

(y) Survey shall mean the plat of survey for Cheshire Place Condominium, filed in the condominium plat book of the Fulton County, Georgia records.

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

### 3. LOCATION, PROPERTY DESCRIPTION, PLATS AND PLANS.

The Condominium subject to this Declaration and the Act is located in Land Lot 5, of the 17<sup>th</sup> District of Fulton County, Georgia, being more particularly described in Exhibit "A" attached to this Declaration, which exhibit is specifically incorporated herein by this reference. The Survey and Floor Plans relating to the Condominium have been filed in the Fulton County, Georgia records. The Survey and Floor Plans are incorporated herein by reference as fully as if the same were set forth in their entirety herein. So long as Declarant owns a Unit, Declarant reserves the right, but shall have no obligation, to make improvements and changes to all or part of the Common Elements and the Units owned by Declarant (other than changes to the location of Unit boundaries unless expressly permitted herein), including, without limitation, addition and realignment of parking spaces, renovation and installation of changes to utility systems and facilities, rearrangement and installation of security and refuse facilities, work relating to building exteriors, and extension of the drives and utility lines and pipes located on the Condominium.

### 4. UNITS AND BOUNDARIES.

The Condominium consists of three (3) separate buildings divided into fifty-four (54) separate Units, the Limited Common Elements and the Common Elements. Each Unit consists of a dwelling and its appurtenant equal undivided interest in the Common Elements. Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the Act and the Condominium Instruments. The Units are depicted on the Survey and the Floor Plans. Each Unit includes that part of the structure which lies within the following boundaries:

(a) Vertical Boundaries. The perimetrical or vertical boundaries of each Unit shall be the vertical planes of the exterior surfaces of the masonry plaster constituting the walls of the Unit. With respect to common walls between Units, the perimetrical or vertical boundary of the Units served thereby shall be the centerline of such wall. The vertical boundaries include the masonry plaster, on the Unit side of the walls, and they are extended to their intersections with each other and the upper and lower horizontal boundaries of the Unit. Entry doors and exterior glass surfaces, including, but not limited to, windows, serving the Unit shall be included within the boundaries of the Unit. Heating and air conditioning systems, hot water heaters, and utility panels serving a single Unit, all duct work for the heating and air conditioning system, including any part of any such systems located outside the boundaries of the Unit, and appliances and plumbing fixtures within a Unit shall be part of the Unit.

(b) Horizontal Boundaries. The upper horizontal boundary of each Unit located in the Condominium is the plane formed by the uppermost, unexposed surface of the plaster, wallboard or other material comprising the ceiling enclosing the uppermost story of the Unit. The lower horizontal boundary of each Unit located in the Condominium is the plane formed by the lower surface of the concrete slab or the wood framing, as the case may be, on which the wood subflooring rests and on which the Unit is constructed. The upper and lower boundaries of each Unit include the wood, dry-wall, plaster or other materials forming the ceiling, subfloor and floor, as may be applicable, on the Unit side of such concrete, subfloor or framing, as the case may be, and extend to their intersections with the perimetrical boundaries of the Units. If any chutes, flues, ducts, conduits, wires, pipes or other apparatus lies partially within and

partially outside of the designated boundaries of the Unit, any portion thereof which serve only that Unit shall be deemed to be 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.

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

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

5. COMMON ELEMENTS.

The Common Elements consist of all portions of the Condominium not located within the boundaries of a Unit. The Common Elements include, without limitation, certain fences, access gates, utilities, landscaping, paving and parking areas, exterior walls, the corridors and stairways within and outside the buildings, mechanical rooms, roof structures, a common mailbox structure, and a pool.

Ownership of the Common Elements shall be by the Unit Owners as tenants-in-common. An undivided interest percentage in the Common Elements is allocated to each Unit as set forth in Exhibit "B" attached to this Declaration and incorporated herein by this reference. Such undivided interest may be altered only by the consent of all Owners and Mortgagees (or such lesser number of Owners and Mortgagees as may hereafter be prescribed by the Act) expressed in a duly recorded amendment to this Declaration, except in the case of expansion of the Condominium, as provided in paragraph 26 thereof, in which case the amendment may be approved and executed by Declarant without approval of the Owners or Mortgagees.

The Common Elements shall remain undivided, and no Owner nor any other person shall bring any action for partition or division of the whole or any part thereof except as provided in the Act. Except as provided for Limited Common Elements or as otherwise provided herein, each Owner and the Association may use the Common Elements for the purposes for which they are intended, but no such use shall enter or encroach upon the lawful rights of the other Owners.

6. LIMITED COMMON ELEMENTS.

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

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

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