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Coulter & Sierra, LLC  
2800 Century Parkway, Suite 275  
Atlanta, Georgia 30345 Attn: GLC

STATE OF GEORGIA

Reference: Deed Book 7895

COUNTY OF FULTON

Page 380

**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM**  
**FOR**  
**PIEDMONT AT SIXTH 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.

**PREAMBLE TO  
AMENDED AND RESTATED DECLARATION OF CONDOMINIUM  
FOR  
PIEDMONT AT SIXTH CONDOMINIUM**

**WHEREAS**, the Declaration of Condominium of Piedmont at Sixth Condominium was recorded on July 13, 1981, in Deed Book 7895, Page 380, *et seq.*, Fulton County, Georgia records (hereinafter and as amended or supplemented from time to time referred to as the "Original Declaration"); and

**WHEREAS**, Paragraph 24 (a) of the Original Declaration, the Original Declaration may be amended upon the agreement of Unit Owners to whom not less than two-thirds (2/3) of the votes in the Association appertain; provided, however, that during such time as Declarant has the right to control the Association, such agreement instead may only be made by the Declarant and Unit Owners to which two-thirds (2/3) of the votes in the Association appertain, exclusive of any vote or votes appurtenant to Units owned by Declarant; and

**WHEREAS**, the Bylaws of Piedmont at Sixth Condominium Assoc., Inc. ("Original Bylaws"), provide that the Original Bylaws may be amended with approval by two-thirds (2/3) of the votes which Association members present in person or by proxy at a duly called Association meeting are entitled to cast; and

**WHEREAS**, Unit Owners to whom not less than two-thirds (2/3) of the votes in the Association appertain agreed to amend the Original Declaration and Original Bylaws as hereinafter provided; and

**WHEREAS**, attached hereto as Exhibit "D" and incorporated herein by reference is the sworn statement of the Secretary of the Association, which sworn statement states unequivocally: (i) that the consent of the required Unit Owners to whom not less than two-thirds (2/3) of the votes in the Association appertain was lawfully obtained; and (ii) that pursuant to Subparagraph 24(a) of the Declaration, all Institutional Mortgagees have been notified by certified mail of this Amendment; and

**WHEREAS**, the Declarant no longer has the right to control the Association;

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

**AMENDED AND RESTATED DECLARATION OF  
CONDOMINIUM  
FOR  
PIEDMONT AT SIXTH**

THIS DECLARATION MAY BE USED ONLY IN CONNECTION WITH THE OWNERSHIP AND SALE OF PROPERTY AT PIEDMONT AT SIXTH CONDOMINIUM AND THE OPERATION OF THE PIEDMONT AT SIXTH CONDOMINIUM ASSOC., INC.

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## 1. NAME

The name of the condominium is Piedmont at Sixth Condominium, which condominium is submitted to the Georgia Condominium Act, as amended or may be amended.

## 2. DEFINITIONS

Generally, 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. Unless the context otherwise requires, certain terms used in this Declaration, the Bylaws and the Articles of Incorporation shall be defined as follows:

**A. Act** means the Georgia Condominium Act, O.C.G.A. Section 44-3-70, *et seq.* (1991 and Supp. 2002), 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 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. Public rights-of-way within or adjacent to the Condominium may be considered by the Board to be part of the Area of Common Responsibility.

**D. Articles of Incorporation or Articles** mean the Articles of Incorporation of Piedmont at Sixth Condominium Assoc., Inc., filed with the Secretary of State of the State of Georgia.

**E. Association** means Piedmont at Sixth Condominium Assoc., Inc., a Georgia nonprofit corporation, its successors or assigns.

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

**G. Bylaws** mean the Bylaws of Piedmont at Sixth Condominium Assoc., Inc., attached to this Declaration as Exhibit "C" and incorporated herein by this reference.

**H. Common Elements** mean those portions of the Condominium that are not included within the boundaries of a Unit, as more particularly described in this Declaration.

**I. Common Expenses** mean the expenses incurred or anticipated to be incurred by the Association for the general benefit of the Condominium, including but not limited to, those expenses incurred for maintaining, repairing, replacing and operating the Common Elements.

**J. Community-Wide Standard** means the standard of conduct, maintenance, or other activity generally prevailing within the Condominium. Such standard may be more specifically determined by the Board.

**K. Condominium** means all that property described in Exhibit "A" attached hereto and incorporated herein by this reference, submitted to the provisions of the Act by this Declaration.

**L. Condominium Instruments** mean this Declaration and all exhibits hereto, including the Association's Bylaws, and the Survey and Floor Plans, all as may be supplemented or amended from time to time.

**O. Effective Date** means the date that this Declaration is recorded in the Fulton County, Georgia land records.

**P. Eligible Mortgage Holder** means a holder of a first Mortgage secured by a Unit in the Condominium who has requested in writing notice of certain items as set forth in this Declaration.

**Q. Floor Plans** mean the floor plans for Piedmont at Sixth Condominium filed in the land records of Fulton County, Georgia records, as may be amended or supplemented, incorporated herein by this reference.

**R. Limited Common Elements** mean 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.

**S. Majority** means more than 50% of the applicable voting body or category specified on a particular vote under this Declaration or the Bylaws.

**T. Mortgage** means to any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation, including but not limited to, a transfer or conveyance of fee title for such purpose.

**U. Mortgage Holder or Mortgagee** means the holder of any Mortgage.

**V. Occupant** means any Person occupying all or any portion of a Unit as his or her primary or principal residence for any period of time.

**W. Officer** means an individual who is elected by the Board as President, Vice President, Secretary or Treasurer, or to hold such other office as the Board may establish.

**X. Owner** means the record titleholder 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.

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

**Z. Plat** means the plat of survey for Piedmont at Sixth Condominium filed in land records and the plans of all Units, said Plat(s) being recorded with the recording of the Original Declaration and as may be amended or supplemented, incorporated herein by this reference.

**AA. 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.

### 3. LOCATION

The Condominium subject to this Declaration and the Act is located in Land Lot 49 of the 14<sup>th</sup> District of Fulton County, Georgia, being more particularly described in Exhibit "A" attached to this Declaration, which exhibit is incorporated herein by this reference.

#### 4. UNITS

The Condominium is divided into 12 separate Units, the Common Elements and Limited Common Elements, and the respective percentage of undivided interest in the Common Elements appurtenant to the Units as shown on Exhibit "B" attached hereto and incorporated herein by reference.

Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the Act and the Condominium Instruments. The Units are depicted on the Plats and the Floor Plans. Each Unit includes that part of the structure which lies within the following boundaries:

**A. Vertical Boundaries.** The vertical boundaries of each Unit shall be the vertical planes of the exterior surfaces of the exterior windows bounding a Unit and the unfinished interior surfaces of the walls and entry doors bounding the Unit, excluding paint, wallpaper and like coverings, extended to their planar intersections with each other and with the upper and lower boundaries.

Each Unit shall include all improvements contained within such area, including any plumbing and electrical fixtures; provided, however, that no bearing walls and bearing columns of the Condominium 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 other Units or the Common Elements shall be deemed to be a part of such Unit.

**B. Horizontal Boundaries.** The upper and lower boundaries extended to their planar intersections with the perimetrical boundaries of the Unit as follows:

- (1) Upper boundary – the horizontal plane of the unfinished lower interior surface of the ceiling.
- (2) Lower boundary – the horizontal plane of the unfinished upper interior surface of the floor.

**C. Additional Information to Interpret Unit Boundaries.** Entry doors and exterior glass surfaces, including, but not limited to, windows and glass doors, serving the Unit shall be included within the boundaries of the Unit. Unit boundaries also shall include all areas, structures, fixtures, equipment, apparatus and other items expressly deemed part of the Unit by Sections 44-3-75(a)(2), (3) and (4) of the Act.

Each Unit includes the wood, drywall, plaster, concrete or other material forming the ceiling or floor, as the case may be. With regards to any Unit located on more than one floor, any portion of the building which is located below the upper surface of the subfloor of one level of an individual Unit and above the lower surface of the ceiling joists of another level of the same Unit shall be considered a part of the Common Elements. Window screen and all fixtures, equipment and appliances located within the boundaries of each Unit are deemed to be a part of each Unit. If any chutes, flues, ducts, conduits, wires, pipes or any other apparatuses lie partially within and partially without the designated boundaries of a Unit, any portions thereof which serve only that Unit shall be deemed a part of that Unit, while any portions thereof which serve more than one Unit or any portion of the Common Elements shall be deemed a part of the Common Elements. There also shall be deemed to be included within the boundaries of each Unit all portions of the heating and air conditioning systems serving only that Unit (including, without limitation, the furnaces, compressors, heat pumps, conduits, pipes, wires, and ducts), and all such items shall form a part of the Unit exclusively served by the same.

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 variance 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 Unit Owners own the Common Elements as tenants-in-common. Each Unit is attributed the percentage of undivided interest in and to the Common Elements identified on Exhibit "B" attached hereto and incorporated herein by reference. 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 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 has the right to close permanently or temporarily any portion of the Common Elements (excluding any Common Elements the use of which is 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.

## 6. LIMITED COMMON ELEMENTS

**A. Assigned Limited Common Elements.** The Limited Common Elements at the Condominium, and the Unit(s) to which they are assigned are shown on the Plat and Plans. Limited Common Elements shall not be construed or interpreted to be separate and apart from the Common Elements in general.

In the event that any of the items described on the Plats or Plans as a Limited Common Element or in Section 44-3-75(a) of the Act serve more than one but less than all Units in a particular building, such items shall be Limited Common Elements appurtenant to the Units served thereby.

**B. Additional Limited Common Element Assignment or Reassignment.** The Board of Directors, without need for a membership vote, is hereby authorized to assign and to reassign Limited Common Elements and Common Elements not previously assigned, in accordance with the provisions of Sections 44-3-82(b) and (c) of the Act. A Common Element not previously assigned as a Limited Common Element may be so assigned, and a 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 Unit Owner(s) for whose exclusive use such Common Element is requested and whose use of the Limited Common Element previously assigned is directly affected. Upon such application, the Association shall prepare and execute an amendment to the Declaration assigning the Common Element as a Limited Common Element or reassigning the Limited Common Element, which amendment shall be executed by the Owner(s) making such application. Such amendment shall be delivered and become effective as provided in Section 44-3-82 of the Act.

## 7. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES

**A. Membership.** All Unit Owners, by virtue of their ownership of a fee or undivided fee interest in any Unit in the Condominium, are members of Piedmont at Sixth Condominium Assoc., Inc. This is not intended to include Persons who hold an interest merely as security for the performance of an obligation, including, but not limited to, grantees under a contract for deed or similar agreement (who are not considered Owners hereunder),



but the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more Persons, shall have more than one membership per Unit owned.

**B. Voting.** The Owner or collective Owners of each Unit shall be entitled to one vote for such Unit. All votes hereunder shall be divided among the respective Unit Owners in accordance with their respective percentages of ownership interest in the Common Elements. When more than one Person holds an ownership interest in any Unit the vote for such Unit shall be exercised as those Owners determine among themselves, otherwise the Unit's vote shall be suspended if more than one Person seeks to exercise it.

## **8. ALLOCATION OF LIABILITY FOR COMMON EXPENSES**

**A. General Allocations.** Except as provided below or elsewhere in the Act or Condominium Instruments, the amount of all Common Expenses shall be assessed against all the Units based on the percentage allocations identified in Exhibit "B" hereto.

**B. Specific Special Assessments.** Notwithstanding the above, the Board of Directors shall have the power to levy specific special assessments against Units pursuant to Section 44-3-80(b) of the Act as, in its discretion, it shall deem appropriate. As an example, any Common Expenses incurred by the Association related to the maintenance or repair of Limited Common Elements may be assessed hereunder against the Unit Owners assigned such Limited Common Elements. Failure of the Board of Directors 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 exercise its authority under this Paragraph in the future. Any Common Expenses occasioned by the conduct of less than all of those entitled to occupy all of the Units or by the Occupant(s), licensees or invitees of any such Unit(s), including attorneys' fees incurred by the Association in enforcing the Declaration, Bylaws or Association rules, or defending claims by any Owner or Occupant, may be specifically specially assessed against such Unit(s). Likewise, any expenses that benefit or apply certain Units may be specifically assessed to such respective 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.

## **9. ASSESSMENTS**

**A. Purpose of Assessment.** The Association shall have the power to levy assessments as provided herein and in the Act. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of Units in the Condominium, as may be more specifically authorized by the Board.

**B. Creation of the Lien and Personal Obligation For Assessments.** Each Owner of any Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges provided for herein; (ii) special assessments provided for herein; (iii) specific special assessments provided for herein, including but not limited to reasonable fines imposed in accordance with this Declaration; and (iv) Capital Contribution Assessments provided for herein.

All such assessments, together with charges, interest, costs, and reasonable attorneys' fees actually incurred (including post-judgment attorney fees, costs and expenses), and if the Board so elects, rents, in the maximum amount permitted by the Act, shall be a charge on the Unit and shall be a continuing lien upon the Unit against which each assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Unit at the time when the assessment fell due. Each Owner and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance. The Association, in the Board's discretion, may, but shall not be obligated to, record a notice of such lien in the Fulton County, Georgia records evidencing the lien created under the Act and this Declaration.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Unless otherwise provided, the annual assessments shall be paid in equal monthly installments due on the first

day of each calendar month. No Owner may exempt him or herself from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, nonuse of the Common Elements, the Association's failure to provide services or perform its obligations required hereunder, or inconvenience or discomfort arising from the Association's performance of its duties.

The lien provided for herein shall have priority as provided in the Act.

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

- (i) **Late Charges, Interest and Acceleration.** If the annual assessment, any part or installment thereof or any other fine, special assessment or charge is not paid in full within 10 days of the due date, or such later date as may be provided by the Board:
- (a) 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;
  - (b) 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; and
  - (c) upon 30 days' written notice to the Owner, the Board may accelerate and declare immediately due all of that Owner's unpaid installments. Upon acceleration, that Owner shall thereby lose the privilege of paying any and all assessments and charges in installments for that fiscal year, unless such privilege is otherwise reinstated in the Board's sole discretion. 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.
- (ii) **Suspension of Privileges and Suit.** If assessments, fines or other charges, or any part thereof, remain unpaid more than 30 days after the assessment payments first become delinquent, the Owner's and Occupant's rights to vote and use the Common Elements, including, but not limited to, the right to use the Common Element amenities shall be automatically suspended until all amounts owed are paid in full (provided, however, the Board may not deny ingress or egress to or from a Unit) and the Association, acting through the Board of Directors, may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the Bylaws, the Act and Georgia law, including reasonable attorneys' fees actually incurred. Enforcement under this subparagraph is not dependent upon or related to other restrictions and/or other actions. The Association also shall have the authority to suspend common services, benefits and/or utility services paid for as a Common Expense for delinquent Units; provided, the Board shall follow any procedures specified in the Act prior to suspension of water service.
- (iii) **Application of Payments.** If part payment of assessments or other charges is made, the amount received may be applied first to post-judgment attorneys' fees, costs and expense, 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. No restrictive endorsements made with or on any payments shall be binding on the Association unless agreed to in writing by the Board.

**D. Computation of Operating Budget and Assessment.** Prior to the beginning of each fiscal year, the Board shall prepare a budget covering the estimated costs of operating the Condominium during the coming year, and the Board shall establish the annual assessment or installments for the coming year. The Board shall cause the budget and notice of the assessment(s) to be delivered to each member at least 21 days prior to the due

date of the first installment payment for such assessments. The budget and the assessment shall become effective unless disapproved at a duly called Association meeting by a vote of a majority of the total Association membership.

If the membership disapproves the proposed budget or the Board fails for any reason to determine the budget for the succeeding year, then, until such time as a new budget is established as provided herein, the budget in effect for the current year shall continue for the succeeding year. The Board may propose a new budget at any time during the year at a special meeting of the Association. The proposed budget and assessment shall be delivered to the members at least 21 days before the proposed effective date thereof and at least 7 days before the special meeting. The disapproval procedure set forth above for budgets shall also apply to budgets considered under this paragraph. The budget shall not operate as a limitation on expenditures by the Board, but, rather, the budget is merely an estimate of Common Expenses on which the Board may base the annual assessments.

**E. Special Assessments.** In addition to all other assessments provided for in subparagraph (B) above, the Board may at any time levy a special assessment against all Owners, notice of which shall be sent to all Owners. Except for the exceptions noted below, any special assessment which would cause the average total of special assessments levied in one fiscal year to exceed one-sixth of the annual assessment per Unit must be approved by a majority of the eligible Owners prior to becoming effective. The exceptions for which no vote of the members is required are as provided in Paragraph 8(B) regarding specific assessments under Section 44-3-80(b) of the Act, Paragraph 16(B) regarding repair or reconstruction of casualty damage to the Condominium, and Paragraph 17 regarding allocation of condemnation proceeds.

**F. Capital Reserve Budget and Contribution.** The Board of Directors may prepare or obtain an annual or multi-year capital reserve budget or evaluation which takes into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board may set an annual reserve contribution, in an amount the Board determines to be sufficient to permit meeting the projected capital needs of the Association, both as to amount and timing. Any required annual reserve contribution shall be included within the budget and assessment as provided above in this Paragraph.

**G. Capitalization of Association.** Upon acquisition of record title to a Unit, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount up to two (2) months of the then current monthly assessment per Unit for that year, with the exact amount to be determined from time to time by the Board. This contribution shall be in addition to, not in lieu of, any other assessments levied on the Unit and shall not in any way be construed as part of or identical to any such assessments or as an advance payment of any such assessments. This contribution shall be collected at closing of the Unit and disbursed to the Association for use in covering operating and other expenses (including reserves) incurred by the Association pursuant to the terms of this Declaration and Bylaws.

**H. Foreclosure Administration Fee.** It is recognized that foreclosures of mortgages on Units create substantial administrative and other burdens on the Association. These additional burdens on the Association include, but are not limited to, having to monitor the status of mortgages and legal periodicals to determine when foreclosures occur, searching the Fulton County, Georgia land records to determine the names of the purchasers at foreclosure sales, contacting the foreclosure purchasers/owners regarding foreclosure-purchaser responsibilities and assessment obligations and updating Association records multiple times to deal with just a single Unit. Pursuant to this Declaration and Section 44-3-80(b) of the Act, the Association is authorized to assess individual Owners certain fees and expenses occasioned by and benefiting just those Owners or those Owners' Units.

In accordance with these provisions, and in addition to annual assessments, special assessments, and other charges provided for in this Declaration, except as provided below, any Person who acquires a Unit at a foreclosure sale of the mortgage on such Unit, or by deed in lieu of a foreclosure, will be required to pay the Association a Foreclosure Administration Fee of \$1,000.00 at the time the foreclosure deed or deed in lieu of foreclosure is recorded in the Fulton County, Georgia records. The Foreclosure Administration Fee shall constitute a specific assessment as described in this Declaration.

**J. Statement of Account.** Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Unit, or a lender considering a loan to be secured by a Unit, shall be entitled, upon written request, to

a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against 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 fee as may be authorized by the Act 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 conveyance of any Unit or the issuance of any Mortgage on a Unit.

**K. Surplus Funds and Common Profits.** Pursuant to the Act, common profits from whatever source shall be applied to the payment of Common Expenses. Except as provided in subparagraph (E) above, 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 in proportion to the liability for Common Expenses attributable to each Unit; or (3) added to the Association's capital reserve account.

## 10. MAINTENANCE RESPONSIBILITY

**A. By the Owner.** Each Owner shall have the obligation to maintain and keep in good repair all portions of his or her Unit and all Limited Common Elements assigned to the Owner's Unit, except any portion of the Limited Common Elements or Unit which is expressly made the maintenance obligation of the Association as set forth in subparagraph (B) below.

The Owner's maintenance responsibility shall include, but not be limited to, the following:

- (i) All glass surfaces, windows, window frames, window screens, window mullions, hardware, glass, sashes, casings and locks which are part of the Unit (but excluding periodic caulking of windows and periodic painting of any painted surfaces of the exterior of windows or window frames, which are the Association's maintenance responsibility);
- (ii) All doors, doorways, door frames, door knobs, glass within doors, door thresholds, locks, jambs, hardware, door knockers or bells, unit numbers, and interior trim that are part of the entry system of the Unit (but excluding periodic painting and or staining of the painted or stained exterior surfaces of entry doors and door frames of the Units, which is the Association's maintenance responsibility);
- (iii) All portions of the heating and air conditioning system, including the furnaces, heat pumps, air conditioning compressors, condensation lines, wiring, pipes, ducts and fan coils serving only the Unit, whether located inside or outside a Unit's boundaries (but excluding maintenance and repair of the frame and platform on which any such compressor is located); All water lines, sewer lines, pipes, lines, ducts, conduits, cable television lines and components, security lines and components, electrical boxes, meters, flues, or other apparatus which serve only the Unit, whether located inside or outside a Unit's boundaries, including but not limited to: (1) the water and sewer lines serving the Unit, from and including the point where such line separates or tees off of a main line serving multiple Units or the Common Elements; (2) any exterior light fixtures served by electricity from the Unit; (3) any exterior electrical outlets served by electricity from the Unit; (4) any exterior water spigots or hose bibs serving the Unit; and (5) any dryer vent, range vent and other vents serving the Unit and penetrating the exterior walls or roof of the building, or otherwise penetrating the exterior physical boundaries of the Unit.
- (iv) All appliances and fixtures in the Unit;
- (v) All plaster, drywall and other building materials attached to the interior of all walls and ceilings in the Unit;

- (vi) All concrete flooring or other flooring in the Unit and constituting part of the Unit; and
- (vii) All modifications made to the Unit or any Limited Common Elements or Common Elements by the Owner or any predecessor-in-title or Occupant of the Owner, unless the Association has expressly accepted responsibility for maintenance of such items in writing. This subparagraph takes precedence over a conflicting provision in Paragraph 10(B) hereof which otherwise would assign the Association maintenance responsibility for an item.

In addition, each Unit Owner shall have the responsibility:

- (1) To keep in a neat, clean and sanitary condition his or her Unit and any Limited Common Elements serving his or her Unit.
- (2) To perform his or her responsibility in such manner so as not to unreasonably disturb other persons in other Units.
- (3) To promptly report to the Association or its agent any defect or need for repairs, for which the Association is responsible.
- (4) To pay for the cost of repairing, replacing or cleaning up any item which is the responsibility of the Unit Owner but which responsibility such Owner fails or refuses to discharge, or to pay for the cost of repairing, replacing, or cleaning up any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of the Unit Owner, his or her family, tenants or guests.

It is understood that certain mechanical or utility components constitute higher risk components which often fail without prior notice and then cause substantial damage to the Condominium. The Board may establish policies requiring Owners to replace such higher risk components at certain dates or ages reasonably related to the expected useful life of such items, even if such items have not then failed or Owners have not experienced signs of possible failure of such items at that time. Such policies may include the exercise of the Board's right of entry to conduct mandatory, periodic inspections of such high risk components by the Board or its authorized agent.

Notwithstanding the maintenance responsibilities discussed above, the Association may restrict access of Owners and Occupants to the roof of the Condominium building and/or other portions of the Common Elements which house mechanical, utility, electrical or similar equipment, except for reasonable access as is necessary to inspect, service and/or repair any portion of the Condominium which is the Owner's responsibility hereunder.

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 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, unless the Board of Directors agrees in writing to reimburse the Owner for such expense.

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

- (i) All general Common Elements, except those portions that are identified as Owner responsibility under subparagraph (A) above;
- (ii) Periodic caulking of the exterior of windows, window frames and trim and periodic painting of any visible exterior painted surfaces that are part of the Condominium, including, but not limited to, any visible exterior surfaces of windows, window frames and trim, and the exterior surfaces of doors, door frames and door trim;

- (iii) Periodic painting and/or staining of painted or stained exterior surfaces of entry doors of the Units;

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

If, during the course of performing its maintenance responsibilities hereunder, the Association 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. Similarly, the Board can require Owners to remove awnings, storm doors, storm windows and other items attached by Owners to the building exteriors or other exterior portions of Units, if the Board determines that removal is necessary or beneficial for the Association to discharge its maintenance responsibilities, such as for exterior painting; however, Owners may reinstall such removed items in their previous locations or a location approved by the Board, if the items were installed in accordance with the Declaration prior to their removal and such items are in a condition consistent with the Community-Wide Standard.

If the Board determines that the need for maintenance or repair in the Common Elements is caused through the willful or negligent act of any Owner, or Occupant or their family, guests, lessees, or invitees, then the Association may assess the cost of any such maintenance, repair, or replacement against the Owner's or Occupant's Unit, shall become the personal obligation of the Owner, a lien against the Unit, and shall be collected as provided herein for the collection of assessments.

The Association shall repair incidental damage to any Unit resulting from performance of work that is the responsibility of the Association; provided, however, that the Association may require such Unit Owner to pay the Association any delinquent assessments or charges owed before the Association performs such repairs. As finish levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready." Such repair and subsequent cleaning shall be performed based on a reasonableness standard. In performing its responsibilities hereunder, the Association shall have the authority to delegate to such persons, firms or corporations of its choice, such duties as are approved by the Board of Directors.

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.

It is understood that, even if damage within a Unit is caused by an exterior condition for which the Association is responsible hereunder, the Owner shall be responsible for repairs within his or her Unit (including drywall, carpet and other repairs), unless such damage was caused solely by or resulted solely from the negligence or gross negligence of the Association, or such damage is covered under insurance maintained by the Association hereunder (solely to the extent of proceeds actually paid under such insurance). It also is understood that any failure of an Owner to promptly report Common Element conditions causing damage to his or her Unit or the Common Elements, when the Owner has knowledge or notice of such condition, or to provide the Association with all necessary access into the Unit to investigate any such condition, could result in unnecessary damage to the Condominium, and the Owner may be held responsible for such damages. Except to the extent of proceeds of insurance available under the hazard insurance policy maintained by the Association under this Declaration, each Owner and Occupant at the

Condominium hereby releases and fully indemnifies the Association for all claims of damage or liability related to or resulting from such Owner's and/or Occupant's failure to discharge maintenance, repair and reporting obligations existing under this Paragraph.

**C. Measures Related to Insurance Coverage and Unit Improvements.** In addition to requiring Owners to perform maintenance, repairs and replacements required under this Declaration, the Board of Directors may require all or any Owner(s) to make improvements to Units, or do any act or perform any work involving portions of the Condominium which fall within the maintenance responsibility of the Owner, which will, in the Board's discretion, decrease the possibility of fires, water damage, or other damage in the Condominium, reduce the insurance premium paid by the Association for any insurance coverage, reduce Association utility expenses, reduce the transmission of smoke between Units and/or the Common Elements, or otherwise assist the Board in procuring or maintaining insurance coverage.

This authority may include 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 inspect and clean as necessary any fireplace flues or other ducts, requiring Owners to install water conservation devices, requiring Owners to allow the Association to inspect such items 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. This authority is in addition to the Board's power to compel Owners to perform maintenance, repairs and replacements required of an Owner under subparagraph (A) above, without any expense limitation.

In addition to any other rights the Association may have, if an Owner does not comply with any requirement established by the Board pursuant to this subparagraph, the Association, upon 10 days' written notice, 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 pursuant to this Paragraph, 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. Mold and/or Mildew; Water Leak Investigation.** Mold and/or mildew can grow in any portion of the Condominium that is exposed to a regular source of moisture. Therefore, the Association and the Unit Owners agree to: (i) promptly investigate to determine the source of the problem and the extent of the condition upon the discovery of any water leaks within their respective maintenance areas; (ii) repair any such leaks in their respective areas of maintenance responsibility in a good and workmanlike condition; (iii) ensure that any building material which has absorbed water or moisture as a result of a water leak and has not been completely dried as part of the repair of the water or moisture damage is removed and replaced; and (iv) clean any area where mold and/or mildew appears with an industry-accepted product designed to inhibit the growth of mold and/or mildew.

If the Association investigates a reported leak or reported water damage at the Condominium and determines that the leak or water damage is being caused by a condition which is the responsibility of an individual Owner to repair, then the Association may either: (1) make the required repair and assess all costs thereof against that Owner who is responsible for the repair, notwithstanding the fact that the Owner may have no notice or opportunity to select the contractor performing the repair or to approve the expense prior to such repair being made by the Association; or (2) require that Owner to promptly correct the leak and repair the condition. The Association may enter a Unit to inspect for leaking toilets, faucets, pipes, fixtures or other items which may be causing water damage and/or waste of water provided as a Common Expense.

**E. Failure to Maintain.** If the Board of Directors determines that any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair, or replacement of items of which he or she is responsible hereunder, then, the Association shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's

sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board of Directors.

Unless the Board of Directors determines that an emergency exists, the Owner shall have at least 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: (i) an emergency exists or (ii) that an Owner has not complied with the demand given by the Association as herein provided; then the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs shall be an assessment against such Owner and Unit, notwithstanding the fact that the Owner may have no notice or opportunity to select the contractor performing the repair or to approve the expense prior to such repair being made by the Association.

In addition to the foregoing, if the Board of Directors determines that an Owner has failed or refused to discharge properly, or was negligent in, his or her obligation to perform periodic inspections and maintenance of his or her air conditioning condensation and overflow lines as required by this Paragraph and a back up or overflow occurs as a result of this failure, the Association may charge the cost of any repairs to the Common Elements of the Condominium necessitated by the back up or overflow back to the Owner or assess fines in accordance with this Declaration as a result of Owner's failure to perform the required maintenance. Any such costs of repair or fines assessed shall be the personal obligation of the Owner and a lien against the Unit.

**F. Maintenance Standards and Interpretation.** The maintenance standards and the enforcement thereof and the interpretation of maintenance obligations under this Declaration may vary from one term of the Board to another term of the Board. These variances shall not constitute a waiver by the Board of the right to adopt and enforce maintenance standards under this Paragraph. No decision or interpretation by the Board shall constitute a binding precedent with respect to subsequent decisions or interpretations of the Board.

**G. Owner Emergency Contact Information.** Upon acquiring a Unit and thereafter upon request by the Board, every Owner shall provide the Board of Directors with full contact information for the Owner, including an alternate physical address if the Owner does not occupy the Unit, a phone number and an email address. Every Owner shall promptly update such contact information with the Board of Directors upon any change in such information. If any Owner fails to provide the information required by this subparagraph, the Association may assess the owner for any Common Expenses or consequential damages resulting from the lack of such information.

## 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 unless the Board delegates to other Persons the authority to serve on the ACC. The ACC shall have the authority to select and employ professional consultants to assist it in discharging its duties, the cost of such consultants to be paid by the Owner of any Unit for which plans and specifications have been submitted for approval.

**B. Architectural Standards.** Except as otherwise provided herein, no Owner, Occupant, or any other person may, without first obtaining written approval of the ACC:

- (i) make any encroachment onto the Common Elements or Limited Common Elements;
- (ii) make any exterior change, alteration, or construction (including painting and landscaping); or
- (iii) make any interior change, alteration or construction affecting any structural element, mechanical system, or electrical system of the Condominium or Unit; or



(iv) erect, place or post any object, sign, clothesline, speaker, playground equipment, light, storm door or window, fountain, flag, personalized or customized exterior door mat, dumpster, storage container, or thing on the exterior or roof(s) of the building(s), in any windows (other than appropriate window treatments as provided herein), on any Limited Common Elements, or on any other Common Elements, whether permanently or temporarily.

**C. Review of Applications.** Applications for approval of any such architectural modification shall be in writing and shall provide such information as the Board may reasonably require, including, without limitation, a certificate of insurance from applicant's contractor which names the Association and the Owner of the Unit as an additional insured. Except as may be otherwise determined by the Board, the Board or its designated representative shall be the sole arbiter of such application and may withhold approval for any reason, including purely aesthetic considerations. The Association, acting through the Board, shall be entitled to stop any construction, which is not in conformance with approved plans. The Board may publish written architectural standards for exterior and Common Element alterations or additions.

The standard for approval of such improvements shall include, but not be limited to: (1) aesthetic consideration; (2) materials to be used; (3) compliance with the Community-Wide Standard, this Declaration, or the design standards which may be adopted by the Board; (4) harmony with the external design of the existing buildings, 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.

If the Board fails to approve or to disapprove such application within 45 days after the application and all information as the Board may reasonably require have been submitted, then 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 60 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 structure or improvement that is otherwise in violation of the Declaration, the Bylaws, the Association's rules and regulations or any applicable zoning or other laws.

**D. Encroachments onto Common Elements.** The Board may permit Unit Owners to make encroachments onto the Common Elements as the Board 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 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.

**E. Condition of Approval.** As a condition of approval for a requested architectural change, modification, addition, or alteration, an Owner, on behalf of himself or herself and his or her successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance of such change, modification, addition, or alteration, unless otherwise agreed to in writing by the Board. It is the responsibility of every Owner of a Unit to determine for himself or herself what architectural modifications have been made to his or her Unit by any predecessor-in-interest. In the discretion of the Board, an Owner may be made to verify such condition of approval by written instrument in recordable form acknowledged by such Owner on behalf of himself or herself and all successors-in-interest.

**F. Limitation of Liability.** Review and approval of any application pursuant to this Paragraph may be made on any basis, including solely the basis of aesthetic considerations, and neither the Board of Directors nor its designate shall bear any responsibility for ensuring the design, quality, structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes, zoning regulations, and other governmental requirements. Neither the Association, the Board of Directors, any ACC, any member of any of the foregoing, nor the Association's managing agent shall be held liable for any injury, damages or loss arising

out of the manner, design, or quality of approved construction on or modifications to any Unit, nor may any action be brought against the Association, the Board of Directors, any ACC, any member thereof, or the Association's managing agent, for any such injury, damage or loss.

**G. No Waiver of Future Approvals.** Each Owner acknowledges that the members of the Board of Directors will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. Each Owner further acknowledges that the Board may adopt different architectural standards for different parts of the Condominium, based on street visibility and location of the proposed modification in the building. The Board's approval of any proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring Board approval, shall not constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

**H. Commencement of Construction.** All changes, modifications and improvements approved by the ACC hereunder must be commenced within three months from the date of approval. If not commenced within such time, then such approval shall be deemed revoked by the ACC, unless the ACC gives a written extension for commencing the work. All work approved by the ACC hereunder shall be completed in its entirety within 90 days from the date of commencement, unless otherwise agreed in writing by the ACC. All approved changes, modifications, and improvements must be completed in their entirety. An Owner may not construct only a portion or part of an approved change, modification, or improvement.

## 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/Business Use.** 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 Unit or any part of the Condominium, except that the Owner or Occupant residing in a Unit may conduct ancillary business activities within the 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 Unit;

(b) the business activity does not involve visitation of the Unit by employees, clients, customers, suppliers or other business invitees in greater volume than would normally be expected for guest visitation to a residential Unit without business activity;

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

(d) the business activity does not 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 herein, shall have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor.

(ii) **Number of Occupants.** The maximum number of Occupants in a Unit shall be limited to two people per bedroom in the Unit, as such bedrooms are depicted on the original Plat and Floor Plans, or such more-restrictive number as may be permitted under applicable law. "Occupancy," for purposes of this subparagraph, shall be defined as staying overnight in a dwelling for a total of more than 30 days, either consecutive or nonconsecutive, in any calendar year. This occupancy restriction shall not apply to require the removal of any person lawfully occupying a Unit on the Effective Date hereof. 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. Regardless of the number of Occupants in a Unit, the maximum number of parking spaces available for rent in the nearby parking garage shall be one vehicle per Unit.

If an Owner of a Unit is a corporation, partnership, trust or other legal entity not being a natural person, the entity shall designate in writing to the Board the name(s) of the person(s) who will occupy the Unit, and if at least one of the occupants of the Unit is not a shareholder of the corporation, partner of the partnership, trustee or beneficiary of the trust, or principal of the other legal entity, then such occupancy shall be considered a lease under Paragraph 13 hereof. The designated person(s) to occupy the Unit may not be changed more frequently than once every 12 months without the express written consent of the Board as determined in the Board's sole discretion.

(iii) **Transient Occupants or Tenants.** No transient tenants or Occupants are permitted to occupy a Unit.

**B. Outbuildings.** No structure of a temporary character, trailer, tent, shack, carport, garage, barn or other outbuilding shall be erected or used by any Owner or Occupant on any portion of the Condominium, at any time, either temporarily or permanently.

**C. Use of Common Elements.** There shall be no obstruction of the Common Elements, nor shall anything be kept, parked or stored on, attached to, or removed from any part of the Common Elements without the prior written consent of the Board, except as specifically provided herein. The Association shall not be liable to the Owner of any Unit or such Owner's Occupant, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements or Limited Common Elements. Amenities on the Common Elements, such as exercise facilities, are permitted to be used only for the purposes approved by the Board or for which the amenity is designed, and not for other play or sport activities. The Association shall not be liable for any injury to any person who engages in sports or play activities on the Common Element areas.

**D. Use of Limited Common Elements.** Except as otherwise provided herein, the use of the Limited Common Elements assigned to the Units is restricted exclusively to the Owners of the Unit to which such Limited Common Elements are assigned, and those Owner's Occupants, guests, family members 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.

**E. Prohibition of Damage, Nuisance and Noise.** Without the prior written consent of the Board of Directors, nothing shall be done or kept on the Condominium which would increase the rate of insurance on the Condominium or any Unit, 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.

With Units sharing common walls, noise and vibration may be detectable between Units. Therefore, Owners and Occupants shall not conduct activities within a Unit or use a Unit in a manner that interferes with the reasonable use and quiet enjoyment of another Unit.

Furthermore, noxious, destructive, offensive or unsanitary activity shall not be carried on at the Condominium. No Owner or Occupant may use or allow the use of the Unit or any portion of the Condominium at any time, in any way, which may endanger the health or property of other Occupants, unreasonably annoy, disturb or cause embarrassment or discomfort to other Owners or Occupants, or, in the Board's discretion, constitute a nuisance. The intention of this provision is to grant the Association and aggrieved Owners and Occupants a right of redress for actions, activities or conduct which unreasonably disturbs or impairs the peaceful and safe enjoyment of the Condominium. In this regard, specific unauthorized and unreasonable annoyances or disturbances shall include, but not be limited to, the following:

- (i) Any fighting, raucous behavior or insobriety at the Condominium, if such conduct can be heard in the normal course of activities from within another Unit;
- (ii) The use of any alarm, equipment or device, mechanical or otherwise, which creates or produces excessively loud sounds or any vibrations, if such sounds can be heard or vibrations felt in the normal course of activities from within another Unit;
- (iii) Any threatening or intimidating conduct towards any resident, guest, invitee or pet at the Condominium;
- (iv) Any conduct which, in the Board's reasonable discretion, creates any danger or risk of injury to others or damage to property at the Condominium or which creates any threat to health or safety of any other resident, guest, invitee or pet at the Condominium;
- (v) Any conduct which creates any noxious odor, if such odor can be detected in the normal course of activities in any other Unit;
- (vi) Any similar action or activity at the Condominium which unreasonably interferes with the peaceful use and enjoyment of other Units or the Common Elements by any other Owner, members of his or her family, guests, invitees, or Occupants of his or her Unit; or
- (vii) Any activities in a Unit, between the hours as determined in the Board's discretion, which can be heard from within another Unit. The Board may promulgate rules and regulations governing reasonable hours for construction.

Nothing herein shall be construed to affect the rights of an aggrieved Owner or Occupant to proceed individually against a violator hereof for relief from interference with his or her property or personal rights, and the Board may, in its discretion, require aggrieved individuals to seek redress personally for interference with their personal property rights before the Association intervenes and commences enforcement action hereunder. No claim for any loss, damage or otherwise shall exist by an aggrieved Owner or Occupant against the Association

for failure to enforce the provisions hereof if the aggrieved Owner or Occupant has not personally pursued all available remedies against the violator for redress provided under Georgia law.

It is expressly agreed that the Association may, in its discretion, require Owners and/or Occupants to maintain and use filtration systems and take other reasonable measures to eliminate or reduce the transfer or transmission of cigarette smoke or odor, or other smoke or odor, from such Unit, but the Board shall have no obligation to do so or to otherwise take any action related to reported smoking or odor issues in Units.

No Owner, Occupant or agent of such Owner or Occupant shall do any work which, in the Board's reasonable opinion, would jeopardize the soundness or safety of the Condominium or any structure thereon, would reduce the value thereof, or would impair any easement or other interest in the Condominium, without prior written consent of all Association members and their Mortgagees.

No damage to or waste of the Common Elements, or any part thereof, shall be permitted by any Owner or any Occupant, guest or invitee of any Owner. Each Owner and Occupant 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 or Occupant, or the Owner's or Occupant's guest or invitee.

**F. Firearms and Fireworks.** The display or discharge of firearms or fireworks on the Common Elements or Limited Common Elements is prohibited, except: (i) lawfully by law enforcement officers; and (ii) for the limited purpose of transporting the firearms across the Common Elements or Limited Common Elements to or from the Owner's Unit. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. The term "fireworks" shall include those items as listed in O.C.G.A. Section 25-10-1, as amended.

**G. Pets.** No Owner or Occupant may keep more than one (1) dog on any portion of the Condominium and the dog must weigh thirty (30) pounds or less at full adult weight. All other animals kept by an Owner or Occupant are restricted to a reasonable number of generally recognized household pets as determined by the Board. No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose. 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. Dogs must be kept on a leash and be under the physical control of a responsible person at all times while on the Common Elements. Feces or urine left by pets upon the Common Elements or in Units, including the pet owner's Unit, must be cleaned and removed promptly by the owner of the pet or the person responsible for the pet.

No dogs determined in the Board's sole discretion to be dangerous or aggressive may be brought onto or kept on the Condominium at any time. The Board may require that any pet which, 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 days' written notice. If the Owner or Occupant fails to comply with such notice, the Board may remove the pet and/or obtain a court order requiring the Owner or Occupant to do so. Without prior notice to the pet's owner, 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. Any Owner or Occupant who keeps or maintains any pet upon the Condominium shall 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. The Board, in its discretion, may charge a reasonable pet fee, in an amount determined by the Board, as a condition of keeping a pet at the Condominium.

**H. Heating of Units in Colder Months; Air Conditioning of Units.** In order to prevent breakage of water pipes during colder months of the year resulting in damage to any portion of the Condominium, increased Common Expenses, and increased insurance premiums or cancellation of insurance policies due to numerous damage claims, the thermostats within the Units shall be maintained with the heat in an "on" position and at a minimum temperature setting of 55 degrees Fahrenheit (except during power failures or periods when heating equipment is broken) whenever the temperature is forecasted to or does reach 32 degrees Fahrenheit or below. Owners and Occupants of Units shall take all steps possible on a timely basis to keep heating equipment, including, but not limited to, the thermostat, in good working order and repair.

Unit Owners are responsible for controlling any environmental conditions and taking such steps as are necessary to prohibit or control mold growth in the Units, including maintaining air conditioning in an "on" position and at a maximum temperature setting of 82 degrees Fahrenheit (except during power failures or periods when air conditioning equipment is broken), whenever the temperature is forecasted to exceed such temperature. Except to the extent of proceeds of insurance available under the hazard insurance policy maintained by the Association under this Declaration, each Owner and occupant at the Condominium hereby releases and indemnifies the Association for all claims of damage or liability related to or resulting from Owner's and/or occupant's failure to discharge maintenance, repair and reporting obligations existing under this subparagraph.

At any time when the heating and/or air conditioning equipment is not working properly but is required to be operating under this subparagraph, the Unit Owner or Occupant shall immediately inform the Association of this failure of the equipment and of the time needed to repair the equipment. The Board may require Owners and/or Occupants to install and operate humidifiers and/dehumidifiers during such periods 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.

**J. Signs.** Except as may be provided for herein or as may be required by legal proceedings, no signs, advertising posters, political placards or billboards of any kind shall be erected, placed, or permitted to remain on the Condominium without the prior written consent of the ACC or the Board. One "For Sale" not to exceed two (2') feet by two (2') feet in size may be displayed from within a Unit being offered for sale, but must be removed promptly upon sale. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association. The Board may maintain a community signage board and permit Owners to place notices or signs on such board, subject to such rules or conditions as the Board may establish.

**K. Garbage.** All rubbish, trash, refuse, waste and garbage of any sort shall be regularly removed from the Unit and shall not be allowed to accumulate therein. No garbage, rubbish, refuse, waste or trash of any type shall be placed on the Common Elements or Limited Common Elements outside the Unit, temporarily or otherwise, except in the Association's dumpsters or receptacles identified by the Board of Directors. Rubbish, trash, rubbish waste and garbage of any type shall be disposed of in appropriate trash bags and placed in designated trash receptacles, and not on the ground adjacent to receptacles. The Association may impose fines or other sanctions for an Owner or Occupant leaving trash and/or dumping trash, including, cigarette butts, on the Common Elements or Limited Common Elements.

**L. Impairment of Units and Easements.** No Owner or Occupant shall do any act or work that will impair the structural soundness or integrity of another Unit or impair any easement, or allow any condition to exist which will adversely affect the other Units.

**M. Unsightly 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.

**N. Window Treatments.** Unless otherwise approved in writing by the Board, windows in all Units and visible to other Units shall have customary window treatments that are neutral in color. Towels, sheets, temporary paper, window covers, and similar items shall not be used as window treatments. The Board may establish additional regulations regarding the location, type and exterior color of window treatments for all Units.

**O. Antennas and Satellite Dishes.** Except with Board approval or 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. As no Limited Common Elements exist from which an acceptable direct broadcast satellite (DBS) antenna or multi-channel multi-point distribution service (MMDS) signal could be received, satellite dishes serving individual Owners or Occupants are permitted only within Units, subject to rules and regulations of the Federal Communication Commission (FCC). However, no transmission antenna, of any kind, may be erected anywhere on the Condominium, including the Units or Limited Common Elements, without

written Board approval. Notwithstanding the above, the Board may prohibit all satellite dishes on Units if the Association makes available a master antenna, cable or satellite service, with all channels that are available through an individual satellite dish.

**P. Move In/Move Out.** A Unit Owner or Occupant shall not move furniture, construction materials, and other over-sized items in or out of the Condominium, except during such hours and according to requirements to be determined by the Board of Directors. The Board, in its discretion, may require a security deposit and/or a non-refundable move-in/move-out fee to be paid prior to moving any such items into or out of a Unit. The Board may prevent any move into or out of the Condominium building in violation of this provision.

**Q. Abandoned Personal Property.** Personal property, other than vehicles as provided for above shall not be stored, kept, or allowed to remain for more than 24 hours upon any portion of the Common Elements, other than on an appropriate Limited Common Element serving exclusively one Unit, without prior written Board permission. If the Board determines that a violation exists, then, not less than 24 hours 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 or the agent of the Association 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, which 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 days after the property is removed.

Neither the Association nor any director, 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. The Association shall not be liable to the Owner of any Unit or such Owner's Occupant, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements.

### **13. LEASING**

In order to protect the equity of the individual Owners at the Condominium, and to carry out the purpose for which the Condominium was formed by preserving the character of the Condominium as a residential community of owner-occupied homes, leasing of Units shall be governed by the restrictions imposed by this Paragraph. Except as provided herein, the leasing of Units is prohibited.

#### **A. Definitions.**

(i) "Effective Date" means the date this Amended and Restated Declaration of Condominium for Piedmont at Sixth Condominium Assoc., Inc., is recorded in the Fulton County, Georgia land records;

(ii) "Grandfathered Owner" means any record title Owner of a Unit on the Effective Date hereof. Grandfathering shall apply only to the Unit owned by such Grandfathered Owner on the Effective Date. Grandfathering hereunder shall continue only until the Grandfathered Owner conveys title to the Grandfathered Unit to any person or entity (other than a mortgage or a deed to secure debt, or conveyance to/from a current or former spouse). Upon the happening of any of this event, the Unit shall automatically lose grandfathering hereunder.

(iii) "Grandfathered Unit" means the Unit(s) owned by the Grandfathered Owner on the Effective Date hereof.

(iv) "Leasing" means the regular, exclusive occupancy of a Unit by any person(s) other than: (1) the Owner or parent, child or spouse of an Owner, or (2) a person who occupies the Unit with the Owner, or parent, child or spouse of the Owner, so long as such Owner, parent, child or spouse of the Owner is

also occupying the Unit as his or her primary residence. The Association may request reasonable proof of documents supporting that the Owner is also occupying the Unit as his or her primary residence in the event of any roommate situation.

**B. Leasing Restrictions.** No Owner of Unit may lease his or her Unit unless: (1) the Owner is a Grandfathered Owner, or (2) the Owner is not a Grandfathered Owner but has received a leasing permit or hardship lease permit from the Board, as provided below.

**C. Leasing Permits Required for Grandfathered and Non-Grandfathered Owners.** Non-Grandfathered Owners who want to lease their Unit may do so if they have applied for and received a "leasing permit" from the Board of Directors. Such a permit will allow an Owner to lease his or her Unit, in strict accordance with the terms of the permit and this Section. All leasing permits shall be valid only as to a specific Owner and Unit and shall not be transferable between either Units or Owners (including a subsequent Owner of a Unit where a permit was issued to the Owner's predecessor in title).

A Non-Grandfathered Owner's request for a leasing permit may be approved only if: (1) the request/lease meets the requirements of this Paragraph; (2) the number of current, outstanding leasing permits (excluding hardship leasing permits) issued plus Grandfathered Units being leased will total no more than two (2) of the Units in the Condominium; (3) the Unit Owner is current at the time of the issuance of the Leasing Permit; and (4) the Unit Owner must have owned the Unit for a minimum of twenty-four (24) months prior to receiving a Leasing Permit.

A Grandfathered Owner's request for a leasing permit may be approved only if: (1) the request/lease meets the requirements of this Paragraph; (2) the number of current, outstanding leasing permits (excluding hardship leasing permits) issued plus Non-Grandfathered Units being leased totals no more than three (3) of the Units in the Condominium; (3) the Unit Owner is current at the time of the issuance of the Leasing Permit; and (4) the Unit Owner must have owned the Unit for a minimum of twenty-four (24) months prior to receiving a Leasing Permit.

All Owners (including Grandfathered Owners) Leasing Permits and Hardship Leasing Permits are automatically revoked upon the sale or transfer of the Unit to a third party (excluding sales or transfers to an Owner's spouse, parent, grandparent, child, grandchild, brother or sister), if the Unit is not subject to an authorized and approved lease for more than 60 consecutive days, or if the Owner's spouse, parent, grandparent, child, grandchild, brother or sister moves into/occupies the Unit.

**D. Waiting List.** Non-Grandfathered Owners who have been denied a leasing permit due to the total number being at the maximum shall be automatically placed on a waiting list for a leasing permit and shall be issued a permit, if the Non-Grandfathered Owners so desires, when such number falls below the maximum. The issuance of a hardship leasing permit to a Non-Grandfathered Owner shall not cause the Owner to be removed from the waiting list for a leasing permit.

**E. Hardship Leasing Permits Available to all Owners.** If the failure to lease will result in a hardship, any Owner may seek to lease on a hardship permit basis by applying to the Board of Directors for a hardship leasing permit.

(i) The Board shall have the authority to issue or deny requests for hardship leasing permits in its discretion after considering the following factors: (1) the nature, degree, and likely duration of the hardship, (2) the harm, if any, which will result to the Properties if the permit is approved, (3) the number of hardship leasing permits which have been issued to other Owners, (4) the Owner's ability to cure the hardship, and (5) whether previous hardship leasing permits have been issued to the Owner.

(ii) A "hardship" as described herein shall include, but not be limited to, the following situations:

(1) an Owner must relocate his or her residence outside the greater Atlanta metropolitan area and cannot, within six (6) months from the date that the Unit was placed on the market, sell the Unit except at a price below the current appraised market value, after having made reasonable efforts to do so;

(2) an Owner dies and the Unit is being administered by his or her estate.



As to the two defined hardships above, upon reasonable verification, the Board shall issue a hardship leasing permit in accordance with this Paragraph.

(iii) Hardship leasing permits shall be valid only as to a specific Owner and Unit and shall not be transferable to other Units or Owners (including a subsequent Owner of a Unit where a permit was issued to the Owner's predecessor-in-title). Hardship permits, in all instances, shall be valid for a term approved by the Board, not to exceed one (1) year. Owners may apply for additional hardship leasing permits at the expiration of a hardship leasing permit, if the circumstances warrant.

(iv) Hardship leasing permits shall be automatically revoked upon the sale or transfer of the Unit to a third party (excluding sales or transfers to an Owner's spouse).

(v) The Association may create such application and permit forms as it determines necessary.

**F. Leasing Provisions.** Leasing which is authorized hereunder shall be governed by the following provisions:

(i) **Notice.** At least seven (7) days before entering into a lease, the Owner shall provide the Board with a copy of the proposed lease agreement. The Board shall approve or disapprove the form of said lease. If a lease is disapproved, the Board shall notify the Owner of the action to be taken to bring the lease in compliance with the Declaration and any rules and regulations adopted pursuant thereto. Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee; rather, the Board's approval shall be limited to the form of the proposed lease.

(ii) **General.** Units may be leased only in their entirety; no rooms or fractions of Units may be leased without prior written Board approval. No short term leasing of the full or a portion of the Unit such as on AirBNB, Craigslist, Home Away, or similar services are permitted at the Condominium. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. There shall be no subleasing of Units or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than one (1) year (but no more than two (2) years), except with prior written Board approval. Within ten (10) days after executing a lease agreement for the lease of a Unit, the Owner shall provide the Board with a copy of the lease and the name of the lessee and all other people occupying the Unit. The Owner must provide the lessee copies of the Declaration, Bylaws, and the rules and regulations.

(iii) **Liability for Assessments; Compliance.** Each Owner covenants and agrees that any lease of a Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(A) **Compliance with Declaration, Bylaws, and Rules and Regulations.** The Owner and lessee shall comply with all provisions of the Declaration, Bylaws and Association rules and shall control the conduct of all other occupants and guests of the leased Unit in order to ensure such compliance. The Owner shall cause all occupants of his or her Unit to comply with the Declaration, Bylaws and Association rules, and shall be responsible for all violations by such occupants, notwithstanding the fact that such Occupants are fully liable and may be sanctioned for any such violation.

If a Unit is leased or occupied in violation of this Paragraph or if the Owner, lessee, or a person living with the lessee, violates the Declaration, Bylaws, or a rule or regulation, the Association's Board of Directors shall be authorized, in addition to all other available remedies, to levy fines against the lessee and/or the Owner, to suspend all voting and/or Common Element use privileges of the Owner, Occupants and unauthorized tenant(s) and to suspend all common services to the Unit paid for by the Association as a common expense, including water service to the Unit, subject to the provisions of this Declaration and the Bylaws.

If a Unit is leased or occupied in violation of this Paragraph, the Association may require the Owner to evict the tenant. If the Owner, lessee, or a person living with the lessee, violates the Declaration, Bylaws, or a rule or regulation, such violation is deemed to be a default under the terms of the lease and shall authorize the Owner or the Association, as more fully described herein, to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, 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. Alternatively, the Association may require the Owner to evict the violating tenant. If the Association proceeds to evict the lessee, any costs, including reasonable attorney's fees actually incurred and court costs associated with the eviction shall be an assessment and lien against the Unit.

(B) **Liability for Assessments.** When an Owner who is leasing his or her Unit fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, 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 the Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

**G. Applicability of this Paragraph.** Notwithstanding the above, this Paragraph shall not apply to any leasing transaction entered into by the Association, or by any first Mortgagee who becomes the Owner of a Unit through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage. Such parties shall be permitted to lease a Unit without first obtaining a permit in accordance with this Paragraph, and such Units shall not be considered as being leased in determining the maximum number of Units that may be leased in accordance with this Paragraph. Provided, however, that notwithstanding anything to the contrary provided in this Declaration, the requirement in this Paragraph that all leases be for an initial term of not less than one (1) year, except with written Board approval, shall apply to all Owners, including the Association, Declarant and the holder of any first mortgage on a Unit who becomes the Owner of a Unit through foreclosure or any means pursuant to the satisfaction of the indebtedness secured by such Mortgage. Any lease term permitted in writing by the Board shall meet the mandatory requirements that no lease may be written for a term of less than 30 days to enable the FHA to issue federal mortgage insurance on Units.

## 14. SALE OF UNITS

An Owner intending to make a transfer or sale of a Unit or any interest in a Unit shall give written notice to the Board of Directors of such intention within seven days after execution of the transfer or sales documents. The Owner shall furnish to the Board as part of the notice (i) the name and address of the intended grantee; and (ii) such other information as the Board may reasonably require. The Board may require Unit purchasers or grantees to complete a prospective owner information form prior to such conveyance, providing names and contact information for Unit Occupants and certifying compliance with the Declaration, Bylaws and Association rules. This Paragraph shall not be construed to create a right of first refusal in the Association or in any third party.

At the closing of the conveyance or transfer of the Unit to any person other than to the spouse of the Owner or heir of the deceased Owner, the purchaser/grantee shall pay to the Association the non-refundable, non-prorated Capital Contribution Assessment provided for herein.

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

## 15. INSURANCE

**A. Association Hazard Insurance.** The Association shall obtain and maintain at all times, as a Common Expense, insurance as required by Section 44-3-107 of the Act, as amended, and as required herein. The Board shall secure a blanket hazard insurance policy providing, at a minimum, fire and extended coverage, including coverage for vandalism and malicious mischief, in an amount equal to full replacement cost, before application of deductibles, of all improvements located on the Condominium property. The Board, in its discretion, may alternatively obtain "all risk" coverage, in like amounts.

To the extent reasonably available at reasonable cost, the Association's insurance policy shall cover any of the following types of property contained within a Unit, regardless of ownership: (a) fixtures, improvements and alterations that are a part of the building or structure; and (b) appliances, such as those used for refrigerating, ventilating, cooking, dishwashing, laundering, security or housekeeping. In the alternative, the Association's insurance policy may exclude improvements and betterments made by the Owner and may exclude the finished surfaces of perimeter and partition walls, floors, and ceilings within the Units (i.e., paint, wallpaper, paneling, other wall covering, tile, carpet and any floor covering; provided, however, floor covering does not mean unfinished hardwood or unfinished parquet flooring).

Nothing herein shall preclude the Association from obtaining a co-insurance policy, if the Board determines that such policy is commercially reasonable and appropriate for the Condominium.

**Even though insurance maintained by the Association may cover certain portions of Units, nothing herein shall create any obligation on the Association to maintain or repair Units; maintenance responsibilities for Units, Limited Common Elements and Common Elements are defined under Paragraph 10 hereof.**

The Board may, but shall not be required to, obtain coverage for water damage from pipe leaks, pipe bursts, and similar items. If the Board elects to maintain such water coverage, it may do so under such terms and deductible amounts as the Board determines are appropriate, and the deductible on this optional coverage shall not be subject to the deductible limitation set forth in subparagraph (G) below.

The Association's insurance shall not include the Owners' personal property unless the Association advises the Owners of such coverage in writing.

All insurance purchased by the Association pursuant to this Paragraph shall run to the benefit of the Association, the Board, 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.

All Association insurance coverage shall be written in the name of the Association as trustee for itself, each of the Owners, and the Mortgagees, if any. At least every two years the Board shall conduct an insurance review to determine if the policy in force is adequate to meet the Association's needs and to satisfy Section 44-3-107 of the Act. Such responsibility shall be deemed reasonably performed by the Board requesting the Association's insurance agent to so verify.

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

The Board 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 or her own expense.

**B. Association Liability and Directors' and Officers' Liability Insurance.** The Board shall obtain a public liability policy in amounts no less than required under Section 44-3-107 of the Act, and, if reasonably available, directors' and officers' liability insurance.

**C. Premiums and Deductibles on Association Policies.** Premiums for all insurance obtained by the Association shall be a Common Expense of the Association. The policies 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 at least equals the full replacement cost.

**D. Policy Terms.** The Board shall use reasonable efforts to obtain policies that will provide the following:

- (i) The insurer waives its rights of subrogation of any claims against directors, officers, the managing agent, the individual Owners, Occupants, and their respective household members;
- (ii) Any "other insurance" clause contained in the master policy shall expressly include individual Owners' policies from its operation;
- (iii) Until the expiration of 30 days after the insurer gives notice in writing to the Mortgagee of any Unit, the Mortgagee's insurance coverage will not be affected or jeopardized by any act or conduct of the Owner of such Unit, the other Owners, the Board, or any of their agents, employees, or household members, nor be canceled for nonpayment of premiums;
- (iv) 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 and all Mortgagees of Units;
- (v) An agreed value endorsement and an inflation guard endorsement; and
- (vi) A cross liability endorsement on the public liability insurance.

Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto. Nothing herein shall create any liability on the Board, its officers, directors or agents, with respect to the results of any adjustment of loss by the Association's insurance carrier on a claim filed by the Board hereunder.

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, and the insurance carried by the Association shall be primary. Each Owner shall notify the Board of all structural improvements made by the Owner to his or her 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 or her expense and personal property belonging to such Owner, shall file a copy of such individual policy or policies with the Board within 30 days after the purchase of such insurance. Such Owner shall also promptly notify the Board in writing in the event such policy is canceled.

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

- (i) worker's compensation insurance if and to the extent necessary to meet the requirements of law;
- (ii) fidelity bonds or dishonesty insurance, if reasonably available, covering officers, directors, employees, and other persons who handle or are responsible for handling Association funds. Such bonds, if

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

(iii) flood insurance as may be required by any applicable laws or to meet the requirements of institutions servicing mortgages on behalf of Freddie Mac or Fannie Mae; and

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

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

**E. Mortgagee Rights.** 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.

**F. Owner Insurance.** Every Owner shall be obligated to obtain and maintain at all times insurance covering betterments and improvements made in his or her Unit, his or her personal property, and any portions of his or her Unit that are not insured by policies maintained by the Association. Such policy is generally referred to as an HO-6 policy, and each Owner should obtain coverage under such policy for any deductible which may be charged to the Owner on any Association insurance hereunder. Upon request by the Board, the Owner shall furnish a copy of such insurance policy or policies to the Association.

**G. Insurance Deductibles.** In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the person(s) 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 party's portion of the total cost of repair, or otherwise as the Board determines equitable. Notwithstanding this, 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 any deductible pertaining to his or her Unit. If any Owner fails to pay the deductible when required hereunder, then the Association may pay the deductible and assess the cost to the Owner pursuant to Paragraph 8(B) hereof; provided, however, where the deductible is for insurance required under the Act, no Owner shall be assigned more than \$5,000.00, or such higher amount as authorized by the Act, as the cost of the deductible for any one occurrence. This deductible assessment limit shall not apply to water damage insurance or other insurance that is not required under the Act.

**H. 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 this Declaration, 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

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

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

**B. Source and Allocation of 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 required in Paragraph 15 of this Declaration, the additional cost shall be a Common Expense. If, for any other reason, the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair, as determined by the Board, the additional costs shall be assessed against the Owners of the Unit(s) damaged in proportion to the damage to the Units or against all Owners, in the case of insufficient funds to cover damage to the Common Elements. This assessment shall not be considered a special assessment under Paragraph 9(E). 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. Floor Plans and Specifications.** Any such reconstruction or repair shall be substantially in accordance with the Floor Plans and specifications under which the Condominium was originally constructed, except where changes are necessary to comply with current applicable building codes or where improvements not in accordance with the original Floor Plans and specifications are approved by the Board of Directors. To the extent insurance proceeds are available, the Association may reconstruct or repair Owner improvements damaged as a result of fire or other casualty.

**D. 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 Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the Floor 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.

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

## 17. EMINENT DOMAIN

In the event of a taking of any portion of the Condominium by condemnation or by eminent domain, the provisions of the Act shall prevail and govern; however, any proceeds received for a taking of the Common Elements (other than Limited Common Elements) shall, at the Board's option, either be allocated to the Owners pursuant to O.C.G.A. Section 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

Each Owner and Occupant shall have a right and easement of use and enjoyment in and to the Common Elements (including the right of access, ingress and egress to and from his or her Unit over those portions of the Condominium designated for such purpose), and such easement shall be appurtenant to and shall pass with the title to such Unit, subject to the rights of the Owners to the exclusive use of the Limited Common Elements assigned to their respective Units and 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 and certain building access rights as provided herein. Every portion of a Unit and all Limited Common Elements contributing to the support of an abutting Unit shall be burdened with an easement of support for the benefit of such abutting Unit. All portions of the Condominium also shall be subject to easements of encroachment as provided in the Act.

## 19. MORTGAGEE'S RIGHTS

**A. Actions Requiring Approval.** Unless at least two-thirds of the first Mortgagees and two-thirds of the Owners give their consent, the Association or the membership shall not:

- (i) by act or omission seek to abandon or terminate the Condominium;
- (ii) change the pro rata interest or obligations of any individual Unit for the purpose of: (1) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or (2) determining the pro rata share of ownership of each Unit in the Common Elements;
- (iii) partition or subdivide any Unit in any manner inconsistent with the provisions of this Declaration;
- (iv) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements (the granting of easements or licenses, as authorized herein, shall not be deemed a transfer within the meaning of this clause); or
- (v) use hazard insurance proceeds for losses to any portion of the Condominium (whether to Units or to Common Elements) for other than the repair, replacement, or reconstruction of such portion of the Condominium.

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

**B. Liability for Assessments.** Where the Mortgagee holding a first priority Mortgage of record, a secondary priority 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 priority 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. However, such Mortgagee shall be responsible for the full monthly installment of the annual assessment and any installments of any special assessments

which become due in or after the month in which such foreclosure occurs, in addition to all assessments which come due thereafter.

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

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

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

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

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

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

**E. Sale of Units.** Notwithstanding anything to the contrary herein contained, the provisions of Paragraphs 13 and 14 hereof governing the sale of Units shall not apply to prevent any first Mortgagee from:

(i) Foreclosing or taking title to a Unit pursuant to remedies contained in its Mortgage; or

(ii) taking a deed or assignment in lieu of foreclosure; or

(iii) selling or otherwise disposing of a Unit acquired by the Mortgagee.

**F. No Priority.** No provision of this Declaration or the Bylaws shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Elements.

**G. Notice to Association.** Upon request, each Owner shall be obligated to furnish to the Association the name and address of any mortgagee encumbering such Owner's Unit.

**H. Failure of Mortgagee to Respond.** Any Mortgagee who receives a written request from the Board to respond to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

**I. Construction of this Paragraph.** Nothing contained in this Paragraph shall be construed to reduce the percentage vote that must otherwise be obtained under the Condominium Instruments or Georgia law for any of the actions set forth in this Paragraph.

## 20. AUTHORITY AND ENFORCEMENT

The Condominium shall be used only for those uses and purposes set out in this Declaration. Every Owner and Occupant shall comply with this Declaration, the Bylaws and Association rules and regulations, and any lack of compliance shall entitle the Association and, in an appropriate case, one or more aggrieved Unit Owners, to take



action to enforce the terms of the Declaration, Bylaws or rules and regulations; provided, however, individual aggrieved Owners are not granted authority hereunder to take enforcement actions as if acting as the Association's Board of Directors. In addition to any rights the Association may have against an Owner's family, guests, tenants or Occupants as a result of such person's violation of the Declaration, Bylaws or Association rules, 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.

The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the Owner's Unit, and to suspend an Owner's right to vote and/or to use the Common Elements for violation of any duty imposed under the Declaration, Bylaws or Association rules. However, nothing herein shall authorize the Association or the Board to deny ingress and egress to or from a Unit by an authorized Owner or Occupant. If any Occupant of a Unit violates the Declaration, Bylaws or Association rules, a fine may be imposed against the Owner and/or Occupant, as set forth below. The failure of the Board to enforce any provision of the Declaration, Bylaws or Association rules shall not be deemed a waiver of the right of the Board to do so thereafter.

In any enforcement action taken by the Association under this Paragraph, to the maximum extent permissible, all costs incurred by the Association in abating a violation or otherwise taking action to enforce the Declaration, Bylaws or Association rules, including reasonable attorneys' fees actually incurred, may be assessed against the violating Owner and/or Occupant pursuant to Paragraph 8(B) above.

**A. Fining and Suspension Procedure.** The Board shall not impose a fine, suspend the right to vote or suspend the right to use the Common Elements, unless and until the Association has sent or delivered written notice to the violator as provided in subparagraph (i) below. However this shall not be required for the following: (1) late charges on delinquent assessments; (2) suspension of voting rights if an Owner is shown on the Association's records to be more than 30 days delinquent in any payment due the Association, in which case suspension of the right to vote shall be automatic; (3) suspension of the right to use the Common Elements if an Owner is shown on the Association's records to be more than 30 days delinquent in any payment due the Association; and (4) suspension of common utility services, which shall require compliance with the provisions of Paragraph 9(C)(ii) above.

(i) **Notice.** If any provision of the Declaration or Bylaws or any Association rule is violated, the Board shall send the violator written notice identifying the violation and fine(s) and/or suspension(s) being imposed and advising the violator of the right to request a hearing before the Board to contest the violation or the fine(s) and/or suspension(s) or to request reconsideration of the fine(s) and/or suspension(s). **Fines and/or suspensions may be effective or commence upon the sending of such notice or such later date specified in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge the fine(s) and/or suspension(s).** In the event of a continuing violation, each day the violation continues or occurs again constitutes a separate offense, and fines may be imposed on a per diem basis without further notice to the violator.

(ii) **Hearing.** If a written request for hearing is received from the violator within 10 days of the date of the violation notice provided above, then the Board shall schedule and hold in executive session a hearing affording the violator a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing. The Board may establish rules of conduct for such hearing, which may include limits on time and on the number of participants who may be present at one time. Failure to request a timely hearing as provided herein shall result in loss of the right to challenge and request reconsideration of the fines.

**B. Additional Enforcement Rights.** Notwithstanding anything to the contrary herein contained, the Board may elect to enforce any provision of the Declaration, the Bylaws, or the rules and regulations by self-help and/or by suit at law or in equity to enjoin any violation or to recover monetary damages or both, without the necessity for compliance with the procedure set forth in subparagraph (A) above.

The Association or its duly authorized agent shall have the power to enter upon any portion of the Condominium to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition

which violates the Declaration, the Bylaws or the Association rules and regulations. If the Association exercises its rights under this subparagraph, all costs of self-help, including, reasonable attorneys' fees actually incurred, shall be assessed against the violating Owner and/or Occupant and shall constitute a lien against the Unit. Except in a situation determined by the Board to be urgent or an emergency, the Association shall notify the Unit Owner or Occupant at least 24 hours in advance of entering the Owner's or Occupant's Unit. Additionally, the Association shall have the authority to record in the Fulton County, Georgia land records a notice of violation identifying any uncured violation of the Declaration, Bylaws or rules and regulations regarding the Unit.

**C. Failure to Enforce.** Notwithstanding the above, no right of action shall exist against the Association for failure of enforcement where: (1) the Board determines that 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 or justify the expense and resources to pursue; or (3) the Owner or party asserting a failure of enforcement possesses an independent right to bring an enforcement action therefore at law or in equity and has failed to do so.

**D. Sanctions for Severe Violations.** It is recognized that certain severe violations expose the Association and the residents at the Condominium to unacceptable risks of liability, expense and harm. These violations include, but are not limited to: (i) vandalism or other acts that damage the Condominium; (ii) theft of Association property; (iii) repeat or recurring violations of the Declaration or Association rules after the Association has issued notices informing the Owner or Occupant of such violation(s); (iv) leasing without the required approval of the Association or without providing the required notification to the Association, which can result in the Association issuing false and possibly fraudulent statements to mortgage companies, insurance companies and others regarding the status of leased Units at the Condominium; (v) violation of any applicable law; and (vi) hostile, threatening or hazardous conduct towards other Owners, Occupants or Association agents. In this regard, in addition to the right to levy standard fines for violations and continuing fines under subparagraph (A) above for continuing violations, and in addition to all other remedies available to the Association, the Association may levy substantial additional fines, up to \$1,000.00 per occurrence, for violations determined by the Board to constitute severe violations of the Declaration or Association rules. The notice and hearing procedure identified in subparagraph (A) above also shall apply to fines for severe violations.

## 21. AMENDMENTS

**A. Membership Approval.** Except where a higher vote is required for action under any other provision of this Declaration or the Act, this 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 two-thirds of the total eligible Association vote.

Notice of any meeting at which a proposed amendment will be considered shall state the subject matter of the proposed amendment. ~~No amendment shall be effective until certified by the Association President and Secretary and recorded in the Fulton County, Georgia land records.~~

**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, 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 the above, and subject to Paragraph 19(H) hereof, material amendments to this Declaration 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.

**D. Amendment by Board.** Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the Owners, may amend this Declaration to correct any scrivener's errors, comply with any applicable state, city or federal law, and/or to bring the Condominium into compliance with applicable rules and regulations of the Federal National Mortgage Association ("Fannie Mae"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA") pursuant to federal law.

**E. Presumption of Validity.** Any action to challenge the validity of an amendment adopted under this Paragraph must be brought within one year of the effective date of such amendment. No action to challenge such amendment may be brought after such time.

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## 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 at the Condominium. However, each Owner, for himself or herself and his or her tenants, guests, licensees and invitees, acknowledges and agrees that the Association is not a provider of security and that the Association shall not have a duty to provide security at the Condominium. Furthermore, the

Association does not guarantee that non-Owners and non-Occupants will not gain access to the Condominium and commit criminal acts, nor that criminal acts at the Condominium will not be committed by other Unit Owners or Occupants. 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 Unit Owner. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of measures undertaken.

**B. Dispute Resolution.** Prior to filing a lawsuit against the Association, the Board of Directors, or any Officer, director, or property manager of the Association, an Owner or Occupant must request and attend a hearing with the Board. Any such request shall be in writing and shall be personally delivered to any Board member or the property manager, if any, of the Association. The Owner or Occupant shall, in such request and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the grievance before filing suit. Upon receiving a request for a hearing, unless the Board waives such hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date not less than seven or more than 21 days from the date of receipt of the request, except with approval of the person requesting the hearing.

**C. Damage Deposit.** The Board of Directors may require Owners and/or Occupants to pay a damage deposit in a reasonable amount determined by the Board to protect the Condominium against damage, including but not limited to a damage deposit for moving in or out of the Condominium and for construction projects at the Condominium.

**D. Relocation of Systems.** At the expense of the Association, the Board of Directors may relocate any portion of the air conditioning, heating, plumbing, ventilation, exhaust or electrical systems serving any particular Unit to another location, without the consent of the Unit Owner, provided that after such relocation such relocated system(s) shall function at least as well and with no greater cost to the Owner as existed prior to such relocation.

**E. Contractor Access to Common Elements.** The Board of Directors may ban any contractor or subcontractor from entering the Condominium to perform work at the Condominium if the Board determines that the contractor or subcontractor has had a history of violating the Declaration or Association regulations.

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

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

**H. Electronic Records, Notices and Signatures.** Notwithstanding any other portion of this Declaration, when authorized by the Board, 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 Bylaws shall govern the giving of all notices required by this Declaration.

**K. Duration.** The covenants and restrictions of this Declaration shall run with and bind the Property perpetually to the extent provided in the Act.

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

**IN WITNESS WHEREOF,** the undersigned Officers of Piedmont at Sixth Condominium Assoc., Inc., hereby certify that this Amended and Restated Declaration and the following restated Bylaws were duly adopted by the required majority of the Association and its membership, with any required notices duly given.

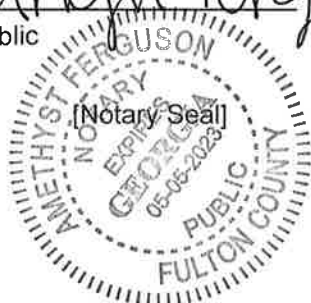
This 30 day of 9, 2019.

Sworn to and subscribed before me  
This 30 day of 9  
2019.

*[Handwritten Signature]*

Witness

*[Handwritten Signature]*  
Notary Public



**PIEDMONT AT SIXTH CONDOMINIUM ASSOC., INC.**

By: *[Handwritten Signature]* (Seal)  
MARTINE CHAUSSARD, PRESIDENT

Attest: *[Handwritten Signature]* (Seal)  
ELIZABETH SARACE, SECRETARY

[Corporate Seal]

## EXHIBIT "A"

The original legal for Piedmont at Sixth Condominium is attached as Exhibit "A" to the Bylaws of Piedmont at Sixth Condominium Assoc, Inc., said Exhibit A being recorded in Deed Book 7895, Page 409 of the Fulton County land records and incorporated herein by reference.

Due to the quality of the Exhibit "A" it is being retyped below and to the extent there are any conflicts between the original and the below, the original shall prevail.

All that tract or parcel of land lying and being in Land Lot 49 of the 14<sup>th</sup> District of Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at the corner formed by the intersection of the easterly right-of-way line of Piedmont Avenue (a 60 foot right-of-way) with the southerly right-of-way line of Sixth Street (a 30 foot right-of-way): thence southerly, along the westerly right-of-way line of Piedmont Avenue, 78 feet to an iron pin; thence westerly, along an interior angle of  $90^{\circ} 02'$  with the last preceding course, 115.1 feet to an iron pin; thence northerly, along an interior angle of  $89^{\circ} 57'$  with the last preceding course, 75 feet to an iron pin located on the southerly right-of-way line of Sixth Street; thence easterly, along the southerly right-of-way of Sixth Street, 115 feet to the corner formed by the intersection of the westerly right-of-way line of Piedmont Avenue with the southerly right-of-way line of Sixth Street and THE POINT OF BEGINNING; being improved property, having thereon a three story brick and frame apartment building known as 820 Piedmont Avenue, N.E., Atlanta, Georgia, according to the present system of numbering houses in the City of Atlanta, Georgia, as shown on survey by Eaton Pendley & Associates, Inc., dated November 4, 1980.

Said property is subject to a drive way easement for ingress and egress over, across and upon the westerly ten feet of said property.

The said plat and record thereof is incorporated herein by reference for all purposes.

## EXHIBIT "B"

UNITS OF PIEDMONT AT SIXTH, A CONDOMINIUM, AND THEIR PERCENTAGE INTEREST IN THE COMMON ELEMENTS:

<u>UNIT NUMBER</u>	<u>PERCENTAGE</u>
2, 4 & 6	9.3833% each
1, 3 & 5	9.1833% each
7, 9 & 11	7.4833% each
8, 10 & 12	7.2833% each

**EXHIBIT "C"**

**AMENDED AND RESTATED BYLAWS  
OF  
PIEDMONT AT SIXTH CONDOMINIUM  
ASSOCIATION, INC.**

THESE BYLAWS MAY BE USED ONLY IN CONNECTION WITH THE OWNERSHIP AND SALE OF PROPERTY AT  
PIEDMONT AT SIXTH CONDOMINIUM AND THE OPERATION OF THE PIEDMONT AT SIXTH CONDOMINIUM  
ASSOCIATION, INC.

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**BYLAWS  
OF  
PIEDMONT AT SIXTH CONDOMINIUM ASSOCIATION, INC.**

**Article I  
General**

**Section 1. Applicability.** These Bylaws provide for the self-government of Piedmont at Sixth Condominium Association, Inc., in accordance with the Georgia Condominium Act, the Articles of Incorporation filed with the Secretary of State and the Declaration of Condominium for Piedmont at Sixth, recorded in the Fulton County, Georgia land records ("Declaration").

**Section 2. Name.** The name of the corporation is Piedmont at Sixth Condominium Association, Inc. ("Association").

**Section 3. Definitions.** The terms used herein shall have their generally accepted meanings or the meanings specified in Paragraph 2 of the Declaration.

**Section 4. Membership.** An Owner of a Unit shall automatically become a member of the Association upon taking title to the Unit and shall remain a member for the entire period of ownership. A member's spouse or Domestic Partner may exercise the powers and privileges of the member. If title to a Unit is held by more than one Person, the membership shall be shared in the same proportion as the title, but there shall be only one membership and one vote per Unit. Membership does not include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. Membership shall be appurtenant to the Unit and shall be transferred automatically by conveyance of that Unit and may be transferred only in connection with the transfer of title.

**Section 5. Entity Members.** If an Owner is a corporation, partnership, trust, or other legal entity not being a natural person or persons, then any natural person who is an officer, director or other designated agent of such corporation, partner of such partnership, beneficiary or other designated agent of such trust, or manager of such other legal entity shall be eligible to represent such entity in the affairs of the Association. Such person's relationship with the Association, and any office or directorship held, shall terminate automatically upon the termination of such person's relationship with the entity which is the Owner.

**Section 6. Voting.** Each Unit shall be entitled to vote as provided for in the Declaration. Votes hereunder may be cast by the Owner, the Owner's spouse or Domestic Partner, or by a lawful proxy as provided below. When more than one Person owns a Unit, the vote for such Unit shall be exercised as they determine between themselves, but in no event shall more than one vote be cast with respect to any Unit. If only one authorized voter attempts to cast the vote for a Unit, it shall be conclusively presumed that such person is authorized on behalf of all co-owners and/or authorized voters to cast the vote for such Unit. In the event of disagreement between co-owners or authorized voters and an attempt by two or more of them to cast such vote(s), such Persons shall not be recognized and such vote(s) shall not be counted.

No Owner shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors, or to act as a proxy for any other member if that Owner is shown on the books or management accounts of the Association to be more than 30 days delinquent in any payment due the Association or if the Owner has had its voting rights suspended for any reason. If an Owner's voting rights have been suspended, that Owner shall not be counted as an eligible vote for purposes of establishing a Majority or a quorum, or for purposes of amending these Bylaws or the Declaration.

**Section 7. Majority.** As used in these Bylaws, the term "Majority," when capitalized, shall mean those votes, Owners, or other group as the context may indicate totaling more than 50% of the total number of eligible votes, Owners, or other group, respectively. Unless otherwise specifically stated, the words "majority vote" mean more than 50% of those voting in person or by proxy. Except as otherwise specifically provided in the Declaration or these Bylaws, all decisions shall be by majority vote.

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

**Section 9. Electronic Documents and Signatures.**

(a) **Documents.** When authorized by the Board, any document, record or instrument required under the Declaration or these Bylaws to be "written" or "in writing" shall be deemed satisfied by an Electronic Document. "Electronic Document" means information created, transmitted, received, or stored by electronic means and retrievable in human perceivable form, such as e-mail, web pages, electronic documents, facsimile transmissions, or similar electronic transmissions. Records, documents and instruments shall not be denied effect or validity solely on the grounds that they are electronic.

(b) **Signatures.** Whenever these Bylaws require a signature on a document, record or instrument, an electronic signature satisfies that requirement only if: (1) the signature is easily recognizable as a Secure Electronic Signature which is capable of verification, under the sole control of the signatory, and attached to the electronic document in such a way that the document cannot be modified without invalidating the signature; or (2) the Board reasonably believes that the signatory affixed the signature with the intent to sign the Electronic Document, and that the Electronic Document has not been modified since the signature was affixed.

(c) **Verification and Liability for Falsification.** The Board may require reasonable verification of any electronic signature, document, record or instrument. Absent or pending verification, the Board may refuse to accept any electronic signature or Electronic Document which, in the Board's sole discretion, is not clearly authentic. Neither the Board nor the Association shall be liable to any Association member or any other Person for accepting or acting in reliance upon an electronic signature or Electronic Document which the Board reasonably believes to be authentic, or rejecting any such item which the Board reasonably believes to not be authentic. Any member or Person who negligently, recklessly or intentionally submits any falsified Electronic Document or unauthorized electronic signature shall fully indemnify the Association for actual damages, reasonable attorneys' fees actually incurred and expenses incurred as a result of such acts.

**Article II**  
**Meetings of Members**

**Section 1. Annual Meetings.** The regular annual meeting of the members shall be held within 60 days of the close of each fiscal year, with the date, hour, place, agenda and meeting rules of conduct to be set by the Board.

**Section 2. Special Meetings.** Special meetings of the members may be called for any purpose at any time by the President, the Secretary, or by request of any two or more Board members, or upon written petition of at least 15% of all Association members. Any such written petition by the members must identify the special meeting purpose on each page of the petition and must be for a purpose on which the members are authorized to act under these Bylaws or the Declaration. The petition with original signatures must be submitted to the Association's Secretary. The Secretary shall then verify that the required number of members have joined in the petition and shall submit all proper petitions to the Association's President. The President shall then promptly call a special meeting for the purpose stated in the petition, at a date, time and location selected by the President, and the Secretary shall send notice of such meeting in accordance with these Bylaws and within 30 days of the date of delivery of the petition to the Secretary.

**Section 3. Notice of Meetings.** The Secretary shall mail or deliver to each Owner of Units of record or to the Units a notice of each Association meeting at least 21 days prior to each annual meeting and at least seven

days prior to each special meeting. The notice shall state the time and place of the meeting, and, for any special meeting, the purpose of the meeting. Mailing or delivering notice as provided in this Section shall be considered proper service of notice.

**Section 4. Waiver of Notice.** Waiver of notice of an Association meeting shall be deemed the equivalent of proper notice. Any Owner may, in writing, waive notice of any meeting of the Owners, either before or after such meeting. Attendance at a meeting by an Owner, whether in person or represented by proxy, shall be deemed waiver by such Owner of notice of the time, date, and place thereof unless such Owner specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted at such meeting unless objection to lack of notice is raised before the business, of which proper notice was not given, is put to a vote.

**Section 5. Quorum.** Except as may be provided elsewhere herein, the presence, in person or by proxy at the beginning of a meeting, of members entitled to cast at least 20% of the total eligible Association vote shall constitute a quorum. Once a quorum is established for a meeting, it shall conclusively be presumed to exist until the meeting is adjourned and shall not need to be reestablished. Members whose voting rights have been suspended pursuant to the Declaration or these Bylaws shall not be counted as eligible votes toward the quorum requirement.

**Section 6. Adjournment.** Any meeting of the members may be adjourned for periods not exceeding 10 days by vote of the members holding a Majority of the votes represented at such meeting, regardless of whether a quorum is present. Any business which could have been transacted properly at the original session of the meeting with a quorum present may be transacted at a reconvened session with a quorum present, and no additional notice of such reconvened session shall be required.

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

**Section 8. Action Taken Without a Meeting.** In the Board's discretion, any action that may be taken by the Association members at any annual, regular, or special meeting may be taken without a meeting by written consent, written ballot, or electronic vote, as provided below.

(a) **Ballot.** If the Board elects to propose a membership action by ballot in lieu of a meeting, then the Board must submit or deliver a written ballot to every member entitled to vote on the matter, and the ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. However, such requirements shall not apply to action by written consent in accordance with subsection (b) below, and only the Board may authorize action by ballot hereunder. When the Board authorizes ballot voting under this subsection (a), ballots may be delivered to the members and/or returned by members by electronic mail. Approval by written ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

All solicitations for votes by written ballot shall: (1) indicate the number of responses needed to meet the quorum requirements; (2) state the percentage of approvals necessary to approve each matter other than election of directors; and (3) specify the time by which a ballot must be received by the Board in order to be counted. A written ballot may not be revoked. The Association shall maintain such ballots in its file for at least three years.

**(b) Written Consent.** Approval by written consent in lieu of a meeting shall be valid only when the number of written consents received equals or exceeds the requisite majority of the voting power for such action. Executed written consents shall be included in the minutes or filed with the Association's records, and the Board may accept properly authenticated documents sent by electronic mail as written consents hereunder. If an action of the members is approved by written consent hereunder, the Board shall issue written notice of such approval to all members who did not sign written consents. Membership approval shall be effective 10 days after written notice is issued; provided, however, if the consent is to an amendment to the Declaration or Bylaws which must be recorded, the effective date shall be no earlier than the date of recording of such amendment. It shall not be necessary to follow the procedural requirements of subsection (a) above to take action by written consent under this subsection (b).

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

### **Article III** **Board of Directors**

#### **A. Composition and Selection.**

**Section 1. Composition.** The affairs of the Association shall be governed by a Board of Directors. The Board shall be composed of not less than three or more than five persons, the number to be determined by the Board. The directors shall be Owners of Units or spouses of such Owners; provided, however, no Owner and his or her co-Owner, spouse may serve on the Board at the same time. All directors shall be subject to election by all Unit Owners.

**Section 2. Term of Office.** Those directors serving on the Effective Date of these Amended and Restated Bylaws shall remain in office until the terms for which they were elected expire or until they resign. Successor directors shall be elected by the vote of those members present or represented by proxy, at the annual or other meeting of the membership of the Association, a quorum being present. Those persons receiving the most votes shall be elected to the number of positions to be filled. All successor directors shall be elected for two year terms and shall hold office until the first Board meeting following the election of their respective successors or until such director resigns or is removed as provided herein. Newly elected directors shall begin their terms at the conclusion of the first Board meeting following their election. At the expiration of a director's term of office, if a successor cannot be elected for any reason, the existing director may continue to hold office and begin serving another term until his or her successor is elected to fill the remainder of such new term, or he or she resigns.

**Section 3. Removal of Members of the Board of Directors.** At any duly called Association meeting, for which the notice given includes a notice of a vote to remove directors, any one or more Board members may be removed with or without cause by members holding a majority of the total Association vote, and a successor may then and there be elected to fill the vacancy created. Moreover, any director may be removed by a Majority of the other directors if he or she: (i) has had three consecutive unexcused absences from regularly scheduled Board meetings or five absences in any 12 month period; (ii) is more than 30 days past due in the payment of any assessment or charge owed to the Association; (iii) is under suspension of voting rights as an Association member; (iv) was appointed to the Board and not elected by the Association membership; or (v) files any legal action, counterclaim or administrative action against the Association, any Association director or officer, in his or her capacity as such, or the Association's managing agent. Any director whose removal has been proposed by the Association membership shall be given at least 10 days' notice of the calling of the meeting to consider his or her removal and the purpose thereof and shall be given an opportunity to be heard at the meeting.

**Section 4. Vacancies.** Vacancies in the Board caused by any reason, except the removal of a director by vote of the membership, shall be filled by a vote of the Majority of the remaining directors, even though less than a quorum, at any Board meeting. The successor so selected shall hold office until the first annual Association meeting following such appointment, at which time an election shall be held to elect a successor to fill the remainder of the term, if any, of the director position that was filled by such appointment.

**Section 5. Compensation.** Directors shall not be compensated for services performed as directors. Notwithstanding the above, directors may be reimbursed for the authorized expenses incurred in carrying out their duties as directors upon Board approval of such expenses. For purposes hereof, reasonable food and beverages purchased for Board meetings open to members or general mandatory meetings shall not be considered compensation.

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

**Section 7. Nomination.** Nomination for election to the Board of Directors shall be made from the floor at the meeting, or, if elections are conducted by mail-in ballot or electronically in lieu of a meeting, by the method and date prescribed by the Board. The Board also may appoint a nominating committee to make nominations prior to the meeting. Each nominee shall be given a reasonable opportunity to communicate his or her qualifications to the membership prior to the election.

**Section 8. Elections.** Directors shall be elected at the annual membership meeting or by mail-in or electronic ballot in lieu of such meeting. If elections are held at the annual membership meeting, voting shall be by written ballot, unless dispensed with by unanimous consent or unless a slate of candidates is unopposed and is accepted by acclamation. The nominees receiving the most votes shall fill the directorships for which elections are held. There shall be no cumulative voting.

**B. Meetings.**

**Section 9. Regular Meetings.** Regular Board meetings shall be held at least every six (6) months at such time and place as determined by the Board. The Board shall meet with the newly elected directors within 30 days after each annual meeting of the membership.

**Section 10. Special Meetings.** Special Board meetings may be called by the President on two days' notice to each director given by mail, in person, by telephone, by e-mails or by facsimile transmission, which notice shall state the time, place and purpose of the meeting. Special Board meetings shall be called by the President, Vice President, Secretary, or Treasurer in like manner and on like notice at the written request of at least a Majority of the directors.

**Section 11. Waiver of Notice.** Any director may in writing, at any time, waive notice of any Board meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any Board meeting also shall constitute a waiver of notice by him or her of the time and place of such meeting. If all directors are present at any Board meeting, no notice shall be required and any business may be transacted at such meeting.

**Section 12. Conduct of Meetings.** The President shall preside over all Board meetings, and the Secretary shall keep a minute book recording therein all resolutions adopted by the Board and a record of all transactions and proceedings occurring at such meetings. The presence of directors entitled to cast at least one-half of the votes of the Board shall constitute a quorum for the transaction of business. One or more directors who participate in a meeting by means of telephone or electronic communication shall be deemed present and in attendance for all purposes at such meeting, provided all persons participating in the meeting can hear each other. Directors may not participate in Board meetings by proxy.

**Section 13. Open Meetings.** If the Board provides for Board meetings or portions thereof to be open to members, then members other than directors may not participate in any discussion or deliberation unless expressly

so authorized by the Board. Notwithstanding the above, the Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, other matters the Board considers to be sensitive or confidential, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session. The Board may order the removal of any meeting guest who, in the Board's opinion, either disrupts the conduct of business at the meeting or fails to leave the meeting upon request after an announcement of reconvening in executive session.

**Section 14. Action Without a Meeting.** Any Board action required or permitted to be taken at any meeting may be taken without a meeting if a Majority of the directors consent in writing to such action. Such written consents must describe the action taken, be signed by no fewer than a Majority of the directors, and be filed with the Board minutes. For purposes hereof, written consents of directors may be given by electronic mail or other electronic document.

**C. Powers and Duties.**

**Section 15. Powers and Duties.** The Board shall manage the affairs of the Association and shall have all the powers and duties necessary for the administration of the Condominium and may do all such acts and things as are not by the Act, the Declaration, the Articles of Incorporation, or these Bylaws directed to be done and exercised exclusively by the members. Any and all functions of the Association shall be fully transferable by the Board, in whole or in part, to any other entity. In addition to the duties imposed by these Bylaws, the Board shall have the power to perform, and shall be responsible for, the following, in the way of explanation, but not limitation:

- (a) preparing and adopting an annual budget, in which there shall be established the contribution of each Owner to the Common Expenses;
- (b) making assessments to defray the Common Expenses, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment;
- (c) providing for the operation, care, upkeep, and maintenance of all of the Area of Common Responsibility as defined in the Declaration;
- (d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and the maintenance, repair and replacement of the Common Elements, Association property and Area of Common Responsibility, and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties;
- (e) collecting the assessments, depositing the proceeds thereof in a financial depository or institution which it shall approve, or otherwise investing the proceeds in accordance with any limitations set forth in O.C.G.A. Section 14-3-302, and using the proceeds to administer the Association;
- (f) making and amending rules and regulations and imposing sanctions for violations thereof, including reasonable monetary fines;
- (g) opening of bank or other financial accounts on behalf of the Association and designating the signatories required;
- (h) making or contracting for the making of repairs, additions and improvements to, or alterations of, the Common Elements after damage or destruction by fire or other casualty, in accordance with the other provisions of the Declaration and these Bylaws;
- (i) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it, and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

- (j). obtaining and carrying insurance against casualties and liabilities, as provided in the Act and the Declaration, and paying the premium cost thereof;
- (k) paying the costs of all services rendered to the Association or its members and not directly chargeable to specific Owners;
- (l) keeping books with detailed accounts of the receipts and expenditures of the Association; and
- (m) borrowing or lending money, subject to Section 17 below; and
- (n) contracting with any Person for the performance of various duties and functions.

**Section 16. Management Agent.** The Association may, but shall not be required to, hire a professional management agent or agents, at a compensation established by the Board, to perform such duties and services as the Board shall authorize. The Board shall use reasonable efforts in any management contract to provide for termination of such contract with or without cause and without penalty, upon no more than 30 days written notice, and provide for a term not in excess of one year.

**Section 17. Borrowing.** The Board of Directors, on behalf of the Association, shall have the power to borrow money, without the approval of the members of the Association, to maintain, repair, replace or restore the Area of Common Responsibility. The Board also shall be authorized to borrow money for other purpose with approval of those members holding a Majority of the total eligible Association vote which is cast at a duly called meeting or by ballot or consent as provided herein.

**Section 18. Liability and Indemnification of Officers, Directors and Committee Members.** The Association shall indemnify every officer, director and committee member against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon such officer, director or committee member in connection with any action, suit, or other proceeding (including settlement of any such action, suit, or proceeding, if approved by the then Board of Directors) to which he or she may be made a party by reason of being or having been an officer, director or committee member, whether or not such person is an officer, director or committee member at the time such expenses are incurred subject to the limitations below. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, or for injury or damage caused by any such officer, director, or committee member in the performance of his or her duties, except for his or her own individual willful misfeasance or malfeasance. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or committee member or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and, if obtainable, officers' and directors' liability insurance to fund such obligation, and such insurance shall be written as provided in the Declaration.

#### **D. Committees.**

**Section 19. Committees.** There shall be such committees as the Board shall determine with the powers and duties that the Board shall authorize.

**Section 20. Service on Committees.** Unless otherwise provided in these Bylaws or in the resolution authorizing a particular committee, the members of any committee shall be appointed by the President and shall serve at the pleasure of the Board of Directors. Any committee member may be removed with or without cause at any time and with or without a successor being named.



#### **Article IV** **Officers**

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

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

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

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

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

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

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

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

**Section 9. Other Officers.** Other offices may be created by the Board, with such titles and duties as defined by the Board.

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

#### **Article V** **Miscellaneous**

**Section 1. Notices.** All notices, demands, bills, statements or other communications given under these Bylaws or the Declaration shall be in writing and, unless prohibited under these Bylaws or the Declaration, shall be

given: (1) by personal delivery to the addressee; (2) by United States mail, first class, postage prepaid; (3) by electronic mail or other electronic document; or (4) via facsimile.

Notice sent by one of the methods described above shall be deemed to have been duly given:

(a) If to an Owner, at the mailing address, electronic mail address or facsimile number which the Owner has designated in writing and filed with the Secretary, or if no such address has been designated, at the address of the Unit of such Owner;

(b) If to an Occupant, to the address of the Unit occupied and/or the electronic mail address or facsimile number which the Occupant has designated in writing and filed with the Secretary; or

(c) If to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other mailing address, electronic mail address or facsimile number as shall be designated in writing and approved for use by the Association's Board of Directors.

If an Owner wishes notice to be issued to an address other than the Unit, then the Owner must specifically identify that address in writing to the Secretary and request that notices be sent to such address.

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

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

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

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

**Section 6. Financial Review.** A financial review of the Association's accounts shall be performed and a financial statement prepared annually in the manner provided by the Board. However, after receiving the Board's financial report at the annual meeting, the Association members may, by a majority of the total Association vote, require that the Association's accounts be audited as a Common Expense by an independent accountant. The financial statement and, if applicable, the audit shall be made available to the holder, insurer, or guarantor of any first mortgage on a Unit upon submission of a written request therefor. Financial statements shall be made available within 120 days after the end of the Association's fiscal year.

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

**Section 8. Amendment.** These Bylaws may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members holding at least two-thirds (2/3) of the total eligible vote of the Association, subject to the default approval procedure specified in the Declaration. Notice of a meeting, if any, at which an amendment will be considered shall state that fact and the subject matter of the proposed amendment. No amendment shall become effective until it is certified by the Association's President and Secretary and recorded in the Fulton County, Georgia land records. Any amendment duly certified and recorded shall be conclusively presumed to have been duly adopted in accordance with the Bylaws. Owners

whose voting rights have been suspended pursuant to the Declaration or these Bylaws shall not be counted as eligible votes toward the amendment requirement. If legal action is not instituted to challenge the validity of an amendment within one year of the recording of the amendment in the Fulton County, Georgia land records, then such amendment shall be presumed to be validly adopted.

**Section 9. Books and Records.** To the extent provided in O.C.G.A. Section 14-3-1602, all Association members and any institutional holder of a first Mortgage shall be entitled to inspect Association records at a reasonable time and location specified by the Association, upon written request received at least five business days before the date on which the member wishes to inspect and copy. The Association may impose a reasonable charge, covering the cost of labor and material, for copies of any documents provided to the member. Notwithstanding anything to the contrary, the Board may limit or preclude member inspection of confidential or privileged documents, including attorney/client privileged communication, executive session meeting minutes, and financial records or accounts of other members. Minutes for any Board or Association meetings do not become effective and an official Association record until approved by the Board or Association membership, as applicable, at a subsequent meeting.

**CERTIFICATION**

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Piedmont at Sixth Condominium Association, Inc., a Georgia corporation;

That the foregoing Bylaws constitute the Amended and Restated Bylaws of said Association, as duly adopted by the Board of Directors and the members of the Association on the 12 day of 9, 2019.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association  
This day of 9/30, 2019.

**PIEDMONT AT SIXTH CONDOMINIUM  
ASSOCIATION, INC.**

 (Seal)  
Secretary  
  
Elizabeth Savage  
[Corporate Seal]

EXHIBIT "D"  
Sworn Statement of the Secretary of  
Piedmont at Sixth Condominium Assoc., Inc.

STATE OF GEORGIA  
COUNTY OF FULTON

Re: Piedmont at Sixth Condominium Assoc., Inc.

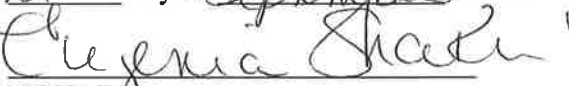
Personally appeared before me, the undersigned deponent who, being duly sworn, deposed and said on oath that:

1. Deponent is the Secretary of Piedmont at Sixth Condominium Assoc., Inc.
2. Deponent is duly qualified and authorized to make this Affidavit and knows the facts contained herein are of his or her own personal knowledge.
3. The foregoing Amended and Restated Declaration of Condominium for Piedmont at Sixth Condominium and Amended and Restated Bylaws for Piedmont at Sixth Condominium Assoc., Inc. was approved by the affirmative vote of the members of the Association holding two-thirds (2/3) of the votes in the Association.
4. Notice of the foregoing Amended and Restated Declaration of Condominium for Piedmont at Sixth Condominium and Amended and Restated Bylaws for Piedmont at Sixth Condominium Assoc., Inc. has been sent by certified mail to all Institutional Mortgagees as required pursuant to Subparagraph 24(a) of the Declaration as well as any other notices required by the Georgia Condominium Act.
5. Deponent makes this Affidavit pursuant to Official Code of Georgia Annotated Section 44-2-20.

This 12 day of September, 2019.

By:   
Name: Elizabeth Savage

Sworn to and Subscribed before me this  
12<sup>th</sup> day of September, 2019:

  
NOTARY PUBLIC

My Commission Expires:

May 18, 2022



Deed Book 60654 Pg 99  
CATHLENE ROBINSON  
Clerk of Superior Court  
Fulton County, Georgia