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STATE OF GEORGIA
COUNTY OF COBB

Reference: Deed Book 5781
Page 444

AMENDED AND RESTATED DECLARATION OF CONDOMINIUM FOR COUNTRYSIDE AT CUMBERLAND CONDOMINIUM

IMPORTANT NOTICE:

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

June 30, 2010



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**PREAMBLE TO
AMENDED AND RESTATED DECLARATION OF CONDOMINIUM
FOR
COUNTRYSIDE AT CUMBERLAND**

WHEREAS, the Declaration of Condominium for Countryside at Cumberland Condominium was recorded on June 29, 1990, in Deed Book 5781, Page 444, *et seq.*, Cobb County, Georgia records ("Original Declaration"), as amended; and

WHEREAS, Paragraph 13 of the Original Declaration and Article IX, Section 9 of the By-Laws of Countryside at Cumberland Condominium Association, Inc. ("Original By-Laws"), provide that the Original Declaration and Original By-Laws may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members of Countryside at Cumberland Condominium Association, Inc. ("Association"), holding sixty-six and two-thirds percent (66-2/3%) of the total eligible Association vote; and

WHEREAS, members of the Association holding sixty-six and two-thirds percent (66-2/3%) of the total eligible Association vote desire to amend the Declaration and By-Laws and have approved this Amended and Restated Declaration and the attached Amended and Restated Bylaws; and

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

**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM
FOR
COUNTRYSIDE AT CUMBERLAND**

June 30, 2010



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THIS DECLARATION MAY BE USED ONLY IN CONNECTION WITH THE OWNERSHIP AND SALE OF PROPERTY AT COUNTRYSIDE AT CUMBERLAND CONDOMINIUM AND THE OPERATION OF THE COUNTRYSIDE AT CUMBERLAND CONDOMINIUM ASSOCIATION, INC.

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1. NAME

The name of the condominium is Countryside at Cumberland Condominium, which condominium is submitted to the Georgia Condominium Act, as amended or may be amended.

2. DEFINITIONS

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

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

B. Architectural Control Committee or ACC means the committee established to exercise the architectural review powers set forth herein, which shall be the Board of Directors unless the Board appoints a separate Architectural Control Committee.

C. Area of Common Responsibility means the Common Elements, together with those areas, if any, which by the terms of this Declaration or by contract or agreement with any other Person, become the maintenance responsibility of the Association. Public rights-of-way within or adjacent to the Condominium may be considered by the Board to be part of the Area of Common Responsibility.

D. Articles of Incorporation or Articles mean the Articles of Incorporation of Countryside at Cumberland Condominium Association, Inc., filed with the Secretary of State of the State of Georgia.

E. Association means Countryside at Cumberland Condominium Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

F. Board of Directors or Board means the body responsible for management and operation of the Association.

G. Bylaws mean the Bylaws of Countryside at Cumberland Condominium Association, Inc., attached to this Declaration as Exhibit "C" and incorporated herein by this reference.

H. Common Elements mean those portions of the Condominium that are not included within the boundaries of a Unit, as more particularly described in Paragraph 5 of this Declaration.

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

J. Community-Wide Standard means the standard of conduct, maintenance, or other activity generally prevailing within the Condominium. Such standard may be more specifically determined by the Board.

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

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

M. Domestic Partner means any adult who cohabitates with an Owner at a mutual primary residence and who has been designated as the Owner's Domestic Partner in a written statement, signed by the Owner and filed with the Association's Secretary. A person shall no longer be a Domestic Partner upon the Secretary's receipt of a written termination notice, signed by either the Owner or the Domestic Partner.

- N. **Effective Date** means the date that this Declaration is recorded in the Cobb County, Georgia land records.
- O. **Eligible Mortgage Holder** means a holder of a first Mortgage secured by a Unit in the Condominium who has requested in writing notice of certain items as set forth in this Declaration.
- P. **Floor Plans** mean any floor plans for Countryside at Cumberland Condominium that may be filed in the Condominium File Cabinet of the Cobb County, Georgia records, incorporated herein by this reference.
- Q. **Limited Common Elements** mean a portion of the Common Elements reserved for the exclusive use of those entitled to occupy one or more, but less than all, Units, as more particularly set forth in Paragraph 6 of this Declaration.
- R. **Majority** means more than 50% of the applicable voting body or category specified on a particular vote under this Declaration or the Bylaws.
- S. **Mortgage** means to any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation, including but not limited to, a transfer or conveyance of fee title for such purpose.
- T. **Mortgage Holder** or **Mortgagee** means the holder of any Mortgage.
- U. **Occupant** means any Person occupying all or any portion of a Unit as his or her primary or principal residence for any period of time.
- V. **Officer** means an individual who is elected by the Board as President, Vice President, Secretary or Treasurer, or to hold such other office as the Board may establish.
- W. **Owner** means the record titleholder of a Unit, but shall not include a Mortgage Holder. For purposes hereof, the holder of a tax deed on a Unit shall be deemed the Owner thereof, notwithstanding the fact that there may exist a right of redemption on such Unit.
- X. **Person** means any individual, corporation, limited liability company, firm, association, partnership, trust, or other legal entity.
- Y. **Plats** mean any plats of survey for Countryside at Cumberland Condominium that may be filed in the Condominium Plat Book of the Cobb County, Georgia records, incorporated herein by this reference.
- Z. **Unit** means that portion of the Condominium intended for individual ownership and use, as more particularly described in this Declaration, and shall include the undivided ownership in the Common Elements assigned to the Unit by this Declaration.

3. LOCATION

The Condominium subject to this Declaration and the Act is located in Land Lots 703 and 738 of the 17th District, 2nd Section of Cobb County, Georgia, being more particularly described in Exhibit "A" attached to this Declaration, which exhibit is incorporated herein by this reference.

4. UNITS

The Condominium is divided into 212 separate Units, the Common Elements and Limited Common Elements, and the respective percentage of undivided interest in the Common Elements appurtenant to the Units as shown on Exhibit "B" attached hereto and incorporated herein by reference. Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the Act and the Condominium Instruments. The Units are depicted on the Plats and the Floor Plans. Each Unit includes that part of the structure, which lies within the following boundaries:

A. Vertical Boundaries. The vertical boundaries of the Unit are the interior walls of such Unit which separate that Unit from the other Units and/or Common Elements, including without limitation all areas, structures, fixtures, equipment, apparatus and other items expressly deemed part of the Unit by Sections 44-3-75(a)(2), (3) and (4) of the Georgia Condominium Act, except that notwithstanding Section 44-3-75(a)(3) of the Act, to the extent that any chutes, flues, ducts, conduits, wires, bearing walls, bearing columns or other apparatus lie outside of the boundaries of a Unit, they are not deemed part of that Unit.

B. Horizontal Boundaries. The horizontal boundaries of any Unit are the interior floors and the interior ceilings of such Unit, including without limitation all areas, structures, fixtures, equipment, apparatus and other items expressly deemed part of the Unit by Sections 44-3-75(a)(2), (3) and (4) of the Act, except that notwithstanding Section 44-3-75(a)(3) of the Act, to the extent that any chutes, flues, ducts, conduits, wires, bearing walls, bearing columns or other apparatus lie outside of the boundaries of a Unit, they are not deemed part of that Unit. Notwithstanding these Unit boundary definitions, maintenance obligations for such pipes, lines, ducts and other portions of Units, Limited Common Elements and Common Elements are more particularly described in Paragraph 10 hereof.

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.

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, but are not limited to, building roofs, paved roads and parking areas, community landscaping, and other portions of the Condominium. The Unit Owners collectively own the Common Elements as tenants-in-common. Each Unit is attributed the percentage of undivided interest in and to the Common Elements identified on Exhibit "B" attached hereto and incorporated herein by 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 be prescribed by the Act) expressed in a duly recorded amendment to this Declaration.

The Common Elements shall remain undivided, and no Owner or any other person shall bring any action for partition or division of the whole or any part thereof except as provided in the Act. Except as provided for Limited Common Elements or as otherwise provided herein, each Owner and the Association may use the Common Elements for the purposes for which they are intended, but no such use shall enter or encroach upon the lawful rights of the other Owners.

In addition to all of its other powers and duties necessary for the administration of the Condominium, the Board has the right to close permanently or temporarily any portion of the Common Elements (excluding the Limited Common Elements and any Common Elements the use of which is reasonably necessary for access to or from a Unit) with 30 days prior notice to all Owners, except that, in emergency situations requiring a temporary closing, prior notice shall not be required so long as notice is given within three days after the closing explaining the reason for the closing. Notwithstanding the above, the Owners may re-open closed Common Elements by a majority vote of the total Association vote, cast at a duly called special or annual meeting.

6. LIMITED COMMON ELEMENTS

A. Assigned Limited Common Elements. The Limited Common Elements at the Condominium, and the Unit(s) to which they are assigned are as follows:

- (i) The heating and/or air conditioning compressors, components or other apparatus serving a Unit which may be located beyond the boundaries thereof are assigned as Limited Common Elements to such Unit;
- (ii) Any entranceways, stairways and appurtenant fixtures and facilities providing direct access to a Unit are assigned as Limited Common Elements to such Unit;
- (iii) Any deck or patio serving exclusively one Unit is assigned as a Limited Common Element to such Unit; and
- (iv) Such items as are assigned as Limited Common Elements under Section 44-3-75(a) of the Act are so assigned as Limited Common Elements.

In the event that any of the items described above or in Section 44-3-75(a) of the Act serve more than one but less than all Units in a particular building, such items shall be Limited Common Elements appurtenant to the Units served thereby.

B. Additional Limited Common Element Assignment or Reassignment. The 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, in accordance with the provisions of Sections 44-3-82(b) and (c) of the Act. A Common Element not previously assigned as a Limited Common Element may be so assigned, and a Limited Common Element may be reassigned by the Board, without the need for a vote of the Association, upon written application to the Association by the Unit Owner(s) 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(s) making such application. Such amendment shall be delivered and become effective as provided in Section 44-3-82 of the Act.

7. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES

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

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

8. ALLOCATION OF LIABILITY FOR COMMON EXPENSES

A. General Allocations. Except as provided below or elsewhere in the Act or Condominium Instruments, the amount of all Common Expenses shall be assessed against all the Units based on the percentage allocations identified in Exhibit "B" hereto.

B. Specific Special Assessments. Notwithstanding the above, the Board of Directors shall have the power to levy specific special assessments against Units pursuant to Section 44-3-80(b) of the Act as, in its discretion, it shall deem appropriate. Failure of the Board of Directors to do so shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to exercise its authority under this Paragraph in the future. 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(s), including attorneys' fees incurred by the Association in enforcing the Declaration, Bylaws or Association rules, may be specifically specially assessed against such Unit(s). For purposes of this subparagraph, nonuse shall constitute a benefit to less than all Units or a significant disproportionate benefit among all Units only when such nonuse results in an identifiable, calculable reduction in cost to the Association.

9. ASSESSMENTS

A. Purpose of Assessment. The Association shall have the power to levy assessments as provided herein and in the Act. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of Units in the Condominium, as may be more specifically authorized 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 provided for herein; (ii) special assessments provided for herein; (iii) specific special assessments provided for herein, including but not limited to reasonable fines imposed in accordance with this Declaration; and (iv) Capital Contribution Assessments provided for herein.

All such assessments, together with charges, interest, costs, and reasonable attorneys' fees actually incurred (including post-judgment attorney fees, costs and expenses), and if the Board so elects, rents, in the maximum amount permitted by the Act, shall be a charge on the Unit and shall be a continuing lien upon the Unit against which each assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Unit at the time when the assessment fell due. Each Owner and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance. The Association, in the Board's discretion, may, but shall not be obligated to, record a notice of such lien in the Cobb County, Georgia records evidencing the lien created under the Act and this Declaration.

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

The lien provided for herein shall have priority as provided in the Act.

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

- (i) **Late Charges, Interest and Acceleration.** If the annual assessment, any part or installment thereof or any other fine, special assessment or charge is not paid in full within 10 days of the due date, or such later date as may be provided by the Board:
 - (a) a late charge equal to the greater of \$10.00 or 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;
 - (b) interest at the rate of 10% per annum, or such higher rate as may be authorized by the Act, shall accrue from the due date; and
 - (c) upon 30 days' written notice to the Owner, the Board may accelerate and declare immediately due all of that Owner's unpaid installments of the annual assessment and any applicable special assessment. Upon acceleration, that Owner shall thereby lose the privilege of paying any and all assessments and charges in installments for that fiscal year, unless such privilege is otherwise reinstated in the Board's sole discretion. If the Association has pending legal action against an Owner for unpaid assessments or charges, then no notice shall be required to accelerate unpaid installments of any annual or special

assessments that come due during any fiscal year after such legal action commences, until all amounts owed are paid in full or the Board otherwise reinstates such privilege in writing

- (ii) **Suspension of Privileges and Suit.** If assessments, fines or other charges, or any part thereof, remain unpaid more than 30 days after the assessment payments first become delinquent, the Owner's and Occupant's rights to vote and use the Common Elements shall be automatically suspended until all amounts owed are paid in full (provided, however, the Board may not deny ingress or egress to or from a Unit) and the Association, acting through the Board of Directors, may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the Bylaws, the Act and Georgia law, including reasonable attorneys' fees actually incurred. Enforcement under this subparagraph is not dependent upon or related to other restrictions and/or other actions. The Association also shall have the authority to suspend services paid for as a Common Expense and to suspend common element parking privileges for delinquent Units, and to tow vehicles to enforce such parking suspension, in accordance with any procedures specified in the Act for such respective suspensions.
- (iii) **Application of Payments.** If part payment of assessments or other charges is made, the amount received may be applied first to post-judgment attorneys' fees, costs and expense, then to costs and attorneys' fees not reduced to a judgment, then to interest, then to late charges, then to delinquent assessments and then to current assessments. Late charges may be assessed on delinquencies that are created by the application of current payments to outstanding delinquent assessments or charges.

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

If the membership disapproves the proposed budget or the Board fails for any reason to determine the budget for the succeeding year, then, until such time as a new budget is established as provided herein, the budget in effect for the current year shall continue for the succeeding year. The Board may propose a new budget at any time during the year at a special meeting of the Association. The proposed budget and assessment shall be delivered to the members at least 21 days before the proposed effective date thereof and at least 7 days before the special meeting. The disapproval procedure set forth above for budgets shall also apply to budgets considered under this paragraph.

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

E. Special Assessments. In addition to all other assessments provided for in subparagraph (B) above, the Board may at any time levy a special assessment against all Owners, notice of which shall be sent to all Owners. Except for the exceptions noted below, any special assessment which would cause the average total of special assessments levied in one fiscal year to exceed \$200.00 per Unit must be approved by a majority of the Owners prior to becoming effective. The exceptions for which no vote of the members is required are as provided in Paragraph 8(B) regarding specific assessments under Section 44-3-80(b) of the Act, Paragraph 16(B) regarding repair or reconstruction of casualty damage to the Condominium, and Paragraph 17 regarding allocation of condemnation proceeds.

F. Capital Reserve Budget and Contribution. The Board of Directors may prepare or obtain an annual or multi-year capital reserve budget or evaluation which takes into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board may set an annual reserve contribution, in an amount the Board determines to be sufficient to permit meeting the projected capital needs of the Association, both as to amount and timing. Any required annual reserve contribution shall be included within the budget and assessment as provided above in this Paragraph.

G. Capital Contribution Assessment Upon Transfer of Units. In addition to all other assessments, fees and charges provided for herein, the purchaser or grantee of every Unit, by deed, foreclosure or otherwise, may be assessed and be subject to a non-refundable, non-prorated capital contribution assessment ("Capital Contribution Assessment") upon each and every conveyance or transfer of the Unit to any person other than to the spouse of the Owner or heir of the deceased Owner. The Capital Contribution Assessment initially shall be \$500.00 and may not be increased by the Board more than 5% in any year except with approval of members holding at least a Majority of the eligible vote cast in person or by proxy at a duly called Association meeting, or by ballot or written consent in lieu of a meeting as provided in the Bylaws.

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

H. Foreclosure Administration Fee. It is recognized that foreclosures of mortgages on Units create substantial administrative and other burdens on the Association. These additional burdens on the Association include, but are not limited to, having to monitor the status of mortgages and legal periodicals to determine when foreclosures occur, searching the Cobb County, Georgia land records to determine the names of the purchasers at foreclosure sales, contacting the foreclosure purchasers/owners regarding foreclosure-purchaser responsibilities and assessment obligations and updating Association records multiple times to deal with just a single Unit. Pursuant to this Declaration and Section 44-3-80(b) of the Act, the Association is authorized to assess individual Owners certain fees and expenses occasioned by and benefiting just those Owners or those Owners' Units. In accordance with these provisions, and in addition to annual assessments, special assessments, and other charges provided for in this Declaration, any Person who acquires a Unit at a foreclosure sale of the mortgage on such Unit, or by deed in lieu of a foreclosure, will be required to pay the Association a Foreclosure Administration Fee of \$1,000.00 at the time the foreclosure deed or deed in lieu of foreclosure is recorded in the Cobb County, Georgia records. The Foreclosure Administration Fee shall constitute a specific assessment as described in this Declaration.

I. Statement of Account. Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Unit, or a lender considering a loan to be secured by a Unit, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against such Unit. The Association shall respond in writing within five business days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee 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, if such statement is reasonably relied upon in connection with the conveyance of any Unit or the issuance of any Mortgage on a Unit.

J. Surplus Funds and Common Profits. Pursuant to the Act, common profits from whatever source shall be applied to the payment of Common Expenses. Except as provided in subparagraph (E) above, any surplus funds remaining after the application of such common profits to the payment of Common Expenses shall be added to the Association's capital reserve account.

10. MAINTENANCE RESPONSIBILITY

A. By the Owner. Each Owner shall have the obligation to maintain and keep in good repair all portions of his or her Unit and all Limited Common Elements assigned to the Owner's Unit, except any portion of the Limited Common Elements or Unit which is expressly made the maintenance obligation of the Association as set forth in subparagraph (B) below.

No Owner or Occupant may make any alteration, modification or addition to any Common Element, Limited Common Element, structural portion of a Unit, window, door, or any other item listed below or other portion of the Unit visible from the exterior of the Unit, except with prior written Board approval as provided in Paragraph 11 hereof. The Owner's maintenance responsibility shall include, but not be limited to, the following:

- (i) All glass surfaces, windows, window frames, window screens or any other type of screens, mullions, hardware, glass, sashes, casings and locks (but the Association shall maintain and repair window sills and the exterior trim around windows; and the Association shall periodically paint any painted surfaces of the exterior of windows and window frames, limited to painting of such surfaces during community paint cycles determined by the Board, but not painting of new windows or painting of such items between Board-established paint cycles, which is to be performed by the Owner);
- (ii) All doors, door frames, storm doors, doorways, door knobs, thresholds, locks, jambs, hardware and interior trim that are part of the entry system of the Unit (but the Association shall maintain, repair and paint the exterior door frames and the exterior trim around doors; and the Association shall periodically paint any painted surfaces of the exterior of such doors, limited to painting of such surfaces during community paint cycles determined by the Board, but not painting of new doors or painting of such surfaces between Board-established paint cycles, which is to be performed by the Owner);
- (iii) All portions of the heating and air conditioning system, including the air conditioning compressor, condensation lines, wiring and fan coil serving only the Unit and any pad on which the compressor is located. As long as air conditioning compressors are located on a shared pad, each Owner of a Unit served by a compressor located on such pad shall share equally in all maintenance and repair of such pad. If Owners replace compressors with compressors that are larger in size than the existing compressor, such Owner shall install the compressor in a location and manner on the pad so as to not interfere with other compressors or proper air flow to such compressors. If the Board determines that it is necessary to install a larger pad to accommodate larger compressors, the Board may assess the cost thereof equally against all Owners sharing such pad;
- (iv) All water lines, sewer lines, pipes, lines, ducts, conduits, cable television lines and components, security lines and components, electrical boxes, meters, flues, or other apparatus which serve only the Unit, whether located inside or outside a Unit's boundaries, including but not limited to: (1) the water and sewer lines serving the Unit, from and including the point where such line separates or tees off of a main line serving multiple Units or the Common Elements; (2) the exterior light fixtures served by electricity from the Unit; (3) the exterior electrical outlets served by electricity from the Unit; (4) any exterior water spigots or hose bibs serving the Unit; and (5) the dryer vent and other vents serving the Unit and penetrating the exterior walls or roof of the Unit;
- (v) All appliances and fixtures in the Unit. This responsibility includes, but is not limited to, keeping water heaters, washing machine and dishwasher hoses, air conditioning condensation lines, dryer ducts and vents, toilet seals and bathtub and shower caulk properly maintained and replaced when necessary. In light of the great risk of damage to the Condominium from the failure of certain appliances and components, each Owner shall replace the water heater serving his or her Unit no later than when the heater has been operating for 12 years, and the Board may require documentation of such replacement from each Owner. The Board also may establish rules requiring use of specific types of washing machine and dishwasher hoses, periodic cleaning of ducts, installation of water savings devices, and/or replacement of other appliances or components, along with reasonable procedures to require Owner documentation of compliance with such policies;
- (vi) All plaster, drywall and other building materials attached to the interior of all walls and ceilings in the Unit;
- (vii) Any insulation located within the walls forming the Unit;
- (viii) All portions of any fireplace and chimney serving the Unit, including the flue, damper, lining, framing, but excluding the chimney cap, and excluding the brick, stucco or other building material forming the visible exterior surface of the chimney (which is to be maintained by the Association, as are visible exterior building surfaces under subparagraph (B) below);

- (ix) Unit address numbers located on or adjacent to the front door of Units, but any modification to such address numbers shall require prior written Board approval in accordance with Paragraph 11 hereof; and
- (x) All modifications made to the Unit or any Limited Common Elements or Common Elements by the Owner or any predecessor-in-title or Occupant of the Owner, unless the Association has expressly accepted responsibility for maintenance of such items in writing. This subparagraph takes precedence over a conflicting provision in this Paragraph 10 which otherwise would assign the Association maintenance responsibility for an item. Owners and Occupants may not make any additions, changes or alterations to any Common Elements, Limited Common Elements, or any structural portion of the Unit or portion of the Unit visible from the exterior of the Unit unless first approved in writing by the Board in accordance with Paragraph 11 hereof.

In addition, each Unit Owner shall have the responsibility:

- (1) To keep in a neat, clean and sanitary condition any Limited Common Elements serving his or her Unit.
- (2) To perform his or her responsibility in such manner so as not to unreasonably disturb other persons in other Units.
- (3) To promptly report to the Association or its agent any defect or need for repairs, for which the Association is responsible.
- (4) 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, 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, which costs are incurred or to be incurred by the Association pursuant to the enforcement powers and procedures specified in Paragraph 20 hereof.

Notwithstanding the maintenance responsibilities discussed above, no Owner or Occupant may access or use the roof or attic of the Condominium building except with prior written Board approval and subject to any conditions the Board may establish.

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

B. By the Association. The Association, as a Common Expense, shall maintain, keep in good repair, replace and at the Board's discretion, improve or alter the "Area of Common Responsibility," which includes the following:

- (i) All general Common Elements, except those portions that are identified as Owner responsibility under subparagraph (A) above;
- (ii) The brick, stucco, siding or other building material forming the visible exterior surfaces of the outside walls of the Unit, or forming the visible exterior surface of firewalls which may be located between Units;
- (iii) The framing, studs and joists of the exterior walls, floors and ceilings of the Unit, but excluding the drywall, wallboard, finished flooring or other material constituting part of the Unit;
- (iv) Periodic painting of any visible exterior painted surfaces that are part of the Condominium, including, but not limited to, any visible exterior surfaces of windows, window frames and trim, and exterior doors, door frames and trim, but painting of exterior surfaces of windows and doors

shall be performed during community paint cycles determined by the Board (painting of new doors and windows, and painting of such surfaces between Board-established paint cycles shall be performed by the Owner, with prior written Board approval as provided in Paragraph 11 hereof);

- (v) Any gutters and downspouts on the Units, and any drainage pipes connected to such downspouts;
- (vi) Chimney caps serving the Units;
- (vii) Roofs of Units, limited to roof joists, crossbeams, decking, felt or underlayment, shingles and flashing, and Common Element ceiling joists in the attic area; and
- (viii) All balconies, decks, patios and patio areas serving the Units, the support structures beneath the balconies and decks, the ground beneath patios, and the fences and/or railings enclosing the patios serving the Unit.

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

If, during the course of performing its maintenance responsibilities hereunder, the Association discovers that maintenance, repair or replacement is required of an item which is the Owner's responsibility, and such maintenance, repair or replacement must be performed for the Association to properly complete its maintenance project, then the Association may perform such work on behalf of the Owner and at the Owner's sole expense, without prior notice to the Owner, such being deemed an emergency situation hereunder. Similarly, the Board can require Owners to remove storm doors, storm windows and other items attached by Owners to the building exteriors or other exterior portions of Units, if the Board determines that removal is necessary or beneficial for the Association to discharge its maintenance responsibilities, such as for exterior painting; however, Owners may reinstall such removed items in their previous locations or a location approved by the Board, if the items were installed in accordance with the Declaration prior to their removal.

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

The Association shall repair incidental damage to any Unit resulting from performance of work that is the responsibility of the Association. As finish levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready" and will not include any upgrades to Units made by Owners or Occupants. 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. As an example, if the Association cuts drywall in a Unit to repair a Common Element pipe, the Association shall repair or patch such damaged drywall to paint-ready condition. However, the Board shall not be required to replace items that otherwise are or were substantially deteriorated and at or near the end of their reasonable useful life, which the Owner otherwise would or should have replaced at his or her expense if not for the work performed by the Association hereunder. The Board may elect to perform additional repairs to a greater finished level beyond paint ready, but such repairs shall be at the sole discretion of the Board.

The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner of any Unit, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder, unless such injury or damage results directly and solely from the negligence or gross negligence of the Association. The Association shall not be liable to any Owner, or any Owner's Occupant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Paragraph where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some

function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

It is understood that, even if damage within a Unit is caused by an exterior condition for which the Association is responsible hereunder, the Owner shall be responsible for repairs within his or her Unit (including drywall, carpet and other repairs), unless such damage was caused solely by or resulted solely from the negligence or gross negligence of the Association, or such damage is covered under insurance maintained by the Association hereunder (solely to the extent of proceeds actually paid under such insurance). It also is understood that any failure of an Owner to promptly report Common Element conditions causing damage to his or her Unit or the Common Elements, when the Owner has knowledge or notice of such condition, or to provide the Association with all necessary access into the Unit to investigate any such condition, could result in unnecessary damage to the Condominium, and the Owner may be held responsible for such damages. Except to the extent of proceeds of insurance available under the hazard insurance policy maintained by the Association under this Declaration, each Owner and Occupant at the Condominium hereby releases and fully indemnifies the Association for all claims of damage or liability related to or resulting from such Owner's and/or Occupant's failure to discharge maintenance, repair and reporting obligations existing under this Paragraph.

The Association shall have no liability to and shall not be subject to claims by any Unit Owners or Occupants, or any other persons or entities, of whatever kind or character, whether sounding in contract or tort, deriving from the occurrence of any injury or damage to any person or property on or in respect of the use and operation of the Common Elements or any of its improvements, fixtures and facilities. It shall be the affirmative duty and responsibility of each Owner, Occupant and user of the Common Elements and facilities to continually inspect the same for any defects or perils or other unsafe conditions or circumstances, prior to and during such use or enjoyment thereof; and all users of, and visitors to, the Common Elements and its improvements and facilities shall use, enjoy and visit the same at their own risk.

C. Measures Related to Insurance Coverage and Unit Improvements. In addition to requiring Owners to perform maintenance, repairs and replacements required under this Declaration, the Board of Directors may require all or any Owner(s) to make improvements to Units, or do any act or perform any work involving portions of the Condominium which fall within the maintenance responsibility of the Owner, which will, in the Board's discretion, decrease the possibility of fires, water damage, or other damage in the Condominium, reduce the insurance premium paid by the Association for any insurance coverage, reduce Association utility expenses, or otherwise assist the Board in procuring or maintaining insurance coverage. This authority shall include 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 inspect and clean as necessary any fireplace flues or other ducts, requiring Owners to install water conservation devices, requiring Owners to allow the Association to inspect such items 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 \$500.00 per Unit in any 12-month period. This authority is in addition to the Board's power to compel Owners to perform maintenance, repairs and replacements required of an Owner under subparagraph (A) above, without any expense limitation.

In addition to any other rights the Association may have, if an Owner does not comply with any requirement established by the Board pursuant to this subparagraph, the Association, upon 10 days' written notice, may perform such required act or work at the Unit Owner's sole cost. Such cost shall be added to and become a part of the assessment to which the Owner is subject, shall become and be the personal obligation of the Owner and a lien against the Unit, and shall be collected as provided herein for the collection of assessments. The Association shall have all rights necessary to implement the requirements mandated by the Board pursuant to this Paragraph, including, but not limited to, a right of entry during reasonable hours and after reasonable notice to the Owner or Occupant of the Unit, except that access may be had at any time without notice in an emergency situation.

D. Mold and/or Mildew; Water Leak Investigation. Mold and/or mildew can grow in any portion of the Condominium that is exposed to a regular source of moisture. Therefore, the Association and the Unit Owners agree to: (i) promptly investigate to determine the source of the problem and the extent of the condition upon the discovery of any water leaks within their respective maintenance areas; (ii) repair any such leaks in

their respective areas of maintenance responsibility in a good and workmanlike condition; (iii) ensure that any building material which has absorbed water or moisture as a result of a water leak and has not been completely dried as part of the repair of the water or moisture damage is removed and replaced; and (iv) clean any area where mold and/or mildew appears with an industry-accepted product designed to inhibit the growth of mold and/or mildew. If the Association performs a common element mold abatement that requires removal and replacement of damaged drywall that is part of the Unit and otherwise an Owner maintenance responsibility under subparagraphs (A) and (B) above, the Association may require the affected Owner to perform the necessary drywall removal and/or replacement, at his or her expense, or the Association may perform such work and assess the costs thereof against the Owner.

Notwithstanding subparagraph (E) below, if the Association investigates a reported leak or reported water damage at the Condominium and determines that the leak or water damage is being caused by a condition which is the responsibility of an individual Owner to repair, then the Association may either: (1) make the required repair and assess all costs thereof against that Owner who is responsible for the repair, notwithstanding the fact that the Owner may have notice or opportunity to select the contractor performing the repair or to approve the expense prior to such repair being made by the Association; or (2) require that Owner to promptly correct the leak and repair the condition.

E. 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 sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board of Directors. The Association may require that Owners provide the name and phone number of all Occupants and/or roommates in a Unit and, for Owners who do not reside in the metropolitan Atlanta area, the name and phone number of a local contact for emergency situations, and such other contact information as the Board determines appropriate, as provided below.

Unless the Board of Directors determines that an emergency exists, the Owner shall have at least 7 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 7 days. If the Board determines that: (i) an emergency exists or (ii) that an Owner has not complied with the demand given by the Association as herein provided; then the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs shall be added to and become a part of the assessment to which such Owner is subject, shall become and be the personal obligation of the Owner and a lien against the Unit, and shall be collected as provided herein for the collection of assessments.

In addition to the foregoing, to the extent permitted by law, if the Board of Directors determines that an Owner has failed or refused to discharge properly, or was negligent in his or her obligation to perform, periodic inspections and maintenance of his or her mechanical systems, appliances, water heater, and air conditioning condensation and overflow lines as required by this Paragraph, and a back up or overflow occurs as a result of this failure, the Association may charge any costs for repair of the Common Elements necessitated by the back up or overflow back to the Owner and/or assess fines in accordance with this Declaration as a result of Owner's failure to perform the required maintenance. Any such costs of repair or fines assessed shall be the personal obligation of the Owner and a lien against the Unit.

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

G. Owner Emergency Contact Information. Upon acquiring a Unit and thereafter as requested by the Board, every Owner shall provide the Association with full contact information for the Owner, including an alternate physical address if the Owner does not occupy the Unit, a phone number and an email address. The Board also may require any non-resident Owners who live outside the metropolitan Atlanta area to provide such contact information for a local Atlanta emergency contact person. Every Owner shall promptly update such contact information to the Association upon any change in such information. If any Owner fails to provide the

information required by this subparagraph, the Association may assess the owner for any Common Expenses or consequential damages resulting from the lack of such information, including but not limited to damages or costs resulting from delay in accessing a Unit for emergency repairs due in whole or in part to any lack of Owner contact information hereunder.

11. ARCHITECTURAL CONTROLS

A. Architectural Control Committee. The Architectural Control Committee ("ACC") shall constitute a standing committee of the Association. The ACC shall consist of the Board unless the Board delegates to other Persons the authority to serve on the ACC. The ACC shall have the authority to select and employ professional consultants to assist it in discharging its duties, the cost of such consultants to be paid by the Owner of any Unit for which plans and specifications have been submitted for approval.

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

- (i) make any encroachment onto the Common Elements or Limited Common Elements;
- (ii) make any exterior change, alteration, or construction (including painting and landscaping); or
- (iii) erect, place or post any object, sign, clothesline, speaker, playground equipment, light, storm door or window, fountain, flag, personalized or customized exterior door mat, dumpster, storage container, or thing on the exterior or roof(s) of the building(s), in any windows (other than appropriate window treatments as provided herein), on any Limited Common Elements, or on any other Common Elements, whether permanently or temporarily.

C. Review of Applications. Applications for approval of any such architectural modification shall be in writing and shall provide such information as the Board may reasonably require. Except as may be otherwise determined by the Board, the Board or its designated representative shall be the sole arbiter of such application and may withhold approval for any reason, including purely aesthetic considerations. The Association, acting through the Board, shall be entitled to stop any construction, which is not in conformance with approved plans. The Board may publish written architectural standards for exterior and Common Element alterations or additions.

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

If the Board fails to approve or to disapprove such application within 60 days after the application and all information as the Board may reasonably require have been submitted, then the Owner submitting the application may issue written notice, via certified mail, to the Association President, informing the President of the Owner's intent to proceed with the modification as identified in the application. Unless the Association issues a written disapproval of the application within 10 days of receipt of the Owner's notice by certified mail, the approval will not be required and this subparagraph will be deemed complied with as to the items specifically identified in the application. 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, the Association's rules and regulations or any applicable zoning or other laws.

D. Encroachments onto Common Elements. The Board may permit Unit Owners to make encroachments onto the Common Elements as the Board deems acceptable. Such permission or approval, if granted, shall be provided in writing to the Owner. If any Owner or Occupant makes any other exterior change, alteration, or construction upon the Common Elements or Limited Common Elements without permission or approval as described in this Paragraph, he or she does so at his or her sole risk and expense. The Board may require that such unapproved change, alteration or construction be removed or that it remain on the Common Elements or Limited Common Elements without reimbursement to the Owner or Occupant for any expense he or she may have incurred in making the change, alteration or construction.

E. 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 Board. It is the responsibility of every Owner of a Unit to determine for himself or herself what architectural modifications have been made to his or her Unit by any predecessor-in-interest. In the discretion of the Board, 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.

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

G. No Waiver of Future Approvals. Each Owner acknowledges that the members of the Board of Directors will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. Each Owner further acknowledges that the Board 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 Board's approval of any proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring Board approval, shall not constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

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

12. USE RESTRICTIONS

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

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

A. Use of Units.

- (i) **Residential/Business Use.** Each Unit shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Unit or any part of the Condominium, except that the Owner or Occupant residing in a Unit may conduct ancillary business activities within the Unit so long as:
 - (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside of the Unit;

- (b) the business activity does not involve visitation of the Unit by employees, clients, customers, suppliers or other business invitees in greater volume than would normally be expected for guest visitation to a residential Unit without business activity;
- (c) the business activity is legal and conforms to all zoning requirements for the Condominium;
- (d) the business activity does not increase traffic in the Condominium in excess of what would normally be expected for residential Units in the Condominium without business activity (other than by a reasonable number of deliveries by couriers, express mail carriers, parcel delivery services and other such similar delivery services);
- (e) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage;
- (f) the business activity does not involve any advertising on the Condominium property, including but not limited to in Unit windows, on cars or vehicles, on trees, or on any Common Elements or Limited Common Elements;
- (g) 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
- (h) 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.

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

If an Owner of a Unit is a corporation, partnership, trust or other legal entity not being a natural person, the entity shall designate in writing to the Board the name(s) of the person(s) who will occupy the Unit, and if at least one of the occupants of the Unit is not a shareholder of the corporation, partner of the partnership, trustee of the trust, or principal of the other legal entity, then such occupancy shall be considered a lease under Paragraph 13 hereof. The designated person(s) to occupy the Unit may not be changed more frequently than once every 12 months without the express written consent of the Board as determined in the Board's sole discretion.

B. Outbuildings. No structure of a temporary character, trailer, tent, shack, carport, garage, barn or other outbuilding shall be erected or used by any Owner or Occupant on any portion of the Condominium, at any time, either temporarily or permanently. No storage pods, waste dumpsters, compactors or similar items are permitted on the Common Elements except with prior written approval of the Board of Directors.

C. Use of Common Elements. There shall be no obstruction of the Common Elements, nor shall anything be kept, parked, or stored on or removed from any part of the Common Elements without the prior written consent of the Board, except as specifically provided herein. 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. Amenities on the Common Elements, such as tennis courts, are permitted to be used only for the purposes approved by the Board or for which the amenity is designed, and not for other play or sport activities. Common Element streets, parking areas and traffic areas are intended for vehicular traffic, and sports and play activities are prohibited in such areas. The Association shall not be liable for any injury to any person who engages in sports or play activities on the Common Element streets, parking areas or traffic areas.

D. Use of Attics and Attic Access Ladders and Doors. The Association shall have full access through Units as necessary to access Common Element attic areas to discharge its responsibilities hereunder. Owners and Occupants may not enter or use attic areas, or use, alter or seal, attic access ladders or doors, for any purpose, except with written approval of the Board of Directors. Owners and Occupants may not store or keep any items in the attic areas.

E. Use of Limited Common Elements. 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 those Owner's Occupants, guests, family members and invitees. The Limited Common Elements are reserved for exclusive use, but shall not be construed or interpreted to be separate and apart from the Common Elements in general, and the restrictions applicable to the Common Elements shall also apply to the Limited Common Elements. No Owner or Occupant shall place or install any rain diverter, ceiling material, ceiling fan, hanging furniture, carpet, rug, tile, brick, vinyl, outdoor carpeting, or other type of ceiling or floor covering (including but not limited to paint) on a Limited Common Element entrance, deck or patio serving a Unit, except with prior written Board approval.

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 which would increase the rate of insurance on the Condominium or any Unit, 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.

With Units sharing common walls, noise and vibration may be detectable between Units. Therefore, Owners and Occupants shall not conduct activities within a Unit or use a Unit in a manner that interferes with the reasonable use and quiet enjoyment of another Unit.

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

- (i) Any fighting, raucous behavior or insobriety in Units, on the Common Elements, in vehicles on the Condominium property or otherwise at the Condominium, if such conduct can be heard in the normal course of activities from within another Unit or from the Common Elements outside the Unit;
- (ii) The use of any alarm, equipment or device, mechanical or otherwise, which creates or produces excessively loud sounds or any vibrations, if such sounds can be heard or vibrations felt in the normal course of activities from within another Unit;
- (iii) Any threatening or intimidating conduct towards any resident, guest, invitee or pet at the Condominium;

- (iv) Any conduct which, in the Board's reasonable discretion, creates any danger or risk of injury to others or damage to property at the Condominium or which creates any threat to health or safety of any other resident, guest, invitee or pet at the Condominium;
- (v) Any conduct which creates any noxious odor, if such odor can be detected in the normal course of activities in any other Unit;
- (vi) Any similar action or activity at the Condominium which unreasonably interferes with the peaceful use and enjoyment of other Units or the Common Elements by any other Owner, members of his or her family, guests, invitees, or Occupants of his or her Unit; or
- (vii) Any construction or similar activities in a Unit, between the hours of 9:00 p.m. and 7:30 a.m., which can be heard from within another Unit.

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

No Owner, Occupant or agent of such Owner or Occupant shall do any work which, in the Board's reasonable opinion, would jeopardize the soundness or safety of the Condominium or any structure thereon, would reduce the value thereof, or would impair any easement or other interest in the Condominium, without prior written consent of all Association members and their Mortgagees.

No damage to or waste of the Common Elements, or any part thereof, shall be permitted by any Owner or any Occupant, guest or invitee of any Owner. Each Owner and Occupant shall indemnify and hold the Association and the other Owners harmless against all loss to the Association or other Owners resulting from any such damage or waste caused by such Owner or Occupant, or the Owner's or Occupant's guest or invitee.

G. Firearms and Fireworks. The display or discharge of firearms or fireworks on the Common Elements or Limited Common Elements is prohibited, except: (i) lawfully by law enforcement officers; and (ii) 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. Section 25-10-1, as amended.

H. Pets. No Owner or Occupant may keep any animals other than generally recognized household pets on any portion of the Condominium, and no Owner or Occupant may keep more than two pets per Unit. No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose. No structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Common Elements. All pets must be kept on a leash and be under the physical control of a responsible person at all times while on the Common Elements, other than within fenced patio or balcony areas when attended at all times by a person who is on such patio or balcony. Feces left by pets upon the Common Elements or in Units, including the pet owner's Unit, must be removed promptly by the owner of the pet or the person responsible for the pet.

No pets determined in the Board's sole discretion to be dangerous or aggressive 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, creates a nuisance or unreasonable disturbance, is left unattended on a patio or balcony, is otherwise allowed unleashed on the Common Elements, or commits or is the subject of violations of the Declaration, be permanently removed from the Condominium upon seven days' written notice. If the Owner or Occupant fails to comply with such notice, the Board may remove the pet, have the pet removed, and/or obtain a court order requiring the Owner or Occupant to do so. Without prior notice to the pet's owner, the Board may remove or have removed any pet, which, in the Board's sole discretion, presents an

immediate danger to the health, safety or property of any community member or is left unattended outside of a Unit. The Board may assess the Owner for any costs incurred in enforcing this Paragraph.

Owners and Occupants may not feed any wild animals on the Common Elements. Any Owner or Occupant who keeps or maintains any pet upon the Condominium shall 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.** Except with written Board approval, no Owner or Occupant may keep or bring onto the Condominium more than two motor vehicles per Unit; provided, however, this provision shall not prohibit an Owner or Occupant from having guests or service vehicles park on the Condominium if otherwise in compliance with this subparagraph. Vehicles permitted under this subparagraph may be parked only in designated parking areas, or other areas authorized in writing by the Board. The Board may establish a parking policy assigning parking spaces to particular Units. The Board may adopt further rules regulating vehicles and parking at the Condominium, including but not limited to regulations limiting the size and type of permitted vehicles and/or requiring that vehicles at the Condominium display parking permit decals as designated by the Board. The Board may refuse to issue parking permits, ban violating vehicles, tow violating vehicles and/or levy fines against Owners and Occupants for failure to obtain and properly display required parking permits in accordance with rules adopted by the Board. Vehicles shall only be parked front end forward in any parking spaces at the Condominium.

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 property for 14 consecutive days or longer without prior written Board permission. No automobile or vehicle maintenance or repairs are permitted at the Condominium, except for emergency repairs of flat tires or replacement or jump starting of dead batteries.

Boats, jet-skis, trailers, motorcycles, mopeds, motor scooters, panel trucks, limousines, taxis, buses, trucks with a cargo bed load capacity of more than one ton, vans (excluding vans used by handicapped persons, mini-vans or sport utility vehicles used as passenger vehicles and receiving a "car" or "passenger vehicle" classification by the Georgia Department of Motor Vehicles), recreational vehicles (RV's and motor homes), vehicles used primarily for commercial purposes and containing visible evidence of commercial use (such as tool boxes, tool racks, business decals or signs, or other visible business evidence), and vehicles with commercial writings on their exteriors (other than Sheriff's, Marshall's or police officer's vehicles marked as such) are also prohibited from being parked on the Condominium, except: (1) in any specific areas which may be approved by the Board for parking of such vehicles; or (2) in the case of service vehicles, on a temporary basis for the purpose of serving a Unit during daytime business hours or during emergencies affecting the Unit or Condominium. For purposes hereof, permitted "vehicles" shall include, but not be limited to, passenger automobiles, subject to the provisions above.

If any vehicle is parked on any portion of the Condominium in violation of this Paragraph 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 at least 24 hours the vehicle may be towed. The notice shall include the name and telephone number of a person to contact regarding the alleged violation. The Board also shall post signage on the Condominium property identifying the name and telephone number of the person or entity that will do the towing, as required by law. If 24 hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six months of such notice, the Board or agent of the Association may have the vehicle towed in accordance with the notice, without further notice to the vehicle owner or user.

If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's Unit or parking space, is blocking any sidewalk or walkway, 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 vehicle may be towed immediately. If a vehicle is towed in accordance with this subparagraph, neither the Association nor any director, Officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing 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; Air Conditioning of Units. 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 60 degrees Fahrenheit (except during power failures or periods when heating equipment is broken) whenever the temperature is forecasted to or does reach 32 degrees Fahrenheit or below. Owners and Occupants of Units shall take all steps possible on a timely basis to keep heating equipment, including, but not limited to, the thermostat, in good working order and repair.

Unit Owners are responsible for controlling any environmental conditions and taking such steps as are necessary to prohibit or control mold growth in the Units, including maintaining air conditioning in an "on" position and at a maximum temperature setting of 82 degrees Fahrenheit (except during power failures or periods when air conditioning equipment is broken), whenever the temperature is forecasted to exceed such temperature. Except to the extent of proceeds of insurance available under the hazard insurance policy maintained by the Association under this Declaration, each Owner and occupant at the Condominium hereby releases and indemnifies the Association for all claims of damage or liability related to or resulting from Owner's and/or occupant's failure to discharge maintenance, repair and reporting obligations existing under this subparagraph.

At any time when the heating and/or air conditioning equipment is not working properly but is required to be operating under this subparagraph, the Unit Owner or Occupant shall immediately inform the Association of this failure of the equipment and of the time needed to repair the equipment. The Board may require Owners and/or Occupants to install and operate humidifiers and/dehumidifiers during such periods 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. The Board may require Owners to repair or replace compressors that, in the Board's discretion, create excessive noise because of failed or deteriorated fans or components.

K. Signs. Except as may be provided for herein or as may be required by legal proceedings, no signs, advertising posters, political placards or billboards of any kind shall be erected, placed, or permitted to remain on the Condominium property 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 Owners and Occupants shall not allow rubbish, trash or garbage to accumulate in a Unit or on any decks, patios or walkways. No garbage or trash shall be placed or discarded on the Common Elements or Limited Common Elements outside the Unit, temporarily or otherwise, except in the Association's dumpsters or receptacles identified by the Board of Directors. Rubbish, trash and garbage shall be disposed of in appropriate sealed bags and placed in designated trash receptacles, and not on the ground adjacent to receptacles. Cigarettes may not be discarded on any Common Element landscaping or grounds.

M. Impairment of Units and Easements. No Owner or Occupant shall do any act or work that will impair the structural soundness or integrity of another Unit or impair any easement, or allow any condition to exist which will adversely affect the other Units.

N. 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. No automobile or vehicle maintenance or repairs are permitted at the Condominium, except for emergency repairs of flat tires or replacement or jump starting of dead batteries.

O. Window Treatments. All exterior visible portions of window treatments in Units must be solid white, beige or off-white in color. Towels, sheets, temporary paper, window covers, and similar items shall not be used as window treatments. The Board may establish additional regulations regarding the location, type and exterior color of window treatments.

P. Antennas and Satellite Dishes. Except with prior written Board approval or 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.

- (i) No transmission antenna, of any kind, may be erected anywhere on the Condominium, including the Units or Limited Common Elements, without prior written Board approval.
- (ii) No direct broadcast satellite (DBS) antenna or multi-channel multi-point distribution service (MMDS) antenna larger than one meter (39.38 inches) in diameter shall be placed, allowed or maintained upon the Condominium, including the Units and the Limited Common Elements, without prior written Board approval.
- (iii) DBS and MMDS satellite dishes or antennas one meter or less in diameter and television broadcast service antennas may only be installed within a Unit or Limited Common Element serving exclusively one Unit, in the least conspicuous location possible where an acceptable signal can be received, and on the inside of the Unit's deck railing if an acceptable signal can be received in such location, and 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. Notwithstanding the above, the Board may prohibit satellite dishes on Units if the Association makes available a master antenna, cable or satellite service, with all channels that are available through an individual satellite dish.

Q. Abandoned Personal Property. Without prior written Board permission, personal property, other than vehicles as provided for in subparagraph (I) above, shall not be stored, kept, or allowed to remain for more than 24 hours in any storage bin unless assigned to such Unit by the Board, or upon any portion of the Common Elements, other than on an appropriate Limited Common Element serving exclusively one Unit. If the Board determines that a violation exists, then, not less than 18 hours after written notice is placed on the personal property and/or on the front door of the property owner's Unit, if known, the Board may remove and either discard or store the personal property in a location which the Board or the agent of the Association may determine and shall have no obligation to return, replace or reimburse the owner of the property. The notice shall include the name and telephone number of the person or entity, which will remove the property and the name and telephone number of a person to contact regarding the alleged violation.

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

Neither the Association nor any Association director, Officer or agent shall be liable to any person for any claim of damage resulting from the removal activity in accordance herewith. The Board may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder. The Association shall not be liable to the Owner of any Unit or such Owner's Occupant, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements.

R. American Flag. Notwithstanding Paragraph 11 hereof, Owners and Occupants can install or erect one properly maintained American Flag, not greater than two feet by three feet in size, on a mast not longer than four feet in length, on a Limited Common Element serving the Unit. Owners and Occupants may not install or erect college banners, sports flags, seasonal flags or other flags or banners except with prior written Board approval, which is within the sole discretion of the Board.

13. LEASING

In order to protect the equity of the individual Owners at the Condominium, and to carry out the purpose for which the Condominium was formed by preserving the character of the Condominium as a homogenous

residential community of owner-occupied homes, leasing of Units shall be governed by the restrictions imposed by this Paragraph. **Except as provided herein, leasing of Units is prohibited.**

A. Definitions.

- (i) "Effective Date" means the date this Declaration is recorded in the Cobb County, Georgia land records.
- (ii) "Grandfathered Owner" means an Owner of a Unit who either: (1) was the Owner of such Unit on August 1, 1996; or (2) is lawfully leasing his or her Unit on the Effective Date and who, within 30 days of the Effective Date, provides the Board with a copy of the lease in effect on the Effective Date. Grandfathering hereunder shall continue only until the earlier of: (1) the date the Grandfathered Owner conveys title to the Grandfathered Unit to any other person (other than the Owner's spouse or the heir of a deceased Owner), or (2) the date that the Grandfathered Owner becomes delinquent in the payment of any assessments or other charges owed to the Association hereunder. Grandfathered Owners must submit all required Leasing paperwork, including, but not limited to, the Request for Lease and Tenant Information Sheet in a timely manner.
- (iii) "Grandfathered Unit" means the Unit owned by a Grandfathered Owner on the Effective Date hereof.
- (iv) "Leasing" means the regular, exclusive occupancy of a Unit by any person(s) other than: (1) the Owner or a parent, child or spouse of an Owner, or (2) a person who occupies the Unit with the Owner or parent, child or spouse of the Owner occupying the Unit as his or her primary residence.

B. Authorized Leasing. No Owner of a Unit may lease his or her Unit unless: (1) the Owner is a Grandfathered Owner and has received written leasing permit from the Board as provided in subparagraph (c) below prior to leasing the Unit; (2) the Owner is not a Grandfathered Owner but has received a written leasing permit from the Board as provided in subparagraph (C) below prior to leasing the Unit; or (3) the Owner is not a Grandfathered Owner but has received a written hardship leasing permit from the Board as provided in subparagraph (D) below prior to leasing the Unit. A leasing permit or hardship leasing permit will allow an Owner to lease his or her Unit, provided that such leasing is in strict accordance with the terms of the permit and this Paragraph. All leasing permits and hardship leasing permits shall be valid only as to a specific Owner and Unit and shall not be transferable between either Units or Owners (including a subsequent Owner of a Unit where a permit was issued to the Owner's predecessor in title).

C. Leasing Permits. The Board of Directors may approve an Owner's request for a leasing permit if the Owner has owned and occupied the Unit as his or her primary and principal residence for at least 12 months and the total number of current, outstanding leasing permits plus Grandfathered Units is less than 42, except that a leasing permit shall not be issued to any Owner if the Unit is shown on the Association's books and records to be more than 30 days past due in any assessment or charge or if the Owner is in violation of the Declaration, Bylaws, or any Association rules and regulations. The Board of Directors shall have the authority to establish reasonable conditions on the issuance and use of leasing permits.

Owners who have been denied a leasing permit because the 42-Unit limit is satisfied shall be placed on a waiting list to be issued such a permit, if they so desire, when the above conditions have been satisfied. 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.

The Board of Directors may, in its discretion, and no more than every two years following the Effective Date hereof, review the number of Units being leased, and taking into consideration economic conditions and the status of the Condominium, may, by resolution, increase or decrease the number of Units that may be leased at any one time; provided, however in no event, shall this number exceed 30% of the Units or fall below 10% of the Units at any one time. In the event the Board decreases the number of Units that may be leased, any Owner currently leasing his or her Unit in accordance with an authorized leasing permit or

hardship leasing permit shall be grandfathered in accordance with rules and regulations promulgated by the Board of Directors.

D. Hardship Leasing Permits. The Board of Directors shall have the authority to establish conditions as to the duration and use of hardship leasing permits consistent with this Paragraph. All hardship leasing permits shall be valid only as to a specific Owner and Unit and shall not be transferable between either Units or Owners (including a subsequent Owner of a Unit where a permit was issued to the Owner's predecessor in title).

If the failure to lease will result in an undue hardship to the Owner, then the Owner may seek to lease on a hardship basis by applying to the Board of Directors for a hardship leasing permit. The Board shall have the authority to issue or deny requests for hardship leasing permits in its discretion after considering the following factors: (1) the nature, degree, and likely duration of the hardship; (2) the harm, if any, which will result to the 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.

The Board shall have broad discretion in determining what constitutes an undue hardship, but a "hardship" as described herein shall include, but not be limited to, situations where an Owner dies and the Unit is being administered by his or her estate.

Hardship leasing permits shall be valid for a term not to exceed one year. Owners may apply for additional hardship leasing permits at the expiration of a hardship leasing permit, if the circumstances warrant.

E. Expiration and Revocation of Leasing Permits and Hardship Leasing Permits. Leasing permits and hardship leasing permits are automatically revoked upon the sale or transfer of the Unit to a third party (excluding sales or transfers to an Owner's spouse or the heir of a deceased Owner). Leasing permits also automatically expire if the Unit is not subject to an authorized and approved lease for more than 90 consecutive days. The Board also may revoke any leasing permit or hardship leasing permit if the Owner is shown on the Association's books and records to be more than 30 days past due in any assessment or charge.

F. Leasing Administration Fee. In addition to annual assessments, special assessments, and other charges provided for under this Declaration or the Bylaws, an Owner who leases a Unit shall be required to pay to the Association a Leasing Administration Fee of \$750.00 or such higher amount as may be approved by a majority of the eligible Association members voting in person or by proxy at a duly called meeting, or by written consent or ballot in lieu of a meeting as provided in the Bylaws. The Leasing Administration Fee shall be non-prorated and non-refundable and shall be due within 30 days of the date any lease is executed or any occupancy relationship is created hereunder.

G. Leasing Provisions. When leasing is permitted under this Paragraph, it shall be governed by the following provisions:

- (i) **Notice.** At least 14 days before entering into a lease, the Owner shall provide the Board with a copy of the proposed lease agreement. The Board shall approve or disapprove the form of said lease. If a lease is disapproved, the Board shall notify the Owner of the action to be taken to bring the lease in compliance with the Declaration and any Association rules.
- (ii) **Tenant Screening.** Any Owner who is seeking to lease his or her Unit must engage a Tenant Screening Service as provided below and provide a receipt to the Board verifying such screening prior to entering into a lease agreement; provided, however, this subparagraph shall not apply where the tenant is a parent, child or sibling of the Owner. An Owner seeking exemption from Tenant Screening must provide written certification of the relationship to the Board. The Service must, at a minimum, take the following steps:
 - (a) Obtain a consumer credit report on the prospective tenant(s);
 - (b) Verify the prospective tenant's employment for the last two years;

(c) Check the prospective tenant's rental history in its database and with all landlords during the last two years, either as reported by the prospective tenant or disclosed by the Service's investigation;

(d) Check the public records for bankruptcy actions, unlawful detainer actions and criminal convictions, citations and warrants involving the prospective tenant; and

(e) Report such information as is disclosed by its investigation to the Unit Owner.

If any of (a) through (d) above is not a part of the screening report, the Owner will separately verify this information and provide the Board a receipt and verification of such screening. The submission to the Board must include the name, address and telephone number of the Tenant Screening Service and the prospective tenant's name.

The Board will not evaluate the information or make any determination or recommendation as to the suitability of any prospective tenant. The selection of a suitable and appropriate tenant shall be the sole responsibility of the Unit Owner. The Board and the Unit Owner shall treat all information received in accordance with the requirements of the Federal Fair Credit Reporting Act and any other applicable state or federal laws and not disclose the contents of any report to the prospective tenant or any other person not permitted access to such information provided by the Service. Each Owner submitting an application for screening shall sign a Non-Disclosure Agreement which spells out the signer's duties under the law with regard to the information provided by the Service.

(iii) **General.** Except for roommates of an Owner as provided above, Units may be leased only in their entirety, and no rooms or fractions of Units may be leased without prior written Board approval. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. There shall be no subleasing of Units or assignment of leases without prior written Board approval. All leases must be for an initial term of one year, except with written Board approval. Prior to any occupancy of the Unit by a lessee, the Owner shall provide the Board with: (1) a copy of the lease; (2) the name, Unit phone number, work location and work phone number of the lessee and all other people occupying the Unit; (3) the Owner's primary residence address, primary residence phone number, email address, work location and work phone number; (4) the name and contact information for an emergency contact person in the metropolitan Atlanta area, as provided in Paragraph 10(G) hereof, if the Owner does not live in the metropolitan Atlanta area; (5) the number and type of all pets to be kept in the Unit and vehicles to be parked at the Condominium; and (6) confirmation of the Tenant Screening. 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 tenant; the Board's approval or disapproval shall be limited to the form of the proposed lease.

(iv) **Liability for Assessments; Compliance.** Each Owner covenants and agrees that any lease of a Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the tenant, 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 Amended and Restated Rules and Regulations.** The Owner and tenant shall comply with all provisions of the Amended and Restated Declaration of Condominium for Countryside at Cumberland Condominium (whose definitions are incorporated herein), and the Bylaws and rules of Countryside at Cumberland Condominium Association, Inc. ("Association") and shall control the conduct of all other occupants and guests of the leased Unit in order to ensure such compliance. The Owner shall cause all occupants of his or her Unit to comply with the Declaration, Bylaws and Association rules, and shall be responsible for all violations by such

occupants, notwithstanding the fact that such Occupants are fully liable and may be sanctioned for any such violation.

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

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

- (b) **Liability for Assessments.** When an Owner who is leasing his or her Unit fails to pay any annual or special assessment or any other charge for a period of more than 30 days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the tenant 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 tenant. However, tenant 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 tenant shall reduce, by the same amount, tenant's obligation to make monthly rental payments to Owner. If tenant fails to comply with the Board's request to pay assessments or other charges, tenant 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.
- (c) **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.

H. **Applicability of this Paragraph.** Notwithstanding the above, this Paragraph shall not apply to any leasing transaction entered into by the Association.

14. SALE OF UNITS

An Owner intending to make a transfer or sale of a Unit or any interest in a Unit shall give written notice to the Board of Directors of such intention within seven days after execution of the transfer or sales documents. The Owner shall furnish to the Board as part of the notice (i) the name and address of the intended grantee; and (ii) such other information as the Board may reasonably require. The Board may require Unit purchasers or grantees to complete a prospective owner information form prior to such conveyance, providing names and contact information for Unit Occupants and certifying compliance with the Declaration, Bylaws and Association rules. This Paragraph shall not be construed to create a right of first refusal in the Association or in any third party.

At the closing of the conveyance or transfer of the Unit to any person other than to the spouse of the Owner or heir of the deceased Owner, the purchaser/grantee shall pay to the Association the non-refundable, non-prorated Capital Contribution Assessment provided for in Paragraph 9(G) hereof.

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

15. INSURANCE

A. Association Hazard 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 Board shall secure a blanket hazard insurance policy providing, at a minimum, fire and extended coverage, including coverage for vandalism and malicious mischief, in an amount equal to full replacement cost, before application of deductibles, of all improvements located on the Condominium property. The Board, in its discretion, may alternatively obtain "all risk" coverage, in like amounts.

To the extent reasonably available at reasonable cost, the Association's insurance policy shall cover any of the following types of property contained within a Unit, regardless of ownership: (a) fixtures, improvements and alterations that are 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 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).

The Board may, but shall not be required to, obtain coverage for water damage from pipe leaks, pipe bursts, sewage backups, and similar items. If the Board elects to maintain such water coverage, it may do so under such terms and deductible amounts as the Board determines are appropriate, and the deductible on this optional coverage shall not be subject to the deductible limitation set forth in subparagraph (C) below.

The Association's insurance shall not include the Owners' personal property unless the Association advises the Owners of such coverage in writing.

All insurance purchased by the Association pursuant to this Paragraph shall run to the benefit of the Association, the Board, officers, all agents and employees of the Association, the Owners, and their respective Mortgagees, and all other persons entitled to occupy any Unit, as their interests may appear.

All Association insurance coverage shall be written in the name of the Association as trustee for itself, each of the Owners, and the Mortgagees, if any. At least every two years the Board shall conduct an insurance review to determine if the policy in force is adequate to meet the Association's needs and to satisfy Section 44-3-107 of the Act. Such responsibility shall be deemed reasonably performed by the Board requesting the Association's insurance agent to so verify.

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

Owners are encouraged to obtain a copy of the Association's insurance policy from the Association's insurance agent in order to allow Owners to assess their personal insurance needs, and each Owner shall obtain additional coverage at his or her own expense to cover the Owner's and any Occupant's personal property, betterments and improvements in the Unit, and the maximum sum chargeable to the Owner as a deductible hereunder on any insurance policy maintained by the Association.

B. Association Liability and Directors' and Officers' Liability Insurance. The Board shall obtain a public liability policy in amounts no less than required under Section 44-3-107 of the Act, and, if reasonably available, directors' and officers' liability insurance.

C. Premiums and Deductibles on Association Policies. Premiums for all insurance obtained by the Association shall be a Common Expense of the Association. The policies 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 at least equals the full replacement cost.

D. Policy Terms. 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 include individual Owners' policies from its operation;
- (iii) Until the expiration of 30 days after the insurer gives notice in writing to the Mortgagee of any Unit, the Mortgagee's insurance coverage will not be affected or jeopardized by any act or conduct of the Owner of such Unit, the other Owners, the Board, or any of their agents, employees, or household members, nor be canceled for nonpayment of premiums;
- (iv) The master policy may not be canceled, substantially modified, or subjected to nonrenewal without at least 30 days prior notice in writing to the Board and all Mortgagees of Units;
- (v) An agreed value endorsement and an inflation guard endorsement; and
- (vi) A cross liability endorsement on the public liability insurance.

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

In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Owners or their Mortgagees, and the insurance carried by the Association shall be primary. Each Owner shall notify the Board of all structural improvements made by the Owner to his or her Unit, which are not permitted except with prior written Board approval as provided in Paragraph 11 hereof. Any 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 within 30 days after the purchase of such insurance. Such Owner shall also promptly notify the Board in writing in the event such policy is canceled.

In addition to the insurance required above, 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) fidelity bonds or dishonesty insurance, 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 consonant with the best business judgment of the Board, but in no event less than three 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 must approve any checks written on the reserve account;

- (iii) a termite bond or guarantee on all structures at the Condominium, providing for treatment of active termite infestation at the Condominium, and, if reasonably available, for repair of termite damage at the Condominium, which bond or guarantee shall not be eliminated by the Association unless approved by members holding a majority of the total Association vote, cast in person or by proxy at a duly called meeting;
- (iv) flood insurance as may be required by any applicable laws or to meet the requirements of institutions servicing mortgages on behalf of Freddie Mac or Fannie Mae; and
- (v) other insurance as the Board may determine to be necessary.

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

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

Every 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. Any Owner leasing his or her Unit also shall ensure that the tenant(s) and/or Occupant(s) of the Unit obtain appropriate renter's insurance covering all personal property in the Unit. Upon request by the Board, and within 30 days of the purchase of any Unit, the Owner shall furnish a copy of all such insurance policy or policies to the Association. In the event that any Owner and/or Occupant fails to obtain insurance as required hereunder, the Association may purchase such insurance on behalf of the Owner or Occupant and assess the cost thereof to the Owner.

E. Insurance Deductibles. In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the person(s) 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 party's portion of the total cost of repair, or otherwise as the Board determines equitable. Notwithstanding this, if the insurance policy provides that the deductible will apply to each Unit separately or to each occurrence, each Owner shall be responsible for paying any deductible pertaining to his or her Unit. If any Owner fails to pay the deductible when required hereunder, then the Association may pay the deductible and assess the cost to the Owner pursuant to Paragraph 8 hereof; provided, however, where the deductible is for fire and extended coverage (or basic perils) insurance required under the Act, no Owner shall be assigned more than \$2,500, or such higher amount as authorized by the Act, as the cost of the deductible for any one occurrence. This \$2,500 deductible assessment limitation shall not apply to the assessment of deductibles to an Owner for water or sewer related claims under water/sewer insurance or broad form coverage, which is not required by the Act; rather, the entire deductible may be assessed to the affected Owner(s) as provided above.

F. 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 this Declaration, 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 Owner.

16. 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 80% of the Owners, including the Owner(s) of any damaged Unit(s), vote not to proceed with the reconstruction and repair of the structure, the Board of Directors 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 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 shall obtain reliable and detailed estimates of the cost of repairing and restoring the structures (including any damaged Unit) to substantially the condition that existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Such costs may also include professional fees and premiums for such bonds as the Board determines to be necessary.

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

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

D. Encroachments. Encroachments upon or in favor of Units that may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the Floor 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 Owners on account of such casualty shall constitute a construction fund, which shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Paragraph to be disbursed by the Association in appropriate progress payments to such contractor(s), supplier(s), and personnel performing the work or supplying materials or services for the repair and reconstruction of the buildings as are designated by the Board of Directors.

17. EMINENT DOMAIN

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

18. EASEMENTS

Each Owner and Occupant shall have a right and easement of use and enjoyment in and to the Common Elements (including the right of access, ingress and egress to and from his or her Unit over those portions of the Condominium designated for such purpose), and such easement shall be appurtenant to and shall pass with the title to such Unit, subject to the rights of the Owners to the exclusive use of the Limited Common Elements assigned to their respective Units and to the right of the Association to control the use and enjoyment of the Common Elements as provided by the terms of this Declaration including, but not limited to, the right of the

Association to suspend voting and use privileges as provided herein. Every portion of a Unit and all Limited Common Elements contributing to the support of an abutting Unit shall be burdened with an easement of support for the benefit of such abutting Unit. All portions of the Condominium also shall be subject to easements of encroachment as provided in the Act.

19. MORTGAGEE'S RIGHTS

A. Actions Requiring Approval. Unless at least two-thirds of the first Mortgagees and two-thirds of the 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 Declaration or Bylaws for any of the actions contained in this Paragraph.

B. Liability for Assessments. Where the Mortgagee holding a first priority Mortgage of record, a secondary priority 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 priority 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 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. Notice of Actions. 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 60 days, and any default in the performance by an individual Owner of any other obligation under the Condominium Instruments which is not cured within 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. Financial Statements. 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.

E. Sale of Units. Notwithstanding anything to the contrary herein contained, the provisions of Paragraphs 13 and 14 hereof governing the sale of Units 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 or otherwise dispose of a Unit acquired by the Mortgagee.

F. No Priority. No provision of this Declaration or the Bylaws 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.

G. 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.

H. 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 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.

I. 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.

20. **AUTHORITY AND ENFORCEMENT**

The Condominium shall be used only for those uses and purposes set out in this Declaration. Every Owner and Occupant shall comply with this Declaration, the Bylaws and Association rules and regulations, and any lack of compliance 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; provided, however, individual aggrieved Owners are not granted authority hereunder to take enforcement actions as if acting as the Association's Board of Directors. In addition to any rights the Association may have against an Owner's family, guests, tenants or Occupants as a result of such person's violation of the Declaration, Bylaws or Association rules, the Association may take action under this Declaration against the Owner as if the Owner committed the violation in conjunction with the Owner's family, guests, tenants or Occupants.

The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the Owner's Unit, and to suspend an Owner's right to vote and/or to use the Common Elements for violation of any duty imposed under the Declaration, Bylaws or Association rules. However, nothing herein shall authorize the Association or the Board to deny ingress and egress to or from a Unit. If any Occupant of a Unit violates the Declaration, Bylaws or Association rules, a fine may be imposed against the Owner and/or Occupant, as set forth below. The failure of the Board to enforce any provision of the Declaration, Bylaws or Association rules shall not be deemed a waiver of the right of the Board to do so thereafter.

In any enforcement action taken by the Association under this Paragraph, to the maximum extent permissible, all costs incurred by the Association in abating a violation or otherwise taking action to enforce the Declaration, Bylaws or Association rules, including reasonable attorneys' fees actually incurred, may be assessed against the violating Owner and/or Occupant pursuant to Paragraph 8(B) above.

A. Fining and Suspension Procedure. The Board shall not impose a fine, suspend the right to vote or suspend the right to use the Common Elements, unless and until the Association has sent or delivered written

notice to the violator as provided in subparagraph (i) below. However this shall not be required for the following: (1) late charges on delinquent assessments; (2) suspension of voting rights if an Owner is shown on the Association's records to be more than 30 days delinquent in any payment due the Association, in which case suspension of the right to vote shall be automatic; (3) suspension of the right to use the Common Elements if an Owner is shown on the Association's records to be more than 30 days delinquent in any payment due the Association; and (4) suspension of common utility services, which shall require compliance with the provisions of Paragraph 9(C)(ii) above.

- (i) **Notice.** If any provision of the Declaration or Bylaws or any Association rule is violated, the Board shall send the violator written notice identifying the violation and fine(s) and/or suspension(s) being imposed and advising the violator of the right to request a hearing before the Board to contest the violation or the fine(s) and/or suspension(s) or to request reconsideration of the fine(s) and/or suspension(s). **Fines and/or suspensions may be effective or commence upon the sending of such notice or such later date specified in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge the fine(s) and/or suspension(s).** In the event of a continuing violation, each day the violation continues or occurs again constitutes a separate offense, and fines may be imposed on a per diem basis without further notice to the violator.
- (ii) **Hearing.** If a written request for hearing is received from the violator within 10 days of the date of the violation notice provided above, then the Board shall schedule and hold in executive session a hearing affording the violator a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing. The Board may establish rules of conduct for such hearing, which may include limits on time and on the number of participants who may be present at one time. Failure to request a timely hearing as provided herein shall result in loss of the right to challenge and request reconsideration of the fines.

B. Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Board may elect to enforce any provision of the Declaration, the Bylaws, or the rules and regulations by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking regulations) and/or by suit at law or in equity to enjoin any violation or to recover monetary damages or both, without the necessity for compliance with the procedure set forth in subparagraph (A) above.

The Association or its duly authorized agent shall have the power to enter upon any portion of the Condominium 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 Association rules and regulations. If the Association exercises its rights under this subparagraph, all costs of self-help, including, reasonable attorneys' fees actually incurred, shall be assessed against the violating Owner and/or Occupant and shall constitute a lien against the Unit. Except in a situation determined by the Board to be urgent or an emergency, the Association shall notify the Unit Owner or Occupant at least 24 hours in advance of entering the Owner's or Occupant's Unit. Additionally, the Association shall have the authority to record in the Cobb County, Georgia land records a notice of violation identifying any uncured violation of the Declaration, Bylaws or rules and regulations regarding the Unit.

C. Failure to Enforce. Notwithstanding the above, no right of action shall exist against the Association for failure of enforcement where: (1) the Board determines that the Association's position is not strong enough to justify taking enforcement action; (2) a particular violation is not of such a material nature as to be objectionable to a reasonable person or justify the expense and resources to pursue; or (3) the Owner or party asserting a failure of enforcement possesses an independent right to bring an enforcement action therefore at law or in equity and has failed to do so.

D. Sanctions for Severe Violations. It is recognized that certain severe violations expose the Association and the residents at the Condominium to unacceptable risks of liability, expense and harm. These violations include, but are not limited to: (i) vandalism or other acts that damage the Condominium; (ii) repeat or recurring violations of the Declaration or Association rules after the Association has issued notices informing the Owner or Occupant of such violation(s); and (iii) leasing without the required hardship approval of the Association or without providing the required notification to the Association, which can result in the Association issuing false and possibly fraudulent statements to mortgage companies, insurance companies and others regarding the status of leased Units at the Condominium. In this regard, in addition to the right to levy standard

finest for violations and continuing fines under subparagraph (A) above for continuing violations, and in addition to all other remedies available to the Association, the Association may levy substantial additional fines, up to \$1,000 per occurrence, for violations determined by the Board to constitute severe violations of the Declaration or Association rules. The notice and hearing procedure identified in subparagraph (A) above also shall apply to fines for severe violations.

21. AMENDMENTS

A. Membership Approval. Except where a higher vote is required for action under any other provision of this Declaration or the Act, this Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members of the Association holding two-thirds of the total eligible Association vote and approval of a majority of the Association directors.

Notice of any meeting at which a proposed amendment will be considered shall state the subject matter of the proposed amendment. No amendment shall be effective until certified by the Association President and Secretary and recorded in the Cobb County, Georgia land records.

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

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

If the amendment is not approved or defeated by sufficient vote within 45 days of the amendment notice described above, then the Board may seek to obtain default approval from Owners under this subparagraph. In such case, the Board shall send default approval notice, by certified mail, to all Owners who have not returned consents or ballots on a proposed amendment within that 45-day period. This default approval notice also shall include a consent form or ballot, as provided above, along with a statement that the Owner's failure to return an executed consent form or ballot, marked with a vote for, a vote against, or an abstention from voting on the amendment, within 15 days of the date of such default approval notice, will be deemed consent to such amendment. If the Board does not receive such consent or ballot within that 15-day period, the Owner shall be deemed to have consented to and approved the amendment.

C. Eligible Mortgage Holder Approval. In addition to the above, and subject to Paragraph 19(H) hereof, material amendments to this Declaration must be approved by Eligible Mortgage Holders who represent at least 51% of the votes of Units that are subject to Mortgages held by Eligible Mortgage Holders.

D. Amendment by Board. Notwithstanding the foregoing, 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.

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

22. GENERAL PROVISIONS

A. Security. The Association may, but shall not be required to, provide measures or take actions which directly or indirectly improve security at the Condominium. However, each Owner, for himself or herself and his or her tenants, guests, licensees and invitees, acknowledges and agrees that the Association is not a provider of security and that the Association shall not have a duty to provide security at the Condominium. Furthermore, the Association does not guarantee that non-Owners and non-Occupants will not gain access to the Condominium and commit criminal acts, nor that criminal acts at the Condominium will not be committed by other Unit Owners or Occupants. It shall be the responsibility of each Owner to protect his or her person and property, and all responsibility to provide such security shall lie solely with each Unit Owner. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of measures undertaken.

B. Use of Parking Spaces. The Association shall not be held liable for any loss or damage arising from theft, vandalism, malicious mischief, storm, falling trees or branches, blown debris, or any loss or damage to any property placed or kept in any parking space, parking area or service area at the Condominium. Each Owner or Occupant who places or keeps a vehicle in a parking space, parking area or service area at the Condominium does so at his or her own risk.

C. Dispute Resolution. Prior to filing a lawsuit against the Association, the Board of Directors, or any Officer, director, or property manager of the Association, an Owner or Occupant must request and attend a hearing with the Board. Any such request shall be in writing and shall be personally delivered to any Board member or the property manager, if any, of the Association. The Owner or Occupant shall, in such request and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the grievance before filing suit. Upon receiving a request for a hearing, unless the Board waives such hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date not less than seven or more than 30 days from the date of receipt of the request, except with approval of the person requesting the hearing. Any lawsuit or other civil or administrative action filed by an Owner or Occupant without compliance with this provision shall be deemed insufficient and non-maintainable and shall be dismissed.

D. Party Walls.

- (i) **General Rules of Law to Apply.** Each wall built as a part of the original construction of the Units which serves and separates any two adjoining Units shall constitute a party wall. To the extent not inconsistent with the provisions of this Paragraph, the general rules of law regarding party walls and liability for property damage due to negligent or willful acts or omissions shall apply thereto.
- (ii) **Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in equal proportions.
- (iii) **Damage and Destruction.** If a party wall is destroyed or damaged by fire, water damage, or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of Association insurance, any Owner who has benefited by the wall may restore it, and the other Owner(s) thereafter who are benefited by the wall shall contribute to the cost of restoration thereof in equal proportions, without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.
- (iv) **Right to Contribution Runs With Land.** The right of any Owner to contribution from any other Owner under this Paragraph shall be appurtenant to the land and shall pass to such Owner's successors-in-title.
- (v) **Arbitration.** In the event of any dispute arising concerning a party wall, or under the provisions of this Paragraph, each party shall appoint one arbitrator. Should any party refuse to appoint an arbitrator within 10 days after written request therefor by the Board, the Board shall appoint an arbitrator for the refusing party. The arbitrators thus appointed shall appoint one additional arbitrator, and the decision by a majority of all three arbitrators shall be binding upon the parties. Compliance with this subparagraph shall be a condition precedent to any right of legal action

that either party may have against the other in a dispute arising hereunder. The Association may assess all costs of its involvement in a party wall dispute against the affected Unit Owners.

E. No Discrimination. No action shall be taken by the Association or the Board of Directors that would unlawfully discriminate against any person on the basis of race, creed, color, national origin, religion, gender, sexual orientation, familial status or disability.

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

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

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

I. 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.

J. Preparer. This Declaration was prepared by Jay S. Lazega, Esq., Lazega & Johanson LLC, 3520 Piedmont Road NE, Suite 415, Atlanta, Georgia 30305.

IN WITNESS WHEREOF, the undersigned Officers of Countryside at Cumberland Condominium Association, Inc., hereby certify that this Amended and Restated Declaration and the following restated Bylaws were duly adopted by the required majority of the Association and its membership, with any required notices duly given.

This 25 day of August, 2010

COUNTRYSIDE AT CUMBERLAND CONDOMINIUM ASSOCIATION, INC.

Sworn to and subscribed before me this 25 day of August, 2010.

By: Deborah Vick, President (Seal)
President

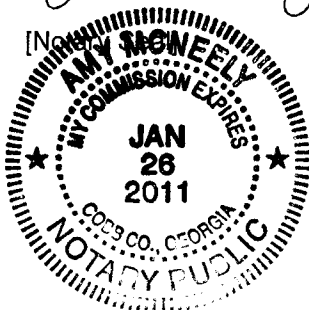
[Signature]
Witness

Attest: Thomas S. [Signature] (Seal)
Vice President

Amy McNeely
Notary Public

Attest: Kathleen Ford, Secretary (Seal)
Secretary

Attest: Jarika Hassler (Seal)
Treasurer



Attest: [Signature] (Seal)
Member at Large