Deed Book 28650 Pg 119
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Juanita Hicks
Clerk of Superior Court
Fulton County, Georgia

After recording, please return to: George F. Maynard BURR & FORMAN LLP Suite 1200, One Georgia Center 600 West Peachtree Street Atlanta, Georgia 30308

Cross Reference: Deed Book 20127, Page 01, Fulton County, Georgia Records.

## FOURTH AMENDMENT TO AMENDED AND RESTATED DECLARATION OF CONDOMINIUM FOR THE PONCE CONDOMINIUM

This Fourth Amendment to Amended and Restated Declaration of Condominium for The Ponce Condominium ("Fourth Amendment") is entered into this 29th day of February, 2000 by and between THE PONCE CONDOMINIUM ASSOCIATION, INC., a Georgia nonprofit corporation (the "Association") and BECKY J. CRONISTER and JAMES M. RICHBOURG (together, "Owners");

## WITNESSETH

WHEREAS, the Association is the "Association" as defined in that certain Amended and Restated Declaration of Condominium for The Ponce Condominium recorded at Deed Book 20127, page 01, Fulton County, Georgia records, as amended by First Amendment recorded at Deed Book 20867, page 308, aforesaid records, by Second Amendment recorded at Deed Book 21058, page 97, aforesaid records, and by Third Amendment recorded at Deed Book 21971, page 150, aforesaid records, as amended, the "Declaration");

WHEREAS, Owner owns two (2) separate Residential Units in the Property, being Residential Units 200 and 204;

WHEREAS, pursuant to paragraph 15 (b) (ii) of the Declaration and O.C.G.A.§ 44-3-91, the Owner wishes to reconfigure the two (2) Residential Units it owns in the Property, by amending the

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floor plan of the second floor for the building and increasing the size of Unit 200 (by adding a portion of existing Unit 204 thereto), with Unit 204 being left as a smaller, one bedroom Unit;

WHEREAS, pursuant to Paragraph 24 thereof, the Declaration may be amended by the affirmative vote, written consent or combination of affirmative vote and written consent of owners of units to which at least two-thirds (2/3rds) of the total votes in the Association, pertain, and

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

WHEREAS, this Fourth 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 Fourth 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 Fourth Amendment, then this Fourth Amendment shall not be binding on the mortgage holder so involved, unless such mortgage holder consents to this Fourth Amendment; and if such consent is not forthcoming, then the provisions of the Declaration prior to this Fourth Amendment shall control with respect to the affected mortgage holder; and

WHEREAS, the Association and the Owners wish to execute this Fourth Amendment in order to amend the Declaration to reflect the new square footages of Unit 200 and Unit 204, and reallocate each Unit's percentage allocation of interest in common elements, voting rights and liability for comment elements under the Declaration.

- 1. <u>Incorporation of Recitals</u>. The recitals set forth above are hereby incorporated into the substantive body of this Agreement. Unless defined herein, defined terms are as defined in the Declaration.
- 2. Amendment to Declaration. The Owners and the Association hereby amend the Declaration as follows:
  - (a) Exhibit "A" to the Declaration is hereby amended to transfer Parking Space No. 79 from Unit 204 to Unit 200, so that going forward Unit 200 is assigned Parking Spaces 57 and 79, and Unit 204 is assigned Parking Spaces 78.
  - (b) That portion of Exhibit "B" to the Declaration under the heading "Location and Description of the Units" is hereby amended as follows:

All references on Exhibit "B" to the location and description of residential Unit 200 and residential Unit 204 are hereby deleted and replaced with the following:

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Residential Unit 200. This Unit is located on the southwestern corner and western side of the Building on Floor Two. Unit 200 contains approximately 2,032 square feet.

Residential Unit 204. This Unit is located on the southern side of the building on Floor Two. Unit 204 contains approximately 1,183 square feet.

The portion of Exhibit "B" under the heading "Percentage Allocation of Interests in Common Elements, Voting Rights and Liability for Common Elements" is hereby amended to delete references to Residential Unit 200 and Residential Unit 204 thereunder, and replace them with the following:

Percentage Allocation of Interest In Common Elements, Voting Rights And Liability for Common Elements
2.64%
1.55%

- 3. <u>Floor Plan</u>. In addition to recording this Fourth Amendment in the real property records of Fulton County, Georgia, the Owners shall file a revised floor plan for the second floor of the building in the form attached hereto as <u>Exhibit "A"</u>, which is hereby approved by the Association.
- 4. <u>Continuing Effect</u>. Except as amended hereby, the Declaration shall remain in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

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Executed under the hands and seals of the undersigned on the date first above written.

ASSOCIATION: Signed, sealed and delivered this <u>31</u> day of August, 1999, THE PONCE CONDOMINIUM in the presence of: ASSOCIATION, INC (Seal) Secretary Notary Public Corporate Sea My Commission E [Affix Notarial Seal **OWNERS:** Signed, sealed and delivered this 31 day of August, 1999, in the presence of **Unofficial Witness** (Seal) James M. Richbourg Notary Public My Commission [Affix Notarial

[SEE ATTACHED CONSENT]

The undersigned, being the holder of a Security Deed from Becky J. Cronister and James M. Richbourg secured by Unit 200 described above, which Security Deed is recorded at Deed Book 26963, page 221, Fulton County, Georgia records, does hereby consent, pursuant to O.C.G.A. § 44-3-91 (b), to the re-configuration and enlargement of Unit 200 as described above.

Signed, sealed and delivered this 14 day of August, 1999, in the presence of:

Notary Public

NOTARY

My Commission Expires: Toursey 3, 2002



FLEET MORTGAGE CORP.

President [Corporate Seal]



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Juanita Hicks
Clerk of Superior Court
Fulton County, Seorgia Exhibit. 203 THE PONCE CONDOMNNUM PIMSLER · HOSS · ARCHITECTS

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