plaza, 15<sup>th</sup> Floor, 1349 West Peachtree Street, Atlanta, Georgia 30309, ((404) 885-9215). The closing shall take place at such specific reasonable time, date, and place as shall be designated by Seller at least seven (7) days prior thereto. Notwithstanding anything to the contrary herein, Seller shall have the right from time to time by notice to the other party to extend the closing for up to two periods of thirty (30) days each.

#### 4. TITLE AND PERFORMANCE.

(a) Title. Purchaser acknowledges that the Unit he or she is to purchase may not now be a part of the Condominium. Prior to consummation of the sale contemplated by this Agreement, Seller shall have submitted the Unit to the Declaration. Title to the Unit shall be conveyed to Purchaser by limited warranty deed, and title to the Unit shall be insurable or marketable and free and clear of all encumbrances, except the Unit shall be subject to the Declaration, taxes not yet due and payable, and all other encumbrances, zoning ordinances, easements and restrictions of record. Except as otherwise provided, this



Agreement shall not survive the consummation of the purchase and sale contemplated by this Agreement and the delivery of the limited warranty deed from Seller to Purchaser shall extinguish the responsibility of Seller hereunder.

(b) RESPA Disclosure. As required by the Real Estate Settlement Procedures Act of 1974, Purchaser acknowledges that Seller has not directly or indirectly required Purchaser, as a condition of sale, to purchase either an owner's or mortgagee's title insurance policy from any particular title company. Purchaser may elect to obtain such insurance from a company of Purchaser's choice and Purchaser shall pay, at closing, the title insurance premium for such policy.

5. CLOSING COSTS. Seller shall pay closing costs in an amount not to exceed \_\_\_\_\_ and No/100 dollars (\$\_\_\_\_\_.00) (which amount shall include the State of Georgia Transfer Tax); provided, however, Seller shall only pay such closing costs only if Purchaser obtains financing through a lender preapproved by Seller ("Preapproved Lender") and the closing is held at the offices of Weissman, Nowack, Curry & Wilco, P.C. The Preapproved Lenders are Premier Lending, Piedmont Funding and Real Estate Financial Services, Inc. Purchaser shall pay all additional costs and fees incident to the securing of financing and the closing of the purchase and sale contemplated hereunder. "Closing Costs" as defined in this Agreement shall include loan fees charged by Purchaser's lender and included in Section 800 of the HUD-1 Settlement Statement, the lender's title insurance premium, title commitment fee, title and tax examination fees, lender's attorneys' fees, recording costs and State of Georgia Intangible Tax fees, and shall specifically exclude prepaid interest, mortgage insurance premiums, tax and insurance reserves, working capital contribution, the Association insurance reimbursement, and the Association assessment proration, all of such excluded amounts shall be paid by Purchaser.

6. BROKERAGE AND AGENCY. Seller shall pay a real estate commission to Coldwell Banker - The Condo Store (the "Listing Broker") pursuant to a separate commission agreement. In no event shall Seller have any obligation to pay any real estate commission except in the event of the closing of this transaction in accordance with the terms of this Agreement. Except as may otherwise be provided, the Listing Broker has represented the Seller in this transaction. If Purchaser worked with or was represented by another cooperating broker, a disclosure of such brokerage relationship set forth in Exhibit "E" shall be a part of this Agreement. If no such brokerage relationship exists, there shall be no Exhibit "E" to this Agreement.

Except as set forth in this Paragraph, Purchaser and Seller represent and warrant to the other that each party has not dealt with another broker, agent, or finder in connection with this transaction and Purchaser and Seller covenant and agree, each to the other, to indemnify and hold each other harmless from any and all losses, damages, costs and expenses including, but not limited to, attorneys' fees and court costs that may be incurred or suffered as a result of any claim for any fee, commission, or similar compensation with respect to this transaction made by any person or entity and arising through the actions of the indemnifying party, whether or not such claim for any fee, commission, or similar compensation with respect to this transaction made by any person or entity is meritorious.

7. DISCLAIMER. Purchaser and Seller acknowledge that they have not relied upon any advice, representations or statements of the Listing Broker and the Selling Broker, if any, signing this Agreement ("Brokers") and waive and shall not assert any claims against Brokers involving the same. Purchaser and Seller agree that Brokers shall not be responsible to advise Purchaser and Seller on any matter, including but not limited to the following: any matter which could have been revealed through a survey, title search or inspection of the Unit; the condition of the Unit, any portion thereof, or any item therein; the necessity or cost of any repairs to the Unit; hazardous or toxic materials; the tax or legal consequences of this transaction; the availability and cost of utilities or community amenities; the appraised

or future value of the Unit; any condition(s) existing off the property which may affect the property; the terms, conditions and availability of financing; and the uses and zoning of the property whether permitted or proposed. Purchaser and Seller acknowledge that Brokers are not experts with respect to the above matters and that, if any of these matters or any other matters are of concern to them, they shall seek independent expert advice relative thereto.

8. PRORATIONS.

(a) Ad Valorem Taxes.

(i) Purchaser acknowledges that, as of the year in which closing takes place, the Unit may not have been a separately described and assessed parcel of real estate and that, in that event, ad valorem taxes for the Unit for the year in which closing takes place will be assessed under a tax bill in the name of Seller which covers additional property. Should the Unit not be separately described and assessed parcel of real estate, Purchaser agrees to pay Seller at closing that portion of the tax for the year in which closing takes place (based on the prior year if the tax bill for the year in which closing takes place is not yet available) which shall be determined by multiplying the total tax bill by the percentage interest in the Common Elements assigned to the Unit in the Declaration and then prorating the product of such multiplication as of the date of closing. Seller agrees to pay the entire tax bill before it becomes delinquent and, upon written request from Purchaser or any first mortgagee of the Unit, to provide Purchaser or such mortgagee proof of payment. If the amount allocated to the parties is based upon an estimate and the actual bill varies from the estimate, the party who paid too much shall have the right to adjust the prorated amount and within ten (10) days of receipt of notice the party who paid too little shall pay any increased amount based on the actual tax bill to the other party.

(ii) If, in the year in which closing takes place, the Unit is a separately described and assessed parcel of real estate, then ad valorem taxes applicable to the Unit shall be prorated between the Seller and Purchaser as of the date of closing. If the amount allocated to Purchaser is based upon an estimate and the actual bill varies from the estimate, the party who paid too much shall have the right to adjust the prorated amount and within ten (10) days of receipt of notice, the party who paid too little shall pay any increased amount based on the actual tax bill to the other party.

(b) Common Expense Assessments. Purchaser shall pay his or her pro rata share of the common expense assessment levied against the Unit, as provided in the Declaration, for the year in which the closing shall take place, which common expense assessment shall be adjusted at the closing according to the number of days remaining in the calendar year. Except for that portion of the assessment installment as shall be payable for the month in which the closing shall take place, which shall be prorated between Seller and Purchaser as of the day of closing, such adjusted common expense assessment shall be payable to Midtown on Eighth Condominium Association, Inc. ("Association"), by Purchaser in equal monthly installments, commencing on the first day of the calendar month immediately following the date of closing, or as otherwise provided by the Board of Directors of the Association. From and after the first day of the first calendar month of the year following the year in which the closing takes place, Purchaser shall pay all amounts as are assessed against the Unit in accordance with the terms and provisions of the Declaration.

(c) Contribution to Working Capital Fund of Association. In addition to all other sums due hereunder, Purchaser agrees at closing to make a nonrefundable contribution to the working capital fund of the Association in an amount equal to two (2) months general assessments on the Unit.

(d) Insurance Premiums. Purchaser acknowledges that, prior to closing, either Seller will have pre-paid directly the Unit's pro rata portion of the annual premium on the hazard and liability

insurance policies maintained by the Association or Seller, or the Association will have pre-paid such premium with funds previously contributed by Seller to the Association's account. At closing, Purchaser shall pay an amount equal to the Unit's pro rata portion of said annual premium, and from said amount, Purchaser shall reimburse the appropriate party for the Unit's pro rata portion of said annual premium from the date of closing through the expiration date of the policies.

9. POSSESSION. Permanent possession of the Unit shall be delivered to Purchaser at the closing.

10. MIDTOWN ON EIGHTH CONDOMINIUM ASSOCIATION, INC.

(a) Governing Documents. Purchaser acknowledges that the Unit being purchased is a portion of the real property and improvements which have been or will be made subject to the Declaration referred to in Paragraph 1. The nature and extent of the rights and obligations of the Purchaser in acquiring and owning the Unit will be controlled by and subject to the Declaration, as well as the Articles of Incorporation, the Bylaws, and the rules and regulations of the Association. Purchaser agrees to comply with all of the terms, conditions and obligations set forth therein.

(b) Membership in Association. Upon conveyance of title to the Unit to Purchaser, Purchaser shall automatically become a member of the Association and shall be subject to the assessment obligations and other provisions set forth in the Declaration, including the obligation of the Purchaser to pay a contribution to the working capital of the Association referred to in Paragraph 8(c) above.

(c) Amendments to Documents. Purchaser hereby acknowledges and agrees that prior to the closing, Seller shall have the right to modify, change, revise and amend, without Purchaser's approval, any or all of the documents (other than this Agreement), signed copies of which are contained in the Disclosure Package. In the event the Seller shall make any amendment, modification, change, or revision to the documents or materials contained in the Disclosure Package which materially affects the rights of the Purchaser or the value of the Unit, then a copy of such shall be delivered to the Purchaser and, if such change, amendment, revision or modification affects materially the right of the Purchaser, then, the Purchaser shall have the option to (1) consent to such, or (2) within seven (7) days after receiving a copy of such, terminate, in writing, this Agreement, in which event Purchaser's entire deposit shall be refunded and the parties hereto shall have no rights or liabilities hereunder. In the event Purchaser does not terminate this Agreement within said seven (7) days, Purchaser shall be conclusively deemed to have consented to the proposed change, amendment, modification or revision.

11. STATEMENT. THIS CONTRACT IS VOIDABLE BY PURCHASER UNTIL AT LEAST SEVEN (7) DAYS AFTER ALL OF THE ITEMS REQUIRED UNDER CODE SECTION 44-3-111 OF THE "GEORGIA CONDOMINIUM ACT", TO BE DELIVERED TO PURCHASER, HAVE BEEN RECEIVED BY PURCHASER. THE ITEMS SO REQUIRED ARE: (1) A FLOOR PLAN OF THE UNIT, (2) THE DECLARATION AND AMENDMENTS THERETO, (3) THE ASSOCIATION'S ARTICLES OF INCORPORATION AND BYLAWS AND AMENDMENTS THERETO, (4) ANY GROUND LEASE, (5) ANY MANAGEMENT CONTRACT HAVING A TERM IN EXCESS OF ONE YEAR, (6) THE ESTIMATED OR ACTUAL BUDGET FOR THE CONDOMINIUM, (7) ANY LEASE OF RECREATIONAL OR OTHER FACILITIES THAT WILL BE USED ONLY BY THE UNIT OWNERS, (8) ANY LEASE OF RECREATIONAL OR OTHER FACILITIES THAT WILL OR MAY BE USED BY THE UNIT OWNERS WITH OTHERS, (9) A STATEMENT SETTING FORTH THE EXTENT OF THE SELLER'S COMMITMENT TO BUILD OR SUBMIT ADDITIONAL UNITS, ADDITIONAL RECREATIONAL OR OTHER FACILITIES, OR ADDITIONAL PROPERTY, AND (10) IF THIS CONTRACT APPLIES TO A CONDOMINIUM UNIT WHICH IS PART OF A CONVERSION CONDOMINIUM, A

**STATEMENT DESCRIBING THE CONDITION OF CERTAIN COMPONENTS AND SYSTEMS, A STATEMENT REGARDING THE EXPECTED USEFUL LIFE OF CERTAIN COMPONENTS AND SYSTEMS, AND CERTAIN INFORMATION REGARDING ANY NOTICES OF VIOLATIONS OF COUNTY OR MUNICIPAL REGULATIONS. A DATED, WRITTEN ACKNOWLEDGEMENT OF RECEIPT OF ALL SAID ITEMS SIGNED BY PURCHASER SHALL BE PRIMA-FACIE EVIDENCE OF THE DATE OF DELIVERY OF SAID ITEMS.**

12. NONASSIGNABILITY BY PURCHASER. Purchaser's interest in this Agreement may not be transferred or assigned, in whole or in part, without the prior written consent of Seller.

13. DEFAULT.

(a) In the event Seller fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements or obligations to be performed by Seller under the terms and conditions of this Agreement, then Purchaser shall be entitled to terminate this Agreement by giving written notice to Seller, whereupon the Earnest Money with interest at the rate of six percent (6%) per annum as fixed and full liquidated damages shall be immediately delivered to Purchaser, it being acknowledged that it is impossible to more precisely estimate the specific damages to be suffered by Purchaser, but that the sum herein stipulated is a reasonable estimate of such damages and the parties hereto expressly acknowledged and intend that this provision shall be a provision for the return of the Earnest Money plus interest as liquidated damages and not as a penalty pursuant to the provisions of O.C.G.A. §13-6-7. Thereafter, all further rights, obligations and liabilities created hereunder shall be deemed terminated and of no further force and effect. This shall be Purchaser's exclusive remedy.

(b) In the event Purchaser fails to comply with or perform any of the covenants, agreements or other obligations to be performed by Purchaser under the terms and provisions of this Agreement, Seller shall be entitled to terminate this Agreement upon written notice to Purchaser whereupon Seller shall be paid the Earnest Money held by Holder and Seller shall retain any and all portions of the Total Upgrade Amount set forth in Paragraph 18 hereof, as fixed and full liquidated damages, it being acknowledged that it is impossible to more precisely estimate the specific damages to be suffered by Seller, but that the sum herein stipulated is a reasonable estimate of such damages and the parties hereto expressly acknowledged and intend that this provision shall be a provision for the retention of the Earnest Money and the Total Upgrade Amount as liquidated damages and not as a penalty pursuant to the provisions of O.C.G.A. §13-6-7, whereupon all rights, liabilities and obligations created under the terms and provisions of this Agreement shall be deemed null and void of no further force and effect.

14. MANDATORY BINDING ARBITRATION. Seller and Purchaser will cooperate with one another in avoiding and informally resolving disputes between them. Seller and Purchaser acknowledges in the event of disputes which are not informally resolved, resolution of those disputes will best be achieved through arbitration rather than civil litigation because of the substantial savings of time and expense for all parties and because of the privacy and flexibility associated with arbitration procedures. If the Seller provides a warranty to the Purchaser, then the terms and procedures of that warranty involving the Seller, the Purchaser or the insurer, if relating to such warranty, if any, and any other claim or dispute of any kind or nature between the Seller and the Purchaser arising out of or relating in any manner to this Agreement or the Unit shall be decided by binding arbitration as agreed to by the Seller and the Purchaser in accordance with Official Code of Georgia Annotated Sec. 9-9-1, et seq. and the Rules and Procedures of the Arbitrator and such decision shall be final. If the Seller and the Purchaser cannot agree as to an arbitration group, then Construction Arbitration Associates, Ltd. shall be the Arbitrator. The parties' agreement to the provisions of this Paragraph is evidenced by their initials below.

INITIALS OF SELLER \_\_\_\_\_.

INITIALS OF PURCHASER \_\_\_\_\_.

15. RIGHT OF ACTION. All Owners hereby acknowledge and agree that the Association shall not be entitled to institute any legal action against anyone on behalf of any or all of the Owners which is based on any alleged defect in any Unit or the Common Elements, or any damage allegedly sustained by any Owner by reason thereof, but rather, that all such actions shall be instituted by the Person(s) owning such Units or served by such Common Elements or allegedly sustaining such damage. Notwithstanding the above, once the Declarant no longer has the right to appoint and remove directors and officers, as set forth in Article III, Section 2 of the Bylaws, the Association Board of Directors may negotiate the resolution of any alleged defect(s) in the Common Elements and Area of Common Responsibility on behalf of the Unit Owners and shall have the right and authority to settle and release on behalf of any and all of the Unit Owners claims, causes of action, damages and suits involving the same. Any such settlement and release shall bind all Unit Owners and their successors and assigns.

16. NOTICES. Each notice, except for oral notice of the date and time of closing, required or permitted to be given hereunder must comply with the requirements of this Paragraph. Each such notice shall be in writing and shall be delivered either by personally delivering it by hand or Federal Express or similar courier service to the person to whom notice is directed, or by facsimile transmission, or by depositing it with the United States Postal Service, certified mail, return receipt requested, with adequate postage prepaid, addressed to the appropriate party (and marked to a particular individual's attention). Such notice shall be deemed delivered at the time of personal delivery or, if mailed, when it is deposited as provided above, but the time period in which a response to any such notice must be given or any action taken with respect thereto shall commence to run from the date it is personally delivered or, if mailed, the date of receipt of the notice by the addressee thereof, as evidenced by the return receipt. Notwithstanding the above, notice by facsimile transmission shall be deemed to have been given as of the date and time it is transmitted if the sending facsimile machine produces a written confirmation with a date, time and telephone number to which the notice was sent. Rejection or other refusal by the addressee to accept the notice shall be deemed to be receipt of the notice. In addition, the inability to deliver the notice because of a change of address of the party of which no notice was given to the other party as provided below shall be deemed to be the receipt of the notice sent. The addresses of the parties to which notice is to be sent shall be those set forth below. Such addresses may be changed by either party by designating the change of address to the other party in writing.

17. FLOOR PLANS AND MODELS. Purchaser hereby acknowledges and agrees that any floor plans, renderings, drawings, and the like, furnished by Seller to Purchaser which purport to depict the Unit, or any portion thereof, or the building containing the same, are merely approximations, and do not necessarily reflect the actual as-built conditions of the same. The Purchaser further acknowledges and agrees that the decorations, furniture, furnishings, wallpaper, appliances, fixtures, and the like, contained in any model unit of Midtown on Eighth Condominium, are for demonstrative purposes only, and are not included in the property which is the subject of this Agreement.

18. UNIT COMPLETION.

(a) Upgrades. The Unit shall be constructed substantially in conformance with the floor plan and specifications for completion of such Unit attached hereto and incorporated herein as Exhibits "B" and "C" respectively, and with the upgrades, if any, to be selected by Purchaser as set forth in this Paragraph. Purchaser understands and agrees materials used in construction and completion may vary somewhat from any samples provided; such variations are inherent in manufacturing and shall not be grounds for any refusal by Purchaser to accept the Unit. Actual as-built conditions may also vary. Purchaser shall have fourteen (14) days from the date of Purchaser's execution of this Agreement to pick and finalize all upgrades to be included on Exhibit "F" attached hereto. Simultaneously with Purchaser's execution of Exhibit "F" attached hereto, Purchaser shall pay to Seller all costs and expenses of the upgrades chosen by Purchaser ("Total Upgrade Amount"), which Total Upgrade Amount shall be held by

Seller in escrow and disbursed as provided in this Agreement. Purchaser's obligation to pay the Total Upgrade Amount shall be binding and non-contingent notwithstanding any contingency to which this Agreement is otherwise subject, except where a contingency is exclusively that of Seller or Seller has defaulted hereunder. IF PURCHASER TERMINATES THIS AGREEMENT OR DEFAULTS UNDER THIS AGREEMENT, PURCHASER SHALL NOT BE ENTITLED TO ANY REFUND OF THE TOTAL UPGRADE AMOUNT. If Purchaser fails to timely complete and execute Exhibit "F" hereto or to make payment of the amounts required in this Paragraph or fails to select an upgrade item, Seller may complete the Unit in accordance with the specifications for Unit Completion as set forth on Exhibit "C" and Purchaser shall be obligated to purchase the Unit so finished. Purchaser acknowledges that Exhibit "F" hereto is intended to specify the upgrades selected by Purchaser for the Unit, if any, and once executed, may not be changed except in Seller's sole discretion. It is Purchaser's sole obligation to ensure the clarity and accuracy of all upgrade choices.

(b) Insulation. The minimum type, thickness and R-Value of the insulation to be installed in each part of the Unit is:

	Type	Thickness	R-value
Roof	Batt	5 ½"	R-19
Exterior Walls	Batt	3 ½"	R-11
Party Walls	Batt	3 ½"	R-11
Floors	Batt	3 ½"	R-11

(c) Materials, Equipment and Fixtures. Seller reserves the right to substitute material, equipment, and fixtures of similar quality or design should Seller be unable to obtain those in the specifications through availability, model changes, or any other circumstances.

(d) Warranties. Seller shall assign and transfer to Purchaser at closing all of Seller's right, title and interest in any and all warranties received by Seller from manufacturers supplying materials used and contractors performing work in the Unit. Purchaser understands that the warranty period is defined in each warranty. Seller shall not provide any additional warranties to Purchaser other than those provided to Seller. Purchaser hereby acknowledges and affirms that except for the warranties of title to be included in Seller's instruments of conveyance to the Unit and the warranties to be assigned pursuant to this Paragraph at closing, Seller does not, by the execution and delivery of this Agreement, and Seller shall not, by the execution and delivery of any document or instrument executed and delivered in connection with the closing, make any warranty, express or implied, of any kind or nature whatsoever, with respect to the Unit, including but not limited to gaps which may appear between any molding and wall, and all such warranties are hereby disclaimed.

(e) Inspection. Seller shall notify Purchaser in writing that the Unit is completed. Within five (5) days after receipt of Seller's notice, or at sometime before closing, whichever is earlier, Purchaser and Seller shall inspect the Unit and execute a written Walk Through List specifying all items related only to the Unit, including any noted in previous inspections, that remain to be completed. No items shall be part of the Walk Through List, unless such items are related to the Unit and are actually written on the Walk Through List. Purchaser acknowledges that Seller will make its best effort to complete all of the items specified in the agreed upon Walk Through List on a timely basis as soon as reasonably possible after closing, but the fact that any repairs, touch ups or adjustments are incomplete shall not constitute a valid reason for Purchaser's failure to close. Purchaser further agrees that under no circumstances shall the closing be delayed or postponed due to Purchaser's or Seller's inability to inspect the Unit and execute a Walk Through List prior to closing and there shall be no withholding of any or all of Seller's proceeds at closing for any such Walk Through List items, without the written approval of the

Seller. --

(f) Certificate of Occupancy. Seller shall be responsible for obtaining a Certificate of Occupancy for the Unit at closing.

19. GEORGIA LAW. This Agreement concerns the sale of real property located in the State of Georgia. This Agreement, and all of the relationships between the parties hereto, shall be construed and interpreted in accordance with the laws of the State of Georgia.

20. TIME OF ESSENCE. Time is of the essence of this Agreement.

21. FORCE MAJEURE. Either party hereto shall be excused for the period of any delay in the performance of any obligations hereunder when such delay is occasioned by cause or causes beyond the control of the party whose performance is so delayed and the time for performance shall be automatically extended for a like period. Such causes shall include, without limitation, all labor disputes, civil commotion, war, warlike operations, invasion, rebellion, hostilities, military or usurped power, sabotage, government regulations or controls, fire or other casualty, inability to obtain any necessary materials or services, or acts of God.

22. SEVERABILITY. The provisions of this Agreement are intended to be independent, and in the event any provision hereof should be declared by a court of competent jurisdiction to be invalid, illegal or unenforceable for any reason whatsoever, such illegality, unenforceability, or invalidity shall not affect the remainder of this Agreement.

23. CONSTRUCTION OF AGREEMENT. The Purchaser and Seller acknowledge that they have read, understand, and have had the opportunity to be advised by legal counsel as to each and every one of the terms, conditions, restrictions, and effect of all of the provisions of this Agreement and every part of the Disclosure Package, all of which are incorporated herein by reference and made a part hereof, and the Purchaser agrees to the enforcement of any and all of these provisions and affixes his hand and seal hereto with full knowledge of same. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same. It is further agreed that words of any gender used in this Agreement shall be held to include any other gender, any words in the singular number shall be held to include the plural wherever applicable, and that captions and paragraphs numbers appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such paragraph or in any way affect this Agreement.

24. NON-RECORDATION OF AGREEMENT. The parties agree that neither this Agreement nor a copy of this Agreement shall ever be filed of record. If either party does so record, the other party may avail itself of any remedies available to it at law or in equity. There may be recorded, however, at Seller's option, a memorandum of agreement or similar document referencing this Agreement in the Georgia land records.

25. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties hereto. No agent, representative, salesman or officer of the parties hereto has authority to make, or has made, any statements, agreements, or representations, either oral or in writing, in connection herewith, modifying, adding to, or changing the terms and conditions hereof and neither party has relied upon any representation or warranty not set forth in this Agreement. No dealings between the parties or customs shall be permitted to contradict, vary, add to, or modify the terms hereof.

26. SURVIVAL. All terms, conditions, representations, and provisions contained herein shall extinguish upon closing and delivery of the deed, except for Paragraphs 6 (Brokerage and Agency), 8 (Prorations), 10(a) (Governing Documents), 14 (Mandatory Binding Arbitration), 15 (Right of Action), 18 (Unit Completion), 23 (Construction of Agreement), 25 (Entire Agreement), and 28 (Disclosures) hereof, which shall survive indefinitely.

27. PRE-SALE CONTINGENCY. Seller's obligation to close hereunder is expressly contingent upon Seller's procuring purchase agreements to sell at least ten (10) Units (inclusive of the Unit described herein) at Midtown on Eighth Condominium and such purchasers under said agreements having been approved for a purchase money real estate loan or in the event of a cash sale, at such time Purchaser's funds for purchase of the Unit are verified, at prices no less than the minimum prices required by Seller's construction lender. In the event the above pre-sale requirement is not met by October 31, 2000, Seller may, at its option, terminate this Agreement and refund all Earnest Money paid hereunder to Purchaser and neither party shall have any further rights or obligations hereunder.

28. DISCLOSURES. Purchaser acknowledges the following: (a) that he or she has received and read the Condominium Disclosure Package; (b) the Condominium Association budget provided to Purchaser is based on estimated expenses only and may increase or decrease significantly when the actual expenses of the Condominium Association become known; (c) the Condominium is located adjacent to thoroughfares which could be improved or widened in the future and near 8<sup>th</sup> Street and Glendale Terrace, the traffic on which may create noise from time to time; (d) the views from an Owner's Unit may change over time due to additional development, the removal or addition of landscaping, and other circumstances; (e) no representations are made regarding the zoning of adjacent property, or whether the category to which adjacent property is zoned will not change in the future; (f) no representations are made regarding the schools which currently or may in the future serve the Condominium; (g) since in every neighborhood, there are conditions which different purchasers may find objectionable, Purchaser acknowledges that there may be conditions outside of the Condominium that Purchaser may find objectionable and that it shall be the sole responsibility of Purchaser to become acquainted with neighborhood conditions which could affect the Unit; (h) no representations are made that the Unit is or will be soundproof or that sound may not be transmitted from one Unit to another; (i) the condominium floor plans and the dimensions and square footage calculations shown thereon are only approximations. Any Purchaser who is concerned about any representations regarding the floor plans should do his/her own investigation as to the dimensions, measurements and square footage of his/her Unit; and (j) the western border of the Condominium abuts a ten (10) foot alley, which alley is situated on a steep slope. Under Georgia law, when land abuts an alley, the land owner owns half of the width of the alley adjacent to the owner's property and has an easement to use the other half of the alley. Declarant gives no certification as to the safety and/or noise levels of this alley.

29. OFFER. This Agreement, as executed by Purchaser, shall constitute an offer to Seller. Seller may accept the same, if at all, by delivering to Purchaser at least one executed original of this Agreement prior to the time that Purchaser shall notify Seller, in writing, of Purchaser's revocation of this offer. The date of this Agreement is the date of execution by Seller.

30. SPECIAL STIPULATIONS. The following stipulations, if in conflict with any preceding provision, shall control:

(a) Exhibits and Addenda. The following Exhibits and/or Addenda are attached hereto and by reference made a part hereof: Exhibit "A"-Condominium Legal Description; Exhibit "B"-Unit Floor Plan; Exhibit "C"- Specifications for Unit Completion; Exhibit "D" - Financing (choose one); Exhibit "E"- Selling Broker (if necessary); Exhibit "F"- Upgrades; Exhibit "G"- Lead Based Paint Disclosure.



(b) Advertising. Prior to closing, Purchaser is prohibited from listing or advertising the Unit for sale in any real estate listing service and/or publication, on any online electronic medium and on any radio, television or any other medium for advertising.

(c) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[SIGNATURE PAGE FOLLOWS]

Date: \_\_\_\_\_

**PURCHASER(S):**

Print Name: \_\_\_\_\_  
SS#: \_\_\_\_\_

Print Name: \_\_\_\_\_  
SS#: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: (W) \_\_\_\_\_; (H) \_\_\_\_\_

Date: \_\_\_\_\_

**SELLER:**

**MIDTOWN ON 8TH, LLC**  
a Georgia limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Address: 1355 Peachtree Street, N.E., Suite 1560  
Atlanta, Georgia 30309

Phone: 404/876-8770; Fax: 404/892-1977

**LISTING BROKER: COLDWELL BANKER - THE CONDO STORE**

By: \_\_\_\_\_  
Broker or Affiliated Licensee

Print or Type Name: \_\_\_\_\_

Phone: \_\_\_\_\_  
Broker Code: \_\_\_\_\_

**SELLING BROKER:** \_\_\_\_\_

By: \_\_\_\_\_  
Broker or Affiliated Licensee

Print or Type Name: \_\_\_\_\_

Phone: \_\_\_\_\_  
Broker Code: \_\_\_\_\_

--

**EXHIBIT "A"**

**Condominium Legal Description**

**TRACT ONE:**

ALL THAT TRACT OR parcel of land lying and being in Land Lot 48 of the 14<sup>th</sup> District of Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at a point on the south side of Eighth Street one hundred (100) feet west of the southwest corner of the intersection of Eighth Street and Glendale Terrace; running thence west along the south side of Eighth Street sixty (60) feet to the east side of a ten (10) foot alley; thence south along the east side of said alley two hundred and five tenths (200.5) feet; thence east forty-five (45) feet; thence north ninety and five tenths (90.5) feet; thence east fifteen (15) feet; thence north one hundred ten (110) feet to the south side of Eighth Street and the point of beginning. This property is known as 317 8<sup>th</sup> Street in the City of Atlanta, Fulton County, Georgia, according to the present numbering system.

**TRACT TWO:**

ALL THAT TRACT or parcel of land lying and being in Land Lot 48 of the 14<sup>th</sup> District of Fulton County, Georgia, being a part of Lot 12 of Redford Place and Eighth Street Subdivision, according to plat which is recorded in Plat Book 4, page 5, Fulton County Records, and being more particularly described as follows:

BEGINNING at the southwest corner of the intersection of Eighth Street and Glendale Terrace; running thence west along the south side of Eighth Street one hundred (100) feet; thence south one hundred ten (110) feet; thence east one hundred (100) feet to the west side of Glendale Terrace; thence north along the west side of Glendale Terrace one hundred ten (110) feet to the point of beginning. This is the same property described in warranty deed to Grantor recorded in Deed Book 4395, p. 535 of the Fulton County, Georgia records, being known as 323-8<sup>th</sup> Street, according to the present system of numbering.

**TRACT THREE:**

ALL THAT TRACT or parcel of land lying and being in Land Lot 48 of the 14<sup>th</sup> District of Fulton County, Georgia and being more particularly described as follows:

BEGINNING at a point on the west side of Glendale Terrace one hundred ten (110) feet south of the southwest corner of the intersection of Glendale Terrace and Eighth Street; running thence south along the west side of Glendale Terrace ninety and five tenths (90.5) feet; thence west one hundred fifteen (115) feet; thence north ninety and five tenths (90.5) feet; thence east one hundred fifteen (115) feet to the west side of Glendale Terrace and the point of beginning. This is the same property described in the warranty deed to Grantor recorded in Deed Book 4193, page 535 and page 537, Fulton County Records, being known as 890 Glendale Terrace, according to the present system of numbering.

This deed is made subject to all restrictive covenants or record except those which impose a restriction upon the sale or occupancy of the above described property on the basis of race, color or creed.

**EXHIBIT "B"**

**Unit Floor Plan**

**[TO BE ATTACHED]**

**EXHIBIT "C"**

**Specifications for Unit Completion**

- 1) New interior doors
- 2) New door hardware
- 3) All new plumbing
- 4) All new plumbing fixtures in kitchen and bath
- 5) All new electrical with GFI's
- 6) All new light switches and cover plates
- 7) New drywall on all walls and ceilings
- 8) New base molding
- 9) New and refinished hardwood floors in kitchen, living room, bedroom(s) and hallway
- 10) Refurbish Ceramic bath
- 11) New kitchen cabinets, sink and countertops
- 12) All units will be sprinklered
- 13) New range, dishwasher and disposal
- 14) New HVAC and Hot water heater
- 15) Washer-Dryer Connections
- 16) New Lighting package
- 17) New closet maid shelving
- 18) High speed internet access

**EXHIBIT "D"**

**No Financing Required**

The following shall control over any inconsistent provision contained in the Purchase Agreement:

Purchaser represents to Seller that no mortgage financing is necessary or desirable for Purchaser to complete this transaction and that Purchaser does not desire for this Agreement to be contingent upon his ability to obtain financing. Purchaser agrees to provide Seller with a letter from a bank or financial institution on or before ten (10) business days from the date of Seller's acceptance of this Agreement verifying that Purchaser has sufficient funds to close the sale of the Unit. In the event Purchaser elects to obtain mortgage financing for the purchase of the Unit, this Agreement shall not be contingent on financing and the financing shall not delay the closing of the sale of the Unit.

**PURCHASER(S):**

\_\_\_\_\_

Print Name: \_\_\_\_\_

SS#: \_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_

SS#: \_\_\_\_\_

**EXHIBIT "D"**

**Financing Contingency**

The following financing contingency shall control over any inconsistent provision contained in the Purchase Agreement:

This Agreement is made conditioned upon Purchaser's ability to obtain a loan in the principal amount of not less than \$ \_\_\_\_\_ for a term of not less than \_\_\_\_\_ (\_\_\_\_) years, with an interest rate of not more than \_\_\_\_\_ % per annum on the unpaid balance. Such loan is to be secured by a first lien on the Unit. Purchaser covenants to apply for such loan on or before \_\_\_\_\_ (\_\_\_\_) days from the date of Seller's acceptance of this Agreement to notify Seller and/or Seller's agent of such application, and to pursue such application diligently. In the event Purchaser fails to apply for such loan within such period, or does not diligently furnish requested loan information within Purchaser's control within two (2) days of the request therefor, Purchaser shall be in default hereunder and Seller, at its option, may terminate this Agreement and retain the Earnest Money as liquidated damages. Purchaser agrees to cooperate fully with Seller and the lender in processing the loan application. Seller or its designated agent is authorized to contact such lender from time to time regarding the status of said loan. "Ability to obtain" as used herein means that Purchaser is qualified to receive the loan described herein based upon lender's customary and standard underwriting criteria. If Purchaser has the ability to obtain the loan referenced herein, Purchaser warrants that, at closing, Purchaser will have sufficient cash to complete the purchase of the Unit. Purchaser further warrants that unless otherwise specified herein, Purchaser does not need to sell or lease other real property in order to complete the purchase of the Unit.

Purchaser shall provide Seller with written evidence of approval for a loan for purchase of the Unit under the terms and conditions set forth in this Agreement on or before thirty (30) days from the date of Seller's acceptance of this Agreement. Upon receipt of evidence of loan approval by Seller, this contingency shall no longer apply. In the event the loan is disapproved and evidence of such disapproval is provided to Seller within said thirty (30) day period, then Purchaser may terminate the Agreement, Holder shall return the Earnest money to Purchaser, and all further rights, obligations and liabilities created hereunder shall be deemed terminated and of no further force and effect. Should Purchaser not provide evidence of approval or disapproval of loan within said thirty (30) day period, this contingency shall not apply, this transaction shall be considered an all cash transaction, Seller shall not pay any closing costs, and should the Purchaser not be able to obtain financing by the closing date, the Earnest Money shall be disbursed by Holder to Seller. Purchaser agrees that a loan with terms consistent with those described herein shall satisfy this loan contingency. Purchaser may also apply for a loan with different terms and conditions and close the transaction provided (a) all other terms and conditions of this Agreement are fulfilled, and (b) the new loan does not increase the costs charged to the Seller. Purchaser shall be obligated to close this transaction if Purchaser has the ability to obtain a loan with terms as described herein and/or any other loan for which Purchaser has applied and been approved.

In the event Purchaser applies for financing from a lender that is not a Preapproved Lender, this contingency shall not apply, this transaction shall be considered an all cash transaction, Seller shall not pay any closing costs, and should the Purchaser not be able to obtain financing by the closing date, the Earnest Money shall be disbursed by Holder to Seller.

**PURCHASER(S):**

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
SS#: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
SS#: \_\_\_\_\_

**EXHIBIT "E"**  
**Selling Broker Relationship**

In this transaction, the relationship of the Listing Broker and the Selling Broker to the Seller and Purchaser is specified below.

Listing Broker: [The section not marked shall not be a part of this Agreement.]

- Seller Agency:** Listing Broker has entered into a client relationship with Seller.
- Dual Agency:** Listing Broker has entered into a client relationship with Seller and Purchaser.

Selling Broker: [The section(s) not marked shall not be a part of this Agreement.]

- Purchaser Agency:** Selling Broker has entered into a client relationship with Purchaser.
- Dual Agency:** Selling Broker has entered into a client relationship with Purchaser and Seller.
- Transaction Brokerage:** Selling Broker has not entered into a client relationship with Purchaser or Seller. Purchaser is aware that he or she is not represented by a real estate broker and is solely responsible for protecting his or her own interests. Purchaser acknowledges that if transaction brokerage is selected, the broker may perform ministerial acts for either party.

Dual Agency Disclosure. Seller and Purchaser are aware of Broker's dual agency role and have determined that the benefits of Broker's role outweigh the detriments. Seller and Purchaser have been advised (1) that in this transaction the Broker has acted as a dual agent, (2) that the Broker represents two clients whose interests may be different or adverse, (3) that as a dual agent, Broker may not disclose information made confidential by request unless it is allowed or required to be disclosed and (4) that the client does not have to consent to dual agency. The clients referenced above have voluntarily consented to dual agency and have read and understood their brokerage engagement agreements. The Broker and/or affiliated licensees have no material relationship with either client or the nature of it is as follows: \_\_\_\_\_

\_\_\_\_\_. A material relationship means one actually known of a personal, familial or business nature between the Broker and affiliated licensees and a client which would impair their ability to exercise fair judgment relative to another client. **Affiliated Licensee Assignment.** The Broker has assigned \_\_\_\_\_ (Selling Licensee) to work with Purchaser and \_\_\_\_\_ (Listing Licensee) to work with Seller. Each shall be deemed to act for and represent exclusively the party to whom each has been assigned.

In the event this Agreement is made with a Selling Broker, such Selling Broker is \_\_\_\_\_ and shall receive \_\_\_\_\_% of the purchase price as a commission.

**PURCHASER(S):**

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

SS#: \_\_\_\_\_

Print Name: \_\_\_\_\_

SS#: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: (W) \_\_\_\_\_; (H) \_\_\_\_\_

**SELLING BROKER:**

By: \_\_\_\_\_

Broker of Affiliated Licensee

Print or Type Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Broker Code: \_\_\_\_\_



**EXHIBIT "F"**

**Upgrades**

Purchaser's Initials \_\_\_\_\_

Seller's Initials \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**EXHIBIT "G"**

**Disclosure Of Information And Acknowledgment**

*This disclosure form and the "Protect Your Family From Lead in Your Home" pamphlet must be attached and acknowledged by all parties to an offer to sell or lease housing which was built prior to 1978. The disclosures must occur prior to the seller's/lessor's acceptance of the buyer's/lessee's written offer to purchase/lease; if the potential buyer/lessee makes the offer to purchase/lease before the requisite disclosures are provided to the buyer/lessee, the seller/lessor can not accept the offer until: 1) the disclosure is made ; and 2) the potential buyer/lessee has had an opportunity to review the information and consider whether to amend his offer.*

**LEAD-BASED PAINT AND/OR LEAD-BASED PAINT HAZARDS**

**LEASE TRANSACTION LEAD WARNING STATEMENT.**

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, Lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

**PURCHASE AND SALE TRANSACTION LEAD WARNING STATEMENT.**

Every purchaser of any interest in residential property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The Seller of any interest in residential real property is required to provide the Buyer with any information on lead-based paint hazards from risk assessments or inspections in the Seller's possession and notify the Buyer of any known lead-based paint hazards. A risk assessments or inspections in the Seller's possession and notify the Buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

**Seller's/Lessor's Disclosure.** [Seller/Lessor to initial section A and B below]

A. Presence of lead-based paint and/or lead paint hazard (check one below):  
 Known lead-based paint and/or lead-based paint hazards are present in the housing (explain below):  
Seller/Lessor \_\_\_\_\_  
Initials  Seller/Lessor has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

B. Records and Reports available to the Seller/Lessor (check one below):  
 Seller/Lessor has provided the Buyer/Lessee with all the available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list document below):  
Seller/Lessor \_\_\_\_\_  
Initials  Seller/Lessor has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

**Buyer's/Lessee's Acknowledgment.** [Buyer/Lessee to initial section C, D, and E below]

C. Buyer/Lessee has received copies of all information listed above.  
Buyer/Lessee  
Initials

D. Buyer/Lessee has read and understands the above lead warning statement and has received the pamphlet "Protect Your Family From Lead in Your Home."  
Buyer/Lessee  
Initials

E. Buyer/Lessee has (check one below):  
 Received a ten 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or  
Buyer/Lessee \_\_\_\_\_  
Initials  Waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

**Broker's Acknowledgment.** [Broker to initial section F below]

F. Broker has informed the Seller/Lessor of the Seller/Lessor's obligations under 42 U.S.C.§4852(d) and is aware of his/her responsibility to ensure compliance.  
Broker's Initials

**Certification of Accuracy.**

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information provided by the signatory is true and accurate.

\_\_\_\_\_  
Seller/Lessor Date  
\_\_\_\_\_  
Buyer/Lessee Date  
\_\_\_\_\_  
Broker Date  
\_\_\_\_\_  
Seller/Lessor Date  
\_\_\_\_\_  
Buyer/Lessee Date  
\_\_\_\_\_  
Broker Date

**NOTE: It is the intent of this Exhibit that it be applicable to both the sale and leasing of Property. The use of terms like Buyer/Lessee" shall mean either a Buyer or a Lessee or both as the context may indicate.**

# **SECTION 8**

## **STATEMENT OF CONDITION OF PROPERTY**

# **MIDTOWN ON EIGHTH CONDOMINIUM**

## **Declarant's Statement of Condition of Property**

### **A. PRESENT CONDITION OF ALL STRUCTURAL COMPONENTS, MECHANICAL SYSTEMS AND ELECTRICAL SYSTEMS**

The following statement about the physical condition of apartments located at Eighth St. and Glendale Terrace, Atlanta, Georgia, which is being converted into Midtown on Eighth Condominium (hereinafter "the Property") is made by Midtown on 8th, LLC (hereinafter "the Declarant") and is based upon a report prepared by Ray Engineering, dated December, 1999 (hereinafter "the Report"). The following statements are made in reliance on that Report and the Declarant's experience based upon the management and ownership of the Property. Copies of the Report, with full exhibits, is incorporated herein by reference and is available for inspection at the sales office at the Property. Purchasers are urged to refer to the Report for additional information concerning the Property and buildings, and also to conduct such inspections as they deem appropriate to satisfy themselves regarding the condition of the residential units and the buildings.

The Declarant has owned the Property for approximately three (3) months and is therefore not intimately familiar with each and every component and system, and other matters covered by this Report. It is important for the potential purchaser to understand that the Property is not "new construction," but is in fact approximately 35 years old, having been built around 1965.

Upon close inspection it is apparent that the Property has experienced the normal wear and tear, aging, and deterioration that would be expected and appropriate for a property of its age. Recognizing the age of the Property, the Purchaser should not expect the condition of the Property to be new or even similar to new construction. Rather, since each residential unit varies in the condition of each particular component or system, the Declarant can not be more specific other than to tell the Purchaser that some type of repairs and replacements should be expected by the Purchaser.

In summary, the Property is generally considered to be in fair to good condition considering its age. Nonetheless, the Declarant plans to make certain upgrades and repairs so that the buildings and property are in an even better condition. (Please find attached as Exhibit "A" to this letter the Contractors' "Scope of Work" identifying the buildings and what repairs will be done.

Site Work. The site is well landscaped and maintained. Drains around the buildings need to be cleaned and some minor grading work done. The Declarant plans to complete some grading work around a few buildings for drainage purposes and to help insulate the buildings from moisture. The asphalt paving is currently performing adequately, but will need to be maintained in the future by patching and seal coating the

asphalt. New parking spaces will be added by the Declarant.

Structural Components. The buildings at the Property are wood frame construction with lap wood siding and brick facade. The buildings have wood truss roof framing. The structures all appear to be performing adequately. The buildings are built on crawl space foundations.

As noted in the attached Exhibit "A" - "Scope of Work", Declarant plans to repair three (3) exterior stair systems and certain repairs to some landings (including stair landings), wood columns at the entry stairs, and some other structural items.

Roof Construction. The roof system consists of wood trusses and plywood decking with an asphalt shingle roof. The roof shingles are approximately twelve (12) years old. The engineer expects an eight (8) year useful life.

Exterior Finish. The exterior walls of each building are brick with painted wood trim with lap wood siding in exterior halls that will be replaced by new stucco.

HVAC/Mechanical. The individual residential units will have installed new split system heat pump units with air cooled heat pump condenser units located on the ground outside the residence. The fan coil units are located in mechanical closets inside or under the residential unit. The Report recommended that many water heaters be raised further off the ground. All water heaters will be replaced with electrical units raised off the ground.

Plumbing Systems. All plumbing fixtures and piping will be replaced.

Insulated Exterior Glass. All windows and doors will be replaced with aluminum windows and doors with insulated glass.

Electric Systems. All electric fixtures, wiring panels, and systems will be replaced.

## B. DECLARANT'S ESTIMATE OF USEFUL LIFE

The following statements concern the useful life of the Systems and Building Components reported above. On certain items the Declarant does not make any representation of useful life. On other items, useful life estimates are based on the Report or on other information believed by the Declarant to be reliable. No express or implied warranties of any kind are included herein, nor are any promises made that any item will actually last the estimated useful life. The estimates by the Declarant are only offered as good faith estimates.

Site Work. The Declarant will seal and stripe the existing asphalt paving and add approximately twelve (12) new parking spaces.

Structural Components. No estimate of useful life is made by the Declarant. The Declarant plans to accomplish certain structural repairs as noted above and in the attached Exhibit "A" - "Scope of work". Crawl space restoration work will be done, including new water heating, mechanical rooms and fire code work.

Roof Construction. The Declarant makes no warranties or guarantees on the roof, flashings, vents, flues, or other component of the roof system, etc. The Report estimates an eight (8) year remaining life on the roofing. New gutters and downspouts will be installed on two (2) buildings.

Exterior Finish. Declarant plans to complete some general carpentry repairs around most of the buildings as part of the repair work described in Exhibit "A" - "Scope of work". New stucco at all entrances and common landings will be added. New entrance doors will be installed. Once the carpentry repairs are completed, Declarant plans to repaint all of the buildings. (See the attached Exhibit "A" - "Scope of work" for more specifics on what will be done.) The Report estimates a nine (9) year remaining life on the brick siding until repairs and painting is done. Declarant plans to make these repairs now as noted above and in Exhibit "A" - "Scope of work".

HVAC/Mechanical. All heat pumps will be replaced.

Plumbing System. All plumbing will be replaced.

Insulated Exterior Glass. All new windows and doors will include double pane glass.

Electrical System. All new electric service will be installed. No estimate of useful life is being made by the Declarant.

#### C. DECLARANT'S LIST OF VIOLATIONS AND COSTS TO CURE

To the best of the Declarant's actual knowledge, there are no outstanding notices of incurred violations of building code or other county or municipal regulations. Declarant shall not be obligated to make any or all of the above-described repairs or upgrades to the property; however, Declarant intends to do so, as discussed above.

# **EXHIBIT A SCOPE OF WORK**

## Exterior

- 1) Decks with paneled doors off bedrooms and/or living rooms in all but 2 units.
- 2) All new windows and doors.
- 3) New entrances with light over door & doorbell
- 4) New Building entrance / brick or stone with small kneewalls.
- 5) Added landscaping and landscape lighting.
- 6) New exterior Ga. Power light fixtures.
- 7) Added parking to have 1 spot per condo
- 8) New dumpster enclosure
- 9) New building signs

## Interior

- 1) New interior doors
- 2) New door hardware
- 3) All new plumbing
- 4) All new plumbing fixtures in kitchens and baths
- 5) All new electrical with GFI's
- 6) All new light switches and cover plates
- 7) New drywall on all walls and ceilings
- 8) New base molding
- 9) New and refinished hardwood floors in kitchens, living rooms, bedrooms and hallways
- 10) Refurbish Ceramic baths
- 11) New kitchen cabinets, sink and countertops
- 12) All units will be sprinklered
- 13) New range, dishwasher and disposal
- 14) New HVACs and Hot water heaters
- 15) Washer-Dryer Connections
- 16) New Lighting package
- 17) New closet maid shelving
- 18) High speed internet access