DECLARATION OF CONDOMINIUM

OGLETHORPE SQUARE APARTMENTS
A Condominium
Savannah, Chatham County, Georgia

DECLARANTS: JAMES E. CARR
SIDNEY L. CARR
DATE: April 24, 1998

This Declaration is made this 24th day of April, 1998, by JAMES E. CARR and SIDNEY L. CARR, hereinafter collectively called the "Owner," for themselves, their successors, grantees and assigns.

WHEREAS, Owner owns certain improved real property all in Savannah, Chatham County, Georgia, and being more particularly described in Exhibit "A", attached hereto and incorporated herein and made a part hereof by reference thereto; and

WHEREAS, Owner now desires to submit said property to the provisions of the "Georgia Condominium Act", Georgia Laws, (Acts 1975, pp. 609, et seq.) codified as Chapter 85-16E, Georgia Code Annotated, and also codified under Title 44, Article III, Section 70, et seq., of the Official Code of Georgia Annotated, 1981, all as may be amended from time to time (hereinafter referred to as "The Condominium Act" or "Act")' and,

WHEREAS, Owner desires to provide for the subdivision of the Building into a maximum of twelve (12) Condominium Units each as authorized by law and as hereinafter provided.

NOW, THEREFORE, Owner, in accordance with the Georgia

Condominium Act, as amended from time to time, does hereby make the following declarations:

DECLARATION

Owner hereby publishes and makes the following declaration as to the divisions, covenants, restrictions, conditions, limitations and uses to which the submitted property and improvements now situated thereon and hereinafter constructed specifying that this Declaration shall constitute covenants to run with the land, binding upon Owner, their heirs, successors, grantees, and assigns, and all subsequent owners of any part of the property or improvements, their lessees, grantees, heirs, executors, administrators, representatives, devisees, successors, and assigns, and does hereby establish and submit the Property described on Exhibit "A" (attached hereto and incorporated herein and made a part hereof) to the provisions of the Georgia Condominium Act (including any amendments thereto), and after the recording of this Declaration said property shall be held and sold subject to the provisions of said Act and the terms and conditions hereinafter set forth in this Declaration, said property hereinafter sometimes referred to as the "Submitted Property."

The name of the condominium shall be "OGLETHORPE SQUARE APARTMENTS, a Condominium," the same being located in Savannah, Chatham County, Georgia.

1. DEFINITIONS

Except as provided herein, the definitions set forth in the Georgia Condominium Act shall apply to this Declaration and all other condominium documents. In addition to the definitions contained in said Act, the following definitions shall apply to this Declaration and all other condominium documents covering the Submitted Property described on Exhibit "A", (attached hereto and by reference incorporated herein and made a part hereof), and shall apply to any further subdivision of the Submitted Property hereinafter submitted under the terms hereof.

(a) "Additional subdivision" shall mean with regard to any portion of the property described in Exhibit "A" which is originally designated as one Unit hereunder, the reconfiguration/construction of more than one unit within the boundaries of the original Unit in accordance with the provisions of the Condominium Act and this Declaration.

(b) "Association" shall mean "OGLETHORPE SQUARE APARTMENTS, INC. OF GEORGIA," a Georgia non-profit corporation formed for the purpose of exercising the powers of the Association of this Condominium.

(c) "Board of Directors" or "Board" shall mean the Directors of "OGLETHORPE SQUARE APARTMENTS, INC. OF GEORGIA".

(d) "Common Elements" shall mean all portions of

the Condominium other than the Units, and shall include the common areas and facilities as defined in the Act, this Declaration, Association by-laws, and all amendments to such.

(e) "Building" shall mean the composite of all Units, common areas and limited common areas comprising the twelve (12) separate Units, as shown on the Condominium Plat herein described.

(f) "Common Expenses" shall mean all expenditures lawfully made or incurred by or on behalf of OGLETHORPE SQUARE APARTMENTS, INC. OF GEORGIA together with all funds lawfully assessed for the creation and/or maintenance of reserves pursuant to the provisions of the Act, this Declaration, Association By-laws, and all amendments to such.

(g) "Common Profits" shall mean all income collected or accrued by or on behalf of the Condominium Association, other than the income derived from assessments pursuant to section 44-3-80 of the Official Code of Georgia Annotated or as provided by this Declaration, Association By-Laws, and all amendments to such.

(h) "Condominium" shall mean that form of ownership established by the provisions of the Act and includes all property lawfully submitted to the Act.

(i) "Condominium Documents" or "Condominium Instruments" shall mean this Declaration, the Articles of Incorporation and the By-Laws of OGLETHORPE SQUARE APARTMENTS, INC. OF GEORGIA and all other exhibits referenced or attached to any of such, and all other documents, rules, and regulations promulgated pursuant to the authority created herein and by the Act, all as said documents or instruments shall be amended from time to time. Any amendment or certification of any condominium instrument shall from the time of the recordation of such amendment or certification, be deemed an integral part of the affected condominium instrument or document, so long as such amendment or certification was made in accordance with the provisions of the Act and this Declaration.

(j) "Condominium Unit" shall mean a unit together with the undivided interest in the common elements appertaining to that unit.

(k) "Declaration" shall mean this document or instrument as recorded, including any lawful amendments thereto.

(l) "Foreclosure" shall include, without limitation, the exercise of a power of sale contained in any security deed, trust deed, deed to secure debt or other instrument conveying security title to the condominium unit, or the judicial foreclosure of such.

(m) OGLETHORPE SQUARE APARTMENTS, INC. OF GEORGIA shall mean a non-profit corporation organized under the laws of the State of Georgia, whose members shall be condominium unit owners, and which condominium unit owners will automatically become members of the Association upon becoming such owner. OGLETHORPE SQUARE APARTMENTS, INC. OF GEORGIA is hereinafter sometimes referred to as "Association."

(n) "Identifying Number" shall mean one or more letters, numbers, symbols or words, or any combination thereof, that identifies only one unit in the Condominium.

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

(p) "Limited Common Element" shall mean the portion of the common elements reserved for the exclusive use of those entitled to the use of one or more (but less than all) of the units.

(q) "Majority," except where otherwise provided by the Act, this Declaration, the Articles of Incorporation of OGLETHORPE SQUARE APARTMENTS, INC. OF GEORGIA or the By-Laws thereof, shall mean the number of condominium unit owners or their proxies, entitled to cast fifty-one (51%) percent or more of the total votes of said Association in accordance with the voting rights as

determined by the Act, this Declaration, the Association By-Laws, and all amendments thereto.

(r) "Mortgage" shall mean a mortgage, deed to secure debt, trust deed, or other instrument conveying a lien upon or security title to the condominium unit.

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

(t) "Person" shall mean a natural person, corporation, partnership, association, trust or other entity, or any combination thereof.

(u) "Plans" and "Plats" shall mean the plans and plats of the Buildings, Units, and Submitted Property referred to in the Act, which plans and plats are more particularly designated and described on Exhibit "B," incorporated herein, and by reference made a part hereof. Said plans and plats are filed of record in the Office of the Clerk of the Superior Court of Chatham County, Georgia.

(v) "Submitted Property" shall mean the property lawfully submitted to the provisions of the Act by the recording of condominium instruments pursuant to the provisions of the Act or this Declaration, said property being more particularly described on Exhibit "A" attached hereto and by reference incorporated herein and made a

part hereof. Further subdivision shall be deemed to be submitted property upon the alteration of the number of Condominium Units pursuant to the provisions of the Act and this Declaration.

(w) "Unit" shall mean a portion of the condominium intended for any type of independent ownership and use.

2. DESCRIPTION OF THE BUILDING

The Building is located between Abercorn and Lincoln Streets on State Street in Savannah, Chatham County, Georgia. The building address is 216 East State Street, Savannah, Georgia. It is a three (3) story building with four (4) units on each floor.

For a complete description of the Buildings, reference is hereby made to the Condominium Plan Book 1, Page 118, of the Chatham County Records.

3. DESCRIPTION OF THE UNITS

There are presently twelve (12) units in the Building, four (4) on each floor. Each unit has an individual mechanical system, which includes the heating, ventilation and air conditioning system and the plumbing system. Greater detail as to the exact dimensions of the units and their location is contained in the Master Plat of OGLETHORPE SQUARE APARTMENTS, recorded in the Office of the Clerk of the Superior Court of Chatham County, Georgia, in the above-described Condominium Plan Book.

4. UNIT BOUNDARIES

The boundaries of each unit shall be determined in the following manner:

(a) The upper boundary of the Unit shall be the plane of the lower surfaces of the structural floor joists of the unit above or roof joists as the case may be.

(b) The lowest boundary of the Unit shall be the plane of the upper surface of the floor joists, concrete, cement or slab as the case may be.

(c) The vertical boundaries of the Unit shall be (1) the interior plane of the exterior brick or stone supporting walls (including the interior surface of the exterior windows and doors) of the building, and (2) the interior plane of the wall studs between the units, if applicable, including all limited and general common areas.

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

5. SEPARATE REAL ESTATE TAXES

Real estate taxes shall be separately taxed to each Unit Owner for his Unit and his corresponding percentage of ownership in the Common Elements, as provided in the Act. In the event that such taxes for any year are not separately taxed to each Unit Owner, but rather are taxed on the Property as a whole, then each Unit Owner, shall pay his proportionate share thereof in accordance with his respective percentage of ownership interest in the Common Elements, and, in said event such taxes shall be a Common Expense.

6. LIMITED AND GENERAL COMMON AREAS, SHARES OF COMMON ELEMENTS AND LIABILITY FOR COMMON EXPENSES

(a) Limited Common Areas: The portico, front door, stairs, first floor fire exit, stairs, stairwell, laundry room, interior walls, public decks, hallways, closets off hallways and fixtures located therein as designated on the Condominium Plans, shall constitute a limited common area of the units served by such areas. As such, they shall be reserved for the exclusive use of the owners of the units so situated and their employees, clients, guests, invitees and licensees (except as may be required by the Georgia Fire & Safety Code).

The exterior surface of all doors and windows of each unit shall be limited common elements.

(b) General Common Areas: The general common areas

shall consist of the land, and all improvements located thereon except the Units and the limited common areas, including but not limited to the plumbing pipes (excluding fixtures) and pumps, electrical wires (except those to each Unit for which separate meters are installed), utility closets, gas lines, extensions and supportive walls, foundation, and roof.

(c) Each unit owner shall own a proportionate share in the general common areas and in any common surplus of the condominium and shall be liable for a proportionate share of common expenses of the condominium. That share shall be seven and one-half (7-1/2%) percent per unit for all units, except Units 2B and 3B which shall be twelve and one-half (12-1/2%) percent. The expenses of the limited common area shall be divided among those units served by such area or areas on said percentage basis.

7. MAINTENANCE AND ALTERATION OF UNITS

(a) The responsibility of the Unit owner shall be:

(1) To maintain, repair, or replace the Unit at owner's expense all portions of his Unit or limited common areas appurtenant to his Unit except the portions to be maintained, repaired, replaced by the Association;

(2) Not to paint or otherwise decorate or change the appearance of any portion of the

exterior of the Condominium Building;

(3) To report promptly to the Association any defect or need for repairs the responsibility for which is that of the Association.

(b) Neither the unit owner nor the Association shall make any alteration in the portions of a Unit or the Condominium Building which are to be maintained by the Association, or remove any portion thereof, or make any additions thereto, or do anything which would jeopardize the safety or soundness of the Condominium Building, or impair any easement without first obtaining approval in writing of the owners of all units in which such work is to be done and the approval of the Board of Directors of the Association. A copy of plans for all of such work prepared by an architect licensed to practice in this state shall be filed with the Association and approval thereof by the Association obtained prior to commencement of the work.

(c) Each Unit Owner, at his own expense, shall furnish and be responsible for all decorating within his own Unit as may be required from time to time, including, but not limited to, painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lighting and other furnishings and decorations. Each Unit Owner shall be entitled to the

exclusive use of the interior surfaces of the perimeter walls (including windows and doors), floors and ceilings of his Unit, and such Unit Owner shall maintain said interior surfaces in good condition at his sole expense, as may be required from time to time. Said maintenance and use of interior surfaces shall be subject to the rules and regulations of the Association; otherwise each such Unit Owner shall have the right to decorate such interior surfaces from time to time as he may see fit and at his sole expense. Decorating of the Common Elements (other than interior surfaces within the Units as above provided), to the extent such decoration is deemed appropriate by the Board, and any redecorating of Units, to the extent such redecorating of Units is made necessary by damage to Units caused by maintenance, repair or replacement of the Common Elements by the Association, shall be furnished by the Association as part of the Common Expenses. The interiors of all windows forming a part of a perimeter wall of a Unit shall be cleaned and washed at the expense of the Unit Owner of that Unit.

8. MAINTENANCE AND ALTERATION OF COMMON ELEMENTS

(a) The maintenance and operation of the common areas shall be the responsibility and the expense of the

Association. The association shall maintain, repair and replace:

(1) All portions of a Unit contributing to the support of the Condominium Building, (except interior surfaces) which portions shall include, but not be limited to, the foundation, outside walls and roof of the Condominium Building and all fixtures on the exterior thereof except that any exterior air conditioning compressor or heating unit on the exterior shall be the responsibility of the Unit Owner whose unit such equipment serves; boundary walls of units; floor and ceiling slabs; and load-bearing columns and load-bearing walls; and

(2) All conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services which are contained in the portions of a Unit which service part or parts of the condominium other than the Unit within which contained.

All incidental damages caused to a Unit by such work shall be promptly repaired at the expense of the Association.

(b) There shall be no alteration or improvement of the property constituting the common areas without prior approval in writing by the owners of not less than 51% of

the common areas except as provided by the By-Laws, but any such alteration or improvement shall not interfere with the rights of any unit owner. The costs of such work shall not be assessed against any lender, whether an individual, a bank, life insurance company, or federal savings and loan association, which acquires its title as the result of owning a mortgage upon a Unit unless such an owner shall approve the alteration or improvements, and this shall be so whether the title is acquired by deed from the mortgagor or through foreclosure proceedings. The share of any costs not so assessed shall be assessed to the other owners in the proportions which their shares in the common areas bear to each other. There shall be no change in the shares and rights of a Unit Owner in the common areas which are altered or further improved, whether or not the Unit Owner contributes to the costs thereof.

9. ASSESSMENTS

(a) Assessments against Unit Owners for common expenses shall be made pursuant to the By-Laws and shall be allocated as set forth in Section 6 of this Declaration.

(b) Assessments and installments thereon paid on or before ten days after the date when due shall not bear interest, but all sums not paid on or before ten days

after the date when due shall bear interest at the rate of 12% per annum from the date when due until paid. Additionally, all sums not paid on or before the 10th day after the date when due shall incur a delinquency charge of the greater of $10.00 or 10% of the amount of the installment or assessment not paid when due. All payments upon account shall be first applied to interest, then to delinquent charge, and last to the assessment payment first due.

(c) In any foreclosure of a lien for assessments, the owner of the unit subject to the lien shall be required to pay to the Association the fair rental value for the unit, from the time of institution of suit to foreclose until said sale at foreclosure (or judgment if suit is otherwise satisfied).

(d) The lien for unpaid assessments provided by Georgia law shall also secure interest charges, delinquency charges and fair rental value as provided in this paragraph and the costs of collection, including court costs, the expenses of sale, and any expenses required for the protection and preservation of the units, and reasonable attorney's fees actually incurred.

10. THE ASSOCIATION AND VOTING RIGHTS

The operation of the condominium shall be by the

OGLETHORPE SQUARE APARTMENTS, INC. OF GEORGIA herein called the Association, a corporation not for profit under the laws of Georgia, which shall be organized and shall fulfill its functions pursuant to the following provisions:

(a) The members of the Association shall be the Unit Owners. The Declarants shall be members of the Association for any unsold or retained units.

(b) Each Unit Owner has an undivided interest in the Common Areas, liability for common expenses and shall be a member of the Association with one vote therein, weighted in accordance with the percentage as set forth in Section 6 herein.

(c) The Association has been incorporated under the Articles of Incorporation in the form attached as Exhibit "C" which is made a part hereof.

(d) The By-Laws of the Association are in the form attached as Exhibit "D" which is made a part hereof.

(e) Notwithstanding the duty of the Association to maintain and repair parts of the condominium property, the Association shall not be liable for the injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, nor for injury or damage caused by the elements or other owners or persons.

(f) The share of a member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to his unit.

11. INSURANCE

Insurance policies upon the condominium property covering the items described in subparagraph (b) of this Article shall be purchased by the Association, as required by Sec. 44-3-107 of the Georgia Condominium Act, for the benefit of the Association and the Unit Owners and their mortgages as their interests may appear. Provisions shall be made for the issuance of the certificates of mortgage endorsements to the mortgagees of Unit Owners.

(a) Insurance shall cover the following:

(1) The entire building and all improvements upon the land and all personal property included in the common areas in an amount equal to the full replacement value, excluding foundation and excavation costs, as determined annually by the Board of Directors of the Association or if insurance in such amount is not available, at the highest value available. Such coverage shall afford protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and such other risks as are customarily covered with respect to a building

similar to the building on the land, such as vandalism and malicious mischief. Notwithstanding anything above to the contrary, the hazard insurance coverage for this Condominium shall at all times meet the requirements of the Lending Guide of the Federal National Mortgage Association, as such Guide may be amended from time to time.

(2) Public liability in amounts not less than $500,000.00 for injury, including death, to a single person, $1,000,000.00 for injury or injuries, including death, arising out of a single occurrence, and $50,000.00 property damage, and such other or increased coverage as shall be required by the Board of Directors of the Association and Sec. 44-3-107 of the Georgia Condominium Act, including but not limited to, hired automobile and non-owned automobile coverages, and with cross liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner.

(3) Worker's compensation as required by law.

(4) Casualty and liability insurance and fidelity bond coverage meeting the requirements of the Lending Guide of the Federal National Mortgage Association, as such Guide may be amended from time

to time.

(b) Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense.

(c) The Association is hereby irrevocable appointed agent for each Unit Owner to adjust all claims arising under insurance policies purchased by the Association, and to execute and deliver releases upon the payment of claims.

12. INSURANCE PROCEEDS

(a) All insurance policies purchased by the Association shall provide that proceeds covering property losses shall be paid to such person or persons selected by the Board of Directors of the Association as a trustee, which party is herein referred to as the Insurance Trustee. The Insurance Trustee shall not be liable for payment of premiums, for the renewal or the sufficiency of policies, or for the failure to collect any insurance proceeds.

(b) The duty of the Insurance Trustee shall be to receive such proceeds as are paid and the hold them in trust for the benefit of the Unit Owners and their mortgagees as follows:

An undivided share of such proceeds on account of damage to common areas shall be allocated

to the Unit Owners according to their shares of the common areas set forth in Section 6. Proceeds on account of units shall be held for the Owners of damaged units in proportion to the cost of repairing the damage suffered by each Unit Owner, which cost shall be determined by the Association. In the event a mortgagee endorsement has been issued as to a unit, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear.

(c) Proceeds of insurance policies received by the Insurance Trustee shall be distributed as follows:

(1) All expenses of the Insurance Trustee shall be first paid.

(2) If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be expended as provided in paragraph 14. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances 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.

(3) If it is determined as provided in paragraph 13 that the damage for which the proceeds are paid shall not be reconstructed or repaired, or if there are excess proceeds remaining after a reconstruction and repair, the remaining proceeds shall be distributed to the beneficial owners, remittances 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.

(4) In making distributions to Unit Owners and their mortgages, the Insurance Trustee may rely upon a certificate of the Association as to the names of the owners and their respective shares of the distribution, and as to whether or not the condominium is to be reconstructed or repaired.

13. WHEN DAMAGED PROPERTY IS TO BE RECONSTRUCTED OR REPAIRED

(a) If common areas are damaged, they shall be reconstructed or repaired, unless it is determined under Sec. 44-3-98 of the Georgia Condominium Act that the condominium shall be terminated.

(b) If the damaged property is the Condominium Building, and if Units to which 60% or more of the common elements are appurtenant are found by the Board of

Directors of the Association to be tenantable, the damaged property shall be reconstructed or repaired unless within 60 days after the casualty it is determined under the Georgia Condominium Act that the condominium shall be terminated.

(c) If the damaged property is the Condominium Building, and if Units to which more than 60% of the common areas are appurtenant are found by the Board of Directors to be not tenantable, the damaged property shall not be reconstructed or repaired and the condominium shall be terminated under the Georgia Condominium Act unless within 60 days after the casualty the owners of at least 80% of the common areas agree in writing to such reconstruction or repair.

(d) Any reconstruction or repair must be substantially in accordance with the plans of the original building, if not, then according to plans and specifications approved by the Board of Directors of the Association, and if the damaged property is the Condominium Building, by the owners of not less than 80% of the common areas, including the owners of all damaged Units, which approval shall not be unreasonably withheld.

14. RESPONSIBILITIES AND PROCEDURES AS TO PAYMENT FOR REPAIRS

(a) If damage occurs only to those parts of one

Unit for which the responsibility of maintenance and repair is that of the owner, then the owner shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility of reconstruction and repair after casualty shall be that of the Association.

(b) Immediately after a casualty causing damage to property for which the Association has the responsibility of maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair so as to place the damaged property in condition as good as that before the casualty.

(c) If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, assessments shall be made against the Unit Owners who own the damaged property, and against all Unit Owners in the case of damage to common areas, in sufficient amounts to provide funds to pay the estimated costs. Additional assessments may be made at any time during, or following the completion of, construction. Such assessments on account of damage to common areas shall be in proportion to the Unit Owner's share in the common areas.

(d) If the amount of the estimated costs of reconstruction and repairs for which the Association is

responsible is more than $5,000.00, the sums paid upon assessments to meet such costs shall be deposited by the Association with the Insurance Trustee. In all other cases, the Association shall hold the sums paid upon such assessments and disburse them in payment of the costs of reconstruction and repair.

(e) The proceeds from assessments and insurance received by the Insurance Trustee shall be disbursed as follows:

(1) The portion of insurance proceeds representing damage, the reconstruction and repair of which is the responsibility of the owner, shall be paid by the Insurance Trustee to the Unit Owner or, if there is a mortgagee endorsement, then to the Unit Owner and the mortgagee jointly, who may use such proceeds as they may be advised.

(2) The portion of insurance proceeds representing damage, the reconstruction and repair of which is the responsibility of the Association, shall be disbursed in payment of the costs of such repair and reconstruction in the manner required by the Board of Directors of the Association.

(3) The Insurance Trustee shall not be required to determine whether a disbursement is to be made, the identity of the payee, or the amount

to be paid, but may rely upon a certificate of the Association stating such information.

15. USE RESTRICTIONS

The use of the property of the condominium shall be in accordance with allowed uses of zoning classification BC1 or Central Business and with the following provisions:

(a) Each Unit can be utilized for residential purposes by single family or by no more than four (4) adults, except that Units 2B and 3B can be utilized by no more than six (6) adults; and the first floor units may be professional offices; nevertheless, all uses must be approved by a majority of the Board of Directors of the Association. Except as reserved to the Declarant, no Unit may be divided or sub-divided into a smaller unit nor any portion thereof sold or otherwise transferred without first amending this declaration to show the changes in the Unit to be affected thereby. There will be no use allowed for any food service or preparation or beverage business.

(b) The common areas shall be used only for the purpose for which they are intended in the furnishing of services and facilities for the use and occupancy of the Units.

(c) No use or practice shall be permitted on the condominium property which is the source of annoyance to

Unit Owners or which interferes with the peaceful possession and proper use of the property by its owners. All parts of the property shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage allowed to accumulate nor any fire hazard allowed to exist. No Unit Owner shall permit any use of his Unit or of the common areas which will increase the rate of insurance upon the condominium property without the consent of the Association. All valid laws, zoning ordinances, and regulations of all governmental bodies which require maintenance, modification, or repair of the condominium property shall be the same as the responsibility for the maintenance and repair of the property concerned.

(d) Whether or not the Declarant has sold all of the Units, neither the Unit Owners nor the Association nor the use of the condominium property shall interfere with the completion of the contemplated improvements by the Declarant or any Unit purchaser. The Declarant may make such use of the unsold Units and common areas as may facilitate such completion and sale, including but not limited to, the maintenance of a sales office, the showing of the property, and the display of signs.

(e) Reasonable regulations concerning the use of the condominium property may be made and amended from

time to time by the Association in the manner provided by its Articles of Incorporation and By-laws. Copies of such regulations and amendments thereto shall be furnished by the Association to all Unit Owner upon request.

16. APPROVAL OF TRANSFER OR LEASE OF UNITS

(a) No Unit Owner may effectively dispose of a Unit or any interest therein by sale or lease, except to another Unit Owner in the Condominium, without the prior written approval of at least 51% of the members of the Association, which aooroval shall be a thirty (30) day right of first refusal. A Unit Owner has the right to sell or lease his Unit as provided herein.

(b) A Unit Owner intending to make a bona fide sale or lease of his Unit or any interest therein shall give to the Association notice of such intention, together with the name and address of the intended purchaser or lessee, and such other information concerning the intended purchaser or lessee as the Association may reasonably require. In the case of a prospective sale, such notice, at the Unit Owner's option, may include a demand by him that the Association furnish a purchaser if the proposed purchaser is not approved; and if such demand is made, the notice shall be accompanied by an executed copy of the proposed contract to sell. If the

notice to the Association herein required is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of a Unit, the Association at its election and without notice may approve or disapprove the transaction or ownership.

(c) Within 30 days after receipt of the notice described in subparagraph (b) of this paragraph, the Association must either approve or disapprove the proposed transaction or the continuance of ownership, as the case may be. An affirmation vote of 51% of the number of the association shall be required for approval. If it conflicts with the By-Laws or other voting requirements, this provision shall be controlling. No sale or lease shall be approved which allows occupancy of a unit by more than a single family or 4 individuals. If approved, the approval shall be stated in a certificate executed by the President and Secretary in recordable form, and shall be delivered to the purchaser, lessee, or new owner and shall be recorded in the public records of the county (except that a lease need not be recorded). A fee not in excess of $25.00 may be required as a prerequisite to the issuance of such a certificate.

17. DISAPPROVAL OF TRANSFER OR LEASE OF UNITS

(a) If the Association disapproves a proposed sale

or lease and if the notice of sale or lease given by the Unit Owner shall so demand, then within 10 days after receipt of such notice and information, the Association shall deliver or mail by certified mail to the Unit Owner an offer to purchase or lease by a purchaser or lessee, as the case may be, approved by the Association who will purchase and to whom the Unit Owner must sell or lease the Unit, as the case may be.

(b) The provisions of Section 16 and 17 shall not apply to a transfer to or purchase by a lender described in subparagraph (a), above, which acquires its title as the result of owning a mortgage upon the Unit concerned, and this shall be so whether the title is acquired by deed from the mortgagor or through foreclosure proceedings. Nor shall such provisions apply to a transfer, sale or lease by a lender described in subparagraph (a), above, which so acquires its title as the result of owning a mortgage upon the Unit concerned, and this shall be so whether the title is acquired by deed from the mortgagor or through foreclosure proceedings. Nor shall such provisions apply to a transfer, sale, or lease by a lender described in subparagraph (a), above, which so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires title to a Unit at a duly

advertised public sale with open bidding which is provided by law, such as, but not limited to, execution sale, foreclosure sale, judicial sale, or tax sale.

19. NOTICE OF LIEN OR JUDGMENT

(a) A Unit Owner shall give notice to the Association of every lien upon his Unit, other than for permitted mortgages, taxes and special assessments, within five (5) days after the attaching of the lien. Failure to comply with this subparagraph shall not affect the validity of any judicial sale.

(b) Notice shall be given to the Association of every judgment against any Unit Owner.

20. DECLARATION PREPARATION

This formal Declaration of Condominium was prepared by Dolly Chisholm, Attorney at Law, 17 McDonough Street, Savannah, Georgia 31401, as attorney for Declarant.

21. COMPLIANCE AND DEFAULT

(a) Each Unit Owner shall be governed by and shall comply with the terms of this Declaration, by the Articles of Incorporation, By-Laws, and regulations of the Association as they may be amended from time to time. A default shall entitle the Association or other Unit Owners to the relief described in subparagraph (b) of this paragraph in addition to the remedies provided by the Condominium Act.

(b) A Unit Owner shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by his act, neglect, or carelessness or by that of his guests, employees, agents, or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in the hazard insurance premium occasioned by use, misuse, occupancy, or abandonment of a Unit or its appurtenances. In any proceeding arising because of an alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be awarded by the court.

(c) The failure of the Association or any Unit Owner to enforce any covenant, restriction, or other provision of the Condominium Act, this Declaration, the Articles of Incorporation, the By-Laws, or the regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

(d) In order to enforce compliance with all lawful provisions of the condominium instruments and the Association's Articles of Incorporation, By-Laws, and rules and regulations by the Unit Owners and those persons entitled to occupy Units and in addition to other rights of and remedies available to the Association, the

Association shall be empowered to impose and assess fines and suspend temporarily the right of use of certain of the common elements in such manner and to such extent as the Association may from time to time determine; provided, however, that no such suspensions shall deny any Unit Owner or occupant access to the Unit owned or occupied nor cause any hazardous or unsanitary conditions to exist. The Association shall not impose fines or suspend any rights of the Unit Owner or occupant unless and until the following procedure is followed.

(i) Demand. Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying: (1) the alleged violation; (2) the action required to abate the violation; and (3) a time period, not less than ten days, during which the violation may be abated without further sanction if such violation is a continuing one, or a statement that any further violation of the same rule may result in the imposition of sanctions after notice and hearing if the violation is not a continuing violation.

(ii) Notice. Within thirty (30) days of such demand, if the violation continues past the period allowed in a demand for abatement without penalty, or if the same rule is subsequently violated, the

Association shall serve the alleged violator with written notice of a hearing to be held by the Board of Directors in executive session. The notice shall contain: (1) the nature of the alleged violation; (2) the time and place of the hearing, which time shall not be less than ten days from the giving of the notice; (3) an invitation to attend the hearing and produce any statement, evidence and witnesses on his or her behalf; and (4) the proposed sanction to be imposed.

(iii) Hearing. The hearing shall be held in executive session pursuant to the notice affording the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of the delivery is entered by the officer or director who delivered such notice together with a statement of the date and manner of the delivery is entered by the officer or director who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting

shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

22. RIGHTS OF MORTGAGE HOLDERS

Notwithstanding any of the foregoing provisions of this Declaration, the following provisions are hereby adopted for the protection of mortgagees (and any insurers or guarantors of the applicable mortgagees) of individual condominium units within the project, and to the extent that they conflict with the foregoing provisions, shall control:

(a) None of the foregoing provisions, nor any provisions of the By-Laws of the Association shall entitle a condominium Unit Owner, Declarant, or any other party, priority over any rights of first mortgagees of condominium Units with regard to a distribution to condominium Unit Owners of insurance proceeds or condominium awards for losses to or the taking of condominium Units or common elements.

(b) The Association shall give written notice to any first mortgagees of individual condominium Units of any loss to or taking of, the common areas of the condominium project if such loss or taking exceeds $10,000.00 or if damage to a condominium Unit covered by a mortgage exceeds $1,000.00.

(c) Any mortgagee of an individual condominium Unit

shall have the right to examine the books and records of the Association or the Declarant. The Association shall be required to make available to any mortgagee of an individual condominium Unit current copies of the Declaration, By-Laws, other rules concerning the Condominium, and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

(d) The Association shall provide, upon request, any mortgagee of individual Units within the project with written notice of any default in the performance of any obligation of any Unit Owner under this Declaration or By-Laws of the Association which is not cured within sixty (60) days.

(e) Subject to the provisions of Section 25 hereinafter, any mortgagee of any individual Condominium Unit within the project who obtains title to a Condominium Unit pursuant to the provisions of the mortgage by transfer by deed in lieu of foreclosure, or foreclosure of the mortgage shall not be personally liable for any part of the unpaid dues or charges attributable to such Unit which have accrued prior to the acquisition of title to such Unit by the mortgagee; however, such unpaid dues or charges shall constitute

liens as provided herein or under Georgia law.

(f) Unless at least two-thirds (2/3) (or such greater number as may be specified in the Act or elsewhere in this Declaration) of the mortgagees holding mortgages constituting first liens on Units subject to such mortgages (based upon one vote for each mortgage owned) have given their prior written approval, the Association shall not be entitled to: (1) by act or omission seek to abandon or terminate the condominium; (2) change the pro rata interest or obligations of any Unit for (A) purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards and for (B) determining the pro rata share of ownership of each Unit in the common elements; (3) partition or subdivide any Unit, which shall require in addition the prior written approval of the holder of any first mortgage on such unit; (4) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the common elements; provided, that the granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the condominium shall not be deemed a transfer within the meaning of this clause; (5) use hazard insurance proceeds for losses to any of the property (whether to Units or to common elements) for

other than the repair, replacement or reconstruction of such improvements; (6) amend materially this Declaration or the By-Laws of the Association; or (7) terminate professional management, if any, and assume self management of the condominium.

(g) No provision of the condominium instruments shall be construed to grant to any Unit Owner or to any other party, any priority over any rights of first mortgagees of the Units pursuant to their first mortgages in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of Units and/or the common elements or any portions thereof.

(h) To notify in writing all mortgagees of any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

(i) To notify in writing all mortgagees of any proposed action requiring the consent of a specified percentage of the mortgage holders.

(j) Upon written request, to furnish any holder of a first mortgage with a copy of the financial statements for the Association for the immediately preceding fiscal year.

23. AMENDMENTS

This Declaration may be amended in the following manner:

(a) Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

(b) A resolution adopting a proposed amendment may be proposed by either the Board of Directors of the Association or by the members of the Association. Amendments must be approved by the owners of ~~51%~~ 75 of the common areas of the condominium.

(c) No amendment shall discriminate against any Unit Owner or against any Unit or class or group of Units unless owners so affected shall consent. No amendment shall change any Unit boundary nor the share in the common areas appurtenant to it, nor the owner's share of the common expenses, unless all Unit Owners and all Record Owners of liens thereon shall join in the execution of the amendment.

(d) A copy of each amendment shall be certified by the President and Secretary of the Association as having been duly adopted and shall be effective when recorded in the Office of the Clerk of Superior Court of Chatham County, Georgia.

(e) In addition to the requisite vote provided in Paragraph 23, the approval of institutional mortgagees holding mortgages on Units comprising at least ~~fifty-one~~ 75% of

percent of the votes of Units subject to mortgages held by Institutional Mortgagees, shall be required to add or amend any material provision of the condominium documents which establish, provide for, govern or regulate the following:

1. Voting;

2. Assessments, assessment liens or subordination of such liens;

3. Reserves for maintenance, repair and replacement of the common areas (or units if applicable);

4. Insurance or Fidelity Bonds;

5. Rights to use of the common areas;

6. Responsibility for maintenance and repair of the several portions of the project;

7. Expansion or contraction of the project or the addition, annexation or withdrawal of property to or from the project;

8. Boundaries of any Unit;

9. The interests in the general or limited common areas;

10. Convertibility of Units into common areas or of common areas into Units;

11. Leasing of Units;

12. Imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey his or her Unit;

13. Any provisions which are for the express benefit of Institutional Mortgagees, eligible insurers or guarantors of first mortgages on Units.

24. SEVERABILITY

The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase, or word, or other provisions of this Declaration and the Articles of Incorporation, By-Laws, and regulations of the Association shall not affect the validity of the remaining portion thereof.

25. MISCELLANEOUS

Notwithstanding any of the foregoing provisions of this Declaration, the following provisions are hereby adopted and to the extent that they conflict with the foregoing provisions, shall control:

(a) The Declarant shall transfer control of the Association to the Unit Owners no later than two (2) months after eight (8) of the Condominium Units in the project have been conveyed to Unit purchasers, or three years from the date of recording of this Declaration, whichever shall occur sooner. The term "control" shall mean the right of the Declarant to control the Association, the Association Board, the project, or the Unit Owners in any manner except through votes allocated to Units it owns on the same basis as votes pertaining to sold Units. Prior to the passage of control, the Association should not be bound directly or indirectly to contracts or leases (including a management contract) unless there is a right of termination of such contract

or lease without cause which is exercisable without penalty at any time after transfer of control, upon not more than ninety (90) days' notice to the other party.

(b) The Association shall have a reasonable right of entry upon any Unit to make emergency repairs and to do other work that is reasonably necessary for the proper maintenance and operation of the project. Additionally, the Association shall have the right to grant permits, licenses, and easements over the common areas for utilities and other purposes reasonably necessary or useful for the proper maintenance or operation of the project.

(c) The Owners Association's Board of Directors shall have the authority and duty to levy and enforce the collection of general and special assessments for common expenses, and shall provide adequate remedies for failure to pay such assessments. Reasonable restrictions on the increase of assessments may be provided; nevertheless, an assessment against any Unit, with interest, costs, and a reasonable attorney's fee shall become a lien upon such Unit if not paid when due in accordance with the Georgia Condominium Act. Each assessment against a Unit shall also be the personal obligation of the Owner of the Unit at the time the assessment became due. Such a personal obligation shall not pass to successors in title unless

and at a rate sha be limit to $300 per increase

assumed by them, or required by the Act. Common expenses include expenditures made or liabilities incurred by the Association together with payments or obligations to reserve accounts. Assessments shall be collected by the Association on a monthly basis.

(d) To the extent permitted by the Act, any lien of the Owners Association for common expense assessments, or other charges, becoming payable on or after the date of recordation of the first mortgage on any Unit shall be subordinate and inferior to the operation and effect of said first mortgage. A lien for common expense assessments shall not be affected by any sale or transfer of a Unit except that a sale or transfer pursuant to a foreclosure of a first mortgage shall extinguish a subordinate lien for assessments which became payable prior to such sale or transfer. Any such delinquent assessments which are extinguished pursuant to the foregoing provision shall be reallocated and assessed to all of the Units as a common expense, unless collected from the Unit Owner having personal liability therefor. Any such sale or transfer pursuant to a foreclosure does not relieve the purchaser or transferee of a Unit from

liability for, nor the Unit from the lien of, any assessments made thereafter.

(e) The Owners Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the common areas and limited common areas which the Association may be obligated to maintain. The fund shall be maintained out of regular assessments for common expenses.

IN WITNESS WHEREOF, the Declarant has executed this Declaration on the day and year above first written.

DECLARANT:

James E. Carr

JAMES E. CARR

Executed in the presence of:

Barbara A. Coleman

WITNESS

Elsie R Chisholm

NOTARY PUBLIC

My commission expires:

ELSIE R. CHISHOLM
Notary Public, Chatham County, Georgia
My Commission Expires June 19, 1999

DECLARANT:

SIDNEY L. CARR

Executed in the presence of:

WITNESS

NOTARY PUBLIC

My commission expires:

ELSIE R. CHISHOLM
Notary Public, Chatham County, Georgia
My Commission Expires June 19, 1999

EXHIBIT "A"

All that certain lot, tract or parcel of land situate, lying and being in the City of Savannah, Chatham County, Georgia and shown and designated upon the Map or Plan of said City of Savannah as Lot Eight (8), Second Tything, Anson Ward, and being bounded as follows: On the North by Broughton Street Lane, on the East by Lot Nine (9), said Tything and Ward, on the South by State Street and on the West by Lot Seven (7), said Tything and Ward, together with all improvements thereon, the main building located thereon being an apartment building known or formerly known as the "Palgray Apartments", and designated as 216 East State Street, and being the same property conveyed to Carr Georgia Corp. by James E. Carr and Sidney L. Carr on October 18, 1990 by deed recorded in Record Book 147-M, Folio 533, of the records in the Office of the Clerk of Superior Court, Chatham County, Georgia.

SUBJECT, HOWEVER, to all easements, covenants, conditions and restrictions of record affecting the herein described property.

EXHIBIT "B"

TO

DECLARATION OF CONDOMINIUM

OGLETHORPE SQUARE APARTMENTS
A Condominium
Savannah, Chatham County, Georgia

Plans and Plat of Building

Reference is hereby made to "Plans and Plat of Building" dated April 15, 1998, and recorded in Condominium Plans Book 1, Page 118 of the Chatham County Records, which are specifically made a part hereof and incorporated herein by reference.