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AMENDED AND RESTATED DECLARATION OF CONDOMINIUM  
FOR  
CLAIRMONT PLACE, A CONDOMINIUM

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AMENDED AND RESTATED  
DECLARATION  
OF  
CLAIRMONT PLACE, A CONDOMINIUM

THIS AMENDED AND RESTATED DECLARATION is made on this \_\_\_\_ day of December, in the year One Thousand Nine Hundred Ninety-Five.

**W I T N E S S E T H:**

WHEREAS, by the execution and recording of that certain Declaration of Clairmont Place, A Condominium, dated March 28, 1989, recorded in Deed Book 6398, Page 134 et seq., DeKalb County, Georgia Records (the "Original Declaration"), Decatur Retirement Group, a Georgia general partnership, did submit to the provisions of the Georgia Condominium Act that certain tract or parcel of land lying and being in Land Lot 60 of the 18th District of DeKalb County, Georgia, which is more particularly described on Exhibit "A" hereto; and

WHEREAS, a plat related to the Condominium was filed in Condominium Plat Book 7, Page 5, Dekalb County, Georgia Records; and

WHEREAS, floor plans to the Condominium were filed in Condominium Folder No. 204, Dekalb County, Georgia Records; and

WHEREAS, by virtue of that certain Deed Under Power of Sale, dated June 2, 1991, recorded in Deed Book 6968, Page 426, DeKalb County, Georgia Records, as re-filed in Deed Book 7012, Page 44, aforesaid records, The Mutual Life Insurance Company of New York ("MONY") acquired all of the condominium units within Clairmont Place, A Condominium, then owned by the said Decatur Retirement Group, and thus, as the successor-in-title of Decatur Retirement Group, succeeded to the interests of the Declarant as that term is defined in the Original Declaration; and

WHEREAS, MONY, as Declarant, and Clairmont Place Condominium Association, Inc. (the "Association") have filed in the Dekalb County, Georgia Records that certain Amendment to Declaration of Condominium for Clairmont Place, a Condominium, dated December 20, 1995 (the "Amendment") whereby that certain tract or parcel of land lying and being in Land Lot 60 of the 18th District of Dekalb County, Georgia, which is more particularly described on Exhibit "B" hereto, was submitted to the provisions of the Georgia Condominium Act; and

WHEREAS, pursuant to the Amendment, MONY relinquished its rights as Declarant under the Original Declaration; and

WHEREAS, Article XIV, Section 14.01 of the Original Declaration provides for amendment of the Original Declaration by the assent of owners of Units to which at least two-thirds (2/3rds) of

the votes in Clairmont Place Condominium Association, Inc. (the "Association") pertain and the assent of the Declarant; and

WHEREAS, the Declarant and members of the Association to which at least two-thirds (2/3rds) of the total votes in the Association pertain desire to amend and restate the Original Declaration and have approved this amendment and restatement of the Declaration; and

WHEREAS, in accordance with Article XIV, Section 14.07 of the Bylaws of the Association (the "Original Bylaws"), the Original Bylaws may be amended by the affirmative vote of three-fourths (3/4ths) of the members of the Association at any meeting of the members duly called for such purpose, such amendment having been proposed by the Association's Board of Directors; and

WHEREAS, at least three-fourths (3/4ths) of the members of the Association have approved this amendment to the Bylaws at a meeting of the Association called for such purpose; and

WHEREAS, this amendment does not alter, modify, change or rescind any right, title, interest or privilege held by any mortgage holder of any Unit; provided, however, in the event a court of competent jurisdiction determines that this amendment does alter, modify, change or rescind any right, title, interest or privilege held by any such mortgage holder without such mortgage holder's consent in writing to this amendment, then this amendment shall not be binding on the mortgage holder so involved, unless such mortgage holder consents to this amendment; and if such consent is not forthcoming, then the provisions of the Original Declaration prior to this amendment shall control with respect to the affected mortgage holder;

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

DECLARATION OF CONDOMINIUM  
FOR  
CLAIRMONT PLACE, A CONDOMINIUM

ARTICLE 1

DEFINITIONS

Unless the context requires otherwise, the terms defined in the Act and not defined differently in this Declaration shall have the same meanings for purposes of this Declaration as are ascribed to them in the Act. In addition, as used in this Declaration, the Articles of Incorporation, the Bylaws and the other condominium instruments, the following terms shall have the meanings ascribed to them hereinbelow, all of such definitions being cumulative of those set forth elsewhere in this Declaration.

"Act" shall mean the Georgia Condominium Act, Official Code of Georgia Annotated Sections 44-3-70 through 44-3-115, as amended.

"Articles of Incorporation" shall mean the Articles of Incorporation of the Association, as the same now exist or may be hereafter amended.

"Association" shall mean Clairmont Place Condominium Association, Inc., a Georgia nonprofit membership corporation formed for the purpose of exercising the powers of the Association under this Declaration, the Articles of Incorporation, the Bylaws, the Act and the Georgia Nonprofit Corporation Code.

"Board of Directors" shall mean the Board of Directors of the Association, the members of which shall be appointed and elected from time to time as provided in this Declaration, the Articles of Incorporation, the Bylaws and the Act. The Board of Directors shall be the governing body of the Association.

"Bylaws" shall mean the Bylaws of the Association, as the same now exist or may be hereafter amended.

"Caregiver" shall mean a paid professional or a person related by blood or marriage to a person who is occupying such Unit in compliance with the terms and provisions of this Declaration, who is occupying a Unit for the purpose of providing nursing or other caregiving services to a person who is occupying such Unit in compliance with the terms and provisions of this Declaration.

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

"Declaration" shall mean this Amended and Restated Declaration of Condominium for Clairmont Place, a Condominium.

"Eligible Mortgage Holder" shall mean the holder of a first mortgage secured by a Unit who has requested notice of certain items as set forth herein.

"Ineligible Occupant" shall mean: (a) a person, other than a Caregiver, who is under fifty-five (55) years of age (a Caregiver need not be fifty-five years of age in order to occupy a Unit), or (b) a person whose physical or mental health is such that, after taking into account the assistance which is provided to such person on a continuous and uninterrupted basis by the other resident (if any) of the Unit within the Condominium which such person occupies or desires to occupy, and/or by a Caregiver or other professional nursing or other services, such person lacks sufficient understanding or capacity to make significant responsible decisions concerning his or her person or is incapable of communicating such decisions, and/or his or her occupancy of such Unit either: (i) constitutes a direct threat to the health and safety of such person and/or to the health and safety of the other residents of the Condominium, or (ii) results in substantial physical damage to the property of such person and/or the other residents of the Condominium or the common elements, (iii) creates a nuisance, or (iv) creates a source of discomfort or annoyance which does not rise to the level of a legal nuisance but which nevertheless interferes with the health, happiness or enjoyment of life of the other residents of the Condominium. A purpose of the restrictions set forth in subsection (a) of this definitions to ensure that the Condominium is eligible for the age restriction exemption for elderly housing set forth in the Fair Housing Amendments Act of 1988.

"Mandated Services" shall have the meaning ascribed to such term in paragraph 10.4(b)(v) of this Declaration.

"Master Use and Service Agreement" shall mean the agreement which the Association shall enter into with the Service Center Operator in accordance with the provisions of Section 7.2 of this Declaration, pursuant to which the Service Center Operator shall agree to provide to the residents of the Condominium the services specified in such agreement.

"Phase I Property" shall mean the property described on Exhibit "A" hereto, which property has been submitted to the provisions of the Act by the Original Declaration.

"Plans" shall mean the plans located in Condominium Folder 204, DeKalb County, Georgia Records. The buildings and structures situated upon the Property are located thereon as shown on the Condominium Plat prepared in accordance with Off. Code Ga. Ann. Section 44-3-83 and located at Condominium Plat Book 1, Page 42, DeKalb County, Georgia Records.

"Property" shall mean the entirety of the property submitted to the provisions of the Act by this Declaration including the Phase I Property and the Service Center.

"Resident" shall mean a Unit owner (or a tenant leasing from a Unit owner) who is occupying a Unit within the Property.

"Service Center" shall mean that certain tract or parcel of land lying and being in Land Lots 59 and 60 of the 18th District of Dekalb County, Georgia, and being more particularly described on Exhibit "B", hereto attached and incorporated herein by reference thereto, and all improvements located thereon, which property is being submitted to the provisions of the Declaration.

"Service Center Operator" shall mean the person or entity with whom the Association may, from time to time, contract to operate the Service Center.

"Unit" shall mean that portion of the Condominium intended for individual ownership and use as more particularly described herein and shall include the undivided interest in the common elements assigned to the Unit hereunder.

In this Declaration and the other condominium instruments the singular includes the plural and the masculine includes the feminine and the neuter, unless the context requires otherwise.

## ARTICLE 2

### NAME

The name of the Condominium is

"CLAIRMONT PLACE, A CONDOMINIUM."

## ARTICLE 3

### SUBMITTED PROPERTY

All of the Phase I Property submitted to the Act, and all of the Service Center submitted to the Act, is located in DeKalb County, Georgia. The Property consists of two hundred nine (209) units located in one seven story building, the Service Center, the limited common elements described in Article 5 hereto, and the common elements thereon.

## ARTICLE 4

### UNITS

Each Unit, together with its undivided interest in the common elements, shall for all purposes constitute a separate parcel of real property which may be owned, held, transferred, sold, conveyed, leased, used, occupied, mortgaged or otherwise encumbered in the same manner as any other separate parcel of real property, subject to the terms, provisions and restrictions of this Declaration and the Act. The undivided interest in the common elements appertaining to each Unit shall not be separated from such Unit and shall be deemed to be transferred, conveyed and encumbered with such Unit even if such interest is not stated or referred to in the document or instrument effecting such

transfer, conveyance or encumbrance. Each Unit owner shall be entitled to the exclusive ownership and possession of the Unit or Units owned by him, subject to the terms, provisions and restrictions of this Declaration and the Act. Each Unit shall include all of the space and improvements within the boundaries thereof.

#### 4.1 BOUNDARIES.

(a) The vertical (lateral) boundaries of each Unit are the planes formed by the outer, exterior surfaces (facing away from such Unit) of the studs comprising a part of the exterior walls and the party walls enclosing such Unit. Such vertical boundaries shall be deemed to include all doors, windows and screens serving such Unit, and all lath, wallboard, molding, tiles, wallpaper, paint, and any other materials constituting any part of the interior, finished surfaces of the walls enclosing such Unit, irrespective of whether any of the same are in fact located within the vertical boundaries herein described.

(b) (i) The upper horizontal boundaries of each Unit are the planes formed by the upper, exterior surfaces (facing away from such Unit) of the wallboard comprising a part of the ceilings of such Unit.

(ii) The lower horizontal boundaries of each Unit are the planes formed by the upper, interior surfaces (facing toward such Unit) of the concrete slabs comprising the floors of such Unit.

(iii) The horizontal boundaries of the Units, as herein described, shall be deemed to include all wallboard, paint, tiles, finished flooring, and any other materials constituting any part of the finished surfaces of the floors and ceilings enclosing such Unit, irrespective of whether any of the same are in fact located within the horizontal boundaries herein described.

(c) All of the vertical and horizontal boundaries herein described shall be extended to the intersections with each other.

(d) All of the boundaries herein described are shown and depicted on the Plans.

(e) Notwithstanding the description of the boundaries of the Units set forth in this Section 4.1, or the depiction of said boundaries on the Plans, there shall be deemed to be included within the boundaries of each Unit all portions of the heating and air-conditioning systems (including furnaces, compressors, conduits, pipes, wires, ducts, and the like) serving only that Unit; and such portions of the heating and air-conditioning system shall be deemed to be contained within the boundaries of the Unit, and shall form a part of the Unit exclusively served by the same, regardless of whether the same are located within or without the boundaries of such Unit described in this Section 4.1 and depicted on the Plans.

4.2 RELOCATION OF BOUNDARIES BETWEEN UNITS. The boundaries between adjoining Units may be relocated from time to time, provided that any such relocation is made in accordance with the procedures and provisions of Code Section 44-3-91 of the Act.

## ARTICLE 5

### LIMITED COMMON ELEMENTS

5.1 EXISTING LIMITED COMMON ELEMENTS. The limited common elements are those portions of the common elements which are reserved for the exclusive use of those persons who are entitled to the use of the Unit or Units to which such limited common elements are assigned. The limited common elements which are presently located on the Property are as follows:

(a) Terraces. The terrace which is appurtenant to each Unit having a terrace shall be a limited common element assigned to the Unit having direct and exclusive access thereto. All of the terraces located on the Property are shown and depicted on the Plans. As shown and depicted on the Plans, the following Units are assigned as limited common elements the terraces which are appurtenant thereto:

Unit numbers 103; 104; 105; 106; 108; 109; 113; 114; 123; 124; and 126  
Unit numbers 203; 204; 205; 206; 208; 209; 213; 214; 223; 224; and 226  
Unit numbers 303; 304; 305; 306; 308; 309; 313; 314; 323; 324; and 326  
Unit numbers 403; 404; 405; 406; 408; 409; 413; 414; 423; 424; and 426  
Unit numbers 503; 504; 505; 506; 508; 509; 513; 514; 523; 524; and 526  
Unit numbers 603; 604; 605; 606; 608; 609; 613; 614; 623; 624; and 626  
Unit numbers 703; 704; 705; 706; 708; 709; 713; 714; 723; 724; and 726.

(b) Air Conditioning Compressors Located Upon Common Elements. Notwithstanding that the air conditioning compressors and related air conditioning equipment exclusively serving any Unit are defined in Section 4.1 hereof as being part of said condominium Unit, even though physically located outside of the boundaries of such Unit, the portion of the common elements upon which each such air conditioning compressor (and its related equipment) are located shall be deemed to be a limited common element appurtenant to the Unit served exclusively by the air conditioning compressor (and related equipment) situated thereon.

(c) Breezeways, Stairways, Hallways, Stairwells, Walkways and Entryways. Any breezeway, stairway, hallway, stairwell, walkway or entryway providing direct and exclusive access to a particular Unit or Units (as well as any fixtures appurtenant to such breezeway, stairway, stairwell, walkway or entryway) shall be deemed to be a limited common element appurtenant to such Unit or Units.

(d) Storage Areas. Those areas as shown and depicted on the Plans. Each Unit has been assigned a storage area, which storage area shall constitute a limited common element appurtenant to such Unit and shall be reserved for the exclusive use of the Unit to which it has been assigned. The storage area assigned to each Unit is as shown on Exhibit "C" attached hereto.

5.2 NO ADDITIONAL LIMITED COMMON ELEMENTS ON THE PROPERTY. Except for the storage areas identified in paragraph 5.1(d) hereof, no portion of the common elements located on the Property may be subsequently assigned as a limited common element.



5.3 REASSIGNMENT OF LIMITED COMMON ELEMENTS. The limited common elements within the Condominium may be reassigned at any time, and from time to time, provided that any and all such reassignments shall be made in accordance with the procedures and provisions of subsection (b) of Code Section 44-3-82 of the Act.

## ARTICLE 6

### ALLOCATION OF UNDIVIDED INTEREST IN THE COMMON ELEMENTS, VOTES IN THE ASSOCIATION, AND LIABILITY FOR COMMON EXPENSES

6.1 ALLOCATION OF UNDIVIDED INTEREST IN THE COMMON ELEMENTS. The undivided interest in the common elements which shall be allocated to each Unit is set forth on Exhibit "C" hereto. The portions of the Original Declaration which set forth such undivided interest are not deleted or restated by this instrument, so that the undivided interest in the common elements under this instrument are unchanged from the undivided interest in the common elements which are allocated to each Unit pursuant to the Original Declaration. The undivided interest set forth on Exhibit "C" hereto for each Unit listed thereon is the maximum undivided interest in the common elements which shall be allocated to any Unit, except in the event of the taking of any Units by eminent domain or the destruction of any Units which shall not be rebuilt.

6.2 ALLOCATION OF VOTES IN THE ASSOCIATION. The vote that shall be allocated to each Unit shall be allocated on the same basis as provided in Section 8.1 of the Original Declaration; specifically, each Unit shall have a vote equal to such Unit's undivided interest in the common elements, as set forth in Exhibit "C". The portions of the said Section 8.1 of the Original Declaration which provide for such allocation of votes in the Association, are not deleted therefrom or restated hereby, but remain in full force and effect.

### 6.3 ALLOCATION OF SHARE OF LIABILITY FOR COMMON EXPENSES.

(a) Except as provided otherwise below or elsewhere in the Act or this Declaration, each Unit shall be allocated a share of the liability for common expenses which is equal to the undivided interest in the common elements which shall be allocated to such Unit, as described in Section 6.1 hereof. The share of the liability for common expenses which is allocated to each Unit is set forth on Exhibit "C" hereto.

(b) The Board of Directors shall have the power to assess specially pursuant to this Paragraph and to Section 44-3-80(b) of the Act as, in its discretion, it shall deem appropriate. Failure of the Board 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 do so in the future.

(i) Except for expenses incurred for maintenance and repair of items which are the Association's maintenance responsibility under the Declaration (other than limited common elements, if maintained by the Association), any common expenses benefitting less than all

of the Units or significantly disproportionately benefitting all Units may be specially assessed equitably among all of the Units which are benefitted according to the benefit received.

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

For purposes of this subparagraph (b), 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.

(c) Notwithstanding anything contained herein to the contrary, any common expenses which are incurred through or occasioned by the use or enjoyment of any common elements which benefits or is intended to benefit less than all the Units, shall not be assessed against all the Units pursuant to this Article 6 but shall be specifically assessed equitably among those Units which are so benefitted or intended to be benefitted.

## ARTICLE 7

### SERVICE CENTER

7.1 PURPOSE. The Service Center is a portion of the common elements and provides common services to the Residents. A portion of the Service Center is also a personal care facility, which may be used by both Residents and third parties. It is anticipated that this personal care facility will generate revenue for the Condominium.

7.2 SERVICES TO BE PROVIDED. The Board of Directors will determine the services to be provided to the Residents through the Service Center and otherwise and may, on behalf of the Association, enter into an agreement with the Service Center Operator pursuant to which the Service Center Operator will perform and provide such services to the Condominium and to Residents as the Board of Directors shall determine and as shall be specified in such agreement (which agreement is herein referred to as the "Master Use and Service Agreement"). Nothing in this instrument shall require the Association to enter into such Master Use and Service Agreement. The Association shall assess the Residents for the services provided in accordance with the provisions of Article 6 above.

7.3 GRANTING OF LEASES AND EASEMENTS RELATING TO THE SERVICE CENTER. The Association shall have the exclusive right to lease all or any portion of the Service Center to any person or entity for such purposes as determined by the Board of Directors in its discretion and to grant exclusive possession thereof to such person or entity. Any easement right a Unit owner or Resident may have pursuant to this Declaration or the Act in the Service Center by virtue of the Service Center being a portion of the common elements of the Condominium may be abridged by the Association through the granting of leases and/or other rights of possession of all or a portion of the Service Center.

## ARTICLE 8

### **POWERS AND DUTIES OF THE ASSOCIATION AND BOARD OF DIRECTORS**

8.1 **POWERS.** The powers of the Association and of the Board of Directors shall be all of those powers conferred upon the Association and the Board of Directors by the Act, the Georgia Nonprofit Corporation Code, this Declaration, the Articles of Incorporation, the Bylaws and the other condominium instruments, together with such other powers as the Association and the Board of Directors may reasonably require in order to perform and discharge all of their duties and responsibilities, and to carry out the purposes of the Association. The purposes of the Association are to operate and administer the Condominium as primary housing for elderly and retirement age individuals and couples.

#### 8.2 **RULES AND REGULATIONS.**

(a) Without limiting the generality of the provisions of Section 8.1 hereof, the Board of Directors shall have the power and authority to adopt, make and amend reasonable rules and regulations in regard to the use and occupancy of the Units, the limited common elements, and the common elements. Such rules and regulations adopted by the Board of Directors may include, without limitation, the establishment of rules and regulations regarding the use of the common elements (including the parking of motor vehicles on the common elements and the storage of any other items upon any part of the common elements), which rules and regulations shall supplement the provisions of Section 9.5 of this Declaration.

(b) Additionally, it shall be the duty of the Board of Directors to exercise its power and authority stated in this Section 8.2 so as to establish rules and regulations concerning the use of the limited common elements and the common elements. In no event shall any person make any use of the limited common elements or the common elements, nor shall any person place or affix any object thereon or thereto, in violation of any rules or regulations which shall be established by the Board of Directors pursuant to this Section 8.2.

(c) All of the rules and regulations as shall be adopted, made or amended by the Board of Directors and furnished in writing to the Unit owners shall be binding upon the Unit owners, their families, tenants, guests and invitees, and the failure of any such persons to comply with or abide by any such rule or regulation shall be grounds for an action by the Association for damages, for injunctive relief, or for the imposition and assessment of fines, as provided in Article 16 hereof, and for all or any combination of the foregoing.

8.3 PROFESSIONAL MANAGEMENT OF CONDOMINIUM. The Board of Directors shall be authorized to employ a professional management firm to manage the operation and affairs of the Condominium and the Association. Any such management firm shall be employed pursuant to a written management agreement. During the term of such management agreement, such management firm shall be the agent of the Board of Directors and of the Association. To the extent permitted by law, the Board of Directors shall be authorized to delegate to such management firm such of the duties and powers of the Association, and of its Board of Directors and officers, as the Board of Directors shall determine, in which event such management firm shall be empowered and authorized to exercise such powers and duties, on behalf of, and in the name of, the Association.

8.4 ENFORCEMENT OF DIRECTORS' DUTIES. In the event that the Board of Directors shall fail to perform any duty or duties which under the terms and provisions of this Declaration, the Articles of Incorporation, the Bylaws or the Act are to be performed by it, any Unit owner or first mortgagee who is aggrieved by such failure shall have the right to proceed in equity to compel the Board of Directors to perform such duty or duties. In no event, however, shall any member or members of the Board of Directors have any liability to any Unit owner or first mortgagee for any failure by the Board of Directors to perform any such duty or duties, except to the extent specifically provided in the Act.

8.5 INDEMNIFICATION OF DIRECTORS AND OFFICERS. The Association shall indemnify, to the full extent authorized under the Georgia Nonprofit Corporation Code, any person (including heirs, executors, and administrators of any such person) who is made a party or is threatened to be made a party to any action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association), by reason of the fact that such person is or was a director or officer of the Association against expenses (including attorneys' fees), fees, judgments, fines and any amounts paid in settlement which were actually and reasonably incurred in connection with such action, suit or proceeding.

The Association will indemnify any director or officer only if such person acted in good faith and in a manner reasonably believed by such person to be in the best interest of the Association. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not of itself determinative that the director or officer did not meet the good faith standard of conduct.

As a condition to any right of indemnification, the Association may require that it participate in the defense of any such action, suit or proceeding through legal counsel that the Association may designate and at the Association's expense.

The Association shall indemnify directors and officers only in accordance with the laws of the State of Georgia and subject to the conditions prescribed therein.

## ARTICLE 9

### RESTRICTIONS

In order to provide for the maximum enjoyment of the Property by all of the residents thereof and to provide for the protection of the value of the Units, the use of the Property and all of the Units located thereon shall be restricted to, and shall be only in accordance with, the following provisions:

9.1 SINGLE-FAMILY USE. All Units shall be restricted exclusively to single-family residential use. The term, "single-family," shall include one or more related or unrelated persons who are not Ineligible Occupants. In no event shall more than two persons occupy any one bedroom Unit. No Unit which contains two or more bedrooms may be occupied by more than two persons except under the circumstance where such Unit is also occupied by a Caregiver, in which event such Unit may be occupied by two persons who are not Ineligible Occupants plus the Caregiver. If a Unit is at any time occupied by a Caregiver, then the owner of such Unit shall be responsible for the giving to the Association, prior to the date on which such Caregiver's occupancy of such Unit shall so commence, a written notice setting forth such Caregiver's name, the date on which such Caregiver's occupancy shall so commence, and such other information regarding such Caregiver as the Association shall reasonably request. No Unit or any limited common element, or any portion thereof, shall at any time be used for any commercial, business or professional purpose. Nothing set forth in this Section 9.1 shall:

(a) Prohibit the use of Units for residential rental purposes, subject to the provisions of Section 9.7 hereof;

(b) Prohibit a Resident from conducting, solely within his Unit, business activities that (i) cannot be detected by sight, smell or sound from the outside of such Unit, (ii) do not involve any dangerous activity or manufacturing or any activity that would increase the insurance premiums otherwise paid on the Property, and (iii) do not involve non-Residents coming onto the Property whose principal purpose is related to such business activity; or

(c) Prohibit the occupancy of a Unit by a person (whether or not over fifty-five years of age) as a guest of a Resident for no more than thirty (30) consecutive days and no more than sixty (60) days during any single calendar year.

9.2 PROHIBITED ACTIVITIES. Each Unit owner and each occupant of any Unit, his family, tenants, guests and invitees, shall refrain from any act or use of the Unit owned and/or occupied by him, or the limited common elements assigned to such Unit, or any portion of the common elements, which could reasonably cause embarrassment, discomfort, annoyance or nuisance to any other resident or residents of the Property or which constitutes any act which is prohibited by law.

Under no circumstances shall any Resident, or any guest, invitee, contractor, or subcontractor of any Resident come within the water line of any lake or other body of water located on the

Property for any purpose whatsoever except as may be authorized in writing by the Board of Directors.

9.3 NUISANCES. No nuisance shall be permitted to exist upon any portion of the Property. Without limiting the generality of any of the foregoing: (a) no exterior speakers, horns, whistles, bells, or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on the Property, or any portion thereof, and (b) no radios, televisions, stereos or any similar devices shall be utilized within any Unit such that the sound from the same shall be audible from outside the boundaries of such Unit to an extent that the same can reasonably disturb any other occupant of the Property.

9.4 PARKING.

(a) Except as the Board of Directors may otherwise determine through the adoption of differing rules and regulations, as hereinbelow provided, only (i) passenger automobiles; (ii) passenger vans (i.e., vans with access on the side, having seating for four or more persons and being of a type commonly recognized as passenger motor vehicles) and (iii) small, well maintained late model 1/2 ton (or smaller) pick-up trucks (as may be determined in the sole discretion of the Board of Directors), which are in operating condition and have their current and effective license tags and decals affixed thereto, shall be parked upon the common elements. Non-automobiles, vans or pick-up trucks, specifically including, but not limited to, boats, trailers, horse trailers, motor homes, campers and other recreational vehicles shall not be stored or parked upon the common elements. Nothing set forth in this paragraph (a) shall be deemed to prohibit the temporary parking of moving vans on the Property in connection with the moving of personal property to and from the Units.

(b) The person(s) who shall occupy any particular Unit shall have the right to park on the common elements one (1) vehicle of the type described in paragraph (a) hereof. The right of any such person to park an additional vehicle upon the common elements shall be subject to availability of a parking space for such vehicle and such an additional vehicle shall be parked on the common elements only with the written permission of the Board of Directors. The Board of Directors shall be authorized to impose such conditions on the issuance of its permission for the parking of an additional vehicle on the common elements as the Board of Directors shall determine.

(c) The Board of Directors shall have the authority to promulgate rules and regulations restricting certain of the parking spaces located on the Property as being reserved for the exclusive use of occupants of the Property. Any such rule or regulation may include the requirement that only automobiles demonstrating a sticker identifying the automobile as belonging to an occupant of the Property may be parked in one of the parking spaces so designated.

(d) Notwithstanding the foregoing provisions of this Section 9.4, the Board of Directors may, but shall be under no obligation to, adopt rules and regulations which may permit to be parked upon the common elements vehicles which are prohibited from being parked upon the common elements under the foregoing provisions of this Section 9.4, provided that any such rules or regulations shall impose restrictions and limitations upon the parking of such otherwise prohibited vehicles which the Board of Directors shall determine will prevent the parking of the same from being an eyesore or annoyance to the residents of the Property.

(e) The Board of Directors shall have the authority to have towed from the Property any vehicles which are not permitted pursuant to this Section 9.4 to be parked upon the common elements, at the expense of the owner thereof or the Resident who such owner is visiting.

#### 9.5 ANIMALS PROHIBITED.

(a) Except as otherwise provided hereinbelow, no animals shall be permitted upon the Property; provided, however, each Unit owner shall have the right to keep (i) one (1) dog whose weight does not exceed fifteen (15) pounds, (ii) two (2) household cats (or, in the case of any Unit owner who also keeps a dog as a pet at his Unit, one (1) household cat), (iii) a reasonable number of birds of a type generally recognized as household pets, and (iv) a reasonable number of fish and other aquatic animals of a type generally recognized as household pets and capable of being contained in aquariums permitted under the provisions of Section 9.11 hereof. A pet of a Resident's guest shall not be permitted upon the Property.

(b) All animals which shall be kept upon the Property shall be kept and maintained in its Owner's Unit, as household pets (and not for any commercial purpose), and may not be kept and maintained upon the Property if they shall create an unreasonable amount of noise, or create a nuisance to any residents of the Property. No structure for the housing or confinement of any such household pet shall be constructed or maintained upon any portion of the limited common elements or common elements. All pets shall be on a leash or otherwise carried by a person when upon the common elements. No pet shall be permitted to leave its droppings on any portion of the common elements, and the owner of such pet shall promptly remove the same.

(c) The Board of Directors shall have the authority to promulgate rules and regulations restricting the presence of pets to designated portions of those common elements which are outside the building located on the Property, in addition to the interiors of the Units where they are kept, and in addition to such portions of the common elements within said building as must be traversed in transporting such pets between such Units and such designated portions of the common elements outside such building (provided that such pets may be in such portions of the interior common elements of said building for only so long as may be absolutely necessary to directly transport, without stopping or hesitation, such pets between the Units and the said designated portions of the common elements outside the aforesaid building).

(d) The Board of Directors shall determine whether a particular animal and its keeping are in conformity to the foregoing requirements. Any such determination by the Board of Directors shall be conclusive. Any complaint regarding animals by Unit owners must be in writing. If it shall be so determined that such animal is not of the type permitted under the provisions of subsection (a) of this Section, or is being kept in a manner which does not conform to the foregoing requirements, or is creating an unreasonable amount of noise or constituting a nuisance to any residents of the Property, then the owner of the Unit in which such animal is being kept shall remove such animal from the Property promptly upon being ordered to do so by the Board of Directors. Likewise, if the Board of Directors shall determine that any Unit owner is keeping any dog or cat on the Property in excess of the number of such pets hereinabove permitted, or an unreasonably large number of birds, fish or other aquatic animals upon the Property (even if all such birds, fish or other aquatic animals are of a type generally recognized as household pets), the owner of the Unit in which

such animals are being kept shall promptly remove from the property the number of animals which the Board of Directors orders to be removed; provided, however, that so long as all such animals are of a type and demeanor otherwise permitted to be kept on the Property, the Unit owner to whom the Board of Directors' order is directed shall determine which of said animals are to be removed from the Property.

(e) The maximum period of time that a dog may be left within a Unit without a person who is responsible for such dog being present within said Unit shall be twenty-four (24) hours. The maximum period of time that a cat may be left within a Unit without a person who is responsible for such cat being present within said Unit shall be seventy-two (72) hours.

(f) In the event that any dog or cat shall be left within a Unit in excess of the maximum period of time permitted under subsection (e) hereof, or in the event that any animal shall be required to be removed from the Property pursuant to the provisions of subsection (d) hereof, then the Association shall have the power and authority to enter within the Unit where such dog, cat or other animal is present, remove the same from the Property, and deposit the same with a kennel, veterinarian or other similar facility on behalf of the owner of the Unit from which such dog, cat or other animal was so removed. In addition, in the event that the Association shall cause any dog, cat or other animal to be deposited with any kennel, veterinarian or other facility after its removal from the Property, the Association shall be authorized to cause such dog, cat or other animal to be destroyed, provided that the Association shall have posted on the front door of such Unit a notice of the Association's intent to exercise its authority to have such animal destroyed for at least forty-eight (48) hours prior to the destruction of such dog, cat or other animal. If the Association shall at any time exercise its power and authority under this subsection (f) to deposit a dog, cat or other animal with a kennel, veterinarian or other facility, the Association shall have the further power and authority to contract for the services of such kennel, veterinarian or other facility as the agent and attorney-in-fact of the owner of the Unit from which such dog, cat or other animal was so removed. In no event shall the Association, or any of its officers, directors, employees, agents or contractors have or incur any liability to the owner of any Unit and/or the owner of any animal on account of the exercise by the Association of any of its power and authority under this subsection (f).

In the event that Association shall at any time exercise its power and authority under this subsection (f) to remove any dog, cat or other animal from the Property, the owner of the Unit from which such dog, cat or other animal was so removed shall be liable to the Association for, and shall pay to the Association promptly upon demand, all costs and expenses which the Association shall incur in connection with the same, including, without limitation, any and all fees and expenses which the Association may be obligated to pay to any kennel, veterinarian or other facility where the Association may cause such dog, cat or other animal to be deposited after the same is so removed from the Property. All amounts for which any owner shall be liable to the Association pursuant to the provisions of this subsection (f) shall be assessed against all of the Units owned by such owner and shall, from the date on which the same shall become due and payable, constitute a lien in favor of the Association on the affected Unit(s) as more fully provided in subsection (a) of Code Section 44-3-109 of the Act.



(g) The Board of Directors shall have the authority to order the removal of any pet which, in the Board's sole judgment, becomes a threat to the health, safety and/or welfare of any Resident or any other individual legally on the Property.

9.6 SIGNS. No sign of any kind or character shall be mounted, erected or displayed upon any portion of the Property without the express written permission of the Board of Directors. The restriction herein stated shall include the prohibition of the placement of any sign on any limited common element or common element, the placement of any sign within a Unit in a location from which the same shall be visible from the outside, and the placement of any sign in or upon any motor vehicle while the same is upon the Property.

9.7 LEASING.

(a) All leases for any Unit shall be in writing and shall fulfill the requirements of Section 15.4 of this Declaration. Except as otherwise provided hereinbelow, (i) no Unit shall be leased for transient or hotel purposes or for a term of less than six (6) consecutive months; provided, however, upon written approval of the Board of Directors, an owner may lease a Unit for less than six (6) consecutive months if the owner has entered into a lease agreement with an obligation (not an option) to purchase such Unit, and (ii) no Unit owner shall lease less than an entire Unit. The owner of any Unit shall not lease said Unit to any individual who would, at that time, qualify as an Ineligible Occupant, had that individual been residing at the Condominium, it being a requirement that any individual leasing a Unit be mentally and physically capable of independent living. It shall be the duty of the owner of any Unit which may or shall be subjected to any lease to provide a copy of such lease to the Association promptly upon such lease being entered into.

(b) Nothing set forth in this Section 9.7 shall prohibit any Unit owner from sharing the occupancy of his Unit with another person, provided that such occupancy is in accordance with all other requirements set forth in this Declaration.

(c) No condominium Unit shall be subleased.

9.8 STORAGE. No portion of the limited common elements or the common elements open to general view (other than the storage bins identified in paragraph 5.1(d) of this Declaration) shall be used for storage or display of any kind. Without limiting the generality of the foregoing, nothing shall be stored, displayed, placed or deposited within any hallway or lobby area forming a part of the common elements, unless such storage, display, placement, or deposit is pursuant to the prior written permission of the Board of Directors, which permission may be subject to such terms and conditions as the Board of Directors may determine in its sole discretion; and such permission of the Board of Directors shall only be given on condition that under no circumstances shall the Association be liable relative to any such personal property, and on further condition that under no circumstances shall such storage, display, placement, or deposit, be allowed, if same should deter the evacuation of Residents in an emergency. Such conditions shall be effective even where not contained in the above described prior written permission of the Board of Directors. No Unit owner shall permit the storage of unusual or unnecessary amounts of flammable liquids, explosives, corrosives, poisons or lethal chemicals, or any substance in his Unit or upon the limited common elements appurtenant to his Unit. No Unit owner shall permit the storage, display, placement or

deposit in his Unit or upon the limited common elements appurtenant to his Unit, of any items, where such storage, display, placement or deposit, might cause an increase in the rate of insurance on the Property or might cause a fire hazard, or deter the evacuation of Residents in an emergency.

9.9 ANTENNAS; SATELLITE DISHES. No exterior antennas, aerials or satellite dishes shall be constructed, installed or affixed on any part of the Property (including on any limited common element) except with the permission of the Board of Directors.

9.10 CLOTHESLINES. Outside clotheslines or other facilities for drying or airing clothes are specifically prohibited and shall not be erected, placed or maintained on any portion of the Property, nor shall any clothing, rugs or any other item be hung on any railing or fence enclosing or otherwise appurtenant to any limited common element.

9.11 AQUARIUMS. No aquariums for the keeping of fish or other aquatic animal or plant life, or aquariums capable of being used for such purpose, shall be kept or used in any Unit, except aquariums having a water capacity not exceeding twenty (20) gallons. If more than one aquarium shall be kept or used in any Unit, the aggregate capacity of all such aquariums shall not exceed twenty (20) gallons.

9.12 USE OF COOKING DEVICES ON TERRACES. No heating or cooking device of any kind shall be used on any terrace which is a limited common element.

9.13 REPLACEMENT OF CARPETING. No carpeting shall be replaced with tile and/or hardwood flooring without the prior written consent of the Board of Directors.

9.14 AGE RESTRICTIONS.

(a) At least one occupant of each Unit must be fifty-five years of age or older; provided, however, that (i) this subparagraph shall not apply to Units occupied by persons who first occupied the Units prior to December 1, 1995 and (ii) if an occupant who is fifty-five years of age or older dies, the remaining occupants of the Unit may continue to occupy the Unit even though none of such persons are fifty-five years of age or older.

(b) No person under eighteen years of age may occupy a Unit for more than thirty (30) days in any twelve month period. For purposes of this subparagraph (b), a person shall be deemed to occupy a lot for any day during which he or she stays overnight in the Unit or is present in the Unit for more than six hours.

(c) The provisions of this Section 9.14 are for the purpose of establishing the policies and procedures necessary for the property to qualify as housing intended and operated for occupancy by at least one person fifty-five years of age or older per Unit under the Fair Housing Amendments Act of 1988, and the regulations promulgated thereunder. The Board of Directors is authorized to adopt such other policies and procedures which may be necessary from time to time in order for the property to meet all of the requirements for such exemption.

(d) In the event of any change in the number or identity of persons occupying a Unit as a result of a transfer, sale, gift, lease, sublease, assignment, death, birth, marriage, separation, divorce or otherwise, the owner of the Unit shall immediately notify the Board of Directors or its designee in writing and provide the Board of Directors or its designee with the names and ages of all occupants of the Unit and such other information as the Board of Directors or its designee may reasonably request.

(e) An owner may request in writing that the Board of Directors make an exception to the requirements of subparagraphs (a) or (b) of this Section 9.14 with respect to such owners' Unit and, provided that the granting of such an exception would not jeopardize compliance of the property with the requirements for housing intended and operated for occupancy by at least one person fifty-five years of age or older per Unit under the Fair Housing Amendments Act of 1988, and the regulations promulgated thereunder, the Board of Directors may grant such an exception. The Board of Directors, however, shall be under no obligation to make any exception under any circumstances and the granting of any requested exceptions shall be in the sole discretion of the Board of Directors. A request for an exception shall set forth the names and ages of all proposed occupants of the Unit, the reason the exception is being requested and the length of time for which the exception is requested. Any owner making such a request shall also provide the Board of Directors with such other information as the Board of Directors may request.

(f) In order for the property to qualify as housing for older persons under the Fair Housing Amendments Act of 1988, at least eighty percent of the Units must be occupied at all times by one person fifty-five years of age or older. In order for the Association to determine whether that requirement is being met at all times, each owner shall, within ten days after being requested to do so by the Board of Directors, furnish to the Association a statement signed by the owner certifying that at least one occupant of the owner's Unit is fifty-five years of age or older. In addition, if requested to do so by the Board of Directors, an owner shall promptly furnish to the Association such documentary evidence as may be requested by the Association to verify the accuracy of the statement set forth in any certification submitted to the Association by the owner.

(g) In accordance with the Fair Housing Amendments Act of 1988, the restrictions shall not apply to any person or persons (and their families residing in the same Unit), who performs substantial duties directly related to management or maintenance of the common areas and whose occupancy, if not meeting the age requirements, is approved by the board of directors.

## ARTICLE 10

### OCCUPANCY OF UNITS

10.1 NOTICES. Prior to commencing occupancy of a Unit, each potential occupant of a Unit shall designate a person or persons (but not exceeding three (3) in total) to receive notice of any proceeding commenced to determine if such occupant is an Ineligible Occupant as provided in this Article 10, and the occupant shall provide an address for each such person(s). It is anticipated that one of such persons shall be an attorney at law. If an occupant desires to designate a new

person(s) to receive such notices or change an address, such occupant shall provide such information in writing to the Association. If the occupant fails to designate a person(s) and related address(es) to receive notices, the Association shall have no obligation to give notice to any other person, except to the owner and occupant of the Unit. The said owner, the said occupant and the person(s) receiving notice shall have the right to attend any hearing held pursuant to Section 10.4 of this Article. Each occupant hereby consents to notices pursuant to this Article 10 being sent to all persons designated by such occupant and to the owner of the Unit. All occupants may be represented at all times with respect to actions under this Article 10, by legal counsel.

10.2 NO OCCUPANCY BY INELIGIBLE OCCUPANTS. No Unit shall be occupied by any Ineligible Occupant. It shall be the unconditional and absolute duty and responsibility of every Unit owner to take all actions as shall be necessary to ensure that no Ineligible Occupant shall occupy any Unit owned by such Unit owner.

10.3 DETERMINATION OF INELIGIBLE OCCUPANT.

(a) The Board of Directors shall have the power and authority, but not the obligation, to conduct such investigations as it shall determine of whether any particular occupant of the Condominium is an Ineligible Occupant. It shall be the duty and obligation of the Board of Directors to investigate whether a particular occupant of the Condominium is an Ineligible Occupant upon the written request of at least the owners of three (3) separate Units to do so; provided, however, the Board of Directors shall not be required to conduct any such investigation in regard to any particular occupant of the Condominium any more frequently than once every six months.

(b) The determination of whether any person is an Ineligible Occupant shall be made by the Board of Directors in accordance with the procedure described in Section 10.4 hereof. In making such determination, the Board of Directors shall be authorized to employ as its agent or consultant such health care professionals as the Board of Directors shall deem to be desirable. All fees which shall be payable to any such health care professional who shall be so employed by the Association shall be a common expense of the Association. All determinations made by the Board of Directors in accordance with the procedures described in Section 10.4 hereof regarding whether a particular person is an Ineligible Occupant shall be final, binding and conclusive.

(c) No determination by the Board of Directors that a particular person is not an Ineligible Occupant shall preclude the Board of Directors from subsequently determining that such person is an Ineligible Occupant, whether on account of changes in such person's physical or mental health, or in the circumstances of such person's occupancy of a Unit or otherwise.

10.4 PROCEDURE FOR DETERMINATION OF INELIGIBLE OCCUPANT.

(a) It shall be the duty of the Board of Directors to prescribe a procedure by which all determinations of whether a particular person is an Ineligible Occupant shall be made. Such procedure may be modified by the Board of Directors from time to time, provided that such procedure shall in all events and at all times include the elements which are specified in paragraph (b) hereof. Such procedure shall be set forth in writing and shall be made available to all persons

who are entitled to occupy a Unit and to any person who is considering the purchase of a Unit and to any person who is proposing to take a security interest in the Unit.

(b) The procedure which shall be prescribed by the Board of Directors pursuant to paragraph (a) hereof shall include the following elements:

(i) Notice shall be sent by certified mail to the owner of the Unit, and to those persons identified by the occupant pursuant to the terms of Section 10.1, above notifying such persons that a proceeding will be commenced to determine if the occupant is an Ineligible Occupant and requesting that said person act as an advocate for the owner. Copies of all notices related to this proceeding shall be sent by certified mail to the person who is the subject of the determination.

(ii) The Board of Directors shall contact the occupant who is the subject of the determination proceeding and notify him in writing by certified mail of the pendency of the determination proceeding and (except where the 55 year old age threshold is the only issue) of an evaluation by a licensed physician or psychologist who is not affiliated with the Service Center in the Condominium, which evaluation shall be not less than ten (10) days of the date of the notice. The physician or psychologist shall prepare a written report which shall:

(A) state the duration and circumstances of the evaluation, including a summary of questions or tests utilized;

(B) list all persons and other sources of information consulted in evaluating the proposed Ineligible Occupant;

(C) describe the proposed Ineligible Occupant's mental and physical state and condition, including all observed facts considered by the physician or psychologist; and

(D) describe the needs of the proposed Ineligible Occupant and their foreseeable duration.

(iii) The Board of Directors shall review the evaluation report and/or where the 55 year old age threshold is in issue, such other evidence as may be presented (it being the subject occupant's affirmative duty to prove to the Board that the 55 year old age threshold has been satisfied) and if it finds that there is support for a finding that the occupant is an Ineligible Occupant, the Board of Directors shall schedule a hearing to be held in executive session. If the occupant fails to submit: (A) to an evaluation (if required above); and/or, as applicable, (B) evidence as to the 55 year old age threshold, such failure shall constitute a sufficient basis for finding that the occupant is an Ineligible Occupant and the Board of Directors shall schedule a hearing as herein provided.

(iv) Notice of the hearing and the evaluation report shall be served on the occupant and those persons identified by the occupant pursuant to Section 10.1 above by certified mail. If the occupant of the Unit is not the owner of the Unit, the owner shall also be notified by certified mail as provided herein. The hearing shall be set at a reasonable time and date by the Board of Directors, and notice shall state the time, date (which shall be at least ten (10) days from the giving of notice, and place of the hearing and include an invitation to the occupant and to those other persons to whom notice has been provided of the hearing to attend the hearing. The person who is the subject of the determination regarding whether he is an Ineligible Occupant or his representative shall notify the Board of Directors at least three days before the date of the hearing as to whether the subject of the determination and/or his representatives or witnesses will attend the hearing. If the Board of Directors receives notice that the subject of the determination and/or his representatives will attend the hearing and the subject of the determination has failed or refused to appear for an evaluation as provided in subsection 10.4(b)(ii) above, the Board of Directors may, but shall not be obligated to, request that a licensed physician or psychologist attend the hearing to evaluate, to the extent possible, the person who is the subject of the determination.

The person who is the subject of the determination regarding whether he is an Ineligible Occupant, other persons receiving notice of the hearing, and any other representative of the person who is the subject of the hearing may appear before the Board of Directors to present such evidence as such persons choose with regard to (i) the age of the subject of the determination; and/or (ii) where applicable, (A) the physical or mental health of such person, (B) the professional services which such person shall propose to receive on a continuous and uninterrupted basis in order to avoid being determined to be an Ineligible Occupant (C) the physical and mental health of any other occupant of the Unit occupied or proposed to be occupied by such person, and (D) the conditions and circumstances of the occupancy or proposed occupancy of the Unit by such person. The person who is the subject of the determination may provide written evidence or may present witnesses, including health care providers, as applicable. The owner of the Unit may also attend the hearing and present evidence regarding the person who is the subject of the hearing.

Proof of notice of the hearing as required by this Article 10 shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer or director who delivered or who authorized delivery of such notice. The notice requirement shall be deemed satisfied if the occupant appears at the hearing. The minutes of the meeting shall contain a written statement of the results of the hearing.

(v) All determinations by the Board of Directors as to whether a particular person is an Ineligible Occupant shall be made in writing within ten (10) days of the date of the hearing or if no hearing is held because neither the person who is the subject of the determination proceeding nor his representative attends the hearing, within twenty (20) days of the date of the notice of hearing. The determination shall be sent to the person who is the subject of the determination proceeding, the owner of the Unit, and those persons who are entitled to receive notice as provided in Section 10.1 hereinabove. If the occupant who is the subject of the determination proceeding fails to submit to an evaluation as provided in subsection 10.4(b)(ii) hereinabove and/or has failed to provide evidence of satisfaction of the 55 year old age threshold, where applicable,

and/or fails to attend a hearing as provided in subsection 10.4(b)(iv) hereinabove, the Board of Directors shall be entitled to make a determination by default that the occupant is an Ineligible Occupant. If it is determined that the person is an Ineligible Occupant, the determination shall set forth: (A) the reasons why the Board of Directors shall have made such determination, (as to the 55 year old age threshold, occupant's failure to present reasonable evidence shall be sufficient reason) and (B) to the extent to which the Board of Directors has received evidence about such person sufficient to make such a finding, and where applicable, the professional nursing or other services which, if provided to such person on a continuous and uninterrupted basis within the affected Unit, would result in such person not being determined by the Board of Directors to be an Ineligible Occupant (such professional nursing or other services being hereinafter referred to as the "Mandated Services").

#### 10.5 EFFECT OF DETERMINATION.

(a) In the event that any person shall have been determined to be an Ineligible Occupant in accordance with the procedure set forth in Section 10.4 hereof, then such person shall vacate the Unit within three (3) weeks of receipt of notice of such determination unless as to a 55 year old (or older) occupant only, the Board of Directors has determined that receipt of Mandated Services would result in such person not being determined by the Board of Directors to be an Ineligible Occupant, and such person begins receiving Mandated Services within two (2) weeks of receipt of notice of such determination. If the occupant elects to procure Mandated Services, the Board of Directors may demand that assurances be furnished as the Board of Directors may reasonably require regarding the financial ability of such occupant to continue receiving the Mandated Services. Any Ineligible Occupant who is determined as such only because of being under 55 years old can apply for a redetermination upon reaching his 55th birthday.

(b) The Association shall have standing to institute in the name of the Association such legal proceedings as the Board of Directors shall deem to be necessary to require that each occupant comply with their duties and obligations under this Article 10.

(c) If the Board of Directors determines that an occupant poses an immediate threat to the health and safety of other residents, their property or the Condominium Property, the Association may require that Mandated Services be provided to the person: (i) until such time as the person can vacate the Unit, or (ii) during the period of time the Board of Directors uses to make a determination under Section 10.4 of this Article; or (iii) for the period of time for a legal determination to be made. Each occupant of a Unit, by virtue of such occupancy, shall be deemed to have appointed the Association as such occupant's agent and attorney-in-fact to enter into such agreements, contracts, purchase orders and the like, on behalf of and in the name of such occupant, if such services have been determined to be necessary pursuant to the terms of this subsection. The power of attorney herein provided for is coupled with an interest and shall be irrevocable.

In the event that the Board of Directors shall take the action described in this subsection (c), the person to whom such services shall be provided shall be liable for all fees and expenses which shall be charged by the provider for such services, and in the event that the Association shall advance

such fees and expenses to such provider, the person to whom such services are so provided and the owner of the Unit occupied by such person shall be jointly and severally liable to the Association for all amounts which are so advanced by the Association to such provider, which amounts shall be paid to the Association promptly upon demand. In addition, all amounts which shall be so advanced by the Association shall be assessed against the Unit which is then occupied by the person to whom such services shall be so provided and shall, from the date on which the same shall become due and payable to the Association, constitute a lien on such Unit in favor of the Association, as more fully provided in subsection (a) of the Code Section 44-3-109 of the Act.

#### 10.6 COSTS OF DETERMINATION AND ENFORCEMENT.

(a) Except as otherwise provided in paragraph (b) hereof, all of the costs and expenses which the Association shall incur in connection with the exercise by the Board of Directors of its rights, power and authority under this Article 10 shall be a common expense of the Association.

(b) Except as otherwise specified in this Article 10, any and all of the costs and expenses which the Association shall incur in connection with the taking by the Board of Directors of any of the actions described in this Article 10 shall be assessed by the Association against the owner(s) of the Unit which is occupied by any person who shall have been determined to be an Ineligible Occupant in accordance with the procedure provided for in this Article 10 and such Unit owner shall be liable to the Association for such costs and expenses, and shall pay the same to the Association promptly upon demand. The amounts for which such owner(s) shall be so liable shall include, without limitation, all attorneys' fees and expenses which the Association shall incur in connection with any litigation which shall arise out of the exercise by the Association of its rights, power and authority under this Article 10. All amounts for which any owner shall be liable to the Association pursuant to the provisions of this paragraph (b) shall be assessed against all of the condominium Units owned by such Unit owner, and shall, from the date on which the same shall become due and payable, constitute a lien in favor of the Association on the affected Unit(s), as more fully provided in subsection (a) of Code Section 44-3-109 of the Act.

10.7 LIABILITY. The Association, its Board of Directors, officers, members, employees and agents shall have no liability to any occupant, to the heirs of any occupant, or to any person whatsoever for any action taken pursuant to this Article or for any failure to take action as permitted under this Article.



## ARTICLE 11

### REPAIR AND MAINTENANCE

The repair and maintenance of the Property shall be performed in accordance with the following terms and provisions:

11.1 UNITS. Except as, and to the extent, specifically provided for differently in Section 16.4 hereof in the case of damage or destruction, each Unit owner shall be solely responsible for the maintenance, repair, renovation, restoration and replacement of all portions of his Unit, including, without limitation, the heating and air-conditioning systems serving his Unit. In addition, each Unit owner shall be responsible for the maintenance, repair, renovation, restoration and replacement of the exterior doors, glass surfaces and window screens, serving his Unit, irrespective of whether the same shall be located within or without the boundaries of such Unit. All such maintenance, repair, renovation, restoration and replacement work which is the responsibility of each Unit owner under the provisions of this Section 11.1 shall be performed by such Unit owner at his sole cost and expense, and in such a manner so as to cause as little disturbance to the residents of the other Units as is reasonably possible.

11.2 LIMITED COMMON ELEMENTS. The Association shall be responsible for the maintenance, repair, renovation, restoration and replacement of all of the limited common elements. Except as provided for differently in Section 11.5 hereof, no expenses associated with the performance of any of the maintenance, repair, renovation, restoration or replacement work which is the responsibility of the Association under this Section 11.2 shall be specially assessed against the Unit or Units to which such limited common element is assigned.

11.3 COMMON ELEMENTS. The Association shall be responsible for the maintenance, repair, renovation, restoration and replacement of all of the common elements. Such maintenance, repair, renovation, restoration and replacement work which shall be the responsibility of the Association shall include, but shall not be limited to, the following:

(a) Providing exterior maintenance upon all buildings, including painting, repairing, replacing and caring for roofs, gutters, waterspouts, and exterior walls and surfaces (except for exterior doors, glass surfaces, and window screens, the responsibility for the maintenance, repair, renovation, restoration and replacement of which shall be that of the individual Unit owners).

(b) Repairing, replacing and maintaining all utility lines, pipes, wires and conduits located outside the boundaries of the Units and serving the Units (except for those utility lines, pipes, wires and conduits forming a part of the heating and air-conditioning system serving a particular Unit, the responsibility for the repair, replacement and maintenance of which shall be that of the owner of the Unit served by such heating and air-conditioning system).

11.4 PROHIBITED CHANGES. No Unit owner shall paint or otherwise change, alter or modify in any respect the exterior appearance of his Unit, or of any other portion of the Property,

including any of the limited common elements assigned to his Unit, without having first obtained the written consent of the Board of Directors. Without limiting the generality of the immediately preceding sentence, no awnings, shades or screens shall be attached to, hung or used on the exterior of any window or door of any Unit or on the exterior of any building on the Property, nor shall any foil or other reflective material be used on any windows for sunscreens, blinds, shades or any other purpose, without the prior written consent of the Board of Directors. Unless otherwise approved in writing by the Board of Directors, any portion of any window treatment visible from the outside of any Unit shall be white or off-white in color. Wherever changes are effected, pursuant to the terms of this Section 11.4, the Unit owner shall thereafter be responsible for maintaining such changes in an appropriate fashion, consistent with the general quality and condition of the Property. The standards implemented by the Board of Directors relative to proposed changes for which the consent of the Board of Directors is required, may vary from time to time, so that in approving any particular change, the Board of Directors shall not be obligated to approve similar or identical changes in the future. Also, the Board of Directors, in consenting to any such change, will not, by such consent, be warranting that such change conforms to either applicable zoning and/or building requirements or to the physical integrity of such change.

**11.5 MAINTENANCE REQUIRED BY UNIT OWNERS.** In the event the Board of Directors shall determine that the need for any maintenance or repair work to be performed by the Association as provided for in Sections 11.2 and 11.3 hereof is caused through the willful or negligent act of a Unit owner, his lessee, any member of his or his lessee's family, guests or invitees, the cost of performing such maintenance or repair work shall be specially assessed against, and shall be paid by, such Unit owner. Such costs shall be added to and become a part of the assessment to which such Unit owner is subject, as provided in Article 14 hereof, and, unless it is determined otherwise by the Board of Directors, shall be due and payable at the time the next installment of such assessment shall be due and payable. The foregoing provisions of this Section 11.5 and the provisions of Section 11.2 shall apply to terraces described in Section 5.1(a) hereof except that the responsibility for the maintenance of the usable floor area of such terraces shall become, notwithstanding the foregoing, the responsibility of the subject Resident. Upon a failure of the Unit owner to effect such maintenance and/or repair within ten (10) days after such receipt, the Association can cause same to be performed, in which case the cost of same shall become a lien against the Unit and shall be immediately reimbursed by such Unit owner.

In the event that a Unit owner fails to maintain or repair any item for which it is responsible, pursuant to the provisions of this Section 11.5, then the Association can effect such maintenance and/or repair at the sole cost of the Unit owner, which costs shall be due and payable at the time the next installment of assessments shall be due and payable. Further, in the event that the Association determines that it is necessary for any Unit owner(s) to perform any specific functions or make any specific improvements to the Units (such as adding fire alarms) in order to protect the health, safety and welfare of the other owners, tenants, guests or invitees of the Building, then such Unit owner(s) shall be obligated to effect such maintenance and/or improvements promptly upon receipt of written notice thereof.

## ARTICLE 12

### PLAT AND PLANS

A plat of survey of the Condominium has been filed in Condominium Plat Book 42, Page 1, Dekalb County, Georgia Records, which plat replaces and supersedes the plat recorded at Condominium Plat Book 7, Page 5, Dekalb County, Georgia Records.

Prior to the filing of the Original Declaration with the Clerk of the Superior Court of DeKalb County, Georgia, the Plans were filed in Cabinet Folder 204 of the Condominium Plans File of DeKalb County, Georgia. The Plans are hereby incorporated herein by reference thereto as fully as if the same were set forth in their entirety herein.

## ARTICLE 13

### ASSESSMENTS

Assessments against the Unit owners shall be made for the purpose of raising funds to pay the common expenses of the Condominium, and shall be governed by the following provisions:

13.1 LIABILITY. Each and every Unit owner shall be liable to the Association for all sums as are lawfully assessed against him or his Unit or Units by the Association in accordance with the terms and provisions of the Original Declaration (which terms and provisions as to assessments are not deleted or restated hereby) and the Articles of Incorporation and the Bylaws. In addition to exercising the remedies provided for in Section 13.8 below, the Association may enforce such liability by an action at law to recover all amounts assessed against each Unit owner in accordance with the provisions of this Article 13.

13.2 PURPOSE. Assessments shall be levied against the Unit owners and the Units to defray the common expenses of the Condominium. The common expenses of the Condominium shall be all of the expenditures which are made or incurred by or on behalf of the Association in connection with the exercise of its powers and responsibilities, and shall include, but shall not be limited to, the following:

- A. Management fees and expenses of administration of the Condominium;
- B. Monthly fees and expenses and any other amounts payable to the Service Center Operator pursuant to the Master Use and Service Agreement;
- C. Common utility bills and charges for other common services;
- D. Premiums for all insurance policies maintained by the Association;

- E. The expenses of performing the maintenance, repair, renovation, restoration and replacement work which is the responsibility of the Association under Article 11 hereof;
- F. Payments due SunTrust Bank (or its successor or assigns) pursuant to that certain promissory note dated December 20, 1995 in the original principal amount of \$900,000 (the "SunTrust Loan");
- G. Payments due certain individuals pursuant to those certain promissory notes dated as of December 18, 1995 in various principal balances with an aggregate principal balance of \$348,000 (the "Resident Loans").
- H. Such other costs, expenses and liabilities as may be determined from time to time by the Board of Directors to be common expenses; and
- I. The creation and maintenance of such reserve funds as are required to be maintained by the Association under Section 13.3 below, and such other reserve funds as the Board of Directors shall determine.

13.3 BUDGET, PAYMENT DATES. No less than thirty days prior to the commencement of each fiscal year of the Association, the Board of Directors shall adopt a budget for the succeeding fiscal year, which budget shall estimate the amount of common expenses which are anticipated to be incurred during such year. In addition, each such budget which shall be so adopted by the Board of Directors shall also make provision for a reserve fund for the maintenance, repair and replacement of those portions of the Property which are to be maintained, repaired and replaced by the Association and which must be maintained, repaired or replaced on a periodic basis. Prior to the commencement of such fiscal year, the Board of Directors shall furnish a copy of such budget to each Unit owner, together with a written statement of the amount of such common expenses which shall be assessed against such Unit owner for such fiscal year. Unless otherwise determined by the Board of Directors, each Unit owner shall pay such assessment to the Association in equal monthly installments on or before the first day of each month. In addition, any fees, charges, and other amounts which shall be payable by any Unit owner to the Association shall be added to and shall, unless paid at the time the same are incurred or at some other time determined by the Board of Directors, be due and payable as part of the installment of the assessment next coming due. The budget and the assessment shall become effective unless disapproved at a duly called and constituted annual Association meeting by a vote of owners holding a majority of the total eligible Association votes; provided, however, if a quorum is not obtained at the annual meeting, the budget shall become effective even though a vote to disapprove the budget could not be called at this meeting. If the owners disapprove the proposed budget or the Board of Directors fails for any reason to determine the proposed budget for the succeeding year, then, until a budget is determined as provided herein, the budget in effect for the current year shall continue for the succeeding year. In such case, the Board of Directors may propose a new budget at any time during the year at a special Association meeting. The proposed budget and assessment shall be delivered to the Unit owners at least thirty (30) days prior to the proposed effective date thereof and at least seven (7) days prior to the special

meeting. The approval procedure set forth above for budgets considered at annual meetings shall also apply to budgets considered at special meetings.

13.4 SPECIAL ASSESSMENTS. If for any reason, including without limitation, the non-payment of any Unit owners' assessments and/or the need of the Association to pay for any repairs to the Property which were not accounted for in the then current operating budget, an annual budget adopted by the Board of Directors for any fiscal year proves inadequate to defray the common expenses for such fiscal year, or if the Board of Directors shall determine to establish a reserve fund which shall not have been theretofore established, the Board of Directors may, at any time, levy a special assessment to raise the additional funds necessary to defray such common expenses. Any special assessment which would cause the average total of special assessments levied in one fiscal year to exceed two hundred dollars (\$200.00) per Unit shall be approved by a majority of the total eligible Association votes prior to becoming effective (except regarding the power to assess specially pursuant to Section 44-3-80(b) of the Act and Section 16.5 herein, regarding repair or reconstruction of casualty damage to or destruction of all or part of the Condominium. In addition, the Board of Directors shall be authorized to levy the special assessments described in Section 17.5 hereof, upon the circumstances described in the said Section 16.5. Any special assessment levied by the Board of Directors pursuant to this Section 13.4 shall be due and payable at such time and in such installments as the Board of Directors shall determine. Additionally, the Board of Directors shall be authorized to levy special assessments against all of the Units under the circumstances described in Section 13.7 of this Declaration.

13.5 ASSESSMENT FOR DEBT SERVICE, RESERVES. Each year, the Board of Directors of the Association shall assess the Units an aggregate amount of One Hundred Eighty-Eight Thousand One Hundred Dollars (\$188,100), which amount shall be deemed a common expense and assessed against each Unit in accordance with the provisions of Section 6.3(a) of this Declaration. This assessment shall be payable in twelve (12) equal (or near equal) monthly installments. Such installments shall be used first, to pay any amount due under the SunTrust Loan (or to set reserves sufficient, with all other installments, to pay the next amount due under the SunTrust Loan when due), second, to any due under the Resident Loans (or to set reserves sufficient, with all other installments, to pay the next amount due under the Resident Loans when due), and third, to the capital replacement reserves of the Condominium. The obligation to make such assessment and use such assessment in accordance with the terms of this Section 13.5 shall be the primary obligation of the Association, which shall be undertaken before any other obligation regarding assessments and the payment of common expenses by the Association under this Declaration.

13.6 EQUAL ASSESSMENT.

(a) Except as provided for differently in Sections 11.5 and 16.5 hereof, no expenses associated with the maintenance, repair, renovation, restoration or replacement of any limited common element shall be specially assessed against the Unit or Units to which such limited common element is assigned.

13.7 SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the assessments which shall be levied against the Unit owners for the purposes described in Sections 13.2

and 13.4 hereof, the Board of Directors shall be authorized, upon the affirmative vote of the Unit owners of Units to which two-thirds (2/3rds) of the votes in the Association appertain, to levy a special assessment for the purpose of defraying, in whole or in part, the costs of any capital improvement to be made upon the common elements. Any such special assessment for any capital improvement to be made upon the common elements shall be payable at such time and in such installments as the Board of Directors shall determine. The provisions of this Section 13.7 shall not be deemed to apply to any costs which the Association must incur in order to pay for repairs to be made to the Property.

13.8 COLLECTION. In addition to all other remedies provided by law, the Association may enforce collection of the assessments for which a Unit owner is liable, together with all other amounts as may be owed by such Unit owner to the Association, as hereinafter provided.

(a) In the event that any Unit owner shall fail to pay any installment of any assessment levied against him within ten (10) days after the date such installment shall be due and payable, the entire unpaid balance of such assessment may, at the option of the Board of Directors, be accelerated and be declared immediately due and payable in full without notice to such Unit owner.

(b) In the event that any Unit owner shall fail to pay within five (5) days after the same shall be due, any amounts due and payable to the Association, such Unit owner shall be liable for the payment of, and shall pay, in addition to the amounts so due the Association:

(i) late charge equal to the amount of Ten Dollars (\$10.00) or Ten percent (10%) of the amount so due, whichever is the greater;

(ii) Interest on the amount so due, and the aforesaid late charge relating thereto, from the date the same were first due and payable, at the rate of ten percent (10%) per annum, until paid;

(iii) The costs of collection, including court costs, the expenses of sale, any expenses required for the protection and preservation of the Unit, and reasonable attorney's fees actually incurred; and

(iv) In the event the Association shall seek to foreclose its lien on the condominium Unit of such Unit owner, the fair rental value of the condominium Unit from the time of the institution of suit until the sale of the condominium Unit at foreclosure (or until the judgment rendered in such suit is otherwise satisfied).

(c) The lien for assessments in favor of the Association provided by Code Section 44-3-109 of the Act shall include all sums as may become payable by a Unit owner to the Association pursuant to Paragraphs 13.7(a) and (b), above.

(d) The right of a Unit owner, and all persons entitled to occupy the Unit of such owner, to use the common elements shall be suspended for the period of time any amount due and

owing to the Association in regard to any condominium Unit owned by such Unit owner shall remain unpaid. In no event, however, shall any such suspension deny any Unit owner, or the occupants of any Unit, access to the Unit owned or occupied, nor cause any hazardous or unsanitary condition to exist.

13.9 FEE FOR STATEMENTS OF AMOUNTS DUE. The Association may require the payment of a fee, not to exceed Ten Dollars (\$10.00), as a prerequisite to its issuance of any statement pursuant to subsection (d) of Code Section 44-3-109 of the Act.

13.10 DEED IN LIEU OF FORECLOSURE OF FIRST MORTGAGE. Notwithstanding anything contained in this Declaration or in the Act which may be construed to the contrary, in the event any institutional first mortgagee, unrelated to, and independent from, the subject Unit owner, shall come into possession of any condominium Unit by virtue of any deed or assignment in lieu of foreclosure of a first mortgage, such first mortgagee shall not be liable for, nor shall such condominium Unit be subject to a lien for, any assessment chargeable to such condominium Unit on account of any period prior to the time such first mortgagee shall so come into possession of such condominium Unit; provided, however, that such unpaid assessment or assessments shall be deemed to be common expenses collectible from all Unit owners, including such first mortgagee. The provisions of this Section 13.10 are in addition to, and not in lieu of, the provisions of subsection (f) of Code Section 44-3-80 of the Act.

## ARTICLE 14

### COMMON PROFITS

Any surplus remaining after the application of the common profits to the payment of the common expenses shall be either (a) distributed to, or credited to the next assessments chargeable to, the Unit owners, or (b) added to the reserve funds maintained by the Association, as the Board of Directors shall determine.

## ARTICLE 15

### COMPLIANCE WITH CONDOMINIUM INSTRUMENTS

15.1 COMPLIANCE. All Unit owners and all persons who are entitled to occupy a Unit shall comply with and abide by all terms, provisions and restrictions of this Declaration, the Articles of Incorporation and the Bylaws, the Act, and all rules and regulations which shall be adopted by the Board of Directors in regard to the use and occupancy of the Property. In the event that any Unit owner or any person who is entitled to occupy any Unit shall fail to comply with or abide by any such term, provision, restriction, rule or regulation, the Association shall have the right to proceed at law or in equity to compel compliance or abidance therewith. In the event that any Unit owner shall permit or suffer to exist any condition in his Unit or on any portion of any of the limited common elements assigned to his Unit which is not in compliance with any of the terms, provisions

and restrictions of this Declaration, the Articles of Incorporation, the Bylaws or the Act, or any rule or regulation adopted by the Board of Directors, the Association shall have the right to enter in and upon such Unit or limited common element and remove or correct such non-complying condition, and the Unit owner who permitted or suffered such condition to exist shall be liable to the Association for all of the costs and expenses as it shall incur in so doing. Such Unit owner shall pay all such costs and expenses to the Association promptly upon demand. In no event shall the Association, or any of its agents, have any liability to any Unit owner for entering in or upon his Unit or the limited common elements assigned to his Unit and correcting or removing any such non-complying condition pursuant to the provisions of this Article 15. In the event the Association shall employ legal counsel to enforce the compliance or abidance by any Unit owner or by any person entitled to occupy any Unit of such Unit owner with any of the aforesaid terms, provisions, restrictions, rules and regulations, such Unit owner shall be liable to the Association for all attorneys' fees so incurred by the Association, and such Unit owner shall pay such attorneys' fees to the Association promptly upon demand.

15.2 FINES. In addition to all of the remedies provided to the Association in this Article 15 and elsewhere in this Declaration, the Board of Directors shall be empowered to impose and assess fines against any Unit owner who, or whose lessee, shall fail to comply with or abide by any of the terms, provisions and restrictions of this Declaration, the Articles of Incorporation, the Bylaws, the Act, or (subject to the notice and hearing procedures set forth in the Association's Bylaws) any rule or regulation which shall be adopted by the Board of Directors in regard to the use and occupancy of the Property. All such fines shall be in an amount which shall be determined by the Board of Directors; provided, however, that no such fine imposed or assessed for any one failure of compliance or abidance with any such term, provision, restriction, rule or regulation shall exceed that amount which is equal to one-half (1/2) of the monthly assessment installment then being assessed against the smallest Unit owned by such Unit owner. Each day any Unit owner or any lessee of any Unit shall fail to comply with or abide by any of the foregoing terms, provisions, restrictions, rules and regulations after such Unit owner or lessee shall have been notified of the same shall constitute a separate failure of compliance or abidance and shall authorize the imposition and assessment of a separate fine not in excess of the aforesaid amount.

15.3 NO WAIVER. No delay, failure or omission on the part of the Association in exercising any right, power or remedy provided for in this Article 15 in the event of the failure of any Unit owner, or of any person who is entitled to occupy a Unit, to comply with or abide by any of the terms, provisions and restrictions of this Declaration, the Articles of Incorporation, the Bylaws, the Act, or any rule or regulation adopted by the Board of Directors in regard to the use and occupancy of the Property, shall be deemed a waiver of the right to do so thereafter as to the same failure of compliance or abidance, or as to a failure of compliance or abidance occurring prior thereto or subsequent thereto.

15.4 COMPLIANCE BY UNIT OWNER'S FAMILY AND LESSEES. Every lease for a Unit shall contain provisions to the effect that the lessee, and the persons living with such lessee, are required to comply with and abide by all of the terms, provisions and restrictions of this Declaration, the Articles of Incorporation, the Bylaws, the Act and all rules and regulations adopted by the Board of Directors in regard to the use and occupancy of the Property and that copies of all



documentation setting forth such terms, provisions, restrictions, rules and regulations, as well as the Residents' Handbook, have been furnished to such lessee. Every Unit owner shall have the responsibility of causing his lessee, and the persons living with him or his lessee, to comply with and abide by all of the terms, provisions and restrictions of this Declaration, the Articles of Incorporation, the Bylaws, the Act and all rules and regulations adopted by the Board of Directors in regard to the use and occupancy of the Property. Every Unit owner shall have such responsibility notwithstanding the fact that any lessee of a Unit owned by such Unit owner may be fully liable for any failure to comply with or abide by any such term, provision, restriction, rule or regulation. All agreements by which a Unit is leased shall provide that the terms of the lease shall be subject in all respects to all of the terms, provisions and restrictions of this Declaration, the Articles of Incorporation and the Bylaws, and all rules and regulations adopted by the Board of Directors, and that any failure by such lessee to comply with and abide by all of such terms, provisions, restrictions, rules or regulations shall be a default by such lessee under such lease agreement.

15.5 ENFORCEMENT BY UNIT OWNERS. In the event that any Unit owner, or any person who is entitled to occupy any Unit, shall fail to comply with or abide by any term, provision or restriction of this Declaration, the Articles of Incorporation, the Bylaws, or the Act, or any decision of the Association which is made pursuant to its authority under the foregoing, or any rule or regulation which shall be adopted by the Board of Directors in regard to the use and occupancy of the Property, then any other Unit owner who is aggrieved by such failure of compliance or abidance shall have the right to proceed at law or in equity to compel such Unit owner, or such Unit occupant, to comply therewith and abide thereby. Additionally, any Unit owner who, or whose lessee, shall fail to comply with or abide by any such term, provision, restriction, decision, rule or regulation shall be liable for any damages as may be suffered by any other Unit owner as a consequence of such failure.

15.6 FAILURE OF ENFORCEMENT. In no event shall the Board of Directors, or any of its agents, be liable to anyone whomsoever on account of the failure to bring any action or enforce any remedy provided for in this Article 15 on account of the failure by any Unit owner or any person entitled to occupy a Unit to comply with or abide by any of the terms, provisions or restrictions of this Declaration, the Articles of Incorporation, the Bylaws, the Act, or any rule or regulation adopted by the Board of Directors in regard to the use and occupancy of the Property.

## ARTICLE 16

### DAMAGE OR DESTRUCTION

The repair, reconstruction or rebuilding of the Property following the occurrence of damage to or destruction of any portion thereof shall be governed by the following provisions:

16.1 ESTIMATES OF THE COST OF REPAIR. As soon as practicable following the occurrence of any damage to or destruction of any portion of the Property, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing or restoring such portion of the Property so damaged or destroyed to substantially the same condition as such portion of the Property

was in prior to the occurrence of such damage or destruction, and shall proceed with the filing and adjustment of all claims arising under insurance maintained by the Association as a result of such damage or destruction.

16.2 DETERMINATION TO REPAIR, RECONSTRUCT OR REBUILD COMMON ELEMENTS. Any damage to or destruction of any portion of the common elements not exclusively serving any Unit will be repaired, reconstructed or rebuilt unless the owners of the Units to which two-thirds (2/3rds) of the votes in the Association are allocated shall determine, within forty-five (45) days after the occurrence of the casualty, not to repair, reconstruct or rebuild the same.

16.3 DETERMINATION TO REPAIR, RECONSTRUCT OR REBUILD UNITS AND LIMITED COMMON ELEMENTS. The determination to repair, reconstruct, or rebuild any Unit, and the common elements exclusively serving such Unit, which may be damaged or destroyed by fire or any other casualty shall be made in the following manner:

(a) If any Unit is damaged, but is neither rendered untenable nor contained within a building which also contains another Unit which is rendered untenable by such casualty, such Unit, together with the common elements exclusively serving such Unit, shall be repaired in all events.

(b) In the event that any Unit is so damaged or destroyed that such Unit is thereby rendered untenable, or, if not rendered untenable, is contained within a building which also contains another Unit which is rendered untenable by such casualty, such Unit, together with the limited common elements appurtenant to such Unit and the common elements exclusively serving such Unit, will be repaired, reconstructed or rebuilt unless within sixty (60) days after the occurrence of such casualty, (1) the owner of such damaged or destroyed Unit, together with (2) the owners of all of the other Units contained within the building in which such Unit is located, and together with (3) the owners of two-thirds (2/3rds) of the remaining Units within the Condominium, shall all determine not to repair, reconstruct or rebuild such damaged or destroyed Unit.

(c) For purposes of this Section 16.3, a Unit shall be deemed to be untenable only if as a consequence of the occurrence of a fire or other casualty, such Unit has been damaged or destroyed to the extent that it is not fit for present habitation, and the estimated costs of making the repairs necessary to render such Unit fit for present habitation shall exceed one-half (1/2) of the fair market value of such Unit prior to the occurrence of such fire or other casualty.

16.4 MANNER OF REPAIR, RECONSTRUCTION OR REBUILDING. All repairs, reconstruction or rebuilding to be made as a consequence of the occurrence of a fire or other casualty shall be made in accordance with the following provisions:

(a) Common Elements. If the damage to be repaired, reconstructed or rebuilt is to the common elements, such repair, reconstruction or rebuilding shall be substantially in accordance with the plans and specifications for such damaged property prior to the occurrence of such damage, or in accordance with such different plans and specifications as may be approved for such purpose by the Board of Directors.

(b) Units. If the damage to be repaired, reconstructed or rebuilt is to any Unit, such repair, reconstruction or rebuilding shall be substantially in accordance with the plans and specifications for such damaged Unit prior to the occurrence of such damage, or in accordance with such differing plans and specifications as are approved for such purpose by both the owner of the Unit which is to be so repaired, reconstructed or rebuilt, and by the Board of Directors.

(c) Supervision of Reconstruction. All of the work of repairing, reconstructing or rebuilding any portion of the Property, the damage to or destruction of which resulted in the payment of any insurance proceeds under any insurance policy maintained by the Association, shall be the responsibility of the Association, and shall be performed under the supervision of the Board of Directors. In discharging such supervisory responsibility, the Board of Directors shall be authorized, but shall not be obligated, to employ as its agent or consultant such building supervisors or architects as the Board of Directors shall determine. Any fees which shall be payable to any such building supervisor or architect as shall be employed by the Board of Directors shall be a common expense of the Association.

16.5 COSTS OF REPAIR, RECONSTRUCTION OR REBUILDING. The cost of repairing, reconstruction or rebuilding any portion of the Property which shall be damaged or destroyed shall be paid with any insurance proceeds which shall be paid to the Association on account of such damage or destruction. If such insurance proceeds, together with any amounts as may be available from any reserve funds maintained by the Association for such purposes, are not sufficient to defray such costs of repair, reconstruction or rebuilding, then the Board of Directors shall levy a special assessment, pursuant to the provisions of Section 13.4 hereof, against all of the Unit owners and the condominium Units to raise the excess funds necessary to defray such costs. If such insurance proceeds are more than the amounts necessary to defray such costs of repair, reconstruction or rebuilding, then such surplus amounts shall be added to the reserve funds maintained by the Association for unexpected repairs.

16.6 UNITS NOT REBUILT. In the event that it shall be determined in the manner provided in Section 16.3 hereof not to repair, reconstruct or rebuild any Unit, the same shall not be repaired, reconstructed or rebuilt, and the entire undivided interest in the common elements appertaining to that Unit shall thenceforth appertain to the remaining Units, being allocated to them in proportion to their undivided interests in the common elements, and the remaining portion of that Unit shall thenceforth be a part of the common elements. Votes in the Association and liability for future common expenses shall thereupon appertain to the remaining condominium Units, being allocated to them in proportion to their relative voting strength in the Association and liability for common expenses, respectively.

## **ARTICLE 17**

### **AMENDMENT**

This Declaration, and the terms, provisions and restrictions thereof, may be amended only in accordance with the terms and provisions of this Article 17.

17.1 **CERTAIN AMENDMENTS.** Any amendment to this Declaration to be made for the purpose of relocating the boundaries between adjoining Units shall be made in accordance with the procedures and provisions of Code Section 44-3-91 of the Act.

17.2 **OTHER AMENDMENTS.** Except as otherwise provided in the Act, all amendments to this Declaration, other than those of the types described in Section 17.1 hereof, may be made only by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members of the Association holding sixty-six and two-thirds (66-2/3%) percent of the total eligible vote thereof. Notice of a meeting, if any, at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the Dekalb County, Georgia land records.

In addition to the above, material amendments to this Declaration must be approved by Eligible Mortgage Holders who represent at least fifty-one (51%) percent of the votes of Units that are subject to Mortgages held by Eligible Mortgage Holders. Notwithstanding the above, the approval of any proposed amendment by an Eligible Mortgage Holder shall be deemed implied and consented to if the Eligible Mortgage Holder fails to submit a response to any written proposal for an amendment within thirty (30) days after the Eligible Mortgage Holder receives notice of the proposed amendment sent by certified or registered mail, return receipt requested.

## **ARTICLE 18**

### **TERMINATION**

The Condominium shall be terminated or abandoned only by the agreement of (a) the Unit owners of Units to which at least ninety percent (90%) of the votes in the Association appertain. Notwithstanding anything to the contrary contained herein or in the Articles of Incorporation, the Bylaws, the Act or the Georgia Nonprofit Corporation Code, no agreement to terminate the Condominium as hereinabove provided shall be effective unless the necessary votes shall have been cast at a meeting of the members of the Association at which the owners of at least ninety percent (90%) of the condominium Units are present at the time such vote is taken, nor shall any proxy votes be counted toward satisfaction of the requirements for approving such termination.

## **ARTICLE 19**

### **AMENDMENT OF ACT**

In the event that after the date this Declaration is recorded with the Clerk of the Superior Court of DeKalb County, Georgia, the Act shall be amended, such amendment shall not operate to modify, revoke or amend any term, provision or restriction of this Declaration unless, by the specific terms of such amendment to the Act, any term, provision or restriction of this Declaration is thereby rendered invalid, notwithstanding the fact that this Declaration was made, executed and recorded prior to the date of such amendment to the Act.

In the event that after the date this Declaration is recorded with the Clerk of the Superior Court of DeKalb County, Georgia, the Act shall be amended, the terms, provisions and restrictions of the Act, as the same existed prior to such amendment, shall continue to control for purposes of this Declaration, to the extent that the same shall be permitted by law, or to the extent that such prior existing terms, provisions or restrictions of the Act would be valid or enforceable if the same were set forth in a declaration of condominium made after the date of such amendment as an alternative to such amended term, provision or restriction.

To the extent necessary to effectuate the foregoing provisions of this Article 19, each Unit owner, by acceptance of the deed of conveyance to his condominium Unit, shall be deemed to thereby waive, to the extent permitted by law, the effect of any amendment to the Act which shall be made after the date this Declaration is recorded with the Clerk of the Superior Court of DeKalb County, Georgia.

Nothing set forth in this Article 19 shall be deemed to prohibit this Declaration from being amended in the manner provided in Article 17 so as to render applicable to this Declaration and to the Condominium any amendment to the Act which may become effective after the date this Declaration is recorded with the Clerk of the Superior Court of DeKalb County, Georgia.

## **ARTICLE 20**

### **PREPARER OF DECLARATION**

The names and address of the attorneys who prepared this Declaration are Seth G. Weissman and Daryl R. Griswold, Weissman, Nowack, Curry & Zaleon, P.C., 181 Fourteenth Street, Second Floor, Atlanta, Georgia 30309.

## ARTICLE 21

### EASEMENTS AND OTHER RIGHTS

21.1 EASEMENT FOR SUPPORT. Every portion of a Unit which contributes to the structural support of another Unit shall be burdened with an easement of structural support in favor of such other Unit.

21.2 EASEMENT FOR UTILITIES. To the extent that any utility line, pipe, wire or conduit serving any Unit or Units shall lie wholly or partially within the boundaries of another Unit, such other Unit shall be burdened with an easement for the use, maintenance, repair or replacement of such utility line, pipe, wire or conduit, such easement to be in favor of the Unit or Units served by the same. Such easement rights shall be exercised in a manner calculated to minimize an inconvenience to the owner and occupants of the Unit so burdened.

21.3 EASEMENT FOR CERTAIN REPAIRS. Every Unit shall be subject to an easement in favor of the Association for entry into such Unit for the purpose of effecting any emergency repair and any repair which, under the terms and provisions of this Declaration or Bylaws, or under any rule or regulation adopted by the Board of Directors, either the Association has the responsibility to make or the Unit owner of such Unit had the responsibility to make, but which such Unit owner failed to make. The easement herein described shall be exercisable by any member of the Board of Directors, by any officer of the Association, and by any authorized agent, representative or employee of the management firm employed by the Association pursuant to Section 7.3 hereof. In no event shall any person who is authorized to exercise the easement herein described be liable for any damage as may be inflicted on any Unit in connection with the exercise of such easement, except for such damage as such person may inflict by his gross negligence or intentional misconduct.

21.4 EASEMENT FOR USE AND ENJOYMENT IN THE COMMON ELEMENTS. All Residents and their guests shall have a nonexclusive right to use the common elements for the purposes for which they are intended subject, however, to the following provisions: (a) no such use shall enter or encroach upon the lawful rights of other persons; and (b) the Association shall have the right to restrict the use and govern the operation of the common elements by promulgating reasonable rules and regulations with respect thereto, including, without limitation, with respect to the common area facilities, the right to charge reasonable monthly fees for the use thereof by Residents as the Association deems necessary or appropriate. Any such charge shall be a lien against the Unit and may be collected as provided in Article 13 of this Declaration.

## ARTICLE 22

### SEVERABILITY

Wherever possible, all of the terms, provisions and restrictions of this Declaration shall be interpreted in such a manner as to be effective and valid, but if any of such terms, provisions and restrictions, or the application of the same to any person or property, shall be held to be ineffective or invalid, such ineffectiveness or invalidity shall not affect the effectiveness or validity of any other term, provision or restriction herein set forth which can be given effect without the ineffective or invalid term, provision or restriction, and to this end the terms, provisions and restrictions of this Declaration are declared to be severable.

## ARTICLE 23

### INSURANCE

The Board of Directors shall determine what insurance it shall carry relative to the Property or any portion thereof, provided that such determination may change from time to time.

## ARTICLE 24

### DISCLAIMER

THE DECLARANT AND THE ASSOCIATION HEREBY DISCLAIM ANY AND ALL WARRANTIES, EITHER EXPRESSED OR IMPLIED, RELATIVE TO THE PROVISION OF SECURITY TO UNIT OWNERS, OTHER RESIDENTS, GUESTS, CONTRACTORS, SUBCONTRACTORS AND INVITEES. DECLARANT AND/OR ASSOCIATION MAY, FROM TIME TO TIME, IN THE SOLE DISCRETION OF EACH, DETERMINE TO TAKE ACTION THAT MAY CAUSE THE PROPERTY TO BE MORE SAFE OR SECURE, PROVIDED THAT ANY SUCH ACTION SHALL NOT BE DEEMED ANY GUARANTY OR WARRANTY OF SECURITY OR SAFETY, IT BEING UNDERSTOOD AND AGREED THAT EACH UNIT OWNER AND EACH OTHER RESIDENT, GUEST, CONTRACTOR, SUBCONTRACTOR AND INVITEE SHALL BE RESPONSIBLE FOR PROTECTING HIS/HER PERSON AND PROPERTY.

## ARTICLE 25

### MORTGAGEE'S RIGHTS

(a) Unless at least sixty-seven percent (67%) of the total allocated votes in the Association and Eligible Mortgage Holders representing at least fifty-one percent (51%) of the votes of Units subject to mortgages held by Eligible Mortgage Holders 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;

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

(v) use hazard insurance proceeds for losses to any portion of the Condominium (whether to Units or to Common Elements) for other than the repair, replacement, or reconstruction of such portion of the Condominium.

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

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

(c) Upon written request to the Association, identifying the name and address of the holder and the Unit number or address, any Eligible Mortgage Holder will be entitled to timely written notice of:

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

(ii) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to a first Mortgage held by such Eligible Mortgage Holder which remains unsatisfied for a period of sixty (60) days, and any default in the performance by an individual Owner of any other obligation under the Condominium Instruments which is not cured within sixty (60) days;



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

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

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

(e) Notwithstanding anything to the contrary herein contained, the provisions of this Declaration governing sales and leases shall not apply to impair the right of any first Mortgagee to: (i) foreclose or take title to a Unit pursuant to remedies contained in its Mortgage; (ii) take a deed or assignment in lieu of foreclosure; or (iii) sell, lease, or otherwise dispose of a Unit acquired by the Mortgagee.

IN WITNESS WHEREOF, the undersigned have executed this instrument under seal as of the day and year first above written.

ASSOCIATION:

Clairmont Place Condominium Association, Inc.

By: *Allyde Freeman*  
Title: President

Attest: *Mary M. Halsey*  
Title: Secretary

[CORPORATE SEAL]

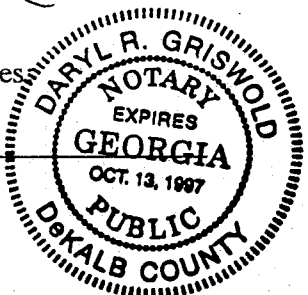
Signed, sealed and delivered in the presence of:

*Victoria A. Gue*  
Unofficial Witness

*[Signature]*  
Notary Public

My commission expires

[NOTARIAL SEAL]



## EXHIBIT "A"

### Legal Description

All that tract or parcel of land lying and being in Land Lot 60 of the 18th District of DeKalb County, Georgia, and being more particularly shown as "Phase I (Submitted Property)" on that certain plat of survey entitled "As-Built Survey of Clairmont Place, a Condominium (Phase I)", prepared by Loo-Turley & Associates, P.C., bearing the seal of Richard Loo, Georgia Registered Land Surveyor No. 2129, dated March 15, 1989, containing 12.2324 acres, to which survey reference is hereby made for a complete and accurate legal description and which is more particularly described on said survey as follows:

To find THE TRUE POINT OF BEGINNING, begin at a point located at the intersection formed by the northwesterly right-of-way line of Old Clairmont Road with the easterly right-of-way line of Clairmont Road (right-of-way width varies), said point being 55 feet East of the centerline of Clairmont Road; running thence along the northwesterly right-of-way line of Old Clairmont Road South 63 degrees 34 minutes 35 seconds East a distance of 18.62 feet to a point; thence continuing along the northwesterly right-of-way line of Old Clairmont Road South 60 degrees 51 minutes 36 seconds East a distance of 23.79 feet to a point; running thence North 56 degrees 05 minutes 09 seconds East along the northwesterly right-of-way line of Old Clairmont Road a distance of 79.58 feet to a point; running thence South 33 degrees 54 minutes 51 seconds East a distance of 13.33 feet to a point, said point being THE TRUE POINT OF BEGINNING; from THE TRUE POINT OF BEGINNING as thus established, running thence North 56 degrees 22 minutes 28 seconds East a distance of 191.22 feet to a point; running thence North 17 degrees 10 minutes 36 seconds West a distance of 27.11 feet to a point; running thence North 56 degrees 22 minutes 28 seconds East a distance of 135.00 feet to a point; running thence North 60 degrees 27 minutes 36 seconds East a distance of 49.12 feet to a point; running thence North 80 degrees 24 minutes 15 seconds East a distance of 44.59 feet to a point; running thence North 43 degrees 05 minutes 21 seconds East a distance of 80.00 feet to a point; running thence along an arc of a curve to the right an arc distance of 75.54 feet to a point (said arc having a radius of 44.50 feet and being subtended by a chord bearing South 76 degrees 23 minutes 50 seconds East for 66.79 feet); running thence North 73 degrees 05 minutes 21 seconds East a distance of 176.00 feet to a point; running thence North 13 degrees 05 minutes 21 seconds East a distance of 313.67 feet to a point; running thence South 70 degrees 25 minutes 34 seconds East a distance of 145.21 feet to a point; running thence South 69 degrees 51 minutes 02 seconds East a distance of 149.13 feet to a point; running thence North 82 degrees 02 minutes 58 seconds East a distance of 136.00 feet to a point located on the westerly right-of-way line of Seaboard Coast Line Railroad and at this point being 50 feet West of the centerline of said railroad; running thence along the westerly right-of-way line of said railroad and along the arc of a curve to the left an arc distance of 130.89 feet to a point (said arc having a radius of 2659.44 feet and being subtended by a chord bearing South 10 degrees 00 minutes 36 seconds West for 130.88 feet); running thence along said westerly right-of-way line North 81 degrees 24 minutes 00 seconds West a distance of 25.00 feet to a point; running thence along said westerly right-of-way line South 08 degrees 36 minutes 00 seconds West a distance of 474.68 feet to a point located in the centerline of South Fork Peachtree Creek, said point being located 75 feet West of the centerline of said railroad; thence leaving said westerly right-of-way line and running along the centerline of said creek the following courses and distances: South 73 degrees 06 minutes 16 seconds West a distance

of 84.61 feet to a point; running thence South 62 degrees 49 minutes 05 seconds West a distance of 100.13 feet to a point; running thence South 78 degrees 42 minutes 23 seconds West a distance of 102.02 feet to a point; running thence South 79 degrees 06 minutes 40 seconds West a distance of 102.93 feet to a point; running thence South 53 degrees 16 minutes 27 seconds West a distance of 102.84 feet to a point; running thence South 85 degrees 03 minutes 21 seconds West a distance of 105.90 feet to a point; running thence South 76 degrees 32 minutes 49 seconds West a distance of 101.44 feet to a point; running thence South 65 degrees 45 minutes 11 seconds West a distance of 100.02 feet to a point; running thence South 41 degrees 07 minutes 40 seconds West a distance of 37.92 feet to a point located on the northeasterly right-of-way line of Old Clairmont Road; running thence along the northeasterly right-of-way line of Old Clairmont Road North 37 degrees 40 minutes 36 seconds West a distance of 116.70 feet to a point; running thence North 44 degrees 30 minutes 37 seconds West a distance of 44.08 feet to a point; running thence North 33 degrees 54 minutes 51 seconds West a distance of 226.39 feet to a point, said point being THE TRUE POINT OF BEGINNING.

**EXHIBIT "B"**  
**(Service Center)**

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 60 of the 18th District of DeKalb County, Georgia, and being more particularly shown as "Phase II (Submitted Property)" on that certain plat of survey entitled "As-Built Survey of Clairmont Place, A Condominium (Phase I)", prepared by Loo-Turley & Associates, P.C., bearing the seal of Richard Loo, Georgia Registered Land Surveyor No. 2129, dated March 15, 1989, revised December 5, 1995, containing 3.3112 acres, to which survey reference is hereby made for a complete and accurate legal description and which is more particularly described on said survey as follows:

To find THE TRUE POINT OF BEGINNING, begin at a point located at the intersection formed by the northwesterly right-of-way line of Old Clairmont Road with the easterly right-of-way line of Clairmont Road (right-of-way varies), said point being 55 feet East of the centerline of Clairmont Road; running thence along the northwesterly right-of-way line of Old Clairmont Road South 63 degrees 34 minutes 35 seconds East a distance of 18.62 feet to a point; thence continuing along the northeasterly right-of-way line of Old Clairmont Road South 60 degrees 51 minutes 36 seconds East a distance of 23.79 feet to a point; running thence North 56 degrees 05 minutes 09 seconds East along the northwesterly right-of-way line of Old Clairmont Road a distance of 79.58 feet to a point; running thence South 33 degrees 54 minutes 51 seconds East a distance of 13.33 feet to a point; running thence North 56 degrees 22 minutes 28 seconds East a distance of 191.22 feet to a point; running thence North 17 degrees 10 minutes 36 seconds West a distance of 27.11 feet to a point; running thence North 56 degrees 22 minutes 28 seconds East a distance of 135.00 feet to a point; running thence North 60 degrees 27 minutes 36 seconds East a distance of 49.12 feet to a point; running thence North 80 degrees 24 minutes 15 seconds East a distance of 44.59 feet to a point; running thence North 43 degrees 05 minutes 21 seconds East a distance of 80.00 feet to a point, said point being THE TRUE POINT OF BEGINNING; from THE TRUE POINT OF BEGINNING as thus established, running thence North 46 degrees 54 minutes 39 seconds West a distance of 174.81 feet to a point; running thence North 13 degrees 05 minutes 21 seconds East a distance of 183.58 feet to a point; running thence North 07 degrees 15 minutes 52 seconds East a distance of 176.69 feet to a point; running thence South 69 degrees 59 minutes 06 seconds East a distance of 86.55 feet to a point; running thence South 70 degrees 13 minutes 16 seconds East a distance of 150.10 feet to a point; running thence South 70 degrees 22 minutes 09 seconds East a distance of 150.21 feet to a point; running thence South 70 degrees 25 minutes 34 seconds East a distance of 4.35 feet to a point; running thence South 13 degrees 05 minutes 21 seconds West a distance of 313.67 feet to a point; running thence South 73 degrees 05 minutes 21 seconds West a distance of 176.00 feet to a point; running thence along an arc of a curve to the left an arc distance of 75.54 feet to a point (said arc having a radius of 44.50 feet and being subtended by a chord bearing North 76 degrees 23 minutes 50 seconds West for 66.79 feet), said point being THE TRUE POINT OF BEGINNING.

## EXHIBIT "C"

### Allocation of Undivided Interests in Common Elements and Share of Common Expenses

This Exhibit sets forth the following information:

In Column (a), the identifying number of each Condominium Unit;

In Column (b), the Unit type;

In Column (c), the fraction representing the share of:

- (i) the undivided interest in the common elements, and
- (ii) the common expenses and utility expenses of the Association, which are allocated to each Unit; and

In Column (d), the storage areas respectively assigned to each Unit (if any) as limited common elements.

(a)	(b)	(c)	(d)
<u>IDENTIFYING NUMBER</u>	<u>UNIT MODEL</u>	<u>FRACTION REPRESENTING SHARE OF COMMON ELEMENTS, COMMON EXPENSES AND UTILITY EXPENSES</u>	<u>STORAGE AREA ASSIGNED TO UNITS</u>
A 101	1 BR/S	0.0043	1
A 102	1 BR/S	0.0043	1
A 103	1 BR/DEL	0.0047	1
A 104	1 BR/DEL	0.0047	1
A 105	1 BR/S	0.0043	1
A 106	1 BR	0.0037	1
A 107	ALCOVE	0.0026	1
A 108	ALCOVE	0.0026	1
A 109	2 BR	0.0054	1
A 110	2 BR/S	0.0061	1
A 111	1 BR/S	0.0043	1
A 113	1 BR/DEL	0.0047	1
A 114	1 BR/DEL	0.0047	1
A 115	1 BR/S	0.0043	1
A 116	1 BR/S	0.0043	1
A 117	2 BR/S	0.0061	1
A 118	2 BR/S	0.0061	1
A 119	2 BR/S	0.0061	1

A 120	2 BR/S	0.0061	1
A 121	1 BR/S	0.0043	1
A 122	1 BR/S	0.0043	1
A 123	1 BR/DEL	0.0047	1
A 124	1 BR/DEL	0.0047	1
A 125	1 BR/S	0.0043	1
A 126	1 BR	0.0037	1
A 127	2 BR/S	0.0061	1
A 128	2 BR/S	0.0061	1
A 129	2 BR/S	0.0061	1
A 130	2 BR/S	0.0061	1
A 201	1 BR/S	0.0043	1
A 202	1 BR/S	0.0043	1
A 203	1 BR/DEL	0.0047	1
A 204	1 BR/DEL	0.0047	1
A 205	1 BR/S	0.0043	1
A 206	1 BR	0.0037	1
A 207	ALCOVE	0.0026	1
A 208	ALCOVE	0.0026	1
A 209	2 BR	0.0054	1
A 210	2 BR/S	0.0061	1
A 211	1 BR/S	0.0043	1
A 212	1 BR/S	0.0043	1
A 213	1 BR/DEL	0.0047	1
A 214	1 BR/DEL	0.0047	1
A 215	1 BR/S	0.0043	1
A 216	1 BR/S	0.0043	1
A 217	2 BR/S	0.0061	1
A 218	2 BR/S	0.0061	1
A 219	2 BR/S	0.0061	1
A 220	2 BR/S	0.0061	1
A 221	1 BR/S	0.0043	1
A 222	1 BR/S	0.0043	1
A 223	1 BR/DEL	0.0047	1
A 224	1 BR/DEL	0.0047	1
A 225	1 BR/S	0.0043	1
A 226	1 BR	0.0037	1
A 227	2 BR/S	0.0061	1
A 228	2 BR/S	0.0061	1
A 229	2 BR/S	0.0061	1
A 230	2 BR/S	0.0061	1
A 301	1 BR/S	0.0043	1
A 302	1 BR/S	0.0043	1
A 303	1 BR/DEL	0.0047	1
A 304	1 BR/DEL	0.0047	1
A 305	1 BR/S	0.0043	1
A 306	1 BR	0.0037	1
A 307	ALCOVE	0.0026	1

A 308	ALCOVE	0.0026	1
A 309	2 BR	0.0054	1
A 310	2 BR/S	0.0061	1
A 311	1 BR/S	0.0043	1
A 312	1 BR/S	0.0043	1
A 313	1 BR/DEL	0.0047	1
A 314	1 BR/DEL	0.0047	1
A 315	1 BR/S	0.0043	1
A 316	1 BR/S	0.0043	1
A 317	2 BR/S	0.0061	1
A 318	2 BR/S	0.0061	1
A 319	2 BR/S	0.0061	1
A 320	2 BR/S	0.0061	1
A 321	1 BR/S	0.0043	1
A 322	1 BR/S	0.0043	1
A 323	1 BR/DEL	0.0047	1
A 324	1 BR/DEL	0.0047	1
A 325	1 BR/S	0.0043	1
A 326	1 BR	0.0037	1
A 327	2 BR/S	0.0061	1
A 328	2 BR/S	0.0061	1
A 329	2 BR/S	0.0061	1
A 330	2 BR/S	0.0061	1
A 401	1 BR/S	0.0043	1
A 402	1 BR/S	0.0043	1
A 403	1 BR/DEL	0.0047	1
A 404	1 BR/DEL	0.0047	1
A 405	1 BR/S	0.0043	1
A 406	1 BR	0.0037	1
A 407	ALCOVE	0.0026	1
A 408	ALCOVE	0.0026	1
A 409	2 BR	0.0054	1
A 410	2 BR/S	0.0061	1
A 411	1 BR/S	0.0043	1
A 412	1 BR/S	0.0043	1
A 413	1 BR/DEL	0.0047	1
A 414	1 BR/DEL	0.0047	1
A 415	1 BR/S	0.0043	1
A 416	1 BR/S	0.0043	1
A 417	2 BR/S	0.0061	1
A 418	2 BR/S	0.0061	1
A 419	2 BR/S	0.0061	1
A 420	2 BR/S	0.0061	1
A 421	1 BR/S	0.0043	1
A 422	1 BR/S	0.0043	1
A 423	1 BR/DEL	0.0047	1
A 424	1 BR/DEL	0.0047	1
A 425	1 BR/S	0.0043	1

A 426	1 BR	0.0037	1
A 427	2 BR/S	0.0061	1
A 428	2 BR/S	0.0061	1
A 429	2 BR/S	0.0061	1
A 430	2 BR/S	0.0061	1
A 501	1 BR/S	0.0043	1
A 502	1 BR/S	0.0043	1
A 503	1 BR/DEL	0.0047	1
A 504	1 BR/DEL	0.0047	1
A 505	1 BR/S	0.0043	1
A 506	1 BR	0.0037	1
A 507	ALCOVE	0.0026	1
A 508	ALCOVE	0.0026	1
A 509	2 BR	0.0054	1
A 510	2 BR/S	0.0061	1
A 511	1 BR/S	0.0043	1
A 512	1 BR/S	0.0043	1
A 513	1 BR/DEL	0.0047	1
A 514	1 BR/DEL	0.0047	1
A 515	1 BR/S	0.0043	1
A 516	1 BR/S	0.0043	1
A 517	2 BR/S	0.0061	1
A 518	2 BR/S	0.0061	1
A 519	2 BR/S	0.0061	1
A 520	2 BR/S	0.0061	1
A 521	1 BR/S	0.0043	1
A 522	1 BR/S	0.0043	1
A 523	1 BR/DEL	0.0047	1
A 524	1 BR/DEL	0.0047	1
A 525	1 BR/S	0.0043	1
A 526	1 BR	0.0037	1
A 527	2 BR/S	0.0061	1
A 528	2 BR/S	0.0061	1
A 529	2 BR/S	0.0061	1
A 530	2 BR/S	0.0061	1
A 601	1 BR/S	0.0043	1
A 602	1 BR/S	0.0043	1
A 603	1 BR/DEL	0.0047	1
A 604	1 BR/DEL	0.0047	1
A 605	1 BR/S	0.0043	1
A 606	1 BR	0.0037	1
A 607	ALCOVE	0.0042	1
A 608	ALCOVE	0.0026	1
A 609	2 BR	0.0038	1
A 610	2 BR/S	0.0061	1
A 611	1 BR/S	0.0043	1
A 612	1 BR/S	0.0043	1
A 613	1 BR/DEL	0.0047	1



A 614	1 BR/DEL	0.0047	1
A 615	1 BR/S	0.0043	1
A 616	1 BR/S	0.0043	1
A 617	2 BR/S	0.0061	1
A 618	2 BR/S	0.0061	1
A 619	2 BR/S	0.0061	1
A 620	2 BR/S	0.0061	1
A 621	1 BR/S	0.0043	1
A 622	1 BR/S	0.0043	1
A 623	1 BR/DEL	0.0047	1
A 624	1 BR/DEL	0.0047	1
A 625	1 BR/S	0.0043	1
A 626	1 BR	0.0037	1
A 627	2 BR/S	0.0061	1
A 628	2 BR/S	0.0061	1
A 629	2 BR/S	0.0061	1
A 630	2 BR/S	0.0061	1
A 701	1 BR/S	0.0043	1
A 702	1 BR/S	0.0043	1
A 703	1 BR/DEL	0.0047	1
A 704	1 BR/DEL	0.0047	1
A 705	1 BR/S	0.0043	1
A 706	1 BR	0.0037	1
A 707	ALCOVE	0.0026	1
A 708	ALCOVE	0.0026	1
A 709	2 BR	0.0054	1
A 710	2 BR/S	0.0061	1
A 711	1 BR/S	0.0043	1
A 712	1 BR/S	0.0043	1
A 713	1 BR/DEL	0.0047	1
A 714	1 BR/DEL	0.0047	1
A 715	1 BR/S	0.0043	1
A 716	1 BR/S	0.0043	1
A 717	2 BR/S	0.0061	1
A 718	2 BR/S	0.0061	1
A 719	2 BR/S	0.0061	1
A 720	2 BR/S	0.0061	1
A 721	1 BR/S	0.0043	1
A 722	1 BR/S	0.0043	1
A 723	1 BR/DEL	0.0047	1
A 724	1 BR/DEL	0.0047	1
A 725	1 BR/S	0.0043	1
A 726	1 BR	0.0037	1
A 727	2 BR/S	0.0061	1
A 728	2 BR/S	0.0061	1
A 729	2 BR/S	0.0061	1
A 730	2 BR/S	0.0061	1

EXHIBIT "D"

BYLAWS  
OF  
CLAIRMONT PLACE CONDOMINIUM ASSOCIATION, INC.

WEISSMAN, NOWACK, CURRY & ZALEON, P.C.

Attorneys

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BYLAWS

OF

CLAIRMONT PLACE CONDOMINIUM ASSOCIATION, INC.

Article I.

General

Section 1. Applicability. These bylaws provide for the self-government of Clairmont Place Condominium Association, Inc., in accordance with the Georgia Condominium Act, the Articles of Incorporation filed with the Secretary of State and the Amended and Restated Declaration of Condominium for Clairmont Place, a Condominium, recorded in the Dekalb County, Georgia land records ("Declaration").

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

Section 3. Definitions. The terms used herein shall have their generally accepted meanings or such meanings as are specified in Article 1 of the Declaration.

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

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

Section 6. Voting. Each Unit shall be entitled to one vote, which vote may be cast by the owner, the owner's spouse, or by a lawful proxy as provided below. Each vote shall have the same percentage as the respective Unit's percentage allocation of interest in the Allocation of Undivided Interests in Common Elements and Share of Liability for Common Expenses as set forth in Exhibit "C" to the Declaration. When more than one (1) person owns a Unit, the vote for such Unit shall be exercised as they determine between or among themselves, but in no event shall more than one (1) vote be cast with respect to any Unit. If only one (1) co-owner attempts to cast the vote for a Unit, it shall be conclusively presumed that such co-owner is authorized on behalf of all co-owners to cast the vote for such Unit. In the event of disagreement between or among co-owners and an attempt by two (2) or more of them to cast such vote or votes, such Persons shall not be recognized and such vote or votes shall not be counted. No owner shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors, if that owner is shown on the books

or management accounts of the Association to be more than thirty (30) days delinquent in any payment due the Association or if the owner has had its voting rights suspended for the infraction of any provision of the Declaration, these bylaws, or any rule of the Association. If the voting rights of an owner have been suspended, that owner shall not be counted as an eligible vote for purposes of establishing a majority or a quorum or for purposes of amending these bylaws or the Declaration.

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

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

## Article II.

### Meetings of Members

Section 1. Annual Meetings. The regular annual meeting of the members shall be held during the month of November each year with the date, hour, and place to be set by the Board.

Section 2. Special Meetings. Special meetings of the members may be called for any purpose at any time by the President, the Secretary, or by request of any two (2) or more Board members, or upon written petition of ten (10%) percent of the owners. Any such written petition by the members must be submitted to the Association's Secretary. The Secretary shall then verify that the required number of members have joined in the petition and shall submit all proper petitions to the Association's President. The President shall then promptly call a special meeting for the purpose stated in the petition, and the Secretary shall send notice of the meeting in accordance with these bylaws.

Section 3. Notice of Meetings. It shall be the duty of the Secretary to mail or deliver to each owner of Units of record or to the Units a notice of each annual or special meeting of the Association at least twenty-one (21) days prior to each annual meeting and at least seven (7) days prior to each special meeting. The notice shall state the purpose of any special meeting, as well as the time and place where it is to be held. The notice of an annual meeting shall state the time and place of the meeting. If any owner wishes notice to be given at an address other than his or her Unit, the owner shall designate such address by written notice to the Secretary. The mailing or delivering of a notice of meeting in the manner provided in this Section shall be considered proper service of notice.

Section 4. Waiver of Notice. Waiver of notice of meeting of the owners shall be deemed the equivalent of proper notice. Any owner may, in writing, waive notice of any meeting of the owners, either before or after such meeting. Attendance at a meeting by an owner, whether in person or represented by proxy, shall be deemed waiver by such owner of notice of the time, date, and place

thereof unless such owner specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted at such meeting unless objection to lack of notice is raised before the business, of which proper notice was not given, is put to a vote.

Section 5. Quorum. Except as may be provided elsewhere, the presence, in person or by proxy at the beginning of the meeting, of owners entitled to cast forty percent (40%) of the eligible votes of the Association shall constitute a quorum. Once a quorum is established for a meeting, it shall conclusively be presumed to exist until the meeting is adjourned and shall not need to be reestablished. Owners whose voting rights have been suspended pursuant to the Declaration or these bylaws shall not be counted as eligible votes toward the quorum requirement.

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

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

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

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

All solicitations for votes by written ballot shall: a) indicate the number of responses needed to meet the quorum requirements; b) state the percentage of approvals necessary to approve each matter other than election of directors; and c) specify the time by which a ballot must be received by the Association in order to be counted, which time may not be less than ten (10) days from the date of the mailing of the written ballot by the Association. A written ballot may not be revoked. The Association shall maintain such ballots in its file for at least three (3) years.

(b) Written Consent. Approval by written consent shall be valid only when the number of written consents received equals or exceeds the requisite majority of the voting power for such action. Executed written consents shall be included in the minutes or filed with the Association's records. If an action of the members is approved by written consent hereunder, the Board shall issue written notice of such approval to all members who did not sign written consents. Membership approval shall be effective ten (10) days after written notice is

issued; provided, however, if the consent is to an amendment to the Declaration or Bylaws which must be recorded, the effective date shall be no earlier than the date of recording of such amendment.

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

Article III.  
Board of Directors

A. Composition and Selection.

Section 1. Composition. The affairs of the Association shall be governed by a Board of Directors. The Board shall be composed of five (5) persons. The directors shall be owners of Units or spouses or cohabitants of such owners; provided, however, no owner and his or her spouse or cohabitant may serve on the Board at the same time, and no co-owners may serve on the Board at the same time.

Section 2. Term of Office. Those directors serving on the date these amended and restated bylaws are recorded in the Dekalb County, Georgia land records shall remain in office until the terms for which they were elected expire. Successor directors shall be elected by the vote of those members present or represented by proxy, at the annual or other meeting of the membership of the Association, a quorum being present. Those persons receiving the most votes shall be elected to the number of positions to be filled. All successor directors shall be elected for one year terms and shall hold office until their successors are elected.

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

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

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

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



at which the proposed contract is discussed and to discuss the proposed contract unless requested by any other director to leave the room during the discussion.

Section 7. Nomination. Nomination for election to the Board shall be made by a Nominating Committee which shall be appointed by the Board of Directors at least thirty (30) days prior to the annual meeting to serve a term of one (1) year and shall consist of at least one (1) Board member and at least two (2) other members of the Association who are not Board members. The members of the Nominating Committee shall be announced at the annual meeting. The Nominating Committee may nominate any number of qualified individuals, but not less than the number of directors to be elected. The nominations shall be made at least fourteen (14) days prior to the annual meeting. Nominations shall also be allowed from the floor at the meeting. Each candidate shall be given a reasonable opportunity to communicate his or her qualifications to the membership prior to the election. No member shall be nominated for election to the Board, nor permitted to run for election, if more than thirty (30) days past due in the payment of any assessment. Failure to comply with this Section shall in no way invalidate the election of directors who were not nominated in accordance with the provisions hereof.

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

B. Meetings.

Section 1. Regular Meetings. Regular Board meetings may be held at such time and place as shall be determined by the Board, but such meetings shall be held at least once every three (3) months. The newly elected Board shall meet within ten (10) days after each annual meeting of the membership.

Section 2. Special Meetings. Special Board meetings may be called by the President on three (3) days' notice to each director given by mail, in person, by telephone, or by facsimile transmission, which notice shall state the time, place, and purpose of the meeting. Special Board meetings shall be called by the President, Vice President, Secretary, or Treasurer in like manner and on like notice on the written request of at least two (2) directors.

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

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

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

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

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

C. Powers and Duties.

Section 1. Powers and Duties. The Board shall manage the affairs of the Association and shall have all the powers and duties necessary for the administration of the Condominium and may do all such acts and things as are not by the Act, the Declaration, the Articles of Incorporation, or these By-Laws directed to be done and exercised exclusively by the members. In addition to the duties imposed by these By-Laws, the Board shall have the power to and shall be responsible for the following, in the way of explanation, but not limitation:

- (a) preparation and adoption of an annual budget, in which there shall be established the contribution of each owner to the common expenses;
- (b) making assessments to defray the common expenses, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment;
- (c) providing for the operation, care, upkeep, and maintenance of all of all areas required to be maintained by the Association pursuant to the Declaration;
- (d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and the maintenance, repair, and replacement of the common elements, Association property, and the area of common responsibility and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;
- (e) collecting the assessments, depositing the proceeds thereof in a financial depository or institution which it shall approve, or otherwise investing the proceeds in accordance with any limitations set forth in O.C.G.A. § 14-3-302, and using the proceeds to administer the Association;
- (f) making and amending rules and regulations and imposing sanctions for violation thereof, including reasonable monetary fines;
- (g) opening of bank or other financial accounts on behalf of the Association and designating the signatories required;
- (h) making or contracting for the making of repairs, additions, and improvements to, or alterations of the common elements in accordance with the other provisions of the Declaration and these bylaws, after damage or destruction by fire or other casualty;
- (i) enforcing by legal means the provisions of the Declaration, these bylaws, and the rules and regulations adopted by it, and bringing any proceedings which may be instituted on behalf of or against the owners concerning the Association;
- (j) obtaining and carrying insurance against casualties and liabilities, as provided in the Act and the Declaration, and paying the premium cost thereof;

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

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

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

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

Section 3. Borrowing. The Board shall have the power to borrow money for the purpose of maintenance, repair, restoration, or improvement of the common elements and facilities without the approval of the members of the Association; the Board shall also be authorized to borrow money for other purposes; provided, however, the Board shall obtain membership approval in the same manner as provided in the Declaration for special assessments if the proposed borrowing is for any other purpose (including, but not limited to modifying, improving, or adding amenities to the Condominium) and the total amount of such borrowing exceeds or would exceed ten thousand (\$10,000.00) dollars outstanding debt at any one time.

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

D. Committees.

Section 1. Nominating Committee. Pursuant to Section 7 of Paragraph A of this Article, there shall be a Nominating Committee composed of three (3) members appointed in the manner and to perform the functions specified in Section 7 Paragraph A of this Article.

Section 2. Architectural Control Committee. The Board may establish an Architectural Control Committee for the purpose of establishing and maintaining architectural standards in the Condominium as provided in the Declaration.

Section 3. Other Committees. There shall be such other committees as the Board shall determine with the powers and duties that the Board shall authorize.

Section 4. Service on Committees. Unless otherwise provided in these By-Laws or in the resolution authorizing a particular committee, the members of any committee shall be appointed by the President and shall serve at the pleasure of the Board of Directors. Any committee member may be removed with or without cause at any time and with or without a successor being named.

Article IV.  
Officers

Section 1. Designation. The principal officers of the Association shall be the President, the Vice President, the Secretary, and the Treasurer. The President, Vice President, and Secretary shall be elected by and from the Board. The Treasurer shall be elected by the Board, but need not be a Board member. The Board may appoint one or more Assistant Treasurers, Assistant Secretaries, and such other subordinate officers as in its judgment may be necessary. Any assistant or subordinate officers shall not be required to be Board members. Except for the offices of Secretary and Treasurer, which may be held by the same person, no person may hold more than one (1) office.

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

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

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

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

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

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

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

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

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

#### Article V.

#### Rule Making and Enforcement

Section 1. Authority and Enforcement. The Condominium shall be used only for those uses and purposes set out in the Declaration. The Board of Directors shall have the authority to make, modify, repeal and enforce reasonable rules and regulations governing the conduct, use, and enjoyment of Units and the common elements; provided, copies of all such rules and regulations shall be furnished to all owners and occupants. Any rule or regulation may be repealed by the affirmative vote or written consent of a Majority of the total Association vote at an annual or special meeting of the membership. Every owner and occupant shall comply with the Declaration, Bylaws and rules and regulations of the Association, and any lack of compliance therewith shall entitle the Association and, in an appropriate case, one or more aggrieved Unit owners, to take action to enforce the terms of the Declaration, bylaws or rules and regulations.

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

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

date as may be set forth in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge such fine under subsection (b) below.

(a) Notice. If any provision of the Declaration or bylaws or any rule or regulation of the Association is violated, the Board shall serve the violator with written notice sent certified mail, return receipt requested, which shall state: i) the nature of the alleged violation; ii) the sanction to be imposed; iii) a statement that the violator may challenge the fact of the occurrence of a violation, the sanction, or both, by written challenge and written request for a hearing before the Board, which request must be received by the Board within ten (10) days of the date of the notice; and iv) the name, address, and telephone number of a person to contact to challenge the proposed action. If a timely challenge is made and the violation is cured within ten (10) days of the date of the notice, the Board, in its discretion, may, but is not obligated to, waive any sanction or portion thereof. In the event of a continuing violation, each day the violation continues or occurs again constitutes a separate offense, and fines may be imposed on a per diem basis without further notice to the violator.

(b) Hearing. If the alleged violator timely challenges the proposed action, a hearing before the Board shall be held in executive session affording the violator a reasonable opportunity to be heard. The hearing shall be set at a reasonable time and date by the Board, and notice of the time, date (which shall be at least ten (10) days from the giving of notice, unless otherwise consented to by the violator), and place of the hearing and an invitation to attend the hearing and produce any statements, evidence, and witnesses shall be sent to the alleged violator. The minutes of the meeting shall contain a written statement of the results of the hearing. This Section shall be deemed complied with if a hearing is held and the violator attends and is provided an opportunity to be heard, notwithstanding the fact that the notice requirements contained herein are not technically followed.

Section 3. Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Board may elect to enforce any provision of the Declaration, the bylaws, or the rules and regulations by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedure set forth in Section 2 of this Article. In any such action, to the maximum extent permissible, the owner or occupant responsible for the violation for which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

The Association or its duly authorized agent shall have the power to enter upon any portion of the common elements to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates the Declaration, the bylaws, or the rules and regulations. All costs of self-help, including reasonable attorney's fees, shall be assessed against the violating owner.

Article VI.  
Miscellaneous

Section 1. Notices. Unless otherwise provided in these bylaws, all notices, demands, 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 United States mail, first class postage prepaid:

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

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

(c) If to the Association, the Board 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 in writing and filed with the Secretary.

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

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

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

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

Section 6. Financial Review. A financial review of the Association's accounts shall be performed annually in the manner provided by the Board. However, after receiving the Board's financial review at the annual meeting, the owners may, by a Majority of the Association vote, require that the Association's accounts be audited as a Common Expense by an independent accountant.

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

Section 8. Amendment. Except where a higher vote is required for action under a particular provision of the Declaration or bylaws, in which case such higher vote shall be necessary to amend, these bylaws may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members holding sixty-six and two-thirds (66-2/3%) percent of the total eligible vote of the Association: Notice of a meeting, if any, at which an amendment will be considered shall state that fact and the subject matter of the proposed amendment. No amendment shall become effective until it is certified by the Association's President and Secretary and recorded in the Dekalb County, Georgia land records. Any amendment duly certified and recorded shall be conclusively presumed to have been duly adopted in accordance with the By-Laws. Owners whose voting rights have been suspended pursuant to the Declaration or these bylaws shall not be counted as eligible votes toward the amendment requirement.

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

Section 9. Books and Records.

(a) All members of the Association and any institutional holder of a first Mortgage shall be entitled to inspect the following records at a reasonable

time and location specified by the Association, upon written request at least five (5) days before the date on which the member wishes to inspect and copy:

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

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

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

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

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

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

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

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

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

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

ii) accounting records of the Association; and

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

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



CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Clairmont Place Condominium Association, Inc., a Georgia nonprofit corporation;

That the foregoing bylaws constitute the Amended and Restated Bylaws of said Association, as duly adopted by the Board of Directors and the members of the Association on the 29th day of November, 1995.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 20th day of December, 1995.

CLAIRMONT PLACE CONDOMINIUM  
ASSOCIATION, INC.

Mary W. Halcy  
Secretary

[CORPORATE SEAL]

MEMO TO: ALL CLAIRMONT PLACE HOMEOWNERS

FROM: NEIL B. PAXSON *NBP*

SUBJECT: AMENDMENT TO DECLARATION

DATE: NOVEMBER 6, 1996

Attached hereto is a copy of the Amendment to the Amended and Restated Declaration of Clairmont Place as recorded in the DeKalb County Courthouse on Thursday, October 31, 1996.

The amendment regarding Article 9, Section 9.7 of the Declaration is entitled "Investment Ownership, Leasing and Sale of Units", and was adopted by vote of the homeowners on October 7, 1996 (See my memo, dated 10/10/96, Subject: Results of voting).

Section 9.72 (Leasing) of the Amendment restricts leasing to 12% of the total Units except in hardship cases. This equates to 25 Units (12% x 209 Units). As a matter of information, there were 26 Units being leased on the date of filing the Amendment at the courthouse (10/31/96). Existing leases of these Units are protected and renewable until ownership of the Unit is conveyed.

Homeowners are urged to familiarize themselves with the provisions of this new Amendment. This to insure compliance and avoid entering into any transaction which could potentially be voided by the Board of Directors.

1 Inclosure  
(as)

cc: Grace Management Inc.  
Candyce Cavanagh  
Clairmont Place Realty

FILED AND RECORDED THIS  
31<sup>ST</sup> DAY OF Oct, 19 96  
AT 2:52 P.M.

Return to: Weissman, Nowack, Curry & Zaleon, P.C.  
Two Midtown Plaza, 15th Floor  
1349 West Peachtree Street  
Atlanta, Georgia 30309

CLERK OF SUPERIOR COURT  
DEKALB COUNTY, GEORGIA

STATE OF GEORGIA  
COUNTY OF DEKALB

Cross Reference: Deed Book 6398  
Page 134

AMENDMENT TO THE DECLARATION OF CONDOMINIUM FOR  
CLAIRMONT PLACE, A CONDOMINIUM

WHEREAS, by the execution and recording of that certain Declaration of Clairmont Place, A Condominium, dated March 28, 1989, recorded in Deed Book 6398, Page 134 et seq., DeKalb County, Georgia Records (the "Original Declaration"), Decatur Retirement Group, a Georgia general partnership, did submit to the provisions of the Georgia Condominium Act that certain tract or parcel of land lying and being in Land Lot 60 of the 18th District of DeKalb County, Georgia, which is more particularly described on Exhibit "A" thereto; and

WHEREAS, the Original Declaration, as amended by that certain amendment recorded at Deed Book 8811, Page 015, was further amended and restated by an amendment recorded in Deed Book 8811, Page 024 ("Declaration"); and

WHEREAS, a plat related to the Condominium was filed in Condominium Plat Book 7, Page 5, DeKalb County, Georgia Records; and

WHEREAS, floor plans to the Condominium were filed in Condominium Folder No. 204, DeKalb County, Georgia Records; and

WHEREAS, Article 17, Section 17.2 of the Declaration provides that the Declaration may be amended by the affirmative vote, written consent, or any combination thereof, of the members of the Association holding at least sixty-six and two-thirds (66-2/3%) percent of the total eligible vote in the Clairmont Place Condominium Association, Inc. ("Association"); and

WHEREAS, members holding at least sixty-six and two-thirds (66-2/3%) percent of the total eligible vote in the Association have approved the following amendment:

NOW, THEREFORE the Declaration is hereby amended as follows:

1.

Article 9, Section 9.7 of the Declaration shall be deleted in its entirety and the following shall be substituted therefor:

9.7 Investment Ownership, Leasing and Sale of Units.

In order to protect the equity of the Unit Owners at Clairmont Place Condominium, to carry out the original purpose of the Condominium by preserving its character as a predominantly owner-occupied community and not a rental apartment complex, and to comply with certain regulations of the secondary mortgage market, this section shall limit ownership of Units for investment purposes and the leasing of Units. A combined unit is considered one Unit for purposes of this section.

9.71 Ownership Limitation.

No person or entity is permitted to own more than two (2) Units at any one time. A person owning any interest whatever in a Unit is considered an Owner. However, if an Owner owns more than two (2) Units on the effective date of this Amendment, he/she may continue to own such Units, but may not acquire any more.

9.72 Leasing of Units.

i) Definitions.

A) Leasing means regular occupancy of a Unit by someone other than the Owner who receives some form of fee or compensation.

B) Leasing Status shall permit a Unit to be rented. Leased Units on the effective date of this Amendment shall be grandfathered and may continue to be leased until ownership is conveyed, at which time it loses its Leasing Status. However, existing leases may be honored and renewable if agreeable to both the new Owner and present Tenant. Leasing to a new tenant is prohibited after change of ownership.

C) Confidential Data Form is a form providing general information about each Resident that ensures appropriate handling of the situation if an emergency occurs. A current confidential data form shall be on file for all Residents.

ii) General. Not more than twelve percent (12%) of the total Units may be leased except in hardship cases. Owners may apply in writing to the Board of Directors for Leasing Status. These Requests shall be filed in order of receipt; when fewer than twelve percent (12%) of Units are leased the Board shall grant Leasing Status to the first request for sixty (60) days. If it is not leased within this time frame it again becomes ineligible and the next request receives 60-day Leasing Status.

iii) Undue Hardship. The Board may allow reasonable leasing of Units, upon written request, to avoid undue hardship upon an Owner. Such situations may include (1) an Owner can not sell the Unit within sixty (60) days except at below appraisal price; (2) the Owner dies and the Unit is tied up in an estate settlement; or (3) Owner takes an extended leave of absence or temporarily relocates with expectation of returning to live in the Unit.

Any Owner who believes leasing is necessary to avoid undue hardship must contact the Board in writing, stating the circumstances and providing any other information requested by the Board.

The Board shall make and enforce reasonable rules, and may fine, in order to enforce terms of this section. Any transaction not in compliance may be voided by the Board.

iv) Leasing Provisions.

A) Notice. At least ten (10) days before entering into any lease, an Owner must submit to the Board a completed confidential data form (including a Health report), the Owner's address not at the Unit and any other information needed by the Board. No Owner shall lease to an individual who would then qualify as an Ineligible Occupant were he/she residing in the Condominium. The Owner shall provide to the Board names of all occupants promptly.

B) General. No leases shall be for transient or hotel purposes, with no leases of less than twelve (12) months unless it is a part of an obligation (not option) to buy the Unit. No one shall lease a portion of a Unit and no Unit may be subleased.

v) Applicability of this Section. Owners who are leasing their Units on the effective date of this Amendment may continue to lease; however, such leases shall count toward the twelve percent (12%) limit for determining if other Units may be leased.

vi) Inapplicability to Holder of First Mortgages. This section does not apply to institutional holders (i.e., banks) of any first mortgage on a Unit which it acquired by foreclosure or other means of satisfaction of indebtedness secured by the mortgage.

9.73 Sale of Units.

i) Sale Provisions.

A) Notice. The Board must be notified promptly of intention to sell a Unit and a confidential data form secured to provide to the potential purchaser.

B) A Unit may be sold directly by Owner or by a Broker of his/her choice. Clairmont Realty has been on site since the early sales period and is familiar with the property, its requirements and services, but they are not affiliated with the Association.

9.74 Lease/Sale Review Meeting.

All prospective residents must schedule an orientation meeting with the Board or its representative prior to committing to any contract. This shall be within seven (7) days of receipt of the confidential data form from the seller. This session is for the purpose of meeting the Board or its representative, reviewing the terms and conditions for occupancy, to clarify and explain the Declaration and Bylaws and to provide any other information that might reasonably be required.

IN WITNESS WHEREOF, the undersigned officers of Clairmont Place Condominium Association, Inc., hereby certify that the above Amendment to the Declaration of Condominium for Clairmont Place, A Condominium was duly adopted by the Association and its membership and any notices required were properly given.

[SIGNATURES CONTINUED ON NEXT PAGE]

This 30<sup>th</sup> day of OCTOBER, 1996.

CLAIRMONT PLACE CONDOMINIUM ASSOCIATION, INC.

By: *Alfred G. Freeman* [SEAL]  
President

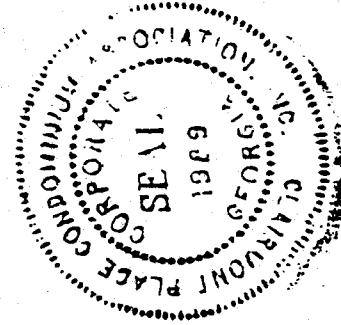
Attest: *Mary W. Haley* [SEAL]  
Secretary

[CORPORATE SEAL]

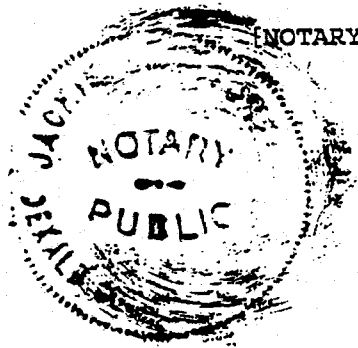
Sworn to and subscribed to  
before me this 30 day of  
October, 1996.

*Jackie W. Mitchell*  
Notary Public

My Commission Expires:  
Notary Public, DeKalb County, Georgia.  
My Commission Expires July 20, 1998.



[NOTARY SEAL]



MEMO TO: ALL CLAIRMONT PLACE HOMEOWNERS

FROM: NEIL B. PAXSON

NBP

SUBJECT: AMENDMENT TO THE BY-LAWS

DATE: 9/15/97

Attached hereto is a copy of the Amendment to the By-Laws of the Clairmont Place Condominium Association, Inc. as recorded in the DeKalb County Courthouse on Tuesday, July 22, 1997.

This Amendment replaces Article III, Section 2, "Term of Office", in its entirety, and was adopted by vote of the homeowners on June 11, 1997 (See my memo dated 6/12/97, Subject: Results of Voting).

This amendment provides for staggered terms of office for the five-member Board of Directors. At the annual homeowners meeting now scheduled for MONDAY, NOVEMBER 17, 1997, the election of the next Board of Directors will be held in accordance with the provisions of this amendment.

1 Inclosure

(as)

cc: Grace Management Inc.  
Weissman, Nowack, Curry and Wilco  
Clairmont Place Realty

STATE OF GEORGIA  
COUNTY OF DEKALB

Reference: Deed Book 8811  
Page 024

AMENDMENT TO THE BY-LAWS OF THE  
CLAYMONT PLACE CONDOMINIUM ASSOCIATION, INC.

WHEREAS, Decatur Retirement Group, a Georgia General Partnership, filed a declaration of Condominium of Claymont Place, a Condominium which was recorded on April 2, 1989 in Deed Book 6398, Page 134 et seq. of the DeKalb County, Georgia land records; ("Original Declaration");

WHEREAS, the Original Declaration was amended and restated in its entirety by that amendment recorded on December 21, 1995 in Deed Book 8811, Page 024 of the DeKalb County, Georgia records (hereinafter referred to as the "Declaration"); and

WHEREAS, the Bylaws of Claymont Place Condominium Association, Inc. (hereinafter referred to as "Bylaws") which provide for the self government of Claymont Place Condominium Association, Inc. (hereinafter referred to as "Association") are set forth in Exhibit "D" of the Declaration recorded in Deed Book 8811, Page 77, et seq., DeKalb County, Georgia records; and

WHEREAS, Article VI, Section 8 of the By-Laws provides for amendment of the By-Laws by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members of the Association holding sixty-six and two-thirds (66 2/3%) percent of the total vote thereof; and

Claymont PLACE  
2100 Claymont LAKE  
Decatur GA 30033

BOOK 9537 PAGE 340



WHEREAS, members of the Association holding at least sixty-six and two-thirds (66 2/3%) percent of the total vote thereof desire to amend the By-Laws and have approved this.

Amendment;

NOW, THEREFORE, the By-Laws for Clairmont Place Condominium Association, Inc. are hereby amended as follows:

I.

Article III, Section 2 is amended by deleting that section in its entirety and substituting therefor the following:

Those directors serving on the date this amendment is recorded in the DeKalb County, Georgia land records shall remain in office until the terms for which they were elected expire. Successor directors shall be elected by the vote of those members present or represented by proxy, at the annual or other meeting of the membership of the Association, a quorum being present. At the first election of directors of the Association following the date this amendment is recorded in the DeKalb County, Georgia land records, the terms of successor directors shall be staggered on a one (1) and two (2) year basis. Two (2) directors shall be elected for one (1) year, and three (3) directors shall be elected for two (2) years. At the expiration of the term of office of each member of the Board of Directors, and at each annual meeting thereafter, a successor shall be elected to serve for a term of two (2) years. The members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association.

(SIGNATURES CONTINUED ON NEXT PAGE)

IN WITNESS WHEREOF, the undersigned officers of Clairmont Place Condominium Association, Inc. hereby certify that the above Amendment to the Declaration of Condominium for Clairmont Place, A Codominium was duly adopted by the Association and its membership and any notices required were properly given.

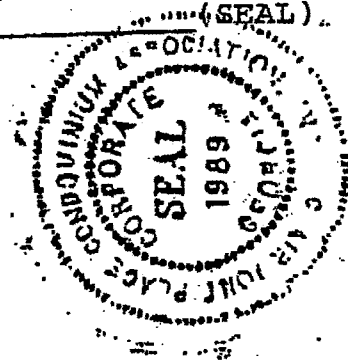
This 21 day of July, 1997

CLAIRMONT PLACE CONDOMINIUM ASSOCIATION, INC.

By: Glenn C. Freeman (SEAL)  
President

Attest: Mary Haley (SEAL)  
Secretary

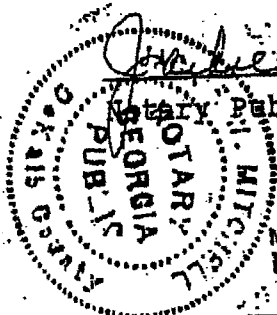
(CORPORATE SEAL)



Sworn to and subscribed to before me this 21 day of July, 1997.

Trish Selmeria  
Witness

Charles W. Mitchell  
Notary Public



Notary Public, DeKalb County, Georgia.  
My Commission Expires July 20, 1998.

(NOTARY SEAL)

MEMO TO: ALL HOMEOWNERS/RESIDENTS

FROM: NEIL B. PAXSON

NBP

SUBJECT: AMENDMENT TO THE AMENDED AND RESTATED  
DECLARATION PROHIBITING FUTURE CATS AND DOGS

DATE: 11/23/98

Attached for your records is an officially stamped copy of the latest Amendment to the Amended and Restated Declaration of Condominium for Clairmont Place. The Amendment prohibits future cats and dogs from residing on the Clairmont Place property.

This Amendment received more than the required number of homeowner votes to be adopted (i.e. see my memo dated 11/18/98, Subject: Results of Voting )  
The Amendment was subsequently filed in the DeKalb County Courthouse on Friday, 11/20/98 and thus becomes a legally enforceable provision of the rules governing Clairmont Place.

Please retain this new Amendment with your Clairmont Place documents.

1 Inclosure

(as)

cc: Grace Management Inc.  
Rob Stein

Return to: Weissman, Nowack, Curry & Wilco, P.C.  
1349 West Peachtree Street  
Atlanta, Georgia 30309

STATE OF GEORGIA

Cross Reference: Deed Book 6398  
Page 134

COUNTY OF DEKALB

**AMENDMENT TO THE DECLARATION OF CONDOMINIUM FOR  
CLAIRMONT PLACE, A CONDOMINIUM**

WHEREAS, by the execution and recording of that certain Declaration of Clairmont Place, A Condominium, dated March 28, 1989, recorded in Deed Book 6398, Page 134 et seq., DeKalb County, Georgia Records (the "Original Declaration"), Decatur Retirement Group, a Georgia general partnership, did submit to the provisions of the Georgia Condominium Act that certain tract or parcel of land lying and being in Land Lot 60 of the 18th District of DeKalb County, Georgia, which is more particularly described on Exhibit "A" thereto; and

WHEREAS, the Original Declaration, as amended by that certain amendment recorded at Deed Book 8811, Page 015, was further amended and restated by an amendment recorded in Deed Book 8811, Page 024 ("Declaration"); and

WHEREAS, the amended and restated Declaration has been amended by that amendment recorded on October 31, 1996 in Deed Book 9190, Page 741; and

WHEREAS, a plat related to the Condominium was filed in Condominium Plat Book 7, Page 5, Dekalb County, Georgia Records; and

WHEREAS, floor plans to the Condominium were filed in Condominium Folder No. 204, Dekalb County, Georgia Records; and

WHEREAS, Article 17, Section 17.2 of the Declaration provides that the Declaration may be amended by the affirmative vote, written consent, or any combination thereof, of the members of the Association holding at least sixty-six and two-thirds (66-2/3%) percent of the total eligible vote in the Clairmont Place Condominium Association, Inc. ("Association"); and

WHEREAS, members holding at least sixty-six and two-thirds (66-2/3%) percent of the total eligible vote in the Association have approved the following amendment:

NOW, THEREFORE the Declaration is hereby amended as follows:

1.

Article IX, Section 9.5 shall be amended by deleting that subsection in its entirety and substituting therefor the following:

(a) Except as otherwise provided hereinbelow, no animals shall be permitted on the Property; provided, however, each Resident shall have the right to keep (i) a reasonable number of birds of a type generally recognized as household pets, and (ii) a reasonable number of fish and other aquatic animals of a type generally recognized as household pets and capable of being contained in aquariums permitted under the provisions of Section 9.11 hereof.

Notwithstanding the above, this Amendment shall not apply to require a Resident to remove any pet owned and kept at the Condominium by such Resident on the recording date of this Amendment that is in compliance with the Declaration in effect prior to the date of recording of this Amendment. Any Resident permitted to keep a dog or cat(s) hereunder may not replace such pets that die or are otherwise removed from the Condominium.

All pets permitted in the Condominium under this subsection 9.5(a) shall comply with the provisions of subsections 9.5(b) through (g) below.

IN WITNESS WHEREOF, the undersigned officers of Clairmont Place Condominium Association, Inc., hereby certify that the above Amendment to the Declaration of Condominium for Clairmont Place, A Condominium was duly adopted by the Association and its membership and any notices required were properly given.

(Signatures continued on next page)

(Signatures continued from previous page)

This 19<sup>th</sup> day of November, 1998.

CLAIRMONT PLACE CONDOMINIUM ASSOCIATION,  
INC

By: [Signature] [SEAL]  
President

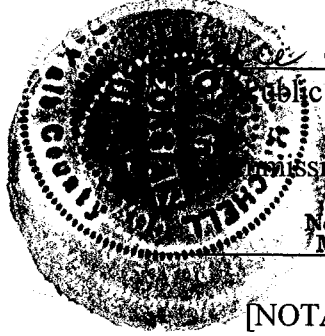
Attest: [Signature] [SEAL]  
Secretary



[CORPORATE SEAL]

Sworn to and subscribed to  
before me this 19<sup>th</sup> day of  
November, 9998.

[Signature]  
Witness



[Signature]  
Notary Public

Commission Expires:  
Notary Public, DeKalb County, Georgia  
My Commission Expires July 15, 2002

[NOTARY SEAL]

MEMO TO: ALL CLAIRMONT PLACE HOMEOWNERS

FROM: NEIL B. PAXSON

NBP

SUBJECT: AMENDMENT TO DECLARATION

DATE: JULY 19, 1999

Attached hereto is a copy of the Amendment to the Amended and Restated Declaration of Clairmont Place as recorded in the DeKalb County Courthouse on Friday, April 30, 1999.

The amendment was adopted by vote of the homeowners on April 20, 1999 (See my memo, dated 4/20/99, Subject: Results of Voting).

The Amendment supercedes Article 9, Sections 9.72 (Leasing of Units) and 9.74 (Lease/Sale Review Meeting), and has as its intent the prohibition of leasing and/or loaning of condominium units at Clairmont Place.

Existing leases as of Friday, April 30, 1999 are protected and renewable to the same tenant only. Future leasing of condominium units may only be for hardship reasons as approved by the Board of Directors.

Homeowners are urged to familiarize themselves with the provisions of this new Amendment. This is to insure compliance and to avoid entering into any transaction which could potentially be voided by the Board of Directors.

This document may be added to your Resident Handbook by removing the old Appendix D and inserting this document in its place.

1 Inclosure

(as)

cc: Grace Management Inc.  
Rob Stein  
Clairmont Place Realty

Appendix D

Deed Book 10676 Pg 435  
Filed and Recorded Apr-30-1999 03:57pm  
1999-0058955  
Jeanette Rozier  
Clerk of Superior Court  
DeKalb County, Georgia

Return to: Weissman, Nowack, Curry & Wilco, P.C.  
1349 West Peachtree Street  
Atlanta, Georgia 30309

STATE OF GEORGIA

Cross Reference: Deed Book 6398  
Page 134

COUNTY OF DEKALB

**AMENDMENT TO THE DECLARATION OF CONDOMINIUM FOR  
CLAIRMONT PLACE, A CONDOMINIUM**

WHEREAS, by the execution and recording of that certain Declaration of Clairmont Place, A Condominium, dated March 28, 1989, recorded in Deed Book 6398, Page 134 et seq., DeKalb County, Georgia Records (the "Original Declaration"), Decatur Retirement Group, a Georgia general partnership, did submit to the provisions of the Georgia Condominium Act that certain tract or parcel of land lying and being in Land Lot 60 of the 18th District of DeKalb County, Georgia, which is more particularly described on Exhibit "A" thereto; and

WHEREAS, the Original Declaration, as amended by that certain amendment recorded at Deed Book 8811, Page 015, was further amended and restated by an amendment recorded in Deed Book 8811, Page 024 ("Declaration"); and

WHEREAS, the amended and restated Declaration has been amended by those amendments recorded on October 31, 1996 in Deed Book 9190, Page 741, and on November 20, 1998 in Deed Book 10314, Page 679; and

WHEREAS, a plat related to the Condominium was filed in Condominium Plat Book 7, Page 5, DeKalb County, Georgia Records; and

WHEREAS, floor plans to the Condominium were filed in Condominium Folder No. 204, DeKalb County, Georgia Records; and

WHEREAS, Article 17, Section 17.2 of the Declaration provides that the Declaration may be amended by the affirmative vote, written consent, or any combination thereof, of the members of



the Association holding at least sixty-six and two-thirds (66-2/3%) percent of the total eligible vote in the Clairmont Place Condominium Association, Inc. ("Association"); and

WHEREAS, members holding at least sixty-six and two-thirds (66-2/3%) percent of the total eligible vote in the Association have approved the following amendment:

NOW, THEREFORE the Declaration is hereby amended as follows:

1.

Article 9, Section 9.72 shall be amended by deleting that section in its entirety and substituting therefor the following:

9.72 Leasing of Units. Except as provided for herein, leasing of Units shall be prohibited.

i) Definitions.

A) Leasing means regular occupancy of a Unit by someone other than the Owner who receives some form of fee, compensation or other consideration.

B) Confidential Data Form is a form providing general information about each Resident that ensures appropriate handling of the situation if an emergency occurs. A current Confidential Data Form shall be on file for all Residents.

ii) Undue Hardship. The Board may allow reasonable leasing of Units, upon written request, to avoid undue hardship upon an Owner. Such situations may include (A) an Owner can not sell the Unit within sixty (60) days except at below appraisal price; (B) the Owner dies and the Unit is tied up in an estate settlement; or (C) Owner takes an extended leave of absence or temporarily relocates with expectation of returning to live in the Unit.

Any Owner who believes leasing is necessary to avoid undue hardship must contact the Board in writing, stating the circumstances and providing any other information requested by the Board.

The Board shall make and enforce reasonable rules, and may fine, in order to enforce terms of this section. The Board may void any transaction not in compliance with this section.

iii) Leasing Provisions. Leasing that is permitted shall be governed by the following provisions:

A) Notice. At least ten (10) days before entering into any lease, an Owner must submit to the Board a completed Confidential Data Form (including the Medical Profile Form), the Owner's address not at the Unit and any other information needed by the Board. No Owner shall lease to an individual who would be an Ineligible Occupant were he/she residing in the Condominium. The Owner shall provide to the Board names of all occupants promptly.

B) General. No leases shall be for transient or hotel purposes, and no leases shall be less than twelve (12) months unless it is a part of an obligation (not option) to buy the Unit. No one shall lease a portion of a Unit and no Unit may be subleased.

iv) Applicability of this Section. Leases existing on the effective date of this Amendment shall be grandfathered until the lease terminates; provided, however, grandfathered leases may be renewable to the same tenant. Upon termination of a grandfathered lease (including renewals to the same tenant), the Owner shall be subject to the provisions of this Paragraph 9.72 and may not lease unless the Owner has received prior written approval from the Board to lease so as to avoid undue hardship as provided in subparagraph 9.72(ii) above. Upon conveyance or transfer of the Unit, any grantee thereof shall be subject to the provisions of this Paragraph 9.72; provided, however, existing grandfathered leases may be honored and renewable if agreeable to both the new Owner and present tenant. Leasing to a new tenant is prohibited after change of ownership.

v) Inapplicability to Holder of First Mortgages. This section does not apply to institutional holders (i.e., banks) of any first mortgage on a Unit which it acquired by foreclosure or other means of satisfaction of indebtedness secured by the mortgage.

2.

Article 9, Section 9.74 shall be amended by deleting that section in its entirety and the substituting therefor the following:

9.74 Loaning of Units. An Owner or an Owner's tenant (lessee) may not loan the Unit to any other persons. A Unit shall be deemed loaned when the Unit is made available for the exclusive occupancy and use of persons not normally residing in the Unit. Compensation for use of the Unit is not an essential condition of a loan. Nothing in this section shall prohibit the occupancy of a Unit by a person(s) as a guest(s) of a resident as provided for in Article 9, Section 9.1(c).

IN WITNESS WHEREOF, the undersigned officers of Clairmont Place Condominium Association, Inc., hereby certify that the above Amendment to the Declaration of Condominium for Clairmont Place, A Condominium was duly adopted by the Association and its membership and any notices required were properly given.

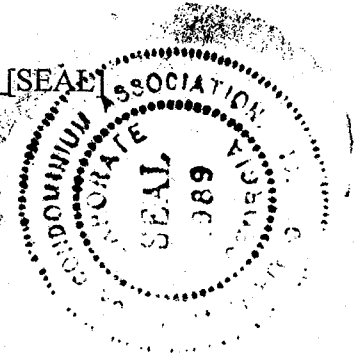
This 22 day of April, 1999.

CLAIRMONT PLACE CONDOMINIUM  
ASSOCIATION, INC.

By: *Glyde L. Freeman* [SEAL]  
President

Attest: *Gertrude M. Eby* [SEAL]  
Secretary

[CORPORATE SEAL]



Sworn to and subscribed to  
before me this 22 day of  
April, 1999.

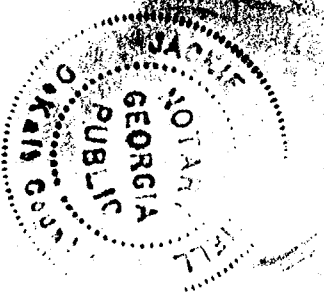
*Juni A. Zbars*  
Witness

*Jackie W. Mitchell*


Notary Public  
My Commission Expires: Notary Public, DeKalb County, Georgia  
My Commission Expires July 18, 2002

[NOTARY SEAL]

F:\DOCS\05320\002\Documents\Declaration\lease-loan amendment2



Deed Book 13469 Pg 403  
Filed and Recorded Jul-27-2002 01:22pm  
2002-0111275



Linda Carter  
Clerk of Superior Court DeKalb Cty. Ga.  
(I HEREBY DO NOT HOLD THIS TO BE VALID FOR RECORDING PURPOSES UNLESS IT IS FILED IN ACCORDANCE WITH THE RECORDING ACT)

[SPACE ABOVE RESERVED FOR RECORDING DATA]

Return to: Weissman, Nowack, Curry & Wilco, P. C.  
Two Midtown Plaza, 15th Floor  
1349 West Peachtree Street  
Atlanta, Georgia 30309  
Attention: Robert S. Stein, Esq.

STATE OF GEORGIA

Cross Reference: Deed Book 6398  
Page 134

COUNTY OF DEKALB

Deed Book 9190  
Page 741

**FIFTH AMENDMENT TO THE DECLARATION OF CONDOMINIUM FOR  
CLAIRMONT PLACE, A CONDOMINIUM**

WHEREAS, by the execution and recording of that certain Declaration of Clairmont Place, A Condominium, dated March 28, 1989, recorded in Deed Book 6398, Page 134 et seq., DeKalb County, Georgia Records (the "Original Declaration"), Decatur Retirement Group, a Georgia general partnership, did submit to the provisions of the Georgia Condominium Act that certain tract or parcel of land lying and being in Land Lot 60 of the 18th District of DeKalb County, Georgia, which is more particularly described on Exhibit "A" thereto; and

WHEREAS, the Original Declaration, as amended by that certain amendment recorded at Deed Book 8811, Page 015, was further amended and restated by an amendment recorded in Deed Book 8811, Page 024 ("Declaration"); and

WHEREAS, the amended and restated Declaration has been amended by those amendments recorded on October 31, 1996 in Deed Book 9190, Page 741, and on November 20, 1998 in Deed Book 10314, Page 679; and

WHEREAS, a plat related to the Condominium was filed in Condominium Plat Book 7, Page 5, DeKalb County, Georgia Records; and

WHEREAS, floor plans to the Condominium were filed in Condominium Folder No. 204, DeKalb County, Georgia Records; and

WHEREAS, Article 17, Section 17.2 of the Declaration provides that the Declaration may be amended by the affirmative vote, written consent, or any combination thereof, of the members of the Association holding at least sixty-six and two-thirds (66-2/3%) percent of the total eligible vote in the Clairmont Place Condominium Association, Inc. ("Association"); and

WHEREAS, members holding at least sixty-six and two-thirds (66-2/3%) percent of the total eligible vote in the Association have approved the following amendment:

NOW, THEREFORE the Declaration is hereby amended as follows:

1.

Article 13, Section 13.2 of the Declaration is hereby amended by deleting subsection F in its entirety and substituting the following therefor:

F. Payments due Decatur First Bank (or its successor or assigns) pursuant to that certain promissory note dated September 1, 2001 in the original principal amount of \$1,009,981.45 (the "Decatur First Loan");

2.

Article 13, Section 13.5 of the Declaration is hereby amended by deleting the third sentence in that Section in its entirety and substituting the following therefor:

Such installments shall be used first, to pay any amount due under the Decatur First Loan (or to set reserves sufficient, with all other installments, to pay the next amount due under the Decatur First Loan when due) or any refinance of said debt, and second to the capital replacement reserves of the Condominium.

IN WITNESS WHEREOF, the undersigned officers of Clairmont Place Condominium Association, Inc., hereby certify that the above Amendment to the Declaration of Condominium for Clairmont Place, A Condominium was duly adopted by the Association and its membership and any notices required were properly given.

This 23<sup>rd</sup> day of July, 2002.

Sworn to and subscribed to before me this 23<sup>rd</sup> day of July, 2002.

*Paul M. Boyd*  
Witness

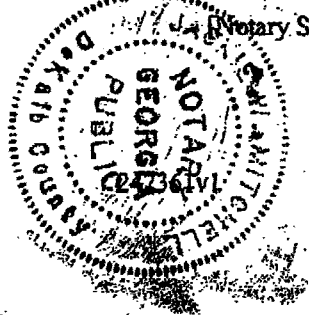
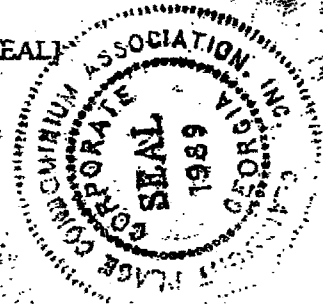
*Judith W. Mitchell*  
Notary

CLAIRMONT PLACE CONDOMINIUM ASSOCIATION, INC.

By: *John T. Bryant* (Seal)  
President

Attest: *Glenn J. Ralle* (Seal)  
Secretary

[CORPORATE SEAL]

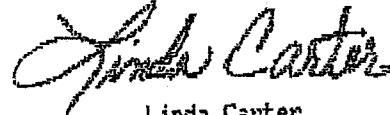


Notary Seal  
Notary Public, DeKalb County, Georgia  
My Commission Expires July 15, 2006

Deed Book 13469 Pg 404

*Linda Carter*

Linda Carter  
Clerk of Superior Court DeKalb Cty. Ga.



Linda Carter  
Clerk of Superior Court DeKalb Cty. Ga.  
| 0001 01 100 01 011 01 100 01 011 01 001 01 100 01 011 01 001 01 100 01 011 01 001 | 0001

Return to: Weissman, Nowack, Curry & Wilco, P.C.  
One Alliance Center, 4<sup>th</sup> Floor  
3500 Lenox Road  
Atlanta, Georgia 30326  
Attn: Kimberly C. Gaddis

STATE OF GEORGIA  
  
COUNTY OF DEKALB

Cross Reference: Deed Book 6398  
Page 134

**AMENDMENT TO THE DECLARATION OF CONDOMINIUM FOR  
CLAIRMONT PLACE, A CONDOMINIUM**

WHEREAS, by the execution and recording of that certain Declaration of Clairmont Place, A Condominium, dated March 28, 1989, recorded in Deed Book 6398, Page 134 et seq., DeKalb County, Georgia Records (the "Original Declaration"); Decatur Retirement Group, a Georgia general partnership, did submit to the provisions of the Georgia Condominium Act that certain tract or parcel of land lying and being in Land Lot 60 of the 18th District of DeKalb County, Georgia, which is more particularly described on Exhibit "A" thereto; and

WHEREAS, the Original Declaration, as amended by that certain amendment dated December 21, 1995, and recorded at Deed Book 8811, Page 015, was further amended and restated by an amendment dated December 21, 1995, and recorded in Deed Book 8811, Page 024 ("Declaration"); and

WHEREAS, the amended and restated Declaration has been amended by those amendments recorded as follows:

- October 31, 1996 in Deed Book 9190, Page 741;
- November 20, 1998 in Deed Book 10314, Page 679;
- April 30, 1999, in Deed Book 10676, Page 435; and
- July 27, 2002, in Deed Book 13469, Page 403.

WHEREAS, a plat related to the Condominium was filed in Condominium Plat Book 7, Page 5, DeKalb County, Georgia Records; and

WHEREAS, floor plans to the Condominium were filed in Condominium Folder No. 204, DeKalb County, Georgia Records; and

WHEREAS, Article 17, Section 17.2 of the Declaration provides that the Declaration may be amended by the affirmative vote, written consent, or any combination thereof, of the members of the Association holding at least sixty-six and two-thirds (66-2/3%) percent of the total eligible vote in the Clairmont Place Condominium Association, Inc. ("Association"); and

WHEREAS, members holding at least sixty-six and two-thirds (66-2/3%) percent of the total eligible vote in the Association have approved the following amendment:

NOW, THEREFORE the Declaration is hereby amended as follows:

1.

The Declaration is hereby amended by adding the following Article 9, Section 9.15 thereto:

9.15 SMOKING. In order to preserve the health and well being of the unit owners within the Clairmont Place Condominium community and protect them from the fire hazards associated with smoking and the well documented health hazards associated with second-hand smoke and Environmental Tobacco Smoke ("ETS") as indicated by reports from the United States Surgeon General since 1964, including a 1986 Surgeon General Report on involuntary smoking which concluded that exposure to ETS can cause lung cancer, except as expressly provided herein, smoking anywhere on the Property, including within the individual units, shall be governed by the restrictions imposed in this Section. EXCEPT as expressly provided otherwise herein, smoking anywhere on the Property, including within the individual units, shall be prohibited.

(a) Definitions.

- i. "Effective Date" shall be defined as the date that this Amendment is filed of record with the DeKalb County, Georgia, land records.
- ii. "Environmental Tobacco Smoke" or "ETS" shall be defined as the smoke emitted by the burning end of a cigarette, cigar or pipe, or the matter exhaled by someone while smoking a cigarette, cigar or pipe, or a combination of both.
- iii. "Grandfathered Smoking Owner" means an Owner of a properly designated and registered Smoking Unit as defined herein.
- iv. "Grandfathered Smoking Unit" means a Unit owned by a Grandfathered Smoking Owner on the Effective Date hereof and which is properly designated and registered by the Grandfathered Smoking Owner as a Smoking Unit pursuant to the process designated herein.
- v. "Smoke" shall be defined as the vaporous system or cloud made up of small particles of carbonaceous matter in the air resulting from the burning of organic material such as tobacco.
- vi. "Smoking" shall be defined as the act of inhaling and exhaling the fumes of burning plant material, including, but not limited to tobacco, which act results in smoke.

vii. "Smoking Unit" means a Unit within the Clairmont Place Condominium community for which the Unit Owner has notified the Association in writing no later than fifteen (15) days after the Effective Date of this Amendment that the Unit shall be one in which the Unit Owner desires and intends to smoke after the Effective Date of this amendment subject to the conditions set out herein. All properly designated and registered Smoking Units shall be grandfathered and shall not be subject to the portions of the smoking prohibitions as to the Units set out herein below for so long as the grandfathered status exists as defined herein.

(b) Smoking Restriction and Exceptions. No Owner of a Unit at Clairmont Place may smoke anywhere on the Property, including within his or her individual Unit and/or on limited common elements except and unless: (1) the Owner is a Grandfathered Smoking Owner of a properly registered Grandfathered Smoking Unit within which unit smoking shall be permitted, or (2) the Owner owns a Unit which has an outdoor terrace (i.e. limited common element terrace) upon which terrace smoking shall be permitted regardless of whether or not the unit has been designated as a Grandfathered Smoking Unit; or (3) the smoking occurs in an outdoor common element where smoking shall be permissible.

(c) Conditions Required for Designation of Smoking Units. A Unit Owner who desires to smoke within his or her Unit after the Effective Date of this Amendment may do so if the Unit Owner:

- (1) provides written notice to the Association requesting that the Unit be designated as a "Smoking Unit"; and
- (2) agrees to install no later than thirty (30) days after the Unit has been designated a Grandfathered Smoking Unit an air filter or air filtration system which filter or system shall substantially prevent smoke from escaping the Smoking Unit and entering into other Units and/or into the Common Elements, including, but not limited to, hallways and/or any part of the heating and air conditioning system which may be part of the Common Elements, if any.

(d) Notice Required for Designation of Smoking Unit. In order to be deemed a "Smoking Unit" an Owner shall provide written notice to the Association by certified mail or by hand delivery to the Association's Property Manager, Paul McGough, no later than the fifteenth (15<sup>th</sup>) day after the Effective Date of this Amendment, stating that the Unit Owner has chosen to designate his or her Unit as a "Smoking Unit" as defined herein. Each Grandfathered Smoking Unit Owner agrees to abide by all rules and regulations which the Board may promulgate for all Smoking Units, including, but not limited to, the requirement that an air filter or air filtration system be installed as outlined herein.

(e) Limitations on Grandfathered Status of Smoking Units. Grandfathering shall apply only to properly designated and registered Grandfathered Smoking Units as of the date defined herein, and shall continue only until the earlier of: (1) the date the Grandfathered Owner conveys title to the Smoking Unit to any person (other than the Owner's spouse); or (2) the death of a Grandfathered Owner. Upon the happening of either event, the Unit shall automatically lose



grandfathered status hereunder and the Unit shall thereafter be forever deemed a non-smoking Unit.

(g) Limitations of Liability. The Association shall not be held liable for any loss or damage to a Unit Owner or a Unit Owner's property for any reason, including, but not limited to, its review, if any, of an air filter or air filtration system which is installed in a Smoking Unit or for the failure of said filters or systems to prevent smoke from escaping a Smoking Unit.

IN WITNESS WHEREOF, the undersigned officers of Clairmont Place Condominium Association, Inc., hereby certify that the above Amendment to the Declaration of Condominium for Clairmont Place, A Condominium, was duly adopted by the Association and its membership and any notices required were properly given.

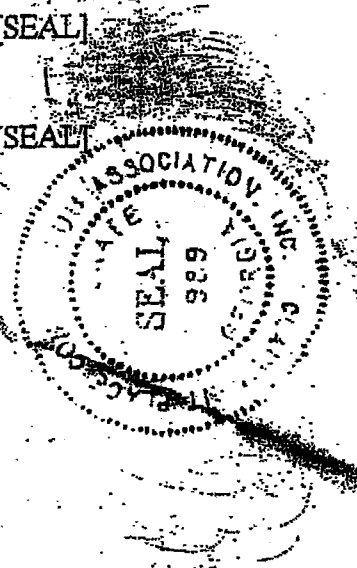
This 16<sup>th</sup> day of February, 2004.

**CLAIRMONT PLACE CONDOMINIUM ASSOCIATION, INC.**

By: [Signature] [SEAL]  
President

Attest: [Signature] [SEAL]  
Secretary

[CORPORATE SEAL]

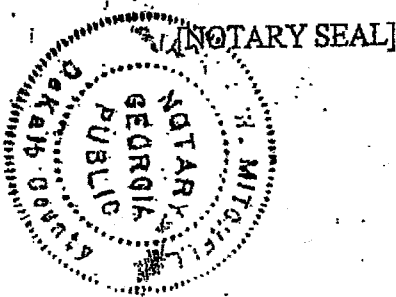


Sworn to and subscribed to before me this 16 day of February, 2004.

[Signature]  
Witness

[Signature]  
Notary Public

Notary Public, DeKalb County, Georgia  
My Commission Expires: My Commission Expires July 15, 2006



Deed Book 15825 Pg 162  
[Signature]  
Linda Carter  
Clerk of Superior Court DeKalb Cty, Ga.

2018053861 DEED BOOK 26807 Pg 542  


Georgia Intangible Tax Paid \$0.00  
Real Estate Transfer Tax \$0.00

Filed and Recorded:  
3/19/2018 2:59:44 PM  
Debra DeBerry  
Clerk of Superior Court  
DeKalb County, Georgia

[SPACE ABOVE RESERVED FOR RECORDING DATA]

Return to: NowackHoward  
Resurgens Plaza, Suite 1250  
945 East Paces Ferry Road, NE  
Atlanta, GA 30326  
ATTN: RFD

STATE OF GEORGIA  
COUNTY OF DEKALB

Cross Reference: Deed Book 6398  
Page 134

Deed Book 8811  
Page 24

**AMENDMENT TO THE BYLAWS OF  
THE CLAIRMONT PLACE CONDOMINIUM ASSOCIATION, INC.**

This Amendment to the By-laws for The Clairmont Place Condominium Association, Inc. (hereinafter, the "Amendment") is made on this 15 day of MARCH, 2018, by The Clairmont Place Condominium Association, Inc., a Georgia nonprofit corporation (hereinafter, the "Association") in accordance with the provisions of said Bylaws.

**WITNESSETH**

**WHEREAS**, Clairmont Place is a condominium governed by the Georgia Condominium Act, O.C.G.A. § 44-3-70, et seq. (hereinafter, the "Act") and created pursuant to that certain Declaration of Condominium for Clairmont Place, a Condominium, recorded on April 2, 1989 at Deed Book 6398, Page 134, DeKalb County, Georgia records (hereinafter, the "Original Declaration");

**WHEREAS**, the Original Declaration was amended and restated in its entirety by that amendment recorded on December 21, 1995 in Deed Book 8811, Page 024 of the DeKalb County, Georgia records (hereinafter referred to as the "Declaration");

**WHEREAS**, the Bylaws of the Clairmont Place Condominium Association, Inc., are attached to the Declaration as Exhibit "D" (hereinafter, the "Bylaws");

**WHEREAS**, pursuant to Article VI, Section 8 of the By-laws, the Declaration may be amended by the affirmative vote, written consent, or any combination of the affirmative vote and written consent of members holding at least sixty-six and two-thirds (66 & 2/3) percent of the total vote thereof;

**WHEREAS**, the following Amendment to the Bylaws has been approved by the affirmative vote, written consent or combination of affirmative vote or written consent of members of the Association holding at sixty-six and two-thirds (66 & 2/3) percent of the total vote thereof;

**NOW, THEREFORE**, the Bylaws are hereby amended as follows:

1.

**Article III, Section 1 of the Bylaws is hereby amended by deleting therefrom the second sentence thereof, which reads "The Board shall be composed of five (5) persons", and substituting therefore the following new second sentence which reads as follows:**

*"The Board shall be composed of between five (5) to nine (9) persons, the exact number to be determined by resolution of the Board from time to time."*

2.

**Article III, Section 2 of the Bylaws is hereby amended by deleting that Section in its entirety and substituting therefore the following:**

Section 2. Term of Office. As of the date this Amendment is recorded in the DeKalb County Land Records (the "Effective Date"), the Board of Directors consists of five (5) directors. As of the Effective Date, the number of directors shall be increased to seven (7) directors. Those directors serving on the Effective Date shall remain in office until the terms for which they were elected expire.

The two (2) newly created director positions shall initially be filled pursuant to the following procedure: within sixty (60) days of the Effective Date, the Board shall call a special meeting of the membership for the purpose of electing two (2) directors to fill the two (2) newly created director positions. Alternatively, the Board may fill the two (2) newly created director positions through election by written ballot pursuant to Article II, Section 8 of these Bylaws by delivering a written ballot for such election to each member entitled to vote thereon within sixty (60) days of the Effective Date. At such meeting or election by written ballot, the membership will elect two (2) directors to serve for a term lasting until the third annual membership meeting following their election to office.

At the expiration of the term of office of each member of the Board of Directors, and at each annual meeting thereafter, a successor shall be elected to serve for a term of two (2) years. Successor directors shall be elected by the vote of those members present or represented by proxy at the annual meeting of the membership of the Association, a quorum being present.

In the event that the Board of Directors increases the number of directors to greater than seven (7), the Board shall be authorized to set the initial term(s) of the newly created director positions at a term of less than two (2) years as it determines is necessary to maintain the staggering of the Board terms hereunder.

A member of the Board of Directors shall hold office until his or her respective successor is elected, he or she is removed, or he or she resigns. At the expiration of a director's term of office, if a successor cannot be elected for any reason, the existing director shall continue to hold office and begin serving another term until his or her successor is elected to fill the remainder of such new term, or he or she resigns.

[SIGNATURES ON FOLLOWING PAGE]

**EXHIBIT "A"**

**Certification of Approval**

The undersigned officers of The Clairmont Place Condominium Association, Inc., hereby swear under oath that the above Amendment to the Bylaws was duly adopted by the agreement of the required majority of the Unit Owners and that any notices required under the Georgia Condominium Act were duly given.

Sworn to and subscribed before me this  
15 day of March, 2018  
in the presence of:

[Signature]  
Unofficial Witness

[Signature]  
Notary Public

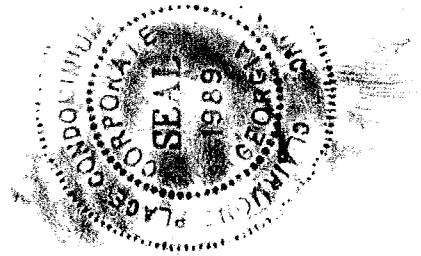
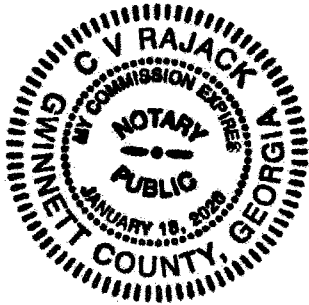
My Commission Expires: 1/18/2020

[Notary Seal]

By: [Signature]  
Print Name: James Lundy  
Title: President

By: [Signature]  
Print Name: Cynthia L. Runyon  
Title: Secretary

[Corporate Seal]

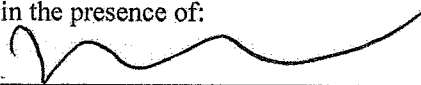


IN WITNESS WHEREOF, the undersigned duly appointed officers of the Association hereby certify that the above Amendment to the Bylaws was duly adopted by the required percentage of the Association membership with all required notices duly given.

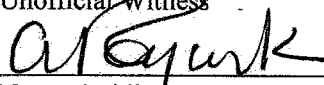
**ASSOCIATION:**

CLAIRMONT PLACE CONDOMINIUM  
ASSOCIATION, INC., a Georgia  
nonprofit corporation

Sworn to and subscribed before me in  
in the presence of:

  
\_\_\_\_\_

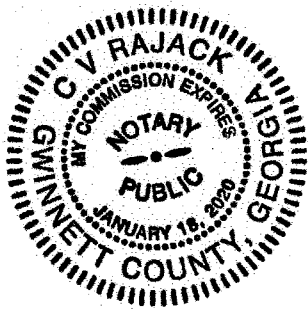
Unofficial Witness

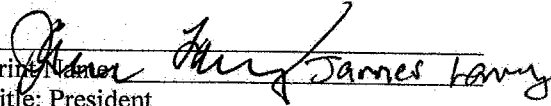
  
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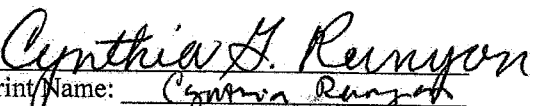
Notary Public

My Commission Expires: 1/18/2020

[Notary Seal]



By:   
Print Name: James Lamy  
Title: President

By:   
Print Name: Cynthia Remyon  
Title: Secretary

[Corporate Seal]

