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DECLARATION OF CONDOMINIUM

THE RESERVE OF DUNWOODY CONDOMINIUM

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STATE OF GEORGIA
COUNTY OF FULTON

**DECLARATION OF CONDOMINIUM
FOR
THE RESERVE OF DUNWOODY CONDOMINIUM**

THIS DECLARATION OF CONDOMINIUM is made on the date set forth on the signature page hereof by CJ Kelley, LLC, a Georgia limited liability company (the "Declarant").

WITNESSETH

WHEREAS, Declarant is the owner of that certain parcel of real property located in Land Lot 366 of the 6th District of Fulton County, Georgia, as more particularly described in Exhibit A attached hereto and incorporated herein by this reference, including all improvements now or to be located or constructed thereon (the "Condominium"); and

WHEREAS, Declarant desires to subject the said property to the provisions of this Declaration and to the Georgia Condominium Act, O.C.G.A. § 44-3-70, *et seq.* (the "Condo Act"); and

NOW, THEREFORE, Declarant hereby submits to the Condo Act and to this Declaration the property described in Exhibit A hereto.

DECLARANT HEREBY FURTHER DECLARES that, upon recordation of this Declaration, the said property shall thereafter be transferred, used, encumbered, leased and occupied subject to the Condo Act and to all of the covenants, conditions, restrictions, and other provisions hereof, as follows:

1. Purpose. The purpose of this Declaration, and the covenants, conditions, restrictions and other provisions hereof, is to preserve, enhance and protect the value and desirability of the Condominium property. This Declaration and each covenant, condition and restriction contained herein shall run with and be appurtenant to the title to the said property and shall be binding upon all persons having or acquiring any right, title or interest in and to all or any portion of the said property and their respective heirs, legal representatives, successors and assigns, for the benefit of all owners of the same.

2. Plat and Floor Plans. A plat of survey for the Condominium, prepared by GeoSurvey, Ltd., dated November 6, 2005 (the "Plat"), has been filed in Condominium Plat Book 298, Page 101, Fulton County, Georgia records. Floor plans relating to the Condominium, prepared by Jamie Bradshaw, AIA, NCRB (the "Floor Plans") have been filed in Floor Plans Book 33, Page(s) 430 Fulton County, Georgia records. The Plat and Floor Plans are incorporated herein by reference as though the same were set forth fully herein. For so long as Declarant owns any Unit, Declarant shall have the right to amend the Plat and/or Floor Plans as necessary to reflect any improvements, modifications and/or renovations to the Common Elements or to any Unit owned by Declarant.

3. Unit Boundaries. The Condominium shall be divided into ninety (90) residential units (individually a "Unit" and collectively the "Units") and Common Elements, including Limited Common Elements, as more particularly defined and described herein and as depicted on the Plat and Floor Plans. Each Unit shall be conveyed as a separately-designated and legally-described freehold estate subject to the Condo Act and this Declaration. The Units shall include their respective undivided percentage interests in the Common Elements and all portions of the Condominium building which lie inside the following described boundaries:

(a) Vertical Boundaries. The perimetric or vertical boundaries of each Unit shall be the centerlines of all walls of the Unit which are shared with other Units. The perimetric boundaries of each Unit with respect to all other walls, including all exterior walls and walls which are shared with other Common Elements such as hallways and lobby areas, shall be the vertical plane formed by the unexposed surface of the wallboard, sheetrock, drywall or other material which forms the interior surface of each such wall, with the metal or wooden studs or other material to which the same is attached, and all other materials used in construction of such walls, forming a part of the Common Elements. Each Unit shall include within its boundaries any and all wallboard, sheetrock, drywall, metal or wooden studs, insulation, and all other material comprising the portions of the walls of such Unit which are located within the above-described perimetric boundaries.

(b) Upper and Lower Boundaries - Bottom Floor. The upper boundary of each Unit which is located on the lowermost floor of a Condominium building shall be the horizontal plane formed by the uppermost, unexposed surface of the wallboard, sheetrock, drywall or other material which forms the ceiling of such Unit, with such material constituting part of the Unit, and the supporting beams and trusses to which the same is attached and all other such materials constituting part of the Common Elements. The lower boundary of each such Unit shall be the horizontal plane formed by the lowermost surface of the concrete slab or other flooring of such Unit, with the concrete flooring or slab constituting part of the Unit and all other materials beneath the same constituting part of the Common Elements.

(c) Upper and Lower Boundaries - Top Floor. The upper boundary of each Unit which is located on the uppermost floor of a Condominium building shall be the horizontal plane formed by the uppermost, unexposed surface of the wallboard, sheetrock, drywall or other material which forms the ceiling of such Unit, with such material constituting part of the Unit, and the supporting beams and trusses to which the same is attached, and all other components of the roof, including all roof decking, roof shingles and other material forming the roof of each Condominium building, constituting part of the Common Elements. The lower boundary of each such Unit shall be the horizontal plane formed by the lowermost, unexposed surface of the wooden subflooring of such Unit, with all flooring and subflooring constituting part of the Unit, and the supporting beams and trusses upon which the same rests and all other such materials constituting part of the Common Elements.

(d) Upper and Lower Boundaries - Other Floors. The upper boundary of each Unit which is located on any floor other than the uppermost or lowermost floor of a Condominium building shall be the horizontal plane formed by the uppermost, unexposed surface of the wallboard, sheetrock, drywall or other material which forms the ceiling of such Unit, with such material constituting part of the Unit, and the supporting beams and trusses to which the same is attached and all other such materials constituting part of the Common Elements. The lower boundary of each such Unit shall be the horizontal plane formed by the lowermost, unexposed surface of the wooden subflooring of such Unit, with all flooring and subflooring constituting part of the Unit, and the supporting beams and trusses upon which the same rests and all other such materials constituting part of the Common Elements.

(e) Additional Information for Interpreting Unit Boundaries. In interpreting these descriptions and the Floor Plans, the existing physical boundaries of the Units as originally constructed shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in this Declaration, in the Floor Plans, or in any deed or other instrument, regardless of minor settling or lateral movement of the Condominium building, and regardless of minor variances between the boundaries shown on the Floor Plans or in any deed or other instrument and those of the Units. All ducts, conduits, pipes, wires and other systems or devices which serve a single Unit, including but not limited to heating and air conditioning systems, electrical and natural gas systems, telecommunications and other like systems, and plumbing systems, including all fixtures and appliances, regardless of whether or not a portion of any such system may be located outside of the boundaries of the Unit as set forth above, shall be deemed a part of

such Unit, except that any portions thereof which serve the Common Elements, or which serve more than one Unit, shall be deemed a part of the Common Elements. All exterior doors, windows, chimneys, flues and skylights which serve a single Unit shall be included within the boundaries of that Unit, subject to any Association maintenance and repair obligations as set forth elsewhere herein.

4. Common Elements and Limited Common Elements.

(a) Common Elements Defined. All corridors, foyers and lobbies, stairwells, landscaped areas and vegetation, surface parking lots, sidewalks, paths, driveways and walkways, storage, maintenance and mechanical rooms, mail kiosks, fences, entry feature and lighting for same, dumpsters, swimming pool and all related furniture and equipment, clubhouse and all related furniture and equipment, tennis courts, retaining walls, detention ponds, the foundation, roofs and exterior walls of the Condominium buildings, and all other portions of the Condominium which are not located within the boundaries of any Unit as set forth in Section 3 above, shall be deemed a part of the Common Elements.

Each owner of a Unit shall have an undivided ownership interest in and to the Common Elements in accordance with the ownership percentages set forth in Exhibit B hereto. The ownership percentage of any Unit or Units may be altered only by the consent of all owners and Mortgagees of the affected Units, expressed in a duly recorded amendment to this Declaration. Ownership of the Common Elements shall be enjoyed by the owners of the Units as tenants-in-common; however, no Unit owner shall have any right to bring an action for partition or division of the Common Elements, or any portion thereof, except as may be provided in this Declaration or in the Condo Act.

(b) Limited Common Elements. Notwithstanding the foregoing or anything to the contrary contained elsewhere herein, certain portions of the Common Elements are hereby assigned as Limited Common Elements to certain Units, as follows:

(i) Each Unit shall be assigned a mailbox or mail slot as a Limited Common Element appurtenant to such Unit.

(ii) Any entry foyer, stairwell or corridor serving fewer than all of the Units is assigned as a Limited Common Element to the Unit or Units which it serves.

(iii) All pipes, ducts, cables, wires, conduits and other apparatus which serve only one Unit are assigned as Limited Common Elements to the Unit which they serve and to which they are adjoined and connected.

(iv) Any utility meter which serves fewer than all of the Units is assigned as a Limited Common Element to the Unit or Units which it serves.

(v) Any portion of the Common Elements upon which is located air conditioning or heating equipment or other apparatus serving fewer than all of the Units is assigned as a Limited Common Element to the Unit or Units served thereby. The Association shall have the right, at its sole expense, to relocate any HVAC, plumbing, electrical, telecommunications or other systems or apparatus, provided that such relocation does not cause an increase in the cost of operation of the same by any Unit owner.

(vi) Parking spaces designated for use by particular Units pursuant to Sections 4(c) or (d) below, if any, shall be assigned as Limited Common Elements to such Units, unless and until such time as said parking spaces may be reassigned to other Units as provided elsewhere herein.

(c) Assignment of Common Elements as Limited Common Elements. Subject to the provisions of Section 44-3-82 of the Condo Act, the Association shall have the authority to assign Common Elements which have not been previously assigned as Limited Common Elements, upon written application to the Association by the owners of the Unit or Units directly affected by the same. Any such assignment shall be made by the Association by recordation in the Fulton County, Georgia real estate records of amendments to the Declaration, Plat and/or Floor Plans, as necessary, executed by the Unit owner or owners making such application and by the Association. Notwithstanding the above or anything else to the contrary contained herein, for so long as Declarant owns a Unit, Declarant shall have the right to assign any portion of the Common Elements as a Limited Common Element to any Unit then owned by Declarant, and may assign any unassigned parking spaces, or rent the same, to any person or entity, regardless of whether such person or entity owns a Unit. Declarant alone shall have the right to retain any and all proceeds from the assignment of any previously unassigned Common Elements or Limited Common Elements.

(d) Reassignment of Limited Common Elements. Subject to the provisions of Section 44-3-82 of the Condo Act, the Association shall approve any reassignment of Limited Common Elements upon written application to the Association by the owners of the Units directly affected by the same. The owner of any Unit (including the Declarant) shall have the right to retain any and all proceeds from the reassignment or rental of any Limited Common Elements assigned to his or her Unit. Any such reassignment shall be made by recordation in the Fulton County, Georgia real estate records of amendments to the Declaration, Plat and/or Floor Plans, as necessary, executed by the Unit owner or owners directly affected by the same and consented to by the Association.

5. **Membership and Voting.** The Condominium shall be administered by The Reserve of Dunwoody Condominium Association, Inc., a Georgia nonprofit corporation (the "Association"), which shall be governed by the bylaws attached hereto as Exhibit C, as restated or amended from time to time (the "Bylaws"). Any person or entity who purchases a fee simple interest in and to any Unit shall automatically become a member of the Association, upon the closing of such purchase, and shall automatically cease to be a member of the Association upon his, her or its transfer or sale of such Unit, whether by sale, gift, foreclosure, death or incompetency, or otherwise. The owner or owners of each Unit shall be entitled to one (1) vote on all matters set forth herein or in the Bylaws for vote by the membership of the Association, regardless of the varying ownership percentages allocated to such Unit as set forth on Exhibit B hereto.

6. **Assessments.**

(a) **Annual Assessments.** The Association shall have the power to levy annual assessments for all budgeted and actual expenses of the Association, wherever and however incurred, including but not limited to the costs of repairing, replacing, maintaining and operating the Common Elements and other portions of the Condominium for which the Association has maintenance, repair, management or other responsibility. Assessments shall be payable by each owner of a Unit regardless of the amount of use, if any, which any particular owner may make of the Common Elements, and regardless of whether the Association has fulfilled its obligations hereunder. Annual assessments shall be levied against the Units in accordance with the ownership percentages set forth on Exhibit B hereto.

(b) **Special Assessments.** In addition, the Association may, but shall be required to, levy special assessments against one or more Units under the following circumstances:

(i) If the benefit to be received from any non-budgeted expense will be enjoyed disproportionately by one or more Units, then the expense may be specially assessed against only those Unit(s).

(ii) If any non-budgeted expense (which may include any deductible or uninsured cost) is necessitated by any act or omission of the owner or owners, tenants, representatives or guests of one or more Units, then the expense may be specially assessed against only those Unit(s).

(iii) The Condominium currently is served by a common water meter. The Board shall have the authority to assess as a special assessment individual Unit utilities usage charges for water and other utilities, based on each Unit's actual usage, by submetering of the individual Units. On and after the date on which any such submeters are installed, if ever, the Board shall be authorized to include in such special assessments a charge for the costs of overhead for such services and/or installation of separate utility meters for the Units, plus each Unit's pro-rata portion of all water usage in and upon the Common Elements.

(c) **Annual Budget.** At least twenty-one (21) days prior to each annual meeting of the Association, the Association's board of directors (the "Board") shall prepare a budget summarizing the anticipated expenses and capital reserves of the Association for the proceeding calendar year, and to deliver copies of the same to the Unit owners. Said budget shall take effect on the first day of the proceeding calendar year unless duly disapproved by the Association at said annual meeting. If so disapproved, then the budget in effect for the current calendar year shall remain in effect until a new budget is approved at a special meeting of the Association called for such purpose in accordance with the Bylaws.

(d) **Working Capital, Surpluses, Deficits and Reserves.** In addition to capital reserves, if any, provided in the budget, the Declarant, on behalf of the Association, shall establish a working capital fund to meet unanticipated costs and expenses. At the option of Declarant, contributions to the working capital fund may be collected from any person or entity who purchases a Unit from the Declarant, not to exceed two (2) months' annual assessments for such Unit. Under no circumstances shall any working capital funds be used by the Association to offset any budget deficits or by the Declarant for its expenses or construction costs.

Notwithstanding anything to the contrary contained herein, the Association shall not be required, whether before or after Declarant's control of the Board, to budget, assess or collect for capital reserves above and beyond the regular operating expenses of the Association and the working capital fund described above.

All surpluses and profits of the Association, if any, shall be either applied to the current year's regular operating expenses, the subsequent year's operating expenses, to capital reserves, or shall be distributed to the Unit owners, all at the sole discretion of the Board, subject to the provisions of Section 44-3-108 of the Condo Act.

(e) **Payment of Assessments.** All annual assessments shall be paid in equal monthly installments on the first day of each calendar month. Any annual or special assessments or other charges not paid within ten (10) days of when due shall subject the delinquent owner to a late charge of Ten Dollars (\$10.00) or Ten Percent (10%) of the amount due, whichever is greater. In addition, if any Unit owner becomes more than thirty (30) days delinquent in the payment of assessments, then the amount of such delinquent assessments and any late charges imposed thereon shall incur interest at the rate of Ten Percent (10%) per annum, unless the maximum amount permitted by applicable law is less, in which case such maximum allowable rate shall apply. In addition, and not to the exclusion of any other remedies available at law or equity, the Association may pursue any one or more of the following remedies upon ten (10) days written notice to such owner:

(i) institute legal action against such owner in any judicial or administrative body of competent jurisdiction;

(ii) revoke such owner's right to pay annual assessments in monthly installments and demand that the unpaid amount of that year's annual assessments be paid in full immediately;

(iii) suspend such owner's right to vote on matters requiring a vote of the membership of the Association;

(iv) suspend such owner's privileges to use any or all of the Common Elements (unless such owner's rights of ingress or egress would be restricted thereby); and

(v) suspend any utility or service to such Unit, provided that (i) the payment of such utility or service is an expense of the Association, (ii) the Association has obtained a judgment for payment of such delinquent assessments in excess of the amount provided in the Condo Act, (iii) the Association has otherwise complied with all applicable provisions of the Condo Act, and (iv) such utility or service is restored upon payment in full of all delinquent assessments and all fees, interest and other charges associated therewith.

(f) Obligation to Pay Assessments. All assessments levied against a Unit shall be both a personal obligation of the person or entity who owned the Unit at the time of assessment and shall run with the title of such Unit and constitute a lien against the same to the fullest extent provided in the Condo Act. Each owner of a Unit, regardless of the presence or absence of any applicable language in the deed or other instrument by which such Unit was conveyed to such owner, shall be deemed to have covenanted and agreed to pay all annual assessments and special assessments levied against such Unit, whether prior to or during his, her or its ownership thereof, including any other fees, costs, interest or other charges incurred by the Association in connection with the same or the collection thereof.

(g) No Abatement of Assessments. 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.

(h) No Waiver. No delay or failure on the part of the Association in the exercise of its rights as set forth in this Section 6 shall operate as a waiver thereof, and no single or partial exercise by the Association of any such right shall preclude other or further exercise thereof or the exercise of any other right hereunder.

7. Right of Access. Without limiting the generality of any other provision hereof or any applicable provisions of the Condo Act, and in addition to any other specific rights set forth elsewhere herein or in the Condo Act, the Association and its duly authorized agents, contractors and representatives, without being subject to criminal or civil liability for trespass, shall have the right, but not the obligation, to enter any Unit for purposes of repair, replacement, maintenance or operation of any Common Elements, or to attend to any emergency situation, or for the safety or security of the Condominium or any other Unit or Unit owner, or pursuant to Section 9(d) below. Such right of access shall only be exercised during reasonable hours and after notice to the owner or occupant of the Unit, unless the circumstances require otherwise.

8. Insurance.

(a) Master Insurance Policies. The Association shall be required to maintain only the types and amounts of insurance as required by Section 44-3-107 of the Condo Act, as revised or amended from time to time. Said policies may exclude fixtures and appliances, wall coverings, floor coverings, and any other improvements made to a Unit by its owners or occupants. Said policies may contain any and all deductibles and exclusions from coverage to the greatest extent allowable by the Condo Act, as the same may be amended from time to time. Any additional coverages or amounts shall be obtained only if the same are deemed necessary or desirable in the sole discretion of the Board.

(b) Unit Owner Policies. Each Unit owner shall be responsible for maintaining insurance coverage for his or her Unit to the extent that the same is not covered by the policies described in Section 8(a) above, and shall supply a copy of the same to the Association upon request. The Association shall be entitled, but not obligated, to obtain such insurance for any uncovered Units and assess the cost of the same to the owners of said Units. Each Unit owner and occupant shall be responsible for reviewing the policies of insurance described in Section 8(a) above, which shall be made available by the Association upon request during normal business hours, and for assessing and providing for their own insurance needs based on their review of the same. In no event shall the policies described in Section 8(a) above be brought into contribution with any insurance obtained by any Unit owner or Mortgagee. No owner or occupant of a Unit shall be entitled to receive any insurance proceeds which have been paid to the Association unless such owner or occupant is current with all assessment payments. At the discretion of the Board, any insurance proceeds otherwise payable to a Unit owner or occupant may be applied first to delinquent assessments owed by that owner or occupant.

(c) Mortgagee Rights. The Board shall use its best reasonable efforts to ensure that each policy of insurance obtained by the Association provides that each holder of a Mortgage on a Unit will be entitled to at least thirty (30) days written notice if the policy is to be cancelled, non-renewed or substantially modified, or if such Mortgagee's coverage is at risk of being cancelled or otherwise affected by nonpayment of premium or by any act or omission of the Unit's owner. Nothing contained in this Section 8 or elsewhere herein shall be construed as a limitation on the right of any Mortgagee which is beneficiary of a mortgagee endorsement to distribution of insurance proceeds, nor as giving any Unit owner or other party priority over any Mortgagee to any insurance proceeds for losses to the Common Elements. Mortgagees having an interest in any insured loss shall be entitled to participate in all negotiations with the carrier regarding adjustment of the same, provided that the Board shall have sole authority to adjust any and all such losses.

9. Architectural Control.

(a) Association Approval. No modifications or improvement shall be made to any Unit or Common Elements, including Limited Common Elements, which are visible from outside of the Unit. With regard to interior modifications, the Association, acting by and through its Board of Directors, shall have the right to approve or disapprove any proposed construction, modification or structural improvement in and to the individual Units. The Board, in evaluating any construction, modification or improvement, shall consider the aesthetics of the proposed addition or improvement, the materials to be used, any additional load to be placed upon the structural components of the Condominium building, any necessary tie-ins to plumbing or electrical systems, and the effect upon other Unit owners and/or the Common Elements, if any, including any noise or vibration caused either by the construction or improvement activity or by the addition or improvement itself. Each individual Unit owner or occupant shall be responsible for obtaining any and all necessary permits and other approvals, and for ensuring compliance with all local, state and federal regulations and requirements, including but not limited to applicable zoning and building codes. The Board shall have the right to require damage or security

deposits, in reasonable amounts, from any owner or occupant of a Unit, and/or their agents, representatives and contractors, for cost or damage resulting from any renovation, improvement or construction activities undertaken or proposed by such owner or occupant. The Board shall also have the right to approve or disapprove any contractor or other person making repairs or improvements to any Unit pursuant to Section 9(d) below.

(b) Subdivision; Removal and Relocation of Boundaries. No Unit be divided into two or more Units. No boundaries between Units which share a common wall or floor/ceiling may be removed or relocated, or any Common Elements incorporated into any Unit or Units, except in strict accordance with the provisions of this Section 9 above and Section 44-3-91 of the Condo Act. None of the restrictions contained in this Section 9(b) shall apply to the Declarant for so long as it owns one or more Units in the Condominium.

(c) Requests for Approval. Any owner or occupant of a Unit who wishes to undertake any construction, modification or improvement of such Unit, shall submit a written request for approval thereof to the Board. Requests for approval shall be accompanied by plans and specifications which are detailed enough to allow the Board to evaluate the proposed improvements according to this Section 9. If approved, such construction, modification or improvement must be commenced within six (6) months, and completed within nine (9) months, from the date of approval. The Board shall be entitled to oversee all construction and improvement activity, shall be given periodic progress reports by the Unit owner, and shall have the authority to suspend or halt construction activity if reasonably necessary to ensure that the plans and specifications as presented to the Board are being complied with.

(d) Construction Activity. The Board shall have the right to approve or disapprove contractors or subcontractors who desire access to the Condominium for the purpose of making repairs or improvements to a Unit, based on rules and regulations adopted by the Board which may include, without limitation, financial stability of the contractors and/or subcontractors, history of compliance with this Declaration and Condominium rules and regulations, and other factors that may be reflective of quality and ability. Approval of a contractor or other such person shall not be unreasonably withheld. The Board may also impose insurance requirements and collect other non-refundable fees for use of the trash receptacle, elevators and other Common Elements. Any construction or renovation activity in any Unit which is detectable by sound or vibration from outside the Unit shall be permitted only between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, exclusive of holidays. Each owner and occupant shall be responsible for their contractors' compliance with this Declaration, including but not limited to this Section 9(d) and Section 10(e) below.

(e) Enforcement. Any construction, modification or improvement to a Unit which does not comply with this Section 9 shall be removed by the owner of the Unit, and the Unit restored to substantially the same condition as existed prior to the unauthorized work, immediately upon request in writing by the Board. If such removal and restoration is not commenced within seven (7) days of the date of such written request, and/or not completed within thirty (30) days thereof, the Association and its authorized agents, representatives or contractors shall have the right to enter the Unit and perform such removal and/or restoration, with all costs associated therewith levied against the Unit and its owner(s) as a special assessment pursuant to Section 6 above. This Section 9(e) shall not apply to any interior modifications or improvements made by the Declarant for so long as it owns one or more Units in the Condominium, or any exterior modifications or improvements made prior to the recording of this Declaration.

10. Association Rules and Regulations. The Association, acting by and through its Board of Directors, shall have the right to make and enforce reasonable rules and regulations governing the use of the Condominium, including the Units, Limited Common Elements and other Common Elements, and to enforce such rules and regulations by fines, special assessments or otherwise, in the same manner as

provided in Section 6 above. Each owner of a Unit shall be responsible for ensuring that all tenants, occupants and guests of the Unit comply with said rules and regulations, if any, and with this Declaration, with the understanding that any violation thereof by tenants, occupants and guests may result in action by the Association against any of said persons and/or the owner of the Unit.

Regardless of whether any such rules and regulations are adopted by the Board, each Unit owner and all tenants, occupants and guests of any Unit owner shall comply with the following use restrictions. Any and all rules and regulations adopted by the Board shall include the following restrictions, at a minimum, although the following may be amended pursuant to Section 15 below, and may be expanded upon by such rules and regulations to the extent the same do not conflict with or contradict this Declaration, as the Board determines necessary in its reasonable discretion or as otherwise provided herein.

(a) Permitted Business and Residential Uses of Units. No Unit may be used for any business purposes except as may be permitted by law and all applicable zoning and other like ordinances. No activity may be carried on by any Unit owner or occupant which (i) constitutes a nuisance, including but not limited to obnoxious odors or noises, or creates a hazard to the public or other Unit owners and occupants; (ii) results in a substantial increase in foot traffic or vehicular traffic to and from the Unit; (iii) increases the Association's insurance premiums or affects its ability to qualify for any insurance for which it would have otherwise been qualified; or (iv) requires a significantly disproportionate use by the Unit of the Common Elements, or any utility or other service which is now or may in the future be a common expense of the Condominium. This Section 10(a) shall not apply to the use of any Units by Declarant as model units, sales offices or the like.

(b) Permitted Uses of Common Elements. The Common Elements are designated for the use of all owners, occupants and guests of any Unit, and no owner, occupant or guest shall cause or permit any use of the Common Elements which is in conflict with the nature and intended uses of the Common Elements. No objects shall be placed or stored on the Common Elements, including Limited Common Elements, except by the Association or as otherwise provided herein. The Board may further restrict the use of the Common Elements by properly enacted rules and regulations, and may provide for reservation of the same by Unit owners and occupants. All Unit owners and their occupants and guests shall use the Common Elements at their own risk. Notwithstanding anything to the contrary contained herein, all Limited Common Elements shall be for the exclusive use of the owners, occupants and guests of the Units to which they have been assigned, subject to this Declaration, the rights of other Unit owners, occupants and guests to ingress and egress thereon, to the extent necessary for access to their Units and/or Common Elements, and any rules and regulations adopted by the Board from time to time. Under no circumstances shall the Association be liable for any loss of or damage to property which may be stored in or upon any of the Common Elements, including Limited Common Elements.

(c) Parking Spaces. No boats, campers, jetskis or other recreational vehicles or equipment may be stored on the Condominium property. No abandoned vehicles, or vehicles which are disabled or in obvious disrepair, may be parked or stored on the Condominium property for more than seven (7) days. In addition, the Board may adopt any other reasonable rules and regulations governing the use of parking spaces, and shall have the power to enforce the same and the provisions hereof by fines or special assessments, as provided in Section 6 hereof, by towing or booting of vehicles at their owners' expense, or by any other means permitted by law. Each owner, occupant and guest who parks or stores a vehicle of any kind on the Condominium property shall be solely responsible for his or her own safety and for the security of his or her vehicle and all contents thereof.

(d) Storage Spaces. Storage spaces, if any, may be assigned as Limited Common Elements to some or all of the Units at the Condominium. Storage spaces shall be used solely for the storage of personal property, and shall under no circumstances be "occupied," used for storage of any

hazardous materials, or used for storage of any property or materials which create a nuisance or any hazardous condition, which would increase the Association's insurance premiums, or which might cause the Association to be disqualified from any insurance for which it would have otherwise been qualified. Each owner, occupant and guest making use of any storage spaces shall be solely responsible for the security of any and all property stored therein.

(e) Nuisance. It shall be the responsibility of each Unit owner and occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt conditions. No Unit or the Common Elements shall be used, in whole or in part, by any owner or occupant or their contractors, representatives or guests, for the storage of any property or thing that will cause the Condominium building to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property.

(f) Grills and Fireplaces. No grills, outdoor fireplaces or the like shall be placed or stored upon any patios, terraces, or any other portion of the Common Elements except as designated by the Board from time to time. All grills and fireplaces must conform to applicable zoning, fire and other ordinances. The Association may adopt additional rules and regulations governing such use of the Common Elements.

(g) Signage. No signage shall be visible from outside of any Unit except as approved by the Board, provided that all such approvals shall be made based on objective, consistent standards developed from time to time by the Board. In addition, the Board may adopt rules and regulations governing the installation and display of "For Sale" signs, "For Rent" signs and other signage on the Common Elements. This Section 10(g) shall not apply to the Declarant for so long as it owns any Unit primarily for purpose of sale or lease.

(h) Safety Devices. Each owner of a Unit shall ensure that the Unit is equipped with at least one smoke detector per four hundred (400) square feet of heated and cooled space in such Unit, shall maintain the same (including batteries) in good working order, and shall maintain or install any other safety or hazard-reducing devices or equipment as reasonably required by the Board from time to time.

(i) Windows and Window Treatments. All window treatments shall be white or off-white as visible from outside of a Unit. Under no circumstances may any Unit owner or occupant install window bars or similar security devices on any window or exterior door of his or her Unit.

(j) Animals and Pets. No animals of any kind other than common household pets may be raised, bred, kept, or permitted in any Unit or the Common Elements. No more than two (2) common household pets may be kept in the Condominium. No animals shall be kept, bred, or maintained for any commercial purpose. All animals in the Condominium shall be caged, kept on a leash or otherwise contained when outside of a Unit. All pets shall be registered, licensed, and vaccinated as required by law. Pets which endanger health, make objectionable noise, or constitute a nuisance or inconvenience to other Unit owners or occupants must be removed by their owner upon request of the Board. Feces left upon the Common Elements must be immediately removed by the person responsible for the pet.

(k) Antennas. The installation of antennas, satellite dishes and other similar or related equipment or apparatus for the transmission and/or reception of television or radio or other signals shall be subject to such rules and regulations adopted from time to time by the Board. Such rules and regulations shall be enforceable as if fully set forth herein. Satellite dishes measuring greater than one (1) meter in diameter or other signal receiving or transmitting antennas and devices attached to a roof extending more

than six (6) feet above the highest part of the roof of any residence are expressly prohibited. No antennas may be installed on any Common Elements without prior, written approval of the Board.

(l) Yard Sales. No flea markets, yard sales, garage sales or the like shall be permitted on the Common Elements or any other portion of the Condominium.

(m) Other. The Board may adopt rules and regulations governing other uses of the Units and Common Elements, including but not limited to the following: (i) the disposal of trash and other debris; (ii) the display of seasonal and other decorations visible from outside a Unit; (iii) the storage and use of firearms or fireworks; (iv) the replacement of carpet in Units located above other Units with tile or hardwood flooring; (v) the heating of Units during colder months; (vi) use of the pool and tennis courts; and (vii) any other use restrictions which the Board, in its reasonable discretion, deems necessary or appropriate.

(n) Occupants Bound. All provisions of this Declaration and the Bylaws, and any rules and regulations, use restrictions or design guidelines adopted pursuant thereto which govern the conduct of Unit owners and which provide for sanctions against Unit owners shall also apply to all tenants and occupants, even though tenants and/or occupants are not specifically mentioned. Fines may be levied against Unit owners and occupants alike. If a fine is first levied against a tenant or occupant and is not timely paid, the fine may then be levied against the Unit owner.

11. Maintenance of Units and Common Elements.

(a) Owner and Association Responsibilities. Except as otherwise provided herein, each owner of a Unit shall be responsible for maintenance and repair of such Unit, including all systems, equipment and apparatus which are deemed a part of such Unit pursuant to Section 3 above. The Association shall be responsible for repair and maintenance of all Common Elements, including storage spaces, parking spaces, patios and terraces, whether or not the same have been assigned as Limited Common Elements to one or more Units. The Association shall also be responsible for cleaning, sealing, maintenance and repair of all chimneys, windows and skylights. However, each Unit owner shall be responsible for ensuring that all doors, windows and skylights are kept in good repair for purposes of the safety and security of themselves and their guests and invitees, as well as the security of their belongings. In addition, each Unit owner shall be responsible for maintenance and repair of all exterior doors of the Units.

(b) Failure to Repair or Maintain Unit. Notwithstanding any of the above, if the Board deems any condition existing in a Unit or any Limited Common Elements to be in need of repair or maintenance, and if the Unit owner or occupant responsible for the same fails to perform such repair or maintenance within thirty (30) days of written notice thereof, the Association may perform any such repair or maintenance and may levy a special assessment against such Unit and its owner, in the amount of the reasonable cost thereof. Said thirty (30) day notice shall not be required in emergencies or under other circumstances when serious harm or damage can be avoided only by prompt action.

(c) Limitation of Liability. Under no circumstances shall the Association be liable for any injury, loss or damage caused in whole or in part by the Association's failure to discharge its responsibilities hereunder, if such injury, loss or damage was not a foreseeable, natural result of the Association's failure to discharge its responsibilities.

12. Leasing and Occupancy of Units.

(a) General Prohibition of Leasing: Exceptions. Except as provided elsewhere herein, the leasing of Units is prohibited. For all purposes hereof, "leasing" of a Unit shall be defined as the regular, exclusive occupancy of the Unit by any person other than its owner, except that leasing shall

not include occupancy by the children, parents, spouses and partners of owners, the roommate of any Unit owner who occupies the Unit as his or her primary residence, or guests of any Unit owner for periods not to exceed fourteen (14) consecutive days. In addition, this Section 12(a) shall not apply to any leasing transaction entered into by the Association, the Declarant (regardless of whether said lease is entered into prior to or after the expiration of the Declarant's right to appoint and remove officers and directors of the Association pursuant to the Association's bylaws), or any Mortgagee who becomes the owner of a Unit through foreclosure or similar means in lieu of foreclosure. Such parties shall not be required to obtain a leasing permit, as described below, and such Units shall not be counted when determining the maximum number of Units that may be leased in accordance with this Section 12.

(b) Leasing Permits. Any Unit owner who is not delinquent in payment of assessments, or otherwise in breach of such owner's duties hereunder, may apply to the Board for a leasing permit allowing the owner to lease his or her Unit. A leasing permit shall state any and all conditions set by the Board consistent herewith and shall be valid only as to the owner applying for the same and such owner's Unit. Leasing permits may not be transferred or assigned to other Units or their owners, provided that they may be transferred or assigned to successors in title to the same Unit. Nothing contained herein shall be construed as granting any authority to the Board or the Association to approve or disapprove any proposed tenant.

(c) Request for Leasing Permit. The Board shall approve any written request for a leasing permit from the purchaser or owner of a Unit, so long as issuance of a leasing permit for the Unit will not result in more than twenty-five percent (25%) of the total Units in the Condominium (excluding Units owned by the Declarant) having leasing permits. In addition, the Board may issue a leasing permit to the owner of any Unit who would suffer a substantial hardship if denied the privilege of leasing such owner's Unit, in the reasonable discretion of the Board (and the Declarant, so long as Declarant owns a Unit). Any such discretionary approval or denial shall be based on the nature, degree, and likely duration of the hardship, the harm, if any, which could result to the Condominium by allowance of the permit, and the extent to which the number of Units with current, valid leasing permits exceeds twenty-five percent (25%). Examples of "hardships" as contemplated hereby include, but shall not be limited to, the following: (1) death of a Unit owner; (2) temporary relocation of a Unit owner outside of the Atlanta metropolitan area, where the Unit owner plans to return to reside in the Unit; and (3) permanent relocation of a Unit owner outside the Atlanta metropolitan area, if the Unit owner has been unable to sell the Unit for at least ninety percent (90%) of its fair market value after having actively marketing the Unit for no less than six (6) months; (2) the Unit 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. Unit owners who have been denied leasing permits after written request therefor shall automatically be placed on a waiting list for a leasing permit and shall have priority over any Unit owner who makes a later request.

(d) Revocation and Expiration of Leasing Permits. A leasing permit shall be automatically revoked if the Unit for which it has been issued is not leased during any period of ninety (90) consecutive days after issuance of the permit. In addition, any leasing permit issued pursuant to a hardship shall be automatically revoked after the expiration of one (1) year after its issuance, or if during the said one-year term, the Unit owner is issued a leasing permit on a non-hardship basis.

(e) Lease Terms. Any lease agreement entered into for any Unit shall be for a term of no less than one (1) year, provided that a Unit lease may convert to a month-to-month term after the first year of occupancy. No Unit may be leased except in its entirety. In addition, all lease agreements shall include the following:

- (i) a covenant by the tenant to comply with the terms of this Declaration and all rules and regulations adopted by the Association in accordance herewith;
- (ii) a prohibition against any subleasing of the Unit or assignment of the lease without prior written approval of the Board;
- (iii) a delegation to the Board by the Unit owner of the owner's rights to enforce the terms of the lease and this Declaration against the tenant, including but not limited to the right to evict a tenant as provided by law and in the lease;
- (iv) a transfer to the tenant of all of the Unit owner's rights to use of the Common Elements;
- (v) an assignment to the Association of, and delegation of the right to collect payment of, all rents payable by the tenant to the Unit owner, to the extent of any unpaid assessments due from the Unit owner to the Association from time to time; and
- (vi) any other provisions required by law, it being the responsibility of each Unit owner to be familiar and to comply with the Condo Act and with all other applicable laws and regulations, as well as any and all restrictions and requirements imposed by lenders having or considering a security interest in such Unit.

In addition, it shall be the responsibility of each Unit owner to provide his, her or its tenants with copies of this Declaration, the Association's current bylaws, and any Association rules and regulations adopted from time to time by the Board.

(f) Notice of Lease Agreements. The Board shall be provided with a copy of all proposed leases within seven (7) days prior to the effective date thereof, in order to ensure compliance with this provision. In the event that a lease is disapproved, the Board shall notify the Unit owner of the reasons for such disapproval and any actions necessary to bring the lease into compliance herewith. In addition, within ten (10) days after executing a lease agreement for the lease of a Unit, the Unit owner shall provide the Board with a copy of the lease and the name of each person other than the tenant(s) named therein who will occupy the Unit pursuant thereto.

(g) Number and Designation of Occupants. The maximum number of occupants in a Unit shall be limited to one (1) person per three hundred (300) square feet of heated and cooled space as shown on the Floor Plans, subject to written requests for variances where the same are necessary to comply with the Fair Housing Amendments Act of 1988 and any related laws and regulations. In the case of any Unit which is owned by a legal entity other than a natural person, the said owner shall identify to the Board, in writing, the persons who are authorized to occupy the Unit, which designation may not be changed more frequently than once every six (6) months.

13. Sale of Units. No less than seven (7) days prior to the sale or other transfer of a Unit, the owner thereof shall give written notice of the same to the Board, including the name and address of the intended transferee and such other information as the Board may reasonably request. In addition, the transferee of a Unit shall give written notice to the Board of his or her ownership of the Unit within seven (7) days after acquiring title. Any Unit owner who fails to give proper notice of any intended or actual transfer, as the case may be, shall be liable to the Board for any and all costs associated with such failure of notice, which costs may be assessed against the Unit, its transferor and/or its transferee. This Section shall not be construed to create a right of first refusal in the Association or in any third party.

14. **Disclosures.** By acquisition of title to or possession of any Unit, each Unit owner and occupant hereby understands and acknowledges the following:

(a) Because the Units share walls, floors and ceilings with other Units and with the Common Elements, it is likely that noise and vibration will be detectable between Units and between the Units and the Common Elements.

(b) The Condominium is located in a densely populated urban area and is in close proximity to commercial properties and high-volume traffic corridors. It shall be the responsibility of each Unit owner and occupant, and potential owners and occupants, to become familiar with the neighborhood in which the Condominium is located and with periodic activities and other events which may affect the use and enjoyment of the Unit.

(c) Concrete surfaces such as are located throughout the Condominium are subject to cracking due to building settlement. In addition, exposed concrete surfaces in any portion of the Condominium which is not heated and cooled are subject to cracking due to water penetration, expansion and contraction of the concrete due to temperature changes.

(d) No transferee of any Unit shall acquire any "air rights" or easements for light or air appurtenant to his or her ownership of such Unit. The views from any Unit or from the Common Elements are subject to change over time due to development and other eventualities.

(e) All surface parking spaces are shared with other Unit owners and occupants and are available on a first-come, first-served basis only.

(f) The Floor Plans and any dimensions or square footage calculations shown thereon are approximations. It is the responsibility of each Unit owner and occupant to investigate such measurements for purposes of determining the accuracy thereof.

(g) Portions of the Condominium may be undergoing renovation by Declarant, both prior to and after the sale and/or occupancy of other portions of the Condominium. Said renovation activities may result in unusual levels of noise, smoke, dust and odors, none of which shall be deemed a nuisance or a violation of this Declaration for so long as Declarant owns a Unit.

(h) The Declarant and/or the Association may, from time to time, provide measures of security on the Condominium property, including limited access gates and building access systems. In addition, the complex of which the Condominium is a part may from time to time provide security measures for the common areas shared by the Condominium. However, neither the Declarant, the Association, nor the owner of said common areas is a provider of security, and none of said parties shall have any duty to provide security on the Condominium property. The obligation to provide security lies solely with each Unit owner individually. Neither the Declarant, the Association nor the owner of said common areas shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken, if any.

(i) Mold and mildew can grow in any portion of the Condominium that is exposed to elevated levels of moisture. The Association and each Unit Owner agree to (i) regularly inspect the parts of the Condominium that they respectively maintain, and which are visible and accessible without having to first conduct invasive testing, for the existence of mold, mildew, and/or water intrusion and/or damage; (ii) upon discovery, immediately repair in a good and workmanlike condition the source of any water intrusion in the parts of the Condominium that they respectively maintain; (iii) remediate or replace any building material located in the parts of the Condominium that they respectively maintain that has

absorbed water or moisture as a result of water intrusion; and (iv) promptly and regularly remediate all mold and/or mildew discovered in the parts of the Condominium that they respectively maintain in accordance with current industry-accepted methods. In addition, the Association agrees to notify the Units Owners, and each Unit Owner agrees to notify the Association of the discovery of mold, mildew, and/or water intrusion and/or damage in the parts of the Condominium that they respectively maintain. Notwithstanding anything to the contrary herein, Declarant shall have no obligation to perform any invasive testing or inspections, maintenance or repairs in accordance with this Paragraph 14(i), and shall not be held liable for any loss or damage caused by the failure of the Association or a Unit Owner to perform their obligations herein.

15. Easements.

(a) Unit Owner Easements. Each owner of a Unit, and such owner's tenants, occupants and guests, where applicable, shall have the following rights and easements, which shall be appurtenant to and shall pass with the title to such Unit:

(i) a non-exclusive easement of support which shall burden any portion of any other Unit or the Common Elements which supports or which contributes to the support of such Unit;

(ii) a non-exclusive easement over and upon any and all Common Elements which have not been assigned as Limited Common Elements to any other Unit or Units, subject only to other restrictions set forth elsewhere herein and to the right of the Board to adopt and enforce reasonable rules and restrictions governing the use thereof;

(iii) a non-exclusive easement, for repair and maintenance, over and upon any portion of the Common Elements or any other Unit in which are located any ducts, conduits, pipes, wires or other such systems or apparatus serving the Unit; and

(iv) any and all other easements and other such rights as provided under the Condo Act or any other applicable law.

(b) Declarant Easements. Notwithstanding anything to the contrary contained elsewhere herein, Declarant and its agents, representatives and contractors, for so long as Declarant owns a Unit, shall have the easements set forth in Section 19(b) herein.

16. Amendments. Except for amendments which require any greater or lesser vote of the Association as provided elsewhere herein or in the Bylaws, or which require only the approval of the Board, this Declaration may only be amended by the affirmative vote of at least sixty-seven percent (67%) of the total eligible vote of the members of the Association at any annual meeting, or any special meeting called for that purpose, or by written consent of the members in lieu of a meeting to the extent permitted by the Bylaws, subject to Section 44-3-93 of the Condo Act. In addition, any amendment hereto shall require the consent of Declarant as long as Declarant owns a Unit. All amendments, to be effective, shall be executed by the Association, in recordable form, and filed in the Fulton County, Georgia real estate records.

17. Eminent Domain. The Association shall have the right to represent the Unit owners in any eminent domain or condemnation proceedings, and to apply the proceeds of any taking, or sale in lieu thereof, in any manner not prohibited by the Condo Act or any other applicable law. Nothing contained herein shall be construed as giving any Unit owner or other person priority over any Mortgagee to any condemnation awards for the taking of any portion or all of the Common Elements

18. Special Provisions Applicable to Mortgage Holders.

(a) Rights of Mortgage Holders. The approval or consent of no less than sixty-seven percent (67%) of the holders ("Mortgagees") of first-priority mortgages on Units ("Mortgages"), or owners of any unencumbered Units, shall be required for any of the following acts of the Association or the Unit owners:

- (i) voluntary or inadvertent abandonment or termination the Condominium;
- (ii) modification of the pro rata interest or obligations of any individual Unit for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or determining the pro rata share of ownership of each Unit in the Common Elements other than in the case of expansion of the Condominium as provided in Paragraph 20 hereof;
- (iii) partition or subdivision of any Unit in any manner inconsistent with the provisions of this Declaration;
- (iv) voluntary or inadvertent abandonment, partition, subdivision, encumbrance, sale or transfer of the Common Elements or any portion thereof, other than the granting of easements or licenses as authorized herein; or
- (v) the use of hazard insurance proceeds for losses to any portion of the Condominium (whether to Units or to Common Elements) for any purposes other than the repair, replacement, or reconstruction of the same.

In addition to the above, material amendments to this Declaration must be approved by the Mortgagees of Units which represent at least fifty-one percent (51%) of the votes of Units that are subject to Mortgages. Material amendments are those which establish, provide for, govern or regulate any of the following:

- (i) Voting;
- (ii) Assessments, assessment liens or subordination of such liens;
- (iii) Reserves for maintenance, repair and replacement of the Common Elements;
- (iv) Insurance or fidelity bonds;
- (v) Rights to use of the Common Elements;
- (vi) Responsibility for maintenance and repair of the Condominium;
- (vii) Expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium;
- (viii) Boundaries of any Unit;
- (ix) The interests in the Common Elements or Limited Common Elements;
- (x) Convertibility of Units into Common Elements or of Common Elements into Units;
- (xi) Leasing of Units;
- (xii) 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;
- (xiii) Establishment of self-management by the Association where professional management has been required by any of the agencies or corporations set forth below; and

- (xiv) Amendment of any provisions which are for the express benefit of holders, insurers or guarantors of Mortgages on Units in the Condominium.

Notwithstanding the foregoing, Declarant or the Board, without the necessity of approval by Mortgagees or Unit owners, may amend this Declaration to correct any scrivener's errors, to 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, the Department of Housing and Urban Development or the Veterans Administration pursuant to federal law.

The provisions of this Section 18(a) 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 Condo Act, the Association bylaws or this Declaration for any of the acts listed above. Any action to challenge the validity of an amendment adopted under this Section 18 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.

(b) Liability for Prior Assessments. Where the holder of 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 any such mortgage, it shall not be liable, nor shall the Unit be subject to a lien, 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 common expenses collectible from the owners of all Units (including said owner and its successors and assigns) in proportion to their respective liability for common expenses generally. Nothing contained herein shall be construed as limiting or abating said owner's responsibility for assessments and other charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed.

(c) Request for Notice by Insurer, Guarantor or Mortgage Holder. Any insurer, guarantor or Mortgagee, upon written request to the Association, shall be entitled to timely written notice of the following at the address specified in such written request:

- (i) any proposed amendment of this Declaration or the Association bylaws effecting a change in the boundaries of any Unit or the exclusive easement rights appertaining thereto, the interests in the Common Elements or Limited Common Elements appertaining to any Unit or the liability for Common Expenses appertaining thereto, the number of votes in the Association appertaining to any Unit, or the purposes to which any Unit or the Common Elements are restricted;

- (ii) any proposed termination of the Condominium;

- (iii) any condemnation or casualty loss which affects said Unit or a material portion of the Condominium;

- (iv) any delinquency in the payment of assessments or charges owed by the owner(s) of said Unit, or any other default in the performance of any other obligation hereunder, 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 requires the consent of a specified percentage of mortgage holders, as set forth herein or in the Condo Act.

In addition, upon written request any Mortgagee shall be entitled to a copy of the financial statement of the Association for the immediately preceding fiscal year.

(d) De Facto Approval and Consent. To the extent permitted by the Condo Act, if any Mortgagee of a Unit receives notice from the Association or the Unit owner of any amendment to this Declaration or other action affecting the Unit and/or the Common Elements, and fails to respond to the same within thirty (30) days of the date of such notice, then such Mortgagee shall be deemed to have approved such amendment or other action, notwithstanding anything to the contrary contained herein, provided that such request was delivered to the Mortgagee by registered or certified mail, return receipt requested, or by statutory overnight delivery.

(e) No Derogation of Rights. Notwithstanding anything to the contrary contained in Sections 12 or 13 above or elsewhere in this Declaration, nothing contained herein shall impair the right of any Mortgagee to foreclose or take title to a Unit pursuant to remedies contained in its security instruments, to take a deed or assignment in lieu of foreclosure, or to sell, lease, or otherwise dispose of a Unit thus acquired by the Mortgagee. In addition, nothing contained herein or in any rules or regulations of the Association shall be deemed to limit in any way the rights of mortgage holders as set forth in the Condo Act and any other applicable laws.

19. Declarant Rights. In addition to each and every other right and privilege reserved by or granted to the Declarant as set forth in the Condo Act and/or elsewhere in this Declaration, the Declarant shall have the following rights and privileges. The terms of this Section 19 shall in no respect be construed as limiting or superseding any such other rights and privileges as set forth in the Condo Act, or elsewhere herein, or in the Bylaws or otherwise.

(a) Construction and Sale Period. Notwithstanding any provisions in this Declaration or the Bylaws to the contrary, as long as Declarant owns any Unit primarily for purpose of sale or lease, it shall be expressly permissible for Declarant and its agents, contractors and representatives, to maintain and carry on, upon such portions of the Condominium as Declarant may desire, such facilities and activities as in the sole opinion of Declarant may be required, convenient, or incidental to Declarant's development, construction and sales activities related to the Condominium property, including, without limitation, the right of access, ingress and egress for vehicular and pedestrian traffic over, under, on, or in the Condominium; the right to tie into any portion of the Condominium with streets, driveways, parking areas and walkways; the right to tie into and/or otherwise connect to and use (without a tap-on or any other fee for so doing), install, lay, replace, relocate, maintain, and repair any device which provides utility or similar services; the right to carry on sales and promotional activities in the Condominium; and the right to construct and operate business offices, signs, construction trailers, model Units, and sales offices. Declarant and its agents, contractors and representatives, may use Units or offices owned or leased by Declarant as model Units and sales offices.

(b) Declarant Easements. Notwithstanding any provisions in this Declaration or the Bylaws to the contrary, as long as Declarant owns any Unit, the Declarant and its duly authorized contractors, representatives, agents, and employees shall have: (1) an easement for the placement and maintenance of signs, a sales office, a business office, promotional facilities, and model Units on the Condominium, together with such other facilities as in the opinion of Declarant may be reasonably required, convenient or incidental to the completion, renovation, improvement, development, sale or lease of the Unit; and (2) 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 installing, replacing, repairing and maintaining all utilities serving the Condominium, and for the purpose of doing all things reasonably necessary and proper in connection therewith. In addition, Declarant shall have easements for the conduct of all other activities and for the exercise of all other rights as set forth in this Declaration.

(c) Transfer or Assignment of Rights. The rights and obligations of the Declarant as set forth herein and in the Condo Act may be transferred or assigned, in whole or in part, to the Association or to other persons or entities, provided that no such transfer or assignment shall reduce any such obligation nor enlarge any such right beyond that which is provided hereunder or in the Condo Act, as the case may be. Upon any such transfer or assignment, the Declarant shall be automatically released from any and all liability arising thereafter with respect to such transferred rights and obligations. If said rights and obligations are transferred by Declarant to more than one person or entity, then such persons or entities shall be entitled to delegate the same to any duly authorized agents, and to exercise their collective Declarant rights and share their collective obligations by majority vote according to the number of Units owned by each, or according to any reasonable alternative agreements among them, so long as no such agreements or methods of sharing obligations and exercising rights reduces any such obligation nor enlarges any such right beyond that which is provided hereunder or in the Condo Act.

20. Miscellaneous.

(a) Notice. Any notice to the owner or occupant of a Unit which is provided for in this Declaration may be served personally or mailed to the owner or occupant at the address of the Unit.

(b) Enforcement. The provisions of this Declaration are for the benefit of the owners of Units in the Condominium and, in addition to the enforcement rights of the Association, these provisions may be enforced by any such owner. However, any claim or dispute with regards to any Unit or Units, as opposed to the Common Elements, must be prosecuted solely by the owners of said Unit or Units individually, rather than by the Association on their behalf.

(c) Governing Law. This Declaration shall be governed by and construed under the laws of the State of Georgia.

(d) Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application. To this end, the provisions of this Declaration are declared to be fully severable.

(e) Headings. The headings and captions of each section and subsection hereof, as to the contents of each such section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to such section or subsection.

(f) Definitions. All capitalized terms not herein defined shall have the meanings as specified in the Condo Act, or if not defined therein, then such terms shall have their generally accepted meanings.

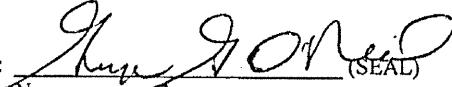
(g) Preparer. This Declaration was prepared by Chad Henderson, Esq. of Ganek, Wright & Dobkin, 197 Fourteenth Street, Suite 300, Atlanta, Georgia 30318.

(h) Duration. The provisions of this Declaration are perpetual in nature and are not terminable except in accordance with Section 44-3-98 of the Condo Act, as the same may be amended from time to time.

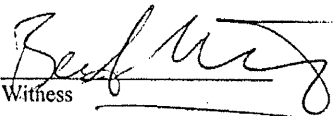
IN WITNESS WHEREOF, the Declarant has executed this Declaration of Condominium on this, the 18th day of MAY, 2006.


DECLARANT:

CJ KELLEY, LLC
a Georgia limited liability company

By:  (SEAL)
Name: GEORGE G. O'NEAL, President of Kelley
Title: Development Corporation, It's Managing Member

Signed, sealed and delivered
in the presence of:


Witness


Notary Public

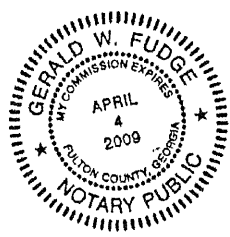


EXHIBIT "A"

Description of Submitted Property

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 366 of the 6th District of Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at a right-of-way monument found at the corner formed by the intersection of the northwesterly right-of-way line of Georgia Highway No. 400 (also being known as the North Fulton Expressway and Turner McDonald Parkway), with the southeasterly right-of-way line of Roberts Drive (50 foot right-of-way); running thence southwesterly along a curve formed by the northwesterly right-of-way line of Georgia Highway No. 400 a distance of 322.39 feet to a right-of-way monument (said curve having a chord line running S 08° 09' 54" W, a distance of 322.35 feet and a radius of 5,899.58 feet); running thence S 06° 20' 30" W, along the northwesterly right-of-way line of Georgia Highway No. 400 a distance of 807.09 feet to a right-of-way monument; running thence S 20° 51' 12" W, along the northwesterly right-of-way line of Georgia Highway No. 400 a distance of 170.94 feet to an iron pin found; running thence N 17° 59' 35" W, a distance of 135.28 feet to an iron pin found; running thence N 17° 58' 05" W, a distance of 150.01 feet to an iron pin found; running thence, N 17° 55' 49" W, a distance of 323.03 feet to a point; running thence N 17° 52' 00" W, a distance of 82.8 feet to a point; running thence N 17° 51' 17" W, a distance of 199.8 feet to an iron pin found; running thence N 17° 59' 36" W, a distance of 358.43 feet to an iron pin found on the southeasterly right-of-way line of Roberts Drive; running thence N 81° 09' 00" E, along the southeasterly right-of-way line of Roberts Drive a distance of 192.4 feet to a point; running thence northeasterly along a curve formed by the southeasterly right-of-way line of Roberts Drive a distance of 92.72 feet to a point (said curve having a chord line running N 80° 49' 00" E, a distance of 92.72 feet and a radius of 7,968.74 feet); running thence northeasterly along a curve formed by the southeasterly right-of-way line of Roberts Drive a distance of 302.87 feet to the POINT OF BEGINNING (said curve having a chord line running N 80° 53' 03" E, a distance of 302.87 feet and a radius of 21,646.55 feet); containing 8.759 acres according to that certain Plat of Survey dated August 23, 1982, and revised April 15, 1983, entitled "Riverside Place Apartments - Phase I and II," prepared by Harris Engineering Corporation, and certified by A Farrow Walls, G.R.L.S. No. 2140, said plat being incorporated herein by reference.

EXHIBIT "B"Ownership and Assessment Percentages

Unit No.	Unit Type	Ownership Percentage*
1A	2BR/2BA	1.25%
1B	2BR/2BA	1.25%
1C	2BR/2BA	1.25%
1D	2BR/2BA	1.25%
1E	2BR/2BA	1.25%
1F	2BR/2BA	1.25%
1G	2BR/2BA	1.25%
1H	2BR/2BA	1.25%
1I	2BR/2BA	1.25%
1J	2BR/2BA	1.25%
2A	1BR/1BA	0.90%
2B	1BR/1BA	0.90%
2C	1BR/1BA	0.90%
2D	1BR/1BA	0.90%
2E	1BR/1BA	0.90%
2F	1BR/1BA	0.90%
2G	1BR/1BA	0.90%
2H	1BR/1BA	0.90%
2I	1BR/1BA	0.90%
2J	1BR/1BA	0.90%
2K	1BR/1BA	0.90%
2L	1BR/1BA	0.90%
2M	1BR/1BA	0.90%
2N	1BR/1BA	0.90%
2O	1BR/1BA	0.90%
2P	1BR/1BA	0.90%
3A	2BR/2BA	1.25%
3B	2BR/2BA	1.25%
3C	2BR/2BA	1.25%
3D	2BR/2BA	1.25%
3E	2BR/2BA	1.25%
3F	2BR/2BA	1.25%
3G	2BR/2BA	1.25%
3H	2BR/2BA	1.25%
3I	2BR/2BA	1.25%
3J	2BR/2BA	1.25%
4A	2BR/2BA	1.25%
4B	2BR/2BA	1.25%

EXHIBIT "B" continued

Unit No.	Unit Type	Ownership Percentage*
4C	2BR/2BA	1.25%
4D	2BR/2BA	1.25%
4E	2BR/2BA	1.25%
4F	2BR/2BA	1.25%
4G	2BR/2BA	1.25%
4H	2BR/2BA	1.25%
4I	2BR/2BA	1.25%
4J	2BR/2BA	1.25%
5A	2BR/2BA	1.25%
5B	2BR/2BA	1.25%
5C	2BR/2BA	1.25%
5D	2BR/2BA	1.25%
5E	2BR/2BA	1.25%
5F	2BR/2BA	1.25%
5G	2BR/2BA	1.25%
5H	2BR/2BA	1.25%
6A	1BR/1BA	0.90%
6B	1BR/1BA	0.90%
6C	1BR/1BA	0.90%
6D	1BR/1BA	0.90%
6E	1BR/1BA	0.90%
6F	1BR/1BA	0.90%
6G	1BR/1BA	0.90%
6H	1BR/1BA	0.90%
6I	1BR/1BA	0.90%
6J	1BR/1BA	0.90%
6K	1BR/1BA	0.90%
6L	1BR/1BA	0.90%
6M	1BR/1BA	0.90%
6N	1BR/1BA	0.90%
6O	1BR/1BA	0.90%
6P	1BR/1BA	0.90%
6Q	1BR/1BA	0.90%
6R	1BR/1BA	0.90%
6S	1BR/1BA	0.90%
6T	1BR/1BA	0.90%
7A	2BR/2BA	1.25%
7B	2BR/2BA	1.25%
7C	2BR/2BA	1.25%
7D	2BR/2BA	1.25%

EXHIBIT "B" continued

Unit No.	Unit Type	Ownership Percentage*
7E	2BR/2BA	1.25%
7F	2BR/2BA	1.25%
7G	2BR/2BA	1.25%
7H	2BR/2BA	1.25%
7I	2BR/2BA	1.25%
7J	2BR/2BA	1.25%
7K	2BR/2BA	1.25%
7L	2BR/2BA	1.25%
7M	2BR/2BA	1.25%
7N	2BR/2BA	1.25%
7O	2BR/2BA	1.25%
7P	2BR/2BA	1.25%
		100.00%

* NOTE: Each Unit is allotted one (1) vote regardless of ownership percentage.