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Superior Court of Chatham County  
Chatham County, Georgia

**DECLARATION OF CONDOMINIUM**

**FOR**

**105 WEST CONGRESS STREET, A CONDOMINIUM**

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STATE OF GEORGIA  
COUNTY OF CHATHAM

DECLARATION OF CONDOMINIUM  
FOR

105 AND 107 WEST CONGRESS STREET CONDOMINIUM

WHEREAS, Joseph A. Richard, Jr. and Lee A. Richard are the owners of certain real property more particularly described in Exhibit "A" attached hereto; and

WHEREAS, a plat entitled "105 & 107 West Congress Street Condominium" prepared by Ogletree Design dated July 12, 2000, was filed in Condominium Plat Book 2, Page(s) 11-A, Chatham County, Georgia Records; and

WHEREAS, floor plans relating to the Condominium were filed in Condominium File Cabinet No. 2, Folder No. 11-A Chatham County, records; and

WHEREAS, the Association was officially incorporated on March 24, 2005, by the filing of the Articles of Incorporation of 105 and 107 West Congress Street Condominium Association, Inc., in the Office of the Secretary of State of the State of Georgia; and

NOW THEREFORE, in accordance with the Georgia Condominium Act, O.C.G.A. §44-13-1, et seq., the Declarant hereby publishes this Declaration of Condominium and submits the described real property to all of the provisions of the Act and these covenants and restrictions.

1. NAME.

The name of the condominium is 105 and 107 West Congress Street Condominium (hereinafter sometimes the "Condominium," as further defined herein), which condominium is a residential condominium which hereby submits to the Georgia Condominium Act, O.C.G.A. §44-3-70, et seq.

2. DEFINITIONS.

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

- (a) Act shall mean the Georgia Condominium Act, O.C.G.A. §44-3-70, et seq., as such act may be amended from time to time.
- (b) Area of Common Responsibility shall mean and refer to the Common Elements, together with those areas, if any, which by the terms of this Declaration or by contract or agreement with any other person or entity become the responsibility of the Association. The office of any property manager employed by or contracting with the Association, if located on the Condominium, or any public rights-of-way within or adjacent to the Condominium, may be part of the Area of Common Responsibility.
- (c) Articles of Incorporation shall mean the Articles of Incorporation of 105 West Congress Street Condominium Association, Inc., which have been filed with the Secretary of the State of Georgia.
- (d) Association shall mean 105 and 107 West Congress Street Condominium Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

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- (e) Board or Board of Directors shall mean the elected body responsible for management and operation of the Association.
- (f) By-Laws shall mean the By-Laws of 105 and 107 West Congress Street Condominium Association, Inc.
- (g) Common Elements shall mean that portion of the property subject to this Declaration which is not included within the boundaries of a Unit, as more particularly described in this Declaration.
- (h) Common Expenses shall mean the expenses incurred or anticipated to be incurred by the Association for the general benefit of all Units, including, but not limited to, those expenses incurred for maintaining, repairing, replacing, and operating the Common Elements, including the Limited Common Elements.
- (i) Community-Wide Standard shall mean the standard of conduct, maintenance, or other activity generally prevailing within the Condominium. Such standard may be more specifically determined by the Board of Directors of the Association and the Architectural Control Committee.
- (j) Condominium shall mean all that property described in Exhibit "A", attached hereto and incorporated herein by this reference, submitted to the provisions of the Act by this Declaration.
- (k) Condominium Instruments shall mean this Declaration and all exhibits to this Declaration, including the By-Laws of the Association, and the plats and plans, all as may be supplemented or amended from time to time.
- (l) Eligible Mortgage Holder shall mean those holders of first mortgages secured by Units in the Condominium who have requested notice of certain items as set forth in the Declaration.
- (m) Limited Common Elements shall mean a portion of the Common Elements reserved for the exclusive use of those entitled to occupy one (1) or more, but less than all, Units, as more particularly set forth in this Declaration.
- (n) Majority means those eligible voters, owners, or other group as the context may indicate totaling more than fifty (50%) percent of the total eligible number.
- (o) Mortgage shall refer to any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation, including, but not limited to, a transfer or conveyance of fee title for such purpose.
- (p) Mortgagee or Mortgage Holder shall mean the holder of any mortgage.
- (q) Occupant shall mean any person occupying all or any portion of a unit for any period of time, regardless of whether such person is a tenant or the owner of such property.
- (r) Owner shall mean the record title holder of a unit within the Condominium, but shall not include a Mortgage Holder.
- (s) Person shall mean any individual, corporation, firm, association, partnership, trust, or other legal entity.
- (t) Unit shall mean that portion of the Condominium intended for individual ownership and use as more particularly described in this Declaration and shall include the undivided ownership in the Common Elements assigned to the unit by this Declaration.

3. LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS.

The Condominium that is subject to this Declaration and the Act is the Lot A of Decker Ward Division, being a subdivision of Lot 5, Heathcote Tything, Decker Ward, Savannah, Chatham County, Georgia, being more particularly described in Exhibit "A" attached to this Declaration, which exhibit is specifically incorporated herein by this reference. A plat of survey relating to the Condominium has been filed in Condominium Plat Book 2, Page III-A, of the Chatham County, Georgia records. Floor plans relating to the Condominium have been filed in Condominium Floor Plan Drawer Number 2, Folder III-A, Chatham County, Georgia records. The plat of survey and plans are incorporated herein by reference as fully as if the same were set forth in their entirety herein.

4. UNITS AND BOUNDARIES.

The Condominium is divided into four (4) separate Units, the Limited Common Elements and the Common Elements. Each Unit consists of a dwelling or unfinished shell and its appurtenant percentage of undivided interest in the Common Elements as shown on Exhibit "B" attached to this Declaration and incorporated herein by this reference. Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the Act and the Condominium Instruments. The Units are depicted on the plats of survey and the plans. Each Unit includes that part of the structure which lies within the following boundaries:

(a) Vertical Boundaries. The perimeteral or vertical boundaries of each Unit shall be the exterior unfinished surfaces of the outside walls of the Unit. With respect to common walls between Units, the perimeteral or vertical boundary of the Units served thereby shall be the center of such wall. Exterior doors and exterior glass surfaces, including, but not limited to, windows and sliding glass doors, serving the Unit shall be included within the boundaries of the Unit. Heating and air conditioning systems serving a single Unit (including any part of any such system located outside the boundaries of the Unit) and appliances and plumbing fixtures within a Unit shall be construed to be a part of the Unit.

(b) Horizontal Boundaries.

(i) The upper horizontal boundary of each Unit located in the Condominium is the plane formed by the uppermost, unexposed surface of the wallboard or other material comprising a part of the ceiling enclosing the uppermost story of the Unit.

(ii) The lower horizontal boundary of each Unit located in the Condominium is the plane formed by the unfinished bottom of the floor joists or subflooring on which the lowermost story of the Unit is constructed.

In interpreting deeds and plans, the existing physical boundaries of a Unit as originally constructed or of a Unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in any deed or plan, regardless of settling or lateral movement of the building in which the Unit was located, and regardless of minor variance between the boundaries shown on the plans or in a deed and those of the Unit.

The ownership of each Unit shall include, and there shall pass with each Unit as appurtenances thereto whether or not separately described in the conveyance hereof, that percentage of the right, title and interest in the Common Elements attributable to such Unit,

together with membership in the Association and an undivided interest in the funds and assets held by the Association. Any portion of a Unit and/or Limited Common Elements contributing to the support of another Unit is burdened with an easement of support for such Unit.

5. COMMON ELEMENTS.

The Common Elements consist of all portions of the Condominium not located within the boundaries of a Unit.

Ownership of the Common Elements shall be by the Unit Owners as tenants-in-common. The percentage of undivided interest in and to the Common Elements attributable to each Unit shall be as set forth in Exhibit "B". Such percentages of undivided interest may be altered only by the consent of all Owners (or such lesser number of Owners as may hereafter be prescribed by the Act) expressed in a duly recorded amendment to this Declaration. The percentage of undivided interest of each Owner in the Common Elements is appurtenant to the Unit owned by the Owner and may not be separated from the Unit to which it appertains and such appurtenance shall be deemed to be conveyed or encumbered or to otherwise pass with the Unit whether or not expressly mentioned or described in a conveyance or other instrument describing the Unit. the Common Elements shall remain undivided, and no Owner nor any other person shall bring any action for partition or division of the whole or any part thereof except as provided in the Act.

Except as provided for Limited Common Elements or as otherwise provided herein, each Owner and the Association may use the Common Elements for the purposes for which they are intended, but no such use shall enter or encroach upon the lawful rights of the other Owners.

6. LIMITED COMMON ELEMENTS.

(a) The Limited Common Elements located on the Condominium and the Unit(s) to which they are assigned are:

(i) any gas or electric meter which serves only one Unit is assigned as a Limited Common Element to the Unit so served.

(b) The Association's Board of Directors, without need for a membership vote, is hereby authorized to assign and to reassign Limited Common Elements, provided that any such assignment or reassignment shall be made in accordance with the provisions of Section 44-3-82(b) and (c) of the Act, as amended. A Common Element not previously assigned as a Limited Common Element may be so assigned by the Board, without the need for a vote of the Association, upon written application to the Association by the Unit Owner or Owners for whose exclusive use such Common Element is requested. Upon such application and approval, the Association shall prepare and execute an amendment to the Declaration assigning the Common Element as a Limited Common Element, which amendment shall be executed by the Owner or Owners making such application. Such amendment shall be delivered and become effective as provided in Section 44-3-82 of the Act, as amended.

7. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES.

All Unit Owners, by virtue of their ownership of a fee or undivided fee interest in any Unit in the Condominium, excluding Persons holding such interest under a Mortgage, are members of the 105 and 107 West Congress Street Condominium Association, Inc., and except as otherwise provided herein or in the By-Laws, shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to the Declaration and in accordance with the By-

Laws. Subject to the provisions of the Condominium Instruments, each Owner shall be entitled to one (1) vote for each Unit in which he or she holds the interest required for membership, which vote shall be apportioned to such Unit and shall be weighed in accordance with the percentage of undivided interest in the Common Elements attributable to the Unit, as set forth on Exhibit "B" attached hereto and by reference incorporated herein.

8. ALLOCATION OF LIABILITY FOR COMMON EXPENSES.

Except as otherwise provided herein, each Unit is hereby allocated liability for Common Expenses apportioned in accordance with the percentage of undivided interest in the Common Elements apportioned to the Unit, as shown on Exhibit "B".

(a) Except as provided below, or elsewhere in the Act or Condominium Instruments, the amount of all Common Expenses shall be assessed against all the Units in accordance with the allocation of liability for Common Expenses described above.

(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 amended, as, in its discretion, it shall deem appropriate. Failure of the Board of Directors to exercise its authority under this Paragraph shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Paragraph in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Paragraph.

(i) Except for expenses incurred for maintenance and repair of items which are the Association's maintenance responsibility under the Condominium Instruments, any Common Expenses benefiting less than all of the units or significantly disproportionately benefiting all Units may be specially assessed equitably among all of the Units which are benefited 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 or Units may be specially assessed against such Unit or Units.

For purposes of subparagraph (b) of this Paragraph, non-use shall constitute a benefit to less than all Units or a significant disproportionate benefit among all Units only when such non-use results in an identifiable, calculable reduction in cost to the Association.

9. ASSOCIATION RIGHTS AND RESTRICTIONS.

In addition to and not in limitation of all other rights it may have, the Association, acting through its Board of Directors, shall have the right and authority:

(a) to enter into Units for maintenance, emergency, security, or safety purposes, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after reasonable notice to the Owner or Occupant of the Unit;

(b) to make and to enforce reasonable rules and regulations governing the use of the Condominium, including the Units, Limited Common Elements, and Common Elements;

(c) to enforce restrictions, other Declaration and By-Laws provisions, and rules and regulations by the imposition of reasonable monetary fines and suspension of use and voting privileges as provided in Section 44-3-76 of the Act, as amended. These powers, however, shall not be construed as limiting any other legal means of enforcing the use restrictions or rules and regulations of the Association. Any fines imposed in accordance with Section 44-3-76 of the Act, as amended, shall be considered an assessment against the Unit and may be collected in the manner provided for collection of other assessments;

(d) to grant permits, licenses, utility easements, and other assessments;

(e) to control, manage, operate, maintain, improve and replace all portions of the Condominium for which the Association is assigned responsibility under this Declaration;

(f) to deal with the Condominium in the event of damage or destruction as a result of casualty loss, condemnation or eminent domain, in accordance with the provisions of the Act and this Declaration;

(g) to represent the Owners in dealing with governmental entities;

(h) to close permanently or temporarily any portion of the Common Elements (excluding the Limited Common Elements) with sixty (60) days prior notice to all Owners; provided, however, the Owners may re-open the closed Common Elements by a majority vote of the total Association vote, cast at a duly called special or annual meeting;

(i) to require each Owner to install separate utility meters for each Owner's Unit at the Owner's cost, or to install such separate utility meters and assess the costs of such installation against each Unit as provided for herein; and

(j) to acquire, hold, and dispose of tangible and intangible personal property and real property.

#### 10. ASSESSMENTS.

(a) Purpose of Assessment. The Association shall have the power to levy assessments as provided herein and in the Act. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of Units in the Condominium as may be more specifically authorized from time to time by the Board. Assessments may be used to compensate officers and directors only if approved by a majority vote of the Association. The initial monthly assessment for each unit shall be \$100.00. This amount shall provide for insurance for the building, water and sewer service, garbage collection and other common use fees.

(b) Creation of the Lien and Personal Obligation for Assessments.

Each Owner of any Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges; (ii) special assessments, such assessments to be established and collected as hereinafter provided; and (iii) special assessments against any particular Unit which are established pursuant to the terms of this Declaration, including but not limited to reasonable fines imposed in accordance with the terms of this Declaration.

All such assessments, together with charges, interest costs, and reasonable attorney's fees actually incurred, and if the Board so elects, rents, in the maximum amount permitted by the



Act, shall be a charge on the Unit and shall be a continuing lien upon the Unit against which each assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Unit at the time when the assessment fell due. Each Owner and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors; unless otherwise provided, the annual assessments shall be paid in equal monthly installments due on the first day of each calendar month. No Owner may exempt himself or herself from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, non-use of the Common Elements, the Association's failure to perform its obligations required hereunder, or inconvenience or discomfort arising from the Association's performance of its duties. The lien provided for herein shall have priority as provided in the Act.

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

(i) If any monthly installment of annual assessments or any part thereof is not paid in full by the tenth (10th) day of the month or if any other charge is not paid within ten (10) days of the due date, a late charge equal to the greater of ten (\$10.00) dollars or ten (10%) percent of the amount not paid, or such higher amounts as may be authorized by the Act, may be imposed without further notice or warning to the delinquent Owner and interest at the rate of ten (10%) percent or such higher rate as may be permitted by the Act shall accrue from the due date.

(ii) If part payment of assessments and related charges is made, the amount received shall be applied in the following order, and no restrictive language on any check or draft shall be effective to change the order of application:

(1) respectively, to any unpaid late charges, interest charges, and specific assessments (including, but not limited to, fines) which are not the subject matter of suit in the order of their coming due;

(2) to costs of collection, including reasonable attorney's fees actually incurred by the Association;

(3) to any unpaid installments of the annual assessment or special assessments which are not the subject matter of suit in the order of their coming due;

(4) if the Board so elects, to the fair rental value of the Unit during the pendency of suit and prior to satisfaction of any judgment which remains unpaid (The fair rental value of the Units, for purposes of this Paragraph, shall be as established from time to time by the Board of Directors.);

(5) respectively, to any unpaid late charges, interest, specific assessments (including, but not limited to, fines), and installments of the annual assessment or special assessments which are the subject matter of suit in the order which they came due;

(ii) If assessments, fines or other charges or any part thereof due from an Owner remain delinquent and unpaid for a period greater than fifteen (15) days from a date due, a notice of delinquency may be given to that Owner stating that if the assessment, fine or charge remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board of Directors may accelerate and declare immediately due all of that Owner's unpaid

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installments of the annual assessment and of any special assessment. If an Owner fails to pay all assessments and related charges currently due within ten (10) days of the date of the notice of delinquency, the Board of Directors may then accelerate and declare immediately due all installments of the annual assessment and of any special assessment, without any further notice being given to the delinquent Owner. Upon acceleration, that Owner shall thereby lose the privilege of paying the annual assessment in monthly installments for that fiscal year.

(iv) If assessments and other charges or any part thereof remain unpaid more than thirty (30) days after the assessment payment first becomes delinquent, the Association, acting through the Board of Directors, may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the By-Laws, the Act and Georgia law and suspend the Owner's and/or Occupant's right to use the Common elements (provided, however, the Board may not limit ingress or egress to or from the Unit).

(v) In the event any assessment is delinquent for sixty (60) days or more, in addition to all other rights provided in the Act and this Declaration, the Association shall have the right upon ten (10) days written notice, to suspend any utility services, the cost of which are a Common Expense of the Association, including, but not limited to, water, electricity, heat, air conditioning, gas and cable television, to that Unit until such time as the delinquent assessments and all costs permitted pursuant to this subparagraph are paid in full. Any costs incurred by the Association in discontinuing and/or reconnecting any utility service, including reasonable attorney's fees, shall be an assessment against the Unit and shall be collected as provided herein for the collection of assessments. The notice requirement of this subparagraph shall be deemed complied with if the notice is sent by certified mail to the Unit address and to any other address the Owner of the Unit has provided in writing to the Association.

(d) Computation of Operating Budget and Assessment. It shall be the duty of the Board at least thirty (30) days prior to the beginning of the Association's fiscal year to prepare a budget covering the estimated costs of operating the Condominium during the coming year. The Board shall cause the budget and notice of the assessments to be levied against each Unit for the following year to be delivered to each member at least thirty (30) days prior to the Association's annual meeting. If the proposed budget increases the assessment in excess of a percentage equal to the annual rate of inflation as measured by the Consumer Price Index for All Urban Consumers for the immediately preceding twelve (12) month period, then the budget and the assessment shall become effective upon approval of the budget by a majority of the Owners. If the proposed budget does not increase the assessment in excess of a percentage equal to the annual rate of inflation as measured by the Consumer Price Index for All Urban Consumers for the immediately preceding twelve (12) month period, then the budget and the assessment shall become effective unless disapproved at a duly called and constituted annual meeting of the Association by a vote of a majority of the total Association membership; 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.

Notwithstanding the foregoing, in the event that the membership disapproves the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the

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budget in effect for the current year shall continue for the succeeding year. In such case, the Board may propose a new budget at any time during the year at a special meeting of the Association. The proposed budget and assessment shall be delivered to the members at least 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.

(e) Special Assessments. If the assessment proves inadequate for any year, the Board may, at any time, and in addition to any other rights it may have, levy a special assessment against all Owners, notice of which shall be sent to all Owners. Any special assessment which would cause the average total of special assessments levied in one fiscal year to exceed two hundred (\$200.00) dollars per Unit (except as provided in Paragraph 12(b) herein, regarding repair or reconstruction of casualty damage to or destruction of all or part of the Condominium) shall be approved by a majority of the Owners prior to becoming effective.

(f) Capital Budget and Contribution. The Board of Directors shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by equal annual assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within the budget and assessment as provided in subparagraph (d) of this Paragraph. A copy of the capital budget shall be distributed to each member in the same manner as the operating budget.

(g) Statement of Account. Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Unit, or a lender considering a loan to be secured by a Unit, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against a Unit. The Association shall respond in writing within five (5) days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding ten (\$10.00) dollars, as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Unit as of the date specified herein.

(h) Surplus Funds and Common Profits. Pursuant to Section 44-3-108 of the Act, common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common profits to the payment of Common Expenses shall, at the option of the Board of Directors, either be distributed to the Owners or credited to the next assessment chargeable to the Owners in proportion to the liability for Common Expenses attributable to each Unit, or added to the Association's reserve account.

11. INSURANCE.

The Association shall obtain and maintain at all times, as a Common Expense, insurance as required by Section 44-3-107 of the Act, as amended, and as required herein. All such insurance coverage shall be written in the name of the Association as trustee or itself, each of the Owners, and the Mortgagees of Owners, if any. It shall be the duty of the Board of Directors at

least every two (2) years to conduct an insurance review to determine if the policy in force is adequate to meet the needs of the Association and to satisfy the requirements in Section 44-3-107 of the Act, as amended. Such responsibility may be performed, and shall be deemed reasonably performed by the Board requesting the Association's insurance agent to verify that insurance policies in existence meet the needs of the Association and satisfy the requirements of Section 44-3-107 of the Act, as amended.

Such insurance shall run to the benefit of the Association, the Board of Directors, officers, all agents and employees of the Association, the Unit Owners, and their respective Mortgagees, and all other persons entitled to occupy any Unit, as their interests may appear. Unless the Association otherwise provides notice in writing to the Owners, the improvements and betterments made by the individual Unit Owners shall be excluded from this required coverage. However, each Owner shall have the right to obtain additional coverage for such improvements, betterments, or personal property at his or her own expense. The policy may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance equals at least the replacement cost of the insured property.

(a) The Board of Directors shall utilize reasonable efforts to secure a blanket hazard insurance policy providing "all risk" coverage in an amount equal to full replacement cost, before application of deductibles, of all improvements located on the Condominium. If "all risk" coverage is not reasonably available at reasonable cost, the Board shall obtain, at a minimum, fire and extended coverage, including coverage for vandalism and malicious mischief, in like amounts. The Board shall use reasonable efforts to obtain policies that will provide the following:

(i) the insurer waives its rights of subrogation of any claims against directors, officers, the managing agent, the individual Owners, Occupants, and their respective household members;

(ii) any "other insurance" clause contained in the master policy shall expressly exclude Individual Unit Owners' policies from its operation;

(iii) until the expiration of thirty (30) days after the insurer gives notice in writing to the Mortgagee of any Unit, the Mortgagee's insurance coverage will not be affected or jeopardized by any act or conduct of the Owner of such Unit, the other Unit Owners, the Board of Directors, or any of their agents, employees, or household members, nor be cancelled for nonpayment of premiums;

(iv) the master policy may not be cancelled, substantially modified, or subjected to non-renewal without at least thirty (30) days prior notice in writing to the Board of Directors and all Mortgagees of Units;

(v) an agreed value endorsement and an inflation guard endorsement; and  
(vi) the deductible amount per occurrence shall not exceed one thousand (\$1,000.00) dollars.

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

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(c) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Unit Owners or their Mortgagees. Each Unit Owner shall notify the Board of Directors of all structural improvements made by the Unit Owner to his or her Unit. Any Unit Owner who obtains an individual insurance policy covering any portion of the Condominium, other than improvements and betterments made by such Owner at his or her expense and personal property belonging to such Owner, shall file a copy of such individual policy or policies with the Board of Directors within thirty (30) days after the purchase of such insurance. Such Owner shall also promptly notify, in writing the Board of Directors in the event such policy is cancelled.

(d) In addition to the insurance required hereinabove, the Board shall obtain as a Common Expense:

(i) workers' compensation insurance if and to the extent necessary to meet the requirements of law;

(ii) public liability insurance in amounts no less than required by Section 44-3-107 of the Act, as amended, and officers' and directors' liability insurance in such amounts as the Board may determine. The public liability insurance shall contain a cross liability endorsement;

(iii) fidelity bonds, if reasonably available, covering officers, directors, employees, and other persons who handle or are responsible for handling Association funds. Such bonds, if reasonably available, shall be in an amount consonant with the best business judgment of the Board of Directors, but in no event less than three (3) month's assessments plus a reasonable amount to cover all or a reasonable portion of reserve funds in the custody of the Association at any time during the term of the bond; provided, however, fidelity coverage herein required may be reduced based on the implementation of financial controls which take one or more of the following: (a) the Association or management company, if any, maintains a separate bank account for the working account and the reserve account, each with appropriate access controls and the bank in which funds are deposited sends copies of the monthly bank statements directly to the Association; (b) the management company, if any, maintains separate records and bank accounts for each association that uses its services and the management company does not have the authority to draw checks on, or to transfer funds from, the Association's reserve account; or (c) two members of the Board of Directors must sign any checks written on the reserve account; and

(iv) such other insurance as the Board of Directors may determine to be necessary.

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

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

(g) Every Unit Owner shall be obligated to obtain and maintain at all times insurance covering the structural portions of his or her Unit to the extent not insured by policies maintained by the Association, and to furnish a copy of such insurance policy or policies to the Association. In the event that any such Unit Owner fails to obtain insurance as required by this subparagraph, the Association may purchase such insurance on behalf of the Unit Owner and assess the cost thereof to the Unit Owner, to be collected in the manner provided for collection of assessments under Paragraph 10 hereof.

(h) Insurance Deductibles. In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the person or persons who would be responsible for such loss in the absence of insurance. If the loss affects more than one Unit or a Unit and the Common Elements, the cost of the deductible may be apportioned equitably by the Board among the parties suffering loss in proportion to each affected Owner's portion of the total cost of repair. Notwithstanding this, if the insurance policy provides that the deductible will apply to each Unit separately or to each occurrence, each Unit Owner shall be responsible for paying the deductible pertaining to his or her Unit, if any. If any Owner or Owners fail to pay the deductible when required under this subparagraph, then the Association can pay the deductible and assess the cost to the Owner or Owners pursuant to Paragraph 10 of this Declaration; provided, however, where the deductible is for insurance required under the Act, no Owner shall be assigned more than one thousand (\$1,000.00) dollars, or such higher amount as authorized by the Act, as the cost of the deductible for any one occurrence.

12. REPAIR AND RECONSTRUCTION.

In the event of damage to or destruction of all or any part of the Condominium as a result of fire or other casualty, unless eighty (80%) percent of the Unit Owners, including the Owner or Owners of any damaged Unit or Units, vote not to proceed with the reconstruction and repair of the structure, the Board of Directors or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the structure. In the event of a first Mortgage shall be entitled to written notice of the damage, and nothing in these documents shall be construed to afford a priority to any Unit Owner with respect to the distribution of proceeds to any such Unit.

(a) Cost Estimates. Immediately after a fire or other casualty causing damage to the Condominium, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring the structures (including any damaged Unit) to substantially the condition which existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Such costs may also include professional fees and premiums for such bonds as the Board of Directors determines to be necessary.

(b) Source and Allocation of Proceeds. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, as determined by the Board of Directors, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, the additional costs shall be assessed against the Owners of the Unit(s) damaged or against all Owners, in the case of insufficient funds to cover damage to the Common Elements. This assessment shall not be considered a special assessment as discussed in Paragraph 10(d). If

after repair and reconstruction is completed there is a surplus of funds, such funds shall be common funds of the Association to be used as directed by the Board of Directors.

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

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(d) Encroachments. Encroachments upon or in favor of Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Unit Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the architectural plans under which the Condominium was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the reconstructed building shall stand.

(d) Construction Fund. The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from assessments against Unit Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Paragraph to be disbursed by the Association in appropriate progress payments to such contractor(s), supplier(s), and personnel performing the work or supply materials or services for the repair and reconstruction of the buildings as are designated by the Board of Directors.

### 13. ARCHITECTURAL CONTROLS:

(a) Architectural Standards. Except as provided herein, no Owner, Occupant, or any other person may make any encroachment onto the Common Elements or Limited Common Elements, or make any exterior change, alteration, or construction (including painting and landscaping), nor erect, place or post any object, sign, antenna, clothesline, playground equipment, light (except for reasonable seasonal decorative lights displayed between Thanksgiving and January 15), storm door or window, door knob or knocker, artificial vegetation, exterior sculpture, fountains, flags, or thing on the exterior of the buildings, in any windows, on any Limited Common Elements, or any other Common Elements, without first obtaining the written approval of the Architectural Control Committee. The standard for approval of such Improvements shall include, but not be limited to, aesthetic consideration, materials to be used, harmony with the external design of the existing buildings, Units and structures, and the location in relation to surrounding structures and topography.

Applications for approval of any such architectural modification shall be in writing and shall provide such information as the Committee may reasonably require. The Committee or its designated representative shall be the sole arbiter of such application and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction which is not in conformance with approved plans. The Board or the Committee may publish written architectural standards for exterior and Common Elements alterations or additions, and any request in substantial compliance therewith shall be approved; provided, however, each



such requested change shall be in harmony with the external design of the existing buildings and Units and the location in relation to surrounding structures and topography of the vicinity.

The Architectural Control Committee or the Board of Directors, subject to this subparagraph (a), may allow such encroachments on the Common Elements and Limited Common Elements as it deems acceptable.

In the event that the Committee or its designated representative fails to approve or to disapprove such application within forty-five (45) days after the application and such information as the Committee may reasonably require shall have been submitted, its approval will not be required and this subparagraph (a) will be deemed complied with; provided, however, even if the requirements of this subparagraph are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement that is otherwise in violation of the Declaration, the By-Laws, or the rules and regulations.

(b) Architectural Control Committee. The Architectural Control Committee shall constitute a standing committee of the Association. The Committee shall consist of the Board of Directors unless the Board delegates to other Unit Owners the authority to serve on the Committee. The Board may delegate such authority to individual Unit Owners by resolution, or the Board may call for a special election by the Association to select the Unit Owners to whom the authority shall be delegated. At all times, however, the chairperson of the Committee shall be a member of the Board of Directors.

(c) Condition of Approval. As a condition of approval for a requested architectural change, modification, addition, or alteration, an Owner, on behalf of himself or herself and his or her successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance to and on such change, modification, addition, or alteration. In the discretion of the Board or the Committee, an Owner may be made to verify such condition of approval by written instrument in recordable form acknowledged by such Owner on behalf of himself or herself and all successors-in-interest.

(d) Alteration Within a Unit. No Owner may make any alteration within a Unit which involves connecting to Common Element pipes, lines, conduits and/or apparatus for access to common utilities without first obtaining the written approval of the Board or its designee. Applications shall be in writing and shall include detailed plans and specifications for the proposed alteration. In the event the Board or its designee fails to approve or to disapprove such design and location within forty-five (45) days after the plans and specifications have been submitted to it, the Board shall be deemed to have approved such plans and specifications. After the final plans and specifications have been approved by the Board, no changes may be made in the approved plans or specifications without the consent of the Board. As a condition of approval under this Paragraph, an Owner, on behalf of himself and his successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance to and on the pipes, lines, conduits and/or other apparatus installed to connect Common Element utilities to the Unit and on the connections to Common Element pipes, lines, conduits or other apparatus. In the discretion of the Board, an Owner may be made to verify that the conditions of this Paragraph have been met and that the Board and/or its designee shall have the right to verify such conditions of

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approval by a recordable instrument acknowledged by such Owner on behalf of himself and his successors-in-interest.

(e) Limitation of Liability. Review and approval of any application pursuant to this Paragraph is made on the basis of aesthetic considerations only and neither the Board of Directors nor the Architectural Control Committee shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Association, the Board of Directors, the Architectural Control Committee, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction or modifications to any Unit.

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

Section 7. Enforcement. Any construction, alteration, or other work done in violation of this Paragraph shall be deemed to be nonconforming. Upon written request from the Board, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the Board or its designees shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs thereof, including reasonable attorney's fees, may be assessed against the benefited Unit and collected as an assessment pursuant to this Declaration.

Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Paragraph and the architectural standards may be excluded by the Board from the Properties, subject to the notice and hearing procedures contained in the By-Laws of the Association. In such event, neither the Association, its officers, or directors shall be held liable to any Person for exercising the rights granted by this Paragraph.

In addition to the foregoing, the Board of Directors shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this Paragraph and its decisions or those of the Architectural Control Committee.

If any Owner or Occupant makes any exterior change, alteration, or construction (including landscaping) upon the Common Elements in violation of this Paragraph, he or she does so at his or her sole risk and expense. The Board may require that the change, alteration or construction

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remain on the Common Elements without reimbursement to the Owner or Occupant for any expense he or she may have incurred in making the change, alteration or construction.

14. USE RESTRICTIONS.

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

Use restrictions regarding the use of Units and the Common Elements are as follows and also as may be adopted by the Board of Directors in accordance with the terms hereof and as specified in the By-Laws.

(a) Use of Units.

(i) Residential and Commercial Use. Each Unit may be used for either residential or commercial purposes, provided that no trade or business operated within a Unit shall be of such a nature as to cause a nuisance to the other Units, and provided the business activity conforms to all zoning requirements for the Condominium; the business activity does not negatively affect the ability of the Association to obtain insurance coverage; and the business activity is consistent with the residential character of the Condominium and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Condominium, as may be determined in the sole discretion of the Board of Directors.

The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor.

(ii) Single Families. No Unit, if used for residential purposes, shall be occupied by more than a single family. As used herein, the term "single family" shall mean one (1) or more persons, provided all persons occupying the Unit are interrelated by blood, adoption, or marriage. If persons occupying a Unit are not interrelated by blood, adoption, or marriage, then the number of persons occupying such Unit shall be limited to a maximum number of persons occupying equal to the number of bedrooms in the Unit (as such bedrooms are depicted on the original plans filed in the Chatham County, Georgia records) plus one (1) additional person; provided, however, that persons occupying a Unit who are interrelated by blood, adoption, or marriage may occupy that Unit with one (1) person who is not related by blood, adoption or marriage. The words "by blood" shall be deemed to encompass only children, grandchildren, grandparents, brothers, sisters, nieces, nephews, parents, aunts, uncles, and first cousins, and no

other degree of kinship. "Occupancy" for purposes of this Paragraph, shall be defined as staying overnight in a Unit for a total of more than thirty (30) days, either consecutive or non-consecutive, in any year. "Marriage" shall include common law marriages as provided for under Georgia law, and "by marriage" shall include in-laws and step-relatives.

(b) Subdivision of Units and Outbuildings. No Unit may be subdivided into a smaller Unit and no structure of a temporary character shall be erected or used by any Owner or Occupant on any portion of the Condominium, at any time, either temporarily or permanently.

(c) Use of Common Elements. There shall be no obstruction of the Common Elements, nor shall anything be kept, parked, stored on or removed from any part of the Common Elements without the prior written consent of the Board, except as specifically provided herein.

With the prior written approval of the Board of Directors, and subject to any restrictions imposed by the Board, an Owner or Owners may reserve portions of the Common Elements for use for a period of time as set by the Board. Any such Owner or Owners who reserve a portion of the Common Elements as provided herein shall assume, on behalf of himself/herself/themselves and his/her/their guests, Occupants and family, all risks associated with the use of the Common Elements and all liability for any damage or injury to any person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by willful acts or gross negligence of the Association, its agents or employees.

(d) Use of Limited Common Elements. Use of the Limited Common Elements is restricted exclusively to the Owners of the Unit to which such Limited Common Elements are assigned, and said Owner's family members, guests, tenants and invitees. The Limited Common Elements are reserved for exclusive use, but shall not be construed or interpreted to be separate and apart from the Common Elements in general, and the restrictions applicable to the Common Elements as provided in subparagraph (c) of this Paragraph shall also apply to the Limited Common Elements.

(e) Prohibition of Damage, Nuisance and Noise. Without the prior written consent of the Board of Directors, nothing shall be done or kept on the Condominium, or any part thereof, which would increase the rate of insurance on the Condominium or any Unit or part thereof, which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body, or which would increase the Common Expenses.

Noxious, destructive or offensive activity shall not be carried on upon the Condominium. Each Owner shall refrain from any act or use of his or her Unit which could reasonably cause embarrassment, discomfort, nuisance or annoyance to other Owners or Occupants. No Owner or Occupant of a Unit may use or allow the use of the Unit or any portion of the Condominium at any time, in any way or for any purpose which may endanger the health or unreasonably annoy or disturb other Owners or Occupants of a portion of the Condominium, or in such a way as to constitute, in the sole opinion of the Board of Directors, a nuisance. Nothing herein, however, shall be construed to affect the rights of an aggrieved Owner to proceed individually for relief from interference with his or her property or personal rights. Notwithstanding anything to the contrary herein, no Owner or Occupant of a Unit may use or allow the use of a Unit, the Common

Elements or the Limited Common Elements in any manner which creates noises between the hours of 11:00 P.M. and 7:30 A.M. which can be heard by persons in another Unit that will, in the sole discretion of the Board of Directors, interfere with the rights, comfort of the other Owners or Occupants.

No Owner shall do any work which, in the reasonable opinion of the Association's Board of Directors or its designee, would jeopardize the soundness or safety of the Condominium or any structure created thereon, would reduce the value thereof, or would impair any easement or other interest in real property thereto, without in every such case the unanimous prior written consent of all members of the Association and their Mortgagees. No damage to or waste of the Common Elements, or any part thereof, or of the exterior of any building constructed upon any Unit shall be permitted by any Owner or member of his or her family or any invitee of any Owner. Each Owner shall indemnify and hold the Association and the other Owners harmless against all loss to the Association or other Owners resulting from any such damage or waste caused by such Owner, members of his or her family, guest, invitees, or Occupants of his or her Unit.

The current use of a Unit for jewelry repair requiring a soldering torch is specifically contemplated and considered an allowed use under these documents.

(f) Firearms and Fireworks. The display or discharge of firearms or fireworks on the Common Elements is prohibited; provided, however, that the display of lawful firearms on the Common Elements is permitted for the limited purpose of transporting the firearms across the Common Elements to or from the Owner's Unit. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. The term "fireworks" shall include those items as listed in O.C.G.A. Section 25-10-1, as amended.

(g) Pets: No Owner or Occupant may keep any pets other than generally recognized household pets on any portion of the Condominium and no Owner or Occupant may keep more than two (2) generally recognized household pets per Unit; provided, however, that this requirement shall not apply to an Owner or Occupant that has more than two (2) pets at the time of the recording of this Declaration in the Chatham County, Georgia land records. Any Owner or Occupant permitted to keep more than two (2) pets under this Paragraph 14, subparagraph (g) may not replace pets that die or are otherwise removed from the Condominium until the number of pets kept in a Unit by such Owner or Occupant is two (2) or less. Notwithstanding the above, a reasonable number of generally recognized household pets, as determined in the sole discretion of the Board of Directors, weighing less than two (2) pounds each may be kept in Units.

No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose.

Pets may not be left unattended outdoors or kept outdoors in fenced areas. No structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Common Elements, including the Limited Common Elements without the prior written approval of the Board of Directors as provided in Paragraph 13 hereof. Dogs must be kept on a leash and be under the physical control of a responsible person at all times while outdoors. Feces left upon the Common Elements by dogs must be removed by the owner of the dog or the person responsible for the dog.

No Pitbull dogs or other dogs determined in the sole discretion of the Board of Directors may be brought onto or kept on the Condominium at any time by any Unit Owner, Occupant, or guest of an Owner or Occupant. Any pet which endangers the health of any Owner or Occupant of any Unit or which creates a nuisance or unreasonable disturbance, as may be determined in the sole discretion of the Board of Directors, must be permanently removed from the Condominium upon seven (7) days written notice by the Board of Directors. If the Owner or Occupant fails to comply with such notice, the Board may remove the pet. Any pet which, in the sole discretion of the Board, presents an immediate danger to the health, safety or property of any member of the community may be removed by the Board without prior notice to the pet's owner.

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(H) Abandoned Personal Property. Personal property, other than an automobile as provided for in subparagraph (h) of this Paragraph, is prohibited from being stored, kept, or allowed to remain for a period of more than twenty-four (24) hours upon any portion of the Common Elements other than on a Limited Common Element without the prior written permission of the Board of Directors.

If the Board or its designee, in its sole discretion, determines that property is kept, stored, or allowed to remain on the Common Elements in violation of this subparagraph, then the Board may remove and either discard or store the personal property in a location which the Board may determine.

Prior to taking any such action, the Board shall place a notice on the personal property and/or on the front door of the Unit of the owner of such property, if known, specifying the nature of the violation and stating that after two (2) days the property may be removed and either discarded or stored. The notice shall include the name and telephone number of the person which will remove the property and the name and telephone number to contact regarding an alleged violation.

If two (2) days after such notice is placed on the personal property and/or the front door of the Unit, the violation continues or thereafter occurs again within six (6) months of such notice, the personal property may be removed in accordance with the original notice, without further notice to the owner or user of the personal property.

Notwithstanding anything to the contrary, the Board, in its sole discretion, may determine that an emergency situation exists and the personal property abandoned or stored in violation of this subparagraph may, without prior notice to the owner or user of the personal property, be removed and either discarded or stored by the Board in a location which the Board may determine; provided, however, the Board shall give to the owner, if known, notice of the removal of the property and the location of the personal property within three (3) days after the personal property is removed.

If personal property is removed in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage resulting from the removal activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to remove abandoned or improperly stored personal property, as set forth herein.

(I) Heating of Units in Colder Months. In order to prevent breakage of water pipes during colder months of the year resulting in damage to any portion of the Condominium,

increased Common Expenses, and increased Insurance premiums or cancellation of Insurance policies due to numerous damage claims, the thermostats within the Units shall be maintained with the heat in an "on" position and at a minimum temperature setting of fifty-five (55°) degrees Fahrenheit (except during power failures or periods when heating equipment is broken) whenever the temperature is forecasted to or does not reach thirty-two (32°) degrees Fahrenheit or below. Owners and Occupants of Units shall take all steps possible on a timely basis to keep heating equipment, including, but not limited to, the thermostat, in good working order and repair. At any time during the months specified above when the heating equipment is not working properly, the Unit Owner or Occupant shall immediately inform the Association of this failure of the equipment and of the time needed to repair the equipment. The Board of Directors may fine any Owner or Occupant up to five hundred (\$500.00) dollars and/or may cause the water service to the violator's Unit to be discontinued for violation of this subparagraph, in addition to any other remedies of the Association. Any fine imposed pursuant to this subparagraph shall be deemed an assessment against the Unit and may be collected in the same manner as provided herein for collection of assessments.

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(l) Signs. Only signs approved by the Association may be placed upon a Unit or upon the Common Elements or Limited Common Elements. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association.

(k) Rubbish, Trash, and Garbage. All rubbish, trash, and garbage shall be regularly removed from the Unit and shall not be allowed to accumulate therein. No garbage or trash shall be placed on the Common Elements or Limited Common Elements outside the Unit, temporarily or otherwise, except as provided herein. Rubbish, trash and garbage shall be disposed of in sealed plastic bags and placed in proper receptacles designated by the Board for collection or shall be removed from the Condominium.

(l) Impairment of Units and Easements. An Owner shall do no act nor any work that will impair the structural soundness or integrity of another Unit or impair any easement or other interest in real property, nor do any act nor allow any condition to exist which will adversely affect the other Units or their Owners or Occupants.

(m) Unsanitary or Unkempt Conditions. The pursuit of hobbies or other activities, including, but not limited to the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Condominium. Clothing, bedding, rugs, mops, appliances, indoor furniture, and other household items shall not be placed or stored outside the Unit. Appropriate outdoor items, such as neatly stacked firewood, patio furniture, grills, and bicycles must be kept on the patio or deck serving the Unit only.

15. LEASING.

The Board shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Declaration and By-Laws, in order to enforce the provisions of this Paragraph.

(a) Definition. "Leasing" for purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by a person or persons other than the Owner for which the Owner



receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument.

(b) Leasing Provisions. Leasing of Units shall be governed as follows:

(i) General. Units may be leased only in their entirety; no fraction or portion may be leased without prior written approval of the Board of Directors. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board shall maintain in its files and upon request, shall provide to any Owner a form which is deemed acceptable. There shall be no subleasing of Units or assignment of leases unless prior written approval is obtained from the Board of Directors. Within seven (7) days after executing a lease agreement for the lease of a Unit, the Unit Owner shall provide the Board of Directors with a copy of the lease and the name of the lessee and all other people occupying the Unit. The Unit Owner must make available to the lessee copies of the Declaration, by-Laws, and the rules and regulations.

(ii) Compliance with Declaration, By-Laws, and Rules and Regulations, Use of Common Elements, and Liability for Assessments. Any lease of a Unit shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Owner and each lessee, by occupancy of a Unit, covenants and agrees that any lease of a Unit shall contain

the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant on the Unit:

(A) Compliance with Declaration, By-Laws, and Rules and Regulations. The lessee shall comply with all provisions of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Unit in order to ensure compliance with the foregoing. The Owner shall cause all Occupants of his or her Unit to comply with the Declaration, By-Laws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations by such Occupants, notwithstanding the fact that such Occupants of the Unit are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto. In the event that the lessee or a person living with the lessee, violates the Declaration, By-Laws, or a rule or regulation for which a fine is imposed, notice of the violation shall be given to the Owner and the lessee, and such fine shall be assessed against the lessee in accordance with Article V, Section 2 of the By-Laws. If the fine is not paid by the lessee within the time period set by the Board of Directors, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines constitute a lien against the Unit.

Any violation of the Declaration, By-Laws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any person living with the lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, By-Laws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms

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hereof. In the event the Association proceeds to evict the lessee, any costs, including attorney's fees and costs, associated with the eviction shall be an assessment and lien against that Unit.

(B) Use of Common Elements. Except where the Owner also occupies the Unit, the Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Elements of the Condominium, including, but not limited to, the use of any and all recreational facilities.

(C) Liability for Assessments. When a Unit Owner who is leasing his or her Unit fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board of Directors, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under Paragraph 10 herein as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

This Paragraph 15 shall not apply to any leasing transaction entered into by the holder of any first Mortgage on a Unit who becomes the Owner of a Unit through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage

16. SALE OF UNITS.

A Unit Owner intending to make a transfer or sale of a Unit or any interest in a Unit shall give written notice to the Board of Directors of such intention within seven (7) days after execution of the transfer or sales documents. The Unit Owner shall furnish to the Board as part of the notice (i) the name and address of the intended grantee; and (ii) such other information as the Board may reasonably require. This Paragraph shall not be construed to create a right of first refusal in the Association or in any third party.

Within seven (7) days after receiving title to a Unit, the purchaser of the Unit shall give written notice to the Board of Directors of his or her ownership of the Unit. Upon failure of an Owner to give the required notice within the seven (7) day time period provided herein, the Board may levy fines against the Unit and the Owner thereof, and assess the Owner for all costs incurred by the Association in determining his or her identity.

17. MAINTENANCE RESPONSIBILITY.

(a) By the Owner. Except to the extent otherwise provided in subparagraph (b) below, each Owner shall have the obligation to maintain and keep in good repair all portions of his or her Unit and all glass surfaces, windows, window frames and casings, and all doors, doorways, door frames, and hardware that are part of the entry system of the Unit, decks, patios or balconies, individual enclosed garages assigned to a Unit as a Limited Common Element, the air

conditioning compressor serving the Unit, all pipes, lines, ducts, conduits, or other apparatus which serve only the Unit, whether located within or without a Unit's boundaries (including all gas, electricity, water, sewer, or air conditioning pipes, lines, ducts, conduits, or other apparatus serving on the Unit). Except to the extent otherwise provided below, each Owner shall maintain all parts of the Unit and all Limited Common Elements assigned to his Unit. If two or more Units share Limited Common Elements, the cost of maintenance shall be divided equally among those who share the facilities, unless otherwise agreed among the parties.

In addition, each Unit Owner shall have the responsibility:

- (i) To keep in a neat, clean and sanitary condition any Limited Common Elements serving his or her Unit.
- (ii) To perform his or her responsibility in such manner so as not to unreasonably disturb other persons in other Units.
- (iii) To promptly report to the Association or its agent any defect or need for repairs, for which the Association is responsible.

(iv) Not to make any alterations in the portions of the Unit which are to be maintained by the Association or to remove any portion thereof or to make any additions thereto or to do anything with respect to the exterior or interior of the Unit which would or might jeopardize or impair the safety or soundness of any Unit without first obtaining the written consent of the Board of Directors of the Association and all Unit Owners and Mortgagees of the Units affected, nor shall any Unit Owner impair any easement without first obtaining written consent of the Association and of the Unit Owner or Owners and their Mortgagees for whose benefit such easement exists.

(v) To pay for the cost of repairing, replacing or cleaning up any item which is the responsibility of the Unit Owner but which responsibility such Owner falls or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repainting, replacing, or cleaning up any item which although the responsibility of the Association is necessitated by reason of the willful or negligent act of the Unit Owner, his or her family, tenants or guests, with the cost thereof to be added to and become part of the Unit Owner's next chargeable assessment.

(b) ~~By the Association.~~ The Association shall maintain and keep in good repair as a Common Expense the "Area of Common Responsibility", which includes all Common Elements, the exterior surfaces of all improvements, except those listed in subsection (a) above, whether or not located within the boundaries of a Unit or within the Limited Common Elements of a Unit. The Area of Common Responsibility shall include, but not be limited to, the attic, roofs and roof supports (including, but not limited to roof joists and trusses, crossbeams, roof decking and underlayment, and shingles or other covering and surface materials); paving; brick; painting of doors which comprise a boundary to a Unit or Limited Common Element, exterior trim, the exterior of decks and balconies, decks and balcony supports, and individual garages and carports; maintenance and repair of all paved parking areas, whether located inside or outside a building except for individual enclosed garages assigned to a Unit as Limited Common Element; all maintenance and repair of stoops, landings and stairways assigned as Limited Common Elements; and maintenance and repair of all storage areas which are not adjacent or connected

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to a Unit. Except to the extent that insurance required to be maintained or maintained by the Association covers any damage or loss and except as otherwise provided herein, the Association shall not be responsible for any maintenance or repair to any Unit or to any Limited Common Element.

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

The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner of any Unit, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder. The Association shall not be liable to the Owner of any Unit or such Owner's Occupant, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements. The Association shall not be liable to any Owner, or any Owner's Occupant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Paragraph where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

The Association shall repair incidental damage to any Unit resulting from performance of work which is the responsibility of the Association.

In performing its responsibilities hereunder, the Association shall have the authority to delegate to such persons, firms or corporations of its choice, such duties as are approved by the Board of Directors.

16. MORTGAGEE'S RIGHTS.

(a) Unless at least two-thirds (2/3) of the first Mortgagees or Unit Owners give their consent, the Association or the membership shall not:

- (i) by act or omission seek to abandon or terminate the Condominium;
- (ii) change the pro rata interest or obligation 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;

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(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 an 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 non-judicial foreclosure of the 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 or 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 the title is passed.

(c) Upon written consent 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 notices 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 Unit 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 Paragraphs 15 and 16 governing sales and leases shall not apply to impair the right of any first Mortgagee to:

(i) foreclosure or take title to a Unit pursuant to remedies contained in its Mortgage; or

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- (ii) take a deed or assignment in lieu of foreclosure; or
- (iii) sell, lease, or otherwise dispose of Unit acquired by the Mortgagee.

19. GENERAL PROVISIONS.

(a) Security. The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve safety on the Condominium; however, each Owner, for himself or herself and his and her tenants, guests, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security on the Condominium. It shall be the responsibility of each Owner to protect his or her person and property and all responsibility to provide security shall lie solely with each Unit Owner.

The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of safety measures undertaken.

(b) Dispute Resolution. Prior to filing a lawsuit against the Association, the Board, or any officer, director, or property manager of the Association, a Unit Owner or Occupant must request and attend a hearing with the Board of Directors. Any such request shall be in writing and shall be personally delivered to any member of the Board of Directors or the property manager, if any, of the Association. The Owner or Occupant shall, in such request and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Owner's or Occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date not less than seven (7) nor more than twenty-one (21) days from the date of receipt of the request.

(c) No Discrimination. No action shall be taken by the Association or the Board of Directors which would discriminate against any person on the basis of race, creed, color, national origin, religion, sex, familial status or handicap.

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

20. EMINENT DOMAIN.

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

21. EASEMENTS:

Each Unit Owner and Occupant shall have a right and easement of use and enjoyment in

and to the Common Elements (including the right of access, ingress and egress to and from his or her Unit over those portions of the Condominium designated for such purposes), and such easement shall be appurtenant to and shall pass with the title to such Unit, subject to the rights of the Unit Owners to exclusive use of the Limited Common Elements assigned to their respective Units and to the right of the Association to control over the use and enjoyment of the Common Elements as provided by the terms of this Declaration.

22. AMENDMENTS.

Except where a higher vote is required for action under any other provisions of this Declaration or by the Act, in which case such higher vote shall be necessary to amend such provision, this Declaration may be amended by the affirmative vote, written consent (as provided for in the By-Laws), or any combination of affirmative vote and written consent of the members of the Association holding seventy-five (75%) percent of the total vote thereof. Notice of any meeting 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 Chatham County, Georgia land records.

Any action to challenge the validity of an amendment adopted under this Paragraph must be brought within one (1) year of the effective date of such amendment. No action to challenge

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{TEST CONTINUED ON NEXT PAGE}

such amendment may be brought after such time.

23. **SEVERABILITY.**

Invalidation of any one of these covenants or restrictions by judgment or court order or otherwise shall in no way affect the application of such provision to other circumstances or affect any other provision(s), which shall remain in full force and effect.

24. **PREPARED.**

This Declaration was prepared by Charles V. Loncon, Esq., Loncon & Associates, 7 East Congress Street, Suite 1001, Savannah, Georgia 31401.

IN WITNESS WHEREOF, the undersigned hereby certifies that the above Declaration was duly adopted by the Declarant.

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This 13<sup>th</sup> day of March, 2005.

[Signature]  
JOSEPH A. RICHARD, JR. [Seal]

[Signature]  
LEE A. RICHARD [Seal]

Signed, sealed and delivered  
this 23 day of March, 2006.

[Signature]  
Witness  
[Signature]  
Notary Public





Exhibit A

ALL the certain lot, tract or parcel on land situate, lying and being in the City of Savannah, County of Chatham, State of Georgia, and being known and designated as LOT A OF DECKER WARD DIVISION, BEING A SUBDIVISION OF THE NORTHERN 60 FEET OF LOT 5, HEATHCOTE TYTHING, DECKERWARD, and said Lot A is more fully delineated on that certain plat of subdivision prepared for Robinson Callen, Trustee of the Callen Trust on January 24, 1986 by Joseph J. Stuckey, Jr. Georgia Registered Land Surveyor No. 1861, which Subdivision Map id recorded in the Office of the Clerk of Superior Court of Chatham County, Georgia, in Subdivision Map Book 6-S, Page 100, and which map is incorporated herein and made a part hereof by express reference for a more particular description of the metes, bounds and dimensions of said property.

Said property having improvement thereon known as 105 and 107 West Congress Street, Savannah, GA 31401; and Pin 2-0004-36-001.

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EXHIBIT "B"

UNIT	PERCENTAGE INTEREST	BOOK	PAGE
105-A	25.00%	284	Y
105-B	25.00%		
105-C	25.00%		
107	25.00%		346

Clock# : 643552  
FILED FOR RECORD

3/23/2005 02:51PM

FILED: 10.00

Daniel W. Missey, Clerk  
Superior Court of Chatham County  
Chatham County, Georgia

Longon & Edwards, LLP  
Post Office Box 9180  
Savannah, Georgia 31412-9180  
(912) 236-8900

05-4887-L  
STATE OF GEORGIA  
COUNTY OF CHATHAM )  
)  
)

QUITCLAIM DEED

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THIS INDENTURE made this 16<sup>th</sup> day of March, 2005, between, Home Resolutions, Inc. as Party of the first part, and Linda Longstreet as Party of the second part:

WITNESSETH:

First party, for and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, receipt whereof is hereby acknowledged, hereby releases, bargains, sells and quitclaims unto second party, her successors and assigns, all of her interest in the following described property, to-wit:

All of that certain lot, tract, or parcel of land situate, lying and being on Talahi Island (formerly known as North Wilmington or Screven Island), Chatham County, Georgia, and having a frontage of 98.17 feet on the Southeasterly side of a Sixty (60') foot access road, sometimes known as Nilsson Avenue and extending eastwardly from Nilsson Avenue to Camoose Creek Marsh. The property herein conveyed appears upon a plat of same recorded in Plat Book L, Page 156, in the records of Chatham County, Georgia, and express reference is made hereto for a more complete description of said property. The above described property being bounded on the Northeast by lands now or formerly of Claude O. Falligant with a frontage thereon of Two Hundred Ninety-three and Sixty-two One Hundredths (293.62') feet; on the Southeast by Camoose Creek Marshland with a frontage thereon of One Hundred Sixty (160') feet more or less; on the Southwest by lands now or formerly of Claude A. Falligant with a frontage thereon of 330.25 feet and on the Northwest by a Sixty (60') foot access road sometimes known as Nilsson Avenue with a frontage thereon as previously stated. There is also conveyed herewith all the rights and interests the party of the first part may have in and to the marshland lying and being between the Northeastly and Southwesterly boundary lines of the above described property as extended to the low water mark of Camoose Creek, but said marshland is expressly excluded from the warranty of this instrument.

TO HAVE AND TO HOLD the above described tract or parcel of land and premises, together with all and singular the rights, members, hereditaments, improvements, easements and appurtenances thereunto belonging or in anywise appertaining (collectively the "Premises"), unto second party, her successors and assigns.

IN WITNESS WHEREOF, first party has hereunto executed this instrument as of the day and year first above written.

Signed, sealed and delivered  
this 16 day of March,  
2005, in the presence of:

Witness [Signature]  
Notary Public [Signature]

Home Resolutions, Inc.

By: Linda Longstreet, President



CANCELLATION On

DEED Book 328R Page 444

Which received return to:

COLONY BANK SOUTHEAST

Clock#: 643553

FILED FOR RECORD

3/23/2005 02:51PM

Clerk, Superior Court

PAID: 20.00

Daniel W. Massey, Clerk  
Superior Court of Chatham County  
Chatham County, Georgia

Lonçon & Edwards, LLP

Post Office Box 9180

Savannah, Georgia 31412-9180

(912) 236-8900

State of Georgia

Space Above This Line For Recording Date

DEED TO SECURE DEBT

(With Future Advance Clause)

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1. DATE AND PARTIES. The date of this Deed to Secure Debt (Security Instrument) is 03-18-2005, and the parties, their addresses and tax identification numbers, if required, are as follows:

GRANTOR: LINDA LONGSTREET, SINGLE  
100 NILSSON DRIVE  
SAVANNAH, GA 31410

If checked, refer to the attached Addendum incorporated herein, for additional Grantors, their signatures and acknowledgments.

GRANTEE: COLONY BANK SOUTHEAST  
("Lender")  
ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF GEORGIA  
THE LANDMARK BUILDING SUITE 109  
8800 ABERCORN SAVANNAH, GA 31405

2. CONVEYANCE. For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (defined below) and Grantor's performance under this Security Instrument, Grantor irrevocably grants, bargains, transfers, conveys and sells to Lender, with power of sale, the following described property:  
SEE ATTACHED "EXHIBIT A"

The property is located in CHATHAM, Georgia 31410, at 100 NILSSON DRIVE  
(County)  
(Address), SAVANNAH, Georgia 31410  
(City) (ZIP Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, all water and riparian rights, ditches, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property").

3. MAXIMUM OBLIGATION LIMIT. The total principal amount secured by this Security Instrument at any one time shall not exceed \$ 325,000.00. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument.

4. SECURED DEBT AND FUTURE ADVANCES. The term "Secured Debt" is defined as follows:

A. Debt incurred under the terms of all promissory note(s), contract(s), guaranty(s) or other evidence of debt described below and all their extensions, renewals, modifications or substitutions. (You must specifically identify the debt(s) secured and you should include the final maturity date of such debt(s).)

ONE REVOLVING LINE OF CREDIT IN THE NAME OF LINDA LONGSTREET IN THE AMOUNT OF \$325,000.00 DATED 03-18-2005 WITH A MATURITY DATE OF 02-18-2008.

B. All future advances from Lender to Grantor or other future obligations of Grantor to Lender under any promissory note, contract, guaranty, or other evidence of debt executed by Grantor in favor of Lender executed after this Security Instrument whether or not this Security Instrument is specifically referenced. If more than one person signs this Security Instrument, each Grantor agrees that this Security Instrument will secure all future advances and future obligations that are given to or incurred by any one or more Grantor, or any one or more Grantor and others. All future advances and other future obligations are secured by this Security Instrument even though all or part may not yet be advanced. All future advances and other future obligations are secured as if made on the date of this Security Instrument. Nothing in this Security Instrument shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment must be agreed to in a separate writing.

C. All other obligations Grantor owes to Lender, which may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Grantor and Lender.

D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Security Instrument.

In the event that Lender fails to provide any necessary notice of the right of rescission with respect to any additional indebtedness secured under paragraph B of this Section, Lender waives any subsequent security interest in the Grantor's principal dwelling that is created by this Security Instrument (but does not waive the security interest for the debts referenced in paragraph A of this Section)

Release of any part of the Secured Debt or of any part of the Property will not affect the borrower's personal liability under any instrument secured by this Security Instrument or this Security Instrument's priority.

5. **DEED OF TRUST COVENANTS.** Grantor agrees that the covenants in this section are material obligations under the Secured Debt and this Security Instrument. If Grantor breaches any covenant in this section, Lender may refuse to make additional extensions of credit and reduce the credit limit. By not exercising either remedy on Grantor's breach, Lender does not waive Lender's right to later consider the event a breach if it happens again.

Payments. Grantor agrees that all payments under the Secured Debt will be paid when due and in accordance with the terms of the Secured Debt and this Security Instrument.

**Prior Security Interests.** With regard to any other mortgage, deed of trust, deed to secure debt, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Grantor agrees to make all payments when due and to perform or comply with all covenants. Grantor also agrees not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written approval.

**Claims Against Title.** Grantor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Grantor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Grantor's payment. Grantor will assign title to the Property against any claims that would impair the lien of this Security Instrument. Grantor agrees to defend to Lender, as requested by Lender, any rights, claims or defenses Grantor may have against parties who supply labor or materials to maintain or improve the Property.

**Property Condition, Alterations and Inspection.** Grantor will keep the Property in good condition and make all repairs that are reasonably necessary. Grantor shall not commit or allow any waste, impairment, or deterioration of the Property. Grantor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Grantor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Grantor will notify Lender of all demands, proceedings, claims, and actions against Grantor, and of any loss or damage to the Property.

Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Lender shall give Grantor notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property shall be entirely for Lender's benefit and Grantor will in no way rely on Lender's inspection.

**Authority to Perform.** If Grantor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Grantor appoints Lender as attorney in fact to sign Grantor's name or pay any amount necessary for performance. Lender's right to perform for Grantor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Security Instrument.

**Leaseholds; Condominiums; Planned Unit Developments.** Grantor agrees to comply with the provisions of any lease if this Security Instrument is on a leasehold. If the Property includes a unit in a condominium or a planned unit development, Grantor will perform all of Grantor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.

**Condemnation.** Grantor will give Lender prompt notice of any pending or threatened action, by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Grantor authorizes Lender to intervene in Grantor's name in any of the above described actions or claims. Grantor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, deed to secure debt, security agreement or other lien document.

**Insurance.** Grantor shall keep Property insured against loss by fire, flood, theft and other hazards and risks reasonably associated with the Property due to its type and location. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Grantor, subject to Lender's approval, which shall not be unreasonably withheld. If Grantor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Security Instrument.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "loss payee clause." Grantor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Grantor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Grantor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Grantor.

Unless otherwise agreed in writing, all insurance proceeds shall be applied to the restoration or repair of the Property or to the Secured Debt, whether or not then due, at Lender's option. Any application of proceeds to principal shall not extend or postpone the due date of the scheduled payment nor change the amount of any payment. Any excess will be paid to the Grantor. If the Property is acquired by Lender, Grantor's right to any insurance policies and proceeds resulting from



damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

**Financial Reports and Additional Documents.** Grantor will provide to Lender upon request, any financial statement or information Lender may deem reasonably necessary. Grantor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Grantor's obligations under this Security Instrument and Lender's lien status on the Property.

6. **WARRANTY OF TITLE.** Grantor warrants that Grantor is or will be lawfully seized of the estate conveyed by this Security Instrument and has the right to irrevocably grant, bargain, transfer, convey and sell the Property to Lender, with power of sale. Grantor also warrants that the Property is unencumbered, except for encumbrances of record.

7. **DUE ON SALE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, a transfer or sale of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable.

8. **DEFAULT.** Grantor will be in default if any of the following occur:

**Fraud.** Any Consumer Borrower engages in fraud or material misrepresentation in connection with the Secured Debt that is an open end home equity plan.

**Payments.** Any Consumer Borrower on any Secured Debt that is an open end home equity plan fails to make a payment when due.

**Property.** Any action or inaction by the Borrower or Grantor occurs that adversely affects the Property or Lender's rights in the Property. This includes, but is not limited to, the following: (a) Grantor fails to maintain required insurance on the Property; (b) Grantor transfers the Property; (c) Grantor commits waste or otherwise destructively uses or fails to maintain the Property such that the action or inaction adversely affects Lender's security; (d) Grantor fails to pay taxes on the Property or otherwise fails to act and thereby causes a lien to be filed against the Property that is senior to the lien of this Security Instrument; (e) a sole Grantor dies; (f) if more than one Grantor, any Grantor dies and Lender's security is adversely affected; (g) the Property is taken through eminent domain; (h) a judgment is filed against Grantor and subjects Grantor and the Property to action that adversely affects Lender's interest; or (i) a prior lienholder forecloses on the Property and as a result, Lender's interest is adversely affected.

**Executive Officers.** Any Borrower is an executive officer of Lender or an affiliate and such Borrower becomes indebted to Lender or another lender in an aggregate amount greater than the amount permitted under federal laws and regulations.

9. **REMEDIES ON DEFAULT.** In addition to any other remedy available under the terms of this Security Instrument, Lender may accelerate the Secured Debt and foreclose this Security Instrument in a manner provided by law if Grantor is in default. In some instances, federal and state law will require Lender to provide Grantor with notice of the right to cure, or other notices and may establish time schedules for foreclosure actions.

At the option of the Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. Lender shall be entitled to, without limitation, the power to sell the Property.

If there is a default, Lender may advertise and sell the Property as a whole or in separate parcels at public auction to the highest bidder for cash and convey absolute title free and clear of all right, title and interest of Grantor at such time and place as Lender designates. Lender shall give notice of sale including the time, terms and place of sale and a description of the property to be sold as required by the applicable law in effect at the time of the proposed sale.

Upon sale of the property and to the extent not prohibited by law, Lender shall make and deliver a deed to the Property sold which conveys absolute title to the purchaser. Lender shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including but not limited to, reasonable attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it. Lender may purchase the Property. The recitals in any deed of conveyance shall be prima facie evidence of the facts set forth therein.

If the Property is sold pursuant to this section, Grantor, or any person holding possession of the Property through Grantor, shall immediately surrender possession of the Property to the purchaser at the sale. If possession is not surrendered, Grantor or such person shall be a tenant holding over and may be dispossessed in accordance with applicable law.

The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require complete cure of any existing default. By not exercising any remedy on Grantor's default, Lender does not waive Lender's right to later consider the event a default if it happens again.

10. **EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS.** If Grantor breaches any covenant in this Security Instrument, Grantor agrees to pay all expenses Lender incurs in performing such covenants or protecting its security interest in the Property. Such expenses include, but are not limited to, fees incurred for inspecting, preserving, or otherwise protecting the Property and Lender's security interest. These expenses are payable on demand and will bear interest from the date of payment until paid in full at the highest rate of interest in effect as provided in the terms of the Secured Debt. Grantor agrees to pay all costs and expenses incurred by Lender in collecting, enforcing or protecting Lender's rights and remedies under this Security Instrument. This amount may include, but is not limited to, attorneys' fees, court costs, and other legal expenses. Where the Secured Debt is collected by or through an attorney after maturity, Grantor agrees to pay 15 percent of the principal and interest owing as attorneys' fees. To the extent permitted by the United States Bankruptcy Code, Grantor agrees to pay the reasonable attorneys' fees Lender incurs to collect the Secured Debt as awarded by any court exercising jurisdiction under the Bankruptcy Code. This Security Instrument shall remain in effect until released. Grantor agrees to pay for any recordation costs of such release.

11. **ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), and all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law.

Grantor represents, warrants and agrees that:

A. Except as previously disclosed and acknowledged in writing to Lender, no Hazardous Substance is or will be located, stored or released on or in the Property. This restriction does not apply to small quantities of Hazardous Substances that are generally recognized to be appropriate for the normal use and maintenance of the Property.

B. Except as previously disclosed and acknowledged in writing to Lender, Grantor and every tenant have been, are, and shall remain in full compliance with any applicable Environmental Law.

C. Grantor shall immediately notify Lender if a release or threatened release of a Hazardous Substance occurs on, under or about the Property or there is a violation of any Environmental Law concerning the Property. In such an event, Grantor shall take all necessary remedial action in accordance with any Environmental Law.

D. Grantor shall immediately notify Lender in writing as soon as Grantor has reason to believe there is any pending or threatened investigation, claim, or proceeding relating to the release or threatened release of any Hazardous Substance or the violation of any Environmental Law.

12. **ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Grantor will not be required to pay to Lender funds for taxes and insurance in escrow

13. **JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Security Instrument are joint and individual. If Grantor signs this Security Instrument but does not sign an evidence of debt, Grantor does so only to convey Grantor's interest in the Property to secure payment of the Secured Debt and Grantor does not agree to be personally liable on the Secured Debt. If this Security Instrument secures a guaranty between Lender and Grantor, Grantor agrees to waive any rights that may prevent Lender from bringing any action or claim against Grantor or any party indebted under the obligation. The duties and benefits of this Security Instrument shall bind and benefit the successors and assigns of Grantor and Lender.

14. **SEVERABILITY; INTERPRETATION.** This Security Instrument is complete and fully integrated. This Security Instrument may not be amended or modified by oral agreement. Any section in this Security Instrument, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or implicitly permits the variations by written agreement. If any section of this Security Instrument cannot be enforced according to its terms, that section will be severed and will not affect the enforceability of the remainder of this Security Instrument. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Security Instrument are for convenience only and are not to be used to interpret or define the terms of this Security Instrument. Time is of the essence in this Security Instrument.

15. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Security Instrument, or to any other address designated in writing. Notice to one grantor will be deemed to be notice to all grantors.

16. **WAIVERS.** Except to the extent prohibited by law, Grantor waives all homestead and other exemption rights provided for by the constitution and laws of Georgia relating to the Property.

17. **LINE OF CREDIT.** The Secured Debt includes a revolving line of credit. Although the Secured Debt may be reduced to a zero balance, this Security Instrument will remain in effect until released.

18. **APPLICABLE LAW.** This Security Instrument is governed by the laws as agreed to in the Secured Debt, except to the extent required by the laws of the jurisdiction where the Property is located, and applicable federal laws and regulations.

19. **RIDERS.** The covenants and agreements of each of the riders checked below are incorporated into and supplement and amend the terms of this Security Instrument.  
[Check all applicable boxes]

Assignment of Leases and Reals  Other .....

20.  **ADDITIONAL TERMS.** GRANTOR AND GRANTEE AGREE, BY THIS AFFIRMATIVE STATEMENT PURSUANT TO O.C.G.A SECTION 44-14-80, TO ESTABLISH A PERPETUAL OR INDEFINITE SECURITY INTEREST IN THE PROPERTY CONVEYED TO SECURE THE SECURED DEBT.

**SIGNATURES:** By signing below, Grantor agrees to the terms and covenants contained in this Security Instrument and in any attachments. Grantor also acknowledges receipt of a copy of this Security Instrument on the date stated on page 1. IN WITNESS WHEREOF, Grantor has signed and sealed this Security Instrument.

(Signature) LINDA LONGSTREET (Date) 3-16-05 (Seal) ..... (Signature) ..... (Date) ..... (Seal) .....

Signed, sealed and delivered in the presence of:

(Unofficial Witness) [Signature] ..... (Unofficial Witness) .....  
 (Notary Public, Chatman) ..... (Notary Public, Chatman) ..... County, Georgia) ..... County, Georgia) .....

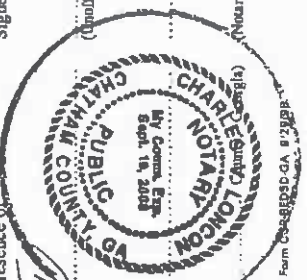




EXHIBIT "A"

ALL OF THAT CERTAIN LOT, TRACT OR PARCEL OF LAND SITUATE, LYING AND BEING ON TALAH I ISLAND (FORMERLY KNOWN AS NORTH WILMINGTON OR SCREVEN ISLAND), CHATHAM COUNTY, GEORGIA, AND HAVING A FRONTAGE OF 98.17 FEET ON THE SOUTHEASTERLY SIDE OF A SIXTY (60') FOOT ACCESS ROAD, SOMETIMES KNOWN AS NILSSON AVENUE AND EXTENDING EASTWARDLY FROM NILSSON AVENUE TO CAMOOSE CREEK MARSH. THE PROPERTY HEREIN CONVEYED APPEARS UPON A PLAT OF SAME RECORDED IN PLAT BOOK L, PAGE 156, IN THE RECORDS OF CHATHAM COUNTY, GEORGIA, AND EXPRESS REFERENCE IS MADE HERETO FOR A MORE COMPLETE DESCRIPTION OF SAID PROPERTY. THE ABOVE DESCRIBED PROPERTY BEING BOUNDED ON THE NORTHEAST BY LANDS NOW OR FORMERLY OF CLAUDE O. FALLIGANT WITH A FRONTAGE THEREON OF TWO HUNDRED NINETY-THREE AND SIXTY-TWO ONE HUNDREDTHS (293.62') FEET MORE OR LESS; ON THE SOUTHWEST BY CAMOOSE BY LANDS NOW OR FORMERLY OF CLAUDE O. FALLIGANT WITH A FRONTAGE THEREON OF 330.25 FEET AND ON THE NORTHWEST BY A SIXTY (60') FOOT ACCESS ROAD SOMETIMES KNOWN AS NILSSON AVENUE WITH A FRONTAGE THEREON AS PREVIOUSLY STATED. THERE IS ALSO CONVEYED HERewith ALL THE RIGHTS AND INTERESTS THE PARTY OF THE FIRST PART MAY HAVE IN AND TO THE MARSHLAND LYING AND BEING BETWEEN THE NORTHEASTERLY AND SOUTHWESTERLY BOUNDARY LINES OF THE ABOVE DESCRIBED PROPERTY AS EXTENDED TO THE LOW WATER MARK OF CAMOOSE CREEK, BUT SAID MARSHLAND IS EXPRESSLY EXCLUDED FROM THE WARRANTY OF THIS INSTRUMENT.

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WAIVER OF CONSTITUTIONAL RIGHT TO HEARING


TO: COLONY BANK SOUTHEAST, DOUGLAS, GEORGIA

The undersigned, a corporation, partnership or individual, is familiar with the power of sale provisions contained in Georgia deeds to secure debt and particularly the deed to secure debt executed this date and realizing that the undersigned may be entitled to a hearing prior to the exercise of the power of sale contained in this or any security deed granted by the undersigned, hereby knowingly and voluntarily, after having fully explained to the undersigned, waives and renounces any and all rights the undersigned may have to notice of hearing, judicial or otherwise, other than as set forth specifically in such deeds to secure debt prior to or in conjunction with the exercise of said power of sale by said lending institution, its successors and assigns, of the contractual power of sale contained in any deeds to secure debt from the undersigned as grantor to the present lending institution or any other party which subsequently assigned said deeds to secure debt to said lending institution.

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This 16 day of March 2005  
 (Seal)  
\_\_\_\_\_  
(Seal)

Signed, sealed and delivered in the presence of:

  
\_\_\_\_\_  
Notary Public

