

# *Stepping Stone Condominium Association, Inc.*

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## **THE DECLARATION OF CONDOMINIUM**

This Declaration made this 5th day of November 1986 by Clowers Construction Company, Inc., an Alabama corporation (Developer), for itself and its respective successors, grantees and assigns, pursuant to the Condominium Ownership Act of Alabama, Code of Alabama 1975, Section 35-8-1 et seq., for the purpose of creating a condominium and establishing certain easements, covenants and restrictions to run with the land.

Whereas, Developer is the fee simple owner of real property situated in Madison County, Alabama, described in Exhibit "A" attached hereto.

Whereas, the said real property has been improved by the construction thereon of residential condominium units; and said improvements have been fully and accurately depicted as to layout, location, unit numbers and dimensions identifying the Common Elements and Private Elements of each Unit as built.

Now, therefore, the Developer hereby makes the following Declaration, and specifies that the provisions hereof shall constitute covenants running with the land and shall be binding upon the Developer, its successors and assigns, and all subsequent purchasers of all or any part of the Property together with their grantees, successors, heirs, executors, administrators, devisees or assigns.

### **ARTICLE I – PURPOSE**

The purpose of this Declaration is to submit the Property to the condominium form of ownership and use in the manner provided by the Condominium Ownership Act of Alabama, Code of Alabama 1975, Section 35-8-1 et seq. (the "Act") and the Property as that term is defined in Section 3.12 hereof, is hereby submitted to the condominium form of ownership as provided for in the Act.

### **ARTICLE II – NAME**

The name by which this condominium is to be identified is: STEPPING STONE CONDOMINIUM (the "Condominium").

**ARTICLE III – DEFINITIONS**

The terms used herein and in the Articles of Incorporation and Bylaws shall have the meaning stated in the Act and as follows:

3.01. “Act” means the Condominium Ownership Act of Alabama, Code of Alabama 1975, Section 35-8-1 et seq;

3.02. “Articles of Incorporation: means the articles of incorporation of the Association, recorded in the Office of the Judge of Probate of Madison County, Alabama;

3.03. “Assessment” means a share of the funds required for the payment of Common Expenses, including insurance, maintenance and fees required for the administration of the Condominium, and charges and expenses of the Association, which are assessed against the Unit Owners by this Declaration and the Board of Directors of the Association as necessary from time to time;

3.04. “Association” means Stepping Stone Condominium Association, Inc., an Alabama not-for-profit corporation and its successors;

3.05. “Board” means the Board of Directors of the Association;

3.06. “Building” means any structure erected on the land containing one or more Units or any of the recreational or maintenance facilities, as more particularly described on Exhibit “A”;

3.07. “Bylaws” means the duly adopted Bylaws of the Association;

3.08. “Common Elements” means common areas and facilities as defined in said Act and shall include all parts of the Condominium Property not included within the Unit boundaries as described in Section 5.01 hereafter;

3.09. “Common Expenses” include those as defined by the Act, together with the expense for which the Unit Owners are liable to the Association, actual or estimated, pursuant to the Bylaws;

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3.10. “Condominium” means the “Stepping Stone Condominium covered by this Declaration.

3.11. “Condominium Parcel” means a Unit together with the undivided share in the Common Elements which are appurtenant to the Unit;

3.12. “Condominium Property” or “Property” means and includes all the land described in Exhibit “A” attached hereto and all improvements and structures thereon, and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of Section 4.05 hereof, and all easements, rights and appurtenances thereto;

3.13. “Declaration” means the within document’

3.14. “Developer” means Clowers Construction Company, Inc., an Alabama corporation;

3.15. “Land” is the real property subject to the Declaration which is hereby submitted to the condominium form of ownership;

3.16. “Member” means a member of the Association. Membership in the Association shall be limited to those persons who hold a fee-type ownership interest in any Unit;

3.17. “Private Elements” means the part or parts of the Condominium Property intended for exclusive ownership by a Unit Owner;

3.18. “Unit” means the Private Elements of the Condominium Property together with the undivided interest in the Common Elements which are assigned thereto in the Declaration or any amendment thereto;

3.19. “Unit Number” means the number assigned to a Unit on Exhibit “A” attached hereto;

3.20. “Unit Owner” or “Owner of a Unit” means the owner of a Condominium Parcel;

3.21. Singular, plural, gender. Whenever the context so permits, the use of the plural shall include the singular, the use of the singular shall include the plural, and the use of any gender shall be deemed to include all genders.

**ARTICLE IV – DESCRIPTION OF THE UNITS**

4.01. Survey, Graphic Description and Plot Plan. A survey of the Land submitted to condominium ownership, is set forth on Exhibit “A” attached hereto. A graphic description of the improvements in which Units are located and the identification of each Unit by number, so that no Unit bears the same designation as any other Unit, and the plot plan thereof, all in sufficient detail to identify the Common Elements and each Unit and their respective locations and dimensions is attached hereto as Exhibit “A”. The survey, graphic descriptions and plot plan were prepared by Smith Engineering Company and the improvements upon the Land are constructed substantially in accordance with the plans and specifications prepared by Larry L. Bricker (Project Architect) of Huntsville Alabama (said site and floor plans hereinafter collectively referred to as “Plans”).

4.02. Unit Boundaries.

Each Unit shall include that part of the Building containing the Unit that lies within the boundaries of the Unit as follows:

- a) The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with perimetrical boundaries.
  - i. Upper Boundaries: The horizontal plane of the undecorated finished ceiling of the Unit.
  - ii. Lower Boundaries: The horizontal plane of the undecorated finished floor of the Unit.
- b) The perimetrical boundaries of the Unit shall be the following boundaries extended to an intersection with the upper and lower boundaries:
  - i. Exterior Building Walls: The intersecting vertical planes adjacent to and which include the undecorated interior surface of the outside walls of the Unit Building bounding the Unit and fixtures thereon. No open balconies, porches, patios or decks

shall be extended, enclosed or altered in any manner whatsoever by a Unit Owner, except with the prior written consent of the Board.

- ii. Interior Building Walls: The undecorated interior surfaces extending to the intersections with other perimetrical boundaries.
  - iii. Limitation: The owner of a Unit shall not be deemed to own the undecorated and unfinished surfaces of the exterior perimeter walls, or the undecorated and/or unfinished surfaces of the perimeter floors and ceilings surrounding his respective Unit, nor shall the Unit Owner be deemed to own pipes, wires, conduits, air passageways and ducts or other public utility lines running through or adjacent to said Unit which are utilized for or serve more than one Unit or the common areas, which items are by these presents hereby made a part of the Common Elements. However, said Unit Owner shall be deemed to own the walls and partitions which are contained within said Owner's Unit, as herein defined, and shall also be deemed to own the inner decorated and/or finished surfaces of the perimeter walls, floors and ceilings, including paint, wallpaper, and so forth.
- c) The air conditioning system serving only an individual Unit, including all of the air conditioning system's component parts, attachments and lines shall be deemed owned by the Unit Owner, and shall not be considered part of the Common Elements.

4.03. EASEMENTS. The Developer hereby reserves for and grants to the Unit Owners the following exclusive Easements:

- a) Unit Owner's Easements. An exclusive easement is granted to each Unit Owner to have exclusive use of the surface area of the interior portion of any exterior wall in his Unit. Said use shall include the right to paint, wallpaper, adorn or use to hang or mount object upon said interior surface area of a wall provided such actions are not prohibited by the Declaration, Articles of Incorporation, Bylaws or Rules and Regulations. This easement shall not, however, be construed as giving the Unit Owner the right to remove, alter, remodel or in any way endanger the structural soundness of any said wall.

Nothing in this section shall be construed as limiting in any way the right of the Association from performing maintenance on, or making repairs or improvements to the

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said walls, provided such maintenance, repairs or improvements are authorized by the Declaration or Bylaws. Maintenance of said walls shall be as provided for in Article IX hereafter.

An easement is granted to Unit Owners of all Units to have the exclusive use, right and enjoyment of the open patio, porch, balcony and deck areas immediately adjacent to each Unit Owner's respective Unit, which areas are identified as such on the plans made Exhibit "A" hereto.

- b) The Association's Easements. The Developer reserves for and grants to the Association for the benefit of its Members, their guests and lessees, the following easements, rights and privileges:
- i. An easement in common with others for ingress and egress, by vehicle or on foot, in, to, upon, over and under all roads, walks and passageways located on the Property.
  - ii. An easement for the placement and maintenance of all roadways and utilities, including sewer, electricity, telephone and TV cable lines, pipes, sewers and conduits, in and through the Property, including the right of access thereto, such easements being in common with and subject to the terms and conditions of all easements and rights of way heretofore granted by Developer to companies furnishing utilities to the Property.
  - iii. An easement in common with the Owner of each Unit served through other Units for the conduits, ducts, plumbing, wiring and other facilities and systems furnishing utility services to the Unit served, including the right of access thereto for the purpose of maintenance, repair and replacement.

4.04. CHANGES. Notwithstanding any other provision of the Declaration or Bylaws, as long as Developer owns one or more Units in the Condominium, the Developer shall have the right, with the written approval of the Veterans' Administration, but without further authorization from the Unit Owners or the Association, to combine or subdivide or otherwise realign Units held by the Developer in order to facilitate their sale or rental and to reflect such changes in the affected Unit

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or Units in a duly recorded Amendment to the Declaration. In no event, however, shall such combining, subdividing or other realigning of Units held by Developer alter or diminish the undivided interest in the Common Elements and voting rights previously allocated to Units undergoing such combining, subdividing or realigning.

Neither this provision nor the authority of the Developer to record an amendment of the Declaration pursuant thereto may be modified or deleted by amendment of the Declaration or Bylaws or otherwise, without the Developer's written consent. Any such change, with the written approval of the Veterans' Administration, shall be reflected by an amendment described in Article XX of this Declaration. Notwithstanding the procedures for amendment described in Article XX of this Declaration, any amendment pursuant to this Section needs to be signed and acknowledged only by the Developer, and need not be approved by the Association, or Unit Owners, lessees or mortgagees, anything herein to the contrary notwithstanding.

4.05. ADDITIONS IN ACCORDANCE WITH A GENERAL PLAN OF DEVELOPMENT. The Developer, its successors and assigns, shall have the right to bring within the scheme of this Declaration additional properties in future expansions of the development known as "Stepping Stone Condominium" in accordance with a general plan of development for Stepping Stone Condominium prepared prior to the recording of this Declaration. Such general plan of development shall be substantially in accordance with the final development plan on file with the Project Architect. Such general plan of development shall not bind the Developer, its successors and assigns, to make the proposed additions. The Developer covenants, however, that this Condominium regime shall not be amended or merged with a successor condominium regime without prior written approval of the Veterans' Administration.

Neither this provision, nor the authority of the Developer to record an amendment of the Declaration pursuant thereto, may be modified or deleted by amendment of the Declaration or Bylaws or otherwise, without the Developer's written consent.

The additions authorized under this Article may be made with the written approval of the Veteran's Administration, but without the requirement of approval or consent by the Association,

or any Unit Owner, lessee or mortgagee and shall be made by the Developer, its successors and assigns, by recording a Supplemental Declaration with respect to the additional property which shall extend the scheme of the covenants and restrictions of this Declaration to such property. Each and every Unit Owner by the acceptance of a deed to a Unit, each and every lessee of a Unit, and each and every mortgagee by the acceptance of a mortgage on a Unit does hereby constitute and appoint the Developer, its successors and assigns, his true and lawful attorney in fact, with full power and authority for him, and in his name, to make, execute, acknowledge, publish, file and swear to the execution, acknowledgement, filing and recording of such Supplemental Declarations authorized under this Article. The authority herein granted to the Developer is a special power of attorney coupled with an interest, is irrevocable and shall survive the death or incapacity of any Unit Owner, lessee or mortgagee.

**ARTICLE V – COMMON ELEMENTS**

5.01. COMMON ELEMENTS. The Common Elements of the Condominium will include the common areas and facilities located substantially as shown on the Plans. Such common areas and facilities will include the following, unless specifically included within a Unit:

- a) The Land on which the improvements are located.
- b) The yard, driveways, walkways, parking areas, recreational areas, and landscaping.
- c) All maintenance facilities, outdoor lighting and the like and storage areas. Those porch, patio, deck, balcony and step area lights that are operated by a Unit Owner for the exclusive use and convenience of said Unit Owner are Common Elements and the Association shall remain responsible for the ordinary maintenance of any said fixture(s). However, each Unit Owner shall be responsible for the cost of the electricity used in the operation of these particular light fixtures.
- d) Easements through Units for conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services to Units and the Common Elements.
- e) An easement of support in every portion of a Unit which contributes to the support of a Building.
- f) Installations for the furnishings of utility services to more than one Unit or to the Common Elements or to a Unit other than the Unit containing the installation.



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- g) The property and installation in connection therewith required for the furnishing of utilities and services to more than one Unit or to the Common Elements.
- h) All open porch, patio, balcony and deck areas, provided however, that Unit Owners whose Units have direct access to an open porch, patio or deck directly from the interior of their Unit, shall have an easement for the exclusive use of such area. Any such open porch, patio, balcony and deck shall be maintained and kept in a neat and orderly manner and free of ice, snow and other accumulation by the Unit Owner entitled to such exclusive use.
- i) All easements and/or rights of access for ingress and egress across adjoining property.
- j) All other parts or portions of the Condominium Property not included in the Units.

## 5.02. DETERMINATION OF THE PERCENTAGES OF OWNERSHIP IN COMMON

ELEMENTS, COMMON EXPENSES AND COMMON PROFITS. The Common Profits shall be distributed among, and the common expenses shall be charged to, the Unit Owners according to the percentage of the undivided interest of the Unit in the Common Elements. The percentages of interest of the respective Units in the Common Elements shall be determined from time to time upon the basis of the relationship which the Assigned Value of each Unit bears to the aggregate of the Assigned Values of all Units on such date of calculation.

The condominium community will consist of four (4) different floor plans. The types of Units, their designation and Assigned Value are as follows:

<b>Model Type</b>	<b>Designation</b>	<b>Assigned Value</b>
A	One Bedroom	1.0
B	Large Two Bedroom	1.69
C	Small Two Bedroom	1.32
D	Standard Two Bedroom	1.48

Each Unit is designated as to type on Exhibit "A" attached hereto. The Assigned Value of each Unit shall be the basis upon which the determination of percentages of ownership in Common Elements and prorations of Common Expenses is made notwithstanding the fact that the Unit may actually contain more or less square footage than another Unit having the same Assigned Value.

5.03. ENCROACHMENTS. If any portion of the Common Elements now encroaches upon an Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the Common Elements as a result of the construction of any Building, or if any such encroachment shall occur hereafter as a result of settling or shifting of any Building, a valid easement for the encroachment and for the maintenance of the same, so long as the Building stands, shall exist. In the event any Building, any Unit any adjoining Unit, or any adjoining Common Element 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 an Unit or of an Unit upon any other Unit or upon any portion of the Common Elements, due to such encroachments and maintenance thereof shall exist so long as the Building shall stand.

**ARTICLE VI – UNITS SUBJECT TO DECLARATION, ARTICLES OF INCORPORATION, BYLAWS AND RULES AND REGULATIONS**

All present and future Unit Owners, tenants and occupants of the Units shall be subject to, and shall comply with the provisions of this Declaration, the Articles of Incorporation, the Bylaws and the Rules and Regulations, as they may be amended from time to time. The initial Bylaws of the Association are attached hereto as Exhibit “B” and are incorporated herein by reference.

**ARTICLE VII – EXCLUSIVE OWNERSHIP**

Each Unit Owner shall have exclusive ownership and possession of his Unit. The percentage of undivided interest in the Common Elements shall not be separated from the Unit to which it appertains and shall be deemed to be conveyed or encumbered or released from liens with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. Each Unit Owner may use the Common Elements in accordance with the purpose for which the same are intended, without hindering or encroaching upon the lawful rights of other owners, subject, however, to the provisions of Section 4.03.

**ARTICLE VIII – ENFORCEMENT**

Failure of an Unit Owner (either by his own conduct or by the conduct of any occupant of his Unit) to comply strictly with the provisions of this Declaration, the Articles of Incorporation, the Bylaws and the Rules and Regulations, shall be grounds for an action to recover sums due, or damages, or injunctive relief or any or all of them. Such actions may be maintained by the Association on its behalf or on behalf of the Unit Owners aggrieved. In any case of flagrant or repeated violation by a Unit Owner, he may be required by the Association to give sufficient surety or surties for his future compliance with the provisions of this Declaration, the Articles of Incorporation, the Bylaws and the Rules and Regulations. Nothing herein contained shall prevent, in a proper case, an independent action by an aggrieved Unit Owner for such relief. Furthermore, any Unit Owner shall have a right of action against the Association to recover sums due, or damages, or injunctive relief or any of them for failure of the Association to comply strictly with the provisions of the Declaration, the Articles of Incorporation, the Bylaws and the Rules and Regulations.

**ARTICLES IX – MAINTENANCE**

The responsibility for the maintenance of the Property shall be as follows:

9.02. UNITS. Each Unit Owner shall perform promptly, and at his own risk, cost and expense, all maintenance and repair work with respect to all portions of his Unit, as defined in this Declaration, and which, if omitted, would adversely affect or jeopardize the safety of the Condominium Property. Each Unit Owner shall promptly report to the Association any need for maintenance or repair of portions of the Condominium Property which may be the responsibility of the Association to maintain and repair.

9.02. COMMON ELEMENTS. The responsibility of the Association to maintain and repair, as a Common Expense of the Condominium, shall be limited to the portions of the Condominium Property designated as Common Elements in this Declaration, and all conduits, ducts, pipes, wiring or other facilities which may be contained within a Unit but which service part or parts of the Condominium Property other than or in addition to the Unit in which the facilities are

contained. The Association shall repair, as Common Expense of the Condominium, all incidental damage to an individual Unit resulting from maintenance or repair work done by the Association.

9.03. ALTERATIONS AND IMPROVEMENTS.

- a) Neither a Unit Owner nor the Association shall make any alterations in the portion of a Unit or Building which is to be maintained by the Association, or remove any portion thereof, or make any additions thereto, or do any work which would jeopardize the safety or soundness of the Buildings, or impair any easement, without first obtaining approval of the Board of Directors of the Association.
- b) TO COMMON ELEMENTS. There shall be no substantial alteration or improvement (other than required maintenance and repairs) of the Common Elements without prior approval in writing of sixty-six and two thirds (66 2/3%) percent of the Unit Owners. There shall be no change in the shares and right and obligations of a Unit Owner in the Common Elements except as provided in Section 4.05 hereof.

**ARTICLE X – DECORATING**

Each Unit Owner shall furnish and be responsible for, at his own expense, all of the decorating in his own Unit from time to time, including painting, wallpapering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps and other furnishings and interior decorating. Each Unit Owner shall be entitled to the exclusive use of the interior surfaces of the walls, floors and ceilings, and such Unit Owner shall maintain the interior surfaces in good condition at his sole expense as may be required from time to time and 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. The use of and the covering of the interior surfaces of the windows, whether by draperies, shades or other items visible on the exterior of the building, shall be subject to the Rules and Regulations of the Association. Decorating of the Common Elements (other than interior surfaces within the Units as above provided), and any redecorating of Units to the extent made necessary by any damage to existing decoration of such Units caused by maintenance, repair or replacement work on the Common Elements by the Association, shall be furnished by the Association as part of the Common Expenses. The interior and the exterior surfaces of all windows forming part of the

perimeter wall of a Unit shall be cleaned or washed at the expense of each respective Unit Owner. The exterior surfaces of all doors forming a part of perimeter wall shall be painted and repaired as a part of the Common Expenses of the Association at such time or times as the Association shall determine. No burglar bars, screens or storm windows or doors shall be installed without the prior written approval of the Association.

**ARTICLE XI – ASSESSMENTS**

The making and collection of Assessments against Unit Owners shall be pursuant to the Bylaws and subject to the following provisions:

11.01. SHARE OF COMMON EXPENSE. Each Unit Owner shall be liable for a proportionate share of the Common Expenses, and shall share in the common surplus or profits, such share being the same as his percentage of ownership in the Common Elements.

11.02. LATE PAYMENTS. All monthly assessments shall be due and payable on or before the tenth of the month. Any payment after the tenth of the month shall be considered delinquent and shall be subject to a late charge established by the Board of Directors.

11.03. MECHANICS LIENS. Each Unit Owner shall only be liable for the cost of repairs and replacements to his Unit, and for his proportionate share of the Common Expenses. No Unit Owner shall be liable for the liens of other Unit Owners except as provided for by the Act of this Declaration.

11.04. LIENS FOR ASSESSMENT. The Association is hereby granted a lien upon each Unit and its appurtenant undivided interest in the Common Elements, which lien shall secure the following Assessments now and hereafter levied or subject to be levied against each Unit Owner by the Association for advances made by the Association, together with interest thereon as herein provided, and all related costs including reasonable attorney's fees:

- a) All assessments for Common Expenses;

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- b) All assessments for taxes and other payments which may be required to be advanced or paid by the Association in order to protect or preserve any lien;
- c) All assessments for payments and expenses incurred in discharging a Unit Owner's obligation for maintenance and repair under Section 9.01; and,
- d) All assessments for payments and expenses incurred in discharging any mechanic's lien, tax lien, or other lien or encumbrance filed which constitutes a lien against Common Elements.

The lien for the Assessments herein granted to the Association shall be enforced in accordance with the provisions of the Act, this Declaration and the Bylaws, and shall be prior to all of the liens, except those liens established as prior liens under the terms of the Act. The Association shall have the power to bid on any Unit at a foreclosure sale, and to acquire, hold, lease, mortgage and convey the same. Suit by the Association to recover a money judgment for any sums secured by a lien hereunder shall be maintainable without foreclosing or waiving the lien securing same.

11.05. RENTAL PENDING FORECLOSURE. In a foreclosure of a lien for Assessments of the Unit Owner subject to the lien shall be required to pay a reasonable rental for the Unit from the date on which the payment of any assessment or installment thereon became delinquent, and the Association shall be entitled to the appointment of a receiver for such Unit. The rental required to be paid shall be equal to the rental then charged on comparable types of rental dwelling Units in Stepping Stone Condominium. The right of the Association to collect said rental payments is assignable.

11.06. NO EXEMPTION FOR ASSESSMENTS. No Unit Owner may be exempted or exempt himself from liability for contribution toward the Common Expenses by waiver of the same or the enjoyment of any of the Common Elements or by the abandonment of his Unit.

11.07. SUBORDINATION OF LIENS. Any institutional mortgagee which comes into possession of a Unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage or deed in lieu of foreclosure, shall take the property free of any claim for unpaid assessments or charges of the Association against the mortgaged Unit which accrue prior to the time such institutional

mortgagee comes into possession of the Unit (except for claims for a pro rata share of any tax or special assessment as provided for in this Declaration of Condominium).

**ARTICLE XII – ASSOCIATION**

The operation and administration of the Condominium shall be performed by an association, pursuant to the provisions of the Act, which shall be incorporated as a not-for-profit corporation, and shall be organized and shall fulfill its functions pursuant to the following provisions:

12.01. NAME. The name of the association shall be “Stepping Stone Condominium Association, Inc.”.

12.02. POWERS. The powers and duties of the Association shall include those set forth in the Act, this Declaration and the Bylaws of the Association, and it shall have the power to purchase a Unit of the Condominium.

12.03. MEMBERS.

- a) Qualification. The members of the Association shall consist of all the Unit Owners of record.
- b) Change of Membership. Change of membership in the Association shall be established by recording in the public records of Madison County, Alabama, of a deed or other instrument establishing a record title to a Unit of the Condominium, and the delivery to the Secretary of the Association of a certified copy of such instrument, the owner designated by such instrument thereby becoming a member of the Association. Membership of the prior owner shall be thereby terminated.
- c) Voting Rights. The vote for a Unit shall be cast by Unit Owner thereof, or the duly authorized proxy of the Unit Owner, or the Unit Owner’s certified voting representative in the manner provided by the Bylaws. Subject to any provision of the Bylaws applicable thereto, each Unit Owner is entitled to cast the number of votes provided in the Articles of Incorporation of the Association.

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12.04. BOARD OF DIRECTORS. The affairs of the Association shall be conducted by a Board of Directors who shall be designated in the manner provided by the Bylaws.

12.05. INDEMNIFICATION. Every Director and every Officer of the Association shall be indemnified by the Association against expenses and liabilities, in the manner provided for in the Articles of Incorporation of the Association and the Bylaws.

12.06. LIMITATION OF LIABILITY. Notwithstanding the liability of the Association to maintain and repair parts of the Property, the Association shall not be liable for injury or damage caused by a latent condition of the Property to be maintained and repaired by the Association nor for injury or damage caused by the elements or Unit Owners or other persons. Neither shall the Association be liable for loss or injury to personal property occurring on or within the Common Elements.

12.07. BYLAWS. The operation of the Association shall be governed by the Bylaws of the Association, a copy of which is attached hereto as Exhibit "B" and made a part of hereof by reference.

12.08. AGENT TO RECEIVE SERVICE OF PROCESS. The following person, whose place of business is in Madison County, Alabama, is designated as an agent to receive service of process upon the Association:

Name: Dennis E. Clowers  
Address: 2107 West Ferry Way  
Huntsville, Alabama 35801

## **ARTICLE XIII – INSURANCE**

13.01. INSURANCE TRUSTEE; SHARES OF PROCEEDS. All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering casualty losses shall be paid to the Association, as Trustee for each of the Unit Owners and their mortgagees which said Board of Directors of the Association, for the purpose of these provisions,



is herein referred to as the Insurance Trustee. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated herein and for the benefit of the Unit Owners and their mortgagees, as follows:

- a) Common Elements and Facilities. Proceeds on account of damage to Common Elements and facilities – an undivided share for each Unit Owner, such share being the same as his undivided interest in the Common Elements appurtenant to his Unit.
- b) Units. 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.
- c) Mortgages. 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.

13.02. DISTRIBUTION OF PROCEEDS. If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be used to defray the cost thereof as elsewhere provided. 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.

13.03. ASSOCIATION AS AGENT. The Association is hereby irrevocably appointed agent for each Unit Owner to adjust all claims arising under the insurance policies purchased by the Association, and to execute and deliver releases upon the payment of claims.

#### **ARTICLE XIV – CONDEMNATION**

In the event of condemnation of all or a portion of the Property, the disposition of proceeds of the award shall be governed by the following provisions:

14.01. PARTIAL TAKING WITHOUT DIRECT EFFECT ON UNITS. If part of the Property shall be taken or condemned by any authority having the power of eminent domain, such that no Unit is taken, all compensation and damages for and account for the taking of the Common Elements, exclusive of compensation for consequential damages to certain affected Units, shall be

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payable to the Association as trustee for all Unit Owners and mortgagees according to the loss or damages to their respective interests in such Common Elements. The Association, acting through the Board of Directors, shall have the right to act on behalf of the Unit Owners with respect to the negotiation and litigation of the issues with respect to the taking and compensation affecting the Common Elements, without limitation on the right of the Unit Owners to represent their own interests. Such proceeds shall be paid to the Association and shall be used promptly to the extent necessary for restoring or replacing improvements so taken on the remaining Property in as substantial compliance to the original plan and elevation of the improvements as possible, to restore the excess award or general value of the Condominium. In the event there is an award in excess of the amount necessary to so substantially restore the Common Areas, it shall be distributed by the Association to the Unit Owners in proportion to their share of ownership in the Common Elements. Nothing herein is to prevent Unit Owners whose Units are specially affected by the taking or condemnation from joining in the condemnation proceedings and petitioning on their own behalf for consequential damages relating to loss of value of the affected Units, or personal improvements therein, exclusive of damages relating to Common Elements. In the event that the condemnation award does not allocate consequential damages to specific Units, but includes an award for reduction in value of the Units without such allocation, the award shall be divided between affected Unit Owners and the Common Elements damages as the interests may appear by arbitration in accordance with the rules of the American Arbitration Association.

14.02. PARTIAL OR TOTAL TAKING DIRECTLY AFFECTING UNITS. If part or all of the Property shall be taken or condemned by any authority having the power of eminent domain, such that any Unit or a part thereof is taken, the Association shall have the right to act on behalf of the Unit Owners with respect to Common Elements as in Section 14.01 of this Article, and the proceeds shall be payable as outlined therein. The Unit Owners directly affected by such taking shall represent and negotiate for themselves with respect to the damages affecting their respective Units. Such portion or portions of the award which are attributable to direct or consequential damage suffered by particular Units shall be payable to the Owners of such Units or their mortgagees as their interests may appear.

**ARTICLE XV – RECONSTRUCTION OR REPAIR AFTER CASUALTY**

In the event of the damage or destruction of all or part of the Property, then such damage or destruction shall be promptly repaired or restored in accordance with the terms of this Article.

15.01. Plans and Specifications. Any such reconstruction or repair must be in accordance with the Plans and specifications for the original building, or as the building was last constructed, or according to plans approved by the Board.

15.02. Responsibility. If the loss shall occur only to those parts of a Unit for which the responsibility of maintenance and repair is that of a Unit Owner, then the Unit Owner shall be responsible for reconstruction and repair after casualty. Where a loss or damage occurs to property for which the responsibility of maintenance and repair is that of the Association, then the Association shall be responsible for reconstruction and repair after casualty.

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

15.04. ASSESSMENTS. 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 all Unit Owners in sufficient amounts to provide funds to pay the estimated costs. If at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, Assessments shall be made against the Unit Owners in sufficient amount to provide funds for the payment of such costs. Such Assessments for reconstruction or repair to property for which the Association has the responsibility for maintenance and repair shall be in proportion to the Unit Owner's share in the Common Elements. Such Assessments for reconstruction and repair of damages to property for which a Unit Owner has the responsibility for maintenance and repair shall be against the respective Units suffering such damage.

15.05. Construction Funds. The funds for payment of costs of reconstruction and repair after casualty for which the Association is responsible, which shall consist of proceeds of insurance held by the Insurance Trustee and funds collected by the Association from Assessments against the Unit Owners, shall be disbursed in payment of such costs in the following manner:

- a) Unit Owner. The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with the Unit 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 mortgagee jointly, who shall use such funds for the restoration of his Unit.
- b) Association. Where it shall be obligatory upon the Association to repair or reconstruct the damage caused by said loss, then the construction fund shall be disbursed in payment of such costs upon the order of the Association.
- c) Surplus. It shall be presumed that the first moneys disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds; and if there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, then such balance may be retained as a reserve, or wholly or partly distributed, at the discretion of the Board of Directors.

#### **ARTICLE XVI – USE RESTRICTION**

The use of the Property of the Condominium shall be in accordance with the following provisions:

16.01. Residences. The Property shall be used solely for residential purposes.

16.02. Nuisances. No nuisances shall be allowed upon the Property nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Property by its residents. 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.

16.03. Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the Property nor any part thereof; and all valid laws, zoning ordinances, and regulations of all governmental

bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification or repair of the Property shall be the same as the responsibility for the maintenance and repair of the property concerned.

16.04. Leasing. Any lease or rental agreements for a Unit shall be in writing and in form reasonably satisfactory to the Board and shall provide that the tenant and all occupants of the Unit shall be subject to and comply with the provisions of the Declaration, the Articles of Incorporation, the Bylaws or the Rules and Regulations, and that the Board shall have the power to terminate such lease and/or to bring summary proceedings, either in its own name or, if required, in the name of the Unit Owner, to evict the tenant in the event of default by the tenant in the performance of such lease. A copy of every proposed lease for a Unit shall be furnished to the Board at least ten (10) days prior to its execution. The Unit Owner making such lease shall not be released thereby from any of his said obligations.

16.05. Regulations. Reasonable regulations concerning the use of the Property not inconsistent with the provisions of this Declaration may be made by the Board. Copies of such regulations or amendments thereto shall be furnished by the Association to all Unit Owners and residents of the Condominium.

#### **ARTICLE XVII – NOTICE OF LIEN OR SUIT**

17.01. Notice of Lien. A Unit Owner shall give notice to the Association of every lien upon his Unit, including taxes and special assessments, within five (5) days after the Unit Owner's receipt of notice thereof.

17.02. Notice of Suit. A Unit Owner shall give notice to the Association of every suit or other proceeding which may affect the title to his Unit, such notice to be given within five (5) days after the Unit Owner receives knowledge thereof.

17.03. Failure to Comply. Failure to comply with this subsection concerning liens will not affect the validity of any judicial sale.

**ARTICLE XVIII – COMPLIANCE AND DEFAULT**

Each Unit Owner shall be governed by and shall comply with the terms of the Act, this Declaration, the Articles of Incorporation, the Bylaws and Rules and Regulations adopted pursuant thereto and said documents and Regulations as they may be amended from time to time. A default shall entitle the Association or other Unit Owners to the following relief in addition to the remedies provided by the Act:

18.01. Negligence. Each Unit Owner shall be responsible for all damages to all other Units and/or the Common Elements necessitated by his act, negligence or misuse or by that of any member of his family or his or their 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, and the Association shall have the right to levy an Assessment on such Unit Owner, which Assessment shall have the same force and effect as all other Assessments. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Unit or its appurtenances.

18.02. Costs and Attorneys' Fees. In any proceeding arising because of an alleged default by a Unit Owner, the Association shall be entitled to recover the costs of the proceeding and such reasonable attorney fees as may be awarded by the Court.

18.03. No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restrictions, or other provision of the Act, this Declaration, the Bylaws, or the Rules and Regulations shall not constitute a waiver of the right to do so thereafter.

**ARTICLE XIX – COVENANT AGAINST PARTITION**

There shall be no judicial or other partition of the Property, any part thereof or any Unit, nor shall Developer, any Unit Owner, or any person acquiring any interest in the project or any part thereof seek any such partition unless the Property has been removed from the provisions of the Act, as in said Act provided.

**ARTICLE XX – AMENDMENT**

This Declaration of Condominium may be amended in the following manner:

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

20.02. Resolution. A resolution adopting a proposed amendment may be proposed by either the Board or by the Members of the Association, and after being proposed and approved by one of such bodies, it must then be approved by the other to become effective. Such approvals must be by not less than a majority of the whole Board of Directors and by not less than sixty-six and two-thirds (66 2/3%) percent of the votes of the Association.

20.03. Recording. 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 public records of Madison County, Alabama.

20.04. Proviso. Provided, however, that no amendment shall discriminate against any Unit Owner nor against any Unit or class or group of Units or Building or Unit Owners in a Building unless the Unit Owners so affected shall consent; and no amendment shall materially alter or modify the manner in which the undivided interests in the Common Elements is allocated to each Unit, or materially change the manner in which the Common Expenses are prorated unless the record owner thereof and all record owners of liens thereon shall join in the execution of the amendment.

# *Stepping Stone Condominium Association, Inc.*

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20.05. Provisions Pertaining to the Developer. Subject to the proviso contained in Section 20.06 hereof, and notwithstanding any other provisions herein contained, until such time as the First Annual Meeting of Unit Owners is held in accordance with the procedure set forth in the Bylaws or until Developer elects not to be subject to the provisions of this Section 20.05, the following provisions shall be deemed to be in full force and effect, none of which shall be construed so as to relieve the Developer from any obligations as a Unit Owner to pay assessments as to Units owned by it in accordance with the Condominium Documents:

- a) The Developer reserves the right to amend the Bylaws of the Association, subject to written approval by the Veterans' Administration.
- b) The Developer reserves the right to amend this Declaration of Condominium, subject, however, to the written approval of the Veterans' Administration and further to the limitations provided for in Section 20.04 hereof.
- c) The Directors of the Association shall be designated by the Developer and such Directors as may be designated need not be Unit Owners.
- d) Notwithstanding any other provision to the contrary, the Developer reserves the unrestricted right to sell, assign or lease any Units which it continues to own after the recording or filing of the Condominium documents, and to post signs on the Property as long as it owns at least one Unit.

Neither this Section nor the power of the Developer to record an amendment of the Declaration pursuant thereto may be modified or deleted by amendment of the Declaration or Bylaws or otherwise, without the Developer's written consent.

Notwithstanding the procedures for amendment described in Article XX of this Declaration, any amendment pursuant to this Section 20.05 needs to be signed and acknowledged only by the Developer, and need not be approved by the Association, or Unit Owners, lessees, or mortgagees, anything to the contrary notwithstanding.

20.06. Proviso. Provided, however, that notwithstanding any other provisions contained in this Declaration, the Articles of Incorporation of the Association or the Bylaws, the Developer shall relinquish all special rights, expressed or implied, through which the Developer may directly or



indirectly control, direct, modify or veto any action of the Association, its directors or a majority of Unit Owners; and control of the Association shall pass to the owners of Units within the Condominium, not later than the earliest of the following:

- a) 120 days after the date by which seventy-five percent (75%) of all of the Units in all phases of the Condominium have been conveyed to Unit purchasers, or,
- b) Five (5) years following the first conveyance to a Unit purchaser.

**ARTICLE XXI – POWER OF ATTORNEY**

Each Unit Owner shall be deemed by his acceptance of a deed to a Unit to have consented to the powers of amendment herein reserved by Developer and to any amendments previously or hereafter executed by Developer pursuant thereto. Each Unit Owner shall further be deemed by his acceptance of a deed to a Unit to have appointed Developer his attorney-in-fact to give, execute and record the consent of the Unit Owner to any and all amendments to this Declaration which Developer may wish to exercise pursuant to the powers herein reserved.

**ARTICLE XXII – TERMINATION**

The Condominium may be terminated in the manner provided by the Act; provided, however, that in the event of termination, each Unit shall be subject to the payment of a share of the Common Expenses as heretofore defined.

**ARTICLE XXIII – EASEMENTS AND LICENSES**

The Association shall have the right to grant permits, licenses and easements over the Common Elements for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium Property.

**ARTICLE XXIV – INTERPRETATION**

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a condominium project. Failure to enforce

any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

**ARTICLE XXV – SEVERABILITY**

The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration and the Bylaws shall not affect the validity of the remaining portions thereof.

IN WITNESS WHEREOF, Clowers Construction Company, Inc., has executed this instrument on the day and year first above written.

*Stepping Stone Condominium Association, Inc.*

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CLOWERS CONSTRUCTION COMPANY, INC.

By: *Dennis E. Clowers*  
Its President

ATTEST:  
*Patricia L. Clowers*  
Its Secretary

STATE OF ALABAMA    )  
MADISON COUNTY     )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Dennis E. Clowers, whose name as President of Clowers Construction Company, Inc., is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that being informed of the contents of the instrument he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 5<sup>th</sup> day of November, 1986.

*Rto A. King*  
Notary Public

My commission expires: 6-5-90

# Stepping Stone Condominium Association, Inc.

## CONSENT BY MORTGAGEE

FIRST AMERICAN NATIONAL BANK OF NASHVILLE, a corporation organized and existing under the laws of the United States of America, for the purpose of complying with the provisions of the Condominium Ownership Act of the State of Alabama as set forth in Section 35-8-7, Code of Alabama 1975, and for no other purpose, does hereby consent to the submission of the real property described in Exhibit "A" to the Declaration of Condominium of Stepping Stone Condominium, and pursuant thereto does hereby consent to the establishment of the condominium regime contained in the above and foregoing Declaration of Condominium of Stepping Stone Condominium.

It is understood and by the acceptance of this instrument agreed, that the mortgage lien held by the undersigned on said real property remains in full force and effect in accordance with the terms of said mortgage, unamended, unchanged and unaltered, except for the submission of said real property to said Declaration of Condominium.

FIRST AMERICAN NATIONAL BANK OF NASHVILLE

By William C. Ming  
Its Vice-President

ATTEST: Lisa J. Gilbert  
Its Assistant Vice President

## ACKNOWLEDGMENT

STATE OF ALABAMA     )  
MADISON COUNTY     )

I, the undersigned Notary Public in and for said county and state, hereby certify that William C. Ming, whose name as Vice President of First American National Bank of Nashville, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that, being informed of the contents of said instrument, he as such officer and with full authority executed the same voluntarily for and as the act of said corporation.

GIVEN under my hand and seal this 12<sup>th</sup> day of November, 1986.

[Signature]  
Notary Public