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STATE OF GEORGIA
COUNTY OF CHATHAM


Reference: Deed Book: 233D
Page: 136
Deed Book: 247Y
Page: 614
Deed Book: 305N
Page: 046

AMENDED AND RESTATED DECLARATION OF CONDOMINIUM FOR BEACHSIDE COLONY, A CONDOMINIUM

IMPORTANT NOTICE

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

COPYRIGHT © 2008 All rights reserved. This Amended and Restated Declaration may be used only in connection with the ownership and sale of property at Beachside Colony, A Condominium" and the operation of Beachside Colony Condominium Association, Inc.

Weissman Nowack
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WHEREAS, C&R Equities, LLC, a Georgia limited liability company (hereinafter referred to as "Declarant") recorded a Declaration of Condominium for Beachside Colony, A Condominium on March 11, 2002, in Deed Book 233D, Page 136, *et seq.*, Chatham County, Georgia land records (hereinafter referred to as the "Original Declaration") to create the Beachside Colony, A Condominium (hereinafter the "Condominium") pursuant to the Georgia Condominium Act, O.C.G.A. § 44-3-70 *et seq.*, (hereinafter the "Act"); and

WHEREAS, a plat entitled "Condominium Plat of Beachside Colony" dated January 29, 2002 was filed on February 27, 2002 in Plat Book 1-C, Page 158 *et seq.*, Chatham County, Georgia Records;

WHEREAS, floor plans relating to the Condominium were filed on February 27, 2002 in Plat Book 1-C, Page 158A *et seq.*, Chatham County Records;

WHEREAS, the Original Declaration was amended by the filing of Supplementary Declarations recorded on March 7, 2003, in Deed Book 247Y, Page 614 *et seq.*, Chatham County, Georgia Records, and on May 1, 2006, in Deed Book 305N, Page 046 *et seq.*, Chatham County, Georgia Records (hereinafter "Original Declaration As Amended");

WHEREAS, the following plats and plans prepared by Kern-Coleman & Co., LLC, the Condominium were filed in the Chatham County, Georgia Records:

<u>Recording Date</u>	<u>Condominium Book/Page</u>
July 19, 2002	1-C/158 G
July 30, 2002	1-C/158 H <i>et seq.</i>
August 25, 2004	2/72 <i>et seq.</i>
December 27, 2005	2/181A <i>et seq.</i>

WHEREAS, all the above referenced recorded plats and plans are hereinafter collectively referred to as "Original Plats and Plans".

WHEREAS, the Original Declaration As Amended and the Original Plats and Plans are hereinafter referred to as the "Original Condominium Instruments";

WHEREAS, certain disputes have arisen regarding the adequacy of the Original Condominium Instruments and whether property intended to be submitted to Beachside Colony, A Condominium was in fact properly submitted;

WHEREAS, without admitting liability, mistake, or error, the Declarant, the Beachside Colony Condominium Association, Inc. (the "Association") and the Owners consenting hereto desire to resolve the disputes by amending and restating the Declaration of Condominium in its entirety (hereinafter the "Amended and Restated Declaration"), filing a revised plat of survey for the Condominium and revised floor plans for the Condominium (hereinafter "Revised Condominium Instruments"), and taking such other actions and agreeing to such other things as reflected herein;

WHEREAS, the consenting Owners, Declarant and Association agree and acknowledge that all Units shown on the Revised Floor Plans are lawful Condominium Units pursuant to the Act and are owned by the record title holder thereof;

WHEREAS, each Owner consents and agrees that through the recording of these Revised Condominium Instruments his or her Unit is now lawfully submitted to the Condominium;

WHEREAS, Article 21(b), of the Original Declaration provides that the Original Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members of the Association holding seventy-five percent (75%) of the total vote thereof; and

WHEREAS, members of the Association holding at least seventy-five percent (75%) of the total vote thereof desire to amend the Original Declaration and have approved this Amendment; and

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WHEREAS, Article 21(e) of the Original Declaration provides that the approval of mortgagees holding mortgages on Units comprising at least fifty-one percent (51%) of votes of Units subject to mortgages shall be required to add or amend any material provision of the Original Declaration;

WHEREAS, mortgagees holding mortgages on Units comprising at least fifty-one percent (51%) of vote of Units subject to mortgages desire to amend the Original Declaration and have approved this Amendment;

WHEREAS, a new plat of Survey for the Condominium relating to this Amended and Restated Declaration prepared by Kern Coleman & Co., LLC, was filed in Condominium Plat Book 2C, Page 500A-B Chatham County Records (hereinafter "Revised Plat of Survey");

WHEREAS, new floor plans for the Condominium relating to this Amended and Restated Declaration prepared by Kern Coleman & Co., LLC were filed in Floor Plan Book 2C, Page 501, Chatham County Records; (hereinafter "Revised Floor Plans"); A-R

WHEREAS, the Revised Plat of Survey and the Revised Floor Plans accurately describe the location of the Common Elements and Units;

WHEREAS, the consenting Owners, Declarant and Association have further agreed to petition the Superior Court of Chatham County ("Court") to adopt the Revised Condominium Instruments as the judicially reformed Condominium Instruments for Beachside Colony, a Condominium and to make the Declarant, the Association and all Owners of Units and their mortgagees, and their successors and assigns in title fully bound by the terms and conditions thereof;

WHEREAS, the order of the Court adopting the Revised Condominium Instruments for Beachside Colony, a Condominium is attached hereto as Exhibit "F" hereof;

WHEREAS, Declarant, as the Owner of Unit 211, (also known as the laundry room unit) simultaneously with the recordation of this Declaration is conveying Unit 211 to the Beachside Colony Condominium Association, Inc. (hereinafter the "Association") as nominee for all Unit Owners in the Condominium to be held as a Common Element of the Condominium and to be assigned as a Limited Common Element assigned to Commercial Unit #2;

WHEREAS, Declarant, as the Owner of Unit 200, (also known as the restaurant storage unit) simultaneously with the recordation of this Declaration is conveying Unit 200 to the Association as nominee for all Unit Owners in the Condominium to be held as a Common Element of the Condominium and to be assigned as a Limited Common Element assigned to Commercial Unit #1;

WHEREAS, Declarant, as the owner of Unit 300, simultaneously with the recordation of this Declaration is conveying Unit 300 to the Beachside Colony Condominium Association, Inc. (hereinafter the "Association"), as nominee for all Unit Owners in the Condominium, to be held as a Common Element of the Condominium and to be assigned as a Limited Common Element assigned to all Residential Units;

NOW, THEREFORE, Declarant hereby declares that to the extent that any of the real property described in Exhibits "A" and "B" of this Amended and Restated Declaration including improvements located and to be located thereon has not previously been submitted to the condominium form of ownership, it is hereby submitted and made subject to the form of ownership set forth in the Act, and is hereby subjected to the provisions of this Amended and Restated Declaration. The Unit Owners and the Association consent to the real property described in Exhibits "A" and "B" being submitted to the Act in accordance with the Revised Condominium Instruments. The Original Declaration, the Original By-Laws and all exhibits thereto, and the Original Plats and Plans are hereby stricken in their entirety and this Amended and Restated Declaration, a Revised Plat of Survey and Revised Floor Plans are simultaneously substituted therefore;

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DECLARATION OF CONDOMINIUM FOR BEACHSIDE COLONY, A CONDOMINIUM

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PREPARED BY:

Weissman Nowack
Curry & Wilco, P.C. 
CHANGING THE LANDSCAPE
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UNIT LIST	"C"
ENTRY FEATURE SIGN DIAGRAM	"D"
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1. NAME

The name of the condominium is Beachside Colony, A Condominium (hereinafter sometimes called "Beachside Colony, A Condominium" or the "Condominium," as further defined herein), which condominium is submitted to the Georgia Condominium Act, O.C.G.A. § 44-3-70, *et seq.* (1991 and Supp. 2002). The heretofore WHEREAS provisions and other recitals are specifically incorporated herein by reference.

2. DEFINITIONS

Unless the context otherwise requires, capitalized terms used in this Declaration, the Bylaws, and the Articles of Incorporation shall be defined as set forth in this Paragraph 2. Otherwise, the terms used in this Declaration, the Bylaws, and the Articles of Incorporation shall have their normal, generally accepted meanings or the meanings given in the Act or the Georgia Nonprofit Corporation Code.

A. Act means the Georgia Condominium Act, O.C.G.A. §44-3-70, *et seq.*, as may be amended.

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

C. Area of Common Responsibility means the Common Elements, together with those areas, if any, which by the terms of this Declaration or by contract or agreement with any other Person become the maintenance responsibility of the Association.

D. Articles of Incorporation or Articles means the Articles of Incorporation of Beachside Colony Condominium Association, Inc., filed with the Secretary of State of the State of Georgia.

E. Association means Beachside Colony Condominium Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

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

G. Bylaws mean the Bylaws of Beachside Colony Condominium Association, Inc., attached to this Declaration as Exhibit "E" and incorporated herein by this reference.

H. Common Elements means those portions of the property subject to this Declaration, which are not included within the boundaries of a Unit, as more particularly described in this Declaration.

I. Common Expenses means 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.

J. Commercial Unit means a Unit shown on the Floor Plans as a "Commercial Unit" or "CU" (which may be followed by a number to distinguish one (1) Commercial Unit from another), which may be used for business or commercial uses as set forth more particularly in Paragraph 12 of this Declaration.

K. Community-Wide Standard means the standard of conduct, maintenance, or other activity generally prevailing in the Condominium. Such standard may be more specifically determined by the Board of Directors and the Architectural Control Committee.

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L. Condominium means that real estate (and all improvements constructed thereon) which is submitted to the Act and the provisions of this Declaration, as described in Exhibits "A" and "B" attached hereto and incorporated herein by reference.

M. Condominium Instruments means this Declaration and all exhibits hereto, the Bylaws, the Articles of Incorporation, the Survey, Floor Plans and all rules and regulations and architectural guidelines for the Association, all as may be supplemented or amended.

N. Declaration means this Declaration of Condominium for Beachside Colony, A Condominium.

O. Director means a member of the Association's Board of Directors.

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

Q. Effective Date means the date that this Declaration is recorded in the Chatham County, Georgia land records.

R. Eligible Mortgage Holder means a holder of a first Mortgage secured by a Unit who has submitted a request in writing to the Association to be deemed an Eligible Mortgage Holder. Such notice must include the mortgage holder's name and address and the Unit number or address of the property in the Condominium secured by such mortgage.

S. Floor Plans means the floor plans for Beachside Colony, A Condominium, filed in the Condominium Plat Book 2C, Page 501, Chatham County, Georgia Official Records;
A-R

T. Limited Common Elements means a portion of the Common Elements reserved for the exclusive use of those entitled to occupy one or more, but less than all, Units, as more particularly set forth in this Declaration.

U. Mortgage means 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.

V. Mortgagee or Mortgage Holder means the holder of any Mortgage.

W. Occupant means any Person (i) staying overnight in a Residential Unit, regardless of whether such Person is a tenant or the Owner of such Residential Unit, or (2) regularly occupying a Commercial Unit for commercial or business purposes as an owner or employer of such business.

X. Officer means an individual who is elected by the Board of Directors to serve as President, Vice President, Secretary, or Treasurer, or to hold such other office as may be established by the Board of Directors.

Y. Official Records shall mean the official land records of the Clerk of the Superior Court of Chatham County, Georgia.

Z. Owner means the record title holder of a Unit, but shall not include a Mortgage Holder. For purposes hereof, the holder of a tax deed on a Unit shall be deemed the Owner thereof, notwithstanding the fact that there may exist a right of redemption on such Unit.

AA. Person means any individual, corporation, limited liability company, firm, association, partnership, trust, or other legal entity.

BB. Residential Unit means all Units except for any Commercial Unit as defined above.

CC. Sign Area means those areas depicted on the Survey or Floor Plans upon which informational and directional signs are to be located.

2C DD. Survey means those plats of the survey relating to the Condominium filed in Plat Book 500, Page 500 of the Official Records. All of the plats of survey are incorporated herein by this reference. A-B

EE. Transitional Unit means a Residential Unit shown on the Floor Plans as a "Transitional Unit" or "TU" (which may be followed by a number to distinguish one Transitional Unit from another) which may be used for commercial uses for five (5) years after the recording of this Declaration as provided more specifically in Paragraph 12 of this Declaration, and which thereafter shall only be used as a Residential Unit.

FF. Unit means that portion of the Condominium intended for individual ownership and use as more particularly described in this Declaration and shall include the undivided ownership in the Common Elements assigned to the Unit by this Declaration.

GG. Violator means any Owner who violates the Condominium Instruments and any Owner's family member, guest or Occupant who violates such provisions; provided, however, if an Owner's family member, guest or Occupant violates the Condominium Instruments, the Owner of the relevant Unit also shall be considered a Violator.

3. LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS

The Condominium subject to this Declaration and the Act is located in the 5th G.M. District of Chatham County, Georgia, being more particularly described in Exhibits "A" and "B" attached to this Declaration, and incorporated herein by this reference. The Survey and Floor 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 will be divided into ninety four (94) separate Residential Units, two (2) permanent Commercial Units, one (1) Transitional Unit, which may be used as a Commercial Unit for a period of five (5) years from the date of the recording of the Declaration of Condominium and shall thereafter be used as a Residential Unit, and Common Elements, some of which will be assigned as Limited Common Elements. Each Unit consists of a dwelling, or commercial space, as applicable, and its appurtenant percentage of undivided interest in the Common Elements. 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 Survey and the Floor Plans, and a list of the Units is attached hereto as Exhibit "C" and incorporated herein by this reference. Each Unit includes that part of the structure, which lies within the following boundaries:

A. VERTICAL BOUNDARIES. The vertical boundaries of the Unit where it abuts an exterior wall shall be the interior plane of the outermost finished surface (including the interior surface of the exterior windows and doors) of the building such that the interior sheathing, insulation, stud walls and sheetrock are a part of the Unit. The vertical boundaries of the Unit where it abuts another Unit shall be the centerline of the wall separating one Unit from another Unit.

B. HORIZONTAL BOUNDARIES. The upper boundary shall be the plane of the lower most surface of the structural floor joists or cement slab of the Unit above or in the case of a top floor Unit the

lower most surface of the ceiling joists.

The lower boundary shall be the plane of the upper most unfinished surface of the floor joists or cement slab as the case may be.

C. **COMMERCIAL UNIT #1.** There shall be no lower horizontal boundary for Commercial Unit #1. The upper horizontal boundary of Commercial Unit #1 shall be the horizontal plane formed by the uppermost finished surface of the roof. The vertical boundary of Commercial Unit #1 shall be the plane formed by the outermost surface of the exterior wall of the building in which the Unit is located as shown on the plat of survey. The roof, foundation, and exterior walls of Commercial Unit #1 are located and included within the boundaries of Commercial Unit #1:

D. **ADDITIONAL INFORMATION TO INTERPRET UNIT BOUNDARIES.**

Each Unit shall include all improvements contained within such area, including any plumbing and electrical fixtures; provided, however, that no load-bearing walls and load-bearing columns of the building in which such Unit is located, and no pipes, wires, conduits, ducts, flues, shafts, and public utility lines situated within such Unit and forming part of any system serving one or more Units or the Common Elements shall be deemed to be a part of such Unit.

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

The ownership of each Unit shall include, and there shall pass with each Unit, whether or not separately described in the conveyance thereof, that percentage of the right, title and interest in the Common Elements attributable to such Unit, together with membership in the Association and an undivided interest in the funds and assets held by the Association.

5. COMMON ELEMENTS

The Common Elements consist of all portions of the Condominium not located within the boundaries of a Unit. The Common Elements include, without limitation, certain utility infrastructures, fences, entry feature, signs and lighting for same, paving, walls, retaining walls, the foundations, roofs, roof decks, exterior walls of the buildings (excluding the foundation, roof and exterior wall of the building in which Commercial Unit #1 is located), detention facilities, landscape areas, outside parking area and lighting for same, parking facilities and lighting for same, stairs, mechanical and electrical rooms, breezeways, lobby, open area basement of the Ocean Song building as shown on the Floor Plans, elevators, elevator shafts, elevator lobbies, fire alarm control room, dumpsters, swimming pools and pool deck, and all other lighting in any Common Element of the buildings.

Ownership of the Common Elements shall be by the Owners as tenants-in-common. Each Unit is assigned an equal percentage of undivided interest in and to the Common Elements. Such percentages of undivided interest may be altered only by the consent of all Owners and Mortgagees (or such lesser number of Owners and Mortgagees as may hereafter be prescribed by the Act) expressed in a duly recorded amendment to this Declaration.

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

In addition to all of its other powers and duties necessary for the administration of the Condominium, the Board of Directors has the right to close temporarily any portion of the Common Elements to allow for maintenance and repairs (excluding the Limited Common Elements and any Common Elements the use of which is reasonably necessary for access to or from a Unit) with 30 days prior notice to all Owners, except that, in emergency situations requiring a temporary closing, prior notice shall not be required so long as notice is given within three days after the closing explaining the reason for the closing. In addition, the Association may temporarily close recreational amenities during the hours of 10 pm through 8 am from March 1st until September 30th and during the hours of 6:00 pm until 8 am for all other months of the year to foster the quiet enjoyment of Units by the Owners. The Owners may vote to permanently or seasonally close portions of the Common Elements or materially reduce the type, nature, scope of amenities available to the Owners, upon the affirmative vote of Owners holding at least 75% of the total Association vote, cast at a duly called special or annual meeting, the notice by which specifies that one of the purposes of the meeting is to vote to close a portion of the Common Elements and describes the portion of the Common Elements being considered by closure.

Notwithstanding the above, all Common Elements sidewalks and pathways providing access to Commercial Unit #1, all Limited Common Element parking areas serving Commercial Unit #1, and the drives leading to the same shall not be closed or obstructed except for routine maintenance and/or repair for the minimum amount of time necessary to complete the maintenance and/or repair. Whenever possible, the above described maintenance and repairs shall be performed when the business being operated in Commercial Unit #1 is closed.

6. LIMITED COMMON ELEMENTS

A. Limited Common Elements Identified.

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

(1) Stairs and breezeways on all floors other than the parking levels of buildings are assigned as Limited Common Elements to the Residential Units, Transitional Unit #1 and Commercial Unit #2;

(2) All parts of each building that are not a Unit or a Limited Common Element assigned to a specific Unit are Limited Common Elements assigned to all Units excluding Commercial Unit #1;

(3) The portion of the Common Elements on which there is located any portion of the air conditioning or heating system exclusively serving a particular Unit or Units is assigned as a Limited Common Element to the Unit or Units so served;

(4) Any utility meter that serves only one Unit is assigned as a Limited Common Element to the Unit so served;

(5) Elevators and elevator equipment rooms adjoining the elevators, as shown on the Floor Plans, are Limited Common Elements assigned to all Units excluding Commercial Unit #1;

(6) Forty (40) covered parking spaces located in the Vue building and the Gardens building, as designated on the Floor Plans, are Limited Common Elements assigned to Commercial Unit #1;

(7) All uncovered parking spaces and all covered parking spaces (other than those assigned as Limited Common Elements to Commercial Unit #1) as shown on the Floor Plans and/or Survey, are assigned as Limited Common Elements to the Residential Units, Transitional Unit #1 and Commercial Unit #2;

(8) The sign areas, as shown on the Survey and Floor Plans (hereinafter "Sign Areas"), are assigned as Limited Common Elements to Commercial Unit #1, Commercial Unit #2 or Transitional Unit #1, as designated on Floor Plans and Survey;

(9) The entry feature sign as shown on the Survey (hereinafter "Entry Feature Sign") and depicted on the sign diagram attached hereto as Exhibit "D", which exhibit is incorporated herein by this reference, is assigned as a Limited Common Element to Commercial Unit #2;

(10) Any balcony or deck (including the structural portion thereof and any fence or wall attached thereto) attached to and serving only one Unit is assigned as a Limited Common Element to the Unit to which it is attached and which it serves; provided that in the event there is a party wall or fence between two (2) decks or balconies, the boundary between such balconies and/or decks shall be the midpoint of such party wall or fence;

(11) The land, deck, covered deck, ramp and patio as shown on the Survey attached to and serving Commercial Unit #1 are assigned as Limited Common Elements to Commercial Unit #1;

(12) The dumpster and the real property on which the dumpster sits, depicted on the Survey as a Limited Common Element, is assigned as a Limited Common Element, to Commercial Unit #1;

(13) The utility rooms located on the ground floor of the Vue building, as shown on the Floor Plans shall be a Limited Common Element assigned to Commercial Unit #1 or Commercial Unit #2, as designated on the Floor Plans;

(14) The steps and deck adjoining and serving Transitional Unit #1, as depicted on the Floor Plans, shall be a Limited Common Element assigned to Transitional Unit #1.

(15) The laundry room, mechanical room, and supply rooms (hereinafter collectively "Laundry Room") as shown on the Survey or Floor Plans, (previously Unit 211) is assigned as a Limited Common Element assigned to Commercial Unit #2;

(16) The pools, pool pumps, motors, filtration systems and all other equipment needed to lawfully operate the pools, and the patio surrounding the pools, and the planters located on the patios, as depicted on the Survey are assigned as Limited Common Elements to the Residential Units, Transitional Unit #1 at the time commercial uses are no longer permitted in said Transitional Unit and CU# 2; provided that use of the pools and pool area shall be limited to Owners and Occupants of the Condominium;

(17) The storage room located on the ground level of the Vue Building, as depicted on the Floor Plans, (previously Unit 200) is assigned as a Limited Common Element to Commercial Unit #1;

(18) The storage rooms located on the ground level of the Beach House on the Dune building as depicted on the Floor Plans are Limited Common Elements assigned to the Residential Units, and Transitional Unit #1 at such time as it is used only as a Residential Unit; and

(19) The open basement area of the Ocean Song building (previously Unit 300), as shown on the Floor Plans, is assigned as a Limited Common Element to the Residential Units, Transitional Unit #1 at the time commercial uses are no longer permitted in said Transitional Unit, and CU# 2.

B. Board's Power to Assign and Reassign.

The 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) of the Act. Limited Common Element may be reassigned by the Board, without the need for a vote of the Association, upon written application to the Association by the Owner or Owners for whose use of the Limited Common Element previously assigned is directly affected. Upon such application, the Association shall prepare and execute an amendment to this Declaration reassigning the 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. A Common Element not previously assigned as a Limited Common Element may be assigned by the Board as a Limited Common Element with the prior approval, at an annual or special meeting, of Owners holding seventy five percent (75%) of the total eligible votes. After approval, the amendment to the Declaration making such an assignment shall be prepared in accordance with Section 44-3-82(c) of the Act. Once a Common Element is assigned as a Limited Common Element, no Unit Owner's rights with respect to such Limited Common Element shall be altered without the consent of that Unit Owner.

7. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

A. Membership.

The Association shall have one class of membership. Each Unit Owner shall be a member of the Association. This does not include persons who hold an interest merely as security for the performance of an obligation. The giving of a security interest shall not terminate an Owner's membership. No Owner, whether one or more Persons, shall have more than one membership per Unit owned in the Condominium. An Owner's spouse or Domestic Partner may exercise all membership rights and privileges of the Owner.

B. Voting.

The Owner(s) of each Unit shall be entitled to one vote for such Unit, which vote may be exercised and suspended as provided in this Declaration and the Bylaws. The Owner or collective Owners shall be entitled to one equally weighted vote for such Unit. A list of all Units is attached as Exhibit "C" to this Declaration, which exhibit is incorporated herein by this reference.

8. ALLOCATION OF LIABILITY FOR COMMON EXPENSES

A. General Allocations.

Except as provided below, or elsewhere in the Act or the Condominium Instruments, the amount of all Common Expenses shall be assessed equally against all Units.

B. Specific Special Assessments.

Notwithstanding the above, the Board of Directors shall have the power to levy specific special assessments pursuant to this Paragraph and Section 44-3-80(b) of the Act as, in its discretion, it shall deem appropriate. Except as provided below, the failure of the Board to do so shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to do so in the future.

(1) Any Common Expenses benefiting less than all of the Units or significantly disproportionately benefiting all Units shall be specifically specially assessed equitably (according to the benefit received) among all of the benefited Units. Except for expenses for maintenance, repair or replacement of Limited Common Elements, which may be specifically specially assessed, expenses incurred for the maintenance, repair or replacement of the Area of Common Responsibility, shall not be

specifically specially assessed to an Unit or Units.

(2) 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 specifically specially assessed against such Unit or Units.

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

Notwithstanding the above, the expenses for the maintenance, repair and replacement of Limited Common Elements shall be specifically specially assessed against the Unit or Units to which the Limited Common Element is assigned. If a Limited Common Element is assigned to more than one (1) Unit, the expense shall be assessed equally to all of the Units to which the Limited Common Element is assigned.

C. Water Metering and Sub-Metering.

In the event the Condominium is served by a common utility meter, the Board shall have the authority to install submeters and assess individual Unit utilities usage charges as special assessments as provided in subparagraph (B)(1) above. This shall include the right to add a charge for the cost of overhead for such submetering, against the individual Units and/or to install separate utility meters for the Units.

9. ASSESSMENTS

A. Purpose of Assessment.

The Association shall have the power to levy assessments as provided herein and in the Act. Assessments shall be used for any purpose the Board of Directors determines will benefit the Owners or the Community.

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 all assessments and other charges levied pursuant to this Declaration and the Bylaws.

All assessments and charges levied against a Unit and its Owner, together with interest, costs and reasonable attorneys' fees actually incurred (including post-judgment attorneys' fees, costs and expenses), and rents (if the Board of Directors so elects), in the maximum amounts permitted under the Act, shall be: (1) a charge and a continuing lien against such Unit; and (2) the personal obligation of the Person who is the Owner of the Unit on the due date of the assessment. 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 of the Unit. The Association, in the Board's discretion, may record a notice of such lien in the Official Records evidencing the lien created under the Act and this Declaration. The lien provided for herein shall have priority as provided in the Act.

Assessments shall be paid in such manner and on such dates as determined by the Board of Directors. No Owner may exempt himself or herself from liability, or otherwise withhold payment of assessments, for any reason whatsoever.

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C. Delinquent Assessments

All assessments and charges not paid on or before the due date shall be delinquent, and the Owner shall be in default. In addition to the powers set forth below for collection of unpaid assessments and charges, the Association shall be entitled to exercise all other rights and remedies provided by law and in equity to satisfy an Owner's debt.

If any assessment or charge, or any part or installment thereof, is not paid in full within 10 days of the due date, or such later date as may be provided by the Board of Directors:

(1) a late charge equal to the greater of \$10.00 or 10% of the amount not paid, or such higher amounts as may be authorized by the Act, may be imposed without further notice or warning to the delinquent Owner;

(2) interest at the rate of 10% per annum, or such higher rate as may be authorized by the Act, shall accrue from the due date;

(3) the Board may accelerate and declare immediately due any unpaid installments of that Owner's assessments and charges. Upon acceleration, the Owner shall lose the privilege of paying such assessments and charges in installments, unless the Board otherwise reinstates such privilege in writing. If the Association has pending legal action against an Owner for unpaid assessments or charges, then no notice shall be required to accelerate unpaid installments of any annual or special assessments that come due during any fiscal year after such legal action commences, until all amounts owed are paid in full or the Board otherwise reinstates such privilege in writing; and

(4) the Association may bring legal action to collect all sums owed under the Declaration and Georgia law.

If assessments or other charges, or any part thereof, remain unpaid more than 30 days after the due date, the Owner's right to vote and use the Common Elements are suspended automatically until all amounts owed are paid in full or the Board of Directors otherwise reinstates such rights in writing; provided, however, the Board may not deny ingress or egress to or from a Unit.

The Board also may suspend a utility paid for as a Common Expense but only after: (a) the Association obtains a final judgment or judgments from a court of competent jurisdiction, in excess of a total of \$750.00, or such other amount as required by the Act; (b) the Association provides the notice required to be provided by the institutional provider of such utility prior to suspension of such utility; and (c) the Association complies with any other requirements of Georgia law. A Unit Owner whose utility or service has been suspended shall not be entitled to use any such utility or service paid for as a Common Expense from any source and any such unauthorized use shall be considered a theft of services under O.C.G.A. § 16-8-5. The utility or service shall not be required to be restored until all judgments are paid in full, at which time the Association shall direct the utility or service provider to restore the utility or service. Enforcement under this subparagraph is not dependent upon or related to other restrictions and/or other actions.

If part payment of assessments or other charges is made, the amount received may be applied first to post-judgment attorneys' fees, costs and expenses, then to costs and attorneys' fees not reduced to a judgment, then to interest, then to late charges, then to delinquent assessments and then to current assessments. Late charges may be assessed on delinquencies that are created by the application of current payments to outstanding delinquent assessments or charges.

D. Computation of Operating Budget and Assessment

To establish the annual assessment for a fiscal year, the Board of Directors shall prepare a budget covering the estimated costs of operating the Community, which may include a reserve contribution as provided below. The Board shall provide the budget to the Owners at least 21 days before the due date of

such assessment, or the first installment thereof. The budget and the assessment shall become effective unless, before the due date of such assessment, a majority of the total Association membership votes to disapprove them at a duly called membership meeting.

If the membership disapproves the proposed budget or the Board of Directors fails for any reason to determine a new budget, the budget then in effect shall continue until a new budget is adopted as provided herein. The Board may adopt an adjusted budget at any time during the year following the procedure specified above.

The budget shall not operate as a limitation on expenditures by the Board of Directors. The budget is merely an estimate of Common Expenses on which the Board establishes the annual assessment.

E. Special Assessments

In addition to the all other assessments and charges provided for herein, the Board of Directors may levy a special assessment against all Owners for any purpose. Special assessments totaling more than an average of \$200.00 per Unit in any fiscal year must first be approved by at least a majority of those Owners either voting by written consent or ballot pursuant to the Bylaws, or at least a majority of those Owners present or represented by proxy at a duly called meeting of the members, notice of which shall specify the purpose of such meeting.

F. Capital Budget and Contribution

The Board of Directors may prepare an annual or multi-year capital reserve budget and may establish a capital reserve fund contribution based on such budget. Capital reserve budgets should take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost.

G. Capital Contribution Assessment Upon Transfer of Units

In addition to all other assessments and charges provided for herein, upon any conveyance or transfer of a Unit, other than to the spouse or heir of the Owner, the purchaser or grantee thereof shall be assessed and be subject to a non-refundable, non-prorated capital contribution assessment ("Capital Contribution Assessment").

The Capital Contribution Assessment shall be an amount equal to the two (2) months of the general assessment applicable to such Unit at the time of such conveyance or transfer.

The Capital Contribution Assessment shall not constitute an advance payment of the annual assessment. The Capital Contribution Assessment shall constitute a specific special assessment against such Unit, a continuing lien against such Unit, and a personal obligation of the Owner of such Unit.

H. 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 and charges due and unpaid, including but not limited to any late charges, interest, fines, attorneys' fees or other charges against such Unit. The Association shall respond in writing within five business days of receipt of the request for a statement; provided, however, the Association may require the payment of a reasonable fee, as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Unit as of the date specified therein, if such statement is reasonably relied upon in connection with the issuance of any Mortgage on such Unit.

I. Surplus Funds and Common Profits

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, be: (1) distributed to the Owners; (2) credited to the next assessment chargeable to the Owners; or (3) added to the Association's capital reserve account.

10. MAINTENANCE RESPONSIBILITY

A. Owner's Responsibility.

Each Unit Owner shall maintain and keep his or her Unit in good repair, condition and order. This maintenance obligation shall include, but not be limited to all portions of the Unit and his or her Unit and all improvements made by the Owner to the Limited Common Elements assigned to the Unit except any portion of a Unit which is expressly made the maintenance obligation of the Association as set forth below. This maintenance responsibility shall include, but not be limited to the following: all glass surfaces (excluding exterior cleaning), windows, window frames (except for periodic painting, staining and/or cleaning of the exterior window frames), casings and locks (including caulking of windows); all doors, doorways, door frames, and hardware that are part of the entry system of the Unit (except for periodic painting, staining and/or cleaning of the exterior surface of entry doors and door frames of the Condominium); all portions of the heating and air conditioning system, including the air conditioning compressor and the fan coil serving the Unit; and all pipes, lines, ducts, conduits, or other apparatus which serve only the Unit, whether located within or without a Unit's boundaries (including all electricity, water, sewer, or air conditioning pipes, lines, ducts, conduits, or other apparatus serving only the Unit).

Notwithstanding the above, the Owner of Commercial Unit #1 shall be responsible for maintaining at his or her cost the entirety of Commercial Unit #1 including the roof, exterior walls and foundation as well as all Limited Common Elements assigned to Commercial Unit #1.

The Owner of Commercial Unit #1, Commercial Unit #2 and Transitional Unit #1 shall maintain their respective Limited Common Element Sign Areas and any sign erected on any such Sign Area.

The Owner of Commercial Unit #2 shall maintain the Entry Feature Sign depicted in Exhibit "D"; provided that the Owner of Commercial Unit #1 shall reimburse the Owner of Commercial Unit #2 for its pro-rata share of maintenance of the entry feature sign.

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.

B. Association's Responsibility.

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

(1) all Common Elements, including any Limited Common Elements (including the Limited Common Element portions of all of buildings, the Limited Common Element decks and balconies, the Limited Common Element pools, and Limited Common Element parking areas), but excluding the Limited Common Element Sign Areas as shown on the Survey, any sign located on such Sign Areas; excluding the Entry Feature Sign and excluding all Limited Common Elements assigned to Commercial Unit #1; provided, however, pursuant to Paragraph 8(B)(1) of this Declaration the cost of maintenance and repair of Limited Common Element decks, balconies, buildings, pools, and parking areas shall be

assessed against the Units to whom they are assigned;

(2) periodic painting, staining and/or cleaning of exterior surfaces of the Condominium buildings, exterior window frames, and entry doors and door frames (excluding Commercial Unit #1) on a schedule to be determined by the Board of Directors;

(3) periodic cleaning of exterior window surfaces (excluding Commercial Unit #1) on a schedule to be determined by the Board of Directors;

The Association shall have the right, but not the obligation, to maintain public rights of way adjacent to the Condominium and other property not owned by the Association. If the Board of Directors in its sole discretion determines that such maintenance would benefit the Condominium. At any point thereafter, the Board can cease to maintain such property and such maintenance obligation will revert back to the party originally responsible therefore.

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

If, during the course of performing its maintenance responsibilities hereunder, the Board discovers that maintenance, repair or replacement is required of an item which is the Owner's responsibility, and such maintenance, repair or replacement must be performed for the Association to properly complete its maintenance project, then the Association may perform such work on behalf of the Owner and at the Owner's sole expense, without prior notice to the Owner, such being deemed an emergency situation hereunder.

If the Board of Directors determines that the need for maintenance or repair on the Common Elements is caused through the willful or negligent act of any Owner or Occupant or his or her family, guests, tenants, or invitees, then the Association may charge the cost of any such maintenance, repair, or replacement as a specific special assessment against the Owner's or Occupant's Unit and the Owner thereof.

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

C. Measures Related to Insurance Coverage.

The Board of Directors, upon resolution, shall have the authority to require all or any Unit Owner(s) to do any act or perform any work involving portions of the Condominium which are the maintenance responsibility of the Unit Owner, which will, in the Board's sole discretion, decrease the possibility of fire or other damage in the Condominium, reduce the insurance premium paid by the Association for any insurance coverage or otherwise assist the Board in procuring or maintaining such insurance coverage. This authority shall include, but need not be limited to, requiring Owners to install and maintain smoke detectors, requiring Owners to certify that they have checked the batteries for their smoke detectors, requiring Owners to allow the Association to inspect the smoke detectors and replace batteries if needed on a schedule to be

determined by the Board of Directors, requiring Owners to make improvements to the Owner's Unit, and such other measures as the Board may reasonably require so long as the cost of such work does not exceed \$500.00 per Unit in any 12 month period.

In addition to, and not in limitation of, any other rights the Association may have, if any Unit Owner does not comply with any requirement made by the Board of Directors, the Association, upon 15 days' written notice (during which period the Unit Owner may perform the required act or work without further liability), may perform such required act or work at the Unit Owner's sole cost. Such cost shall be added to and become a part of the assessment to which the Owner is subject, shall become and be the personal obligation of the Owner and a lien against the Unit, and shall be collected as provided herein for the collection of assessments. The Association shall have all rights necessary to implement the requirements mandated by the Board, including, but not limited to, a right of entry during reasonable hours and after reasonable notice to the Owner or Occupant of the Unit, except that access may be had at any time without notice in an emergency situation.

D. Inspection, Maintenance, Repair and Replacement of High-Risk Components.

The Board may, from time to time, after notice to all Owners and an opportunity for members comment, determine that certain portions of the Units required to be maintained by the Owners, or certain objects or appliances within the Unit, pose a particular risk of damage to other Units and/or the Common Elements if they are not properly inspected, maintained, repaired or replaced. By way of example, but not limitation, these portions, objects or appliances might include smoke detectors and HVAC units. Those items determined by the Board to pose such a particular risk are referred to herein as "High-Risk Components."

At the same time that it designates a High-Risk Component, or at a later time, the Board may require one or more of the following with regard to the High-Risk Component:

- (1) that it be inspected at specified intervals by a representative of the Association or by an inspector(s) designated by the Board;
- (2) that it be replaced or repaired at specified intervals, or with reference to manufacturers' warranties, whether or not the individual component is deteriorated or defective;
- (3) that it be replaced or repaired with items or components meeting particular standards or specifications established by the Board;
- (4) that when it is repaired or replaced, the installation include additional components or installments specified by the Board;
- (5) that it be replaced or repaired by contractors having particular licenses, training or professional certification or by contractors approved by the Board; and
- (6) if the replacement or repair is completed by an Owner, that it be inspected by a person designated by the Board.

The imposition of requirements by the Board in this provision shall not relieve an Owner of his or her obligations regarding High-Risk Components, including, but not limited to, the obligation to perform and pay for all maintenance, repairs and replacement thereof. If any Owner fails or refuses to maintain, repair or replace a High-Risk Component in accordance with the requirements established by the Board hereunder, the Association may, in addition to all other rights and powers granted to it pursuant to the Association Legal Instruments enter the Unit for the purpose of inspecting, repairing, maintaining, or replacing the High-Risk Component, as the case may be, and charge all costs of doing so back to the Owner as a specific assessments.

E. Failure to Maintain.

If the Board of Directors determines that any Owner has failed or refused to discharge properly his or her maintenance, repair or replacement obligations pursuant to this Paragraph, then the Association shall give the Owner written notice of: (1) the Owner's failure or refusal; (2) the Association's right to provide necessary maintenance, repair, or replacement at the Owner's sole cost and expense; and (3) the maintenance, repair, or replacement deemed necessary by the Board.

Unless the Board determines that an emergency exists or a violation is re-occurring for which notice previously has been issued hereunder, the Owner shall have 10 days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within 10 days. If the Board determines that an emergency exists, a violation is re-occurring for which notice has been previously issued hereunder or an Owner has not complied with the demand given by the Association hereunder, the Association may provide any such maintenance, repair or replacement, the costs of which shall be a specific special assessment against the Owner and the Unit.

F. Maintenance Standards and Interpretation.

The Board of Directors may establish, interpret and enforce maintenance standards for the Condominium. These standards may vary over time, however, the variances shall not constitute a waiver by the Board of the right to establish and enforce maintenance standards under this Paragraph. No Board decision or interpretation regarding maintenance standards shall constitute a binding precedent with respect to subsequent Board decisions or interpretations.

11. ARCHITECTURAL CONTROLS

A. Architectural Control Committee.

The Architectural Control Committee ("ACC") shall constitute a standing committee of the Association. The ACC shall consist of the Board of Directors unless the Board of Directors delegates to other Persons the authority to serve on the ACC.

B. Limitation on Exterior Modifications.

Except as otherwise provided herein, no Owner, Occupant, or any other person may, without prior written approval of the ACC:

(1) make any change or alteration that affects the exterior appearance of a Unit or Limited Common Elements serving a Unit; or

(2) erect, place or post any object or thing on the Unit that affects the exterior appearance of a Unit or Limited Common Elements serving a Unit.

Notwithstanding the foregoing, the Owners of Commercial Unit #1 and Commercial Unit #2 shall not make any change, modification or alteration that affects the exterior of their respective Units, including lighting and signage, or to the Limited Common Elements assigned to their respective Unit without the prior written approval by the ACC; provided that such approval by the ACC shall not be unreasonably withheld, and further provided that any application by the Owner of Commercial Unit #1 or Commercial Unit #2 for such architectural change shall be judged for approval or denial based on the standard of whether the proposed change, modification or alteration if approved will be no less consistent with the overall design and appearance of the Condominium as what existed prior to the change, modification or alteration being made. If the ACC disapproves the application or any part thereof, the Owner of Commercial Unit #1 or Commercial Unit #2 as applicable may appeal such denial in accordance with Paragraph 11(1)(2) below.

Furthermore, notwithstanding the foregoing, at the time Transitional Unit #1 is no longer used for commercial purposes, the Owner of the Transitional Unit #1 shall be required to modify the exterior of the Unit to make it consistent in appearance with the exterior of the other Residential Units without obtaining the approval of the Board or the ACC.

Additionally, no modification shall encroach onto the Common Elements unless expressly approved in writing by the ACC.

C. National Flags.

Notwithstanding anything to the contrary herein, an Owner may display one national flag of the United States not exceeding 12 square feet in size on a flag holder located on each balcony or deck assigned exclusively as a Limited Common Element to a Unit. No flag holder shall be affixed to the exterior façade of a building. No flag shall hang over or otherwise protrude outside of the vertical plane formed by the exterior surface of the balcony or deck wall. No flag shall be displayed in a manner inconsistent with any provision of the Freedom to Display the American Flag Act of 2005, or any applicable law. By taking title to a Unit, all Owners agree and acknowledge that the Board, on behalf of the Association, has a substantial interest in protecting the aesthetic appearance of the Condominium and therefore may adopt additional reasonable restrictions pertaining to the time, place, or manner of displaying the flag of the United States.

D. Signs.

Except as may be provided for herein or as may be required by legal proceedings, no signs, advertising posters, flyers, political placards or billboards of any kind shall be erected, placed, or permitted to remain on the Condominium, except that one professional security sign not to exceed six inches by six inches in size may be displayed from within a Unit. Notwithstanding the foregoing, the Declarant shall be allowed to erect on the exterior of the Units owned by the Declarant or the Limited Common Elements serving such Units or on Common Elements one (1) standard sized "For Sale" sign (not exceeding 2.5 feet by 3 feet) for every five (5) Units owned by the Declarant, which Units have never been conveyed by the Declarant in the ordinary course of business. At the point in time at which the Declarant owns fewer than five (5) such Units, the Declarant may maintain one (1) sign for all such Units less than five (5) until such time as Declarant no longer owns any such Units for the purpose of sale. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association.

The Owners of Commercial Unit #1, Commercial Unit #2 and Transitional Unit #1 shall be permitted to illuminate the sign located on their respective Limited Common Element Sign Areas as shown on the Survey and/or Floor Plans. The Owners of Commercial Unit #1, Commercial Unit #2 and Transitional Unit #1 shall not make any changes to signs located on their respective Sign Areas without the prior approval of the ACC in accordance with this Paragraph, which approval shall not be unreasonably withheld. Furthermore, the Owner of Commercial Unit #2 shall not make any changes, modifications or alterations to the Entry Feature Sign without the prior written approval of the ACC in accordance with this Paragraph which approval shall not be unreasonably withheld. The Owners of Commercial Unit #1, Commercial Unit #2 and Transitional Unit #1 shall be permitted to place signs, illuminated or non-illuminated, on the exterior of their respective Units subject to ACC approval regarding the architectural style and size of the sign; provided that any sign in existence on the exterior of such Units at the date of recording of this Declaration shall not be subject to ACC approval. Any denial of a request made pursuant to this Sub-paragraph may be appealed by the Owner of Commercial Unit #1, Commercial Unit #2 or Transitional Unit #1, as applicable, pursuant to Paragraph 11(I)(2) below; provided that said appeal process shall not be applicable to a denial by the ACC of a request by the Owner of Commercial Unit #2 to alter, modify or change that portion of the Entry Feature Sign that identifies Beachside Colony Condominium. This Section 11(D) cannot be altered, or amended or revised in any way to affect Commercial Unit #1, Commercial Unit #2 or Transitional Unit #1 without the consent of the Owner of the affected Unit(s).

E. Alteration of Units.

Subject to the other provisions of this Declaration, alterations to the interiors of Units, relocation of the boundaries between adjoining Units, and subdivision of Units are subject to the following restrictions:

(1) Alterations to the Interiors of the Units. Except as provided herein, no Owner or Occupant may make any alteration within a Unit which involves connecting to Common Element pipes, lines, conduits and/or other apparatus for access to common utilities without prior written ACC approval (including but not limited to modifying connections of washers and dryers). Except as provided herein, no Owner or Occupant shall make any interior modifications to or place an excessive load on any structural or load bearing portions of a Unit without first obtaining the prior written approval of the ACC. Such approval shall not be granted by the ACC unless the Owner has presented to the ACC a report or drawing prepared by a licensed structural engineer showing that compensating measures will be taken to ensure the structural integrity of the Unit and the Condominium. All building code requirements must be complied with and necessary permits and approvals secured for any modifications. Notwithstanding the above, all Owners desiring to make any interior modifications or alterations to a Unit affecting the Common Elements or structure or load bearing portions of a Unit must make application to the ACC as described below in order for the ACC to make the determination of whether the ACC's approval is required.

Notwithstanding the above, if any Owner acquires an adjoining Unit, such Owner shall have the right (subject to the prior written approval of the Mortgagees of the Units involved) to remove all or any part of any intervening partition or to create doorways or other apertures therein, notwithstanding the fact that such partition may, in whole or part, be part of the Common Elements, so long as no portion of any structural or load bearing portions of the Unit(s) are materially weakened or removed and the ACC has approved the plans described above and no portion of any Common Elements is damaged, destroyed or endangered, other than that partition and any chutes, flues, ducts, conduits, wires or other apparatus contained therein which shall be relocated by such Owner if such facilities serve any other part of the Condominium. The alterations permitted in this Paragraph shall not be deemed an alteration or relocation of boundaries between adjoining Units as defined in Section § 44-3-91 of the Act.

(2) Relocation of Boundaries. Boundaries between adjoining Units shall not be relocated without the approval of the Board of Directors.

(3) Subdivision of Units. No Residential Unit shall be subdivided into a smaller Unit or Units.

F. Standards and Interpretation

The Board of Directors may establish, amend and publish written Community-Wide Standards for modifications that affect the exterior appearance of Units. These standards may vary for different parts of the Community, based on street visibility and location of the proposed modification or Unit. Any standards established by the Board hereunder may be amended or vetoed by a majority of the total Association vote. No Board decision or interpretation regarding such standards shall constitute a binding precedent with respect to subsequent Board decisions or interpretations.

G. Application Process and Review

The Board of Directors may establish procedures, forms, conditions and requirements for the submission of applications for modifications to the exterior appearance of a Unit. Such applications shall be in writing and, unless otherwise provided by the Board, submitted to the ACC. If the application requests any variance from provisions of this Declaration or published Community-Wide Standards related to the exterior appearance of the Unit, the Owner must expressly identify such variance in the application. No approval issued hereunder shall authorize such a variance unless that variance is expressly identified in the application and specifically approved in writing by the Board or ACC.

Except as may otherwise be determined by the Board, the ACC or its designated representative shall be the sole arbiter of such application.

The standard for approval of such modifications shall include, but not be limited to: (1) aesthetic consideration; (2) materials to be used; (3) compliance with the Community-Wide Standards, this Declaration, or the design standards which may be established by the Board; (4) harmony with the external design of the existing dwellings, Units and structures, and the location in relation to surrounding structures and topography; and (5) any other matter deemed to be relevant or appropriate by the Board or ACC. The Board or ACC shall approve any request that it determines, in its reasonable discretion, to be in substantial compliance with such standard for approval.

H. Ruling on Application

If the Board or ACC fails to approve or to disapprove such application within 45 days after the application and all required information have been submitted, the Owner submitting the application may issue written notice, via certified mail, to the Association President, informing the President of the Owner's intent to proceed with the modification as identified in the application. Unless the Association issues a written disapproval of the application within 10 days of receipt of the Owner's notice, the approval will not be required and this subparagraph will be deemed complied with as to the items specifically identified in the application. However, even if the requirements of this subparagraph are satisfied, nothing herein shall authorize anyone to construct or maintain any modification that is otherwise in violation of the Association Legal Documents, or of any applicable zoning or other laws. Except as provided in this subparagraph, no approval of a modification shall be valid unless issued in writing. Owners may not rely on any verbal approval or statements from any person as the approval required for a modification.

I. Appeal

(1) By Residential Unit Owners. If the ACC does not consist of the Board of Directors, and the ACC disapproves any application or part thereof, an Owner may, in writing, appeal the ACC's decision to the Board. The notice of appeal must be sent to the Board by certified mail and received by the Board within 14 days from the date of the ACC's disapproval notice, or the decision of the ACC shall become final and all rights of appeal shall terminate. Within 45 days of receipt of a timely appeal, the Board shall approve, disapprove, or conditionally approve the Owner's application, and such ruling shall be final and binding on the Owner.

(2) By Owner of Commercial Unit #1 and Commercial Unit #2. The Owner of Commercial Unit #1 or Commercial Unit #2 may appeal the decision of the ACC by providing written notice of appeal to the Board within thirty (30) days of the date of the ACC's notice of its decision. If the Board does not receive such written notification within said time period, the decision of the ACC shall be deemed final and all rights of appeal shall terminate and thereafter be void. In the event of an appeal, the Board shall appoint one (1) architect licensed in Georgia and the Owner of Commercial Unit #1 or Commercial Unit #2, as applicable, shall select one (1) architect licensed in Georgia. The two (2) appointed architects shall then select by mutual agreement a third architect licensed in Georgia (hereinafter the "Arbitrator") who shall render a decision on the appeal. The decision of the Arbitrator shall be deemed final and binding on the Board and the Owner of Commercial Unit #1 or Commercial Unit #2, as applicable, and no further appeals process shall be available to the parties. The fees of the Arbitrator shall be paid by the party that loses the appeal or assessed equitably by the Arbitrator against the parties in the event there is not a clear winner or loser of the appeal.

J. Encroachments onto Common Elements.

The ACC, subject to this Paragraph, may permit Unit Owners to make encroachments onto the Common Elements as it deems acceptable. Such permission or approval, if granted, shall be provided in writing to the Owner. If any Owner or Occupant makes any other exterior change, alteration, or construction (including landscaping) upon the Common Elements or Limited Common Elements without permission or

approval as described in this Paragraph, he or she does so at his or her sole risk and expense. The Board may require that such unapproved change, alteration or construction be removed or that it remain on the Common Elements or Limited Common Elements without reimbursement to the Owner or Occupant for any expense he or she may have incurred in making the change, alteration or construction.

K. Commencement and Completion of Construction.

All modifications approved hereunder must be commenced within six months from the date of approval, or such approval shall be deemed revoked, unless the Board or ACC gives a written extension for commencing the work. All work approved hereunder shall be completed in its entirety within six months from the date of commencement, unless otherwise agreed in writing by the Board or ACC.

L. Professional Consultants and Fees.

The Board of Directors shall be authorized to charge, as a specific special assessment, against any Owner and Unit: (1) a reasonable administrative fee for review of modifications on, or submitted plans for, such Unit; and (2) reasonable fees for any architect, engineer or other professional consultant engaged by the Board to assist with review of modifications on, or submitted plans for, such Unit. Any professional consultants fees shall constitute specific assessments as described in this Declaration.

M. Limitation of Liability.

The Association, Board of Directors, ACC, and members thereof, are not responsible for ensuring, and shall not be held liable for any injury, damage or loss arising out of: (1) the quality, structural integrity or soundness of any modification on a Unit; or (2) any modification's compliance with building codes, zoning regulations or other governmental requirements.

12. USE RESTRICTIONS

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

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

A. Use of Units.

(i) Residential Units. Each Residential Unit shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Residential Unit or any part of the Condominium, except that the Owner or Occupant residing in a Residential Unit may conduct ancillary business activities within the Residential Unit so long as:

(a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside of the Residential Unit;

(b) the business activity does not involve visitation of the Residential Unit by non-domestic employees, caregivers, clients, customers, suppliers or other business invitees;

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(c) the business activity is legal and conforms to all zoning requirements for the Condominium;

(d) the business activity does not unreasonably increase traffic in the Condominium in excess of what would normally be expected for Residential Units in the Condominium without business activity (other than by a reasonable number of deliveries by couriers, express mail carriers, parcel delivery services and other such similar delivery services);

(e) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage;

(f) the business activity is consistent with the residential character of the Condominium and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Condominium, as determined in the Board's discretion; and

(g) the business activity does not result in a materially greater use of Common Element facilities or Association services.

The terms "business" and "trade," as used 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 that 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: (1) such activity is engaged in full or part time; (2) such activity is intended to or does generate a profit; or (3) a license is required therefor. Notwithstanding the above, leasing of Units shall not constitute a business use of a Unit.

(ii) Commercial Units.

(a) Commercial Unit #1. Commercial Unit #1 shall be used only for such commercial use or business purposes permitted by applicable zoning ordinance and use restrictions, provided such commercial or business purposes permitted by applicable zoning ordinance and use restrictions, provided such commercial or business activity does not constitute a nuisance or hazardous or offensive use, or threaten the security or safety of other residents of the Condominium, as may be determined in the reasonable discretion of the Board. An activity that is permitted under applicable zoning ordinances and this Declaration shall not constitute a public or private nuisance. The Association shall not alter the hours of operation of Commercial Unit #1. The Association shall not restrict the right of the Owners of Commercial Unit #1 to utilize said Unit for commercial purposes.

(1) Prohibited Uses. Notwithstanding the foregoing, no part of Commercial Unit #1 may be used for any of the following purposes:

- (A) cinema/movie theater, unless such use is ancillary and accessory to a permitted use;
- (B) bowling alley;
- (C) skating rink;
- (D) video game room, amusement gallery or amusement arcade, unless such use is ancillary and accessory to a permitted use;
- (E) pool hall, unless such use is ancillary and accessory to a permitted use;
- (F) massage parlor or facility that hosts obscene, nude or semi-nude live performances;
- (G) adult book store or adult video store where obscene, pornographic or "adult" materials or paraphernalia, including, but not limited to, movies, videotapes, devices, books, magazines, or other related items are sold or displayed;

- (H) facilities used for the sale, display or advertisement of any paraphernalia used in the preparation or consumption of controlled substances;
- (I) facilities used for the operation of any liquor store, package store, or other store primarily selling alcoholic beverages;
- (J) funeral home or store selling caskets;
- (K) industrial or manufacturing uses;
- (L) automotive supplies and parts;
- (M) hair salons; and
- (N) facilities manufacturing alcoholic beverages, unless such use is ancillary and accessory to a permitted use.

(2) **Permitted Uses.** Notwithstanding the foregoing, Commercial Unit #1 may only be used for twenty (20) years after the recordation of this Declaration for the uses set forth below. After said twenty (20) year period, Commercial Unit #1 may be used for any purpose (other than those prohibited uses set forth above) permitted pursuant to the Zoning Ordinance applicable to the Condominium at that time. Permitted uses are as follows:

- (A) restaurant, including restaurants selling beer, wine and alcoholic beverages, and restaurants with game arcade facilities, and televisions and other similar equipment;
- (B) restaurant bar;
- (C) catering facility;
- (D) special events facility for the hosting of parties, banquets, weddings and other similar events;
- (E) dessert shop;
- (F) candy shop;
- (G) coffee shop;
- (H) convenience store;
- (I) store selling or renting beach recreational equipment; provided that such recreational equipment is stored within Commercial Unit #1;
- (J) gift shop;
- (K) book store, other than adult book store as defined in Section 12(A)(ii)(1)(G) above;
- (L) art gallery; and
- (M) professional office.

(b) **Commercial Unit #2.** Commercial Unit #2 may be used for residential purposes and for any purpose directly or indirectly related to sales, rental, cleaning and/or management of real estate including but not limited to rental, sales or real estate, management of rental properties, meeting facilities for persons renting Units, registration of rental guests and storage of cleaning materials. In addition, said Unit may be used for telecommunications service and equipment. Furthermore, the Limited Common Element laundry room assigned to Commercial Unit #2 may be used to provide laundry support facilities for rental and property management activities being conducted in Commercial Unit #2.

This Section 12(A)(ii)(b) shall not be altered or amended without the consent of the Owner of Commercial Unit #2.

(c) **Transitional Unit #1.** For a period of five (5) years from the recording of this Declaration, Transitional Unit #1 may be used for all of the purposes permitted to Commercial Unit #2. Thereafter, Transitional Unit #1 shall only be used for residential purposes as provided herein. This Section 12(A)(ii)(c) shall not be altered or amended without the consent of the Owner of Transitional Unit #1.

B. Number of Occupants. The maximum number of Occupants in a Residential Unit shall be limited to an average of four (4) people per bedroom in the Residential Unit, (as such bedrooms are depicted on the Survey and Floor Plans). This occupancy restriction shall not apply to require the

removal of any Person lawfully occupying a Unit on the date of the recording of this Amended and Restated Declaration. Upon written application, the Board shall grant variances to this restriction to comply with provisions of the Fair Housing Amendments Act of 1988 or any amendments thereto.

C. Outbuildings. No Structure of a temporary character, trailer, tent, shack, carport, garage, barn or other outbuilding shall be erected by any Owner or Occupant, on any portion of the Condominium, at any time, either temporarily or permanently, without the prior written approval of the Board.

D. Use of Common Elements Including Amenities. There shall be no obstruction of the Common Elements, nor shall anything be kept on, parked on, stored on or removed from any part of the Common Elements without the prior written consent of the Board, except as specifically provided herein. All Owners and Occupants are prohibited from using the detention pond area for any recreational purpose. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Association, its agents or employees. There shall be no use of the roofs of the buildings by the Owners, any Occupant, and their respective family members, guests, tenants, invitees, agents or contractors. The Association and its agents and contractors shall have access to the roofs for performing its maintenance and repair responsibility. There shall be no gardening or landscaping on the Common Elements by Owners or Occupants without the prior written consent of the Board.

Except as provided herein, there shall be no use of the Common Elements for business purposes.

E. Dune Park. Upon the approval of a majority of the total number of eligible votes voting in person or by proxy at a duly called meeting, the Board may construct a pool, pool deck and pathways to the pool in the area of the Common Elements designated on the Survey as "Dune Park" which pool shall automatically be deemed a Limited Common Element assigned to the Residential Units, Tu#1 and CU#2 in the same manner as the pools in existence at the time of the recordation of this Declaration pursuant to Paragraph 6(A) of this Declaration; provided that no part of the pool or pool deck shall be located within twenty (20) feet of any Residential Unit, Transitional Unit, or any Limited Common Element balcony or deck attached to any Residential Unit or Transitional Unit. Notwithstanding the above, the surface of any such pool shall be built as close to the grade of the ground in the area of the Dune Park as of the date of the recording of this Declaration as reasonably possible under the applicable regulations and construction codes; provided that in no event shall the elevation of the surface of such pool exceed the elevation of the other Limited Common Element pools in existence at the time of the recordation of this Declaration; and further provided that pedestrian access from TU#1 to CU#1 shall be provided and that handicapped access to CU#1 from the Limited Common Element parking spaces assigned to CU#1 on the ground floor of the Vue building shall be provided. Vegetation planted by the Board within the Dune Park area shall not exceed six (6) feet in height. A fence and gate may be installed around any new pool; provided that no such fence or gate shall exceed four (4) feet in height.

F. Use of Limited Common Elements, Decks, Balconies and Pools. Except as otherwise provided herein, the use of the Limited Common Elements assigned to the Units is restricted exclusively to the Owner 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 shall also apply to the Limited Common Elements, as follows:

(i) **Balconies and Decks.** Objects over forty-two (42) inches in height, grills other than electric grills, bicycles, laundry garments, towels and objects other than potted plants and patio furniture, except as may be authorized by the Board, shall not be placed on a balcony or deck. Objects shall not be permitted to hang over or be attached to any exterior balcony or deck wall or to otherwise protrude outside of the vertical plane formed by the exterior surface of the balcony

or deck wall. Penetration of the surfaces of a balcony or deck wall or floor is prohibited. Enclosure or screening of a balcony or deck is also prohibited. As used herein, "enclosure" shall mean the permanent enclosure of a balcony or deck into the heated and cooled space within the boundaries of a Unit.

(ii) Pools. The Limited Common Element swimming pools may be used by Owners and Occupants of the Residential Units in accordance with rules and regulations adopted by the Board. No fee for use of the pools shall be charged to Owners or Occupants. Board rules and regulations shall place no restrictions on eating or drinking on the pool patio (including consumption of alcoholic beverages) except that no glass or breakable items shall be allowed. Notwithstanding the above, the Association has the right but not the obligation, to suspend a person's right to use the pool if they are unruly, unreasonably disturb others, are intoxicated, or violate rules and regulations for use of the pool. No food or beverage shall be permitted in the pool but shall be allowed in the area surrounding the pool. Except for normal repairs, the pools and pool patio area shall be open daily from 8:00 a.m. until 10:00 p.m. from at least [the first of March through September 30th]. Notwithstanding the above, the heated pool and area surrounding the pool shall remain open year round from 8 a.m. until 6 p.m. during the time period from the first day of October through the last day of February. The pool that is heated as of the date of the recordation of this Declaration shall remain heated as long as said pool is in its current configuration.

G. Prohibition of Damage, Nuisance and Noise. Without the prior written consent to the Board of Directors, nothing shall be done or kept on the Condominium, or any part thereof, which would increase the rate of 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.

The Units in the Condominium are built in close proximity to one another, resulting in the sharing of common walls, floors and ceilings. As a result, noise and vibration may be detectable between Units or between Units and the Common Elements. Therefore, an Owner or Occupant shall not conduct activities within a Unit or use a Unit in a manner that interferes with or causes disruption to the use and quiet enjoyment of another Unit by its respective Owner and/or Occupant.

Furthermore, noxious, destructive or offensive activity shall not be carried on within any portion of the Condominium. 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 that may endanger the health, unreasonably annoy or disturb or cause embarrassment, or discomfort to other Owners or Occupants, or in such a way as to constitute, in the sole opinion of the Board of Directors, a nuisance. In addition, no Owner or Occupant of a Unit may use or allow the use of a Unit or the Common Elements in any manner that creates disturbing noises, including, without limitation, use of stereo speakers or equipment that will, in the sole discretion of the Board of Directors, interfere with the rights, comfort or convenience of the other Owners or Occupants. Nothing herein, however, shall be construed to affect the rights of an aggrieved Owner to proceed individually for relief from interference with his, her or its property or personal rights.

No Owner, Occupant or agent of such Owner or Occupant shall do any work which, in the reasonable opinion of the Board of Directors or its designee, would jeopardize the soundness or safety of the Condominium or any structure thereon, or would impair any easement or other interest in the real property thereto, without, in every such case, the prior unanimous written consent of all members of the Association and their Mortgagees.

No damage to or waste of the Common Elements, or any part thereof, shall be permitted by any Owner or member of his, her or its 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, her or its family, guests, invitees, or Occupants of his, her or its Unit.

H. Firearms and Fireworks. The display or discharge of firearms or fireworks on the Common Elements or Limited Common Elements is prohibited; provided, however, the display of lawful firearms on the Common Elements or Limited Common Elements is permitted by law enforcement officers and also is permitted for the limited purpose of transporting the firearms across the Common Elements or Limited Common Elements to or from an 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. § 25-10-1, as amended.

I. Animals. No Owner or Occupant may keep any animal on any portion of the Condominium except as expressly permitted in this Section. Each Owner or Occupant (regardless of the number of joint Owners and/or Occupants) shall keep no more than two (2) dogs and/or cats (for a combined total of two (2)) per Unit. All cats must be kept indoors. In addition, a reasonable number of other generally recognized household pets, as determined in the Board's sole discretion, weighing less than two (2) pounds each (including by way of illustration, but not limitation, fish, gerbils and small birds) may be kept in a Unit. The keeping of pets on the Condominium shall be subject to the rules and regulations adopted by the Board. Notwithstanding anything to the contrary herein, no fish tank more than thirty (30) gallons in size shall be installed, kept, or used in a Unit without the prior approval of the ACC.

No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose, and no structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Common Elements, including Limited Common Elements, without the prior written approval of the ACC. No pets are allowed on any portion of the Common Elements except for the designated dog walk area, if any; provided, however, an Owner or Occupant may walk a pet across the Common Elements to reach such dog walk area, if any, or to enter or exit the Condominium property. Notwithstanding the foregoing, pets must be kept on a leash and be under the physical control of a responsible Person at all times while on the Common Elements, but excluding the Limited Common Elements; provided, however, pets need not be leashed within fenced patio or porch areas when attended by a Person. Feces left upon the Common Elements by pets must be immediately removed by the owner of the pet or the Person responsible for the pet.

No potbellied pigs, snakes, Pit Bulls (including, but not limited to American Pit Bull Terriers, American Stafford Shire Terriers, Stafford Shire Bull Terriers, and Bull Terriers), Rottweilers, Doberman Pinschers [or any mixed breed of any of the foregoing animals,] may be brought onto or kept on the Condominium at any time. In addition, other animals determined in the Board's sole discretion to be dangerous shall not be brought onto or kept on the Condominium at any time. The Board may require that any pet that, in the Board's opinion, endangers the health of any Owner or Occupant or creates a nuisance or unreasonable disturbance, be permanently removed from the Condominium upon seven (7) days written notice. If the Owner or Occupant fails to do so, the Board may remove the pet. The Board may remove any pet, which, in the Board's sole discretion, presents an immediate danger to the health, safety or property of any community member, without prior notice to the pet's owner.

Any Owner or Occupant who keeps or maintains any pet upon the Condominium shall be deemed to have agreed to defend, indemnify and hold the Association, its directors, officers, and agents free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Condominium.

J. Parking. All parking spaces assigned as Limited Common Elements to the Residential Units, Commercial Unit #2 and Transitional Unit #1 are available to the Owners and Occupants of such Units on a first-come-first-served basis. The Board at its discretion may issues parking stickers to Owners of Residential Units. Furthermore, the Board, at its discretion may issue parking passes for Occupants who are renting Units, provided that the Board shall not charge a fee for such parking passes.

Vehicles permitted under this Section may be parked only in designated, lined parking spaces, or other areas authorized in writing by the Board.

Disabled and stored vehicles are prohibited from being parked on the Condominium. For purposes hereof, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously inoperable. A vehicle shall be considered "stored" if it remains on the Condominium without being driven for fourteen (14) consecutive days or longer without prior written Board permission.

Panel trucks and buses are prohibited from being parked on the Condominium except in areas, if any designated by the Board as parking areas for particular vehicles. Boats, trailers, jet skis and trailer for the same, trucks with a load capacity of one (1) ton or more, vans (excluding vans used by handicapped persons, mini vans or sport utility vehicles used as passenger vehicles and receiving a "car" or "passenger vehicle" classification by the Georgia Department of Motor Vehicles), and recreational vehicles (RVs and motor homes) may be parked in parking spaces on the Condominium property for up to thirty (30) days per year. Vehicles used primarily for commercial purposes, other than commercial vehicles used in association with Commercial Units and/or the Transitional Units, are also prohibited from being parked on the Condominium, except in areas, if any, that may be designated by the Board as parking areas for particular types of vehicles. Notwithstanding the above: 1) trucks, vans, commercial vehicles and vehicles with commercial writings on their exteriors shall be allowed temporarily on the Common Elements during normal business hours for the purpose of serving any Unit or the Common Elements; provided, however, no such vehicle shall remain on the Common Elements overnight or for any purpose unless prior written consent of the Board is first obtained; and 2) the above referenced restrictions on the type of vehicles that may park on the Property shall not apply to commercial vehicles related to the operation of the business conducted in Commercial Unit #1 that are parked in the parking spaces assigned as Limited Common Elements to Commercial Unit #1 by the Owner or Occupant of Commercial Unit #1 nor to commercial vehicles of patrons of the business conducted in Commercial Unit #1 that are parked during regular business hours in the parking spaces assigned as Limited Common Elements to Commercial Unit #1.

If any vehicle is parked on any portion of the Condominium in violation of this Paragraph or in violation of the Association's rules and regulations, the Board or agent of the Association may place a notice on the vehicle specifying the nature of the violation and stating that after twenty four (24) hours the vehicle may be towed or booted. The notice shall include the name and telephone number of the Person or entity that will do the towing or booting and the name and telephone number of a Person to contact regarding the alleged violation. If twenty four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six (6) months of such notice, the Board or agent of the Association may have the vehicle towed or booted in accordance with the notice, without further notice to the Owner or user of the vehicle. Notwithstanding the above, the Owner of Commercial Unit #1 or its duly appointed agent or representative may tow or boot vehicles illegally parked in spaces assigned as Limited Common Elements to Commercial Unit #1 without prior notice to the Owners thereof to the fullest extent permitted by Georgia law.

If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's Unit is obstructing the flow of traffic, is parked on any grassy area, or otherwise creates a hazardous condition, no notice shall be required and the Board or agent of the Association may have the vehicle towed immediately. If a vehicle is towed in accordance with this Section, neither the Association nor any officer or agent of the Association shall be liable to any Person for any claim of damage as a result of the towing activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

K. Heating of Units in Colder Months; Cooling of Units in Warmer Months. In order to prevent breakage of water pipes during the colder months of the year and the growth of mold and mildew during warmer 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 at a setting of no less than fifty-five degrees (55°) Fahrenheit and no more than eighty-two degrees (82°) Fahrenheit (except during power failures or periods when heating equipment is broken). Owners and Occupants of Units shall take all steps possible on a timely basis to keep heating and cooling equipment, including, but not

limited to, the thermostats, in good working order and repair. The Board of Directors may fine any Owner or Occupant 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.

L. 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 in trash dumpsters. Rubbish, trash, and garbage shall be disposed of in sealed bags and either placed in the trash dumpsters, or proper receptacles designated by the Board for collection or removed from the Condominium. In addition, all rubbish, trash and garbage resulting from the moving in/moving out of a Unit, and all rubbish, trash and garbage (including construction debris) resulting from alterations to a Unit or Limited Common Element, shall be placed in the area specifically designated by the Association.

M. Unightly 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.

N. Garage Sales. Garage sales, yard sales, flea markets, or similar activities are prohibited.

O. Window Treatments. All windows in Residential Units (excluding sliding glass doors and windows facing an interior courtyard) must have window treatments. The color of all window treatments visible from outside the Residential Unit must be white or off-white or as approved by the ACC in accordance with this Declaration. Bed sheets, blankets, towels and other similar type coverings shall not be used as window treatments.

P. Antennas and Satellite Dishes. Except as provided below, no satellite dish, antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained on any portion of the Condominium, including the Unit or Limited Common Elements; provided, however, the Association shall have the right to erect, construct and maintain such devices. The following shall apply to all Owners:

(a) No transmission antenna, of any kind, may be erected anywhere on the Condominium, including the Units, without written approval of the Board of Directors or the Architectural Control Committee.

(b) No direct broadcast satellite (DBS) antenna or multi-channel multi-point distribution service (MMDS) antenna larger than one (1) meter in diameter shall be placed, allowed or maintained upon the Condominium, including the Units and the Limited Common Elements.

(c) DBS and MMDS satellite dishes or antennas one (1) meter or less in diameter and television broadcast service antennas may only be installed in accordance with Federal Communication Commission (FCC) rules and the rules and regulations of the Association, both as may be amended from time to time.

(d) In the event of a transfer of the Unit which includes a satellite dish or antenna, the grantee shall assume all responsibility for the satellite dish or antenna and shall comply with this Declaration, the Bylaws and the rules and regulations regarding satellite dishes and antennas, including, but not limited to, those requirements relating to maintenance and removal of satellite dish or antenna.

Q. Grilling. The use of outdoor grills on any portion of the buildings, including, without limitation, a deck or balcony shall be governed by applicable state laws and local ordinances having jurisdiction over the Condominium.

R. Abandoned Personal Property. Personal property, other than vehicles as provided for in this Paragraph, shall not be kept, or allowed to remain for more than twenty-four (24) hours upon any portion of the Common Elements, other than on a Limited Common Element, without prior written permission of the Board of Directors. If the Board determines that a violation exists, then, not less than two (2) days after written notice is placed on the personal property and/or on the front door of the property owner's Unit, if known, the Board may remove and either discard or store the personal property in a location which the Board may determine and shall have no obligation to return, replace or reimburse the owner of the property. The notice shall include the name and telephone number of the Person or entity that will remove the property and the name and telephone number of a Person to contact regarding the alleged violation.

The Board, in its discretion, may determine that an emergency situation exists and may exercise its removal rights hereunder without prior notice to the property owner; provided, however, in such case, the Board shall give the property owner, if known, notice of the removal of the property and the location of the property within three (3) days after the property is removed.

Neither the Association nor any officer or agent thereof shall be liable to any Person for any claim of damage resulting from the removal activity in accordance herewith. The Board may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

S. Sale Period. Notwithstanding any provisions contained in this Declaration to the contrary, during the period of the sale of the Residential Units by the Declarant, it shall be expressly permissible for Declarant, its contractors, agents, employees, assigns and representatives, to maintain and carry on, upon such portion of the Condominium as Declarant may deem necessary, such facilities and activities as may be reasonably required, convenient or incidental to the sale of the Units, including, but without limitation, model Units provided that no Residential Unit shall be used for sales or leasing offices. The right to maintain and carry on such facilities and activities shall include specifically the right of persons visiting such Residential Units to park in any areas designated for parking other than the Limited Common Element parking assigned to Commercial Unit #1.

T. Elevators. Elevators may not be used for moving furniture in or out of the Condominium except during hours to be determined by the Board of Directors; provided that an Owner or Occupant reserves a date and time with the Board of Directors to use the elevators for moving furniture in or out of the Condominium and provided that during such moving, the walls of the elevators being used for such purpose shall be covered with padded blankets. The Board of Directors, in its sole discretion, may require a non-refundable fee prior to using an elevator for moving furniture or construction materials.

U. Life-Safety Systems. Owners and Occupants shall not tamper with or disengage any portion of the life-safety systems that serve the Condominium including, without limitation, the sprinkler heads and all branch and feed lines that support such sprinkler heads, and all fire control devices (such as smoke detectors and call boxes), regardless of whether such items are located within the boundaries of a Unit.

13. LEASING AND OCCUPANCY

A. Leasing of Residential Units.

(1) General.

Units may be leased in their entirety or less than entirety; provided that each leased portion is not occupied by a greater number of Persons than are allowed pursuant to Paragraph 12 of this Declaration. There shall be no restriction placed on the length of a lease term. Short-term occupancy of Units is expressly permitted.

(2) Liability for Assessments; Compliance.

The following provisions are incorporated into each lease or short-term occupancy agreement of any Residential Unit, whether or not expressly stated therein, and into the terms of any tenancy or occupancy even if no written lease or agreement exists between the Owner and the Occupant:

(a) Compliance with Association Legal Documents.

All terms defined in the Amended and Restated Declaration of Condominium for Beachside Colony, A Condominium are incorporated herein by this reference. The Owner and each Occupant shall comply with all provisions of this Declaration, Bylaws, and rules and regulations adopted pursuant thereto (hereinafter "Association Legal Documents"). The Owner and Occupants are responsible for violations by any guests of the Unit and may be sanctioned for any such violation.

If a Unit is leased or occupied in violation of the Association Legal Documents, or if the Owner, Occupant or guest violates the Association Legal Documents, the Association's Board of Directors shall be authorized to take all enforcement actions against the Owner and/or Occupant authorized under the Association Legal Documents.

(b) Use of Recreational Facilities.

The Owner transfers and assigns to the Occupant, for the term of the lease, all rights and privileges the Owner has to use any recreational facilities on the Common Elements.

(c) Liability for Assessments.

When an Owner who is leasing his or her Unit fails to pay an assessment or any other charge to the Association when due, the delinquent Owner hereby consents to the assignment of any rent received from the Occupant during the period of the delinquency. In such case, upon request by the Board, the Occupant shall pay to the Association all unpaid assessments and other charges payable during and prior to the term of the lease and any other period of occupancy. However, the Occupant 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 the Occupant shall reduce, by the same amount, the Occupant's obligation to make monthly rental payments to the Owner. If the Occupant fails to comply with the Board's request to pay assessments or other charges, such failure shall be deemed a violation of the Declaration and, in addition to all other enforcement rights, the Occupant shall pay to the Association all amounts authorized under the Declaration as if the Occupant were the Owner of the Unit. 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.

(3) Enforcement

If a Residential Unit is leased or occupied in violation of the Association Legal Documents, or if the Owner, Occupant or guest violates the Association Legal Documents, such violation is deemed to be a default under the terms of any lease or occupancy and the Association may require the Owner to evict the Occupants.

B. Leasing of Commercial Units. The Commercial Units may be leased for only those purposes permitted for the Commercial Units as set forth in Section 12.A(ii) and shall be subject to the

following provisions.

(a) Liability for Assessments, Use of Common Elements, and Compliance with Declaration, Bylaws, and Rules and Regulations. Each Owner of a Commercial Unit covenants and agrees that any lease of a Commercial Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Commercial Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(b) Compliance with Declaration, Bylaws, and Rules and Regulations. The lessee shall comply with all provisions of this Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Commercial Unit in order to ensure such compliance. The Owner of a Commercial Unit shall cause all Occupants of his, her or its Commercial Unit to comply with this Declaration, Bylaws, 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 Commercial Unit are fully liable and may be sanctioned for any such violation. If the lessee, or a Person living with the lessee, violates this Declaration, Bylaws, or a rule or regulation for which a fine is imposed, notice of the violation shall be given to the Owner of a Commercial Unit and the lessee, and such fine may be assessed against the lessee in accordance with Article 5 of the Bylaws. If the fine is not paid by the lessee within the time period set by the Board, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Commercial Unit.

Any violation of this Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any guest of 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 this Declaration, Bylaws, 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 hereof. If the Association proceeds to evict the lessee, any costs, including reasonable attorneys' fees actually incurred and court costs, associated with the eviction shall be an assessment and lien against the Commercial Unit.

(c) Use of Common Elements. The Owner of a Commercial Unit transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner of a Commercial Unit has to use the Common Elements, but excluding, the use of any and all recreational facilities and other amenities.

(d) Liability for Assessments. When an Owner of a Commercial Unit who is leasing his, her or its Commercial 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 of the Commercial Unit hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by 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 this Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner of the Commercial Unit from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

C. Applicability of this Paragraph. Notwithstanding the above, this Paragraph shall not apply

to any leasing transaction entered into by the Association, or 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; provided, however, the holder of any first Mortgage that leases a Unit must still provide the name, address and telephone number of the Person to whom the Unit is being leased.

14. TRANSFER OR SALE OF UNITS

An Owner intending to transfer or sell a Unit or any interest in a Unit shall give the Board of Directors written notice of such intention within seven days after executing the transfer or sales documents. As part of the notice, the current Owner shall furnish the Board the name and address of the intended grantee and such other information required by the Board. This Paragraph shall not be construed to create a right of first refusal in the Association or in any third party.

Within seven days after receiving title to a Unit, the purchaser or grantee of the Unit shall give the Board written notice of his or her ownership of the Unit. As part of the notice, the new Owner shall furnish the Owner's name, mailing address and such other information required by the Board.

15. INSURANCE

The Association, acting through its Board of Directors, shall obtain and maintain at all times as a Common Expense, insurance as required by Section 44-3-107 of the Act, and as required herein, and as determined by the Board of Directors with regards to both limits of insurance and coverage; provided that, the Board shall obtain flood insurance for each building on a building-by-building basis (unless such insurance is unavailable) and shall specifically assess, on a pro-rated basis to all units in each building, the cost of the insurance for the building in which the unit is located; and further provided that the Association shall not provide flood insurance for Commercial Unit #1 unless requested to do so by the Owner of Commercial Unit #1. In the event that the Owner of Commercial Unit #1 does not request the Association to provide flood insurance for Commercial Unit #1, the Owner of Commercial Unit #1 shall obtain, at its discretion, flood insurance for Commercial Unit #1 or the Owner may self insure for such risk. In accordance with the Act, the property insurance shall, at a minimum, afford fire and extended coverage insurance for and in an amount consonant with the full replacement value of the building(s) and other structures on the Condominium. Such coverage shall include all of the Units and the fixtures initially installed therein by Declarant and replacements thereof up to the value of those initially installed by Declarant, but shall not include any improvements or additions (including wall coverings and fixtures) made by or on behalf of any Owner other than those made by Declarant and shall exclude furnishings and other personal property within a Unit.

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

The Board of Directors shall make available for review by Owners a copy of the Association's insurance policy to allow Owners to assess their personal insurance needs and each Owner shall have the right to obtain additional coverage at his, her or its own expense.

All insurance coverage for the Association shall be written in the name of the Association as trustee for 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 of Section 44-3-107 of the Act. 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.

A. Blanket Hazard Insurance.

The Board of Directors shall utilize commercially reasonable efforts to secure a blanket hazard insurance policy providing "special perils" coverage in an amount equal to full replacement cost, before application of deductibles, of all structures located on the Condominium as required by Section 44-3-107 of the Act. If "special perils" 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 commercially reasonable efforts to obtain policies that will provide the following:

(1) for any of the following that are not named as insureds 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;

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

(3) until the expiration of 10 days after the insurer gives notice in writing to the Mortgagee of any Unit, the Mortgagee's insurance coverage will not be affected or jeopardized by any act or conduct of the Owner of such Unit, the other Owners, the Board of Directors, or any of their agents, employees, or household members, nor be canceled for nonpayment of premiums;

(4) the master policy may not be canceled, substantially modified, or subjected to nonrenewal without at least 30 days prior notice in writing to the Board of Directors and all Mortgagees of Units; and

(5) an agreed value endorsement and an inflation guard endorsement.

B. Licensing of Company.

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.

C. Power of the Board to Adjust Losses.

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

D. No Contribution.

In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Owners or their Mortgagees. Each Owner shall notify the Board of Directors of all structural improvements made by the Owner to his, her or its Unit. Any Owner who obtains an individual insurance policy covering any portion of the Condominium, other than improvements and betterments made by such Owner at his, her or its expense and personal property belonging to such Owner, shall file a copy of such individual policy or policies with the Board of Directors within 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.

E. Additional Insurance.

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

(1) public liability insurance in amounts no less than required by Section 44-3-107 of the Act, which insurance policy shall contain a cross liability endorsement;

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

(3) Directors' and Officers liability insurance with a limit of at least \$1,000,000.00

(4) fidelity bonds or employee dishonesty insurance, covering Officers, Directors, employees, and other Persons handling or responsible for the Association's funds. Such bonds or insurance shall be in an amount consistent with the best business judgment of the Board of Directors, but in no event less than one-quarter of the annual assessments from all members plus the reserve funds in the custody of the Association at any time during the term of the bond or policy. The bond or policy must provide that it may not be canceled, substantially modified or subject to non-renewal without at least 30-days prior written notice to the Association.

(5) such other insurance as the Board of Directors may determine to be necessary or desirable including, for example, but not limited to: coverage of the following types of property contained within a Unit, regardless of ownership: (a) fixtures, improvements and alterations that are part of the building or structure; and (b) appliances, such as those used for refrigerating, ventilating, cooking, dishwashing, laundering, security or housekeeping.

F. Survey and Floor Plans Control.

Insurance carried by the Association as a Common Expense shall not be required to include: (a) any part of a Unit that is not depicted on the original Survey and Floor Plans; or (b) any part of a Unit that was not included as part of the collateral for the initial loan made for the initial purchase of the Unit, nor shall the Association include public liability insurance for individual Owners for liability arising within the Unit.

G. No Priority Over First Mortgagees.

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

H. Owners' Insurance Responsibilities.

Every Owner shall be obligated to obtain and maintain at all times insurance covering those portions of his, her or its Unit to the extent not insured by policies maintained by the Association. Upon request by the Board, the Owner shall furnish a copy of such insurance policy or policies to the Association. In the event that any such Owner fails to obtain insurance as required by this Section, the Association may purchase such insurance on behalf of the Owner and assess the cost thereof to the Owner, to be collected in the manner provided for collection of assessments as set forth hereinabove. The insurance purchased by the Association shall not cover claims against an Owner due to accidents occurring within his, her or its Unit, nor casualty or theft losses to the contents of an Owner's Unit or Limited Common Elements. It shall be the obligation of the individual Owners, if such Owner so desires, to purchase and pay for insurance as to all such other risks not covered by the insurance carried by the Association.

I. 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 the foregoing, if the insurance policy provides that the deductible will apply to each Unit separately or to each occurrence, each Owner shall be responsible for paying the deductible pertaining to his, her or its Unit, if any. If any Owner or Owners fail to pay the deductible when required under this Section, then the Association may pay the deductible and assess the cost to the Owner or Owners pursuant to Paragraph 8(B) of this Declaration; provided, however, where the deductible is for insurance required under the Act, no Owner shall be assigned more than \$2,500, or such higher amount as authorized by the Act, as the cost of the deductible for any one occurrence.

J. Payment of Claims to Delinquent Owners.

Notwithstanding anything to the contrary herein, in the event of an insured loss under the Association's master hazard insurance policy for which the Association receives from the insurer payment for a loss sustained by an Owner who is delinquent in the payment of assessments owed to the Association under Paragraph 9 of this Declaration hereof, then the Association may retain and apply such proceeds to the delinquency. Any surplus remaining after application of the proceeds to any delinquency shall be paid by the Association to the affected Owner.

16. REPAIR AND RECONSTRUCTION AFTER CASUALTY DAMAGE

In the event of damage to or destruction of any structure on the Condominium, the Board of Directors shall arrange for and supervise the prompt repair or reconstruction of such structure, with such improvements or modifications it deems appropriate, unless 80% of the Owners, including the Owner or Owners of any damaged Unit or Units, vote not to do so. The repair and reconstruction of the structure shall include improvements and modifications necessitated by changes in applicable building codes, but shall not include improvements and betterments not covered by the insurance. In the event of substantial damage or destruction, each Eligible Mortgage Holder 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. Construction Fund.

Any insurance proceeds collected on a claim against any Association hazard policy and any special assessments collected as described below shall constitute a construction fund to be used by the Board for repair or restoration provided for in this Paragraph.

B. Proceeds.

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

C. Encroachments.

Encroachments upon or in favor of Units that may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the 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.

17. EMINENT DOMAIN

Whenever any portion of the Common Elements (other than Limited Common Elements) is taken by, or conveyed in lieu of condemnation or eminent domain, the Board of Directors shall give notice thereof to the each Owner and the provisions of the Act shall prevail and govern. If any structure on the Common Elements is so taken or conveyed, the Board shall arrange for and supervise the prompt reconstruction of such structure, to the extent sufficient Common Elements is available, with such improvements or modifications it deems appropriate, unless 80% of the Owners vote not to do so.

If proceeds from the condemning authority are not sufficient to defray the Board's estimated or actual costs of reconstruction, including, but not limited to, any professional fees and premiums for construction bonds the Board deems necessary, the Board may levy a special assessment against all Owners without the necessity of a membership vote or compliance with any other requirements for approval of special assessments in this Declaration. Any surplus funds remaining after the reconstruction is completed shall be common funds of the Association to be used as determined by the Board.

If 80% of the Owners vote not to reconstruct such improvement, any proceeds received for a taking of the Common Elements (other than Limited Common Elements), or a conveyance in lieu of 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 holder of a first Mortgage shall be entitled to written notice of any such condemnation proceedings, and nothing in the Condominium Instruments shall be construed to give a priority to any Unit Owner in the distribution of proceeds to such Unit.

18. EASEMENTS

A. Easements for Use and Enjoyment.

Each Owner and Occupant shall have a right and a non-exclusive easement of use and enjoyment in and to the Common Elements (including the right of access, ingress and egress to and from his, her or its Unit over those portions of the Condominium designated for such purpose), and such non-exclusive easement shall be appurtenant to and shall pass with the title to such Unit, subject to (i) the rights of the Owners to the exclusive use of the Limited Common Elements assigned to their respective Units; (ii) to the right of the Association to control the use and enjoyment of the Common Elements as provided by the terms of this Declaration including, but not limited to, the right of the Association to suspend voting and use privileges as provided herein; and (iii) the right of the Association to have access to the Units and Limited Common Elements assigned to a Unit to discharge its rights and obligations, under the Condominium Instruments, including without limitation, the repair and maintenance responsibilities of the Association

B. Easements for Utilities.

(1) There is hereby reserved to the Association, or its designee, blanket easements upon, across, above and under all property within the Condominium for access, ingress, egress, installation, repair, replacement, and maintenance of: (1) gas, water, sanitary sewer and electricity services and all other utilities serving any portion of the Condominium; (2) any water runoff and storm drainage systems; and (3) any other services such as, but not limited to, any telephone and

telecommunication systems, master television antenna system, cable television system or security system serving the Condominium. The Board of Directors has the right to grant a specific license or easement by separate recordable document to any party furnishing such utilities or services.

(2) To the extent that any utility line, pipe, wire, or conduit serving any Unit, Units or the Common Elements shall lie wholly or partially within the boundaries of another Unit or the Common Elements, such other Unit, Units, or the Common Elements shall be burdened with a non-exclusive easement for the use, maintenance, repair and replacement of such utility line, pipe, wire or conduit, such non-exclusive easement to be in favor of the Unit, Units, or Common Elements served by the same and the Association. It shall be the obligation of the benefited Owner to maintain, replace and repair any pipe, line, conduit, duct or wire owned by such Owner, even if such pipe, line conduit, duct or wire is located within the boundaries of a Unit of another Owner. In such circumstance, the benefited Owner shall repair all incidental damage to any Unit resulting from performance of any such work. All Unit Owners hereby covenant and agree that as finish levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready". Components that may require repair or replacement, such as tile and trim, will be reinstalled only to the extent of readily available materials or similar materials (trim and such will also be finished to "paint-ready"). Due to the uncontrollability of quality of repair, items such as faux paint treatment, wallpaper, ceiling/wall appliqué, and any other similar types of finishes, will not be the responsibility of the benefited Owner.

However, at the sole expense of the Association, without need for a membership vote, and without the consent of any affected Unit Owner, the Board of Directors, on behalf of the Owner can relocate any portion of the air conditioning, heating, plumbing, ventilating, exhaust or electrical system serving a particular Unit, provided that after such relocation, the system serving the Unit functions at least as well and at no greater cost to the Unit Owner as existed prior to the relocation.

C. Easement for Entry.

There is hereby reserved to the Association and its designee, an easement and right, but not the obligation, to enter onto any Unit for emergency, life-safety, security and safety. The 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 notice to the Owner or Occupant. This right of entry shall include the right of the Association to enter a Unit to cure any condition which may increase the possibility of a fire or other hazard in the event that an Owner fails or refuses to cure the condition upon request by the Board. No one exercising the easement and rights granted in this Paragraph shall be liable for trespass, damages, or in any other manner by virtue of exercising such rights. The failure to exercise the rights herein or to exercise said rights in a timely manner shall not create liability to any of the above-referenced parties, it being agreed that no duty to enter a Unit shall exist.

D. Easement for Association Maintenance.

There is hereby reserved to the Association and its designee, an easement and right across all portions of the Community, to allow the Association to fulfill the maintenance obligations described in this Declaration. This easement shall be exercised with a minimum of interference to the quiet enjoyment of the Owner's property, reasonable steps shall be taken to protect the Owner's property, and any Person causing damage to the Owner's property shall repair the damage at its sole expense. Furthermore, there is hereby reserved to the Association an easement across the mechanical room portion of the Limited Common Element Laundry Room as shown on the Floor Plans for the purpose of access to the fire alarm system located therein.

E. Easements for Owners' Maintenance and Repair.

There is hereby created reciprocal appurtenant easements over and upon adjacent Units for the purpose of maintaining or repairing the improvements and landscaping on each Unit. This easement shall extend into each Unit not more than five feet from any point on the common boundary line between the Units. Owners may exercise this easement only for the reasonable period of time necessary to complete the needed maintenance or repair. The Owner exercising this easement right shall be liable for the prompt repair of any damage such Owner caused to the Unit over which this easement is exercised. The damaged portions of such Unit shall be restored to substantially the same condition that existed prior to the damage.

F. Telecommunications Easements. The Association and all Owners acknowledge that all telecommunications equipment located on the Condominium Property and installed by or at the direction of Declarant is owned by Declarant and that as of the date of the recording of this Declaration, there are no telecommunications equipment on the Condominium Property that are Common Elements or Limited Common Elements, nor does the Association own any telecommunications equipment located on the Condominium Property. C&R Equities, LLC (hereinafter "Provider") may, in its discretion, provide telecommunications services to individual Units if the Unit Owner chooses. Unit Owners will be billed individually for such service. Unit Owners are not required to obtain telecommunications service from Provider. In addition, Provider provides telecommunication services to neighboring properties. Provider is hereby granted a blanket easement above, across, upon and under all property in the Condominium to install new lines and to maintain, repair and replace existing and new lines, providing such telecommunication services to the Condominium property and neighboring properties; provided that the installation of any new lines shall not unreasonably interfere, with any Owner's right to use and enjoy their Unit or the Common Elements. In the event the Association or any Unit Owner damages any telecommunications line, such party shall be responsible for reimbursing Declarant for repair to such line.

Furthermore, there is hereby granted to Commercial Unit #1, Commercial Unit #2 and Transitional Unit #1, a permanent easement over the Common Element mechanical/electric rooms located on the ground level of the Gull Reef Club building and the ground level of the Beach House on the Dune building as depicted on the Floor Plan for the installation, maintenance, operation, repair and replacement of mechanical, electrical and telecommunications equipment located in these rooms.

G. Support.

Every portion of a Unit and all Limited Common Elements contributing to the support of an abutting Unit shall be burdened with a non-exclusive easement of support for the benefit of such abutting Unit.

H. Encroachments.

The Units and Common Elements shall be subject to non-exclusive easements of encroachment as set forth in the Act.

I. Pest Control.

The Association may but shall not be obligated to dispense chemicals for the extermination of insects and pests within the Units and Common Elements. In the event the Association chooses to provide such pest control, the Association and its duly authorized contractors, representatives, and agents shall have an easement to enter Units for the purpose of dispensing chemicals for the exterminating of insects and pests within the Units and Common Elements. Unit Owners shall either provide a key to the Unit for purpose of such entry or have someone available at such times as are designated by the Board of Directors to allow entry into the Unit for this purpose. The Association shall not be liable for any illness, damage, or injury caused by the dispensing of these chemicals for this purpose.

J. Public in General.

The easements and rights created in this Paragraph do not, are not intended to, and shall not be construed to create any easements or rights in or for the benefit of the general public; provided, however, nothing set forth herein shall in any way limit or restrict any existing easements or rights already granted to the public as such easements or rights are previously recorded in the Chatham County, Georgia records. The Board of Directors hereby reserves the right to close temporarily, to the extent reasonably practicable, upon 15 days prior written notice (which may be given by posting in conspicuous locations upon the relevant portion of the Condominium), all or any portion of the Condominium that, in the reasonable opinion of the Board, may be legally necessary to prevent a dedication thereof, or any accrual of any rights therein, in the general public or in any Person other than the Persons for which such easements are expressly created in this Declaration.

19. MORTGAGEE'S RIGHTS

A. Unless at least 2/3 of the first Mortgagees and 2/3 of the Unit Owners give their consent, the Association or the membership shall not:

- (1) by act or omission seek to abandon or terminate the Condominium;
- (2) change the pro rata interest or obligations of any individual Unit for the purpose of (a) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or (b) determining the pro rata share of ownership of each Unit in the Common Elements;
- (3) partition or subdivide any Unit in any manner inconsistent with the provisions of this Declaration;
- (4) 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
- (5) use hazard insurance proceeds for losses to any portion of the Condominium (whether to Units or to Common Elements) for other than the repair, replacement, or reconstruction of such portion of the Condominium.

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

B. Where the Mortgagee holding a first Mortgage of record, a secondary purchase money Mortgage of record (provided that neither the grantee nor any successor grantee on the secondary purchase money Mortgage is the seller of the Unit) or other purchaser of a Unit obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable, nor shall the Unit be subject to a lien, for the share of the Common Expenses or assessments by the Association chargeable to such Unit which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Units, including such acquirer, its successors and assigns. Additionally, such acquirer shall be responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed.

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

- (1) 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;

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

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

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

20. AUTHORITY AND ENFORCEMENT

A. Compliance with Condominium Instruments.

All Owners, Occupants and their guests shall comply with the Condominium Instruments. The Association, and in an appropriate case, one or more aggrieved Owners, may take action to enforce the terms of the Condominium Instruments directly against all Violators. However, if an Owner's family member, guest or Occupant violates the Condominium Instruments, the Association, in its sole discretion, is permitted to enforce the terms of the Condominium Instruments against: (1) only the Owner; (2) only the violating family member, guest or Occupant; or (3) both the Owner and the violating family member, guest or Occupant. Notwithstanding anything herein to the contrary, the Owner of the Unit is always ultimately responsible for his or her own actions and the actions of all family members, Occupants and guests of such Unit.

Nothing herein shall be construed to affect the rights of an aggrieved Owner or Occupant to proceed independently for relief from interference with his or her personal or property rights against a Person violating the Condominium Instruments. The Board of Directors may, in its discretion, require the aggrieved Owner or Occupant to independently pursue all available remedies under Georgia law against the Violator before the Association intervenes and commences enforcement action against such Violator.

B. Types of Enforcement Actions.

In the event of a violation of the Condominium Instruments, the Association shall have the power to take any or all of the following actions separately or simultaneously; provided, however, all suspensions and fines shall comply with the procedures described below and nothing herein shall authorize the Association or the Board to deny ingress and egress to or from a Unit:

(1) Suspend all Violators' rights to use the Common Elements;

(2) Suspend the voting rights of a violating Owner;

(3) In accordance with the Act, suspend the utility services provided as a Common Expense to the Owners;

(4) Impose reasonable fines against all Violators, which shall constitute a lien on the violating Owner's Unit;

(5) Use self-help to remedy the violation;

(6) Bring an action for permanent injunction, temporary injunction and/or specific performance to compel the Violator to cease and/or correct the violation; and

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(7) Record in the Chatham County land records a notice of violation identifying any uncured violation of the Condominium Instruments regarding the Unit.

C. Suspension and Fining Procedure.

Except as provided below, before imposing fines or suspending right to use the Common Elements or the right to vote, the Association shall give a written violation notice to the Violator as provided below.

(1) Violation Notice

The written violation notice to the Violator shall:

- (a) Identify the violation, suspension(s) and/or fine(s) being imposed; and
- (b) Advise the Violator of the right to request a violation hearing before the Board of Directors to contest the violation or request reconsideration of suspension(s) and/or fine(s).

Notwithstanding the Violator's right to request a violation hearing, suspension(s) and/or fine(s) shall commence on the date of the written violation notice, unless a later date is specified in such notice.

(2) Violation Hearing

If the Violator submits a written request for a violation hearing within 10 days of the date of the violation notice described above, then the Board of Directors shall schedule and hold, in executive session, a violation hearing. If a Violator fails to timely request a violation hearing, such Violator loses the right to contest the violation and request reconsideration of the suspension(s) and/or the fine(s). If a Violator timely requests a violation hearing, the Violator shall have a reasonable opportunity to address the Board regarding the violation; provided, however, the Board may establish rules of conduct for the violation hearing, including but not limited to, limits on the amount of time one person can speak and limits on the number of participants who may be present at one time. The minutes of the violation hearing shall contain a written statement of the results of such hearing.

(3) No Violation Notice and Hearing Required

No violation notice or violation hearing shall be required to:

- (a) impose late charges on delinquent assessments;
- (b) suspend a violating Owner's voting rights if the Violator's Unit is shown on the Association's books and records to be more than 30 days past due in any assessment or charge, in which case suspension of the violating Owner's right to vote shall be automatic and shall continue until the violation no longer exists or the Board of Directors otherwise reinstates such rights in writing;
- (c) suspend a Violator's right to use the Common Elements if the Violator's Unit is shown on the Association's books and records to be more than 30 days past due in any assessment or charge, in which case suspension of the Violator's right to use the Common Elements shall be automatic (which shall allow the Association to tow and/or boot a Violator's vehicle located on the Common Elements without complying with the Suspension and Fining Procedures described above);
- (d) engage in self-help in an emergency;
- (e) impose fines for each day of a continuing violation, in which case, each day the violation continues or occurs again constitutes a separate violation and fine(s) may be imposed on a per diem basis without any further notice to the Violator; or

- (f) suspend utilities pursuant to the Act.

D. Self-Help.

In addition to all other enforcement rights granted herein, the Board of Directors may elect to enforce any provision of the Condominium Instruments by self-help without the necessity for compliance with the Suspension and Fining Procedures described above.

By way of example and not limitation, the Association or its duly authorized agent shall have the authority to tow vehicles that are in violation of parking regulations and enter a Unit or any portion of the Common Elements to abate or remove any structure, thing or condition that violates the Condominium Instruments. Unless an emergency exists, before exercising self-help, the Association shall give the Violator at least two days prior written notice. Such notice shall request that the Violator remove and abate the violation and restore the Unit to substantially the same condition that existed prior to the structure, thing or condition being placed on the Unit and causing the violation. Such removal, abatement and restoration shall be accomplished at the Violator's sole cost and expense. If the same violation occurs again on the same Unit, the Association may exercise self-help without any further notice to the Violator.

E. Injunctions and Other Suits at Law or in Equity.

All Owners agree and acknowledge that there may not be adequate remedies at law to enforce the Condominium Instruments. Therefore, in addition to all other enforcement rights granted herein, the Association is hereby entitled to bring an action for permanent injunction, temporary injunction and/or specific performance to compel a Violator to cease and desist and/or correct any violation.

F. Costs and Attorney's Fees for Enforcement Actions.

In any action taken by the Association to enforce the Condominium Instruments, the Association shall be entitled to recover from the Violator, any and all costs incurred by the Association, including but not limited to attorneys' fees actually incurred, all of which shall constitute a lien against the violating Owner's Unit.

G. Failure to Enforce.

The Board of Directors has the sole discretion to decide which, if any, enforcement action to pursue against each Violator. The failure of the Board to enforce any provision of the Condominium Instruments shall not be deemed a waiver of the right of the Board to do so thereafter. No right of action shall exist against the Association for failure to enforce if the Board of Directors determines that:

- (1) the Association's position is not strong enough to justify taking enforcement action;
- (2) a particular violation is not of such a material nature as to be objectionable to a reasonable person;
- (3) a particular violation is not of such a material nature to justify the expense and resources to pursue or continue to pursue enforcement action;
- (4) the aggrieved Owner or Occupant asserting a failure of enforcement has not independently pursued all available individual remedies under Georgia law; or

(5) the Association enforces only against an Owner for the violation of the Owner's family member, guest or Occupant or the Association does not enforce against the Owner and enforces only against the violating family member, guest or Occupant.

21. AMENDMENTS

A. Member Approval Procedure.

Except where a higher vote is required for action under any other provisions of this Declaration, the Bylaws or by the Act, this Declaration may be amended with the approval of Owners holding 75% of the total Association vote. Notice of a meeting, if any, at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the Chatham County, Georgia land records.

No amendment shall modify, remove, alter, abridge or impose additional use restrictions or architectural controls on Commercial Unit #1, Commercial Unit #2, or Transitional Unit #1 without the consent of the Owners of such Units; nor shall any amendment modify, remove, alter or abridge any right specifically granted herein to Commercial Unit #1, Commercial Unit #2, or Transitional Unit #1 without the consent of the Owners of such Units.

B. Default Approval Procedure After Owner Non-Response.

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

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

If the amendment is not approved or defeated by sufficient vote within 60 days of the amendment notice described above, then the Board may seek to obtain default approval from Owners under this subparagraph. In such case, the Board shall send default approval notice, by certified mail and to the address consistent with the notice provision of the Bylaws, to all Owners who have not returned consents or ballots on a proposed amendment within that 60-day period. This default approval notice also shall include a consent form or ballot, as provided above, along with a statement that the Owner's failure to return an executed consent form or ballot, marked with a vote for, a vote against, or an abstention from voting on the amendment, within 30 days of the date of such default approval notice, will be deemed consent to such amendment. If the Board does not receive such consent or ballot within that 30-day period, the Owner shall be deemed to have consented to and approved the amendment.

C. Eligible Mortgage Holder Approval.

In addition to approval by the Owners as provided above, material amendments to this Declaration and the Bylaws must be approved by Eligible Mortgage Holders who represent at least 51% of the votes of Units that are subject to Mortgages held by Eligible Mortgage Holders. Notwithstanding the above, the approval of any proposed amendment by an Eligible Mortgage Holder shall be deemed implied and

consented to if the Eligible Mortgage Holder fails to submit a response to any written proposal for an amendment within 30 days after the Eligible Mortgage Holder receives notice of the proposed amendment sent by certified or registered mail, return receipt requested.

D. Amendments to Comply with Law or Conform Documents.

Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the Owners, may amend this Declaration and the Bylaws to comply with any applicable state, city or federal law, including but not limited to, compliance with applicable guidelines of the Federal National Mortgage Association ("Fannie Mae"), Federal Home Loan Mortgage Corporation ("Freddie Mac"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA"), or to resolve conflicts between this Declaration, the Bylaws, the Articles, and applicable laws.

22. GENERAL PROVISIONS

A. Security.

THE ASSOCIATION MAY, BUT SHALL NOT BE REQUIRED TO, PROVIDE MEASURES OR TAKE ACTIONS WHICH DIRECTLY OR INDIRECTLY IMPROVE SECURITY IN THE CONDOMINIUM. EACH OWNER, FOR HIMSELF OR HERSELF AND HIS OR HER OCCUPANTS, TENANTS, GUESTS, LICENSEES, AND INVITEES, ACKNOWLEDGES AND AGREES THAT THE ASSOCIATION IS NOT A PROVIDER OF SECURITY. THE ASSOCIATION HAS NO DUTY TO PROVIDE SECURITY IN THE CONDOMINIUM. FURTHERMORE, THE ASSOCIATION DOES NOT GUARANTEE THAT OWNERS, OCCUPANTS AND OTHER PEOPLE WILL NOT COMMIT CRIMINAL ACTS IN THE CONDOMINIUM OR THAT UNAUTHORIZED PEOPLE WILL NOT GAIN ACCESS TO THE CONDOMINIUM. IT SHALL BE THE RESPONSIBILITY OF EACH OWNER TO PROTECT HIS OR HER PERSON AND PROPERTY, AND ALL RESPONSIBILITY TO PROVIDE SUCH SECURITY SHALL LIE SOLELY WITH EACH OWNER. THE ASSOCIATION SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF MEASURES UNDERTAKEN.

B. Parking Spaces, Vehicles and Storage Spaces.

The Association shall not be held liable for any loss or damage arising from theft, vandalism, malicious mischief, or any loss or damage resulting from calcium deposits, water or acid damage, to any property placed or kept in any parking space, or storage space in the Condominium or in any area designated by the Board for other parking. Each Owner or Occupant with use of a parking space, or storage space or in any area designated by the Board for other parking who places or keeps a vehicle and/or any personal property in the vehicle, parking space, or storage space or in any area designated by the Board for other parking does so at his, her or its own risk.

C. Unit Keys.

At the request of the Association, each Unit Owner, by acceptance of a deed to a Unit, agrees to provide the Association with a key to the Unit (and the security alarm code, if any) to be used by the Association for maintenance, emergency, or life-safety purposes as provided herein (and for pest control, if necessary, as provided in Paragraph 18(I) of this Declaration). The Association shall not be liable for any loss or damage due to its holding such key, or use of such key for the purposes described above and each Owner shall indemnify and hold harmless the Association and its officers and directors against any and all expenses, including reasonable attorneys' fees actually incurred by or imposed upon the Association or its officers or directors in connection with any action, suit, or other proceeding (including settlement of any such action, suit or proceeding) brought by the Owner or the Owner's family, tenants, guests, employees, invitees, Occupants, or licensees against the Association or its officers or directors arising out of or relating to its holding or use of such key for the purposes described above.

D. Disclosures. Each Owner and Occupant acknowledge the following:

(1) The Condominium is located adjacent to thoroughfares that may be affected by traffic and noise from time to time and may be improved and/or widened in the future.

(2) The natural light available to and views from an Owner's Unit may change over time due to, among other circumstances, additional development of neighboring properties and the removal or addition of landscaping.

(3) No representations are made regarding the zoning of adjacent property, or that the category to which adjacent property is zoned may not change in the future.

(4) No representations are made regarding the schools that currently or may in the future serve the Unit.

(5) Since in every community, there are conditions that different people may find objectionable, it is acknowledged that there may be conditions outside of the Condominium that an Owner or Occupant may find objectionable and that it shall be the sole responsibility of the Owners and Occupants to become acquainted with community conditions that could affect the Unit.

(6) The Floor Plans and the dimensions and square footage calculations shown thereon are only approximations. Any Owner who is concerned about any representations regarding the Floor Plans should do his/her own investigation as to the dimensions, measurements and square footage of his/her Unit.

(7) Concrete surfaces may be cracked or may crack in the future.

(8) Concrete and hardwood surfaces and other uncovered surfaces within a Unit may transmit noise, and such noise shall not constitute a use of the Unit that interferes with or causes disruption to the use and enjoyment of another Unit by its respective Owner and/or Occupant.

(9) No representations are made that the Unit is or will be soundproof or that sound may not be transmitted from one Unit to another or from the Common Elements (including, but not limited to, any amenity areas) to a Unit. Sound transmission between Units and Common Elements is inherent in multi-family construction and is not a warrantable condition.

(10) The exterior skin of the building is a hard-coat stucco material.

(11) The building is constructed with a flat roof system. Rainwater and refuse may accumulate on various portions of the building's roof system and should be anticipated by the Owners and Occupants. Minimizing water intrusion and water penetrations may be possible if the building's roof systems are properly maintained by the parties responsible for providing such maintenance, as more specifically set forth in Paragraph 10 hereof.

E. Party Walls.

(1) **General Rules of Law to Apply.** Each wall built as a part of the original construction of the Units which shall serve and separate any two adjoining Units shall constitute a party wall and, to the extent not inconsistent with the provisions of this Paragraph, the general rules of law regarding party walls and liability for property damage due to negligent or willful acts or omissions shall apply thereto.

(2) **Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in equal proportions.

(3) **Damage and Destruction.** If a party wall is destroyed or damaged by fire or other

casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has benefited by the wall may restore it, and the other Owner or Owners thereafter who are benefited by the wall or fence shall contribute to the cost of restoration thereof in equal proportions, without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(4) **Right to Contribution Runs With Land.** The right of any Owner to contribution from any other Owner under this Paragraph shall be appurtenant to the land and shall pass to such Owner's successors in title.

(5) **Arbitration.** In the event of any dispute arising concerning a party wall, or under the provisions of this Paragraph, each party shall appoint one arbitrator. Should any party refuse to appoint an arbitrator within 10 days after written request therefor by the Board, the Board shall appoint an arbitrator for the refusing party. The arbitrators thus appointed shall appoint one additional arbitrator and the decision by a majority of all three arbitrators shall be binding upon the parties. Compliance with this subparagraph shall be a condition precedent to any right of legal action that either party may have against the other in a dispute arising hereunder.

F. Dispute Resolution.

Before filing any lawsuit or administrative proceeding against the Association, the Board of Directors, any Officer or Director, or the Association's property manager, an Owner or Occupant shall request in writing and attend a meeting with the Board to discuss an amicable resolution of any dispute. The Owner or Occupant shall, in such request and at the meeting, make a good faith effort to explain the grievance and resolve the dispute. Upon receiving a request for a meeting, the Board shall give notice of the date, time and place of the meeting to the person requesting the meeting. The Board shall schedule this meeting for a date not less than seven or more than 30 days from the date of receipt of the meeting request, except with the approval of the Owner or Occupant. After the meeting, the Board shall have a reasonable opportunity to address the Owner's or Occupant's grievance before a suit is filed.

G. No Discrimination.

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

H. Implied Rights.

In addition to express rights, the Association may exercise any right or privilege implied from the existence of any express right or privilege or reasonably necessary to effectuate any such right or privilege.

I. Electronic Records, Notices and Signatures.

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

J. Duration.

The covenants and restrictions of this Declaration shall run with and bind the real property in the Condominium perpetually to the extent provided in the Act.

K. Severability.

Invalidation of any one of these covenants or restrictions, by judgment, 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.

23. PREPARER

This Declaration was prepared by Seth G. Weissman, Weissman, Nowack, Curry & Wilco, P.C., One Alliance Center, 4th Floor, 3500 Lenox Road, Atlanta, Georgia 30326.

[SIGNATURES ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, the Declarant and the undersigned Officers of Beachside Colony Condominium Association, Inc., hereby certify that the above amendment to the Original Declaration and the following amendment to the Original Bylaws were duly adopted by the required majority of the Association and its membership, with any required notices duly given.

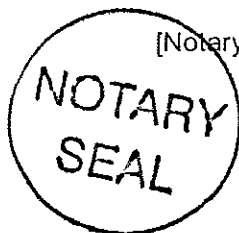
This 5th day of Febr, 2009.

Sworn to and subscribed to before
me this 5th day of Febr
2009.

[Signature]
Witness

Bettie B. Futrell
Notary Public

[Notary Seal]



BETTIE B. FUTRELL
NOTARY PUBLIC
CHATHAM COUNTY, GEORGIA
MY COMMISSION EXPIRES MARCH 27, 2009

DECLARANT:

C & R EQUITIES, LLC,
a Georgia limited liability company.

By: [Signature] (Seal)
Name: Walter T. Clark, Jr.
Title: Member

[CORPORATE SEAL]

[Signature]
[Circular Seal: C&R Equities, LLC]

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ASSOCIATION:

BEACHSIDE COLONY CONDOMINIUM
ASSOCIATION, INC., a Georgia nonprofit
corporation

By: C. A. Stamm (Seal)
President

Attest: [Signature] (Seal)
Secretary

[CORPORATE SEAL]

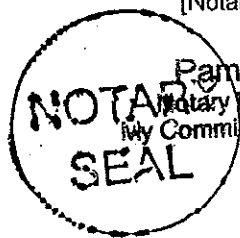
Diane Osuwayford

Witness

[Signature]

Notary Public

[Notary Seal]



Pamela M. VanAlstine
Notary Public, Bryan County, GA
My Commission Expires Sept. 13, 2009

EXHIBIT "A"

THE BEACH CLUB

PROPERTY DESCRIPTION

ALL THAT TRACT OF LAND BEING A PORTION OF LOT 1, BEACHSIDE COLONY, WARD 1, 5TH G.M. DISTRICT, CITY OF TYBEE ISLAND, CHATHAM COUNTY, GEORGIA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT AN IRON PIPE MARKING THE INTERSECTION OF THE NORTHERN RIGHT-OF-WAY OF CENTER STREET AND THE EASTERN RIGHT-OF-WAY OF BUTLER AVENUE THENCE ALONG THE EASTERN RIGHT-OF-WAY OF BUTLER AVENUE N19°25'00"E A DISTANCE OF 203.69' TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG THE EASTERN RIGHT-OF-WAY OF BUTLER AVENUE N19°25'00"E A DISTANCE OF 156.89' TO AN IRON PIPE; THENCE ALONG THE SOUTHERN PROPERTY LINE OF PARCEL B, COMMON AREA S70°35'00"E A DISTANCE OF 397.21' TO AN IRON PIPE; THENCE ALONG THE WESTERN BOUNDARY LINE OF THE ATLANTIC OCEAN S04°08'05"W A DISTANCE OF 162.64' TO AN IRON PIPE; THENCE ALONG THE NORTHERN RIGHT-OF-WAY OF CENTER STREET N70°35'00"W A DISTANCE OF 440.08' TO THE POINT OF BEGINNING, AND CONTAINING 1.508 ACRES.

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EXHIBIT "B"

DESCRIPTION OF SUBMITTED PROPERTY

ALL THAT TRACT OF LAND KNOWN AS LOTS 1, 2 AND 3, BEACHSIDE COLONY, WARD 1, 5TH G.M. DISTRICT, CITY OF TYBEE ISLAND, CHATHAM COUNTY, GEORGIA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIPE MARKING THE INTERSECTION OF THE NORTHERN RIGHT-OF-WAY OF CENTER STREET AND THE EASTERN RIGHT-OF-WAY OF BUTLER AVENUE THENCE ALONG THE EASTERN RIGHT-OF-WAY OF BUTLER AVENUE N19°25'00"E A DISTANCE OF 360.58' TO AN IRON PIPE; THENCE ALONG THE SOUTHERN PROPERTY LINE OF PARCEL B, COMMON AREA S70°35'00"E A DISTANCE OF 397.21' TO AN IRON PIPE; THENCE ALONG THE WESTERN BOUNDARY LINE OF THE ATLANTIC OCEAN S04°08'05"W A DISTANCE OF 373.80' TO AN IRON PIPE; THENCE ALONG THE NORTHERN RIGHT-OF-WAY OF CENTER STREET N70°35'00"W A DISTANCE OF 495.73' TO THE POINT OF BEGINNING; AND CONTAINING 3.695 ACRES.

EXHIBIT "C"

"UNIT LIST"

Unit Number
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Unit Number
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Unit Number
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705
706
CU #1
CU #2
TU #1
100.000%

EXHIBIT "D"

ENTRY FEATURE

SIGN DIAGRAM

