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After Recording Return To:  
G. Marcus Hodge  
Fortson, Bentley & Griffin, P.A.  
P.O. Box 1744  
Athens, GA 30603

Hevonly Logan  
Clerk Superior Court, Athens-Clarke County, Ga.  
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DECLARATION  
OF  
THE OVERLOOK ON BAXTER CONDOMINIUM

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PREPARED BY:

G. Marcus Hodge, Esquire  
Fortson, Bentley and Griffin, P.A.  
440 College Avenue, North, Suite 220  
P.O. Box 1744  
Athens, Georgia 30603



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STATE OF GEORGIA

COUNTY OF ATHENS-CLARKE

DECLARATION OF CONDOMINIUM  
FOR  
THE OVERLOOK ON BAXTER CONDOMINIUM

THIS DECLARATION, made this 4<sup>th</sup> day of January, 2005, by BABB ENTERPRISES, LLC, a Georgia limited liability company (hereinafter referred to as "Declarant").

W I T N E S S E T H:

WHEREAS, Declarant is the fee simple owner of all that tract or parcel of land (hereinafter referred to as the "Property"), described in Exhibit "A" attached hereto and by this reference made a part hereof, and the improvements situated thereon, and desires to submit the Property and the improvements to the provisions of the Georgia Condominium Act (Official Code of Ga. Ann. Title 44, Chapter 3, Article 3) (hereinafter sometimes referred to as the "Act"); and

WHEREAS, the Property is shown on that certain plat of survey entitled "Condominium Plat For: The Overlook on Baxter" prepared by Brewer & Dudley, L.L.C. dated December 22, 2004, (hereinafter referred to as the "Plat"), recorded in Condominium Plat Book 02, page 167, in the Office of the Clerk of the Superior Court of Athens-Clarke County, Georgia; and

WHEREAS, said improvements are shown on those certain drawings entitled "Stadium Overlook" dated November 20, 2003, prepared by Bryant Assoc. Architects, (hereinafter referred to as the "Plans"), recorded in Condominium Plans Drawer No. 232, in the Office of the Clerk of the Superior Court of Athens-Clarke County, Georgia;

NOW THEREFORE, Declarant hereby declares that the Property described in Exhibit "A" hereto, including the improvements thereon, is hereby submitted and made subject to the form of ownership set forth in the Act, and is hereby made subject to this Declaration. The Property shall be owned, held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to the provisions of the Act and this Declaration, and every grantee of any interest in the Property by acceptance of a deed or other conveyance of such interest, whether or not such deed or other conveyance of such interest shall reference the Act and this Declaration, and shall be signed by such person, and whether or not such person shall otherwise consent in writing, shall take subject to the provisions of the Act and this Declaration and shall be deemed to have assented to the same.



ARTICLE I  
STATUTORY REFERENCE

1.01 Georgia Condominium Act. This Declaration is made pursuant to Title 44, Chapter 3, Article 3 of the Official Code of Georgia Annotated, known as the "Georgia Condominium Act" (Acts 1975, p. 609, (1)).

1.02 Definitions. The terms used in this Declaration, unless otherwise specified or unless the context otherwise requires, shall have the meanings specified in Title 44, Chapter 3, Article 3 of the Act. In addition, when used in this Declaration (unless the context otherwise requires), the following words shall have the following meanings:

- (a) "Articles of Incorporation" shall mean the Articles of Incorporation of the Association as the same may be hereinafter amended.
- (b) "Association" shall mean and refer to The Overlook on Baxter Condominium Association, Inc., a non-profit Georgia corporation, its successors and assigns.
- (c) "Board of Directors" shall mean the Board of Directors of the Association, the members of which shall be appointed and elected from time to time as provided in this Declaration, the Articles of Incorporation, the By-Laws, and the Act.
- (d) "By-Laws" shall mean the By-Laws of the Association which shall be recorded with the Declaration as Exhibit "F" attached hereto and by this reference made a part hereof.
- (e) "Commercial-Retail Units" shall mean the Units, or any subdivision or alteration thereof made in accordance with the Act, located on the first (1<sup>st</sup>) floor as depicted on the Plat and Plans.
- (f) "Property" shall mean and refer to the real property described in Exhibit "A" hereto, which is hereby submitted to the form of ownership prescribed in the Act and to the provisions of this Declaration.
- (g) "Residential Unit" shall mean the twenty-four (24) Residential Units, or any subdivision thereof made in accordance with the Act, located on floors two (2) through five (5) as depicted on the Plat and Plans.

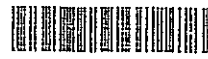
ARTICLE II  
PROPERTY RIGHTS

2.01 Name and General Description. The name of the Condominium, which is located at the corner of Baxter Street and Pope Street, Athens-Clarke County, Georgia, shall be The Overlook on Baxter Condominium. The Condominium consists of the Property, described by metes and bounds in Exhibit "A" hereto, together with the improvements situated thereon. The improvements include, but are not limited to, one (1) building which contains a total of twenty-four (24) Residential Units and three (3) Commercial-Retail Units (hereinafter collectively the "Units").

2.02 Description of Units. Each Unit (including its undivided interest in the Common Elements in the percentages hereinafter established and delineated) shall for all purposes constitute real property which may be owned in fee simple and which, subject to the provisions of the Act and this Declaration, may be transferred, conveyed and encumbered in the same manner as any other real property. Such undivided interest in the Common Elements shall not be separated from the Unit to which it appertains and shall be deemed to be conveyed or encumbered with the Unit even though such interest is not expressly stated or referred to in the conveyancing instrument. The boundaries of each Unit shall be deemed to be the walls, floors and/or ceilings thereof, as more particularly described in Exhibit "B" attached hereto and by this reference made a part hereof. The location and dimensions of the boundaries of each Unit, to the extent that such boundaries lie within or coincide with the boundaries of every structure which contains or constitutes all or part of any Unit, are depicted on the Plat and Plans. Prior to the first conveyance of any Unit by Declarant, Declarant will cause a certificate in the form of Exhibit "C" attached hereto, which is by this reference made a part hereof, to be recorded in accordance with the provisions of the Act. The Units are identified in the Plans by the Unit identifying numbers shown on Exhibit "D" attached hereto and by this reference made a part hereof, which Exhibit also serves to set forth (i) the approximate area of each Unit; and (ii) the allocation of interests in the Common Elements, voting rights in the Association and liabilities for Common Expenses to each Unit.

2.03 Subdivision of Units. The Commercial-Retail Units may be altered and subdivided in accordance with the provisions of the Act. The subdivision of Residential Units is specifically prohibited.

2.04 Description of Limited Common Elements. Supplementing the provisions of the Act, ownership of each Unit shall entitle the Owner thereof to the exclusive use of those portions of the Common Elements



consisting of (a) any heating and/or air conditioning compressors, units, components or other apparatus serving such Unit which may be located beyond the boundaries thereof; (b) any entranceways, stairways and appurtenant fixtures and facilities providing direct access to the Units; and (c) any patio or balcony, together with the enclosure therefor, now or hereafter located in whole or in part adjacent to a Unit, or any parking spaces or storage facilities designated for the use of a particular Unit or Units. In the event that any of the items described herein or in the Act serve one or more Units but less than all of the Units in the building, such items shall be Limited Common Elements appurtenant to the Unit or Units served thereby.

2.05 Description of Common Elements; Use Charges. The Common Elements shall consist of all portions of the Condominium other than the Units, and shall include, without limitation, the grounds, outside parking areas, outside common area lighting, storage areas, halls and entranceways, master sprinkler system, and all skylights installed by the Declarant in the original construction of the building. The Association is hereby granted the right at any time and from time to time to impose charges for the use of certain of the Common Elements, including, without limitation, the parking and storage areas.

2.06 Easements. The following easements from each Unit Owner to the other Unit Owners, the Association and Declarant are hereby reserved and established:

- (a) Use and Enjoyment. Every Unit Owner, his successors, legal representatives, heirs and assigns, family, tenants and guests, 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 Unit over those portions of the Property designated for such purpose) and such easement shall be appurtenant to and shall pass with the title to every Unit, subject to the following provision: The right of the Association to control the use and enjoyment thereof as provided in Articles VIII and IX hereof, which shall include, but not be limited to, the right of the Association to suspend the voting rights of a Unit Owner for any period of time during which an assessment (or any portion of any monthly installment thereof) against his Unit is due and remains unpaid or for a reasonable time for infraction of the Association's published rules and regulations;
  
- (b) Maintenance and Repair. There shall be an easement through the Units, the Common Elements and the Limited Common Elements for the installation, maintenance, repair and replacement of Units, Common Elements and Limited Common Elements. Use of this easement shall be only during normal



business hours, except that access may be had at any time in the case of emergency;

- (c) Structural Support. Every portion of a Unit which contributes to the structural support of another Unit shall be burdened with an easement of structural support;
- (d) Utilities. The Association shall have the power to grant and accept easements over, through and across the Condominium for the installation, maintenance and replacement of utilities and other purposes, and as otherwise provided in the Act; and
- (e) General. (i) There shall be a general easement to the Association, its directors, officers, agents and employees (including, but not limited to, any manager employed by the Association) to enter upon the Condominium or any portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with the permission of the Unit Owner(s) directly affected thereby; (ii) Declarant and his duly authorized agents, representatives and employees shall have an easement for the maintenance of sales offices and/or Model Units in the Condominium for so long as Declarant owns any Unit; and (iii) Declarant and his duly authorized agents, representatives and employees shall have an easement on and over the Common Elements and the Limited Common Elements for the purpose of making improvements in and to the Condominium, for the purpose of doing any and all things reasonably necessary and proper in connection therewith. Declarant warrants no easement for light, air or sight to any Unit Owner.

2.07 Allocation of Undivided Interest in Common Elements.

Pursuant to the provisions of the Act, the undivided interest in the Common Elements allocated to each Unit is that percentage set forth in Exhibit "D" hereto. The undivided interest in the Common Elements hereby allocated to each Unit shall not be altered except to the extent otherwise expressly provided by the Act or permitted by this Declaration, and any purported transfer, encumbrance or other disposition of that interest without the Unit to which it appertains shall be void.

2.08 Alterations of Units. Subject to the provisions of the By-Laws of the Association in effect from time to time, any Unit Owner may make any improvements or alterations to the interior of his Unit that are not of a structural nature and do not impair the structural



integrity of any structure or otherwise lessen the support of any portion of the Condominium. No other improvements or alterations of any kind shall be made without the prior written approval of the Board of Directors of the Association. Subject to the provisions of this Section 2.08, boundaries between Units may be relocated in accordance with the provisions of the Act.

2.09 Reassignment of Limited Common Elements. The reassignment of Limited Common Elements may be made pursuant to the provisions of the Act.

2.10 Subsequent Assignment of Common Elements as Limited Common Elements. Except as otherwise provided for herein, in the event that the Association's Board of Directors should authorize or otherwise provide for the assignment of parking spaces adjacent to the building, or storage facilities in various locations within the building, as Limited Common Elements, an amendment to this Declaration making any such assignment shall be prepared, executed and recorded pursuant to the provisions of the Act. Any other assignment of Common Elements as Limited Common Elements shall be effected only by means of an amendment to this Declaration duly executed and recorded pursuant to the provisions of the Act.

ARTICLE III  
MAINTENANCE AND REPAIR

3.01 Association. Except as may be otherwise specifically provided for herein, the responsibility of the Association with respect to the maintenance and repair of the Condominium shall be as follows:

- (a) To maintain in good working order and condition, repair and replace the Common Elements; provided, however, that the Association may, with the consent of Unit Owners to which seventy-five percent (75%) of the voting rights of the Association appertain, alter the use or form of the Common Elements, including, without limitation, construction of improvements thereon, or elect not to repair or replace any portion of the Common Elements; and
- (b) To provide exterior maintenance of the building containing the Units, exterior pest control, central garbage and refuse disposal and central mail service, all as may be more particularly provided for in the By-Laws of the Association.
- (c) To maintain, repair and replace the elevator in the building; provided however, the elevator shall not be used by the owner,

guests or customers of the Commercial-Retail Units and the cost of maintaining, repairing and replacing the elevator shall be a common expense of all the Residential Unit Owners; the Commercial-Retail Unit Owners shall have no responsibility therefor.

- (d) To maintain, repair and replace all paved areas, including any parking spaces designated as limited common elements serving exclusively one (1) or more Units; provided however, the cost to maintain, repair and replace any limited common elements shall be assessed solely to the Unit owner or owners entitled to the exclusive use thereof.

3.02 Unit Owner(s). The responsibility of a Unit Owner with respect to the maintenance and repair of his Unit, and the Limited Common Elements appurtenant thereto, shall be as follows:

- (a) To maintain, repair and replace all portions of his Unit, and the Limited Common Elements appurtenant thereto, except those portions which are to be maintained, repaired or replaced by the Association. The responsibility of the Unit Owner shall include the maintenance, repair and replacement of all fixtures and equipment installed in his Unit, as well as the maintenance, repair and replacement of the wiring, plumbing, heating ducts and components, the doors, the windows, screens and exterior lights, if any, serving his Unit, except any such items that are Common Elements under the description of Unit boundaries set forth in Exhibit "B" hereto;
- (b) To keep in a neat, clean and sanitary condition his Unit and any Limited Common Elements serving his Unit;
- (c) To perform his responsibilities in such manner so as not to unreasonably disturb other persons in other Units;
- (d) Not to paint or otherwise decorate or change the outside appearance of his Unit, including windows and doors, any appurtenances thereto or any Limited Common Elements serving his Unit unless the written consent of the Board of Directors of the Association, or an architectural committee appointed by the Board, is first obtained. Further, the design, type, location, size, color and intensity of all exterior lights shall be subject to control by the Board of Directors of the Association;

- (e) To promptly report to the Association or its agents any defect or need for repairs for which the Association is responsible;
- (f) Not to make any alteration in the portions of his Unit, and the Limited Common Elements appurtenant thereto, which are to be maintained by the Association, or to remove any portion thereof, or to make any additions thereto, or do anything with respect to the exterior or interior of the Unit which would or might jeopardize or impair the safety or soundness of any Unit without first obtaining the written consent of the Board of Directors of the Association and all Unit Owners and mortgagees of the Units affected, nor shall any Unit Owner impair any easement without first obtaining written consent of the Association and of the Unit Owner or Owners and their mortgagees for whose benefit such easement exists; and
- (g) 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 (which the Association shall have the right, but not the obligation, to do), 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 family, tenants or guests; with the cost thereof to be specifically assessed against such Unit Owner in accordance with Section 4.02 of Article IV hereof and the By-Laws of the Association.

ARTICLE IV  
ASSESSMENTS

4.01 General Obligation. Each Unit Owner shall be responsible for and hereby covenants and agrees to pay to the Association all sums lawfully assessed by the Association against that Unit Owner or Unit, whether for the share of the Common Expenses appertaining to that Unit or otherwise, including those special assessments described in Section 4.02 hereinbelow, which assessments are to be fixed, established and collected from time to time by the Board of Directors of the Association in accordance with this Declaration and the By-Laws of the Association. Pursuant to the Act, such assessments shall constitute a lien in favor of the Association on the Unit or Units against which each such assessment is levied, and such assessment, together with the lien thereof, shall include (a) a late or delinquency charge; (b) interest on each assessment or installment thereof, and any delinquency or late charge appertaining thereto, from the date the same was first due and payable; (c) the costs of collection, including

court costs, the expenses of sale, any expenses required for the protection and preservation of the Unit and reasonable attorneys' fees actually incurred; and (d) the fair rental value of the Unit or Units from the time of the institution of suit until the sale of that Unit at foreclosure (or until satisfaction of the judgment rendered in such suit), all in accordance with and to the maximum extent permitted by the Act. The recordation of this Declaration shall constitute served notice of the existence of such lien, and no further recordation of any claim of lien for assessment shall be required.

4.02 Special Assessments. Each Owner of a Unit shall be liable for and shall pay special assessments for Common Expenses incurred by the Association, as follows: (a) any Common Expenses associated with the maintenance, repair, renovation, restoration or replacement of any Limited Common Element shall be specially assessed against the Unit or Units to which that Limited Common Element was assigned at the time such expenses were made; (b) any Common Expenses benefiting less than all of the Units shall be specially assessed equitably among all of the Units so benefited; (c) any Common Expenses occasioned by the conduct of less than all of those entitled to occupy all of the Units or by the licensees or invitees of any such Unit or Units shall be specially assessed against the Unit or Units, the conduct of any occupant, licensee or invitee of which occasioned any such Common Expenses; and (d) any other Common Expenses significantly disproportionately benefiting all of the Units shall be assessed equitably among such Units. In addition to the special assessment for reconstruction or repair of casualty damage, the Board of Directors of the Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of any capital addition to or capital improvement of the Common Elements (including the necessary fixtures and personal property related thereto), or for the cost or repair or replacement of a portion of the Common Elements (including the necessary fixtures and personal property related thereto), which is for the benefit of all Unit Owners in the Condominium as a whole. The Association shall endeavor to anticipate and budget for special assessments, and to collect such assessments in monthly installments over a reasonable period of time; provided, however, that nothing contained herein shall prevent the Association from requiring payment of a special assessment in a lump sum if such payment is in the best interest of the Association.

4.03 Allocation of Liability for Common Expenses. The amount of all Common Expenses, except for expenses specially assessed pursuant to Section 4.02 above, shall be assessed against the Units in accordance with the respective percentage allocations of liability for Common Expenses attributable to each Unit as provided for in Exhibit "D" hereto.

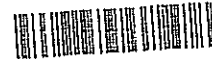
4.04 Priority of Lien. The lien of the assessment provided for in this Article IV shall be prior and superior to all other liens except only (a) ad valorem taxes; (b) the lien of a first mortgage, if any, or secondary purchase money mortgage, if any, to which a Unit is subject; and (c) the lien of any mortgage recorded prior to the recording of this Declaration. The sale or transfer of any Unit shall not affect the assessment lien; provided, however, that the sale or transfer of any Unit, which is subject to any such mortgage, pursuant to the foreclosure thereof or a transfer by deed or assignment in lieu of foreclosure, shall extinguish the lien of such assessments as to the payments thereof which became due prior to the date of such sale or transfer. No sale or transfer shall relieve the Unit Owner from liability for any assessment theretofore or thereafter becoming due.

ARTICLE V  
INSURANCE

5.01 General Obligation and Authority. The Association shall obtain and maintain at all times (a) insurance for all of the insurable improvements on the Property (with the exception of improvements and betterments made by the respective Unit Owners or occupants) and all personal property as may be owned by the Association, against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief, in an amount consonant with the full replacement value of such insurable improvements; (b) comprehensive public liability insurance, in amounts established by the Board of Directors of the Association from time to time, but in no event shall such amounts be less than \$500,000 for injury, including death, to a single person, \$1,000,000 for injury or injuries, including death, arising out of a single occurrence and \$50,000 property damage; and (c) such other types of insurance either required by law or authorized by the Board of Directors from time to time. The Unit Owners may carry at their own expense a "Tenant's or Condominium Owner's Policy" covering the contents and personal property located in a Unit, personal injury and property damage liability, burglary and the like.

ARTICLE VI  
CASUALTY LOSSES

6.01 Damage and Destruction. Immediately after the damage or destruction by fire or other casualty to all or any part of the Condominium covered by insurance purchased by the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance with respect to property losses of Unit Owners other than Declarant pursuant to the terms of the By-Laws of the Association.



ARTICLE VII  
EMINENT DOMAIN

7.01 General. The provisions of the Act shall govern whenever all or any part of the Common Elements or any Unit shall be taken by any authority having the power of condemnation or eminent domain.

7.02 Notice to Unit Owners and Mortgagees. The Association, immediately upon having any knowledge of the institution, or threat of institution, of any proceedings or other action with respect to the taking of Units, Common Elements or any portion of any Unit or Common Element in condemnation, eminent domain or other proceedings or actions involving any unit of government or any other person having the power of eminent domain, shall notify all Unit Owners and all mortgagees having an interest therein whose names and addresses have previously been furnished to the Association together with a written request for such notice. Any such mortgagee may, if permitted by law, participate in any such proceedings or actions or, in any event, may participate in negotiations in connection therewith, but shall have no obligation to do so. Notwithstanding the foregoing, if the Federal Home Loan Mortgage Corporation ("FHLMC") or the Federal National Mortgage Association ("FNMA") is the mortgagee of any Unit, the Association shall notify FHLMC or FNMA, as the case may be (c/o the institution servicing the mortgage or mortgages for and on behalf of FHLMC or FNMA) in writing of any taking of (i) Common Elements if the value exceeds \$10,000, and (ii) any portion of any Unit if the value exceeds \$1,000.

ARTICLE VIII  
USE RESTRICTIONS

8.01 Residential Purposes. All twenty-four (24) Residential Units located on floors, 2, 3, 4 and 5 of the building shall be, and the same hereby are, restricted exclusively to residential use. No structures of a temporary character, trailers or tents shall be used as a residence on any portion of the Property at any time either temporarily or permanently.

8.02 Use Restrictions; Units Subject to Declaration, By-Laws and Rules and Regulations. To assure the harmony of the Unit Owners and protect the value of the Units, the Property, including all improvements thereon, shall be subject to the use restrictions set forth in Exhibit "E" attached hereto and by this reference made a part hereof. The Board of Directors of the Association is hereby empowered to promulgate Rules and Regulations governing occupancy and use of the Condominium and to amend the same from time to time, which Rules and Regulations shall supplement and be in addition to the use restrictions set forth in Exhibit "E" hereto. All present and future



Owners, tenants and occupants of Units shall be subject to, and shall comply with, the provisions of this Declaration, the By-Laws and the Rules and Regulations, as they may be amended from time to time. The acceptance of a deed or conveyance or the entering into of a lease or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the By-Laws and the Rules and Regulations, as they may be amended from time to time, are accepted and ratified by such Owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease thereof.

8.03 Leasing Restrictions. No Unit Owner shall be permitted to lease his Unit for transient or hotel purposes. Any lease agreement shall be required to provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration and the By-Laws of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. Other than the foregoing there shall be no restriction on the right of any Unit Owner to lease his Unit; provided, however, that prior to the commencement of any such lease, the Unit Owner shall give the Association written notice of the name of the lessee and the term of the lease. Anything herein to the contrary notwithstanding, (i) Declarant shall have the unqualified right to lease upon any terms any Unit, so long as such Unit is unsold and owned by Declarant; and (ii) any person who becomes the Owner of a Unit at a judicial or foreclosure sale conducted with respect to a mortgage on such Unit, or as transferee pursuant to any proceedings in lieu thereof, shall have the unqualified right to lease such Unit so long as such Unit is owned by such person who acquires title thereto in such manner; provided, however, that the occupancy of any Unit by any lessee of Declarant, or such acquiror of title by judicial or foreclosure sale, shall be otherwise subject to the provisions of this Declaration and the By-Laws of the Association.

ARTICLE IX  
THE CONDOMINIUM ASSOCIATION AND ADMINISTRATION

9.01 General. The Association has been incorporated as a Georgia non-profit membership corporation under the Georgia Corporation Code. The organization of the Association has been duly effectuated, including appointment of the first Board of Directors and election of its initial officers. Declarant shall have the right to appoint or remove any member or members of the Board of Directors and to elect the initial officers of the Association. Declarant shall have the right to appoint or remove any member or members of the Board of



Directors or any officer or officers of the Association until such time as the first of the following events occurs: (a) the expiration of three (3) years after the recording of this Declaration; (b) the date as of which Units to which four-fifths (4/5ths) of the undivided interests in the Common Elements appertain shall have been conveyed by Declarant to Unit Owners other than a person or persons constituting Declarant, unless Declarant has an unexpired option to construct additional Units and/or add additional property to the Condominium; or (c) the surrender by Declarant of the authority to appoint and remove members of the Board of Directors and Officers of the Association by an express amendment to this Declaration executed and recorded by Declarant. Except for certain greater than majority voting requirements provided herein and in the By-Laws of the Association, no limitations or restrictions on the powers of the Association or its Board of Directors are provided herein; provided, however, that so long as Declarant owns Units representing undivided ownership in the Common Elements of ten percent (10%) or more, the Association may not, without the consent of Declarant, (i) make any addition, alteration or improvement to the Common Elements or to any Unit; (ii) assess any Common Expenses for the creation of, addition to or replacement of all or part of any reserve, contingency or surplus fund; (iii) enter into any service or maintenance contract for work covered by contracts in existence on the date this Declaration is recorded; or (iv) borrow money for any purpose.

9.02 Allocation of Votes in the Association. Each Unit Owner shall automatically be a member of the Association, which membership shall continue during the period of ownership by such Unit Owner. Pursuant to the provisions of the Act, the number of votes in the Association hereby allocated to each Unit is as set forth in Exhibit "D" hereto. Said votes shall be cast under such rules and procedures as may be prescribed in the By-Laws of the Association, as amended from time to time, or by law.

9.03 Meetings. Meetings of the members of the Association shall be held in accordance with the provisions of the Association's By-Laws, and in any event not less frequently than annually. At the annual meeting, reports of the affairs, finances and budget projections of the Association shall be made to the Unit Owners.

9.04 Rules and Regulations. Reasonable regulations concerning the use of the Units, appurtenances thereto and the Common Elements may be made and amended from time to time by the Board of Directors of the Association; provided, however, that copies of such regulations and amendments thereto shall be furnished by the Association to all Unit Owners. Failure to abide by any such regulation, rule or requirement shall be grounds for any action by the Association or any

aggrieved Unit Owner to recover damages, or obtain injunctive and equitable relief or both.

9.05 Liability. To the extent obtainable, the Association shall maintain public liability insurance coverage for the Directors and Officers of the Association. Further, each Director and each Officer of the Association shall be held harmless by the Unit Owners from expense, loss or liability by reason of having served as such Director or as such Officer and shall be indemnified by all the Unit Owners (as a Common Expense) against all expenses and liabilities, including reasonable attorney's fees, incurred by or imposed upon him in connection with any proceeding to which he may be a part, or have become involved by reason of being such Director or such Officer, whether or not he is a Director or Officer at the time such expenses are incurred, except in such cases wherein the expenses and liability arise from a proceeding in which such Director or such Officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided, however, that in the event of a settlement or the acceptance of a plea nolo contendere, the indemnification shall apply only when the Board of Directors approves such settlement or plea and reimbursement as being in the best interests of the Association.

9.06 Compensation. No Director or Officer of the Association shall receive any fee or compensation for services performed by him unless such fee or compensation is first fixed by a resolution adopted by a majority vote of the Unit Owners present in person or by proxy at a meeting duly called and held for such purpose.

ARTICLE X  
GENERAL PROVISIONS

10.01 Status of Declarant. Notwithstanding anything to the contrary in this Declaration or in the Articles of Incorporation or the By-Laws of the Association, Declarant hereby retains the right to appoint and remove any member or members of the Board of Directors of the Association and any Officer or Officers of the Association, as provided for in Section 9.01 of Article IX of this Declaration. Every grantee of any interest in the Condominium, by acceptance of a deed or other conveyance of such interest, agrees that Declarant shall have such authority to appoint and remove members of the Board of Directors and Officers of the Association.

Upon the expiration of the period of Declarant's right to control the Association pursuant to said Section 9.01 of Article IX, such right to control shall automatically pass to the Unit Owners (including Declarant if Declarant then owns one (1) or more Units). During the period of Declarant's control, Declarant shall be jointly

responsible and liable with the members of the Board of Directors and Officers to the Unit Owners for the books, records and accounts of the Association being in proper order, the Association being in good standing under the laws of the State of Georgia and the affairs of the Association being conducted in a prudent and businesslike manner; and Declarant shall not be insulated against liability to the Unit Owners because any act, omission or matter complained of during such period of control may have been done, omitted or permitted by or on behalf of the Association as a corporate entity. Nothing herein contained shall make any successor to Declarant responsible or subject to liability by operation of law or through purchase of Declarant's interest in the Property (or any part thereof) at foreclosure or any proceeding in lieu thereof for any act, omission or matter occurring, or arising from any act, omission or matter occurring, prior to the time such successor succeeded to the interest of Declarant.

Any management contract, lease of recreational area or facilities, if any, or any other contract or lease executed by or on behalf of the Association during the period of Declarant's right to control the Association shall be subject to cancellation and termination at any time during the twelve (12) months next immediately following the expiration of such control period by the affirmative vote of the Unit Owners of Units to which a majority of the votes in the Association appertain, unless the Unit Owners by a like majority shall have theretofore, following the expiration of such control period, expressly ratified and approved the same.

10.02 Amendment. So long as the same shall not (a) adversely affect the title to any Unit Owner's Unit; (b) change the percentage or fraction of undivided ownership interest in and to the Common Elements of the Condominium appurtenant to any Unit Owner's Unit; (c) materially alter or change any Unit Owner's right to the use and enjoyment of his Unit or the Common Elements as set forth in this Declaration; or (d) otherwise make any material change in this Declaration, each Unit Owner agrees that, if requested to do so by Declarant, such Unit Owner will consent to the amendment of this Declaration (i) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, regulation or judicial determination which shall be in conflict therewith; (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Units subject to this Declaration; (iii) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, FHLMC or FNMA, to enable such lender or purchaser to make or purchase mortgage loans on the Unit subject to this Declaration; or (iv) if any such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Units subject to

this Declaration. Further, this Declaration may also be amended at any time and from time to time by the assent of Unit Owners having at least two-thirds (2/3rds) of the total vote of the Association; provided, however, that during such time Declarant has the right to control the Association pursuant to Section 9.01 of Article IX, such amendment shall require the agreement of Declarant and Unit Owners to which two-thirds (2/3rds) of the votes in the Association appertain, exclusive of any vote or votes appertaining to any Unit or Units then owned by Declarant. Also, any provision in this Section 10.02 to the contrary notwithstanding, no amendment to this Declaration shall alter, modify, change or rescind any right, title, interest or privilege herein granted or afforded to the holder of any mortgage affecting any of the Units in the Condominium, unless such holder shall consent thereto in writing. Amendments to this Declaration may be proposed by Declarant, the Board of Directors of the Association or by petition signed by Unit Owners having at least thirty percent (30%) of the total votes of the Association. Agreement of the required majority of Unit Owners to any amendment of this Declaration shall be evidenced by their execution of the amendment, or, in the alternative and provided that Declarant does not then have the right to control the Association pursuant to Section 9.01 of Article IX, by the sworn statement of the President, any Vice President or Secretary of the Association attached to or incorporated in an amendment executed by the Association, in which sworn statement it is stated unequivocally that agreement of the required majority of Unit Owners was otherwise lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded, or at such later date as may be specified in the amendment itself. The written consent of any mortgagee required with respect to such amendment shall also be recorded with such amendment.

10.03 Rights of Third Parties. This Declaration shall be recorded pursuant to the provisions of the Act for the benefit of Declarant, the Unit Owners and their mortgagees as herein provided, and by such recordation no adjoining property owner or third party shall have any right, title or interest whatsoever in the Condominium, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and, subject to the rights of Declarant and their mortgagees as herein provided, the Unit Owners shall have the right to cancel, extend, modify, amend or otherwise change the provisions of this Declaration without the consent, permission or approval of any adjoining owner or third party.

10.04 Termination. The Condominium shall be terminated only by the agreement of Unit Owners of Units to which four-fifths (4/5ths) of the votes in the Association appertain and all mortgagees of such Units; provided, however, that during such time, if any, as Declarant has the right to control the Association pursuant to Section 9.01 of

Article IX, such agreement shall be that of Declarant and Unit Owners of Units to which four-fifths (4/5ths) of the votes in the Association appertain, exclusive of any vote or votes appurtenant to any Unit or Units then owned by Declarant, and the mortgagees of such Units. Agreement of the required percentage of Unit Owners and their mortgagees to termination of the Condominium shall be evidenced by their execution of a termination agreement. Any such termination agreement shall become effective only when recorded or at such later date as may be specified therein. Upon the effective date of a termination agreement, all of the property constituting the Condominium shall be owned by the Unit Owners as tenants-in-common in proportion to their respective undivided interest in the Common Elements immediately prior to such effective date. As long as such tenancy-in-common lasts, however, each Unit Owner and his heirs, representatives, successors and assigns, shall have the same right of occupancy and use of that portion of said property which formerly constituted his Unit and Limited Common Elements appurtenant thereto, if any, as existed immediately prior to termination, and a non-exclusive right to use that portion of said property which formerly constituted Common Elements other than Limited Common Elements. Upon the effective date of a termination agreement, any rights the Unit Owners may have to the assets of the Association shall be in proportion to their respective undivided interest in the Common Elements immediately prior to such effective date, and any distribution thereof to the Unit Owners shall be to such Owners and their mortgagees as their interest may appear. Upon the effective date of a termination agreement, mortgages and liens affecting each Unit shall be deemed to be transferred in accordance with their existing priorities to the undivided interest of the Unit Owner in the property which formerly constituted the Condominium. After the effective date of a termination agreement, and except as otherwise expressly provided in the Act, the property which formerly constituted the Condominium and the rights and obligations of the former Unit Owners with respect thereto shall be subject to and governed by the laws of the State of Georgia pertaining to tenancies-in-common, as long as such tenancy-in-common lasts.

10.05 Withdrawal of Submitted Property. Submitted property may be withdrawn from the Condominium only in strict accordance with the provisions of the Act.

10.06 Enforcement. Each Unit Owner shall comply strictly with the By-Laws and with the administrative Rules and Regulations adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in this Declaration and/or in the deed to his Unit. In the event of a violation or breach, or threatened violation or breach, of any of the same, Declarant, the Association and/or any aggrieved Unit

Owner, jointly and severally, shall have the right to proceed at law or in equity to compel compliance therewith or to prevent a threatened violation or breach thereof. Should Declarant or the Association employ legal counsel to enforce any of the foregoing, all costs incurred in connection with such enforcement, including a reasonable fee for counsel, shall be paid by the violating Unit Owner. Inasmuch as the enforcement of the provisions of this Declaration and the By-Laws and such administrative rules and regulations is essential for the effectuation of the general plan of development contemplated hereby and for the protection of present and future Unit Owners, it is hereby declared that any breach thereof cannot be adequately compensated by recovery of damages, and that Declarant, the Association or any aggrieved Unit Owner, in addition to all other remedies, shall be entitled by injunctive relief to restrain any such violation or breach or threatened violation or breach. Further, in any case of flagrant or repeated violation by a Unit Owner, then, in addition to the foregoing remedies, the Board of Directors of the Association may levy summary charges against the Unit Owner for such violation, provided that no summary charges may be levied for more than \$25.00 for any one violation; but each day or time a violation is continued or repeated after written notice is given to the Unit Owner to cease and desist, it shall be considered a separate violation. Collection of summary charges may be enforced against a Unit Owner as if such charges were a Common Expense owed by the Unit Owner involved. No delay, failure or omission on the part of Declarant, the Association or any aggrieved Unit Owner in exercising any right, power or remedy herein provided shall be construed as an acquiescence therein nor shall be deemed a waiver of the right to do so thereafter as to the same violation or breach, nor as to a violation or breach occurring prior to or subsequent thereto, and shall not bar or affect its enforcement. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against Declarant or the Association for or on account of any failure to bring any action on account of any violation or breach, or threatened violation or breach, of the provisions and regulations, however long continued, nor for the imposing of provisions which may be unenforceable.

10.07 Acceptance of Improvements. Declarant warrants that the improvements on the Property have been completed in substantial conformity with the Plans. Declarant makes no other warranties or representations with respect to the Property or the improvements thereon except as may be specifically provided in the contract for purchase and sale of any Unit and the warranties of title contained in the deed of conveyance.

10.08 Duration. Unless the Condominium is terminated as herein provided, the provisions of this Declaration shall run with and bind the Property and shall be and remain in effect perpetually to the

extent permitted by Georgia law; provided, however, that so long as Georgia law limits the period during which covenants restricting lands to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the Property so long as permitted by such law, and it shall be the duty of the Board of Directors of the Association to cause this Declaration to be amended of record when necessary by filing a document bearing the signatures of Unit Owners having a majority of the voting interest in the Condominium reaffirming and newly adopting such provisions in order that the same may continue to be covenants running with the land of the Condominium; such adoption by a majority shall be binding on all. Every purchaser or grantee of any interest in any property made subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that the provisions of this Declaration shall run with and bind the Property as provided hereby.

10.09 Limitations. Anything herein to the contrary notwithstanding, unless at least two-thirds (2/3rds) of the first mortgagees (based upon one (1) vote for each first mortgage owned) or Unit Owners (other than Declarant) have given their prior written approval, the Association shall not be entitled to:

- (a) By act or omission, seek to abandon or terminate the Condominium;
- (b) Change the pro-rata interest or obligations of any Unit for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro-rata share of ownership of each Unit in the Common Elements;
- (c) Partition or subdivide any Unit, except as provided in Section 2.03 of Article II hereof;
- (d) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements; provided, however, that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Condominium shall not be deemed a transfer within the meaning of this provision; and
- (e) Use hazard insurance proceeds for losses to any Condominium Property (whether to Units or to Common Elements) for other than repair, replacement or reconstruction of such Property, except as provided by statute in case of substantial loss to the Units and/or Common Elements of the Condominium.

Anything herein to the contrary notwithstanding, this Declaration shall not be deemed to give any Unit Owner, or any other party, priority over any rights of the first mortgagee of a Unit pursuant to its mortgage in the case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or taking of any portion of any Unit or the Common Elements.

10.10 Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals or to men or women shall in all cases be assumed as though in each case fully expressed.

10.11 Captions. The captions of each Article and Section hereof as to the contents of each Article and Section are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular Article or Section to which they refer.

10.12 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provisions of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

10.13 Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Declarant or the Association, will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, shall be so extended or enlarged by implication as to make them fully effective.

10.14 Controlling Law. The terms and conditions of this Declaration shall be governed by the laws of the State of Georgia.

10.15 Author. This Declaration was prepared by G. Marcus Hodge, Esquire, Fortson, Bentley and Griffin, P.A., 440 College Avenue North, Suite 220, Athens, GA 30613.

10.16 Recordation. This Declaration is to be recorded in the Office of the Clerk of the Superior Court, Athens-Clarke County, Georgia, pursuant to the Act.





IN WITNESS WHEREOF, Declarant has caused this instrument to be properly executed and sealed the day, month and year first above written.

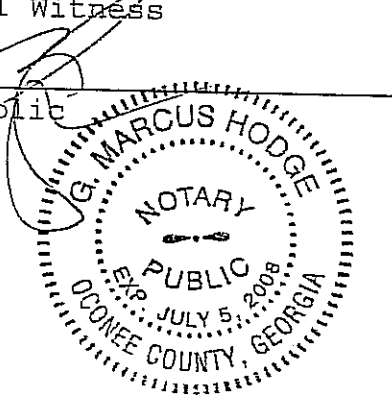
Signed, sealed and delivered in the presence of:

Lia Patterson Culbertson  
Unofficial Witness

BABB ENTERPRISES, LLC, a Georgia limited liability company

[Signature] (SEAL)  
NATHAN D. BAXTER, Member

Notary Public



BY: [Signature] (SEAL)  
TIM BURGESS, Member

JOINDER OF MORTGAGEE

The undersigned Mortgagee hereby consents to the submission of the property described on Exhibit "A" to the terms and conditions set forth in this Declaration.

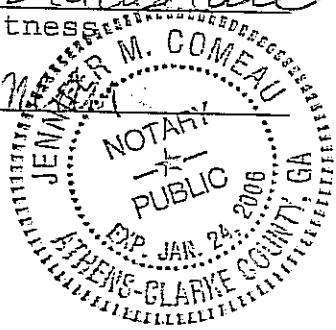
Signed, sealed and delivered in the presence of:

Kristi Bradshaw  
Unofficial Witness

ATHENS FIRST BANK AND TRUST COMPANY

BY: [Signature] (SEAL)

NOTARY PUBLIC



As Its: Gray [Signature] President

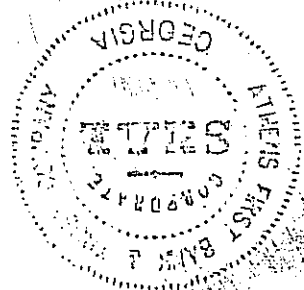


EXHIBIT "A" TO  
DECLARATION OF CONDOMINIUM FOR  
THE OVERLOOK ON BAXTER CONDOMINIUM

ALL that tract or parcel of land, together with all improvements thereon, situate, lying and being in the 216<sup>th</sup> District, G.M., Athens-Clarke County, Georgia, and being more particularly shown according to that certain plat of survey entitled "Condominium Plat For: The Overlook on Baxter" dated December 22, 2004, prepared by Brewer & Dudley, L.L.C., said plat being incorporated herein by reference thereto, and being more particularly described as follows:

BEGINNING at an iron pin located at the northwesterly intersection of rights-of-way of Baxter Street (60' R/W) and Pope Street (36' R/W) and running thence along the northerly side of Baxter Street South 74 degrees 33 minutes 23 seconds West 154.86 feet to an iron pin; thence leaving the northerly side of Baxter Street and running thence North 16 degrees 41 minutes 21 seconds West 160.15 feet to an iron pin; running thence South 74 degrees 19 minutes 38 seconds West 46.56 feet to an iron pin; running thence North 14 degrees 13 minutes 48 seconds West 102.41 feet to an iron pin; running thence North 77 degrees 01 minute 52 seconds East 203.75 feet to an iron pin located on the westerly side of Pope Street; running thence along the westerly side of Pope Street South 15 degrees 15 minutes 17 seconds East 253.52 feet to the beginning iron pin.

EXHIBIT "B" TO  
DECLARATION OF CONDOMINIUM FOR  
THE OVERLOOK ON BAXTER CONDOMINIUM

UNIT BOUNDARIES

Each Unit shall have as a lower horizontal boundary the horizontal plane of the upper surface of the unfinished concrete slab which serves as the floor for that Unit. The upper horizontal boundary of a Unit shall be the horizontal plane of the lower surface of the steel decking that supports the concrete slab of the Unit above or the lower surface of the steel decking that supports the roof of the building in the case of a top floor Unit. (The roof and rafters supporting the roof being Common Elements). The perimetrical or vertical boundaries of a Unit shall be the interior unfinished surface of the outside walls of the Unit and the centerline of interior common walls between Units. 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 boundaries shown on the plan or in a deed and those of the Unit. Exterior doors and exterior glass surfaces, such as windows serving a Unit, shall be included within the boundaries of the Unit. Any porch, patio, or storage area servicing exclusively one Unit shall be included within the boundaries of that Unit. Also, heating and air-conditioning systems serving a Unit, such as the compressor and condenser for an air-conditioner, built-in appliances, cabinetry, floor coverings, countertops and plumbing fixtures within a Unit shall be construed to be a part of the Unit. If any chutes, flues, ducts, conduits, wires, pipes, bearing walls, bearing columns, or any other apparatus lie partially within and partially outside of the designated boundaries of a Unit, any portions thereof serving only that Unit shall be deemed a part of that Unit, while any portions thereof serving more than one Unit or any portion of the Common Elements shall be deemed a part of the Common Elements.



EXHIBIT "C" TO  
DECLARATION OF CONDOMINIUM FOR  
THE OVERLOOK ON BAXTER CONDOMINIUM

CERTIFICATION

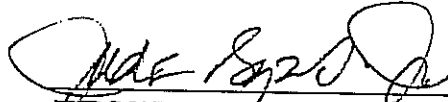
STATE OF GEORGIA

COUNTY OF ATHENS-CLARKE

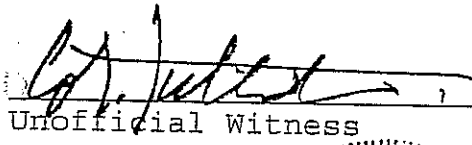
BEFORE me came in person, JUDSON S. BRYANT, JR., a registered architect, who, having been duly sworn, on oath says as follows:

THAT he has visited the site at the corner of Baxter Street and Pope Street, Athens, Clarke County, Georgia, and viewed the property known or to be known as "The Overlook on Baxter Condominium" and that, to the best of his knowledge, information and belief: (a) the exterior walls and roof of each structure are in place as shown on the plans therefor entitled "Plans for Condominium" (hereinafter referred to as the "Plans"), which Plans are to be filed in the Office of the Clerk of the Superior Court of Athens-Clarke County, Georgia, simultaneously with the filing of the Declaration of Condominium for The Overlook on Baxter Condominium to which this Certificate shall be attached and, by reference, made a part thereof; (b) such walls, partitions, floors and ceilings, to the extent shown on said Plans, as constitute the horizontal boundaries, if any, and the vertical boundaries of each Unit, including convertible space, have been sufficiently constructed so as to establish clearly the physical boundaries of such Unit.

Sworn to and subscribed before me this 20 day of December, 2004.



JUDSON S. BRYANT, JR.

  
Unofficial Witness

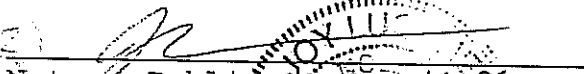
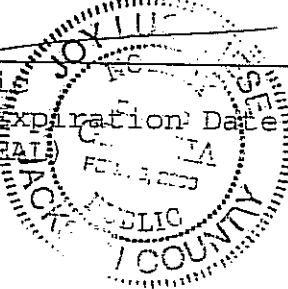
  
Notary Public  
Commission Expiration Date  
(NOTARIAL SEAL)  


EXHIBIT "D" TO  
DECLARATION OF CONDOMINIUM FOR  
THE OVERLOOK ON BAXTER CONDOMINIUM

CONDOMINIUM UNIT INFORMATION

<u>UNIT NO.</u>	<u>VOTES PER UNIT</u>	<u>PERCENTAGE INTEREST IN COMMON ELEMENTS</u>
Commercial-Retail Unit #494A	1	3.7037%
Commercial-Retail Unit #494B	1	3.7037%
Commercial-Retail Unit #494C	1	3.7037%
Residential Units - Floor 2		
Residential Unit #21	1	3.7037%
Residential Unit #22	1	3.7037%
Residential Unit #23	1	3.7037%
Residential Unit #24	1	3.7037%
Residential Unit #25	1	3.7037%
Residential Unit #26	1	3.7037%
Residential Units - Floor 3		
Residential Unit #31	1	3.7037%
Residential Unit #32	1	3.7037%
Residential Unit #33	1	3.7037%
Residential Unit #34	1	3.7037%
Residential Unit #34	1	3.7037%
Residential Unit #36	1	3.7037%
Residential Units - Floor 4		
Residential Unit #41	1	3.7037%
Residential Unit #42	1	3.7037%
Residential Unit #43	1	3.7037%
Residential Unit #44	1	3.7037%
Residential Unit #45	1	3.7037%
Residential Unit #46	1	3.7037%
Residential Units - Floor 5		
Residential Unit #51	1	3.7037%
Residential Unit #52	1	3.7037%
Residential Unit #53	1	3.7037%
Residential Unit #54	1	3.7037%
Residential Unit #55	1	3.7037%
Residential Unit #56	1	3.7037%
		<u>100.0000%</u>

**VOTING RIGHTS:** Ownership of a Unit within the Condominium entitles the owner or owners thereof to membership in the Association and to collectively vote on all matters properly before the Association under the provisions of the Declaration, the by-laws of the Association or the Georgia Condominium Act. The number of votes appurtenant to each Unit shall be as provided above.

**LIABILITY FOR COMMON EXPENSES:** Unless otherwise provided for herein, each Unit shall be liable for payment of common expenses in the same percentage as the interest in the Common Elements appertaining to that Unit.



EXHIBIT "E" TO  
DECLARATION OF CONDOMINIUM FOR  
THE OVERLOOK ON BAXTER CONDOMINIUM

USE RESTRICTIONS

1. Business Activities. Except for the Commercial-Retail Units, no business activities shall be conducted on the portions of the Property designated for residential use; provided, however, the foregoing restriction shall not apply to the business activities, signs and billboards of Declarant, its agents or assigns, during the sale period in which Declarant holds any Units primarily for sale to third parties. The Commercial-Retail Units shall be used only for such commercial office or retail purposes permitted by applicable zoning ordinance and use restrictions, provided such commercial office or retail activity does not constitute a nuisance or hazard or offensive use, or threaten the security or safety of other residents of the Condominium, as may be determined in the reasonable discretion of the Board.

2. Signs. Except as may be required by legal proceedings, no "For Sale" or "For Rent" signs or advertising posters of any kind shall be maintained or permitted on any portion of the Property without the express written permission of the Board of Directors of the Association first having been obtained. The approval of signs and posters shall be upon such conditions as may from time to time be determined by the Board of Directors; provided, however, this provision shall not apply to Declarant. Approval for signs and advertising material for the Commercial-Retail Units shall not be unreasonably withheld.

3. Pets. No animals or birds, other than a reasonable number of generally recognized house pets, shall be kept or maintained on any portion of the Property, and then only if they are kept or maintained solely as domestic pets and not for commercial purposes. No animal or bird shall be allowed to make an unreasonable amount of noise, or to become a nuisance. No structure for the care, housing or confinement of any animal or bird shall be constructed or maintained outside any area serving a Unit. Pets shall be under leash when walked or exercised in the Common Elements. Failure to use a leash as required herein will result in a fine being levied against the Unit Owner by the Association for the first and second offenses, said fine to be determined by the Association. In case of a third such offense by any Unit Owner, any necessary action may be taken by the Association, including, without limitation, assessing a greater fine against the Unit Owner or requiring the Unit Owner to dispose of the pet. Any fine assessed against a Unit Owner as provided herein shall constitute a lien in favor of the

Association on that Unit Owner's Unit in the same manner as that enumerated in Section 4.01 of Article IV of the Declaration. Upon the written request of any Unit Owner, the Board of Directors of the Association shall conclusively determine, in its sole and absolute discretion, whether for the purposes of this section, a particular animal or bird is a generally recognized house pet, or a nuisance, or whether the number of animals or birds in any Unit is unreasonable. Further, notwithstanding the foregoing provisions hereof, no structure for the care, housing or confinement of any animal or bird shall be constructed or maintained within any area which is not fully enclosed unless the same shall be approved in writing by the Board of Directors of the Association.

4. Use of Common Areas and Facilities. The use and enjoyment of the Common Elements and facilities by the Unit Owners, their families, visitors, guests, customers, servants and agents, shall be subject to such reasonable rules and regulations as may be made and amended from time to time in accordance with the Declaration and By-Laws of the Association. It is expressly acknowledged and agreed by all parties concerned that this section is for the mutual benefit of all Unit Owners in the Condominium and is necessary for the protection of Unit Owners.

5. Antennas. Without first obtaining the prior written approval of the Association relative to the size, placement and method of attachment, no antenna or other device for the transmission or reception of television signals, radio signals, or any form of electromagnetic radiation shall be erected, used or maintained outdoors on any portion of the Property, whether attached to the building or structure or otherwise.

6. Exterior Appearance. To provide a neat, attractive and harmonious appearance throughout the Condominium, no awnings, shades or screens shall be attached to, hung or used on the exterior of any window or door of a Unit without the prior written consent of the Board of Directors of the Association. Further, no foil or other reflective material shall be used on any windows for sun screens, blinds or any other purpose, nor shall any window air-conditioning units be installed. Windmills, solar panels and outside clothes lines or other outside facilities for drying or airing clothes are specifically prohibited. The design, type, location, size, intensity and color of all exterior lights (including both those mounted as a part of the original construction of the Property or otherwise in place at the time of conveyance of a Unit to an Owner and those mounted with the consent of the Board of Directors) shall be subject to the control of the Board of Directors.

7. Nuisances. No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the Property, and no odors shall be permitted to arise therefrom, so as to render any portion thereof unsanitary, unsightly, offensive or detrimental to persons using or occupying other portions of the Property. No nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to persons using or occupying other portions of the Property. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on the Property. Any Unit Owner (or his family, servants, agents or guests) who shall dump or place any trash or debris upon any portion of the Property shall be liable to the Association for the actual cost of the removal thereof or the sum of \$25.00 whichever is greater, and the same shall be added to and become part of that portion of any assessment next coming due to which the Unit Owner is subject.

8. Prohibited Activities. Noxious or offensive activities shall not be carried on in any Unit or in the Common Elements and facilities. Each Unit Owner, his family, visitors, guests, customers, servants and agents shall refrain from any act or use of his Unit or the Common Elements and facilities which could reasonably cause embarrassment, discomfort, annoyance or nuisance to the occupants of the Units, or which could result in the cancellation of insurance on any Unit or any portion of the Common Elements and facilities, or which would be in violation of any law or governmental code or regulation.

Without limiting the generality of the foregoing, it is hereby specifically provided that the following uses shall be prohibited on the Condominium Property: (1) game rooms, (2) dance halls, and/or (3) distribution or sale of literature or any other activity which may be considered lewd, indecent, pornographic or designed primarily for adult entertainment.

9. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, 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 portion of the Property.

10. No Discrimination. No action shall at any time be taken by the Association or its Board of Directors which in any manner





would discriminate against any Unit Owner or Unit Owners in favor of any other Unit Owner or Unit Owners.

11. Governmental Regulations. All governmental building codes, health regulations, zoning restrictions and the like applicable to the Property shall be observed. In the event of any conflict between any provision of any such governmental code, regulation or restriction and any provision of this Declaration, the more restrictive provision shall apply.

12. Sale Period. Notwithstanding any provisions contained in the Declaration to the contrary, it shall be expressly permissible for Declarant and its duly authorized agents, representatives and employees to maintain and carry on, during the period of the sale of the Units, upon such portion of the Property as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the renovation and sale of said Units, including, but without limitation, offices, signs and model Units. The right to maintain and carry on such facilities and activities shall include specifically the right to use a model Unit and parking facilities adjacent thereto for such purposes.

13. Hazardous Use and Waste. Nothing shall be done to or kept in any Unit or the Common Elements that will increase any rate of insurance maintained with respect to the Condominium without the prior written consent of the Board. No Unit Owner or Occupant shall permit anything to be done to or kept in his Unit or the Common Elements that will result in the cancellation of insurance maintained with respect to the Condominium, or that would be in violation of any law, or that will result in the commitment of waste (damage, abuse, or destruction) to or in his Unit or the Common Elements.

14. Storage and Parking of Vehicles. No motor vehicle (other than private passenger vehicles including motorcycles and pick-up and small trucks which shall be currently licensed and inspected) including commercial vehicles, trucks (other than pick-up and small trucks), tractor, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other water craft, boat trailer, or any other transportation device of any kind, shall be parked or stored in or upon the Common Elements, except in any area provided by the Association for such storage and subject to rules, regulations and fees charged by the Association, or parked or stored within any street right-of-way. Each Unit Owner shall be entitled to the use of the numbered parking spaces which may, from time to time, be designated by the Board. No Unit Owner or Occupant shall repair or restore any vehicle of any kind upon the property, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.