

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

VALENCIA HILLS CONDOMINIUM

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
VALENCIA HILLS CONDOMINIUM

1. Name. The name of the Condominium is Valencia Hills Condominium.

2. Submitted Property. The property submitted by this Declaration to the Georgia Condominium Act is that property described in Exhibit "A" of the Original Declaration, as set forth in Exhibit A of this Declaration, containing 105 units and located in Cobb County, Georgia. The units are depicted on and have been constructed substantially in accordance with the master plot plan and plans and specifications entitled "Crow, Pope & Land Condominium Clusters," prepared by B. A. Berkus Associates and filed in the Cobb County, Georgia Records, together with supplemental plats, architectural floor plans and other specifications, as provided in Article III of the Original Declaration, all of which are incorporated by this reference herein. The required plat of survey is recorded in Condominium Plat Book 2, Page 12, and is incorporated by this reference herein.

3. Units and Boundaries. Each unit, together with its undivided interest in the common elements, shall for all purposes constitute real property which may be owned in fee simple and which may be conveyed, transferred and encumbered in the same manner as any other real property, subject to the provisions of this Declaration. Each owner shall be entitled to the exclusive ownership and possession of his unit, subject to the provisions of the Act and this Declaration. Each unit shall include all of the space within its boundaries, which boundaries have been determined, as provided in the Original Declaration, as follows: There are no horizontal boundaries. The vertical boundaries, however, are the finished but undecorated surfaces of all exterior walls, doors and windows and the center line of all party walls, as shown on the supplemental plats provided for in Section 1 of Article III of the Original Declaration and the architectural floor plans which have been filed for record, simultaneously with the filing of the Original Declaration, in the Office of the Clerk of the Superior Court of Cobb County, Georgia; provided, however, that all attachments to the exterior walls of a unit which are a part thereof, which protrude beyond said boundaries and which were constructed in conformity with the architectural plans and specifications and all heating and/or air conditioning units or components serving individual units but located beyond the boundaries thereof, shall be deemed to be included within said boundaries. The ownership of each unit includes, and there shall pass with each unit as appurtenances thereto, regardless of whether separately described, all of the

right, title, and interest of a unit owner in the property, which shall include but not be limited to an undivided interest in the common elements and membership in the Association.

4. Common Elements. Ownership of the common elements, constituted by all of the property not within the boundaries of a unit, shall be by the owners as tenants in common. Each owner is allocated an equal undivided interest in the common elements, the intention of this provision being merely to construe the percentages of undivided interest set forth in Exhibit "B" of the Original Declaration to be equal for all units, without intending any alteration of those percentages. The interest of each owner in the common elements is appurtenant to the unit owned by him. No such appurtenance may be separated from the unit to which it appertains and such appurtenance shall be deemed to be conveyed or encumbered or otherwise to pass with the unit whether or not expressly mentioned or described in a conveyance or other instrument describing the unit. The common elements shall remain undivided and no person may bring any action for partition or division of the whole or any part thereof except as provided in the Act and the By-Laws. Each owner and the Association may use the common elements for the purposes for which they were intended, but no such use shall enter or encroach upon the lawful rights of the other owners.

5. Limited Common Elements. As provided in the Original Declaration, ownership of each unit entitles the owner or owners thereof to the exclusive use of any patio or deck immediately adjacent thereto and originally constructed in conformity with the architectural plans and specifications referred to in Paragraph 2 of this Declaration.

6. Allocation of Votes. Pursuant to Section 16 of the Act and in accordance with the allocations in the Original Declaration, each unit is allocated one equal vote. Votes may be cast as provided in the By-Laws.

7. Allocation of Liability for Common Expenses. Pursuant to Section 17 of the Act and in accordance with the allocations in the Original Declaration, as provided in Paragraph 4 for allocation of undivided interests in the common elements, each unit is allocated an equal liability for common expenses, except as otherwise provided in this Declaration or in the By-Laws.

8. Powers of the Association and the Board of Directors. The Association and the Board of Directors may exercise all powers conferred by the Georgia Condominium Act and the Georgia Nonprofit Corporation Code, without limitation or restriction except as provided herein or in the By-Laws.

These powers, which shall be exercised as provided in the By-Laws, include but are not limited to the following:

(a) to make and enforce rules and regulations, as more fully provided in the By-Laws;

(b) to enforce compliance with such rules and regulations and other provisions of the condominium instruments, as provided in Section 13 of the Act, by imposing and assessing monetary fines and temporarily suspending rights to vote or use common elements; and

(c) to impose and assess all late charges, interest, rents and attorneys' fees and other costs of collection, all constituting a lien in favor of the Association, to the maximum extent authorized under Section 41 of the Act.

9. Preparer. This Declaration was prepared by Richard P. Voss, Hyatt & Rhoads, 2200 Peachtree Center Harris Tower, 233 Peachtree Street, N.E., Atlanta, Georgia 30303.

10. Use Restrictions. Units shall be used only for residential purposes, and units shall be occupied and used by the owners only as private residences for the owner, the owner's family, tenants and guests; units shall be used for no other purpose and no business may be maintained or conducted in any unit except that units may be leased as provided in this Paragraph. Owners shall comply strictly with the provisions of this Declaration, the By-Laws and rules and regulations adopted pursuant thereto, and any tenant, lessee or other occupant of a unit shall be subject to those provisions as if that occupant were an owner. Pursuant to Section 17(b)(2) of the Act, whenever common expenses are occasioned by the conduct of any owner, tenant, lessee, other occupant, licensee, invitee or guest, those expenses shall constitute a special assessment against the unit or units of which that person is an occupant, licensee, invitee or guest at the time those expenses are occasioned. Units may not be rented or leased unless rights of occupancy are governed by a written lease, for a term not less than twelve months, in a form (which may confer various rights, consistent with this Declaration and the By-Laws, upon the Association as third-party beneficiary under the lease) approved by the Association and otherwise in conformance with rules and regulations governing leases, if any, adopted by the Board of Directors.

11. Amendment. This Declaration may be amended at an annual or special meeting of the members of the Association by the affirmative vote of members holding at least two-thirds (2/3) of the votes in the Association. Members not present or represented by proxy at the meeting may cast their votes in

writing after the meeting. Notice of any meeting at which an amendment will be considered shall state that fact and the subject matter of the proposed amendment. No amendment shall become effective until it is recorded in the Records of Cobb County, Georgia.

12. Easement for Recreational Facilities. The Association acknowledges that certain persons may have been granted an option to obtain easement rights to recreational facilities in the Condominium under the provisions of Article XII, Section 5 of the Original Declaration. However, the rights, if any, granted by these provisions having been abandoned and forfeited through nonuser, the Association, for itself and for the benefit of its members, declares that the Association and its members are and have been in open, notorious, public, exclusive and peaceable possession of all rights to those recreational facilities, continuously and without interruption since recording of the Original Declaration, actually, constructively and hereby of record, and adversely to any rights which may have been granted under Article XII, Section 5 of the Original Declaration, pursuant to the provisions of Ga. Code Ann. Sections 85-402, 85-407 and 85-1403. Accordingly, the provisions of Article XII, Section 5 of the Original Declaration are expressly excluded from this amended Declaration.

13. Notice of Proposed Sale or Lease. Any owner intending to sell or lease his unit shall give notice in writing to the Association (or its agent authorized to receive such notice) of that intention, stating the name and address of the intended purchaser or lessee, the terms of the proposed transaction and such other information as the Association may reasonably require. The Board of Directors shall have authority to make and to enforce reasonable rules and regulations in order to enforce this provision, including the right to impose and assess fines constituting a lien upon the unit sold or leased pursuant to Sections 13 and 41 of the Georgia Condominium Act.

14. Definitions. Unless the context requires otherwise, terms used in this Declaration have the meanings given in Article II of the By-Laws of Valencia Hills Condominium Association, Inc. (sometimes referred to in this Declaration as the "By-Laws") or in Section 3 of the Act.

79 JUL -6 A9:26

COBB SUPERIOR COURT DISTRICT
C. J. [Signature]

12/2/79

STATE OF GEORGIA
COBB COUNTY

AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
VALENCIA HILLS I

WHEREAS, Southeastern Condominiums, Inc., a Georgia corporation, formerly known as CPL Condominium Enterprises, Inc., filed a Declaration of Covenants, Conditions and Restrictions for Valencia Hills I (said Declaration, as lawfully amended prior to this Amendment, is hereinafter referred to as the "Original Declaration"), dated March 14, 1974 and recorded in Deed Book 1509, Page 215 et seq., Cobb County, Georgia Records; and

WHEREAS, the Original Declaration includes two amendments dated January 26, 1978 and August 14, 1978, recorded in Deed Book 1858, Page 176 et seq., and Deed Book 1919, Page 648 et seq., respectively, Cobb County, Georgia Records; and

WHEREAS, Valencia Hills Condominium Association, Inc. (hereinafter the "Association") was incorporated under the Georgia Nonprofit Corporation Code on June 20, 1979 in order to be and constitute the Association to which reference is made in the Original Declaration; and

WHEREAS, the By-Laws of Valencia Hills I Owners Association (hereinafter the "Original By-Laws"), attached to the Original Declaration and designated therein as Exhibit "D", may be amended at a regular or special meeting of the members of the Association by a vote of a majority of the total vote of the Association, such amendment to be set forth in a duly adopted and recorded amendment to the Original Declaration; and

WHEREAS, The Association desires to amend the Original Declaration (including the Original By-Laws) for purposes which include submission of Valencia Hills to the Georgia Condominium Act; and

WHEREAS, the Original Declaration may be amended by resolution approved by a majority of the directors and by not less than 75% of the total vote of the Association; and

WHEREAS, this Amendment has been approved as provided in the Original Declaration (including the Original By-Laws); and

(i)

WHEREAS, this Amendment reduces the duration of directors' terms from three years to two years; and

WHEREAS, it is the intention of this Amendment to conform the Original Declaration to the Georgia Condominium Act, merely continuing the condominium previously created under the Apartment Ownership Act, Georgia Code Ann. Chapter 85-16B, pursuant to the Original Declaration, under amended condominium instruments, without creating a different condominium or allocating any undivided interests in the common elements, such allocations having been made by the Original Declaration;

NOW, THEREFORE, the Original Declaration (including the Original By-Laws) is hereby amended as follows:

1.

The property submitted by the Original Declaration to the condominium form of ownership is hereby submitted to the provisions of the Georgia Condominium Act; Ga. Laws, 1975, No. 463; Ga. Code Ann. Chapter 85-16E. The plats and plans submitted as provided in Article III of the Original Declaration are in substantial compliance with Section 20 and other provisions of the Georgia Condominium Act; accordingly, no plats or plans are filed with this Amendment.

2.

This Amendment does not affect materially any rights of any presently existing mortgage holders. In the event that a court of competent jurisdiction holds that any provision of this Amendment does so affect the rights of any presently existing mortgage holder, that provision shall be ineffective and the Original Declaration shall control, but solely with respect to that provision and that mortgage holder. Any such mortgage holder may waive this right to have the Original Declaration control, in which case this Amendment shall control and any written waiver pursuant to this provision shall be deemed written consent to this Amendment pursuant to Article XIII, Section 2(b) of the Original Declaration.

3.

Article V, Section 2 of the Original By-Laws is hereby amended, effective January 1, 1978 (retroactively ratifying any election held in accordance with this provision), to read as follows:

Section 2. Election. At the annual meeting held in 1978 the members shall elect three directors for a term of three years. At the annual meeting held in 1979 the members shall elect as many directors as

(ii)

there are vacancies, from resignations as well as expiration of terms, as follows: The term of the person receiving the largest number of votes from among those elected shall be two years, and the term of the remaining persons elected shall be on year.

Upon the effective date of this Amendment as provided in Paragraph 4, the Board of Directors of the Association shall consist of the following seven persons, with terms expiring immediately after the annual meetings held in the following respective years, each having been elected as provided in the Original By-Laws (as amended by this Paragraph) for terms expiring approximately as provided in this Amendment:

Albert E. Chambers	1981
David J. Charles	1980
Joseph F. Nardi	1981
Linda R. Whitaker	1980
Michael Stipick	1981
George Milner	1980
Marilyn Cross	1980

4.

Except as provided for elections and terms of directors in Paragraph 3, this Amendment shall be effective on July 1, 1979.

5.

Subject to the foregoing, the Original Declaration (including the Original By-Laws) is hereby amended by striking said Original Declaration (as heretofore amended) in its entirety, except as portions of the Original Declaration may be incorporated by reference herein, simultaneously substituting therefor the following Declaration of Covenants, Conditions and Restrictions for Valencia Hills Condominium and the subsequently following By-Laws of Valencia Hills Condominium Association, Inc. (which By-Laws accompany said Declaration as an exhibit for simultaneous recording therewith and as an integral part of the condominium instruments).

(iii)

IN WITNESS WHEREOF, the undersigned signifies that this Amendment, including the following Declaration of Covenants, Conditions and Restrictions for Valencia Hills Condominium and the subsequently following By-Laws of Valencia Hills Condominium Association, Inc., was duly adopted this 25th day of June, 1979.

VALENCIA HILLS CONDOMINIUM ASSOCIATION, INC.

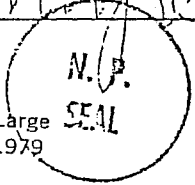
By: Albert E. Chambers
Albert E. Chambers, President

Attest: Linda R. Whitaker
Linda R. Whitaker, Secretary

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Robin S. Pitman
WITNESS

Chambers
NOTARY PUBLIC



Notary Public, Georgia, State At Large
My Commission Expires July 9, 1979

20

STATE OF GEORGIA
COUNTY OF COBB

AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
VALENCIA HILLS I

COBB SUPERIOR COURT CLERK
J. C. Johnson

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FILED AND RECORDED

WHEREAS, Southeastern Condominiums, Inc., a Georgia corporation, formerly known as CPL Condominium Enterprises, Inc., filed a Declaration of Covenants, Conditions and Restrictions for Valencia Hills I (said Declaration, as lawfully amended prior to this Amendment, is hereinafter referred to as the "Declaration"), dated March 14, 1974 and recorded in Deed Book 1509, Page 215 et seq., Cobb County, Georgia Records; and

WHEREAS, the Declaration includes eight amendments recorded as follows:

In Deed Book 1511, Page 670, Deed Book 1513, Page 20, Deed Book 1513, Page 203, Deed Book 1530, Page 576, Deed Book 1536, Page 172, Deed Book 1858, page 176, Deed Book 1919, Page 648 and Deed Book 2038, Page 98, all of Cobb County Georgia Records; and

WHEREAS, the amendment last referenced above substituted in its entirety a restated Declaration of Covenants, Conditions and Restrictions of Valencia Hills I, Article 11 of which allows for amendment thereto upon the affirmative votes of members of Valencia Hills Condominium Association, Inc. (the "Association") holding at least two-thirds (2/3) of the votes in the Association; and

WHEREAS, said Amendment also included the initial By-Laws (the "By-lwas") of the Association, which likewise may be amended upon the affirmative vote of members of the Association holding at least two-thirds (2/3) of the votes in the Association; and

WHEREAS, the Association desires to amend the Declaration, for the purpose of amending the provisions of the By-Laws thereof regarding notice; and

WHEREAS, this Amendment has been approved as provided in the Declaration:

NOW THEREFORE, pursuant to and in accordance with Article 11 of the Declaration and Article IX, Section 9 of the By-Laws, as evidenced by the Secretary's Certificate attached hereto as Exhibit "A" and incorporated by reference herein, the Declaration and the By-Laws have been, and hereby are, amended as follows:

1.

By amending Article IX, Section (1) of the By-Laws to read as follows:

Section 1. Notices

Unless otherwise provided in these By-Laws all notices, bills, statements or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by first class mail, postage prepaid; provided, however, that any demand, notice of infraction and notice of infraction hearing shall be deemed to have been duly given if delivered personally or if sent by registered or certified mail, return receipt requested, postage paid.

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

(b) If to the Association, the Board of Directors or the Managing Agent, at the principal office of the Association or the Managing Agent, if any, or at such other address as shall be designated by the notice in writing to the owners pursuant to this Section.

2.

Except as otherwise expressly provided herein, all provisions, terms and conditions of the Declaration and By-Laws shall remain unchanged and shall continue in full force and effect.

IN WITNESS WHEREOF, the undersigned signifies under seal that this Amendment to the Declaration and to the By-Laws of the Association, was duly adopted on and as of the 16th day of November, 1992.

(SIGNATURE BLOCK CONTAINED ON NEXT PAGE)

BK7074PG0010

Sworn to and subscribed before
me this 16 day of November,
1992.

VALENCIA HILLS CONDOMINIUM
ASSOCIATION, INC.

[Signature]
Witness

By: [Signature]
Elizabeth Nibeck, President

Attest: [Signature]
Brenda Arnold, Secretary

[Signature]
Notary Public, State of Georgia

Notary Public, Fulton County, Georgia.
My Commission Expires January 22, 1995

(Corporate Seal)

