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THIS INSTRUMENT PREPARED BY AND TO BE RETURNED TO:
L. KELLY DAVIS - JONES, OSTEEN, JONES & ARNOLD
POST OFFICE BOX 600 - 206 EAST COURT STREET
HINESVILLE, GEORGIA 31310 (912) 876-0111

DECLARATION OF CONDOMINIUM

MAGNOLIA TRACE CONDOMINIUMS

THIS DECLARATION is made by LIBERTY CONSTRUCTION, INC., a Georgi corporation with its principal place of business and office on St. Simons Island, Glynn County Georgia (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant owns certain real property in Hinesville, Liberty County, Georgia being more particularly described on Exhibit "A", attached hereto and incorporated herein and made a part hereof by reference thereto; and

WHEREAS, Declarant desires to submit certain hereinafter described property to the condominium form of Ownership pursuant to the provisions of the "Georgia Condominium Act, as the same is in effect on the date hereof (O.C.G.A. § 44-3-70 through § '44-3-116, as amended, hereinafter referred to as the "Act"), the terms, conditions and provisions of which are incorporated herein by express reference, and subject to the terms and conditions hereinafter set forth; and

WHEREAS, Declarant will construct one (1) Building containing twelve (12) residential units described in Exhibit "B", attached hereto and made a part hereof by this reference (which portion of the land, together with the improvements to be constructed thereon, shall be referred to as the "Phase I Property"); and

WHEREAS, Declarant will construct one (1) Building containing twelve (12) residential units described in Exhibit "C", attached hereto and made a part hereof by this reference (which portion of the land, together with the improvements to be constructed thereon, shall be referred to as the "Phase II Property".

NOW, THEREFORE, incorporating the foregoing recitals, Declarant hereby makes declares and publishes its intention and desire to submit, and does hereby submit, the Phase Property described on Exhibit "B" and the Phase II Property described on Exhibit "C" to the condominium form of ownership pursuant to, subject to and in accordance with the provisions of the Act and the terms and conditions hereinafter set forth (said Phase I Property and Phase II Property hereinafter sometimes collectively referred to as "Submitted Property").

Article 1. Condominium Name. The name of the condominium shall be MAGNOLIA TRACE CONDOMINIUMS.

Article 2. Definitions. Except as provided herein, the definitions set forth in the Act shall apply to this Declaration and all other condominium documents. In addition to the definitions contained in the Act, the following definitions shall apply to this Declaration and all other condominium documents covering the Phase I Property described on Exhibit "B" and the Phase II Property described on Exhibit "C".

(a) "Board" shall mean the Board of Directors of the MAGNOLIA TRACE HOMEOWNERS' ASSOCIATION, INC., which is a non-profit corporation of the unit owners established pursuant to the Act, this Declaration, and the Bylaws of the Association.

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(b) "Building" shall mean the composite of all units comprising a single structure. The unit or building is identified and located on plats and plans attached hereto and as hereafter provided by amendment to this Declaration.

(c) "Common Elements" shall mean the common areas and facilities as defined in the Act and in the Condominium Documents.

(d) "Common Expenses" shall mean the common expenses as defined in the Act and in the Condominium Documents.

(e) "Condominium" is that form of ownership established by the provisions of the Act.

(f) "Condominium Documents" shall include this Declaration, the Articles of Incorporation and the Bylaws of MAGNOLIA TRACE HOMEOWNERS' ASSOCIATION, INC., and all other exhibits attached hereto and all other documents, rules, and regulations promulgated pursuant to the authority created herein and by the Act, as said documents may be amended from time to time.

(g) "Submitted Property" shall include the lands described in Exhibit "B" and Exhibit "C" attached hereto, and the buildings and all other improvements thereon which are or may hereafter be used in connection with the ownership and use of said land improvements as condominium property.

(h) "MAGNOLIA TRACE HOMEOWNERS' ASSOCIATION, INC." shall mean a non-profit corporation organized under the laws of the State of Georgia, whose members shall be unit owners, and which unit owners will automatically become members of the Association upon becoming a unit owner. MAGNOLIA TRACE HOMEOWNERS' ASSOCIATION, INC. is hereinafter sometimes referred to as "Association."

(i) "Foreclosure" shall include the exercise of a power of sale contained in any deed to secure debt or other instrument conveying security title to the unit.

(j) "Lease" shall include all leases, sub-leases and rental contracts, whether oral or written.

(k) "Majority", except where otherwise provided by the Act, the Articles of Incorporation of the Association, or the Bylaws thereof, shall mean the number of unit owners, or their proxies, entitled to cast fifty-one (51%) percent or more of the total votes of the Association in accordance with the voting rights as determined by the Act or Condominium Documents.

(l) "Mortgage" shall include a deed to secure debt or other instrument conveying security title to a unit.

(m) "Mortgagee" shall include any grantee or holder of a deed to secure debt or other instrument conveying security title to a unit.

(n) "Plat" shall mean the plat of the buildings and Submitted Property referred to in the Act, which plat is attached as Exhibit " D", and made a part hereof for all purposes.

(o) "Apartment Unit" and "Apartment" shall be synonymous with the term "unit" as used in the Act and Article 4 hereof in this Declaration and exhibits attached hereto as may hereafter be amended. Apartment Unit may hereafter sometimes be referred to as "Unit".

(p) "Condominium Property" shall include the lands described in the attached Exhibit "B" and Exhibit "C", and the buildings and all other improvements thereon which are or may hereafter be used in connection with the ownership and use of said land improvements as condominium property.

Article 3. The Buildings. The exterior walls of the building are frame construction with exterior covering to be vinyl lap siding with brick veneer. The interior walls are gypsum board on wood studs. The roof is on wooden framing with Class A firerated shingles. The building is

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constructed on concrete monolithic slab foundation with concrete flooring on the first floo . Each unit has separate heating, air-conditioning, and lighting. Each unit has individu l plumbing, and has individual water cut-off but condominium property has a master meter for a l water used by unit owners in connection with the condominium property. Each unit is connected to common sewer and water lines.

Article 4. Apartment Units.

4.01 *Unit Information.* Attached hereto, incorporated herein and made a part hereof b r reference thereto is Exhibit "D", being a plat of the buildings and submitted property constitutin the Magnolia Trace Condominium Project and indicating all apartment units in the buildings Phase 1 and Phase 2, together with their unit designations.

4.02 *Unit Boundaries.* The boundaries of each unit are as described in Exhibit "E" attached hereto.

4.03 *Unit Identification.* Prior to the first conveyance of any unit there will be filed f r record in the Office of the Clerk of the Superior Court of Liberty County, Georgia, with thi Declaration a verified statement of a registered architect or licensed professional engine r certifying that the Floor Plans fully and accurately depict the layout, location, number/lett r identification and dimensions of the buildings and the units therein to be conveyed. Said plat , together with such plats as may have been filed prior thereto, shall further describe th buildings and units contained therein including the number of stories, the number of uni s contained in each building, the principal materials of which the buildings and units a e constructed, the approximate area of each, the number of rooms, immediate common area t which it has access and such other data as may be necessary for its proper identification.

Article 5. Common Elements. Unless otherwise expressly provided herein, th common elements shall consist of all portions of the condominium property other than the unit , and include, without limitation, the following:

(a) The remainder of the land described in Exhibit "B" and Exhibit "C" which is n t included in the unit and not designated as a limited common element;

(b) All driveway areas and all parking areas, to include without limitation that certa n common entrance and surrounding area identified as Tract 3 in Exhibit "A" hereto.;

(c) All central and appurtenant equipment for services such as power, lights, telephon , gas and water which are not separate facilities;

(d) All sewer pipes serving more than one unit;

(e) All service and maintenance facilities and spaces;

(f) All walks, curbing, and access paving, shrubbery, trees, and other landscaping; and

(g) All other parts of the condominium property and all appurtenances and installation in the building or on the condominium property intended for common use r necessary or convenient to the existence, operation, maintenance and safety of th condominium property.

Article 6. Limited Common Elements. Each unit owner shall have an exclusi easement to the outdoor storage area and the fences screening the storage area serving th owner's unit, if any, as shown on the condominium floor plans. The reservations herein s t forth and the easements created shall not be enlarged, diminished, or varied by any custo , practice, or usage, and shall be deemed to be conveyed and transferred with the unit to which t is assigned, even though not specifically referred to in the deed or other instrument conveyi or transferring titles of such unit or creating security interest in such unit.

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Article 7. Ownership of Common Elements. The common elements shall be for the common use of all unit owners. Each unit shall include an equal undivided interest in said common elements. The percentage of interest assigned to the respective units can be changed only by the consent of all unit owners expressed in an amendment to this Declaration. Each undivided interest is to be conveyed with the unit to which it is assigned, and is included as a part of the title to such unit. It cannot be separated from the unit to which it is assigned and cannot be separately conveyed or transferred nor used as security in any manner; it shall be deemed to be conveyed or transferred with the unit to which it is assigned even though not specifically referred to in the deed of conveyance or other instrument conveying or transferring title to such unit or creating a security interest therein. The common elements shall remain undivided and no right shall exist to partition except as provided in the Act or the Condominium Documents as they now exist or as they may hereafter be amended.

Article 8. Purpose of Property and Use Restrictions.

8.01. *Purpose.* The purpose of the property is to provide residential housing, parking, and recreational facilities for unit owners, their respective families, tenants, guests and servants.

8.02 *Uses.* The units and common areas and facilities shall be occupied and used as follows:

(a) No commercial business shall be permitted within the property.

(b) There shall be no obstruction of the common areas and facilities. Except in the case of designated storage areas, nothing shall be stored in the common areas and facilities without the prior written consent of the Board of Directors. The common elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the unit owners.

(c) Nothing shall be done or kept in any unit or in the general or limited common areas and facilities which shall increase the rate of insurance on the general or limited common areas and facilities without the prior written consent of the Board of Directors. No owner shall permit anything to be done or kept in the unit or in the general or limited common areas and facilities which will result in the cancellation of insurance of any unit or any part of the general or limited common areas and facilities, which would be in violation of any law. No waste will be committed of the general common areas and facilities or limited common areas and facilities.

(d) No sign of any kind shall be displayed to the public view from any unit or from the general or limited common areas and facilities without the prior written consent of the Board of Directors.

(e) No animals, livestock or poultry of any kind shall be raised, bred, or kept in any unit or in the general or limited common areas and facilities; except that dogs, cats or other household pets may be kept in units, subject to rules and regulations adopted by the Board of Directors.

(f) No noxious, dangerous or offensive activity shall be carried on in any unit or in the general or limited common areas and facilities, nor shall anything be done therein which may be or become an annoyance or nuisance to other owners.

(g) Nothing shall be altered or constructed in, or removed from, the general or limited common areas and facilities, except upon the prior written consent of the Board of Directors.

8.03 *Adoption of Rules.* The Board of Directors is authorized to adopt rules for the use of the general or limited common areas and facilities, and prescribe penalties for any violation thereof, and shall furnish such rules in writing to the owners, who shall be bound thereby. Such

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rules and regulations shall be binding upon the owners, their families, visitors, guests, servan , employees, lessees, licensees, invitees, successors and assigns until and unless they a overruled and canceled in a regular or special meeting of the Association by the affirmative vo of two-thirds (2/3) majority of the unit owners.

8.04 *No Alteration by Encroachments.* None of the rights and obligations of the owne created herein, or by the deeds conveying the condominiums, shall be altered in any way b encroachments due to settlement or shifting of structures or any other cause. There shall b valid easements for the maintenance of said encroachments so long as they shall exis ; provided, however, that in no event shall a valid easement for encroachment be created in fav of an owner or owners if said encroachment occurred due to the willful conduct of said owner owners.

8.05 *Development & Construction Access.* Declarant, and persons it may select, sha have the right of ingress and egress over, upon, and across the general and limited comm areas and facilities and the right to store materials thereon and make such other use thereof a may be reasonably necessary incident to construction, development, and sales of th condominiums and operation of the units and common areas and facilities in connection wi the Magnolia Trace Condominiums and the overall development of which the property is a pa Declarant and its agents shall retain the right to use of the sales office, and model units and th general and limited common areas and facilities in connection therewith during the period f development and sale of the Magnolia Trace Condominiums, including additional phases f development.

8.06 *Nuisances.* No nuisance shall be allowed upon the condominium property, nor a use or practice not originally contemplated in the uses and purposes hereinabove set for which would be the source of any annoyance to unit owners or an interference with the peacef possession and proper use of the condominium property by unit owners. All parts of th condominium property, including units, shall be kept in a clean and sanitary condition and r rubbish, refuse or garbage shall be allowed to accumulate or any fire hazard allowed to exis No unit owner shall make or permit any use of his or its unit or make any use of the comm elements or limited common elements which will violate the provisions of the condominiu documents or any insurance policy covering the condominium property.

8.07 *No Unlawful Use.* No improper, offensive or unlawful use shall be made of any pa of the condominium property, and all applicable laws, zoning ordinances and regulations of governmental bodies shall be observed. The responsibility and expense of meeting th requirements of governmental bodies which require maintenance, modification or repair of th condominium property shall be the same as the responsibility for maintenance and repair of th property unless necessitated by the misuse, misconduct, neglect or specific use of the ur owner, in which case such expenses shall be assessed against such owner.

Article 9. Property Rights.

9.01 *Development Plan.* MAGNOLIA TRACE CONDOMINIUMS will be developed i the following manner:

(a) General. The Declarant shall construct or cause to be constructed on the Phase Property a residential building containing twelve (12) residences and the Declarant sha construct or cause to be constructed on the Phase 2 Property a residential building containin twelve (12) residences. Each of said residences shall be constructed substantially i accordance with the master plan and architectural plans entitled "MAGNOLIA TRAC CONDOMINIUMS" prepared by Ussery-Rule Architects and P.C. Simonton & Associates. Tha

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portion of said architectural plans which constitutes floor plan, or some representation thereof, shall be filed for record, simultaneously with the filing of this Declaration in the Office of the Clerk of the Superior Court of Liberty County, Georgia. The Declarant expressly reserves the right to alter the location and composition of said buildings as shown on the master survey; provided, however, that the total number of residences contemplated within any particular phase shall remain unchanged; and further provided, however, that the composition of said buildings will be of comparable quality to the composition of the buildings contemplated hereunder. As and when the construction of each of said buildings is completed and prior to the first conveyance of a residence contained therein there will be filed for record in the Office of the Clerk of Superior Court of Liberty County, Georgia, an amendment to this Declaration to which shall be attached a verified statement of a registered architect or licensed professional engineer certifying that the supplement plat being filed simultaneously therewith, together with such plans as may have been filed prior thereto, fully and accurately depict the layout, location, number/letter identification and dimensions of the buildings and residences described in said amendment as built. Said amendments and supplemental plats, together with such plans as may have been filed prior thereto, shall further describe the buildings and residences contained therein including the number of stories and basements, the number of residences contained in each building, the principal materials of which the buildings and residences are constructed, the approximate area of such residence, the number of rooms, immediate common area to which it has access and such other data as may be necessary for its property identification. All of the property, except that on which residences shall have been constructed as evidenced by said supplemental plats, shall be common area.

9.02. *Residence.* Each residence, together with its undivided interest in the common area, shall for all purposes constitute real property which may be owned in fee simple and which may be conveyed, transferred and encumbered in the same manner as any other real property, subject to the provisions of this declaration. Each owner shall be entitled to the exclusive ownership and possession of his residence, subject to the provisions of the Act and this Declaration. Subject to the following, each residence shall include all of the space within the boundaries thereof. The lower horizontal boundary shall be the unfinished flooring and the upper horizontal boundary shall be the unfinished ceiling. The vertical boundaries shall be the unfinished interior walls as shown on the supplemental plat(s) provided for in this Declaration and the architectural floor plans which shall be filed for record, simultaneously with the filing of this Declaration, in the Office of the Clerk of Superior Court of Liberty County, Georgia; provided, however, that all attachments to the exterior walls of a residence which are part thereof, which protrude beyond said boundaries and which were constructed in conformity with the architectural plans and specifications, shall be deemed to be included within said boundaries. All conduits, pipes, ducts, plumbing, wiring and other facilities for the furnishing of utility services to one or more other residences and/or the common area are common elements and are excluded from a residence although located, in part, within the boundaries thereof. Each owner of a residence, by acceptance of a deed therefore, agrees that he has had full opportunity to inspect and examine the residence thus acquired by him and waives any claim or demand which he might otherwise have had against the Declarant or any other person whomsoever as a result of any discrepancy between the residence as it then exists and as it is described in this Declaration, the master plan, the supplemental plats and the architectural plans and specifications. The ownership of each residence shall include, and there shall pass with each residence as appurtenances thereto whether or not separately described, all of the

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right, title and interest of a residence owner in the property, which shall include but not b limited to an undivided interest in the common area, membership in the Association and a undivided interest in the funds and assets held by the Association.

9.03 *Common Area*. Ownership of the common area shall be by the owners as tenants i common. Each unit shall include an equal undivided interest in and to said common area. Th equal undivided interest allocated to each unit as specified in this Declaration may be altere only by the consent of all owners (or such lesser number of owners as may hereafter b prescribed by the Act) expressed in a duly recorded amendment to this Declaration; provide however, that each owner of a residence, by acceptance of a deed therefore, consents an agrees to the alteration of said allocation, and in furtherance thereof, each such owne irrevocably appoints the Declarant as his attorney-in-fact for the purpose of further evidencin such consent and agreement should the Declarant determine same to be necessary desirable. The percentage of undivided interest of each owner in the common area appurtenant to the residence owned by him. No appurtenance may be separated from th residence to which it appertains and such appurtenance shall be deemed to be conveyed encumbered or to otherwise pass with the residence whether or not expressly mentioned described in a conveyance or other instrument describing the residence. The common are shall remain undivided and no owner nor any other person shall bring any action for partition division of the whole or any part thereof except as provided in the Act and in this Declaratio Each owner and the Association may use the common area for the purposes for which they a intended, but no such use shall enter or encroach upon the lawful rights of the other owners.

Article 10. Model Units and Sales Office. Declarant and Declarant's duly authorize agents, representatives, and employees shall have the right to maintain model units and a sale office on land within the project, and to use the model units and sales office during the perio that units in the present or subsequent phases remain unsold. No more than two model uni and one sales office will be constructed and maintained by Declarant in Phase 1. Declarant ar its agents further reserve the right to construct and maintain model units and a sales office subsequent phases of the project, with no more than two models and one sales office in eac phase.

Article 11. Reservation of Easement to Facilitate Creation of Improvements c Land Within Project. Declarant and persons it may select, shall have the right of ingress ar egress over, upon and across the general and limited common areas and facilities accordance with the provisions of Article 7, and the right to store materials thereon and mak such other use thereof as may be reasonably necessary incident to construction, developmer and sales of the condominiums and operation of the units and common areas and facilities connection with the MAGNOLIA TRACE CONDOMINIUMS and the overall development which the property is a part. Declarant and its agent shall retain the right to use the sales offic and model units and the general and limited common areas and facilities in connectio therewith during the period of development and sale of the MAGNOLIA TRAC CONDOMINIUMS.

Article 12. Easements and Rights of Access.

12.01 *Encroachments*. If any portion of the common elements now encroaches upo any unit, or if any unit now encroaches upon any other unit or upon any portion of the comm elements, as a result of the construction of the building, or if any such encroachment shall occ hereafter as a result of settling or shifting of the building, a valid easement for th encroachment and for the maintenance of the same shall exist so long as the building sh

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stand. In the event a building or any portion thereof shall be partially or totally destroyed as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachments of parts of the common elements upon any unit, or of any unit upon any other unit or upon any portion of the common elements or limited common elements due to such rebuilding shall be permitted and valid easements for such encroachments and the maintenance thereof shall exist so long as the building shall stand.

12.02 *General Easements.* Each unit owner shall have an easement in common with the other owner or owners of the other unit or units to use all pipes, ducts, wires, cables, conduits, chutes, utility lines and other physical facilities which are common elements serving the owner's unit. Each unit shall be subject to an easement in favor of the other owner or owners to the use of such pipes, ducts, wires, cables, conduits, chutes, utility lines or other physical facilities which are common elements serving the condominium property. A general easement for the benefit of all unit owners is reserved through the condominium property including units, as may be required for installation, maintenance, repair or replacement of pipes, ducts, wires, cables, conduits, chutes, utility lines or other physical facilities which may now or hereafter become common elements necessary to adequately serve the condominium property.

12.03. *Inspection and Maintenance.* Any member of the Board, or any other person authorized by the Board, shall have the right of access to all common elements and to each unit for the purposes of inspection, maintenance, repair or replacement of any part of the condominium property. Provided, however, that except in the case of emergency such right of access to a unit shall not be exercised without reasonable notice to the unit owner and all attempts will be made to make such entry and repairs, et cetera, at a reasonable and convenient time to the owner.

12.04. *Use and Restrictions.* The use of the condominium property shall be in accordance with the following provisions so long as the condominium exists:

(a) Apartment Units. Each of the apartment units shall be occupied as a residence for single-family residential purposes, and are restricted to such use. Each unit may be leased or rented by the unit owner.

12.05. *General Easement for Benefit of Neighboring Properties.* A non-exclusive easement is hereby created, reserved and established in perpetuity (i) for vehicular and pedestrian traffic in, upon, over and across that certain right-of-way labeled and designated as "Magnolia Plantation Dr." on the attached Exhibit "D" for access to and ingress and egress to and from the Benefited Properties (as hereinafter defined) and the nearby Memorial Drive; and (ii) for the placement of utilities in, upon and over that that certain entire area designated as Tract 3 on the attached Exhibit "A" serving said Benefited Properties of which the aforementioned Magnolia Plantation Dr. is a part (the easements granted in (i) and (ii) above collectively referred to as the "Easements"). For the purpose of this Section 12.05 the term Benefited Properties shall mean those certain lands shown on the attached Exhibit "D" as belonging to Hidden Glen, Inc.. The Easements herein granted are intended to and shall be interpreted to permit joint usage of such Easements by (i) the Association and all unit owners and occupants of Magnolia Trace Condominiums; (ii) the owners and occupants of all or any part of the Benefited Properties; (iii) the legal representatives, heirs, successors and assigns of those persons identified in (i) and (ii) above; and (iv) agents, employees, invitees and guests of those persons identified in (i), (ii) and (iii) above. No act shall be performed by the foregoing persons which would in any way affect or jeopardize the free and continuous use and enjoyment of the Easements.

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The Easements shall be maintained in good order and repair at the sole cost and expense of the Association (and recovered by imposition of assessments as provided in Article 16 hereof). Such maintenance shall be commensurate with a first-class condominium development and shall include: (i) keeping said Easements properly lighted and free of any obstruction at all times, except in the event of emergency; (ii) removing trash and debris; (ii landscaping; (iii) resurfacing, repairing and replacement of surfaces, and (iv) arranging for and implementing the maintenance of the travel lanes, together with all necessary traffic signs and other similar roadway markings, within the Easements. In connection with such resurfacing repair and replacement of the Easements, Purchaser and its successors and assigns wil perform such maintenance expeditiously so as not to unduly interfere with or hinder the use and enjoyment of said Easements by any person or entity entitled to use the same.

Article 13. Insurance and Casualty Losses.

13.01 *Insurance.* The Board of Directors or its duly authorized agent shall have the authority to and shall obtain insurance for all of the improvements on the property (with the exception of improvements and betterments made by the respective unit owners at his expense and further excluding title insurance, which shall be expense of the owner) against loss o damage by fire or other hazards, including extended coverage, vandalism and malicious mischief, in an amount sufficient to cover the full replacement cost of any repair o reconstruction in the event of damage or destruction for any such hazard. The policy shall also include comprehensive general liability insurance with a minimum limit of $1,000,000.00. It sha also be left up to the Directors to purchase director's and officer's liability coverage with a minimum limit of $1,000,000.00. The Board of Directors shall also obtain a liability insurance policy or policies in compliance with the provisions of Ga. Code Ann., Section 85-1639e, as the same now exists or as the same may hereafter be amended. All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as Trustee for each of the unit owners in such proportions as the Board of Directors shall determine which determination shall be based on the annual insurance review provided for in this section. Such insurance shall be governed by the following provisions:

(a) Companies. All policies shall be written with a company licensed to do business in the State of Georgia, and holding a rating of A.

(b) Beneficiaries. All policies shall be for the benefit of unit owners and their mortgagees as their interests may appear.

(c) Certificates. Provision shall be made for the issuance of a certificate of insurance to each owner and his mortgagee, if any, which shall specify the proportionate amount of such insurance attributable to the particular owner's unit.

(d) Policies. A copy of all policies and endorsements thereto shall be deposited with the Board of Directors or with the Insurance Trustee appointed by the Board.

(e) Adjustments. Exclusive authority to adjust losses under policies hereafter in force on the property shall be vested in the Board of Directors or its duly authorized agent; provided however, that no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(f) Contribution. In no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder be brought into contribution with insurance purchased by individual owner or their mortgagees.

(g) Additional Insurance. It shall be the individual responsibility of each owner at his own expense to provide as he sees fit, title insurance on his individual unit, comprehensive

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personal liability insurance, theft or other insurance coverage covering improvements, betterments, and personal property damage and loss.

(h) Insurance Review. The Board of Directors shall conduct an annual insurance review which shall include a replacement cost appraisal, without respect to depreciation, of all improvements on the property (with the exception of improvements and betterments made by the respective owner at their expense) by one or more qualified building cost estimators.

(i) Policy Provisions. The Board of Directors or its duly authorized agent shall be required to make every effort to secure insurance policies that will provide for the following: (i) a waiver of subrogation by the insurer as to any claims against the Board of Directors, its duly authorized agent, the owners and their respective servants, agents and employees; (ii) a waiver of its right to repair or reconstruct instead of paying cash by the insurer; (iii) that the policies on the property cannot be canceled, invalidated or suspended on account of the conduct of any director, officer, or employee of the Association or its duly authorized agent without the prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its agent, or any owner or mortgagee; and (iv) that any "other insurance" clause in the master policy excludes individual owner's policies from consideration.

13.02 *No Partition.* There shall be no judicial partition of the property or any part thereof, nor shall the owners or any person acquiring any interest in the property or any part thereof seek any such judicial partition until the happening of the conditions set forth in this declaration in the case of damage or destruction or unless the property has been removed from the provisions of the Act.

13.03 *Insurance Trustee.*

(a) Trustee. When Trustee is referred to herein, the same shall mean the Board of Directors, unless the Board of Directors has named a Trustee. All insurance policies purchased by and in the name of the Association shall provide that the proceeds covering property losses shall be paid to the Board of Directors of the Association and/or the Trustee, if such Trustee has been appointed. If a Trustee resigns or is unable or unwilling to serve at any time, a majority vote of the Board of Directors shall appoint a successor Trustee. Immediately upon the receipt by the Association of such proceeds, the Association shall endorse the instrument by means of which such proceeds are paid and deliver or cause to be delivered such instrument to the Insurance Trustee.

(b) Duties of Trustees. The Insurance Trustee (other than the Board of Directors) shall not be liable for payment of premiums, for the of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs shall be disbursed to the beneficial owners, remittance to unit owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by such mortgagee.

(c) If it is determined as provided herein that the damage or destruction for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed to such persons as herein provided.

(d) Any and all disbursements of funds, whether such funds consist of insurance proceeds, special assessments, sales proceeds or any combination thereof, to be made by the Insurance Trustee for any purpose whatsoever shall be made pursuant to and in accordance with a certificate of the Association signed by the President or Vice President and attested by the Secretary setting forth whether or not the damage or destruction was to the common area

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for one or more units or both. If the damage or destruction is not to be repaired or reconstructed, said certificate shall direct that disbursements be made by the Insurance Trustee as by law provided in accordance with the terms of this section.

(e) If the damage or destruction is to the common area and is to be repaired or reconstructed, said Insurance Trustee may require the signature of any or all mortgagees known to said Insurance Trustee as it may in its sole discretion require and said certificate may direct that disbursements be made by the Insurance Trustee to those persons and in such amounts as may be specified therein or, in the alternative, said certificate may authorize the Insurance Trustee to make disbursements upon and pursuant to such written authorization as may be submitted to it by an architect or other persons named herein as having been employed by the Association to supervise such repairs or reconstruction.

(f) If the damage or destruction is to one or more units and is to be repaired or reconstructed, said Insurance Trustee may require the signature of any or all the mortgagees on such unit or units as the Trustee in its sole discretion may require, and said certificate may direct that disbursements be made by the Insurance Trustee to those persons and in such amounts as may be specified herein, or, in the alternative, said certificate may authorize the Insurance Trustee to make disbursements upon and pursuant to such written authorization as may be submitted to it by an architect or other persons named therein as having been employed by the Association to supervise such repairs or reconstruction.

(g) The Insurance Trustee (other than the Board of Directors) shall not incur any liability to any owner, mortgagee, or other person for any disbursements made by it pursuant to and in accordance with any such certificates or written authorizations. Nor shall the Insurance Trustee incur any liabilities to any owner or mortgagee by reasons of disbursements at the order of any court.

13.04 *Damage and Destruction.*

(a) Loss Estimates. Immediately after the damage or destruction by fire or other casualty to all or any part of the condominium property covered by insurance written in the name of 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 and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition in which it existed prior to the fire or other casualty with each unit and the common area having the same vertical and horizontal boundaries as before.

(b) Determination to Repair or Reconstruction. Any such damage or destruction shall be repaired or reconstructed unless at least eighty (80%) percent of the total votes of the Association shall decide within sixty (60) days after the casualty, not to repair or reconstruct. If for any reason, the amount of the insurance proceeds to be paid as a result of such damage or destruction or if reliable and detailed estimates of the cost of repair or reconstruction are not made available to the Association within said period of sixty (60) days after the casualty, then such period shall be extended until such information shall be made available to the Association if such proceeds are paid; provided, however, that said period of time in no event exceed ninety (90) days after the casualty. In the determination of the question of whether or not to repair or reconstruct, the mortgagee shall not have the right to participate in the determination as to whether the damaged property or destroyed property shall be repaired or reconstructed except in the following cases: (a) a unit owner being in default under the terms of the mortgage, (b) damage or destruction of the units mortgaged, (c) the common elements, the limited commo

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elements, or (d) damage or destruction to more than fifty (50%) percent of the units. In such event, the mortgagee or mortgagees shall have an irrevocable proxy (so long as said mortgages shall continue as the mortgagee) to jointly exercise the vote of the unit owner in the determination of whether the damage or destruction shall be repaired or reconstructed. Unless written notice specifying the right to exercise the proxy as set forth above has been given to the Secretary of the Association, the owners are deemed and conclusively presumed to be authorized to vote on such matters. Should the Association determine in the manner described above that the damage or destruction shall not be repaired or reconstructed, then and in that event, (i) the property shall be deemed to be owned in common by the unit owners; (ii) the undivided interest in the property owned in common which shall appertain to each unit owner shall be the percentage of undivided interest previously owned by such owner in the common area; (iii) any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the percentage of undivided interest of the unit owner in the property; and (iv) the property shall be subject to an action for partition at the suit of any unit owner, in which event the net proceeds of sale shall be paid to the Insurance Trustee. Said net proceeds of sale, together with the net proceeds of the insurance on the property, shall be considered as one fund, which, after payment of all expenses of the Insurance Trustee, shall be divided among all of the unit owners in a percentage equal to the percentage of undivided interest owned by each owner in the property, after first paying out the respective share of the unit owner, to the extent sufficient for the purpose, all liens on the undivided interest in the property owned by each unit owner. Prior to any disbursements to unit owners, the holder of a first mortgage on any unit shall receive payment in full of the debt secured by such mortgage to the extent that such debt does not exceed an amount equal to (i) the insurance proceeds paid with respect to the unit covered by such mortgage; plus (ii) any sums which might otherwise be due the owner of such unit from the proceeds of the sale of the entire property. Disbursements to owners shall be made as provided for herein.

13.05 *Repair and Reconstruction.* If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall levy a special assessment against all owners in the condominium association, and against all owners in the case of damages to the common area, in sufficient amounts to provide funds to pay such excess cost of repair or reconstruction. Such assessments on account of damage to the common area shall be in proportion to the owners' share in the common area. Any and all sums paid to the Association under and by virtue of those special assessments provided for above to defray the estimated excess cost of repair or reconstruction shall be deposited by the Association with the Insurance Trustee. The proceeds from insurance and assessments, if any, received by the Insurance Trustee, when the damage or destruction is to be repaired or reconstructed, shall be disbursed as provided for herein.

13.06 *Minor Repairs.* Notwithstanding the foregoing provisions, in the event of damage by fire or other casualty to either the common area or a single unit covered by insurance written in the name of the Association and if the insurance proceeds initially offered or paid therefor are less than Two Thousand Dollars ($2,000.00) and the estimated cost of repairing such damage is less than twice the amount of such proceeds, then the instrument by means of which such proceeds are paid shall be endorsed by the Insurance Trustee and delivered to the Association and the damage shall be repaired in accordance with the following provisions:

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(a) Common Area. If the damage is confined to the common area, such insurance proceeds shall be used by the Association to defray the cost of such repairs. If the cost of such repairs is less than the amount of such insurance proceeds, the excess shall be retained by the Association or its duly authorized agent and placed in the reserve maintenance fund or such other fund as may be established for the purpose of providing for the maintenance, repair and replacement of the common area. If the cost of such repair exceeds the amount of such insurance proceeds, such excess may be provided either by means of a special assessment levied by the Board of Directors against all owners in proportion to each owner's share in the common area or by means of an appropriation from the reserve maintenance fund or such other fund as may be established for the purpose of providing for the maintenance, repair and replacement of the common area as the Board of Directors, in the exercise of its sole discretion, may determine.

(b) Single Units. If the damage is confined to a single unit, such insurance proceeds shall be used by the Association to defray the cost of such repairs. If the cost of such repairs is less than the amount of such insurance proceeds, the excess shall be paid jointly to the owner and his mortgagee, if any, who may use the proceeds as they alone may determine. If the cost of such repairs exceeds the amount of such insurance proceeds, such excess shall be provided by means of a special assessment levied by the Board of Directors against the owner of the damaged unit. Payments for repairs provided for in this subsection shall be made only after all such repairs have been completed and approved by the Association, the owner and his mortgagee, if any, which approval shall not be unreasonably withheld.

Article 14. Association of Unit Owners. The operation of the condominium shall be an association known as the MAGNOLIA TRACE HOMEOWNERS' ASSOCIATION, INC. and, as above defined, which shall be organized and operated pursuant to the Act, this Declaration, and the Bylaws. Each unit owner shall be a member of the Association. All funds and property acquired by the Association shall be held by the Board in trust for the members in accordance with the provisions of this declaration and the Act. An equal vote shall be allocated to each unit.

Article 15. Board of Directors.

15.01 The governing board of MAGNOLIA TRACE HOMEOWNERS' ASSOCIATION, INC. shall be the Board of Directors of MAGNOLIA TRACE HOMEOWNERS' ASSOCIATION, INC., a nonprofit corporation, which shall manage and maintain the property and business of the project pursuant to the provisions of this Declaration, its Articles of Incorporation and Bylaws attached hereto.

15.02 Until a date seven (7) years from the first conveyance to a unit purchaser, or 120 days after the date by which seventy five (75%) percent of the units and all phases submitted to the condominium form of ownership have been conveyed to unit purchasers, whichever is earlier, all rights, duties, and functions of the Board of Directors shall, at Declarant's option, be exercised by Declarant. Declarant shall have the option at any time after the date of the filing of this Declaration to turn the responsibility of electing all of the members of the Board of Directors to the MAGNOLIA TRACE HOMEOWNERS' ASSOCIATION, INC.

Article 16. Common Expenses.

16.01 *Budget.* At the first meeting of the Board, and thereafter within thirty (30) days prior to the date of each annual meeting of the Association, the Board shall prepare a budget for the maintenance and operation of the condominium property for the succeeding calendar year, and shall estimate the amount of common expenses to be paid for such year. The amount of common expenses as determined shall be allocated and assessed by the Board

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among the unit owners in proportion to their respective percentages of ownership of the common elements as provided herein.

16.02. *Common Expenses.* The common expenses shall include, but not be limited to, the following:

(1) Fees and expenses of managing and administering the Association.

(2) Expenses of maintaining, preserving, operating, repairing or replacing the condominium property.

(3) Expenses of utility services for the common property, including water, gas, electricity and sewer.

(4) The cost of all insurance premiums on all policies of insurance obtained by the Board pursuant to this declaration.

(5) All rental and other payments required to be made for any property which is hereafter leased or rented for the use and benefit of the Association.

(6) Amounts determined by the Board to be reasonably required as working capital of the Association, for a general operation reserve, for a reserve fund for replacements, and for deficiencies arising from unpaid assessments.

(7) Special assessments for capital improvements and working capital as provided for below.

16.03 *Assessment.* The Board shall promptly advise each unit owner in writing of the estimated amount of common expenses payable by him as so determined by the Board, and shall furnish him with a copy of the budget on which such estimate is based, and upon written request of owner or mortgagee shall furnish a copy of his mortgage. The amount so assessed by the Board against each unit for each calendar year shall be a lien against the unit owned by such owner as of January 1 of such year. If said estimated amount proves inadequate for any such year, including non-payment of any owner's assessment, the Board may, at any time, levy a special assessment which shall be assessed against the owners in proportion to their respective percentage of ownership of the common elements. Any such special assessment shall be a lien against the residence units as of the date specified in the notice of such special assessment. Each owner shall pay to the Association Treasurer such expenses in equal monthly installments on or before the first day of each month or at such other time and in such other manner as the Board shall designate from time to time.

16.04 *Special Assessments for Capital Improvements, Reserves and Working Capital.* In addition to the assessments provided for above, the Association may levy special assessments for the purpose of paying, in whole or in part, the cost of construction of any new improvements or reconstruction or replacement of any existing improvement within the common elements, including the costs of any fixtures or personal property relating thereto, and the Association may levy special assessments for an adequate reserve fund for the periodic maintenance, repair and replacement of the common elements which funds shall be maintained out of regular assessments or common expenses; provided that such assessment shall have been approved by the vote of two-thirds of the owners voting at a meeting duly called for this purpose, written notice of which shall have been given in the manner specified in the Bylaws of the Association. For purposes of said special assessments for capital improvements, any mortgagee or mortgagees shall have an irrevocable proxy (so long as said mortgagee shall continue as the mortgagee) to jointly exercise the vote of the unit owner and shall be given notice for same as a unit owner. Unless written notice specifying the right to exercise the proxy has been given to the secretary of the Association, the owners are deemed and conclusively

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presumed to be authorized to vote on such matter. Additionally, a working capital fund must be established for the initial months of the project operations equal to at least a two-month estimated common area charge for each unit.

16.05 *Collection.* The Board shall take prompt action to collect any common expenses due from any unit owner which remain unpaid for more than ten (10) days from the due day for payment thereof. In the event of default by any unit owner in paying the common expenses as determined by the Board, such unit owner shall be obligated to pay interest at the legal rate on such common expenses from the due date thereof, together with all expenses, including attorney's fees, incurred by the Board in any proceeding brought to collect such unpaid common expenses. The Board shall have the right and duty to attempt to recover such common expenses, together with interest thereon, and the expenses of the proceeding including attorney's fees, in an action to recover the same brought against such unit owner, or by foreclosure of the lien granted by the Act on the unit of such owner. The common expenses assessed against any unit with interest, cost and a reasonable attorney's fee shall be a lien upon such unit in accordance with the Act. Common expenses as used herein shall mean expenditures made or liabilities incurred by or on behalf of the Association together with any assessment for the creation and maintenance of reserves.

16.06. All sums lawfully assessed by the Association against any unit owner of condominium unit, whether for the share of the common expenses pertaining to that unit, fc fines, or otherwise, and all reasonable charges made to any unit owner or condominium unit fc materials furnished or services rendered by the Association at the owner's request to or o behalf of the unit owner or condominium unit, shall, from the time the same become due an payable, be thee personal obligation of the unit owner and constitute a lien in favor of th association on the condominium unit prior and superior to all other liens whatsoever except: (i) lines for ad valorem taxes on the condominium unit; (ii) the lien of any first priority mortgage covering the unit and the lien of any mortgage recorded prior to the recording of the Declaration; and (iii) the lien of any secondary purchase money mortgage covering the unit provided that neither the grantee nor any successor grantee on the mortgage is the seller of the unit. Each such assessment, together with interest, cost and attorney's fee shall also be the personal obligation of the person who is the owner of such unit at the time the assessment fel due. Personal obligation for delinquent assessments shall not pass to successors in title, o interest unless assumed by them, or required by the Act.

Article 17. No Right of First Refusal. The right of a unit owner to sell, transfer or otherwise convey his or her unit in a condominium shall not be subject to any right or first refusal or similar restriction.

Article 18. Rights of Action. MAGNOLIA TRACE HOMEOWNERS' ASSOCIATION, INC. and any aggrieved unit owner shall be granted and is hereby granted a right of action against unit owners for failure to comply with the provisions of the Declaration, Bylaws, or amendments thereto, or with the decisions of MAGNOLIA TRACE HOMEOWNERS' ASSOCIATION, INC. which are made pursuant to the authority granted to the MAGNOLIA TRACE HOMEOWNERS' ASSOCIATION, INC. in such documents

Article 19. Maintenance, Repair, Alteration or Improvement of Condominium Property.

19.01 *Apartment Units.* Each unit owner shall at his own expense keep the interior of his unit and appliances, equipment and fixtures therein in good order, condition and repair and in a clean and sanitary condition, and shall be responsible for all redecorating and painting

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necessary to preserve or maintain the good condition and appearance of his unit. Each unit owner shall also be responsible for all damages to any part of his unit, to any other unit or to any of the common elements, which may result from the neglect, negligence, misuse, or misconduct of such unit owner, his employees, agents, invitees, tenants, or guests.

19.02 *Exteriors.* No unit owner shall change, modify or alter in any way or manner whatsoever the design or appearance of any surface or facade on the exterior of such owner's unit, nor paint or decorate any such exterior surface or facade, nor install, erect or attach to any part of any such exterior surface any sign, fixture, or thing whatsoever, nor make any alterations or additions to any part of the condominium property, unless such owner shall have first obtained the written consent of the Board.

19.03 *Common Elements.* All maintenance, repairs, replacements, alterations, and improvements to the common elements and limited common elements, whether located inside or outside of a unit (unless necessitated by the neglect, misuse or misconduct of an owner) shall be made by the association and the cost of same shall be charged to all unit owners as a common expense as provided herein.

Article 20. Conveyances, Easements.

20.01. Every deed, lease, mortgage or other instrument may describe a unit by its identifying number set forth in the plat attached hereto. Every such description shall be deemed good and sufficient for all purposes and shall be deemed to convey, transfer, encumber, or otherwise effect the unit owner's corresponding percentage of undivided ownership in the common areas and facilities, as a tenant in common, as set forth herein, even though the same is not exactly mentioned or described.

20.02 Every deed, lease, mortgage, or other similar instrument shall be deemed to:

(a) Except and reserve with respect to a unit: (1) any portion of the common areas and facilities lying within said unit; (2) easements through said unit, appurtenant to the common areas and facilities and all other units, for support and repair of the common areas and facilities and all other units; (3) easements, appurtenant to the common areas and facilities, for encroachment upon the air space of said unit by those portions of the common areas and facilities located within said unit.

(b) Include with respect to a unit nonexclusive easements for ingress and support of said unit through the common areas and facilities for the repair of said unit through all other units and through the common areas and facilities.

(c) Except and reserve, with respect to the undivided percentage interest in the common areas and facilities, nonexclusive easements appurtenant to all units for ingress, egress, support and repair.

(d) Include, with respect to the undivided percentage interest in the common areas and facilities, nonexclusive easements through each unit for support and repair of the common areas and facilities and nonexclusive easements for encroachments upon the air space of all of the units by and for the portions of the common areas and facilities lying within the units.

(e) Inspection and Maintenance. Any member of the Board, or any other person authorized by the Board shall have the right of access to all common elements and to each unit for the purposes of inspection, maintenance, repair or replacement of any part of the condominium property. Provided, however, that except in the case of emergency such right of access to a unit shall not be exercised without reasonable notice to the unit owner and all attempts will be made to make such entry and repairs, etceteras, at a reasonable and convenient time to the owner.

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Article 21. Notice of Lien or Suit. A unit owner shall give notice to the Board of eve y lien against his unit (other than for permitted mortgages, taxes and assessments by t e Association) within five (5) days after said unit owner receives notice of the attaching of the lie , shall give notice to the Board of every suit or other proceeding which may affect the title to h s unit, such notice to be given within five (5) days after such owner receives knowledge of su h suit or other proceeding, and shall give notice to the Board immediately upon receipt by su h owner from a mortgagee holding a mortgage on such unit of any notice, demand, or oth r communications demanding payment of the debt secured by such mortgage, accelerating r proposing to accelerate the maturity of such debt, or in any manner informing such owner of a actual, pending or alleged default by owner under such mortgage.

Article 22. Notices. Any notice required by the Act or by any of the condominiu documents shall be a written notice delivered to the recipient or mailed to him by United State mail, postage prepaid, at his last known address if the recipient is an individual, or addressed the President of the Association, if the recipient is the Association or the Board. All notice delivered by mail shall be deemed to have been given as of the date and hour of the postma thereon. The address of unit owners shown on the records maintained by the Secretary of th Association shall be the address of such owner for mailing of all notices required from th Board or the Association, and it shall be the responsibility of each owner to furnish th Secretary written notice of any error in such records or change of address.

Article 23. Agent to Receive Service of Process. All notices, stipulations, writing, process to be served upon the Association, or upon the Board, shall be delivered to th authorized agent of the Association and of the Board. Said agent shall be the then incumbe President of the Association, whose name and residence address shall be a matter of record a part of this paragraph and Declaration. From time to time as new persons serve in the office President, the Secretary shall certify and record an amendment to this paragraph. Amendme and recording for the purposes of this paragraph shall not require any formal Association actio it being intended to meet at all times the statutory requirement to disclose the name an address of each person to receive service of process. Until the election of the first Presiden John A. Jones, shall be considered the authorized agent.

Article 24. Renewal of Covenants and Restrictions. The provisions of thi Declaration and the other condominium documents shall constitute covenants running with th land, binding on the undersigned, its successors and assigns, and on all subsequent owners o any part of the condominium property, together with their grantees, successors, heirs executors, administrators, devisees, lessees, and assigns. By the acceptance of any deed o other document conveying or transferring any interest in a unit, the recipient thereof accept and ratifies all covenants and restrictions contained herein and in the other condominiu documents. Each unit owner, by the acceptance of said deed or other document, covenant and agrees, each with the other, that he will join in the execution of any and all document which are deemed necessary by the Board to renew or extend said covenants and restriction from time to time so long as the condominium exists.

Article 25. Waiver. The failure of the Association or any unit owner to enforce an covenant, restriction or other provisions of the Act or the condominium documents shall no constitute a waiver of the right to do so thereafter.

Article 26. Surrender of Declarant Control. (a) The Declarant shall relinquish al special rights, expressed or implied, through which the Declarant may directly or indirectl control, direct, modify, or veto any action the Association, its Executive Board, or a majority o

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unit owners in control of the Association shall pass to the owners of the units within the project not later than the earlier of the following: (i) 120 days after the date by which seventy five (75%) percent of the units and all phases submitted to the condominium form of ownership have been conveyed to unit purchasers, or (ii) seven (7) years from the date of the first conveyance to a unit purchaser.

(b) The requirements of paragraph (a) of this Article shall not affect the Declarant's rights as a unit owner to exercise the votes allocated to units which the Declarant owns.

(c) Until the first annual meeting of the Board of Directors of the Association, the non-profit corporation, MAGNOLIA TRACE HOMEOWNERS' ASSOCIATION, INC., may be governed by an interim board composed of developer representatives. The annual meeting of the non-profit corporation shall take place within one (1) year after the first condominium unit is conveyed.

Article 27. Ad Valorem Taxes. Ad valorem real estate taxes must be assessed and shall be lienable only against the individual units, together with their undivided interest in the common elements and not against the entire structures or against common areas in excess of each unit owner's undivided interest in the project.

Article 28. Merger. The Declarant covenants that the condominium regime may not be amended or merged with a successor condominium regime without prior written approval of the Administrator of the Veterans' Administration.

Article 29. Amendments by Owners. This Declaration shall be amended in the following manner, (except in those cases involving the combination of units):

(a) *Proposed Amendments.* Any member of the Association may propose an amendment to this Declaration. Such proposed amendment must be submitted in writing to the Secretary at least twenty (20) days prior to the date of the special or regular Association meeting at which the proposal is to be considered.

(b) *Notice.* A statement of the subject matter of the proposed amendment or amendments shall be included in the notice of any Association meeting at which the proposed amendments are to be considered.

(c) *Resolution.* A resolution for the adoption of a proposed amendment may be proposed by any member of the Association. The resolution for adoption must be approved by the owners entitled to cast not less than eighty (80%) percent of the total authorized votes of the Association.

(d) *Absentee Vote.* Members not present at any meeting may vote by proxy as provided in the bylaws.

(e) *Proviso.* Provided, however, that no amendment shall change the boundaries of a unit nor the share in the common elements appurtenant to it, unless the record owners of all units shall approve the amendment in writing.

(f) *Execution and Recording.* A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the President and Secretary in recordable form. The amendment shall be effective when such certificate and a copy of the amendment are filed for record in the Office of the Clerk of Superior Court of Liberty County, Georgia.

Article 30. Construction. The provisions of this Declaration and all other condominium documents shall be construed in light of the provisions of the Act and, to the extent possible, as being consistent with the Act. If any provision, sentence, clause, phrase or word of this Declaration or any other condominium document is held invalid or unenforceable for any reason, such holding shall not be deemed to affect, alter, modify or impair in any manner any

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other provision herein or in said documents. Whenever the context so permits, the use of th plural shall include the singular, the plural, and the use of any gender shall be deemed to include all genders. The captions used herein and in the other condominium documents ar solely to aid in the location of the various provisions, and in no way shall such captions b construed to limit or define the subject matter of such provisions.

Article 31. Miscellaneous.

(a) *Incorporation of the Act.* Except as modified by the provisions of this declaration an the exhibits hereto, the Act is by reference hereby incorporated herein.

(b) *Multiple Owners.* If any unit shall be owned as tenants in common by two or mor persons, such persons shall be jointly and severally liable for the common expenses assesse against such unit and for the prompt discharge of each and every obligation or duty imposed o such owners by the condominium documents.

(c) *Enforcement.* Each owner, tenant or occupant of a unit shall be bound to compl with the statutory provisions and condominium documents as the same may be in effect fron time to time and with the decisions, resolutions, rules and regulations of the Association as the same may be in effect from time to time, and failure to do so shall be grounds for an action to recover damages or to obtain injunctive and other equitable relief, or both.

(d) *Severability.* The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision o portion hereof shall not affect the validity or enforceability of any other provision hereof.

(e) *Captions.* The captions to this Declaration are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration or the intent of any provisions hereof.

(f) *Law Controlling.* This Declaration, the condominium plat and plans and Bylaws shall be construed and controlled by and under the laws of the State of Georgia.

(g) *Effective Date.* This Declaration shall take effect when recorded.

[Signature of Declarant Appears on Following Page]

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[Declaration of Condominium – Signature Page].

IN WITNESS WHEREOF, the undersigned has executed this instrument this the 31st day of July, 1998.

LIBERTY CONSTRUCTION, INC

(CORPORATE SEAL)

By: _____
John A. Jones, President

Signed, sealed, and delivered in the presence of

_____
Witness

_____
Notary Public, Liberty County, Georgia
My Commission Expires: 4-15-2000
(SEAL)

PAMELA J. SCHMIDT NOTARY PUBLIC My Comm. Exp. April 15, 2000 LIBERTY COUNTY, GA

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EXHIBIT "A"

TRACT ONE:
All that certain lot, tract or parcel of land situate, lying and being in the 17th G.M. District of Liberty County, Georgia, and being in the City of Hinesville, being known and designated as Magnolia Trace Condominiums, Phase I, containing 0.78 Acres, more or less, and being more specifically described as follows: Commencing at a point on the Northerly right of way of Memorial Drive which point is common to said right of way lands of Wedgy's, Inc. and lands of Hidden Glen, Inc. and being marked by a concrete monument, and from said point proceed North 49° 40' 41" East a distance of 150.98 feet to an iron pin, THE POINT OF BEGINNING, thence running N 40° 00' 43" West a distance of 101.95 feet to an iron pin; thence running North 50° 05' 26" East a distance of 209.20 feet to an iron pin; thence running South 40° 00' 43" East a distance of 161.18 feet to an iron pin; thence running South 49° 55' 07" West a distance of 209.20 feet to an iron pin; thence running North 40° 00' 43" West a distance of 59.86 feet to an iron pin, said pin being the point of beginning, as shown and represented on that certain plat of survey made and prepared by Joe P. Davis, Georgia Registered Land Surveyor No. 1436, dated June 18, 1998, and being recorded in Plat Section L-67, Page 1, in the Office of the Clerk of Superior Court of Liberty County, Georgia, said plat by specific reference is made a part hereof for descriptive and all other purposes.

TRACT TWO:
All that certain lot, tract or parcel of land situate, lying and being in the 17th G.M. District of Liberty County, Georgia, and being in the City of Hinesville, being known and designated as Magnolia Trace Condominiums, Phase II, containing 0.84 Acres, more or less, and being more specifically described as follows: Commencing at a point on the Northerly right of way of Memorial Drive which point is common to said right of way lands of Wedgy's, Inc. and lands of Hidden Glen, Inc. and being marked by a concrete monument, and from said point proceed North 49° 40' 41" East a distance of 150.98 feet to an iron pin; thence running N 40° 00' 43" West a distance of 101.95 feet to an iron pin; thence running North 50° 05' 26" East a distance of 209.20 feet to an iron pin, THE POINT OF BEGINNING, thence running North 50° 05' 26" East a distance of 226.71 feet to an iron pin; thence running South 39° 56' 44" East a distance of 99.78 feet to an iron pin; thence running South 39° 56' 44" East a distance of 60.72 feet to a iron pin; thence running South 49° 55' 07" West a distance of 226.52 feet to an iron pin; thence running South 40° 00' 43" East a distance of 161.18 feet to an iron pin, said pin being the point of beginning, as shown and represented on that certain plat of survey made and prepared by Joe P. Davis, Georgia Registered Land Surveyor No. 1436, dated June 18, 1998, and being recorded in Plat Section L-67, Page 1, in the Office of the Clerk of Superior Court of Liberty County, Georgia, said plat by specific reference is made a part hereof for descriptive and all other purposes.

TRACT THREE:
All that certain lot, tract or parcel of land situate, lying and being in the 17th G.M. District of Liberty County, Georgia, and being in the City of Hinesville, containing 0.83 Acres, more or less and being more specifically described as follows: Commencing at a point on the Northerly right of way of Memorial Drive which point is common to said right of way lands of Wedgy's, Inc. and lands of Hidden Glen, Inc. and being marked by a concrete monument, and from said point proceed North 40° 03' 21" West a distance of 59.23 feet to an iron pin, THE POINT OF BEGINNENG, thence running South 49° 55' 07" West a distance of 150.94 feet to an iron pin; thence running South 49° 55' 07" West a distance of 209.20 feet to an iron pin; thence running South 40° 00' 43" East a distance of 40.22 feet to an iron pin; thence running South 49° 51' 43" West a distance of 34.35 feet to an iron pin; thence running South 75° 28' 17" East a distance of 61.29 feet to a concrete monument; thence running South 44° 03' 52" West a distance of 161.31 feet to a concrete monument; thence running South 49° 56' 33" West a distance of 199.73 feet to a concrete monument; thence running North 40° 35' 12" West a distance of 106.59 feet to an iron pin, said pin being the point of beginning, as shown and represented on that certain plat of survey made and prepared by Joe P. Davis, Georgia Registered Land Surveyor No. 1436, dated June 18, 1998, and being recorded in Plat Section L-67, Page 1, in the Office of the Clerk of Superior Court of Liberty County, Georgia, said plat by specific reference is made a part hereof for descriptive and all other purposes.

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EXHIBIT "B"

All that certain lot, tract or parcel of land situate, lying and being in the 17th G.M. District of Liberty County, Georgia, and being in the City of Hinesville, being known and designated as Magnolia Trace Condominiums, Phase I, containing 0.78 Acres, more or less, and being more specifically described as follows: Commencing at a point on the Northerly right of way of Memorial Drive which point is common to said right of way lands of Wedgy's, Inc. and lands of Hidden Glen, Inc. and being marked by a concrete monument, and from said point proceed North 49° 40' 41" East a distance of 150.98 feet to an iron pin, THE POINT OF BEGINNING, thence running N 40° 00' 43" West a distance of 101.95 feet to an iron pin; thence running North 50° 05' 26" East a distance of 209.20 feet to an iron pin; thence running South 40° 00' 43" East a distance of 161.18 feet to an iron pin; thence running South 49° 550' 07" West a distance of 209.20 feet to an iron pin; thence running North 40° 00' 43" West a distance of 59.86 feet to and iron pin, said pin being the point of beginning, as shown and represented on that certain plat of survey made and prepared by Joe P. Davis, Georgia Registered Land Surveyor No. 1436, dated June 18, 1998, and being recorded in Plat Section L-67, Page 1, in the Office of the Clerk of Superior Court of Liberty County, Georgia, said plat by specific reference is made a part hereof for descriptive and all other purposes.

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EXHIBIT "B"

All that certain lot, tract or parcel of land situate, lying and being in the 17th G.M. District of Liberty County, Georgia, and being in the City of Hinesville, being known and designated as Magnolia Trace Condominiums, Phase I, containing 0.78 Acres, more or less, and being more specifically described as follows: Commencing at a point on the Northerly right of way of Memorial Drive which point is common to said right of way lands of Wedgy's, Inc. and lands of Hidden Glen, Inc. and being marked by a concrete monument, and from said point proceed North 49° 40' 41" East a distance of 150.98 feet to an iron pin, THE POINT OF BEGINNING, thence running N 40° 00' 43" West a distance of 101.95 feet to an iron pin; thence running North 50° 05' 26" East a distance of 209.20 feet to an iron pin; thence running South 40° 00' 43" East a distance of 161.18 feet to an iron pin; thence running South 49° 550' 07" West a distance of 209.20 feet to an iron pin; thence running North 40° 00' 43" West a distance of 59.86 feet to and iron pin, said pin being the point of beginning, as shown and represented on that certain plat of survey made and prepared by Joe P. Davis, Georgia Registered Land Surveyor No. 1436, dated June 18, 1998, and being recorded in Plat Section L-67, Page 1, in the Office of the Clerk of Superior Court of Liberty County, Georgia, said plat by specific reference is made a part hereof for descriptive and all other purposes.

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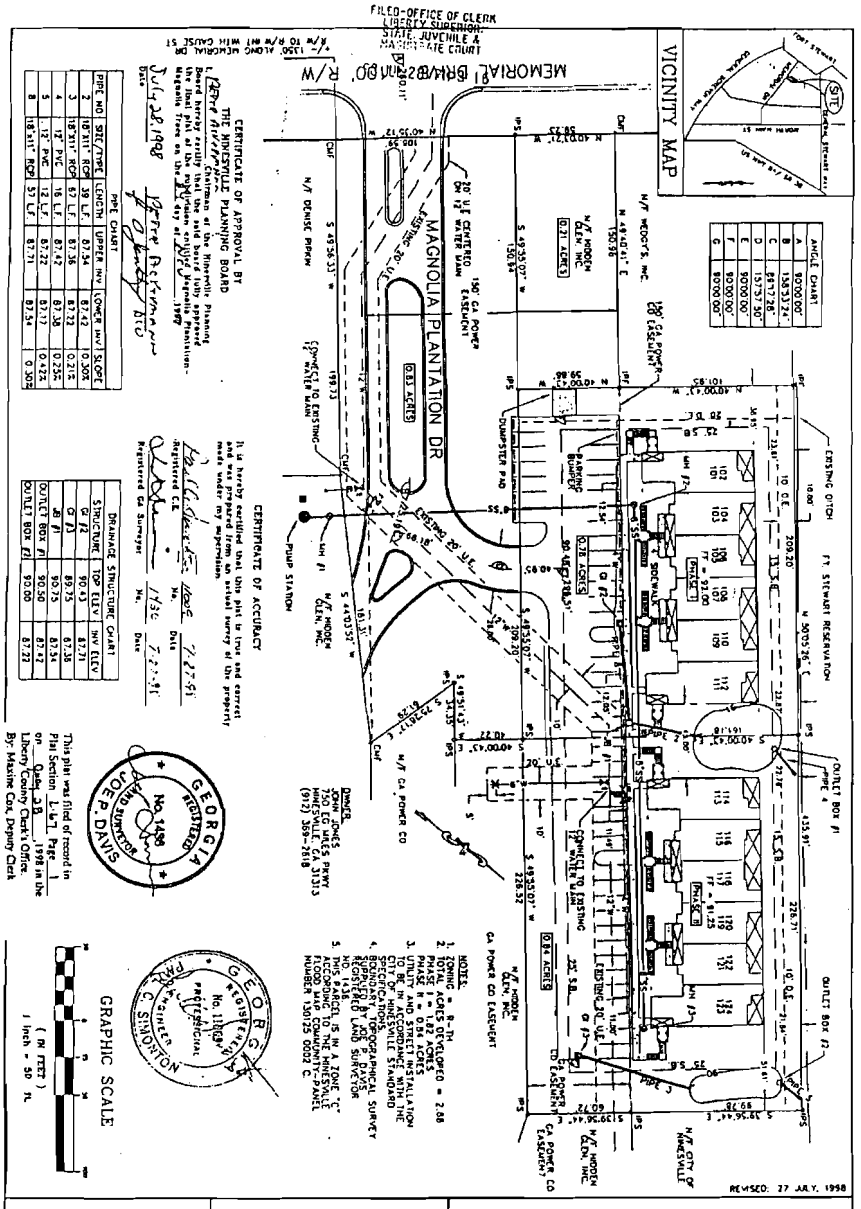
EXHIBIT "C"

All that certain lot, tract or parcel of land situate, lying and being in the 17th G.M. Distric of Liberty County, Georgia, and being in the City of Hinesville, being known and designatec as Magnolia Trace Condominiums, Phase II, containing 0.84 Acres, more or less, and being m ire specifically described as follows: Commencing at a point on the Northerly right of wa of Memorial Drive which point is common to said right of way lands of Wedgy's, Inc. and land of Hidden Glen, Inc. and being marked by a concrete monument, and from said point proc ed North 49° 40' 41" East a distance of 150.98 feet to an iron pin; thence running N 40° 00' 3" West a distance of 101.95 feet to an iron pin; thence running North 50° 05' 26" East a dista ce of 209.20 feet to an iron pin, THE POINT OF BEGINNING, thence running North 50° 05' 6" East a distance of 226.71 feet to an iron pin; thence running South 39° 56' 44" East a dista ce of 99.78 feet to an iron pin; thence running South 39° 56' 44" East a distance of 60.72 feet tc an iron pin; thence running South 49° 55' 07" West a distance of 226.52 feet to an iron pin; the ce running South 40° 00' 43" East a distance of 161.18 feet to an iron pin, said pin being the p nt of beginning, as shown and represented on that certain plat of survey made and prepared by Joe P. Davis, Georgia Registered Land Surveyor No. 1436, dated June 18, 1998, and be ng recorded in Plat Section L-67, Page 1, in the Office of the Clerk of Superior Court of Libe ty County, Georgia, said plat by specific reference is made a part hereof for descriptive and all other purposes.

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EXHIBIT "E"

Each unit shall include all of the space within the boundaries thereof. The lower horizc tal boundary shall be the unfinished flooring and the upper horizontal boundary shall be he unfinished ceiling. The vertical boundaries shall be the unfinished interior walls. All l th, wallboard, plasterboard, plaster, tiles, paneling, wallpaper, paint, finished flooring, and any o ıer materials constituting any part of the finished surfaces of the perimetric walls, floors, nd ceilings shall be deemed a part of each unit. Units shall not include the structural parts of he walls, floors and ceilings. The ownership of each unit shall include, and there shall pass ıith each unit as appurtenances thereto whether or not separately described in the conveya ce thereof, that percentage of the right, title and interest attributable to such unit in the comr on areas, together with membership and vote in the Association. Every portion of a nit contributing to the support of any abutting unit shall be burdened with an easement of sup ort for the benefit of such abutting unit. Subject to other provisions herein, each owner shall be responsible for the maintenance, repair and replacement, at such owner's expense, of his ı it, including all connections of conduits, ducts, plumbing, wiring, and other facilities for ul ity services contained within the unit, all exterior lighting for individual residence units, and hea ıg and air-conditioning equipment for individual residence units, and such maintenance, repair nd replacement work shall be done without disturbing the rights of other owners.

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BYLAWS
of
MAGNOLIA TRACE HOMEOWNERS' ASSOCIATION, INC.
A GEORGIA NON-PROFIT CORPORATION

The Administration of the Magnolia Trace Condominiums and the Magnolia Trace Homeowners' Association shall be governed by its Articles of Incorporation, these By-laws, by the Condominium Ownership Act, Georgia Statutes Annotated, as amended (the "Act"), and by the Declaration.

1. Application of Bylaws. All present and future unit owners, mortgagees, lessees and occupants of units and their employees, and any other persons who may use the facilities of the property in any manner are subject to the Declaration, the Articles of Incorporation, these Bylaws, and all rules made pursuant hereto and any amendment thereof.

2. Association of Unit owners. The Magnolia Trace Homeowners' Association, Inc. is a non-profit corporation organized under the provisions of Georgia Statutes Annotated, as amended. The name in which contracts shall be entered into, title to property shall be acquired, held, dealt in, and disposed of, bank accounts shall be opened, and suits shall be brought and defended by the Board of Directors or officers thereof on behalf of and agents for the unit owners in the manner specified by the Act, the Declaration or these By-laws is: "Magnolia Trace Homeowners' Association, Inc.", a Georgia non-profit corporation.

3. Meetings of the Association.

3.1 The presence in person or by proxy at any meeting of the association of unit owners holding at least fifty percent (50%) of the undivided ownership of the common areas and facilities in response to notice of all unit owners of record properly given shall constitute a quorum. In the event that unit owners holding at least fifty percent (50%) of the undivided ownership of the common areas and facilities are not present in person or by proxy, the meeting shall be adjourned for twenty-four (24) hours, at which time it shall reconvene and any number of unit owners present at such subsequent meeting will constitute a quorum. Unless, otherwise expressly provided in the Declaration or the Articles of Incorporation, any action may be taken at any meeting of the unit owners upon a majority vote of the unit owners who are present in person or by proxy and who are voting.

3.2 There shall be an annual meeting of the association on the second Thursday of February at 7:00 p.m. at the property, or at such other reasonable place or time (not more than sixty (60) days before or after such date) as may be designated by written notice by the Board of Directors delivered to the unit owners not less than fifteen (15) days prior to the date fixed for said meeting. At or prior to an annual meeting, the Board of Directors shall furnish to the unit owners: (i) a budget for the coming fiscal year that shall itemize the estimated common expenses of the coming fiscal year with the estimated allocation thereof to each unit owner; and

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(ii) a statement of the common expenses itemizing receipts and disbursements for the previous and current fiscal year, together with the allocation thereof to each unit owner. Within ten (10) days after the annual meeting, the budget statement shall be delivered to the unit owners who were not present at the annual meeting.

3.3 Special meetings of the association may be held at any time at the property or at such other reasonable place to consider matters which, by the terms of the Declaration or the Articles of Incorporation, require the approval of all or some of the unit owners, or for any other reasonable purpose. Special meetings shall be called by written notice, signed by a majority of the Board of Directors, or by unit owners representing at least one-third (1/3) in interest of the undivided ownership of the common areas and facilities and delivered to all unit owners not less than fifteen (15) days prior to the date fixed for said meetings. The notices shall specify the date, time and place of the meeting, and the matters to be considered.

3.4 Robert's Rules of Order (latest edition) shall govern the meeting.

4. Officers.

4.1 All officers and employees of the association shall serve at the will of the Board of Directors. The officers shall be a president, secretary and treasurer. The Board of Directors may appoint such other assistant officers as the Board of Directors may deem necessary. No officer shall be required to be a unit owner, but the president must be a member of the Board of Directors. No officer shall receive compensation for serving as such. Officers shall be annually elected by the Board of Directors and may be removed and replaced by the Board of Directors. The Board of Directors may, in its discretion, require that officers (and other employees of the association) be subject to fidelity bond coverage. Resignation of any officer shall be in writing directed to the Board of Directors which shall act promptly thereon.

4.2 The president shall be the chief executive of the Board of Directors and shall preside at all meetings of the unit owners and of the Board of Directors and may exercise the powers ordinarily assigned to and exercised by the presiding officer of an association, including the appointment of committees. The president shall exercise general supervision over the property and its affairs. He shall sign on behalf of the association all conveyances, mortgages, and contracts of material importance to its business. He shall do and perform all acts which the Board of Directors may require.

4.3 The secretary shall keep minutes of all proceedings of the Board of Directors and of the meetings of the association and shall keep such books and records as may be necessary and appropriate for the records of the unit owners and the Board of Directors. In the absence or inability of the president, the secretary shall perform the functions of the president.

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4.4 The treasurer shall be responsible for the fiscal affairs of the association, but may delegate the daily handling of funds and the keeping of records to a manager or managing company.

4.5 The membership may ratify actions of the officers subsequent thereto and thereby give full force and effect to such actions as though approved in advance.

5. Board of Directors.

5.1 The management and maintenance of the property and the business, property, and affairs of the Magnolia Trace Homeowners' Association ("association") shall be managed by a Board of Directors consisting of five (5) members, who need not be unit owners. The Board of Directors shall be elected as provided in these By-laws and the Declaration.

5.2 The Board of Directors shall have all the powers, duties and responsibilities as are now or may hereafter be provided by the Act, the Declaration, the Articles of Incorporation, and these By-laws, including but not limited to the following:

5.2.1 To make and enforce all house rules and administrative rules and regulations covering the operation and maintenance of the property.

5.2.2 To engage the services of a manager or managing company, accountants, attorneys or other employees or agents and to pay to said persons a reasonable compensation therefor.

5.2.3 To operate, maintain, repair, improve and replace the common areas and facilities.

5.2.4 To determine and pay the common expenses.

5.2.5 To assess and collect the proportionate share of common expenses from the unit owners.

5.2.6 To enter into contracts, deeds, leases, or other written instruments or documents and to authorize the execution and delivery thereof by the appropriate officers.

5.2.7 To open bank accounts on behalf of the association and to designate the signatures therefor.

5.2.8 To purchase, hold, sell, convey, mortgage or lease any one or more units in the name of the association or its designee.

5.2.9 To bring, prosecute and settle litigation for itself, the association, and the property, provided that it shall make no settlement which results in a liability against the Board of Directors, the association or the property in excess of $1,000.00 without prior approval of a majority of unit owners.

5.2.10 To obtain insurance for the association with respect to the units and the common areas and facilities, as well as Workmen's Compensation Insurance.

5.2.11 To repair or restore the property following damage or destruction, or a permanent taking by the power of, or power in the nature of, eminent domain, or by an action or deed in lieu of condemnation, not resulting in the removal of the property from the provisions of the Act.

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5.2.12 To own, purchase or lease, hold and sell, or otherwise dispose of, on beha of the unit owners, items of personal property necessary to or convenient in the management o the business and affairs of the association and the Board of Directors and in the operation o the property, including without limitation, furniture, furnishings, fixtures, maintenanc equipment, appliances, and office supplies.

5.2.13 To keep adequate books and records.

5.2.14 To have a corporate seal.

5.2.15 To approve and sign checks and issue payment vouchers.

5.2.16 To pay off liens against any portion of the property.

5.2.17 To do all other acts necessary for the operation and maintenance of th property, including the maintenance and repair of any unit if the same is necessary to protect preserve the property, provided, however that the management shall operate no other busine s for profit.

5.3 The Board of Directors may delegate to a manager or managing company all of s foregoing powers, duties and responsibilities referred to in paragraph 5.2 above except: t e final determination of the common expenses, budgets and assessments based thereon, t e promulgation of house rules and administrative rules and regulations, the power to enter ir o any contract involving more than $500.00 in any one fiscal year, the opening of banki g accounts, the power to purchase, hold, sell, convey, mortgage or lease any units in the name of the association or to bring, prosecute or settle litigation.

5.4 Members of the Board of Directors, the officers and any assistant officer, agents, a d employees of the association (i) shall not be liable to the unit owners as a result of th ir activities as such for any mistake of judgment, negligence or otherwise, except for their o n willful misconduct or gross negligence; (ii) shall have no personal liability in contract to a u nit owner or any other person or entity under any agreement, instrument or transaction ente d into by them on behalf of the association in their capacity as such; (iii) shall have no perso al liability in tort to any unit owner or any person or entity, direct or imputed, by virtue of a ts performed by them, or acts performed for them in their capacity as such; and (iv) shall have o personal liability arising out of the use, misuse or condition of the property, which might in a y way be assessed against or imputed to them as a result or by virtue of their capacity as such

5.5 The unit owners shall indemnify and hold harmless, any person, his heirs a d personal representatives, from and against all personal liability and all expenses incluc g counsel fees, incurred or imposed, or arising out of or in settlement of any threatened, penc g or completed action, suit or proceedings, whether civil, criminal, administrative or investiga ve instituted by any one or more unit owners, or any other persons or entities, to which he shal be or shall be threatened to be made a party by reason of the fact that he is or was a membe of the Board of Directors or an officer or assistant officer, agency or employee of the associal on, other than to the extent, if any, that such liability or expense, shall be attributable to his w ful misconduct or bad faith; provided, in the case of any settlement, that the Board of Direc ors

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shall have approved the settlement, which approval is not to be unreasonably withheld. Such right of indemnification shall not be deemed exclusive of any other rights to which such person may be entitled as a matter of law or agreement or vote of unit owners or of the Board of Directors or otherwise. The indemnification by the unit owners as contained herein shall be paid by the Board of Directors on behalf of the unit owners and shall constitute a common expense and shall be assessed and collectible as such.

5.6 Beginning with the first annual meeting and at every annual meeting thereafter, the association shall elect the members of the Board of Directors for the forthcoming year. At least thirty (30) days prior to any annual meeting of the association, the Board of Directors shall select from the unit owners a nominating committee of not less than three (3) members (none of whom shall be members of the then Board of Directors), who shall recommend to the annual meeting one nominee for each position on the Board of Directors to be filled at that particular annual meeting. Nominations for positions on the Board of Directors may also be made by petition filed with the secretary of the association, which petition shall be signed by ten (10) or more unit owners and signed by the nominee named therein indicating his willingness to serve as a member of the Board of Directors if elected. Members of the Board of Directors shall not be required to be unit owners, but must be natural persons and residents of the State of Georgia.

5.7 Members of the Board of Directors shall serve for a term of two (2) years; provided, however, that two members of the Board of Directors elected at the first annual meeting shall serve for an initial term of one (1) year and the three other members shall serve for initial terms of two (2) years. The terms of no more than three members will end each year. The members of the Board of Directors shall serve until their respective successors are elected, or until their death, resignation or removal. Any member of the Board of Directors who fails to attend three consecutive Board of Directors meetings or fails to attend at lease 25 percent of the Board of Directors meetings held during any calendar year shall forfeit his membership on the Board of Directors.

5.8 Any member of the Board of Directors may resign at any time by giving written notice to the president of the association or the remaining Board of Directors members. Any member of the Board of Directors may be removed from membership on the Board of Directors by a two-thirds majority vote of the association. Whenever there shall occur a vacancy on the Board of Directors due to death, resignation, removal, or any other cause, the remaining members shall elect a successor member to serve until the next annual meeting of the association, at which time said vacancy shall be filled by the association for the unexpired term, if any.

5.9 The members of the Board of Directors shall receive no compensation for their services unless expressly approved by a majority of the association; provided, however, that any member of the Board of Directors may be employed by the association in another capacity and receive compensation for such employment, if otherwise allowed.

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5.10 The meetings of the Board of Directors shall be held at such places within the State of Georgia as the Board of Directors shall determine. Three (3) members of the Board of Directors shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall be the act of the Board of Directors. The Board of Directors shall annually elect all of the officers of the association. The meeting for the election of officers shall be held at the first meeting of the Board of Directors immediately following the annual meeting of the association.

5.11 Regular meetings of the Board of Directors may be held without call or notice.

5.12 Special meetings of the Board of Directors may be called by the president or by any two Board of Directors members. The person or persons calling a special meeting of the Board of Directors shall, at least ten (10) days before the meeting, give notice thereof by any usual means of communication. Such notice need not specify the purpose for which the meeting is called, if an agenda is prepared for such a meeting, the meeting need not be restricted to discussions of those items listed on the agenda.

5.13 Any member of the Board of Directors may, at any time waive notice of any meeting of the Board of Directors in writing, and such waiver shall be deemed to equivalent to the giving of such notice. Attendance by a member of the Board of Directors at a meeting shall constitute a waiver of notice of such meeting except if a Board of Directors member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the members of the Board of Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

5.14 After the election of the members of the Board of Directors at the first annual meeting of the association, they shall execute, acknowledge, and record an affidavit stating the names of the members of the newly elected Board of Directors. Thereafter, any two (2) persons who are designated of record as being members of the most recent Board of Directors (regardless of whether or not they shall still be members) may execute, acknowledge and record an affidavit stating the names of all of the members of the then current Board of Directors. The most recently recorded of such affidavits shall be prima facie evidence that the persons named therein are all of the incumbent members of the Board of Directors and shall be conclusive evidence thereof in favor of all persons who rely thereon in good faith.

5.15 The fiscal year shall be determined by the Board of Directors.

5.16 The membership may ratify actions taken by the Board of Directors subsequent to such actions and thereby give such action the full force and effect as though approved in advance.

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6. Common Expenses: Assessments

6.1 All assessments shall be made and collected in accordance with this paragraph and the provisions of paragraph 7 hereof.

6.2 Each Owner shall be liable for a proportionate share of the common expenses, such shares being the same as the percentage of undivided interest in the common areas and facilities, appurtenant to the unit owned by the unit owner as set forth in the Declaration.

6.3 Within thirty (30) days prior to the annual meeting of the association, the Board of Directors shall estimate the common expenses and capital contributions for the following year. The estimated capital contributions may include such amounts as the Board of Directors may deem proper for general working capital for the general operating reserve, for a reserve fund for replacements and major maintenance and shall take into account any expected income, surplus, or deficit in the common expenses for any prior year. The estimated capital contributions and common expenses shall be presented at the annual meeting and thereafter shall be assessed on a monthly basis to the unit owners in proportion to their percentage of undivided interest in the common areas and facilities as set forth in the Declaration. If the estimated common expenses prove inadequate for any reason, including nonpayment of any unit owner's assessments, the Board of Directors may, by resolution duly adopted, make additional assessments, which shall be assessed to the unit owners in the same manner as the estimated common expenses. Each unit owner shall be obligated to pay to the Board of Directors assessments made pursuant to this paragraph on or before the first day of each month, or in such other reasonable manner as the Board of Directors shall designate, notwithstanding the above, the developer shall pay assessments only on completed units owned by the developer. The funds received by the Board of Directors from assessments shall be kept in either the capital account or in the common expense fund and shall be expended by the Board of Directors only in accordance with the provisions of the Act, the Declaration, and these By-laws.

6.4 The failure by the Board of Directors before the expiration of any year to estimate the common expenses as required herein shall not be deemed a waiver or modification in any respect of the provisions of the Declaration or these By-laws, or a release of the unit owner from the obligation to pay any past or future assessments, and the estimated common expenses fixed for the previous and current year shall continue until a new estimate is fixed.

6.5 No unit owner may exempt himself from liability for common expenses by waiver of the use or enjoyment of any of the common areas and facilities or by abandonment of his unit.

6.6 The treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the common areas and facilities, specifying and itemizing the maintenance, repair, and replacement expenses of the common areas and facilities and any

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other expenses incurred. In accordance with the actions of the Board of Directors assessing common expenses against the units and unit owners, the treasurer shall keep an accurate record of such assessments, and of the payments thereof by each unit owner. The books and accounts of the association shall be kept in accordance with generally accepted accounting procedures under the direction of the treasurer. At the close of each fiscal year, the books and records of the Board of Directors shall be audited by a certified public accountant approved by the association. The books and accounts of the association shall be available for inspection at the office of the association by any unit owner or his authorized representative during the regular business hours.

6.7 There shall be no single improvement exceeding the sum of $1,000.00 made by the Board of Directors without the same having been first voted on and approved by two-thirds (2/3) majority of those present in person or by proxy of the association at a meeting duly called for that purpose. The foregoing shall not apply in connection with damage or destruction referred to in Article 13 of the Declaration or to such structural alterations, capital additions to, or capital improvements of areas and facilities or the property.

6.8 Amendments to this paragraph 6 shall be effective only upon unanimous written consent of the unit owners and their mortgagees.

7. Collection of Assessments

7.1 All common expense assessments shall be a separate, distinct, and personal liability of the owner of the unit at the time each assessment is made. The Board of Directors shall have the rights and remedies contained in the Act, the Declaration, the Articles of Incorporation, and these By-laws to enforce the collection of assessments for common expenses.

7.2 Any person who shall have entered into a written agreement to purchase a unit shall be entitled to obtain a written statement from the treasurer setting forth the amount of unpaid assessments charged against the unit and its Owners, and if such statement does not reveal the full amount of the unpaid assessments as of the date it is rendered, neither the purchaser nor the unit shall be liable for the payment of an amount in excess of the unpaid assessments shown thereon, provided that the former unit owner grantor shall remain so liable. Any such excess which cannot be promptly collected from the former unit owner grantor shall be reassessed by the Board of Directors as a common expense to be collected from all unit owners, including without limitation the purchaser of the unit, his successors and assigns. The new unit owner shall, and the former unit owner shall not, be liable for any assessments made after the date of transfer of title to a unit, even though the common expenses for the expenses incurred or the advances made by the Board of Directors for which the assessment is made related in whole or in part to any period prior to that date.

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7.3 In the event that title to a unit is transferred at a sheriff's sale pursuant to execution upon any lien against the unit, the Board of Directors shall give notice in writing to the sheriff of any unpaid assessments for common expenses which are a lien against the unit, and for any expenses of or advances by the Board of Directors which have not theretofore been reduced to a lien, which shall be paid out of the proceeds of the sale prior to the distribution of any balance to the former unit owner against whom the execution was issued. The purchaser at such sheriff's sale and the unit involved shall not be liable for unpaid assessments for common expenses and for any expenses of or advances by the Board of Directors which became due prior to the sheriff's sale of the unit. Any such unpaid assessments which cannot be promptly collected from the former unit owner shall be reassessed by the Board of Directors as a common expense to be collected from all of the unit owners, including the purchaser who acquired title at the sheriff's sale, his successors and assigns. To protect its right to collect unpaid assessments for common expenses which are a lien against a unit, and for any expenses of and advances by the Board of Directors, the Board of Directors may on behalf of all the unit owners purchase the unit at sheriff's sale, provided such action is authorized by the affirmative vote of a majority of the members of the Board of Directors.

7.4 In addition to the statements issuable to purchasers of units, the Board of Directors shall provide a current statement of unpaid assessments for common expenses and for any expenses of and advances by the Board of Directors in respect of the unit, to the unit owner, to any person who shall have entered into a binding agreement to purchase the unit, and to any mortgagee on request at reasonable intervals.

7.5 In all cases where all or part of any assessments for common expenses and for any expenses of and advances by the Board of Directors cannot be promptly collected from the persons or entities liable therefor under the Act, the Declaration, the Articles of Incorporation, or these Bylaws, the Board of Directors shall reassess the same as a common expense, without prejudice to its rights of collection against such persons or entities.

7.6 Lien for unpaid assessments

7.6.1 All sums assessed to any unit pursuant to this section, together with interest thereon as provided herein, shall be secured by a lien on such unit in favor of the Board of Directors. Such lien shall be superior to all other liens and encumbrances on such unit, except only for: (a) valid tax and special assessment liens on the unit in favor of any governmental assessing authority; and (b) the lien of any first priority mortgage covering a unit or the lien of any secondary purchase money mortgage covering a unit or the lien of any mortgage recorded prior to the recording of the Declaration. All other lienors acquiring liens on any unit after the Declaration shall have been recorded shall be deemed to consent that such liens shall be inferior to future liens for assessments, as provided herein, whether or not such consent be specifically set forth in the instruments creating such liens.

7.6.2 To evidence a lien for sums assessed pursuant to this section, the Board of Directors may prepare a written notice of lien setting forth the amount of the assessment, the

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due date, the amount remaining unpaid, the name of the Owner of the unit, and a description o the unit. Such a notice shall be signed by such body and may be recorded in the Office of the Clerk of Superior Court of Liberty County, Georgia. No notice of lien shall be recorded unti there is a delinquency in payment of the assessment. Such liens may be enforced by foreclosure by the Board of Directors in the same manner in which mortgages on real property may be foreclosed in Georgia, or as otherwise provided in the Act. In any such foreclosure, the Owner shall be required to pay the cost, and expenses of such proceeding, the cost and expenses of filing the notice of lien, and all reasonable attorney's fees. All such costs expenses and fees shall be secured by the lien being foreclosed. The lien shall also secure and the Owner shall also be required to pay to the Board of Directors, any assessments agains the unit which shall become due during the period of foreclosure. The Board of Directors sha have the right and the power to bid an amount equal to its then existing lien at the foreclosur sale or other legal sale to acquire, hold, convey, lease, rent, encumber, use and otherwise dea with the same as the Owner thereof.

7.6.3 A release of lien shall be executed by the Board of Directors and recorded i the Office of the Clerk of Superior Court of Liberty County, Georgia, upon payment of all sum and secured by a lien which has been made the subject of a recorded notice of lien.

7.6.4 Any encumbrancer holding a lien on a unit may pay but shall not be require to pay, any amounts secured by the lien created by this section, and upon such payments suc encumbrancer shall be subrogated to all rights of the Board of Directors with respect to suc lien, including priority.

7.6.5 The assessing body shall report to any encumbrancer of a unit any unpaid assessments remaining unpaid for longer than thirty (30) days after the same shall have become due, provided, however, that such encumbrancer first shall have furnished to the assessing body written notice of such encumbrance.

7.6.6 In any foreclosure of a lien for assessments, the unit owner subject to the lien shall be required to pay a reasonable rental for the unit, and the Board of Directors shall be entitled to the appointment of a receiver to collect the same.

7.7 Personal obligation assessments. The amount of any annual or special assessment against any unit shall be the personal obligation of the Owner thereof to the Board of Directors, as well as constitute as lien in favor of the association on the condominium unit. Suit to recover a money judgment for such personal obligation shall be maintainable by the Board of Directors without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any personal obligation by waiver of the use and enjoyment of any of the common areas or by abandonment of his unit.

7.8 In addition to and not limited by any other remedy provided for herein, the Board of Directors may restrict or deny the use and enjoyment of any common area or facility to any Declarant, his family, guests, or assigns, who is delinquent in the payment of any regular or special assessment.

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7.9 If the unit owner shall, at any time, let or sublet his unit and shall default for a period of one month in the payment of assessments, the Board of Directors may, at its option, so long as such default shall continue, demand and receive from any tenant or subtenant of the Owner the rent due or becoming due, and the payment of such rent to the Board of Directors shall be sufficient payment and discharge of such tenant or subtenant and the Owner to the extent of the amount so paid.

7.10 Assessments and any installments thereof not paid on or before ten (10) days after the date when due shall bear interest at maximum rate permitted by law or at such rate of interest as may be set by the Board of Directors, whichever is less, from the date when due until paid. All payments on account shall be first applied to interest and then to the assessment payment first due.

8. Litigation

8.1 If any action is brought by one or more but less than all unit owners on behalf of the association and recovery is had, the plaintiff's expenses, including reasonable counsel's fees, shall be a common expense, provided, however, that if such action is brought against the unit owners or against the Board of Directors, the officers, employees, or agents thereof, in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all the unit owners, the plaintiff's expenses, including counsel fees, shall not be charged to or borne by the other unit owners, as a common expense, or otherwise.

8.2 Complaints brought against the association, the Board of Directors, or the officers, employees, or agents thereof, in their respective capacities as such or the property as a whole, shall be directed to the Board of Directors, which shall promptly give written notice thereof to the unit owners and any mortgagees and shall be defended by the Board of Directors, and the unit owners and mortgagees shall have no right to participate other than through the Board of Directors.

9. Abatement and Restraint of Violations by Unit owners. The violation of any house rules or administrative rules or regulations adopted by the Board of Directors or the breach of any provision contained herein, or the breach of any provision of the Declaration, shall give the Board of Directors the right, in addition to any other rights set forth in these By-laws:

9.1 To enter the unit in which or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting unit owner, any structure, thing, or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Directors shall not thereby be deemed guilty in any manner of trespass; or

9.2 To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

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10. Special Committees. The Board of Directors by resolution may designate one or more special committees, each committee to consist of two (2) or more unit owners which, to the extent provided in said resolution, shall have and may exercise the powers set forth in said resolution. Such special committee or committees shall have such name or names as may be determined from time to time by the Board of Directors. Such special committees shall keep regular minutes of their proceedings and report the same to the Board of Directors when required. The members of such special committee or committees designated shall be appointed by the Board of Directors or the president. The Board of Directors or the president may appoint unit owners to fill vacancies on each of said special committees occasioned by death, resignation, removal, or inability to act for any extended period of time.

11. Membership and Voting. The members of the association shall be the fee Owners of the units. The Board of Directors shall maintain a list of Owners which shall be updated on a regular basis. Disputes over the membership list shall be resolved by reference to the Official Records of the Liberty County Clerk's Office. At any meeting of the Association of Unit owners each unit owner, including declarant, either in person or by proxy, shall be entitled to the same number of votes as the percentage of undivided interest of the common areas and facilities assigned to his unit in the Declaration. If there is more than one unit owner with respect to a particular unit, any or all of such unit owners may attend any meeting of the association, but it shall be necessary for all such unit owners present to act unanimously in order to cast the votes pertaining to their unit. All votes may be cast either in person or by proxy. All proxies shall be in writing, and in the case of proxies for the annual meeting, they shall be delivered to the secretary at least five (5) days prior thereto. Proxies for special meetings of the association must be of record with the secretary at least two (2) days prior to such meeting. In voting for members of the Board of Directors, cumulative voting is allowed. In all other matters, cumulative voting shall not be allowed.

12. Notices, Waiver of Notice. Any notice permitted or required to be delivered as provided herein may be delivered personally or by mail. If delivery is made by mail, it shall be deemed to be delivered twenty-four (24) hours after a copy of the same has been deposited in the U.S. Post Service, postage prepaid, return receipt requested. Notice to unit owners shall be addressed to each unit owner at the address given by such unit owner to the Board of Directors for the purpose of service of such notice or to the unit of such unit owner if no such address has been given to the Board of Directors. Such address may be changed from time to time by notice in Notice to the Board of Directors shall writing to the Board of Directors. be addressed to:

John A. Jones
2309 Ocean Road
St. Simons Island, GA 31522

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Any unit owner may at any time waive any notice required to be given under these By-laws, or by statute or otherwise. The presence of a unit owner in person at any meeting of the unit owners shall be deemed such waiver.

13. No Waiver. The failure of the Board of Directors or its contractors to insist, in one or more instances, upon the strict performance of any of the terms, covenants, conditions, or restrictions of the Declaration or By-laws, or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or relinquishment for the future, of such term, covenant, condition, or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt and acceptance by the Board of Directors or its contractor of the payment of any assessment from a unit owner with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Board of Directors of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board of Directors.

14. Amendment of By-laws. These By-laws may be amended by an eighty (80%) percent affirmative vote of the association at a meeting duly called for such purpose. Upon such an affirmative vote, the Board of Directors shall acknowledge the amended By-laws, setting forth the fact of the required affirmative vote of the unit owners and the amendments shall be effective upon recording.

15. Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

16. Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of these Bylaws nor the intent of any provision hereof.

17. Effective Date. These By-laws shall take effect upon recording of the Declaration of Magnolia Trace Condominiums, to which these are an Exhibit.

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IN WITNESS WHEREOF, the undersigned has executed this instrument, this 31st day of July, 1998.

(CORPORATE SEAL)

LIBERTY CONSTRUCTION, INC.

By: _____
John A. Jones, President

Signed, sealed and delivered
in the presence of:

_____
Witness

_____
Notary Public, Liberty County, Georgia
My Commission Expires: 4-15-2000
(SEAL)

NOTARY PUBLIC PARKWAY SUBDIVISION LIBERTY COUNTY, GA My Comm. Exp. April 15, 2000

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ARTICLE VIII
Initial Principal Office

The mailing address of the initial principal office of the Corporation is 2309 Ocean Road, St. Simons Island, Georgia 31522.

ARTICLE IX
Amendment

These Articles of Incorporation may be amended from time to time in the same manner as is provided in said Declaration of Condominium with respect to amendments to said Declaration of Condominium.

ARTICLE X
Incorporator

The name and address of the incorporator is:

L. Kelly Davis
206 East Court Street
Hinesville, Georgia 31313

IN WITNESS WHEREOF, the incorporator has executed these Articles of Incorporation this 31st day of July, 1998.

L. Kelly Davis, Incorporator

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ARTICLE IV
Nonprofit

This Corporation is not organized and shall not be operated for pecuniary gain or profi No part of the property or net earnings of the Corporation shall inure to the benefit of or b distributable to its directors, officers or other private persons, except that the Corporation sha be authorized and empowered to pay reasonable compensation for services rendered and t make payments and distributions in furtherance of the purposes set forth in Article II hereo The Corporation shall not carry on propaganda, or otherwise attempt to influence legislation t such extent as would result in loss of its exemption from federal income tax under Sectio 501(c)(3) of the Internal Revenue Code, and the Corporation shall not participate in, t intervene in (including publication or distribution of statements) any political campaign on beh of any candidate for public office. Notwithstanding any other provision of these Articles, th Corporation shall not carry on any other activities not permitted to be carried on (a) by corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenu Code (or corresponding provision of any future United States Internal Revenue Law) or (b) by corporation, contributions to which are deductible under Section 170(c)(2) of the Intern Revenue Code (or corresponding provision of any future United States Internal Revenue Law)

ARTICLE V
Membership

The membership of this corporation shall be comprised of the Owners of Units in th Condominium as set forth in said Declaration of Condominium. Voting by the members of th corporation shall be as set forth in and subject to the provisions of said Declaration of Condominium.

ARTICLE VI
Board of Directors

Directors shall be elected and serve as provided in the By-Laws of this corporatio Declarant shall have the power and authority to appoint and remove all of the Directors of th s corporation during the period set forth in said Declaration of Condominium. The number of Directors constituting the initial Board of Directors shall be three (3), and the names a d addresses of such Director are:

John A. Jones	Linda R. Jones	L. Kelly Davis
2309 Ocean Road	2309 Ocean Road	206 East Court Stre t
St. Simons Island, GA 31522	St. Simons Island, GA 31522	Hinesville, GA 3131

ARTICLE VII
Registered Office and Registered Agent

The initial registered office of the corporation shall be at 206 East Court Street, Hinesvi e, Liberty County, Georgia 31313, and the initial registered agent of the corporation at su h address shall be L. Kelly Davis.

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ARTICLES OF INCORPORATION
OF
MAGNOLIA TRACE HOMEOWNERS' ASSOCIATION, INC.

ARTICLE I
Name

The name of this corporation shall be MAGNOLIA TRACE HOMEOWNERS' ASSOCIATION, INC.

ARTICLE II
Duration

The corporation shall have perpetual duration.

ARTICLE III
Authority and Purpose

This corporation is organized pursuant to the Georgia Non-Profit Corporation Code. The purpose for which this corporation is organized is to promote the recreation, health, safety, welfare, common benefit and enjoyment of the Owners of Units in Magnolia Trace Condominiums, as more fully set forth in that certain Declaration of Condominium Magnolia Trace Condominiums and any amendments thereto, said Declaration being filed in the Office of the Clerk of the Superior Court of Liberty County, Georgia. Said Declaration of Condominium Magnolia Trace Condominiums, as the same may be amended, renewed or extended from time to time, is hereinafter in these Articles of Incorporation referred to as "said Declaration of Condominium".

Insofar as permitted by law, this corporation shall have the power to do anything that in the opinion of the Board of Directors of this corporation, will promote, directly or indirectly, the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and occupants of Units in the Condominium, including, but not limited to, the power (i) to purchase, accept by gift, lease, hold, sell, mortgage, convey or otherwise acquire or dispose of any real and personal property necessary or proper for the carrying out of the purposes of the corporation; (ii) to own, acquire, construct, equip, operate and maintain amenities, services and facilities incident to the purposes of the corporation; (iii) to fix, levy and collect assessments as provided in said Declaration of Condominium; and (iv) in general, to exercise all the rights, powers, privileges and immunities as are provided and allowed for similar corporations under the laws of Georgia, including, but not limited to the Georgia Condominium Act and the Georgia Nonprofit Corporation Code, subject, however, to any limitations set forth in said Declaration of Condominium.

When used in these Articles of Incorporation, words such as, for example, "Declarant", "Condominium", "Unit" and "Owner", shall have the same meaning as set forth in said Declaration of Condominium or in the Georgia Condominium Act, unless the context shall prohibit.