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S.C. SUPREME COURT

Clarkwestern Dietrich Building Systems LLC; Best Masonry and its successor in interest, OldCastleAPG; Headwaters, Inc. d/b/a Best Masonry; and John Doe #1-10 ..... Defendants,

Of whom DDC Construction, Inc.; DMC Consolidated, Inc.; DMC Builders, Co., Inc., individually and improperly identified as d/b/a The Dinerstein Companies; DC Developers – Columbia Condos, Inc.; Columbia Condos, LP; DMC Developers I, Ltd.; Associated Concrete Contractors, Inc.; Bailey Electric Company, LLC; C&B Utilities, LP; Carolina Floor Systems, Inc.; Century Fire Protection, LLC; Cherokee Inc.; Coronado Stucco, LP; Cross Plains Custom Tile, Inc.; Lowry Construction & Framing Inc.; LTB Construction, Inc.; Martin Morales Jr. Painting & Drywall, LLC; Metal Construction Materials, Inc.; Wyman Acoustics LLC; and Highway One Construction, Inc. are ..... Appellants.

RECORD ON APPEAL
VOLUME III

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

G. Thomas Cooper, Jr., Circuit Court Judge

Case No. 2012-CP-40-8512

Appellate Case No. 2015-000180

The Gates at Williams-Brice Condominium Association and Katharine Swinson, individually, and on behalf of all others similarly situated,..... Respondents,

v.

DDC Construction, Inc.; Kapasi Glass Mart, Inc.; DMC Consolidated, Inc.; DMC Builders, Co., Inc., individually and d/b/a The Dinerstein Companies; DC Developers – Columbia Condos, Inc.; Columbia Condos, LP; DMC Developers I, Ltd.; 31-W Insulation Company, Inc.; Associated Concrete Contractors, Inc.; Bailey Electric Company, LLC; C&B Utilities, LP; Carolina Floor Systems, Inc.; Century Fire Protection, LLC; Cherokee Inc.; Coronado Stucco, LP; Cross Plains Custom Tile, Inc.; Lowry Construction & Framing Inc.; LTB Construction, Inc.; Martin Morales Jr. Painting & Drywall, LLC; Metal Construction Materials, Inc.; Southwest Ironworks, Inc.; The Clerkley/Watkins Group, LP; Tindall Corporation; Triad Pest Control, Inc.; Wyman Acoustics LLC; Alenco Holding Corporation; Alenco Window GA, LLC; New Alenco Window, Ltd.; AWC Holding Company; Crosby Window, Inc., f/k/a Action WinDoor Technology, Inc.; Geo-Systems Design & Testing, Inc.; HGE Consulting, Inc.; Maintenance Builders Supply, Ltd.; SCA Engineers, Inc.; Sinclair & Associates, Inc.; Faultless Hardware, individually and d/b/a Pamex, Inc.; T&M Concrete, Inc.; Loveless Commercial Contracting, Inc.; Economy Waterproofing, Inc.; BMC West Corporation; Highway One Construction, Inc.; J.I. Windows LLC; Dietrich Industries, Inc. a/k/a Dietrich Metal Framing, Inc. n/k/a

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Certificate of Counsel

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FIFTH JUDICIAL CIRCUIT

The Gates at Williams-Brice Condominium Association and Katharine Swinson, individually, and on behalf of all others similarly situated, Plaintiffs, vs. DDC Construction, Inc., et al. Defendants.) Civil Action No. 2012-CP-40-8512

MOTION AND ORDER INFORMATION COVER SHEET

Plaintiff's Attorney:	Defendant's Attorney:
Justin O' Toole Lucey PO Box 806, Mt. Pleasant, SC 29465	Erik T. Norton P. O. Box 11070, Columbia, SC 29201

☒ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
☐ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
☐ **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

SECTION I: Hearing Information

Nature of Motion: Motion for Non-Jury Trial and to Strike Plaintiffs' Class Action Allegations and Jury Trial Demand

Estimated Time Needed: 30 min. Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Erik T. Norton
Signature of Attorney for ☐ Plaintiff / ☒ Defendant

March 24, 2014
Date submitted.

SECTION III: Motion Fee

☒ PAID – AMOUNT: $ 25.00
☐ EXEMPT: (check reason)
- ☐ Rule to Show Cause in Child or Spousal Support
- ☐ Domestic Abuse or Abuse and Neglect
- ☐ Indigent Status ☐ State Agency v. Indigent Party
- ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
- ☐ Motion for Stay in Bankruptcy
- ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
- ☐ Proposed order submitted at request of the court, or, reduced to writing from motion made in open court per judge's instructions
  Name of Court Reporter: _____
- ☐ Other:

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order
☐ Other:

JUDGE CODE _____
Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: $_____

☐ CONTESTED – AMOUNT DUE: $_____

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FIFTH JUDICIAL CIRCUIT

The Gates at Williams-Brice Condominium Association and Katharine Swinson, individually, and on behalf of all others similarly situated,) Civil Action No. 2012-CP-40-8512

Plaintiffs,

vs.

DDC Construction, Inc.; Kapasi Glass Mart, Inc.; DMC Consolidated, Inc.; DMC Builders, Co., Inc., individually and d/b/a The Dinerstein Companies; DC Developers – Columbia Condos, Inc.; Columbia Condos, LP; DMC Developers I, Ltd.; 31-W Insulation Company, Inc.; Associated Concrete Contractors, Inc.; Bailey Electric Company, LLC; C&B Utilities, LP; Carolina Floor Systems, Inc.; Century Fire Protection, LLC; Cherokee Inc.; Coronado Stucco, LP; Cross Plains Custom Tile, Inc.; Lowry Construction & Framing Inc.; LTB Construction, Inc.; Martin Morales Jr. Painting & Drywall, LLC; Metal Construction Materials, Inc.; Southwest Ironworks, Inc.; The Clerkley/Watkins Group, LP; Tindall Corporation; Triad Pest Control, Inc.; Wyman Acoustics LLC; Alenco Inc. d/b/a Ply Gem Window Group; Crosby Window, Inc., f/k/a Action WinDoor Technology, Inc.; Geo-Systems Design & Testing, Inc.; HGE Consulting, Inc.; Maintenance Builders Supply, Ltd.; SCA Engineers, Inc.; Sinclair & Associates, Inc.; Faultless Hardware, individually and d/b/a Pamex Inc. and John Doe #1-10,

Defendants.

MOTION FOR NON-JURY TRIAL AND TO STRIKE PLAINTIFFS' CLASS ACTION ALLEGATIONS AND JURY TRIAL DEMAND

YOU WILL PLEASE TAKE NOTICE that DDC Construction, Inc., DMC Consolidated, Inc., DMC Builders, Co., Inc.; individually as d/b/a The Dinerstein Companies, DC Developers-Columbia Condos, Inc, Columbia Condos, LP, DMC Developers I, Ltd, Associated Concrete Contractors, Inc., Bailey Electric Company, LLC, C&B Utilities, LP, Carolina Floor Systems, Inc., Century Fire Protection, LLC, Cherokee, Inc., Coronado Stucco, LP, Cross Plains Custom Tile, Inc., Lowry Construction & Framing, Inc., LTB Construction, Inc., Martin Morales Jr. Painting & Drywall, LLC, Metal Construction Materials, Inc., Wyman Acoustics, ELC and Highway One Construction, Inc. ("Defendants"), hereby respectfully moves this Court pursuant to Rules 12(f), 23(d)(1), 38 and 39 of the South Carolina Rules of Civil Procedure to order a non-jury trial in this matter and strike the class action allegations and jury trial demand of Plaintiffs The Gates at Williams-Brice Condominium Association and Katharine Swinson, individually, and on behalf of all others similarly situated. Defendants will show the claims at issue in this case are only triable before the Court sitting in equity and Defendants are therefore entitled to that mode of trial and hereby demand such.

The grounds for this Motion are that Plaintiffs' expressly and irrevocably waived any rights to a jury trial under the terms of the Master Deed at issue in this case, which is attached hereto as Exhibit 1. South Carolina recognizes that a party may waive its right to a jury trial by contract. See Wachovia Bank v. Blackburn, 2014 WL 755311 (February 26, 2014); see also Beach Co. v. Twillman, Ltd., 351 S.C. 56, 64, 566 S.E.2d 863, 866 (Ct. App. 2002); Leasing Service Corp. v. Crane, 804 F.2d 828, 832-33 (4th Cir. 1986).

In addition, under the Master Deed, Plaintiffs waived their rights to bring a class action in this matter. It is well established that written class action waivers such as the one at issue

here are enforceable under South Carolina law. See York v. Dodgeland of Columbia, Inc., 406 S.C. 67, 749 S.E.2d 139 (Ct. App. 2013); see also Muriithi v. Shuttle Exp., Inc., 712 F.3d 173, 180 (4th Cir. 2013); Patricia Rowe P.A. v. AT&T, Inc., CA 6:13-cv-01206-GRA, 2014 U.S. Dist. LEXIS 5102 (D.S.C. Jan. 15, 2014).

Defendants' Motion is further supported by the filings in the record before the Court, discovery served by the parties to this action, relevant affidavits, other documents as permitted by the Rules, and the Memorandum of Law, which will be filed and served under separate cover prior to any hearing in this matter.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ T.N.L

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Attorneys for Defendants

Columbia, South Carolina

March 2nd, 2014.

CERTIFICATE OF SERVICE

I, the undersigned, of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Defendant, DDC Construction, do hereby certify that I have served all counsel in this action with a copy of the document(s) hereinbelow specified:

Document(s):

Motion for Non-Jury Trial and to Strike Plaintiffs' Class Action

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Lisa S. Shumpert

March 24, 2014

Book/Page: R 1334/2002 (This is not an Official Copy)

THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION PURSUANT TO THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION

MASTER DEED

OF

THE GATES AT WILLIAMS-BRICE

HORIZONTAL PROPERTY REGIME

City of Columbia
County of Richland
State of South Carolina

Developer:

COLUMBIA CONDOS, L.P.

Prepared by:

Michael W. Eisenrauch, Esquire

Law Offices of
PARKER POE ADAMS & BERNSTEIN LLP
TWO FOUNDERS CENTRE, SUITE 202
611 BURROUGHS & CHAPIN BLVD.
MYRTLE BEACH, SOUTH CAROLINA 29577
www.parkerpoe.com

Book 1334-2002
2007061782 07/11/2007 10:58:59:690
Fee:$145.00 County Tax: $0.00
Master Deed
State Tax: $0.00
2007061782 Richard W. Rodden
Richland County ROD

Book/Page: R 1334/2003 (This is not an Official Copy)

THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION PURSUANT TO THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION

MASTER DEED
OF
THE GATES AT WILLIAMS-BRICE

Horizontal Property Regime

Richland County, Columbia, South Carolina

****

Columbia Condos, L.P., a Delaware Limited Partnership, by DC Developers – Columbia Condos, Inc., a Texas Corporation, its General Partner, having its principal office in Houston, Texas, hereinafter referred to as the "Grantor", as the sole owner of the land and improvements hereinafter described, does hereby make, declare, and publish its intention and desire to submit, and does hereby submit, the lands and buildings herein described, together with all other improvements thereon, including all easements, rights, and appurtenances thereto belonging, to a Horizontal Property Regime (to be known as The Gates at Williams-Brice Horizontal Property Regime, hereinafter called the "Regime") in the manner provided for by the South Carolina Horizontal Property Act, as amended, S.C. Code Ann. § 27-31-10 et seq. (1976). In conformity with § 27-31-30 and § 27-31-100 of said Act, the Grantor sets forth the following particulars:

I. Legal Description

The lands (the "Real Property") which are hereby submitted to the Regime are described on Exhibit "A" attached hereto and made a part hereof by reference. The Real Property as so described has an area set forth on the survey (the "Survey" or "Plat") attached as Exhibit "B".

II. Survey and Description of Improvements

Incorporated herein by reference, as is set forth in full herein, is the Plat (attached as Exhibit "B") showing the location of the building and other improvements on the Real Property; and the site plan, floor plans, unit plans, and elevations (collectively referred to herein as the "Plans" and attached hereto as Exhibit "C") showing the location of the building and other improvements on the Real Property and graphically showing the dimensions, area, and location of each Unit and Limited Common Elements in the building on the Real Property and General Common Elements on the Real Property affording access to each Unit. Each Unit is identified thereon by specific number and no Unit bears the same designation as any other Unit. Said Plans are attached hereto as Exhibit "C". The building containing the Units has an aggregate area set forth thereon.

III. **Notice of Restrictions**

The Regime is subject to all restrictions, easements, assessments, conditions, and limitations now of record and shown on the Plat affecting the Real Property and the improvements thereon. The Gates at Williams-Brice Condominium Association ("Association") as a whole and each Unit co-owner individually is subject to the terms and conditions of said restrictions, easements, assessments, conditions, and limitations.

The Regime is subject to that certain DEED TO SANITARY SEWER LINES FOR THE GATES AT WILLIAMS-BRICE; RICHLAND COUNTY TMS#11210-01-17; CF#293-14, and associated sewer line easements contained therein, given by Columbia Condos, L.P. to the City of Columbia, dated May 24, 2007 and recorded June 14, 2007 in the Richland County ROD Office in Book 1324 at Page 2913 ("Sewer Line Easement"). The Regime is further subject to that certain HOLD HARMLESS AND INDEMNIFICATION AGREEMENT FOR ENCROACHMENT WITHIN THE CITY'S EXISTING 15' SANITARY SEWER EASEMENT FOR THE GATES AT WILLIAMS BRICE; RICHLAND COUNTY TMS#11210-01-17 (PORTION); CF#293-14, by and between Columbia Condos, L.P. and the City of Columbia, dated May 24, 2007 and recorded June 29, 2007 in the Richland County ROD Office in Book 1330 at Page 2088 ("Hold Harmless Agreement"). The Association's repair, replacement, and maintenance responsibilities pursuant to the Sewer Line Easement and the Hold Harmless Agreement are spelled out in Article XXII of this Master Deed.

IV. **Warranty**

GRANTOR ASSIGNS TO THE ASSOCIATION ALL ITS RIGHTS UNDER THE LIMITED WARRANTY AS RECEIVED FROM ITS CONTRACTOR, DDS CONSTRUCTION, INC. ("CONTRACTOR"), AND MORE

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FULLY DESCRIBED IN THE PROJECT MANUAL FOR THE GATES AT WILLIAMS-BRICE, COLUMBIA, SOUTH CAROLINA, PREPARED BY THE DEVELOPMENT ARCHITECT. THIS WARRANTY IS LIMITED TO THE WORK PERFORMED BY THE CONTRACTOR PURSUANT TO THE PLANS AND DOES NOT APPLY TO ANY PORTION OF THE COMMON ELEMENTS WHICH HAVE NOT BEEN CONSTRUCTED BY THE CONTRACTOR.

GRANTOR'S, CONTRACTOR'S, AND ARCHITECT'S SOLE OBLIGATION, TO THE EXCLUSION OF ALL OTHER REMEDIES, IS LIMITED TO THE REPAIR OR REPLACEMENT, AT GRANTOR'S, CONTRACTOR'S, AND ARCHITECT'S OPTION, OF THE DEFECTIVE CONDITION OF THE WORK PURSUANT TO THE PLANS ("WORK") RELATING SOLELY TO THE GENERAL AND LIMITED COMMON ELEMENTS.

FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF ISSUANCE BY THE APPLICABLE GOVERNMENTAL BODY OF THE OCCUPANCY PERMIT FOR THE REGIME, GRANTOR OR ITS CONTRACTOR WILL, AT NO COST TO REGIME, REPAIR OR REPLACE ANY PORTION OF THE GENERAL AND LIMITED COMMON ELEMENTS, EXCEPT FIXTURES, FURNITURE, ACCESSORIES, AND APPLIANCES COVERED BY A WARRANTY OF MANUFACTURERS AND DEALERS, WHICH ARE DEFECTIVE AS TO MATERIAL OR WORKMANSHIP. THE LIABILITY OF THE GRANTOR IS EXPRESSLY LIMITED TO SUCH REPAIRS OR REPLACEMENT AND GRANTOR MAKES NO OTHER WARRANTIES EXPRESSED OR IMPLIED (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, SOUNDNESS, QUALITY, WORKMANLIKE SERVICE, VALUE, SUITABILITY, FITNESS, HABITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE).

THIS LIMITED WARRANTY IS NONTRANSFERABLE AND IS PERSONAL ONLY TO THE ASSOCIATION.

AS TO ANY PERSONAL PROPERTY (INCLUDING WITHOUT LIMITATION, FAN COIL UNIT(S), MOTORIZED DAMPERS, AND HEATING, VENTILATING AND COOLING CONTROLS) CONVEYED ALONG WITH THE GENERAL AND LIMITED COMMON ELEMENTS BY THE GRANT TO THE ASSOCIATION, AND AS TO ANY "CONSUMER PRODUCT" (AS THAT TERM MAY BE DEFINED UNDER APPLICABLE FEDERAL LAW OR IMPLEMENTING REGULATIONS, OR AS A TERM OF SIMILAR MEANING MAY BE DEFINED UNDER STATE, OR LOCAL LAWS, OR THEIR IMPLEMENTING REGULATIONS) WHICH MAY BE CONTAINED IN THE COMMON ELEMENTS, GRANTOR NEITHER MAKES NOR ADOPTS ANY WARRANTY WHATSOEVER AND SPECIFICALLY EXCLUDES EXPRESS OR IMPLIED WARRANTIES OF ANY NATURE, INCLUDING ANY IMPLIED

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WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE. ADDITIONALLY, THE GRANTOR EXCLUDES ALL WARRANTIES OF SOUNDNESS, QUALITY, WORKMANLIKE SERVICE, VALUE, SUITABILITY, FITNESS, OR OF HABITABILITY.

Additional Warranty Exclusions:

1. Nail or screw pops or cracks in the walls and ceilings of the General and Limited Common Elements which do not result from faulty workmanship or defective materials but are the result of natural shrinkage and drying of building materials, or of normal settlement of the building, wind loads or other normal movement of the building components. To the extent that the Grantor may elect at its sole discretion to perform repairs for the above conditions, provided that notice of such conditions in writing is received by Grantor, Contractor and Architect during the Warranty period, Grantor, Contractor and Architect will not be liable for repainting, wallpapering or refinishing any repaired areas.

2. Ordinary wear and tear, or damage due to misuse or neglect, negligence, or the Association's failure to provide proper maintenance to the General an Limited Common Elements or the Association's failure to perform maintenance as required by the manufacturer.

3. This Limited Warranty does not cover the individual Units.

4. Any item which has been modified or repaired by the Association, or any items which are installed or constructed pursuant to a separate contract or agreement between the Association and any party other than Grantor.

5. Any and all secondary, incidental or consequential damages caused by any defect or breach hereof.

6. No steps taken by Grantor, Contractor and Architect to correct defects shall act to extend the scope of duration of this Limited Warranty beyond the Warranty period.

7. No representative of the Grantor, Contractor, and Architect has the authority to expand or extend the scope of this Limited Warranty or to make verbal agreements with respect thereto.

8. All requests for correction pursuant to this Limited Warranty must be in written form and delivered to the Grantor, Contractor, and Architect, or their designated representatives.

ARBITRATION AGREEMENT:

EACH AND EVERY CLAIM AND CAUSE OF ACTION ARISING OUT OF OR RELATED IN ANY WAY TO THE DESIGN, CONSTRUCTION, SALE, MAINTENANCE, HABITABILITY OF, OR CONDITION OF ANY UNIT OR ANY COMMON AREA THAT IS ASSERTED BY (I) ANY PERSON OR ENTITY THAT NOW HAS OR HEREAFTER ACQUIRES ANY INTEREST IN A UNIT, (II) THE GRANTOR OR DEVELOPER, (III) THE UNIT OWNER'S ASSOCIATION (INCLUDING ANY CORPORATION OR OTHER ENTITY FORMED TO SERVE AS UNIT OWNERS' ASSOCIATION), (IV) ANY PERSON OR ENTITY THAT HAS PREVIOUSLY OR HEREAFTER SUPPLIES (DIRECTLY OR INDIRECTLY) LABOR, MATERIALS, DESIGN SERVICES, EQUIPMENT OR OTHER THINGS OF VALUE IN CONNECTION WITH THE CONSTRUCTION OR MAINTENANCE OF ANY UNIT OR THE COMMON AREA , OR (V) ANY HEIR, SUCCESSOR, DELEGATEE OR ASSIGNEE OF ANY SUCH PERSONS OR ENTITIES, SHALL BE RESOLVED BY FINAL AND BINDING ARBITRATION BEFORE A PANEL OF THREE ARBITRATORS PURSUANT TO THE COMMERCIAL ARBITRATION RULES OF

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THE AMERICAN ARBITRATION ASSOCIATION, AS MODIFIED HEREIN. THE ARBITRATION HEARING SHALL BE CONDUCTED IN RICHLAND COUNTY, SOUTH CAROLINA. ALL CLAIMS AND CAUSES OF ACTION OF ALL PERSONS AND ENTITIES ENTITLED TO ENFORCE (OR BOUND BY) THIS ARBITRATION PROVISION SHALL BE ASSERTED IN A SINGLE ARBITRATION PROCEEDING, AND MULTIPLE PARTIES MAY BE JOINED IN THE ARBITRATION PROCEEDING SO THAT ALL DISPUTES MAY BE RESOLVED IN ONE FORUM. NO CLAIM OR CAUSE OF ACTION MAY BE ASSERTED THAT WOULD BE BARRED BY THE STATUTE OF LIMITATIONS OR THE STATUTE OF RESPONSE.

IN ANY ARBITRATION PROCEEDING, REQUESTS FOR PRODUCTION OF DOCUMENTS MAY BE SERVED BY EACH PARTY, AND NON-PRIVILEGED, RESPONSIVE DOCUMENTS THAT WOULD BE DISCOVERABLE UNDER RULE 34 OF THE FEDERAL RULES OF CIVIL PROCEDURE (WERE THE CLAIMS AND CAUSES OF ACTION BEING ASSERTED IN *UNITED STATES DISTRICT COURT*) SHALL BE PRODUCED. DEPOSITIONS MAY BE TAKEN AS ALLOWED BY THE ARBITRATION PANEL, WHICH PANEL SHALL REASONABLY LIMIT THE NUMBER OF DEPOSITIONS IN ORDER TO AVOID UNNECESSARY OR EXCESSIVE EXPENSE, DELAY, OR HARASSMENT.

THE ARBITRATION PANEL SHALL ISSUE A WRITTEN DECISION IDENTIFYING WITH SPECIFICITY EACH CLAIM OR CAUSE OF ACTION ASSERTED OR RESOLVED IN ANY ARBITRATION, AND THE LEGAL PRINCIPLES OF RES JUDICATA AND COLLATERAL ESTOPPEL SHALL BE APPLICABLE TO ANY ARBITRATION AWARD. ANY ARBITRATION AWARD MAY BE CONFIRMED AND ENFORCED IN ANY COURT OF JURISDICTION.

THIS ARBITRATION PROVISION IS EXPRESSLY INTENDED TO BENEFIT AND BE ENFORCEABLE BY EACH PERSON AND ENTITY REFERENCED IN SUBPARAGRAPHS (I) - (V) ABOVE WHETHER OR NOT SUCH PERSON OR ENTITY IS BOUND BY THIS ARBITRATION PROVISION. ANY ATTEMPT BY ANY SUCH PERSON OR ENTITY TO ENFORCE THIS ARBITRATION PROVISION SHALL CONSTITUTE CONCLUSIVE CONSENT TO BE BOUND HEREBY.

THE GRANTOR, DEVELOPER, CONTRACTOR, ARCHITECT, THE ASSOCIATION, AND THE INDIVIDUAL UNIT OWNERS EXPRESSLY WAIVE ALL RESORT TO TRIAL BY JURY OF ANY AND ALL ISSUES OTHERWISE SO TRIABLE.

ANY CLAIM OR CAUSE OF ACTION NOT COVERED BY THIS ARBITRATION AGREEMENT SHALL BE COVERED BY ARTICLE XXXV HEREIN.

V. Units and General and Limited Common Elements

The Regime consists of Units and General and Limited Common Elements, as said terms are hereinafter defined.

Units, as the term is used herein, shall mean and comprise the one hundred and fifty eight (158) residential Units which are separately designated in Exhibit "C" to this Master Deed, including but not limited to the space, interior partitions or interior walls, fixtures and appliances therein, excluding, however, all spaces and improvements lying beneath the undecorated and/or unfinished inner surfaces of

the perimeter walls and floors, and above the undecorated and/or unfinished inner surfaces of the ceilings and floors of each Unit; and further excluding all spaces and improvements lying beneath the undecorated and/or unfinished inner surface of all interior load-bearing columns, and further excluding all pipes, ducts, wires, conduits and other facilities running through any interior wall or partition for the furnishing of utility services to other Units or to the Limited or General Common Elements. The general description and number of each Unit in the building on the Real Property, expressing its area, general location, and any other data necessary for its identification, also appears in Exhibit "C". The residential Units include entry area, living/dining area, kitchen area, including appliances therein, bathrooms, bedrooms, closets and the HVAC system components located within the Unit (excluding the HVAC system components located outside the Unit, including without limitation those located on the roof as shown on the Plans, which are Limited Common Elements). There are thirty-eight (38) residential Units on the first floor and forty (40) residential Units per floor on the second, third, and fourth floors. The Units are generally described as follows:

Units 211, 311, and 411. These Units each contain approximately 948 square feet in heated space. These Units each have one bedroom, one bath, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 130 square feet. **Unit 211** is a disabled accessible Unit and shown as Unit Type A-HC on the attached Exhibit "C" plans. **Units 311 and 411** are shown as Unit Type A on the attached Exhibit "C" plans.

Units 118, 121, 136, 218, 221, 236, 318, 321, 336, 418, 421, 436, 122, 149, 222, 249, 322, 349, 422, 449, 144, 244, 344, 444, 117, 141, 217, 241, 317, 341, 417, and 441. These Units each contain approximately 1,105 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 219 square feet. These Units are shown as Unit Type B on the attached Exhibit "C" plans. **Units 117, 121 and 149** each have a Pool-Access Gate (hereinafter defined) as part of their Limited Common Element patio fencing. **Unit 118** has an additional Limited Common Element Semi-Private Yard (hereinafter defined) of approximately 1165 square feet. **Unit 136** has an additional Limited Common Element Semi-Private Yard of approximately 992 square feet. **Unit 122** has an additional Limited Common Element Semi-Private yard of approximately 957 square feet.

Units 132, 232, 332, and 432. These Units each contain approximately 1,245 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 219 square feet.

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These Units are shown as Unit Type B1 on the attached Exhibit "C" plans. **Unit 132** has an additional Limited Common Element Semi-Private Yard of approximately 1277 square feet.

Units 138, 238, 338, and 438. These Units each contain approximately 1,235 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 219 square feet. These Units are shown as Unit Type B2 on the attached Exhibit "C" plans. **Unit 138** has an additional Limited Common Element Semi-Private Yard of approximately 1299 square feet.

Units 135, 235, 335, and 435. These Units each contain approximately 1,310 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 232 square feet. These Units are shown as Unit Type B3 on the attached Exhibit "C" plans.

Units 127, 227, 327, and 427. These Units each contain approximately 1,142 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 219 square feet. These Units are shown as Unit Type B4 on the attached Exhibit "C" plans. **Unit 127** has an additional Limited Common Element Semi-Private Yard of approximately 891 square feet.

Units 133, 233, 333, and 433. These Units each contain approximately 1,250 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 230 square feet. These Units are shown as Unit Type B5 on the attached Exhibit "C" plans.

Units 146, 246, 150, 250, 346, 350, 446, and 450. These Units each contain approximately 1,105 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 149 square feet. **Units 250, 346, 350, 446, and 450** are shown as Unit Type B6 on the attached Exhibit "C" plans. **Unit 246** is a disabled accessible Unit and shown as Unit Type B6-HC on the attached Exhibit "C" plans. **Unit 146** has an additional Limited Common Element yard/patio area (not a Semi-Private Yard) of approximately 699 square feet and is shown as Unit Type B6A on the attached Exhibit "C" plans. **Unit 150** has an additional Limited Common Element yard/patio area (not a Semi-Private Yard) of approximately 709 square feet and is shown as Unit Type B6B on the attached Exhibit "C" plans.

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Units 123, 125, 131, 134, 137, 139, 223, 225, 231, 234, 237, 239, 323, 325, 331, 334, 337, 339, 423, 425, 431, 434, 437, 439, 113, 115, 124, 126, 130, 140, 142, 147, 213, 215, 224, 226, 230, 240, 242, 247, 313, 315, 324, 326, 330, 340, 342, 347, 413, 415, 424, 426, 430, 440, 442, 447, 120, 220, 320, and 420. These Units each contain approximately 1,275 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 195 square feet. These Units are shown as Unit Type C on the attached Exhibit "C" plans. **Units 123, 125, 113, 115, and 147** each have a Pool-Access Gate as part of their Limited Common Element patio fencing. **Unit 134** has an additional Limited Common Element Semi-Private Yard of approximately 974 square feet. **Unit 124** has an additional Limited Common Element Semi-Private Yard of approximately 837 square feet. **Unit 126** has an additional Limited Common Element Semi-Private Yard of approximately 833 square feet. **Unit 130** has an additional Limited Common Element Semi-Private Yard of approximately 929 square feet. **Unit 140** has an additional Limited Common Element Semi-Private Yard of approximately 1320 square feet. **Unit 142** has an additional Limited Common Element Semi-Private Yard of approximately 1544 square feet. **Unit 120** has an additional Limited Common Element Semi-Private Yard of approximately 824 square feet.

Units 128, 228, 328, and 428. These Units each contain approximately 1,425 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 213 square feet. These Units are shown as Unit Type C1 on the attached Exhibit "C" plans. **Unit 128** has an additional Limited Common Element Semi-Private Yard of approximately 996 square feet.

Units 114, 214, 314, 414, 116, 216, 316, and 416. These Units each contain approximately 1,274 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 204 square feet. **Unit 114** is a disabled accessible Unit and shown as Unit Type C2-HC on the attached Exhibit "C" plans. **Units 214, 314, 414, 116, 216, 316, and 416** are shown as Unit Type C2 on the attached Exhibit "C" plans. **Unit 114** has an additional Limited Common Element Semi-Private Yard of approximately 411 square feet. **Unit 116** has an additional Limited Common Element Semi-Private Yard of approximately 1020 square feet.

Units 148, 248, 348, and 448. These Units each contain approximately 1,275 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. **Units 248, 348, and 448** each have a Limited Common Element patio/balcony of approximately 131

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square feet and are shown as Unit Type C3 on the attached Exhibit "C" plans. **Unit 148** has a Limited Common Element patio/balcony of approximately 114 square feet with an attached Limited Common Element storage area of approximately 17 square feet and is shown as Unit Type C3A on the attached Exhibit "C" plans. **Unit 148** has an additional Limited Common Element yard/patio area (not a Semi-Private Yard) of approximately 581 as shown on the attached Exhibit "C" plans.

Units 129, 229, 329, and 429. These Units each contain approximately 1,262 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 186 square feet. These Units are shown as Unit Type C4 on the attached Exhibit "C" plans.

Units 212, 312, and 412. These Units each contain approximately 1,346 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 171 square feet. These Units are shown as Unit Type D on the attached Exhibit "C" plans.

Units 145, 219, 319, 345, 419, 445, 119 and 245. These Units each contain approximately 1,372 square feet in heated space. These Units each have three bedrooms, two baths, kitchen, living/dining area, and entry area. **Unit 245** is a disabled accessible Unit, has a Limited Common Element patio/balcony of approximately 215 square feet, and is shown as Unit Type E1-HC on the attached Exhibit "C" plans. **Units 145, 219, 319, 345, 419, and 445** each have a Limited Common Element patio/balcony of approximately 215 square feet, and are shown as Unit Type E1 on the attached Exhibit "C" plans. **Unit 119** has a Limited Common Element balcony/patio of approximately 187 square feet and an additional Limited Common Element Semi-Private Yard of approximately 1098 square feet and is shown as Unit Type E1-Alt on the attached Exhibit "C" plans.

Units 143, 243, 343, and 443. These Units each contain approximately 1,543 square feet in heated space. These Units each have three bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 83 square feet. These Units are shown as Unit Type E2 on the attached Exhibit "C" plans. **Unit 143** has an additional Limited Common Element Semi-Private Yard of approximately 967 square feet.

The residential Units are shown generally on the Floor Plans attached to Exhibit "C"; however the owners may have made interior alterations to the Floor Plan of a Unit, which are not shown in Exhibit "C". **THE**

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DIMENSIONS OF THE ROOMS IN EACH UNIT ARE CALCULATED FROM EXHIBIT "C" AND MAY NOT ACCURATELY DEPICT THE DIMENSIONS OF THE UNITS AND THE ROOMS IN EACH UNIT.

General Common Elements means and includes:

(1) The land on which the buildings are constructed, more fully described above, together with all of the other real property described in Exhibit "A";

(2) The foundations, main walls, roofs, utility rooms, property management rooms, halls, corridors, railings in the corridors, elevator lobbies, pools, hot tubs, fitness rooms, office areas, decks, stairways, elevators, storage rooms, lounge areas, and communication ways of the buildings;

(3) The sprinkler system, courtyards, pavilions, dog walks, shrubs, planter boxes, exterior lights, fire alarms, fire hoses, signs, maintenance equipment, and storm drainage system, except as otherwise provided or stipulated;

(4) The compartments or installations of central services such as power, light, telephone, security, television, cold and hot water, surveillance cameras and screens, refrigeration, generator, fuel tank and water pump, and the like;

(5) All parking areas, including parking decks, as shown and depicted in the attached Exhibit "C";

(6) In general, all devices or installations existing for common use;

(7) Non-Limited Common Element (i.e., non-patio/balcony) fencing and gating;

(8) All other elements of the property rationally of common use or necessary to its existence, upkeep, and safety; and

(9) The Common Area containing such areas as are shown on said Plat and shown on the Plans attached hereto in Exhibit "C".

Limited Common Elements means and includes:

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(1) Any mailboxes, porches, balconies, patios, fencing, gating, floor, ceiling, railings and walls, entrance or exit ways, and all exterior doors and windows or other fixtures designed to serve one or more but less than all Units, are Limited Common Elements allocated exclusively to such Unit or Units.

(2) If any flue, duct, wire, conduit, load bearing wall, load bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion serving only that Unit is a Limited Common Element allocated solely to that Unit.

(3) Insofar as possible, the Limited Common Elements are shown graphically and described in detail in words and figures in the Plat and Plans.

(4) The HVAC components on the Roof Level are Limited Common Elements, limited to the use of the Units they serve.

(5) The semi-private yard areas and the fencing surrounding them ("Semi-Private Yards") attached to Units 114, 116, 118, 119, 120, 122, 124, 126, 127, 128, 130, 132, 134, 136, 138, 140, 142, and 143 are Limited Common Elements and are subject to special maintenance and assessment provisions of this Master Deed, as hereinafter set forth.

(6) The yard/patio areas and the fencing surrounding them attached to Units 146, 148, and 150 are normal Limited Common Elements and are not subject to any special maintenance and assessment provisions beyond those that already apply to Limited Common Elements.

VI. Ownership of Units and Appurtenant Interest in General Common Elements

A Unit in the Regime may be individually conveyed and encumbered and may be the subject of ownership, possession, or sale, and of all types of juridical acts, inter vivos or mortis causa, as if it were sole and entirely independent of the other Units in the Regime of which it forms a part, and the corresponding individual titles and interests are recordable.

Any Unit may be held and owned by more than one person as tenants in common or in any other form of real property ownership recognized in this State.

A Unit owner shall have the exclusive ownership of his Unit and shall have a common right to a share, with the other co-owners, in the Common Elements of the Regime, equivalent to the percentage

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representing the value of the individual Unit, with relation to the value of the whole Regime. This percentage, which is set forth on Exhibit "D" attached hereto and made a part hereof by reference, shall have a permanent character, and shall not be altered without the acquiescence of the co-owners representing all the Units of the Regime.

The basic value, which shall be fixed for the sole purpose of this Master Deed and irrespectively of the actual value, shall not prevent each co-owner from fixing a different circumstantial value to his Unit in all types of acts and contracts.

VII. Restriction Against Further Subdividing of Units and Separate Conveyance of Appurtenant Common Elements, Etc.

A Unit may not be divided or subdivided into a smaller Unit or smaller Units than as described in Exhibit "C" attached hereto, nor shall any Unit, or portion thereof, be added to or incorporated into any other Unit without consent of the Grantor. The undivided interest in the General and Limited Common Elements declared to be an appurtenance to each Unit shall not be conveyed, devised, encumbered, or otherwise dealt with separately from said Unit and the undivided interest in General and Limited Common Elements appurtenant to each Unit shall be deemed conveyed, devised, encumbered, or otherwise included with the Unit even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering, or otherwise dealing with such Unit. Any conveyance, mortgage, or other instrument which purports to effect the conveyance, devise, or encumbrance, or which purports to grant any right, interest or lien in, to, or upon a Unit, shall be null, void, and of no effect insofar as the same purports to effect any interest in a Unit and its appurtenant undivided interest in General and Limited Common Elements, unless the same purports to convey, devise, encumber, or otherwise trade or deal with the entire Unit. Any instrument conveying, devising, encumbering or otherwise dealing with any Unit which describes said Unit by the Unit Number assigned thereto in Exhibit "C" without limitation or exception, shall be deemed and construed to affect the entire Unit and its appurtenant undivided interest in the General and Limited Common Elements. Nothing herein contained shall be construed as limiting or preventing ownership of any Unit and its appurtenant undivided interest in the General and Limited Common Elements by more than one person or entity as tenants in common, joint tenants, or any other form of real property ownership recognized in this State or preventing the leasing of sign areas to one or more real estate sales and/or property management companies provided the use shall not violate the zoning ordinances of the applicable governmental authority. Except as allowed in the previous sentence, all Common Elements shall be owned by the Regime and may not be subject to a lease between the Unit owners (or the Association) and another party, except that the Association shall have the authority to

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lease: (a) General Common Element space directly to Unit Owners, (b) General Common Element space on the rooftop of the building or the parking deck to a third party for purposes of placing and maintaining electronic transmitting equipment and the like for the benefit of the Unit owners, and (c) telephone, internet, and related communication and electronic transmitting equipment from a third party for the benefit of the Unit owners.

VIII. Horizontal Property Regime Subject to Restrictions, Etc.

Each and every Unit and the General and Limited Common Elements shall be, and is hereby declared to be, subject to the restrictions, easements, conditions, and covenants prescribed and established herein, governing the use of said Unit and General and Limited Common Elements, and setting forth the obligations and responsibilities incident to ownership of each Unit and its appurtenant undivided interest in the General and Limited Common Elements. Said Units and General and Limited Common Elements are further declared to be subject to the restrictions, easements, conditions, and limitations now of record affecting the land and improvements of the Real Property.

IX. Perpetual Non-Exclusive Easements in General Common Elements

The General Common Elements shall be, and are hereby declared to be, subject to a perpetual non-exclusive easement in favor of all of the co-owners of Units in the Horizontal Property Regime for their use and the use of their immediate family, guests, and invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended, or the enjoyment of said co-owners of Units.

The Grantor reserves unto itself and its successors or assigns an easement, including a construction easement, through all General and Limited Common Elements as may be reasonably necessary for the purpose of discharging Grantor's rights or obligations of exercising special Grantor rights reserved in this Master Deed.

As part of the right of Grantor to construct the General and Limited Common Elements of this Regime, Grantor reserves unto itself, and its successors and assigns, easements for ingress and egress over, under and across all Common Elements, Limited and General and such other reasonable right of access to and use of the Common Elements, Limited and General, subject to this Regime as may be necessary for the construction, maintenance and marketing of the Units and the General and Limited Common Elements, including without limitation the right to place signage on any portion of the Common Elements.

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Notwithstanding anything above provided in this Article, the Association shall have the unfettered right to establish the rules and regulations pursuant to which the co-owner or co-owners of any Unit may be conditionally assigned the use of any parking space or spaces located on the Real Property or in the improvements thereon, including the Parking Deck, as further set forth in Article XV of this Master Deed.

Grantor and the Association hereby reserve the right to grant easement and/or access rights to adjoining land owners over portions of the Common Elements for purposes of emergency inspection and/or repair of abutting buildings.

X. Perpetual Exclusive Easement to Use Limited Common Elements

Subject to Grantor's rights reserved herein, each co-owner shall have the exclusive right to use the Limited Common Elements allocated to such co-owner's Unit for his use and the use of his immediate family, guests, and invitees for all proper and normal purposes. Such right to use shall be a perpetual exclusive easement in favor of such co-owner.

XI. Easement for Unintentional and Non-Negligent Encroachments

In the event that any portion of the General and Limited Common Elements now or hereafter encroaches upon any Unit, or vice versa, or in the event that any portion of one Unit now or hereafter encroaches upon another Unit, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, does and shall exist.

XII. Restraint Upon Separation and Partition of General and Limited Common Elements

The Common Elements, both general and limited, shall remain undivided and shall not be the object of an action for partition or division of the co-ownership. Any covenant to the contrary shall be void.

All of the co-owners or the sole owner of the Regime may waive the Regime and regroup or merge the records of the individual Units with the Real Property, provided that the individual Units are unencumbered, or if encumbered, that the creditors in whose behalf the encumbrances are recorded agree to accept as security the undivided portions of the property owned by the debtors.

Subject to the other provisions of this Article, Article XIII, and Article XXXV, unless all of the first mortgagees (based upon one vote for each first mortgage owned) and all owners of the Units have given their prior written approval, the Association shall not be entitled to:

(a) by act or omission, seek to abandon or terminate the Regime or legal status of the project as a condominium;

(b) change the pro rata interest of any Unit for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Unit in the General and Limited Common Elements;

(c) partition or subdivide any Unit; or

(d) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Regime or Association shall not be deemed a transfer within the meaning of this subparagraph (d). The Association may also lease portions of the Common Elements per Article VII of this Master Deed and it may freely assign portions of the Common Elements, including without limitation parking spaces and storage spaces, to the Unit Owners.

XIII. Rights of Eligible Mortgage Holders and Eligible Insurers or Guarantors

1. Notice of Action: Upon written request to the Association, identifying the name and address of the holder, insurer, or guarantor and the Unit number or address, any such eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Regime or any Unit on which there is a first mortgage held, insured, or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable;

(b) Any delinquency in the payment of assessments or charges owed by a co-owner of a Unit subject to a first mortgage held, insured, or guaranteed by such eligible holder or eligible insurer or guarantor, which remains uncured for a period of sixty (60) days;

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(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and

(d) Any proposed action which would require the consent of a specified percentage of eligible mortgage holders as specified in this Master Deed.

2. Other Provisions for Eligible Mortgage Holders: To the extent permitted by applicable law, eligible mortgage holders shall also be afforded the following rights:

(a) Any restoration or repair of the Regime, after a partial condemnation or damage, due to an insurable hazard, shall be performed substantially in accordance with this Master Deed and the original plans and specifications, unless other action is approved by Eligible Mortgage Holders holding mortgages on Units which have at least fifty-one percent (51%) of the votes of Units subject to Eligible Mortgage Holders;

(b) Any election to terminate the legal status of the Regime after substantial destruction or a substantial taking in condemnation of the Regime property must require the approval of Eligible Mortgage Holders holding mortgages on Units which have at least fifty-one percent (51%) of the votes of Units subject to Eligible Mortgage Holders;

(c) No reallocation of interests in the Common Areas resulting from a partial condemnation or partial destruction of such a Regime may be effected without the prior approval of Eligible Mortgage Holders holding mortgages on all remaining Units, whether existing in whole or in part, and which have at least fifty-one percent (51%) of the votes of such remaining Units subject to Eligible Mortgage Holders; and

(d) When professional management has been previously required by any Eligible Mortgage Holder, insurer, or guarantor, whether such entity became an Eligible Mortgage Holder, insurer or guarantor at that time or later, any decision to establish self-management by the Association shall require the prior consent of co-owners of Units to which at least sixty-seven percent (67%) of the votes in the Association per the percentages in Exhibit "D" are allocated and the approval of Eligible Mortgage Holders holding mortgages on Units which have at least fifty-one percent (51%) of the votes of Units subject to Eligible Mortgages Holders.

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3. Non-Material Amendments to Master Deed: An addition or amendment to this Master Deed, By-Laws, or other exhibits shall not be considered material if it is for the purpose of correcting technical, scriveners or typographical errors or for clarification and consistency.

4. Material Amendments to Master Deed: In addition to the foregoing requirements, Amendments of a material nature must be agreed to by Unit owners who represent at least sixty-seven percent (67%) of the total allocated votes in the Association per the percentages in Exhibit "D" and by Eligible Mortgage Holders who represent at least fifty-one percent (51%) of the votes that are subject to mortgages held by eligible holders. An Eligible Mortgage Holder who receives a written request to approve additions or amendments that does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request. A change to any of the provisions governing the following would be considered as material:

(a) voting rights;

(b) increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens, or the priority of the assessment liens;

(c) reductions in reserves for maintenance, repair, and replacement of Common Elements;

(d) responsibility for maintenance and repairs;

(e) reallocation of interests in the General or Limited Common Elements, or rights to their use;

(f) redefinition of any Unit boundaries;

(g) convertibility of Units into Common Elements or vice versa;

(h) expansion or contraction of the Regime, or the addition, annexation, or withdrawal of property to or from the Regime;

(i) hazard or fidelity insurance requirements;

(j) imposition of any additional restrictions on the leasing of the Units;

(k) imposition of any additional restrictions on a Unit owner's right to sell or transfer his or her Unit; and

(l) any provisions that expressly benefit mortgage holders, insurers, or guarantors.

XIV. Residential Use Restriction

Each Unit is hereby restricted to residential use by the co-owner or co-owners thereof, their immediate families, guests, tenants, lessees, licensees, and invitees; provided, however, that so long as the Grantor shall retain any interest in the Regime or any Unit, it may utilize a Unit or Units of its choice owned or leased by Grantor from time to time, for a sales office, model, or other usage for the purpose of selling or closing the sale of Units in said Regime or outside of the Regime. Grantor may assign this commercial usage right to such other persons or entities as it may choose; provided, however, that when all Units have been sold this right of commercial usage shall immediately cease. Except for the easement rights relating to signage as described in Article IX herein, no "For Sale" or "For Rent" signs or the like shall be permitted on any General or Limited Common Element or any Unit so as to be visible from any General or Limited Common Element or public street or area. Nothing herein shall prevent the Association from providing portions of the Common Elements to management companies for use as an office, model or other purpose connected with the management of the Regime or to grant licenses and easements over the Common Areas for utilities, roads, electronic transmitting equipment, and other purposes reasonably necessary or usable for the proper maintenance and operation of the Regime.

Any lease or rental agreement concerning the use of the Unit must be in writing and subject to the requirements of the Master Deed and the rules and regulations of the Association and terms adopted by the Board of Directors of the Association. The Association shall at all times have the authority to regulate the length of term of leases of Units in the Regime, or any other lease provision it deems appropriate and reasonable to regulate in its sole discretion.

In order to alleviate problems of security and disruption associated with frequent changes in occupancy, No Unit in the Regime will be used for or subject to any type of Vacation Time Sharing Plan or Vacation Multiple Ownership Interest as defined by the South Carolina Horizontal Property Act or any subsequent laws of this State dealing with that or similar type of ownership by an Owner (including, without limitation,

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any type of equity or non-equity club), or which is used for, in conjunction with and/or as an advertised part of any time share exchange program which makes available as accommodations the Unit and which is not otherwise registered as a Vacation Time Sharing Plan or Vacation Multiple Ownership Interest or which utilizes the Unit as accommodations for time share sale prospects of any Person, without the prior written consent of the Grantor or the Association.

XV. Rules & Regulations of Association & Control Over Common Area

The use of the Condominium Property, including the Units, General and Limited Common Elements, by the co-owner or co-owners of all Units, and all other parties authorized to use the same, shall be at all times subject to such reasonable rules and regulations as may be prescribed and established and amended from time to time governing such or which may hereafter be prescribed and established and amended from time to time by the Association. The rules and regulations of the Association are prescripted, established, and amendable by the Board of Directors and do not require membership voting or any recorded amendment in order to modify or amend them.

Parking

All parking areas and spaces on the Property are General Common Elements. The Grantor and the Association, through the Board of Directors, in keeping with its overall authority to control and regulate the Common Elements of the Regime, reserves the authority to assign and reassign all parking areas and spaces to Unit Owners at its sole discretion. Said parking space assignment entitles an Owner to exclusive use of a parking space but does not create any vested right in the parking space nor does it change its classification from a General Common Element to a Limited Common Element. Therefore, the assignment of parking spaces by the Association is conditional and is at all times subject to change by the Association and subject to the terms and conditions of this Master Deed, the Bylaws, and the Rules and Regulations of the Association. Once a parking space is assigned to a Unit Owner, said Unit Owner is responsible for the upkeep and maintenance of the parking space, and if the Unit Owner fails to do so, the Association shall have the authority to impose any of the remedies available to it under this Master Deed, the Bylaws, and the Rules & Regulations, including without limitation the authority to take away a parking space assignment from an Owner who is in violation. The Association retains the right, however, to maintain the parking space itself and pass on the cost to the Unit Owner in the form of a Specific Assessment. The Association may also lease parking spaces to Unit Owners under terms and conditions as it sees fit in its sole discretion, however said leasing shall not create any vested rights and shall be conditional in the same manner as the assignment process outlined above. The Association may charge usage fees or rents for the assignment or leasing of parking spaces.

Storage.

The Grantor and the Association, through the Board of Directors, in keeping with its overall authority to control and regulate the Common Elements of the Regime, reserves the authority to assign and reassign all General Common Element storage areas and rooms to Unit Owners at its sole discretion. Said General Common Element storage area and room assignment entitles an Owner to exclusive use of a storage space/room but does not create any vested right in the storage space/room nor does it change its classification from a General Common Element to a Limited Common Element. Therefore, the assignment of storage spaces/rooms by the Association is conditional and is at all times subject to change by the Association and subject to the terms and conditions of this Master Deed, the Bylaws, and the Rules and Regulations of the Association. Once a storage space/room is assigned to a Unit Owner, said Unit Owner is responsible for the upkeep and maintenance of the storage space/room, and if the Unit Owner fails to do so the Association shall have the authority to impose any of the remedies available to it under this Master Deed, the Bylaws, and the Rules & Regulations, including without limitation the authority to take away a storage space/room assignment from an Owner who is in violation. The Association may also lease storage spaces/rooms to Unit Owners under terms and conditions as it sees fit in its sole discretion, however said leasing shall not create any vested rights and shall be conditional in the same manner as the assignment process outlined above. The Association may charge usage fees or rents for the assignment or leasing of storage spaces.

Gamedays.

By acceptance of the deed to their Unit, Owners acknowledge and agree that on days (and the days immediately surrounding) the University of South Carolina football team plays home games at Williams-Brice Stadium, or other large functions held at the Stadium, the Association and its Management Company shall have the authority to impose strict controls on access to the Condominium Property, and that Owners may be restricted as to whom and how many guests they are allowed to bring onto the Property and identification procedures and parking restrictions may be implemented which may be burdensome to the Owners. In addition, additional security personnel and measures may be taken by the Association during such times, however there is no duty upon the Association to do so. The Association, the Management Company, and its agents, shall have full authority to remove people and vehicles from the Property that are in violation of this Master Deed, the Bylaws, or the Rules and Regulations.

XVI. Horizontal Property Regime to be Used for Lawful Purposes, Restriction Against Nuisances, Etc.

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No immoral, improper, offensive, or unlawful use shall be made of any Unit or of the General or Limited Common Elements, nor any part thereof, and all laws, zoning ordinances, and regulations of all governmental authorities having jurisdiction over the Regime shall be observed by the Unit co-owners and occupants. No co-owner or occupant of any Unit shall permit or suffer anything to be done or kept in a Unit, or on the General or Limited Common Elements, which will increase the rate of insurance on the Regime, or which will obstruct or interfere with the rights of other occupants of the building or annoy them by unreasonable noises, nor shall any such co-owner or occupant of any Unit undertake any use or practice which shall create and constitute a nuisance to any other co-owner of a Unit, or which interferes with the peaceful possession and proper use of any other Unit or the General or Limited Common Elements.

The Association shall have full authority to regulate all aspects of pet ownership on the Condominium Property.

In addition to its authority to control and regulate activity and use of the General Common Elements, the Association also controls the activity and use of the Limited Common Elements, including without limitation the balconies, patios, and yards.

XVII. Right of Entry into Units in Emergencies

In case of any emergency originating in or threatening any Unit, regardless of whether the co-owner is present at the time of such emergency, the Board of Directors of the Association or any other person or firm authorized by it, or the building superintendent or managing agent, shall have the right to enter such Unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate. To facilitate entry in the event of any such emergency, the co-owner of each Unit, if required by the Association, shall deposit under the control of the Association a key to such Unit.

XVIII. Right of Entry for Maintenance of General Common Elements

Whenever it is necessary to enter any Unit for the purpose of performing any maintenance, alteration, or repair to any portion of the Common Elements, the co-owner of each Unit shall permit other co-owners or their representatives, or the duly constituted and authorized agent of the Association, to enter such Unit, provided that such entry shall be made only at reasonable times and with reasonable advance notice.

XIX. Limitation Upon Right of Co-Owners to Alter and Modify Units and Common Elements

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No co-owner of a Unit shall permit any structural modification or alterations to be made therein without first obtaining the written consent of the Association, whose consent may be withheld if a majority of the Board of Directors of said Association determine, in their sole discretion, that such structural modifications or alterations would affect or in any manner endanger the building in part or in its entirety. If the modification or alteration desired by the co-owner of any Unit involves the removal of any permanent interior partition, the Association shall have the right to permit such removal so long as the permanent interior partition to be removed is not a load-bearing partition, and so long as the removal thereof would in no manner affect or interfere with the provision of utility services constituting General or Limited Common Elements located therein. No co-owner shall cause the balcony abutting his Unit to be enclosed, or cause any improvements or changes to be made on the exterior of the building, the balconies, or railings, including painting or other decoration, the patios, including patio fencing and gates, or the installation of electrical wiring, wire, screening, any railing cover, television, radio or telecommunication antennae, machines or air conditioning Units which may protrude through the walls or roof of the building, or in any manner change the appearance of any portion of the building, including balconies, patios, fencing and railings not within the walls of such Unit. No storm panels or awnings shall be affixed to any Unit without first obtaining the written consent of the Association. Nothing herein shall prevent a co-owner from protecting Unit with protective covering on the doors when a hurricane is hitting the area, provided such protective covering meets the reasonable rules and regulations of the Association.

No Owner shall modify or alter any of the General or Limited Common Elements unless written approval is obtained from the Association; provided, however, that under no circumstances shall the Association grant such written approval to a Unit owner (or engage in its own modifications or alterations to General or Limited Common Elements) if said changes in any way affect the patio fence gates providing access to the pool for Units 113, 115, 117, 121, 123, 125, 147, and 149 ("Pool Access Gates") without written permission to do so from the South Carolina Department of Health and Environmental Control ("DHEC").

XX. Right of the Association to Alter and Improve General and Limited Common Elements and Assessment Therefor

The Association shall have the right to make or cause to be made alterations, modifications, and improvements to the General and Limited Common Elements, provided such alterations, modifications, or improvements are first approved in writing by the Board of Directors of the Association. The cost of such alterations, modifications, or improvements shall be assessed as common expenses and collected from

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the co-owners of all Units according to their percentage of ownership of the General and Limited Common Elements.

XXI. . Maintenance and Repair by Co-Owners of Units

Every co-owner must perform promptly all maintenance and repair work within his Unit (and to the Common Element areas identified in Article XXII as the responsibility of the Unit Owners, if applicable — hereinafter known as the "Owner-Responsible Common Elements") which, if omitted, would adversely affect the Regime in its entirety or in a part belonging to other co-owners, and is expressly responsible for the damages and liability which his failure to do so may engender. The co-owner of each Unit shall be liable and responsible for the maintenance, repair, and replacement, as the case may be, of all air conditioning and heating equipment located within the Unit and Owner-Responsible Common Elements, hot water heaters, stoves, refrigerators, garbage disposals, dishwashers, fans, or other appliances or equipment, including any fixtures and/or their connections or receptacles required to provide water, light, power, telephone, television, and sewerage and sanitary service to his Unit and which may now or hereafter be situated in his Unit including toilets, lavatories, sinks, tubs, and showers. Such co-owner shall further be responsible and liable for maintenance, repair, and replacement of any and all window glass, glass doors, wall, ceiling and floor surfaces or coverings, painting, decorating and furnishings, and all other accessories which such co-owner may desire to place or maintain in his Unit Owner-Responsible Common Elements. Whenever the maintenance, repair, and replacement of any items for which the co-owner of a Unit is obligated to maintain, repair, or replace at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association, or the Insurance Trustee hereinafter designated, shall be used for the purpose of making such maintenance, repair, and replacement. Any cost of maintenance, repair, or replacement, by reason of the applicability of any deductibility provision of such insurance which is not paid by the insurance of the Association, shall be paid by such Co-owner. Reference is made to S.C. Code Ann. § 27-31-250 (1976) as amended, which is controlling of insurance proceeds use when said code section is applicable by its terms.

If a Unit or Owner-Responsible Common Element or any portion thereof is damaged by another co-owner's Unit, whether due to the other co-owner's failure to maintain their Unit or not, the Association shall be responsible for repairing the damage and fixing the cause of the problem. If the damage was caused by the other co-owner's failure to properly maintain their Unit in accordance with the provisions of this Master Deed, the Association shall have the authority to assess a Special Assessment against the negligent co-owner, which shall be a lien on said co-

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owner's Unit until paid in full along with all accrued interest, costs, and attorney's fees related to collection in accordance with Article XXVIII of this Master Deed. If the Unit damage was caused by a problem with the Common Elements, the Association shall be responsible for the cost of repair.

Co-owners are hereby notified of the following Unit temperature control recommendations in order to insure proper humidity levels to protect woodwork, furniture and electronic equipment in the Units: the Unit's thermostat should never be set higher than seventy-nine (79°) degrees nor lower than seventy (70°) degrees in the cooling mode; in the heating mode the thermostat should never be set lower than fifty-five (55°) degrees nor higher than seventy-five (75°) degrees. UNDER NO CIRCUMSTANCES SHOULD THE AIR CONDITIONING SYSTEM FOR THE INDIVIDUAL UNITS BE TURNED OFF. Co-owners are responsible for any damage to their Units or to the contents of their Units if these temperature control recommendations are not adhered to.

Once a General Common Element parking or storage space is conditionally assigned to a Unit Owner by the Grantor or Association, the Unit Owner becomes responsible for the maintenance of said parking or storage space. However the Association retains the right to maintain the parking or storage space and pass the cost onto the Unit Owner in the form of a Specific Assessment.

If an Owner fails to maintain or repair pursuant to it obligations hereunder, he or she shall be subject to any and all remedies set forth in Article XXVIII.

XXII. Maintenance and Repair of General and Limited Common Elements by the Association

The Association, at its expense, shall be responsible for the maintenance, repair, and replacement of all of the General and Limited Common Elements, including those portions thereof which contribute to the support of the building, and all conduits, ducts, plumbing, wiring, and other facilities located in the General or Limited Common Elements for the furnishing of utility services to the Units and said General and Limited Common Elements, including without limitation the Limited Common Elements located on the roof as shown on Exhibit "C". Should any incidental damage be caused to any Unit by virtue of any work which may be done or caused to be done by the Association in the maintenance, repair, or replacement of any General or Limited Common Elements, the Association shall, at its expense, repair such incidental damage. Excepted herefrom, however, are the maintenance of the (1) floor and interior walls of the Limited Common Element balcony or balconies attached to the Unit, (2) the Limited Common Element patio areas attached to the Unit, (3) the Limited Common Element yard/patio area attached to Units 146,

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148, and 150; and (4) assigned General Common Element parking and storage spaces – all of which shall be maintained by the individual Unit Owners themselves.

The Semi-Private Yards attached to several ground floor Units (as depicted in the attached Exhibit "C" plans and described in Article V herein) are Limited Common Elements and will be maintained by the Association. Owners of Units with said Semi-Private Yards shall be separately assessed in the form of a Specific Assessment for the cost of this maintenance.

All Limited Common Element fencing and gating around patios and balconies and yards is maintained by the Association. Depending upon the nature of said maintenance of the number of Units receiving such maintenance, the Association shall have the discretion to impose either a general assessment applicable to all Owners for the costs of said maintenance or a specific assessment against only those Owners benefiting from said maintenance. Notwithstanding the above provisions of this Section, any maintenance or repair work contemplated by the Association affecting the Pool-Access Gates must be approved in writing by DHEC prior to the initiation of any such work.

The Association is responsible for insuring that the Regime's management company conduct, or have conducted at the Association's expense, a visual inspection of the exterior Common Elements of the building a minimum of twice a year or as necessary for the purpose of determining needed repairs and maintenance and to insure that the building does not deteriorate and compromise the water tightness of the exterior skins. Said visual inspection shall include, but not be limited to, the following: (1) exterior stucco; (2) sealant around doors, windows and all dissimilar materials; (3) water proof membrane on the balcony concrete slabs and breezeways; (4) patio fencing and Pool-Access Gates; (5) roofing materials and related flashing; (6) roof penetrations at mechanical units, supports, etc.; (7) handrail sleeves and anchorage; (8) expansion joint assemblies; (9) ventilation equipment and louvers; and (10) elevator equipment and related items. Further, the Association is responsible for ensuring that the Regime's management company performs properly any maintenance to the Common Elements and Unit HVAC units located outside of the Units, as required by the manufacturer. In addition to the Association's inspection and maintenance obligations set forth herein, the Grantor reserves the right to independently conduct inspections of the Regime's buildings and improvements for a period of ten (10) years after the recording of this Master Deed. If the Grantor's inspections produce reports recommending maintenance or repair, the Association shall act on said recommendations in a timely manner. The Association and the Unit co-owners hereby indemnify and hold Grantor harmless for any losses, damages, or claims related to or arising out of the Association's failure to either inspect or maintain the Common Elements as set forth herein.

Reference is hereby made to that certain Sewer Line Easement and Hold Harmless Agreement defined in defined in Article III herein. Pursuant to said documents, sanitary sewer lines run underneath the Common Elements of the Condominium Property. The underground sanitary sewer lines themselves are owned by the City of Columbia and the City also possesses an easement over the General and Limited Common Elements of the Condominium Property, as shown on the Plat in Exhibit "B", for purposes of ingress, egress, operation and maintenance of the sanitary sewer lines. If requested or required by the City of Columbia, any and all maintenance, repair, and/or removal of improvements located in the easement area shall be the sole responsibility of the Association and the costs associated therewith shall be borne by all members of the Association (i.e., not by Specific Assessment against only those Unit Owners whose Limited Common Elements are effected). The Association and all Owners and this Master Deed are hereby subject to the terms and conditions set forth in said Sewer Line Easement and Hold Harmless Agreement.

XXIII. Personal Liability and Risk of Loss of Co-Owner and Unit and Separate Insurance Coverage, Etc.

The co-owner of each Unit may, at his own expense, obtain insurance coverage for loss of or damage to any furniture, furnishings, personal effects, and other personal property belonging to such co-owner and may, at his own expense and option, obtain insurance coverage against personal liability or injury to the person or property of another while within such co-owner's Unit or upon the General or Limited Common Elements. All such insurance obtained by the co-owner of each Unit shall, where available, provide that the insurer waives its right of subrogation as to any claims against other co-owners of Units, the Association, and the respective servants, agents and guests of said other co-owners and the Association. Risk of loss or damage to any furniture, furnishings, personal effects, and other personal property (other than such furniture, furnishings, and personal property constituting a portion of the General or Limited Common Elements or which is insured by the Association) belonging to a co-owner or carried on the person of the co-owner of each such Unit or carried by such co-owner in, to, or upon General or Limited Common Elements shall be borne by the co-owner of each such Unit. All furniture, furnishings, and personal property constituting a portion of the General or Limited Common Elements and held for the joint use and benefit of all co-owners of all Units shall be covered by such insurance as shall be maintained in force and effect by Association as hereinafter provided. The co-owner of a Unit shall have no personal liability for any damages caused by the Association. The co-owner of a Unit shall be liable for injuries or damage resulting from an accident in his own Unit, to the same extent and degree that the co-owner of a house would be liable for an accident occurring within the house.

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XXIV. Condemnation

A. Units Acquired. If a Unit is acquired by eminent domain, or if part of a Unit is acquired by eminent domain, leaving the Unit owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Master Deed, the award must compensate the Unit owner for his Unit and its General and Limited Common Element interest, whether or not any General or Limited Common Element interest is acquired. Upon acquisition, unless the decree otherwise provides, that Unit's entire General and Limited Common Element interest, votes in the Association, and common expense liability are automatically reallocated to the remaining Units in proportion to the respective interests and votes, and the Association shall promptly prepare, execute, and record an amendment to this Master Deed reflecting the reallocations. Any remnant of a Unit remaining after part of a Unit is taken under this subsection is thereafter a General and Limited Common Element.

B. Part of Unit Acquired. Except as provided above, if part of a Unit is acquired by eminent domain, the award must compensate the Unit owner for the reduction of value of the Unit and its Common Element interest. Upon acquisition, (1) that Unit's Limited and General Common Element percentage interest, votes in the Association, and common expense liability are reduced in proportion to the reduction in size of the Unit, and (2) the portion of Limited and General Common Element interest, votes, and common expense liability divested from the partially acquired Unit are automatically reallocated to that Unit and the remaining Units in the percentages set out in Exhibit "D".

C. Claims. The Board of Directors of the Association shall have exclusive authority to negotiate and settle on behalf of the owners all claims arising from condemnation of any portion or all of the Units or General or Limited Common Elements and the owners hereby appoint the Board of Directors as their attorney in fact for this purpose. Any proceeds from such condemnation shall be distributed in accordance with the provisions of Article XXV Insurance, Paragraph F Insurance Proceeds.

XXV. Insurance

A. Hazard Insurance. The Association shall insure all Units and all General and Limited Common Elements against all hazards and risks normally covered by a standard hazard policy, including fire and lightning, the hazards and risks covered by "extended coverage," vandalism and malicious mischief, and by hazards or risks covered by the National Flood Insurance Act, windstorm and hail policies and all other coverage commonly required by lending institutions in the area. All Units and all General and Limited

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Common Elements shall be insured for the full replacement cost thereof, and where possible, the policy of insurance shall have a full replacement cost rider. Each year the Association shall update the replacement value cost rider. Such insurance shall cover only the Units and General and Limited Common Elements. The Association shall not be responsible for insuring the contents of the Unit (other than standard fixtures originally installed therein by Grantor and being a part of such Unit). The hazard insurance obtained by the Association shall provide that the maximum deductible amount shall be lesser of (a) Ten Thousand Dollars ($10,000.00) or (b) one percent (1%) of the policy face amount. The deductible related to an individual Unit should be the higher of (a) One Thousand Dollars ($1,000.00) or (b) one percent (1%) of the replacement cost of the Unit; however, the deductible for the individual Unit may be the higher of (a) Two Thousand Dollars ($2,000.00) or (b) two percent (2%) of the replacement cost of the Unit – if the policy provides for a wind-loss deductible (either in the policy itself or in a separate endorsement). Any such deductible portion shall be borne by the Association as a Common Expense, regardless of the number of co-owners directly affected by the loss.

B. Liability Insurance. The Association shall also obtain premises liability insurance on all Units and General and Limited Common Elements and the policy shall provide for a single limit indemnity of not less than One Million Dollars ($1,000,000.00) and cover bodily and personal injury and property damage, including, but not limited to, injury or property damage caused to third parties, co-owners, the Limited and General Common Elements or the Units or any improvements therein. Such liability insurance shall cover claims of one or more co-owners against one or more co-owners as well as claims of third parties against one or more co-owners. The Association shall not be required however, to obtain public liability insurance covering accidents occurring within the limits of a Unit or off the Regime Property. If available at a reasonable cost, the Association shall cause premises medical payment coverage to be included within the policy of liability insurance.

C. General Provisions. All insurance obtained on the Units and General and Limited Common Elements by the Association shall be written in the name of the Association as trustee for the Owners, and the cost of such insurance shall be a common expense. All such insurance shall be obtained from a company of companies licensed to do business in the State of South Carolina and currently rated "A" or better by Best's Insurance Ratings. No such insurance shall be permitted to expire except upon resolution of sixty-seven percent (67 %) of the co-owners per the percentages in Exhibit "D" to that effect and all mortgagees. Duplicate originals of all policies of hazard insurance obtained on the Property by the Board of Directors, together with proof of payment of the premiums thereon, shall be delivered upon request to any co-owner or to any person holding a security interest in a Unit.

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D. Hazard Policy Provisions. All policies of hazard insurance on the Units and General and Limited Common Elements obtained by the Board of Directors shall provide as follows:

1. The indemnity payable on account of any damage to or destruction of the Units or General and Limited Common Elements shall be payable to the owner and/or to any persons holding security interests in any damaged Units as their interests may appear;

2. The policy shall not be canceled without thirty (30) days prior written notice to the Board of Directors and to every holder of a security interest in any Unit who is named in the policy or an endorsement thereto;

3. No co-owner shall be prohibited from insuring his own Unit for his own benefit;

4. No insurance obtained by a co-owner on his own Unit shall be brought into contribution with the insurance obtained by the Board of Directors;

5. If the Board of Directors determines that it is possible to obtain such a provision, no right to subrogation shall exist against any owner or members of his household or his social guests;

6. If possible, the policy should provide that the insurer shall not be entitled to reconstruct in lieu of paying the indemnity in cash if the owners determine, in the manner provided in the Master Deed, not to repair or restore the damaged property; and

7. The policy shall not be canceled on account of the actions of one or more of the co-owners.

If a policy of insurance containing all of the foregoing provisions cannot be obtained at a reasonable cost, one or more of such provisions may be waived by resolution of the Board of Directors.

E. Claims. The Board of Directors of the Association shall have exclusive authority to negotiate and settle on behalf of the owners all claims arising under policies of hazard insurance obtained on the Property by the Board of Directors except to the extent institutional mortgagees are granted such rights by co-owners. In the event of damage to or destruction of any portion of the Units or General or Limited Common Elements, the Board of Directors shall promptly file a claim for any indemnity due under any such policies. The Board of Directors shall simultaneously notify the holders of any security interest in the Property who may be entitled to participate in such claim of the filing of same.

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F. Insurance Proceeds. If the insurance proceeds exceed Five Thousand ($5,000.00) Dollars, the net proceeds received by the Board of Directors from any indemnity paid under a policy of hazard insurance obtained on the Property by the Board of Directors shall promptly be paid by the Board of Directors to an Insurance Trustee as trustee for the co-owners as hereinafter provided. The Insurance Trustee shall be a state or federally chartered bank or savings and loan association selected by the Board of Directors and having trust powers and capital and surplus of Five Million Dollars ($5,000,000.00) or more or a Professional Property Management Company with a like amount of Fidelity insurance coverage. The Insurance Trustee shall hold the insurance proceeds in trust and disburse said proceeds, after deduction of all reasonable fees and expenses of the Insurance Trustee, as follows:

1. If the co-owners determine, in the manner provided in S.C. Code Ann. § 27-31-250 (1976) as amended, not to reconstruct the damaged property, the Insurance Trustee shall distribute the insurance proceeds among all the owners and/or mortgagees with liens upon the Units, as their respective interests may appear, in proportion to their respective undivided interests in the portion or portions of the property damaged or destroyed.

2. If the Board of Directors is required to provide for the reconstruction of the damaged property, the Insurance Trustee shall disburse the insurance proceeds to the person or persons employed by the Board of Directors to effect such reconstruction in accordance with written authorizations submitted to the Insurance Trustee by the architect supervising the reconstruction or by the Board of Directors. Any portion of the insurance proceeds remaining after all the costs of reconstructing the Property have been paid shall be disbursed to the co-owners and their mortgagees in proportion to their interests in the portion or portions of the property repaired or restored.

In making disbursements of the insurance proceeds, the Insurance Trustee shall be entitled to rely upon the written authorization submitted as provided above or upon any written certification of facts submitted to the Insurance Trustee by the Board of Directors as hereinafter provided without further inquiry. The Insurance Trustee shall in no event be responsible for obtaining insurance on the Property, paying the premiums on any such insurance, or filing claims for any payments due under any such insurance.

G. Insurance by Owners. Each co-owner shall be responsible for obtaining such amounts of the following types of insurance as he deems necessary or desirable:

1. Hazard insurance on his Unit for his own benefit;

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2. Hazard insurance on the contents of his Unit and on improvements made to his Unit; and

3. Liability insurance covering accidents occurring within the boundaries of his Unit.

Any owner who obtains hazard insurance on his dwelling for his own benefit shall within thirty (30) days of obtaining the same deliver to the Board of Directors a copy of the policy of insurance, should the Board request.

XXVI. Apportionment of Tax or Special Assessment if Levied and Assessed Against the Regime as a Whole

In the event that any taxing authority having jurisdiction over the Regime shall levy or assess any tax or special assessment against the Regime as a whole, as opposed to levying and assessing such tax or special assessment against each Unit and its appurtenant undivided interest in General and Limited Common Elements as now provided by law, then such tax or special assessment so levied shall be paid as a common expense by the Association, and any taxes or special assessments which are to be levied shall be included wherever possible, in the estimated annual budget of Association, or shall be separately levied and collected as an assessment by the Association, against all of the co-owners of Units and said Units if not included in said annual budget. The amount of any tax or special assessment paid or to be paid by the Association in the event that such tax or special assessment is levied against the Regime, as a whole, instead of against each separate Unit and its appurtenant undivided interest in General and Limited Common Elements shall be apportioned among the co-owners of all Units so that the amount of such tax or special assessment so paid or to be paid by the Association and attributable to and to be paid by the co-owner or co-owners of each Unit shall be that portion of such total tax or special assessment which bears the same ratio to said total tax or special assessment as the undivided interest in General and Limited Common Elements appurtenant to each Unit bears to the total undivided interest in General and Limited Common Elements appurtenant to all Units. In the event that any tax or special assessment shall be levied against the Regime in its entirety, without apportionment by the taxing authority of the Regime and appurtenant undivided interests in General and Limited Common Elements, then the assessment by the Association, which shall include the proportionate share of such tax or special assessment attributable to each Unit and its appurtenant undivided interest in General and Limited Common Elements, shall separately specify and identify the amount of such assessment attributable to such tax or special assessments and the amount of such tax or special assessment so designated shall be a lien prior to all mortgages and encumbrances upon any Unit and its appurtenant undivided interest in

General and Limited Common Elements, regardless of the date of the attachment and/or recording of such mortgage or encumbrance, to the same extent as though such tax or special assessment had been separately levied by the taxing authority upon each Unit and its appurtenant undivided interest in General and Limited Common Elements.

XXVII. Amendment of Master Deed

Neither this Master Deed nor the Bylaws nor any of its provisions shall be amended without the acquiescence of the co-owners owning at least two-thirds of the total interest in the Common Elements per the percentages set forth in Exhibit "D". Any amendment of this Master Deed shall be executed and subscribed with the same formalities required in South Carolina for the making of deeds, and recorded in the public records of Richland County. Any amendment of the Bylaws does not require such recordation.

Without limiting the foregoing, the Grantor, its successors or assigns, "acting alone" shall have the power, but not the obligation, at any time (and from time to time), to unilaterally amend the Master Deed and Bylaws to correct typographical or scrivener's errors, to correct inconsistencies, and to cause the Master Deed to conform to the requirements of the South Carolina Horizontal Property Act, the South Carolina Non-Profit Corporation Act, the City of Columbia, the requirements of the Federal National Mortgage Association (specifically in order to receive FNMA condominium project approval), and/or the Federal Home Loan Mortgage Corporation.

These amendment provisions shall not apply to modifications to the Rules and Regulations of the Association, which shall be freely modifiable by the Board of Directors as long as such changes are posted within a reasonable amount of time afterward.

XXVIII. Remedies in Event of Default

The co-owner or co-owners of each Unit shall be governed by and shall comply with the provisions of this Master Deed, the Articles and the By-Laws of the Association, and its rules and regulations as any of the same are now constituted or as they may be adopted and/or amended from time to time. A default by the co-owner or co-owners of any Unit shall entitle the Association or the co-owner or co-owners of other Unit or Units to the following relief:

A. Failure to comply with any of the terms of this Master Deed or other restrictions and regulations contained in the Articles of Incorporation, By-Laws of the Association, its rules and

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regulations, or decisions made pursuant thereto shall be grounds for relief which may include, without intending to limit the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien or any combination thereof. Relief may be sought by the Association, or if appropriate, by an aggrieved co-owner of a Unit or both.

B. The co-owner or co-owners of each Unit shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by his act, neglect, or carelessness, or by that of any member of his family, or his or their guests, employees, agents, or lessees. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of a Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

C. In any proceeding arising because of an alleged default by the co-owner of any Unit, the Association, if successful, shall be entitled to recover the costs of the proceedings and such reasonable attorney's fees as may be determined by the Court, and the co-owner of any Unit shall be entitled to such attorney's fees and costs if successful in such action.

D. The failure of the Association or of the co-owner of a Unit to enforce any right, provision, covenant, or condition which may be granted by this Master Deed or other above-mentioned documents shall not constitute a waiver of the right of the Association or of the co-owner of a Unit to enforce such right, provision, covenant, or condition in the future; and

E. All rights, remedies, and privileges granted to Association or the Co-owner or co-owners of a Unit pursuant to any terms, provisions, covenants, or conditions of this Master Deed or other above mentioned documents, shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional right, remedies, or privileges as may be available to such party at law or in equity.

For any violation of this Master Deed, the Bylaws, or the Rules and Regulations, whether it be a failure to pay Assessments, to maintain property, or otherwise, the Association has the authority to (in addition to any other remedy set forth herein), where appropriate in its sole discretion: (i) exercise self-help and enter a Unit or Limited Common Element and remedy the violation (e.g., perform maintenance) and bill the costs of such as a Special Assessment (ii) fine an Owner, and said fines can be added to the Association's assessment lien against the Unit (as further prescribed in the Bylaws); (iii) suspend the

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Association voting and membership rights of an Owner; (iv) place a lien on the Unit and foreclose said lien pursuant to the provisions of the Bylaws; (v) suspend an Owner's rights to use the Common Area amenities and facilities; (vi) require an Owner to temporarily leave the Common Elements.

Except in cases where it is not practical (e.g., requiring an Owner or their guest to leave the Common Element pool due to behavior creating a nuisance), the Association shall not impose any remedy of a violation of this Master Deed, the Bylaws, or the Rules and Regulations of the Association until such time as it has reasonably given notice of such violation to the Owner and provided a reasonable opportunity for the Owner to cure the violation. The Association shall be the sole determiner of what constitutes reasonable notice and reasonable opportunity to cure.

XXIX. Use or Acquisition of Interest in the Regime to Render User or Acquirer Subject to Provisions of Master Deed Rules and Regulations, Bylaws and Binding Arbitration

All present or future co-owners, tenants, or any other person who might use the facilities of the Regime in any manner are subject to the provisions of this Master Deed and all documents appurtenant thereto and incorporated herewith. The acquisition or rental of any Unit, or the mere act of occupancy of any Unit, shall signify that the provisions of this Master Deed, By-laws, and Rules and Regulations of the Association are accepted and ratified in all respects. **Such owner or occupant agrees that any dispute arising out of use, ownership or occupancy of a Unit or the Common Elements in Regime and any complaint against the Grantor shall be settled by binding arbitration pursuant to the provisions of Articles IV and XXXV hereof.**

XXX. Council of Co-Owners Association, Control of Board of Directors

Subject to the remainder of this paragraph, the Grantor may appoint and remove members of the Board of Directors of the Association of the Co-Owners ("Board") for a period not exceeding five (5) years from the date of the first conveyance of any Unit to a person other than the Grantor. This period of Grantor control terminates no later than sixty (60) days after conveyance of seventy-five percent (75%) of the Units to Unit owners other than the Grantor. The Grantor may voluntarily surrender the right to appoint and remove members of the Board before termination of that time period.

Whenever Grantor shall be entitled to designate and select any person or persons to serve on any Board of Directors of the Association, the manner in which such person or persons shall be designated shall be as provided in the By-Laws of the Association. Grantor shall have the right to remove any person or

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persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or other persons to act and serve in the place of any director or directors so removed for the remainder of the unexpired term of any director or directors so removed. Any director designated and selected by Grantor need not be an owner or a resident in the Regime. Anything to the contrary notwithstanding, the power in the Grantor to designate directors shall terminate five (5) years from the date of recording of the Master Deed.

Any representative of Grantor serving on the Board of Directors of the Association shall not be required to disqualify himself upon any vote upon any management contract or other matter between Grantor and Association where the said Grantor may have a pecuniary or other interest.

Transfer of Rights. All rights, duties and obligations of the Grantor herein may be performed by the Grantor, its successors and assigns.

XXXI. Annual Reports to be Provided to Lender

So long as any institutional lender is the co-owner or holder of a mortgage encumbering a Unit in the Regime, the Association shall furnish said lender upon request with at least one copy of the annual financial statement and report of the Association audited satisfactorily, setting forth such details as the said lender may reasonably require, including a detailed statement of annual carrying charges or income collected and operating expense, with such financial statement and report to be furnished within ninety (90) days following the end of each fiscal year.

Such statement shall be prepared in accordance with generally accepted accounting principles and shall contain the certificate of the accountant or accounting firm to that effect. Further, the accountant or accounting firm shall include as a special item(s) any information to which a reasonable man would attach importance in the management of his own financial affairs, should said information not appear readily from the face of the statement.

The Association shall make available to Unit owners, lenders, lienholders, insurers, or guarantors of any first mortgage current copies of the Master Deed, By-Laws, other rules concerning the project 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.

Any holder, insurer, or guarantor of a first mortgage shall be entitled, upon written request, to a financial statement of the immediately preceding fiscal year, free of charge to the party so requesting.

Any financial statement requested pursuant to this section shall be furnished within a reasonable time following such request.

XXXII. Severability

In the event that any of the terms, provisions, or covenants of this Master Deed are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify, or impair in any manner whatsoever any of the other terms, provisions, or covenants hereof or the remaining portions of any terms, provisions, or covenants held to be partially invalid or unenforceable.

XXXIII. Master Deed Binding Upon Grantor, Its Successor and Assigns, and Subsequent Co-Owners

The restrictions and burdens imposed by the covenants of this Master Deed are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Unit and its appurtenant undivided interest in General and Limited Common Elements. This Master Deed and all easements reserved herein shall be binding upon Grantor, its successors and assigns, and upon all parties who may subsequently become co-owners of Units in the Regime and their respective heirs, legal representative, and successors and assigns.

XXXIV. Definitions

The definitions contained in S. C. Code Ann. § 27-31-10 et seq. (1976), are hereby incorporated herein and made a part hereof by reference. The words, "Unit" and "Apartment" shall have the same meaning as the word "Unit" as defined in S. C. Code Ann. § 27-31-20 (1976).

XXXV. Alternative Dispute Resolution

Any claim or cause of action not covered by Article IV's Arbitration Agreement shall be covered by the provisions of this Article.

A. Definitions Applicable to this Article XXXV

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1. Bound Party. Includes: Grantor; all co-owners; the Association and its officers, directors, and committee members, including any corporation or other entity formed to serve as the Association; all persons and entities subject to this Master Deed; any person or entity not otherwise subject to this Master Deed who agrees to submit to this Article; any person or entity that now has or hereafter acquires any interest in a Unit; the developer of the Regime; any person or entity that has previously or hereafter supplies (directly or indirectly) labor, materials, design services, equipment or other things of value in connection with the construction or maintenance of any Unit or Common Element in the Regime; any heir, successor, delegatee or assignee of any person or entity listed in this paragraph.

2. Claim. Refers to any claim, grievance or dispute arising out of or relating to:

(i) the interpretation, application, or enforcement of this Master Deed, including all documents attached thereto or incorporated by reference therein; (ii) the rights, obligations, and duties of any Bound Party under the Master Deed, including all documents attached thereto or incorporated by reference therein; or (iii) the design or construction of improvements within the Regime, including but not limited to, disputes with the Grantor, the Contractor, the Architect, or any of their successors or assigns, agents, employees, or subcontractors and the co-owners of the Units and/or the Association regarding the sale, design or construction of The Gates at Williams Brice or the purchased Unit, the Limited Warranty, the Limitation of Remedies, or the Disclaimer and Exclusion of All Other Warranties, or any provision of any of them,

except that the following shall not be considered a Claim unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section B of this Article:

(i) any suit by the Association to collect assessments or other amounts due from any Co-Owner of a Unit; (ii) any suit between Unit Co-owners, which does not include Grantor or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Master Deed; and (iii) any suit in which any indispensable party is not a Bound Party.

3. Claimant. A Bound Party asserting a Claim.

4. Respondent. A Bound Party against whom a Claim is made.

B. ARBITRATION.

1. CLAIMANT HEREBY SUBMITS TO IN PERSONAM JURISDICTION OF THE STATE OF SOUTH CAROLINA AND AGREES THAT ITS CLAIM SHALL BE DETERMINED BY AN ARBITRATOR AS PROVIDED HEREIN IN THE STATE OF SOUTH CAROLINA AND HEREBY WAIVES ALL OBJECTIONS TO VENUE. ALL MATTERS ARISING HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH THE LAW AND PRACTICE OF SOUTH CAROLINA AND CLAIMANT AGREES THAT ANY SERVICE OF PROCESS MAY BE ACCOMPLISHED BY CERTIFIED MAIL RETURN RECEIPT REQUESTED AT THE CLAIMANT'S LAST KNOWN HOME ADDRESS OR ANY OTHER METHOD ALLOWED IN THE STATE OF SOUTH CAROLINA OR CLAIMANT'S HOME STATE.

2. EACH AND EVERY CLAIM AND CAUSE OF ACTION ARISING OUT OF OR RELATED IN ANY WAY TO THE DESIGN, CONSTRUCTION, SALE, MAINTENANCE, HABITABILITY OF, OR CONDITION OF ANY UNIT OR ANY COMMON AREA THAT IS ASSERTED BY CLAIMANT SHALL BE RESOLVED BY FINAL AND BINDING ARBITRATION BEFORE A PANEL OF THREE (3) ARBITRATORS PURSUANT TO THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION, AS MODIFIED HEREIN. THE ARBITRATION HEARING SHALL BE CONDUCTED IN RICHLAND COUNTY, SOUTH CAROLINA. ALL CLAIMS AND CAUSES OF ACTION OF ALL PERSONS AND ENTITIES ENTITLED TO ENFORCE (OR BOUND BY) THIS ARBITRATION PROVISION SHALL BE ASSERTED IN A SINGLE ARBITRATION PROCEEDING, AND MULTIPLE PARTIES MAY BE JOINED IN THE ARBITRATION PROCEEDING SO THAT ALL DISPUTES MAY BE RESOLVED IN ONE FORUM. NO CLAIM OR CAUSE OF ACTION MAY BE ASSERTED THAT WOULD BE BARRED BY THE STATUTE OF LIMITATIONS OR THE STATUTE OF RESPONSE.

3. IN ANY ARBITRATION PROCEEDING, REQUESTS FOR PRODUCTION OF DOCUMENTS MAY BE SERVED BY EACH PARTY, AND NON-PRIVILEGED, RESPONSIVE DOCUMENTS THAT WOULD BE DISCOVERABLE UNDER RULE 34 OF THE FEDERAL RULES OF CIVIL PROCEDURE (WERE THE CLAIMS AND CAUSES OF ACTION BEING ASSERTED IN UNITED STATES DISTRICT COURT) SHALL BE PRODUCED. DEPOSITIONS MAY BE TAKEN AS ALLOWED BY THE ARBITRATION PANEL, WHICH PANEL SHALL REASONABLY LIMIT THE NUMBER OF DEPOSITIONS IN ORDER TO AVOID UNNECESSARY OR EXCESSIVE EXPENSE, DELAY, OR HARASSMENT.

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4. THE ARBITRATION PANEL SHALL ISSUE A WRITTEN DECISION IDENTIFYING WITH SPECIFICITY EACH CLAIM OR CAUSE OF ACTION ASSERTED OR RESOLVED IN ANY ARBITRATION, AND THE LEGAL PRINCIPLES OF RES JUDICATA AND COLLATERAL ESTOPPEL SHALL BE APPLICABLE TO ANY ARBITRATION AWARD. ANY ARBITRATION AWARD MAY BE CONFIRMED AND ENFORCED IN ANY COURT OF JURISDICTION.

5. THIS ARBITRATION PROVISION IS EXPRESSLY INTENDED TO BENEFIT AND BE ENFORCEABLE BY EACH BOUND PARTY WHETHER OR NOT SUCH PERSON OR ENTITY IS BOUND BY THIS ARBITRATION PROVISION. ANY ATTEMPT BY ANY SUCH PERSON OR ENTITY TO ENFORCE THIS ARBITRATION PROVISION SHALL CONSTITUTE CONCLUSIVE CONSENT TO BE BOUND HEREBY.

C. Association Claims

In addition to compliance with the foregoing arbitration procedures outlined in this Article, the Board shall not be authorized or obligated to, and the Association shall not initiate any judicial or administrative proceeding unless first approved by a seventy-five percent (75%) affirmative vote of the entire Association membership per the percentages in Exhibit "D", except that no such approval shall be required for actions or proceedings:

(1) initiated to enforce the provisions of this Master Deed against a co-owner or occupant of any Unit or Common Element (excluding the provisions of the Limited Warranty contained in Article IV herein) including all documents attached thereto or incorporated by reference therein, including, but not limited to, collection of assessments and foreclosure of liens;
(2) initiated to challenge property taxation or condemnation proceedings;
(3) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This Section C shall not be amended unless such amendment is approved by one hundred percent (100%) of votes of the Association membership.

D. Waiver of Jury Trial

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BY ACCEPTANCE OF A DEED TO ANY UNIT OR OTHER PROPERTY HEREUNDER CO-OWNER(S) HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY HEREBY AGREE, THAT:

(i) NEITHER CO-OWNER, NOR ANY ASSIGNEE, SUCCESSOR, HEIR, OR LEGAL REPRESENTATIVE OF CO-OWNER OR GRANTOR, SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, OR ANY OTHER LITIGATION PROCEDURE ARISING FROM OR BASED UPON THE MATTERS SET FORTH HEREUNDER, OR TO THE DEALINGS OR RELATIONSHIP BETWEEN OR AMONG THE GRANTOR, ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, ARCHITECTS, ENGINEERS AND THE CO-OWNERS OR THE ASSOCIATION, INCLUDING WITHOUT LIMITATION WAIVER OF ANY TYPE OF CLASS ACTION SUIT;

(ii) NEITHER CO-OWNER NOR GRANTOR WILL SEEK TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN OR CANNOT BE WAIVED;

(iii) NEITHER OWNER NOR GRANTOR HAS IN ANY WAY AGREED WITH OR REPRESENTED TO ANY OTHER PARTY THAT THE PROVISIONS OF THIS SECTION WILL NOT BE FULLY ENFORCED IN ALL INSTANCES; AND

(iv) THE PROVISIONS CONTAINED IN THIS ARTICLE ARE A MATERIAL INDUCEMENT FOR GRANTOR TO MAKE THE DECLARATIONS SET FORTH HEREIN.

XXXVI. Miscellaneous

(a) Attached hereto as Exhibit "A", Legal Description.

(b) Attached hereto as Exhibit "B", As-Built Survey.

(c) Attached hereto as Exhibit "C", Plans.

(d) Attached hereto as Exhibit "D", Table of Values.

(e) Attached hereto as Exhibit "E", Certification to Plans.

(f) Attached hereto as Exhibit "F", Articles of Incorporation of The Gates at Williams-Brice Condominium Association.

(g) Attached hereto as Exhibit "G", By-Laws of The Gates at Williams-Brice Condominium Association.

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IN WITNESS WHEREOF, the Grantor, by its authorized officer, has hereunto caused this Master Deed to be executed this 2nd day of July, 2007.

Signed, sealed and delivered
in the presence of:

COLUMBIA CONDOS, L.P.,
a Delaware Limited Partnership (SEAL)

By: DC Developers – Columbia Condos, Inc.,
a Texas corporation
Its: General Partner

By: _____
Name: Tom Caltagirone
Its: Chief Operating Officer

Witnesses:

Marilyn Gizzaffi

_____

STATE OF TEXAS)
)
COUNTY OF HARRIS)

PROBATE

Personally appeared before me, the undersigned witness, and made oath that (s)he saw the within-named COLUMBIA CONDOS, L.P., by its C.O.O. of its General Partner, sign, seal and as its act and deed, deliver the within Master Deed for the uses and purposes therein mentioned, and that (s)he with the other subscribed witness witnessed the execution thereof.

_____
(Witness signature)

SWORN TO BEFORE ME

This 2nd day of July, 2007.

_____ (L.S.)

Notary Public for Harris County, Texas

My Commission Expires: 6/24/2010

KATHRYN O. WILLIS
NOTARY PUBLIC
STATE OF TEXAS
EXPIRES
06-24-2010

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EXHIBIT "A"

[Legal Description]

Attached Hereto and Incorporated Herein By Reference

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LEGAL DESCRIPTION

All that certain piece, parcel or tract(s) of land lying and being situate in the City of Columbia, Richland County, South Carolina, having the following metes and bounds as shown on a plat entitled: "As-Built ALTA/ACSM Land Title Survey for Columbia Condos, LP", prepared by Sinclair & Associates, LLC, dated June 21, 2007, revised June 28, 2007, and recorded July 11, 2007 in the Register of Deeds Office for Richland County in Plat Book 1334 at Page 2001:

Beginning at a concrete monument found on the right-of-way of Shop Road, said point being 530 feet SouthWest from the centerline intersection of George Rogers Blvd & Shop Road. Said point being the Point of Beginning, thence following the right-of-way of Shop Road, South 45 deg. 10 min. 29 sec. East for a distance of 421.55 feet to a ½" rebar found at the common property corner of Colonial Warehouse, LLC. Thence leaving Shop Road and following the common property line of Colonial Warehouse, LLC., South 44 deg. 50 min 30 sec. West for a distance of 450.45 feet to a ½" rebar found at the common property corner of Colonial Warehouse, LLC & along the right-of-way of Seaboard Coastline Railroad. Thence following the right-of-way at SeaBoard Coastline Railroad, North 45 deg. 08 min 34 sec West for a distance of 135.65 feet to a concrete monument found, thence North 44 deg. 38 min. 44 sec. East for a distance of 15.47 feet to a concrete monument found, thence with a Radius of 349.11 feet and an Arc Length of 338.54 feet (North 16 deg. 44 min. 26 sec. West for a distance of 325.43 feet) to a concrete monument, thence leaving the right-of-way of SeaBoard Coastline Railroad, North 44 deg. 55 min. 00 sec. East for a distance of 279.95 feet to a concrete monument, said concrete monument being the Point of Beginning and containing 3.95 acres, more or less.

This property is subject to all easements, right of ways and restrictions, both recorded and unrecorded.

Tax Map No. R11210-01-17

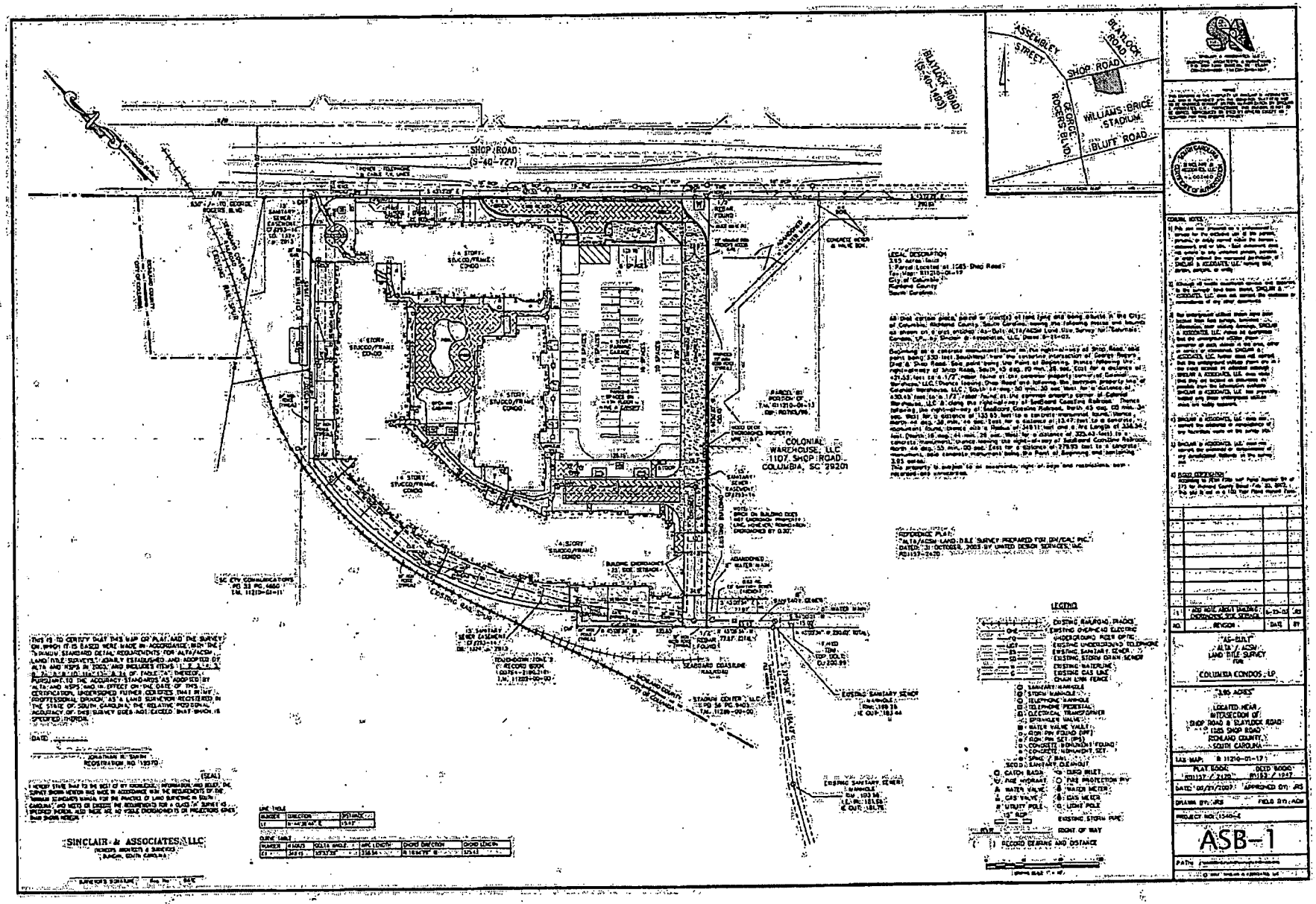
CLT 10554701v1

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EXHIBIT "B"

[As-Built Survey]

Attached Hereto and Incorporated Herein By Reference



ROA_00953

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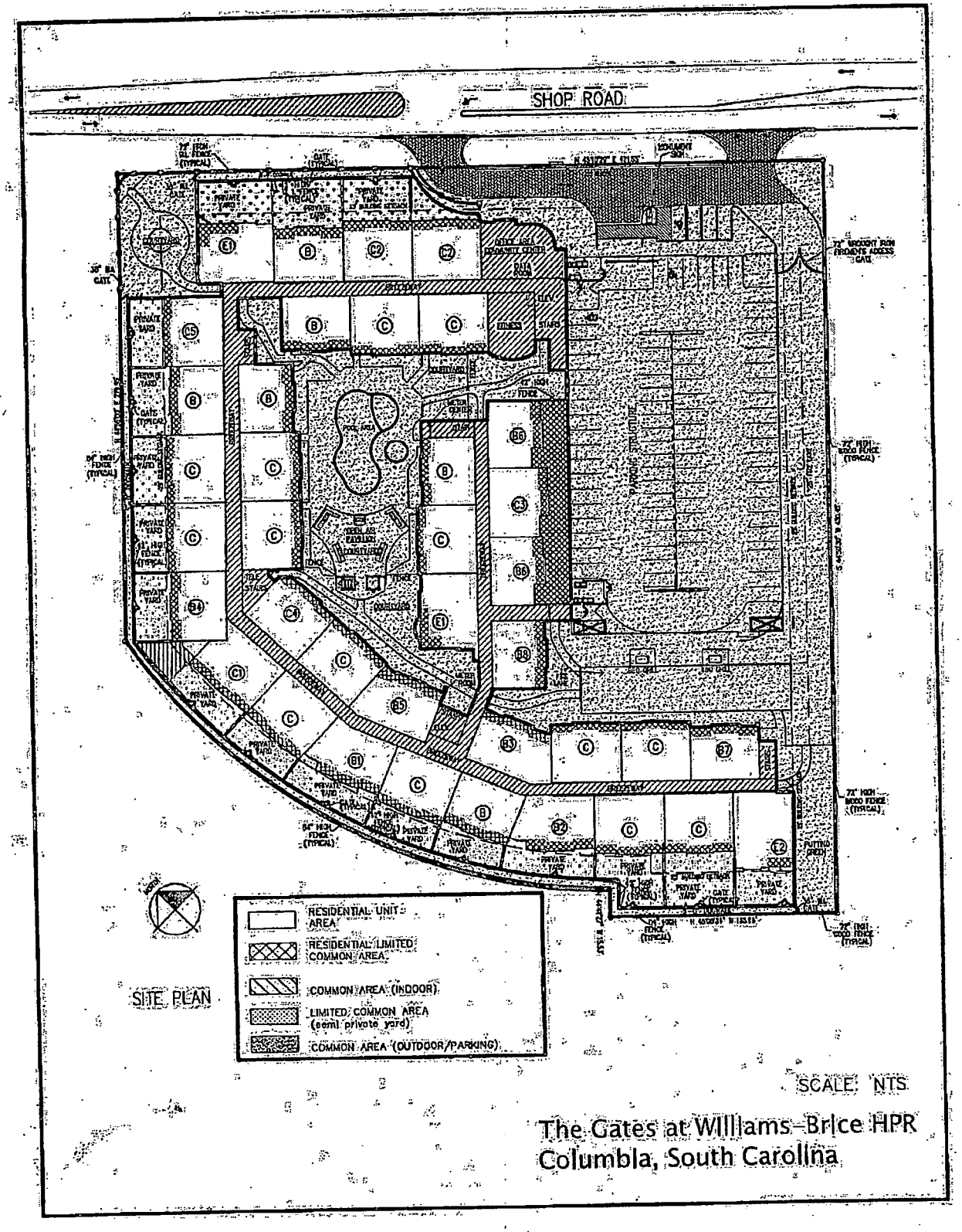
Book/Page: R 1334/2048 (This is not an Official Copy)

EXHIBIT "C"

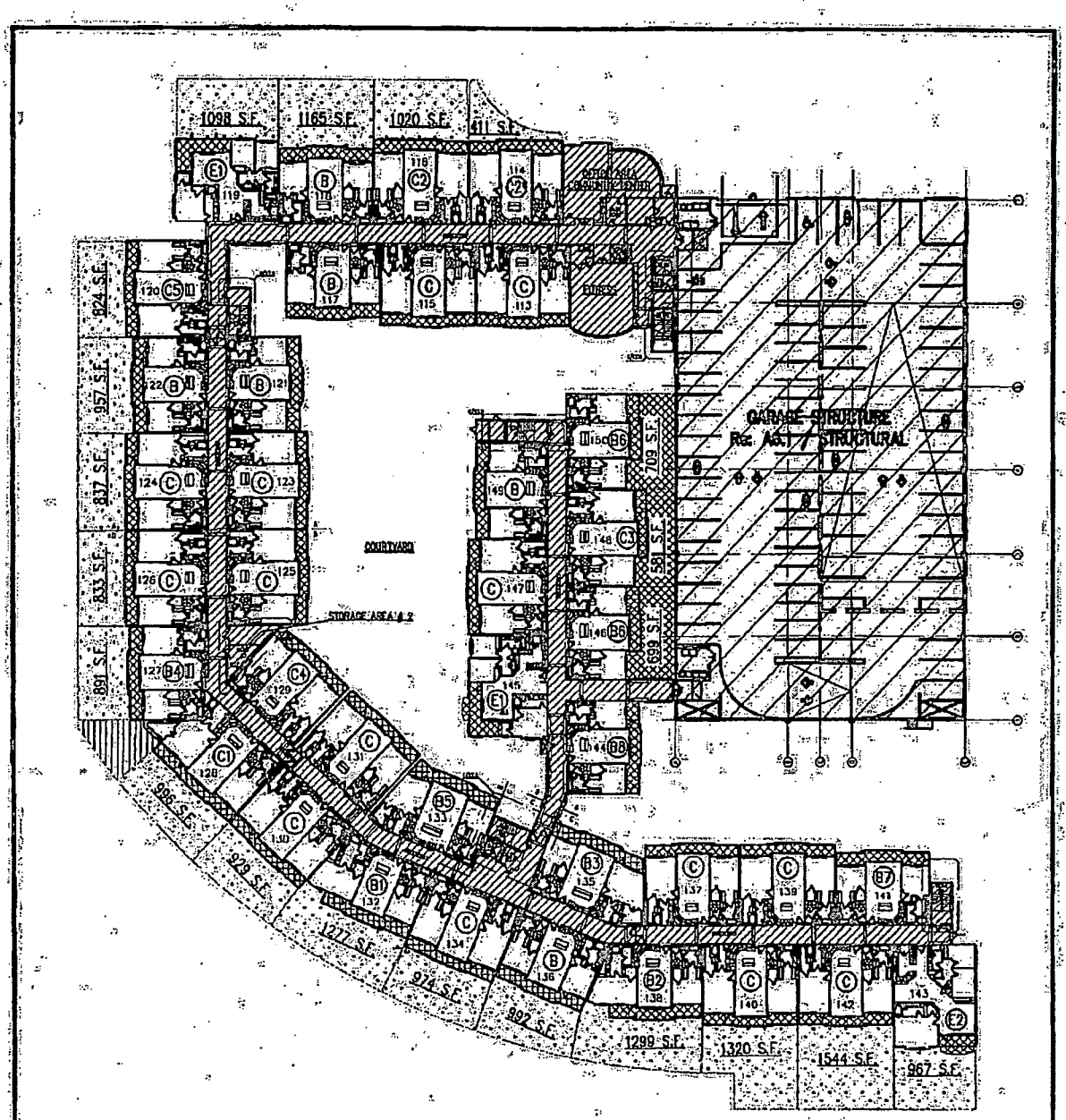
[Plans, consisting of
Site Plan, Floor Plans, Unit Plans, and Elevations]

Attached Hereto and Incorporated Herein By Reference

Book/Page: R 1334/2049 (This is not an Official Copy)



Book/Page: R 1334/2050 (This is not an Official Copy)



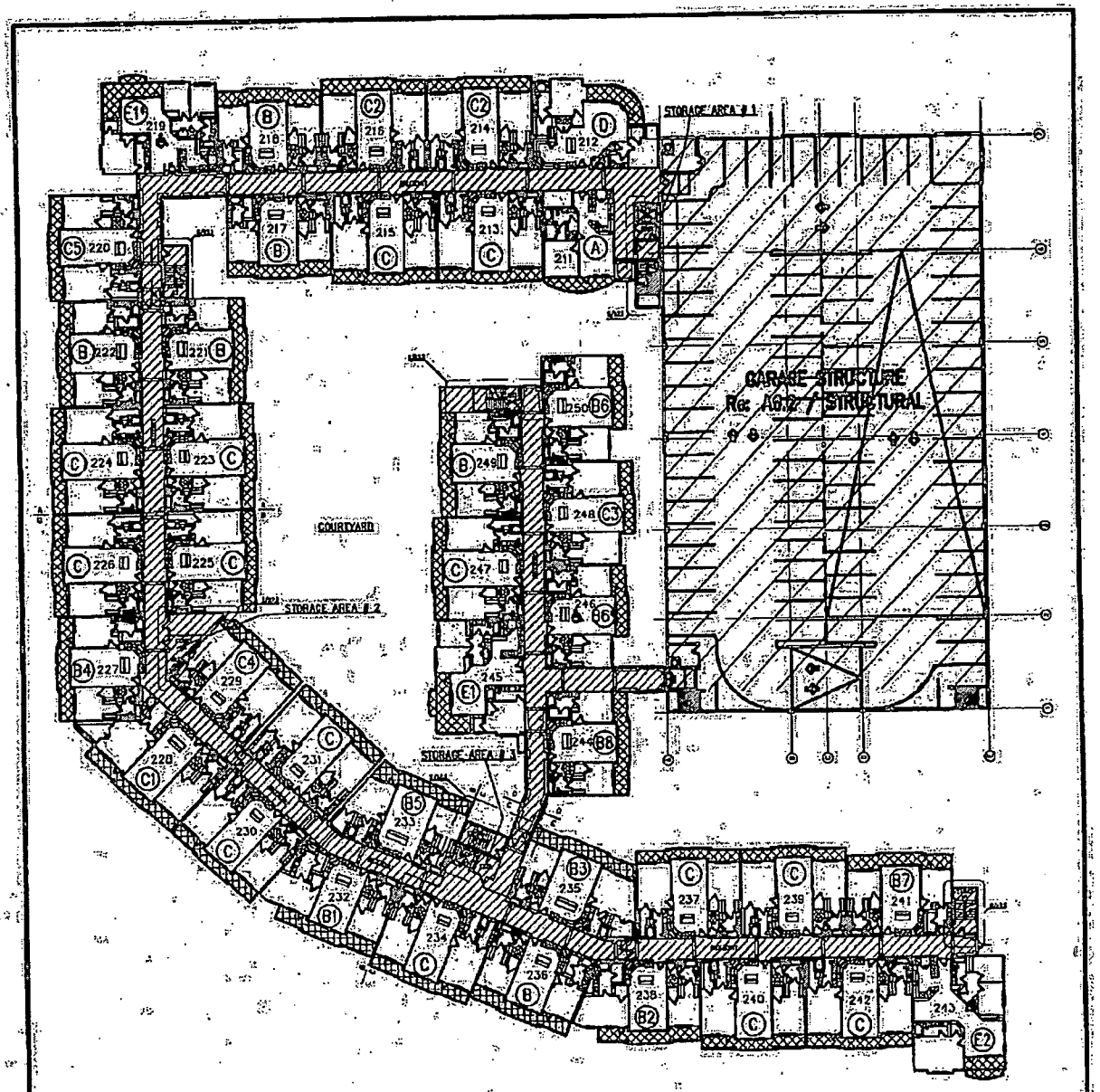
FIRST FLOOR PLAN

SCALE: NTS

	RESIDENTIAL UNIT AREA:	47,154 SQ. FT.
	RESIDENTIAL LIMITED COMMON AREA:	6,575 SQ. FT.
	COMMON AREA:	13,779 SQ. FT.
	LIMITED COMMON AREA (semi private yard):	10,334 SQ. FT.
	TOTAL:	88,842 SQ. FT.

The Gates at Williams-Brice HPR
Columbia, South Carolina

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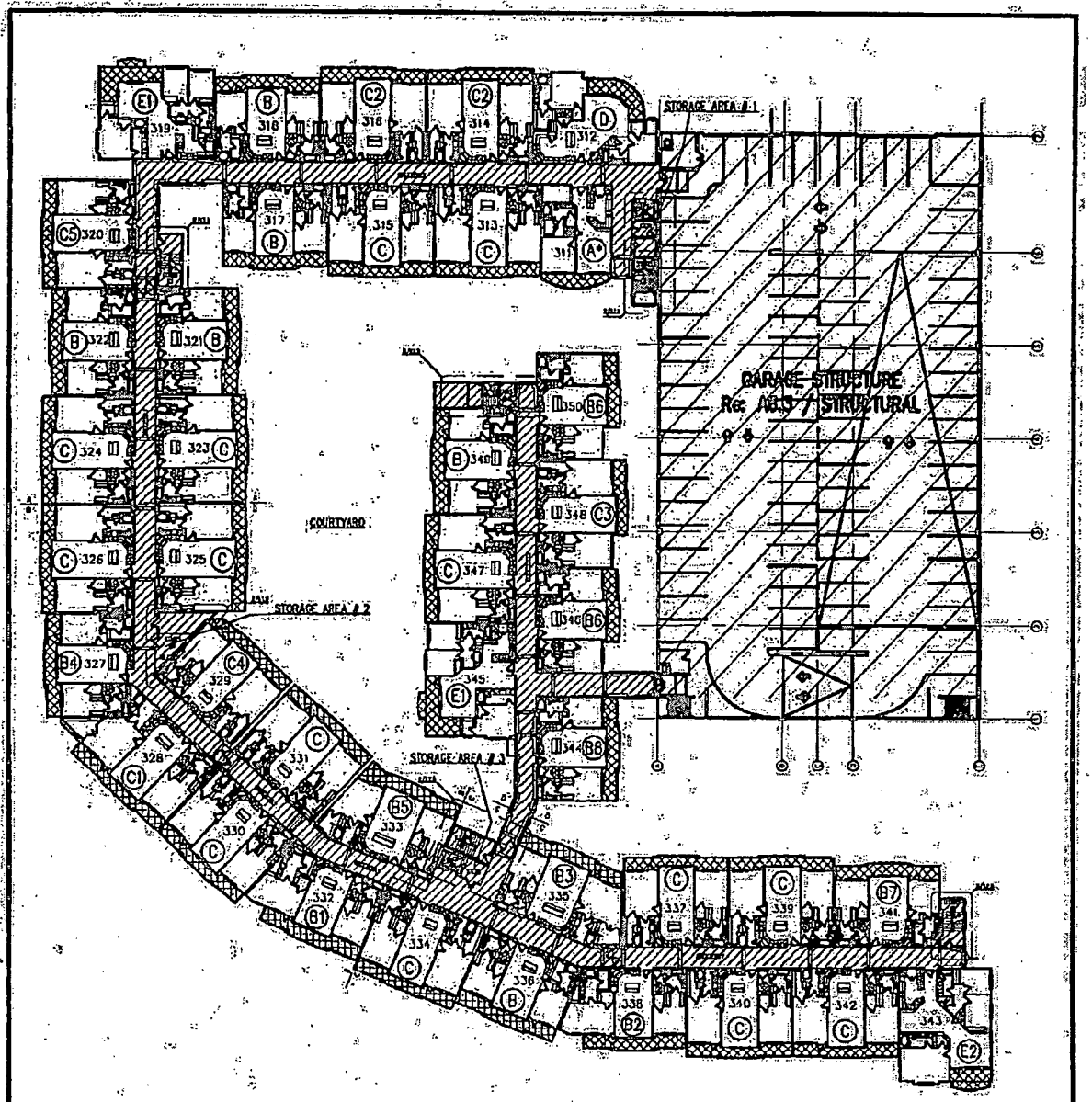
SECOND FLOOR PLAN

SCALE: NTS

RESIDENTIAL UNIT AREA	49,448 SQ. FT.
RESIDENTIAL LIMITED COMMON AREA	7,887 SQ. FT.
COMMON AREA	10,758 SQ. FT.
TOTAL	68,093 SQ. FT.

The Gates at Williams–Brice HPR
Columbia, South Carolina

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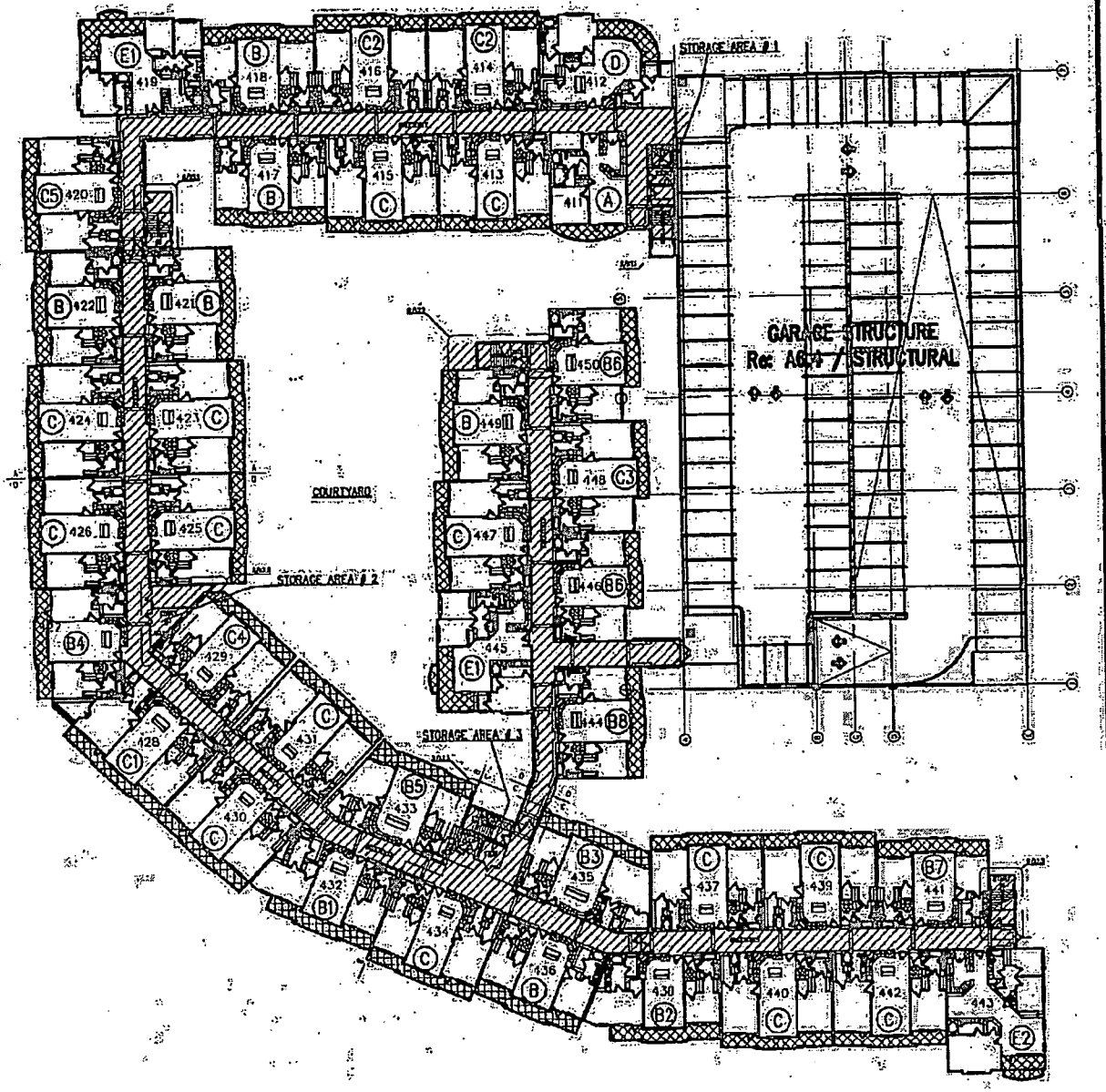
THIRD FLOOR PLAN

SCALE: NTS

	RESIDENTIAL UNIT AREA	49,448 SQ. FT.
	RESIDENTIAL LIMITED COMMON AREA	7,887 SQ. FT.
	COMMON AREA	10,758 SQ. FT.
	TOTAL	68,093 SQ. FT.

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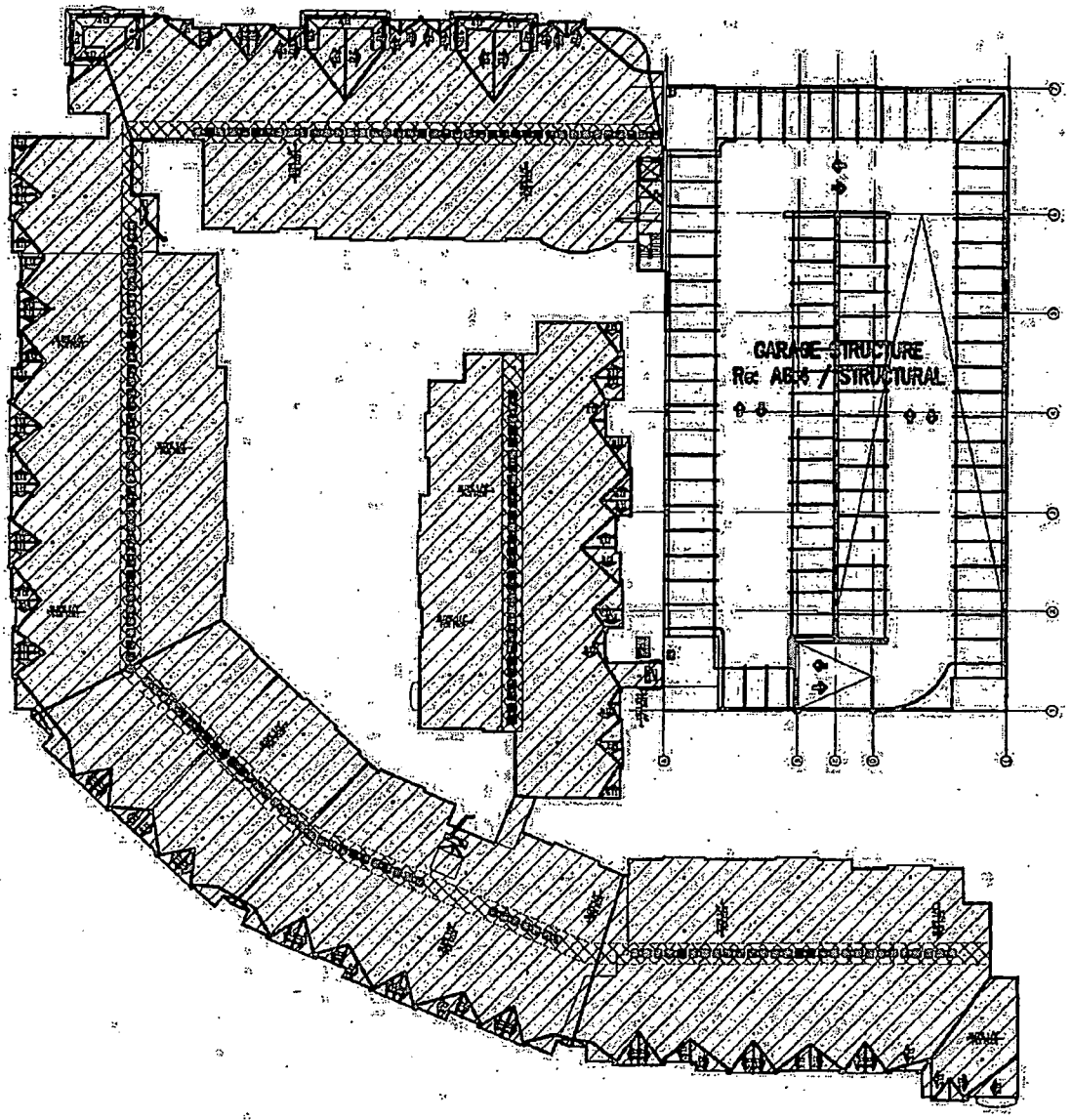
FOURTH FLOOR PLAN

SCALE: NTS

	RESIDENTIAL UNIT AREA	49,448 SQ. FT.
	RESIDENTIAL LIMITED COMMON AREA	7,887 SQ. FT.
	COMMON AREA	10,758 SQ. FT.
	TOTAL	68,093 SQ. FT.

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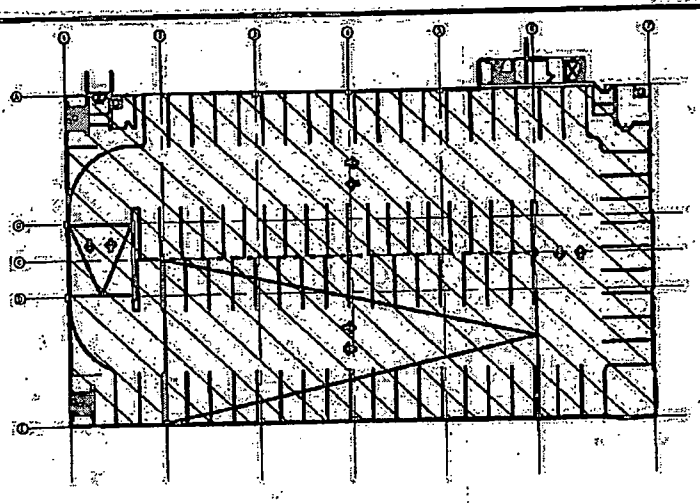


ROOF PLAN

SCALE: NTS

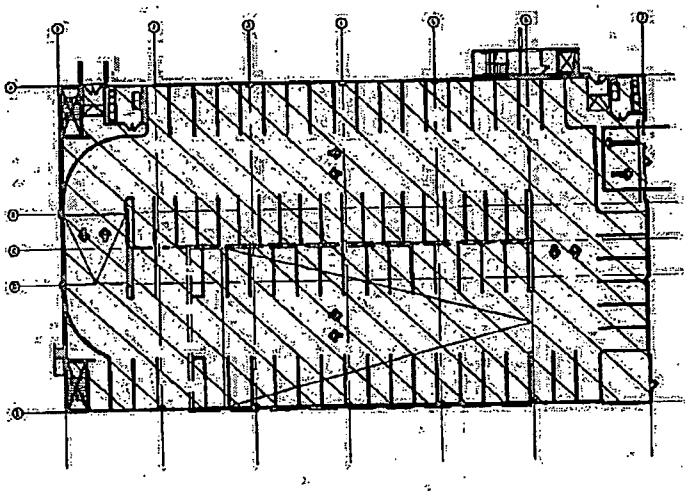
	RESIDENTIAL UNIT AREA	N/A SQ. FT.
	RESIDENTIAL LIMITED COMMON AREA	6,565 SQ. FT.
	COMMON AREA	60,343 SQ. FT.
	TOTAL	66,908 SQ. FT.

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SECOND FLOOR GARAGE SCALE: NTS

	RESIDENTIAL UNIT AREA	000 SQ. FT.
	RESIDENTIAL LIMITED COMMON AREA	000 SQ. FT.
	COMMON AREA	28,528 SQ. FT.
	TOTAL	28,528 SQ. FT.

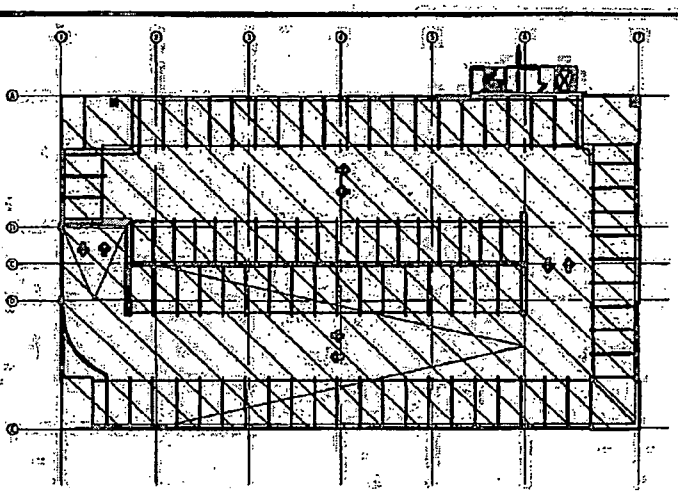


FIRST FLOOR GARAGE SCALE: NTS

	RESIDENTIAL UNIT AREA	000 SQ. FT.
	RESIDENTIAL LIMITED COMMON AREA	000 SQ. FT.
	COMMON AREA	28,528 SQ. FT.
	TOTAL	28,528 SQ. FT.

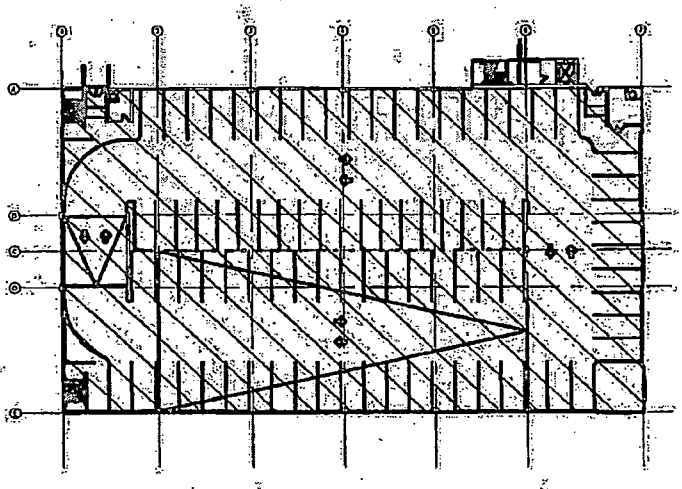
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FOURTH FLOOR GARAGE SCALE: NTS

RESIDENTIAL UNIT AREA	000 SQ. FT.
RESIDENTIAL LIMITED COMMON AREA	000 SQ. FT.
COMMON AREA	28,528 SQ. FT.
TOTAL	28,528 SQ. FT.

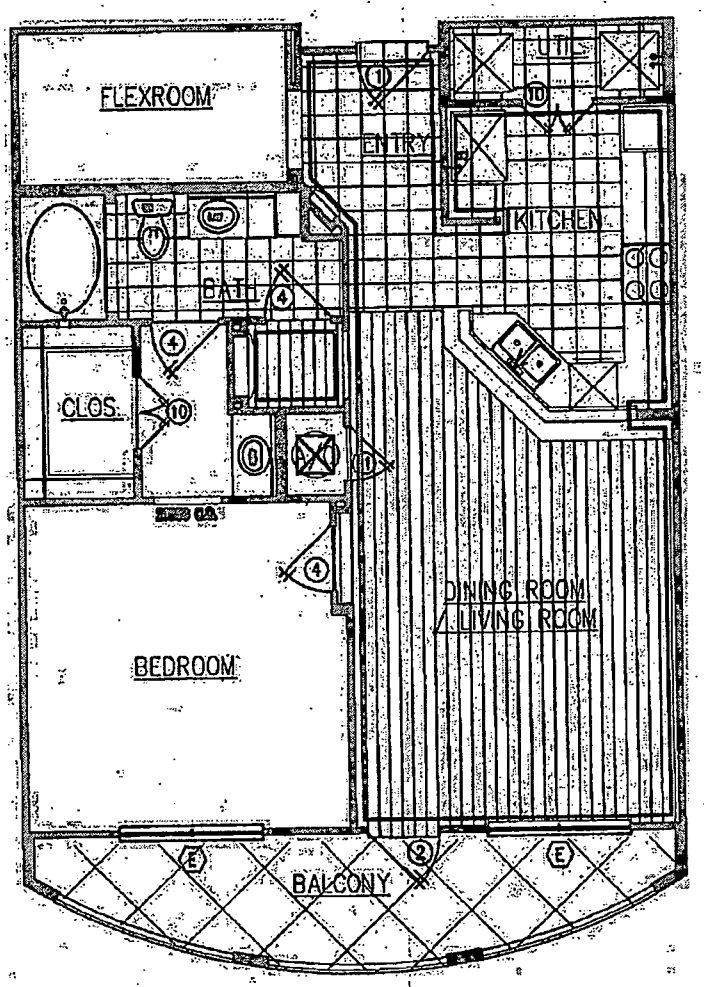


THIRD FLOOR GARAGE SCALE: NTS

RESIDENTIAL UNIT AREA	000 SQ. FT.
RESIDENTIAL LIMITED COMMON AREA	000 SQ. FT.
COMMON AREA	28,528 SQ. FT.
TOTAL	28,528 SQ. FT.

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UNIT TYPE A – BUILDING –(3RD, 4TH FLOORS)

SCALE: NTS

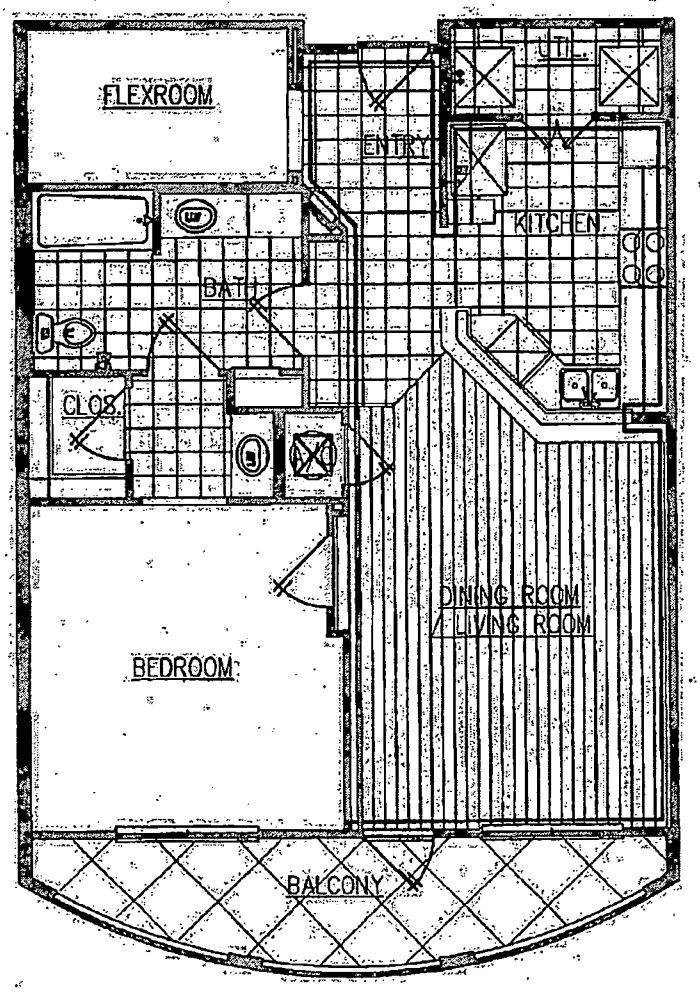
UNIT	A
1 BEDROOM	1 BATH
CONDITION AREA	948 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	130 S.F.
TOTAL AREA	1,078 S.F.
NUMBER OF UNITS	2

UNIT NUMBERS:

311, 411

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UNIT TYPE A-HC - BUILDING -(2ND FLOOR)

SCALE: NTS

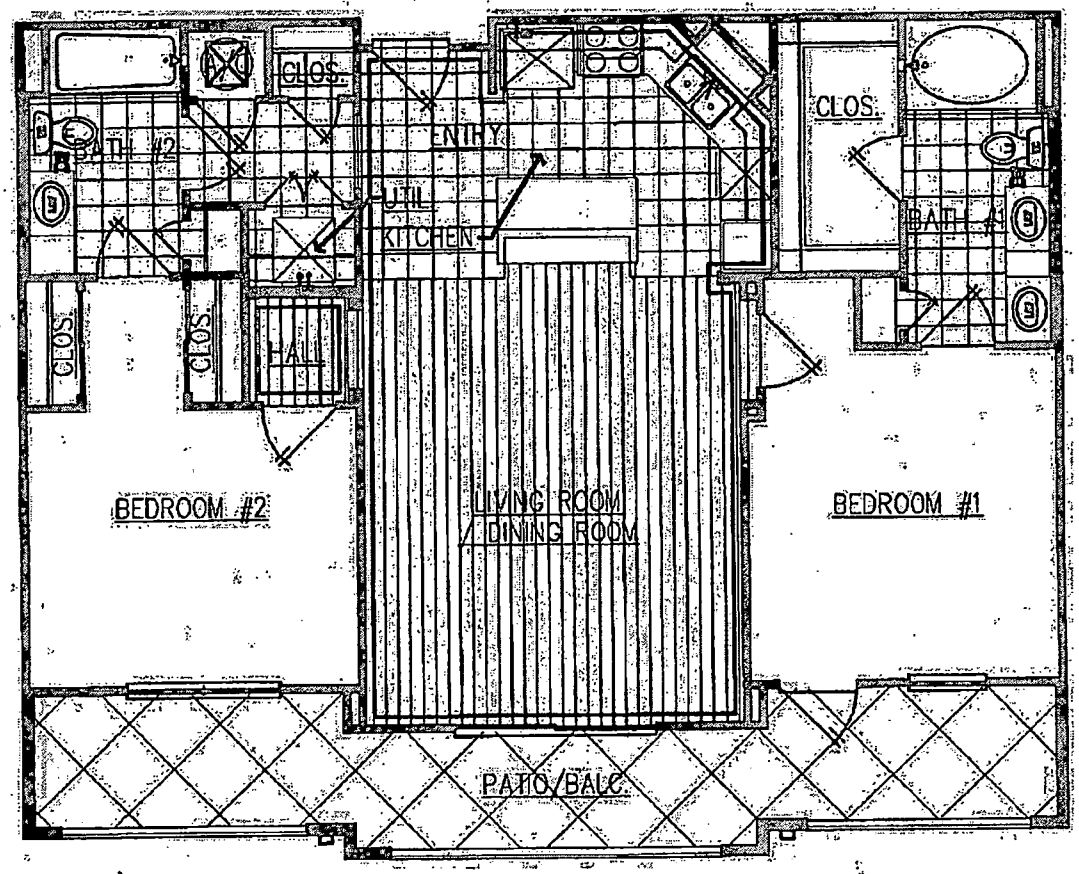
UNIT	A-HC
1 BEDROOM	1 BATH
CONDITION AREA:	948 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	130 S.F.
TOTAL AREA:	1,078 S.F.
NUMBER OF UNITS:	1

UNIT NUMBER:

211

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UNIT TYPE B - BUILDING -(1ST, 2ND, 3RD, 4TH FLOORS)

SCALE: NTS

UNIT NUMBERS:
118, 121, 136, 144, 218, 221, 236, 244, 318, 321, 344, 336, 418, 421, 436, 444

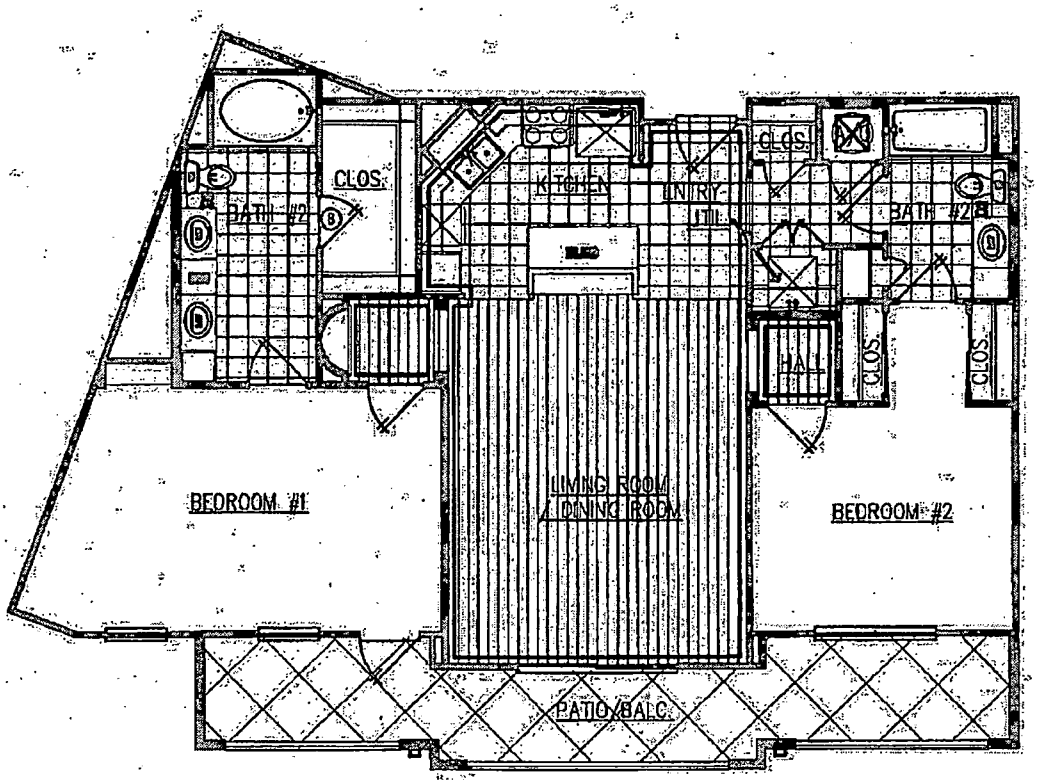
UNIT B	
2 BEDROOM	2 BATH
CONDITION AREA	1,105 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	219 S.F.
TOTAL AREA	1,324 S.F.
NUMBER OF UNITS	16

UNIT B	
2 BEDROOM	2 BATH
CONDITION AREA	1,105 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	219 S.F.
TOTAL AREA	1,324 S.F.
NUMBER OF UNITS	16

MIRRORED UNITS
117, 122 141, 149, 217, 222, 241, 249, 317, 322, 341, 349 417, 422, 441, 449

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UNIT TYPE B1 – BUILDING –(1ST, 2ND, 3RD, 4TH FLOORS)

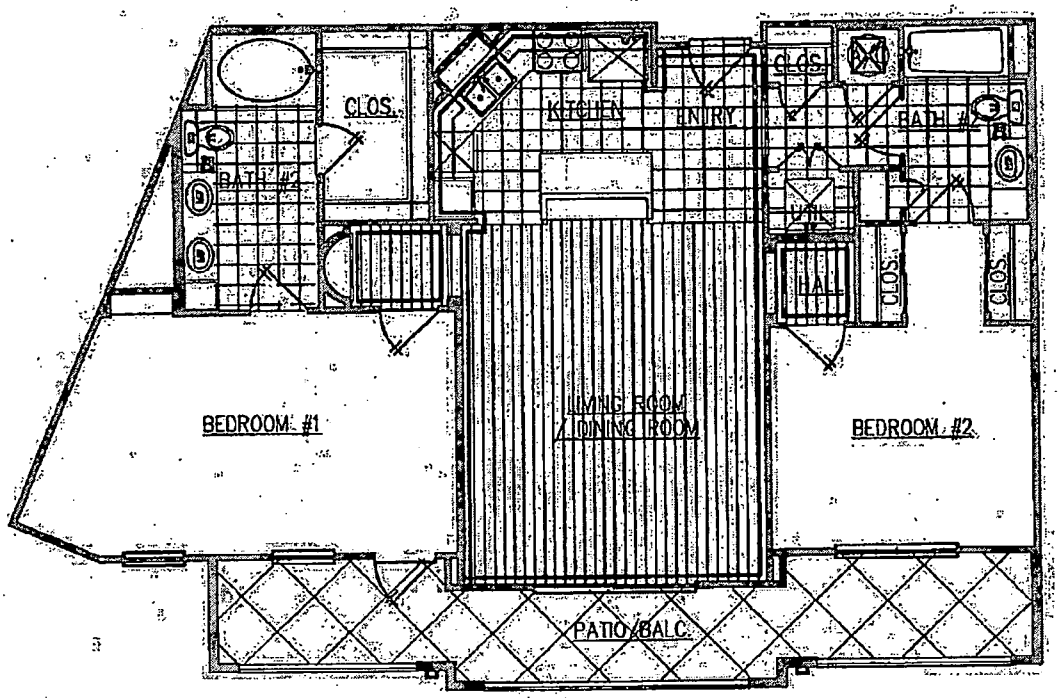
SCALE: N.T.S.

UNIT	B1
2 BEDROOM	2 BATH
CONDITION AREA	1,245 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	219 S.F.
TOTAL AREA	1,464 S.F.
NUMBER OF UNITS	4

UNIT NUMBERS:
132, 232,
332, 432

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UNIT TYPE B2 – BUILDING –(1ST, 2ND, 3RD, 4TH FLOORS)

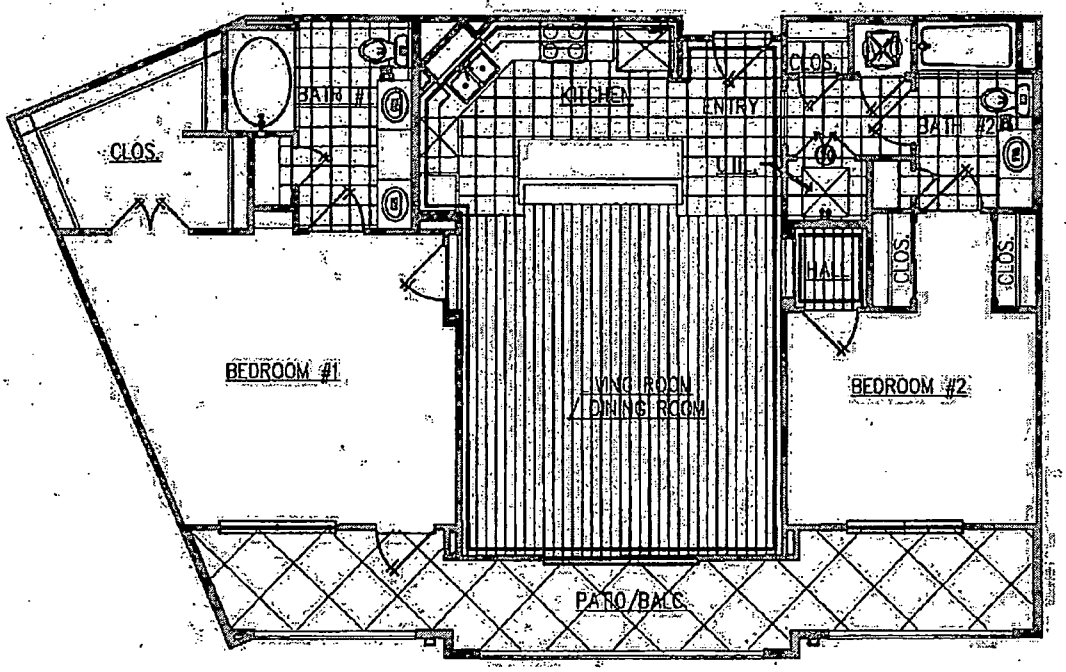
SCALE: NTS

UNIT B2	
2 BEDROOM	2 BATH
CONDITION AREA	1,235 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	219 S.F.
TOTAL AREA	1,454 S.F.
NUMBER OF UNITS	4

UNIT NUMBERS:
138, 238,
338, 438

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UNIT TYPE B3 – BUILDING – (1ST, 2ND, 3RD, 4TH FLOORS)

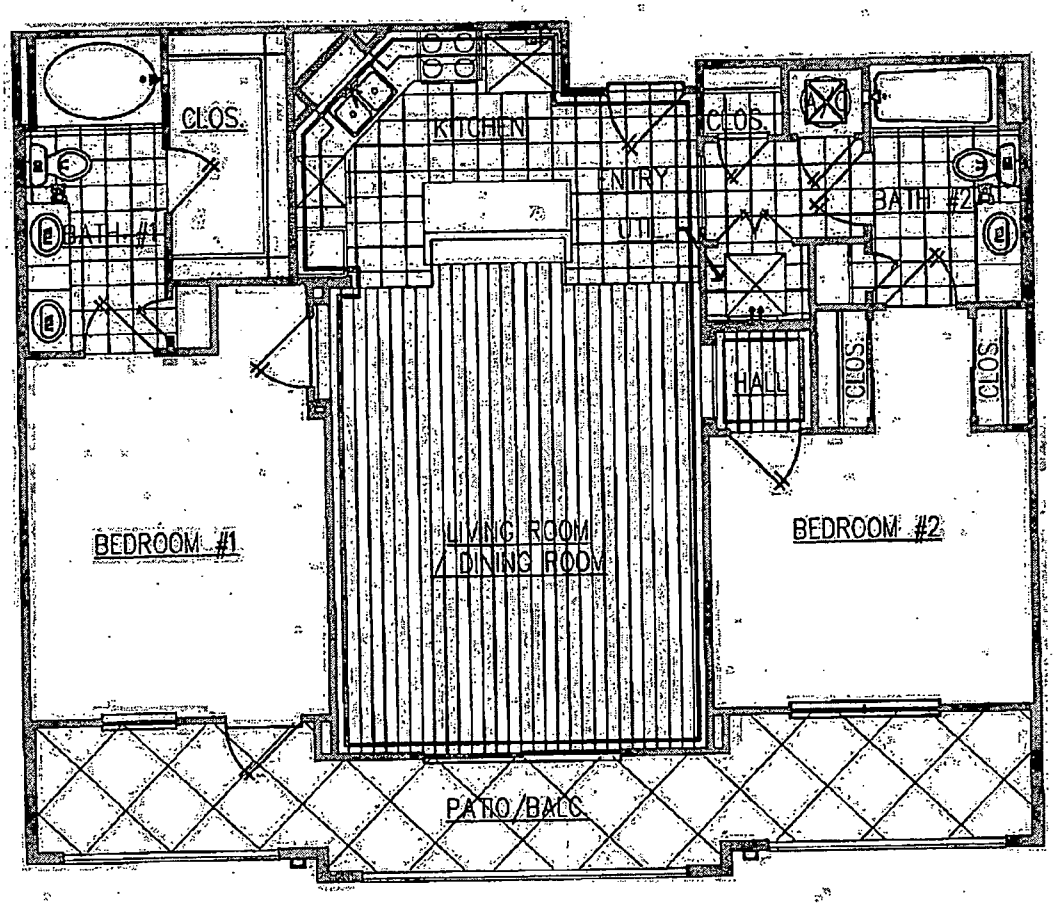
SCALE: NTS

UNIT	B3
2 BEDROOM	2 BATH
CONDITION AREA	1,310 S.F.
UTILITY AREA:	S.F.
BALC./MISC.AREA	232 S.F.
TOTAL AREA	1,542 S.F.
NUMBER OF UNITS	4

UNIT NUMBERS:
135, 235,
335, 435

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UNIT TYPE B4 – BUILDING –(1ST, 2ND, 3RD, 4TH FLOORS)

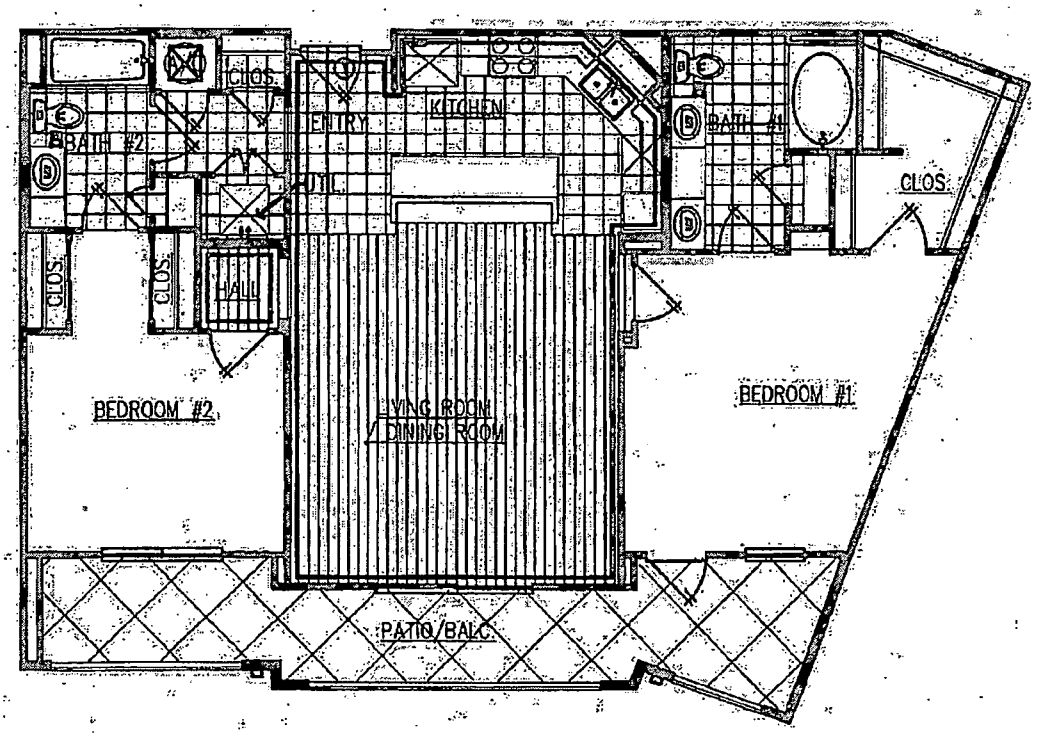
SCALE: NTS

UNIT	B4	
2 BEDROOM	2 BATH	
CONDITION AREA	1,142	S.F.
UTILITY AREA		S.F.
BALC./MISC.AREA	219	S.F.
TOTAL AREA	1,361	S.F.
NUMBER OF UNITS	4	

UNIT NUMBERS:
127, 227,
327, 427

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UNIT TYPE B5 - BUILDING -(1ST, 2ND, 3RD, 4TH FLOORS)

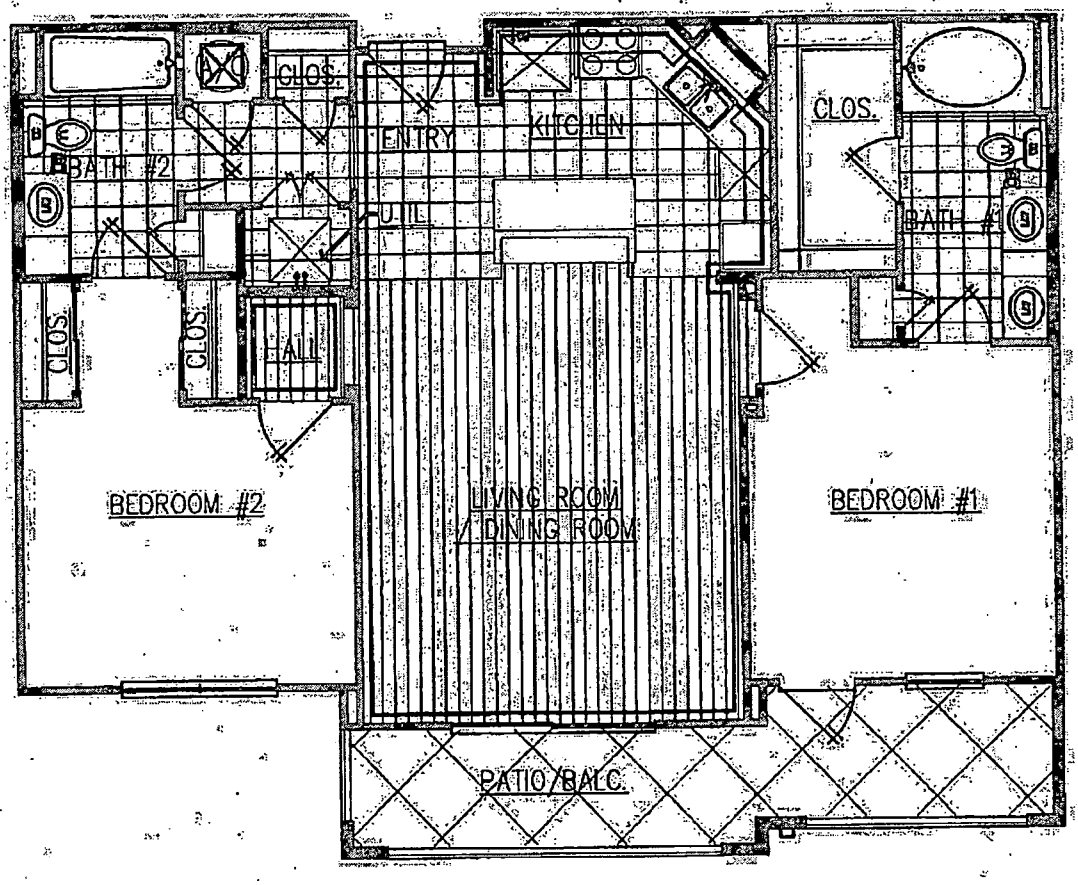
SCALE: NTS

UNIT	B5
2 BEDROOM	2 BATH
CONDITION AREA	1,250 S.F.
UTILITY AREA	- S.F.
BALC./MISC.AREA	230 S.F.
TOTAL AREA	1,480 S.F.
NUMBER OF UNITS	4

UNIT NUMBERS:
133, 233,
333, 433

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UNIT TYPE B6 – BUILDING –(2ND, 3RD, 4TH FLOORS)

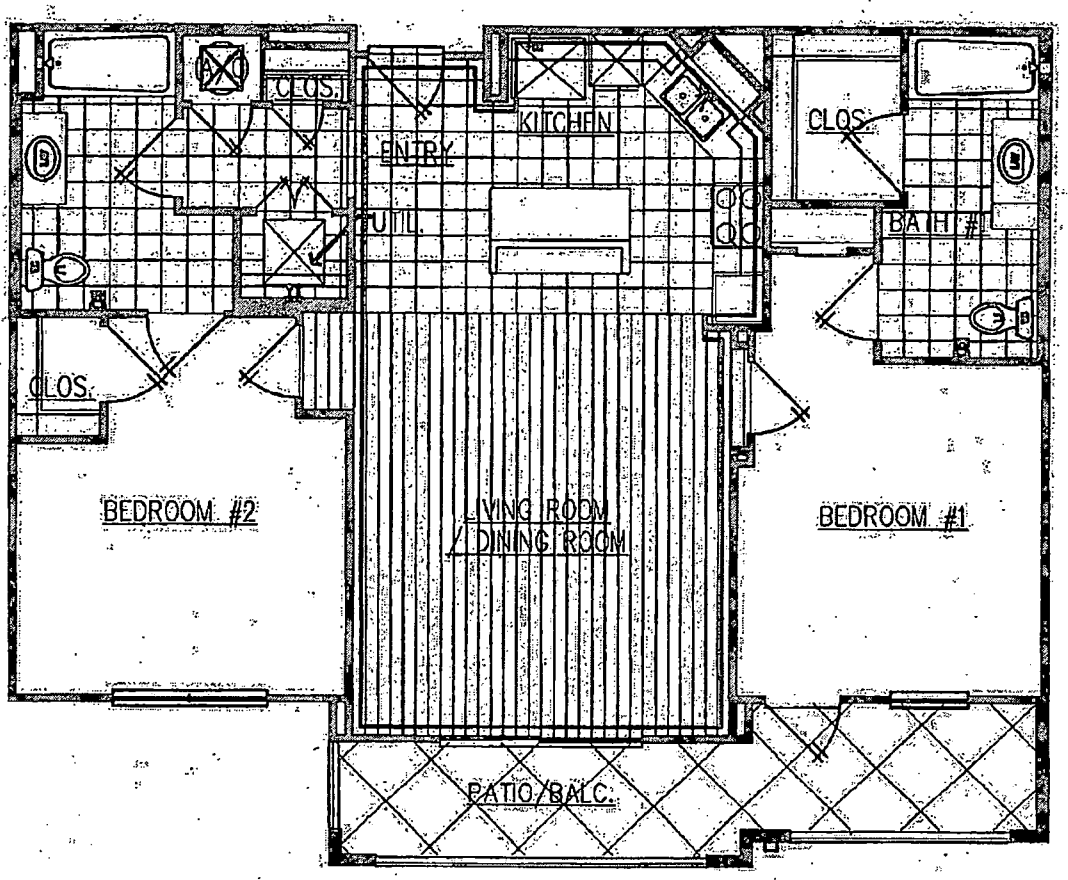
SCALE: NTS

UNIT	B6
2 BEDROOM	2 BATH
CONDITION AREA	1,105 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	149 S.F.
TOTAL AREA	1,254 S.F.
NUMBER OF UNITS	5

UNIT NUMBERS:
250, 346, 350,
446, 450

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UNIT TYPE B6-HC - BUILDING -(2ND FLOOR)

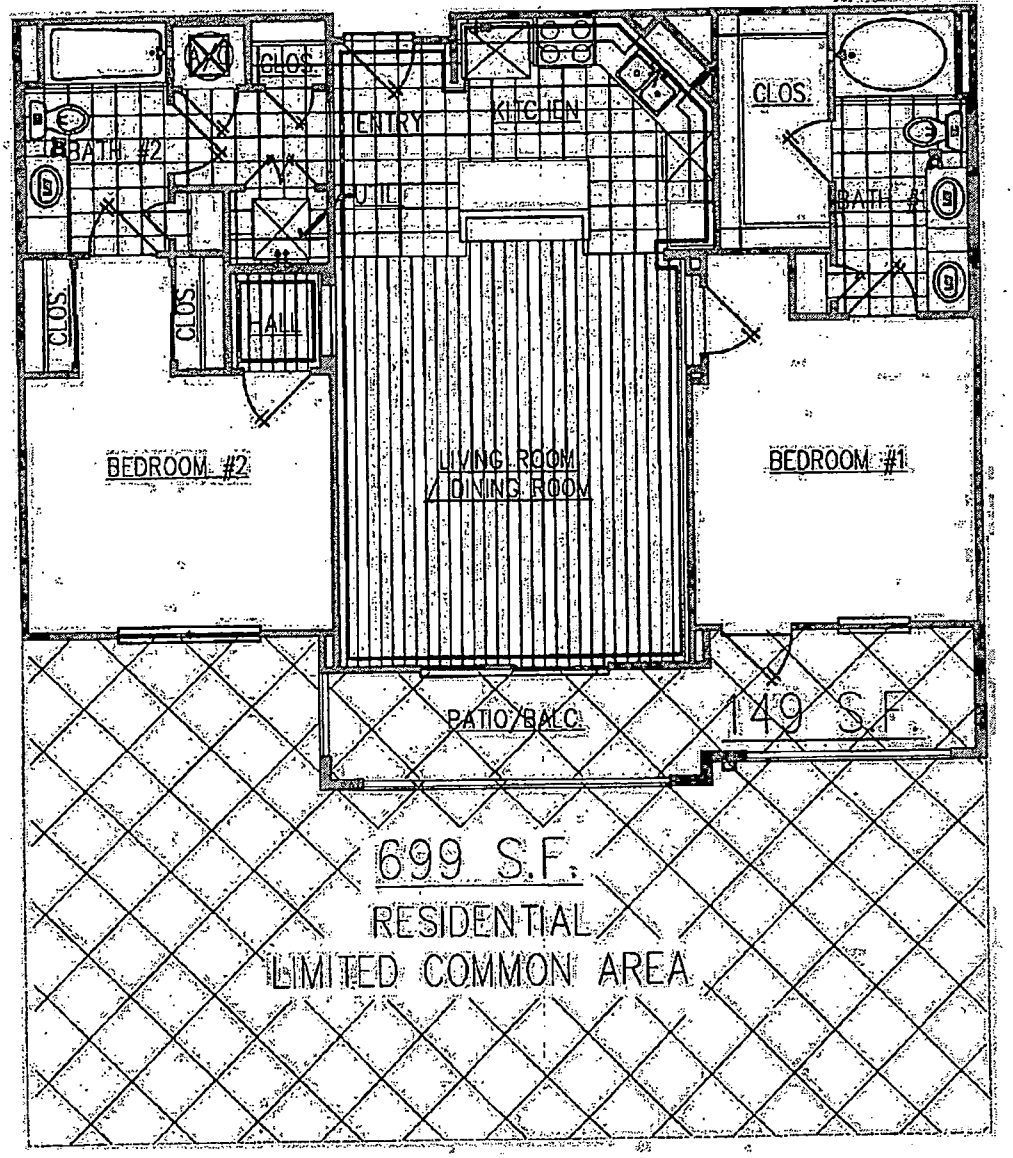
SCALE: NTS

UNIT	B6-HC
2 BEDROOM	2 BATH
CONDITION AREA	1,105 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	149 S.F.
TOTAL AREA	1,254 S.F.
NUMBER OF UNITS	1

UNIT NUMBER:
246

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UNIT TYPE B6A – BUILDING – (1ST FLOOR)

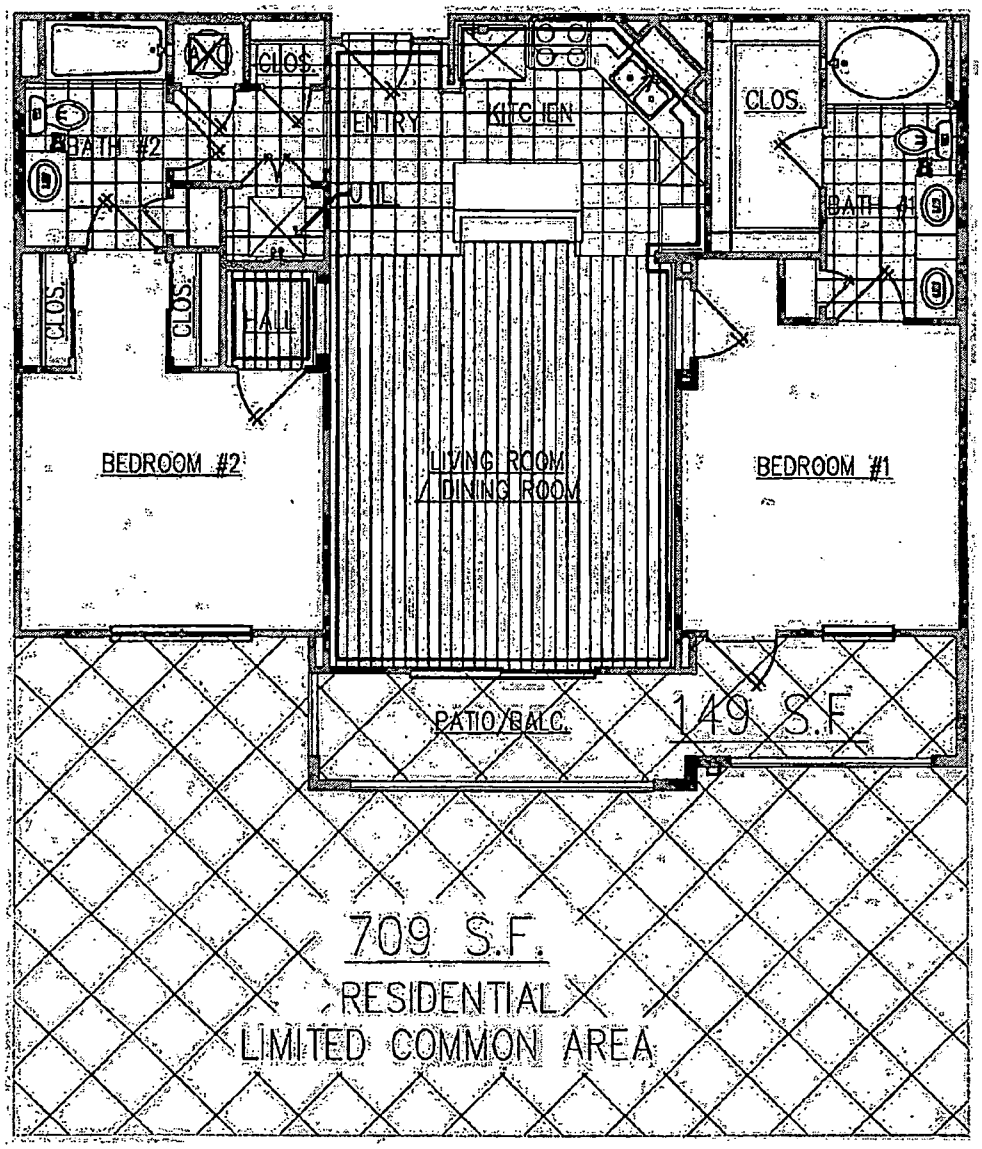
SCALE: NTS

UNIT	B6A
2 BEDROOM	2 BATH
CONDITION AREA	1,105 S.F.
RESIDENTIAL LCA	699 S.F.
BALC./MISC.AREA	149 S.F.
TOTAL AREA	1,953 S.F.
NUMBER OF UNITS	1

UNIT NUMBER:
146

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UNIT TYPE B6B – BUILDING –(1ST FLOOR)

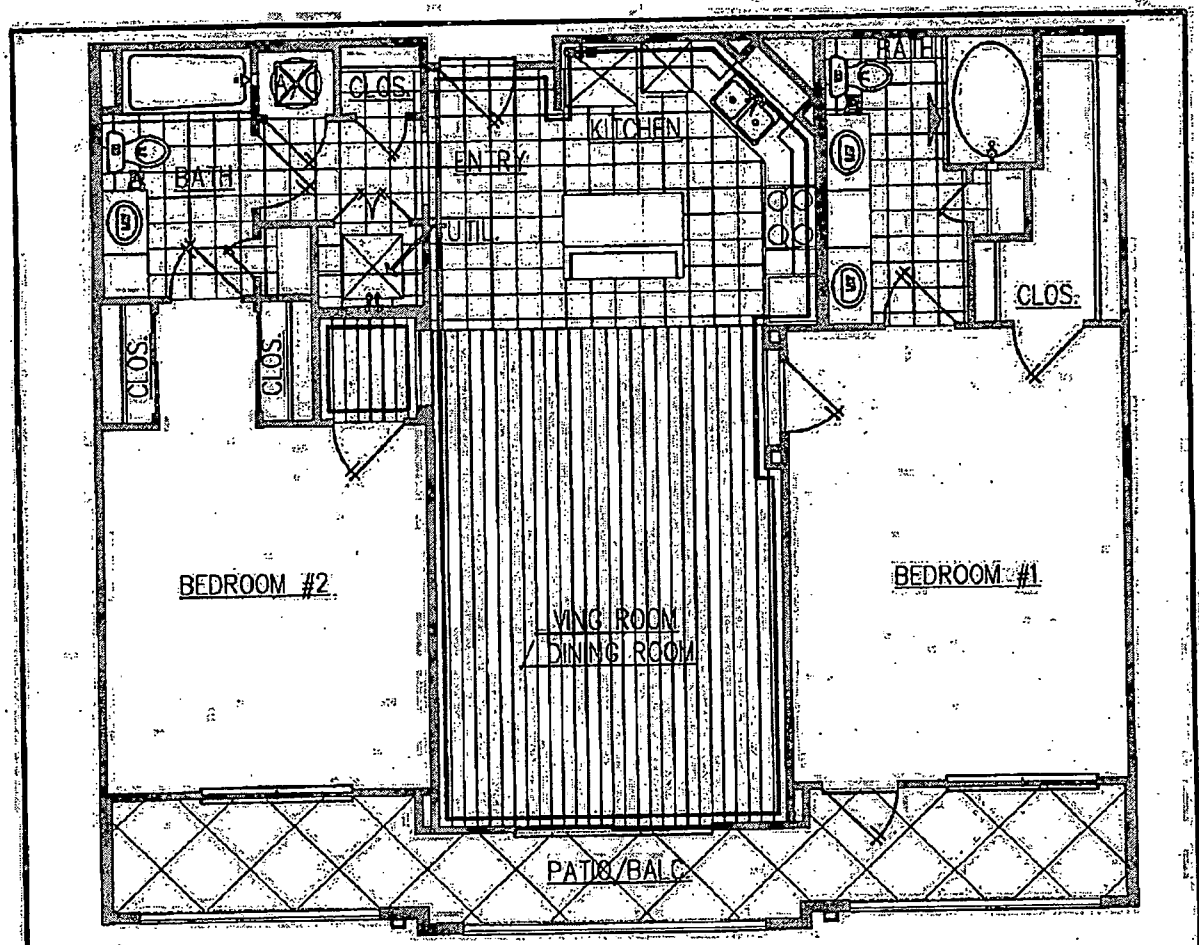
SCALE: NTS

UNIT B6B	
2 BEDROOM	2 BATH
CONDITION AREA	1,105 S.F.
RESIDENTIAL LCA	709 S.F.
BALC./MISC. AREA	149 S.F.
TOTAL AREA	1,963 S.F.
NUMBER OF UNITS	1

UNIT NUMBER:
150

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UNIT TYPE C – BUILDING – (1ST, 2ND, 3RD, 4TH FLOORS) SCALE: NTS

UNIT C	
2 BEDROOM	2 BATH
CONDITION. AREA	1,275 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	195 S.F.
TOTAL AREA	1,470 S.F.
NUMBER OF UNITS	60

UNIT NUMBERS:

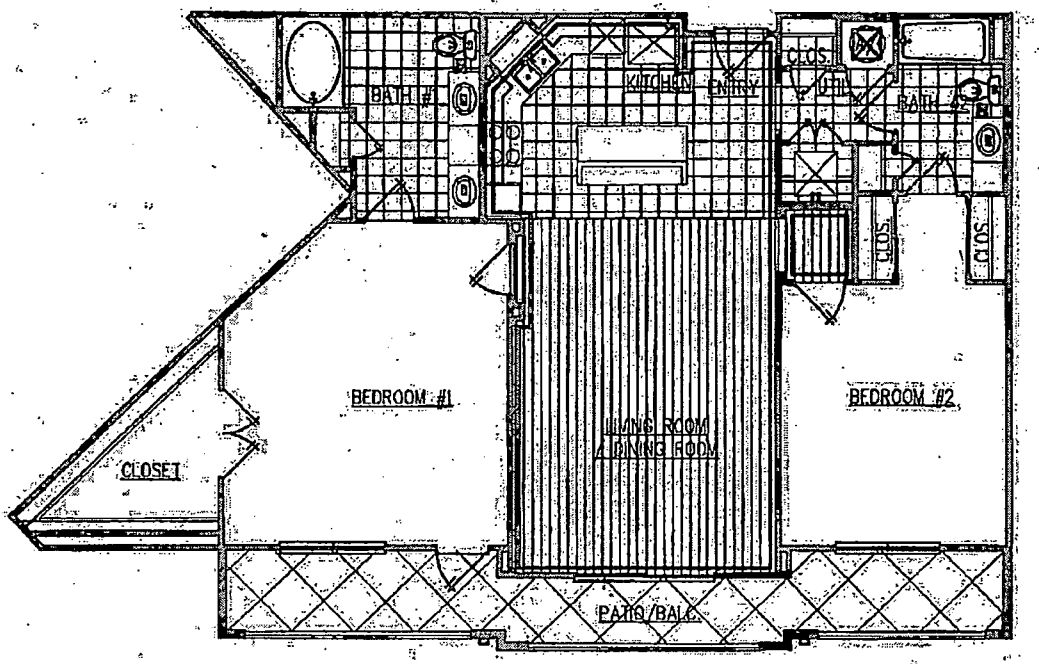
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131, 134, 137,
139, 220, 223,
225, 231, 234,
237, 239, 320,
323, 325, 331,
334, 337, 339,
420, 423, 425,
431, 434, 437,
439,

MIRRORED UNITS
UNIT NUMBERS:

113, 115, 124,
126, 130, 140,
142, 147, 213,
215, 224, 226,
230, 240, 242,
247, 313, 315,
324, 326, 330,
340, 342, 347,
413, 415, 424,
426, 430, 440,
442, 447

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UNIT TYPE C1 = BUILDING -(1ST, 2ND, 3RD, 4TH FLOORS)

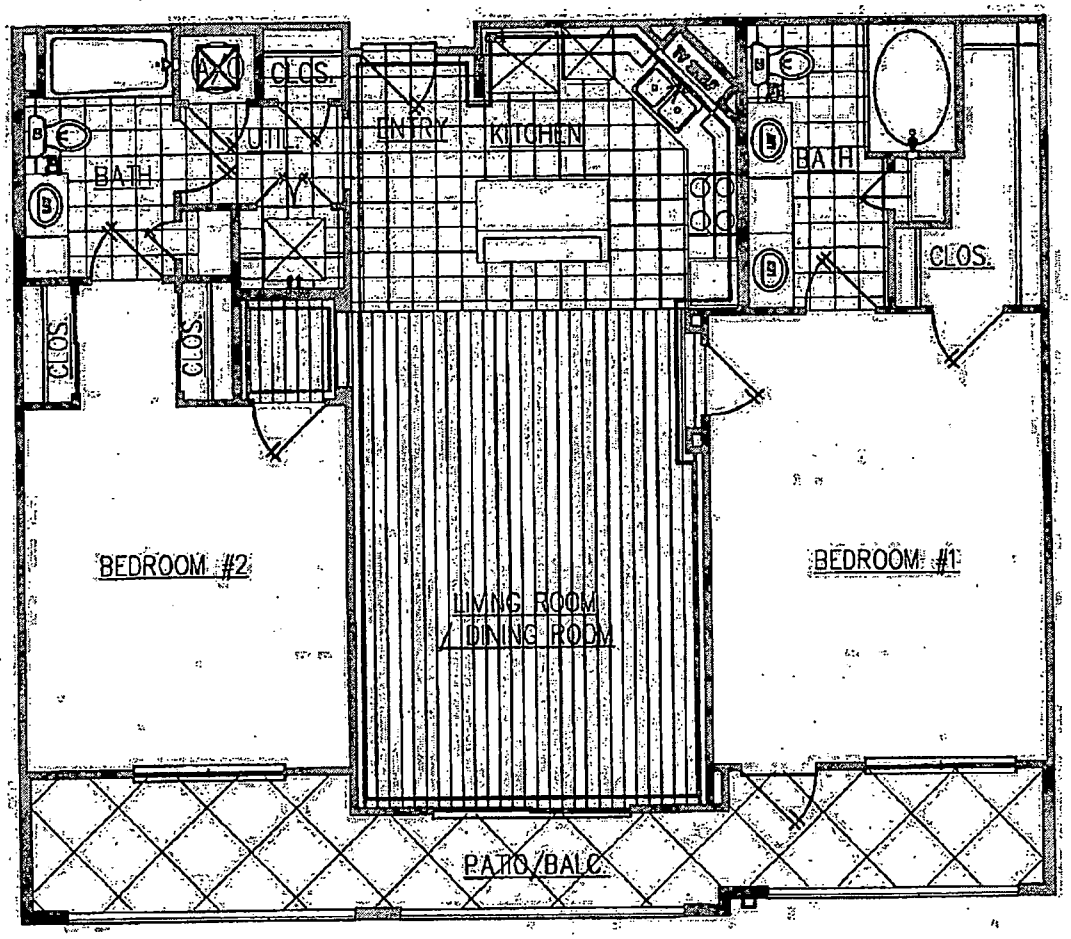
SCALE: NTS

UNIT C1	
2 BEDROOM	2 BATH
CONDITION AREA	1,425 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	213 S.F.
TOTAL AREA	1,638 S.F.
NUMBER OF UNITS	4

UNIT NUMBERS:
128, 228, 328, 428

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UNIT TYPE C2 – BUILDING –(1ST, 2ND, 3RD, 4TH FLOORS)

SCALE: NTS

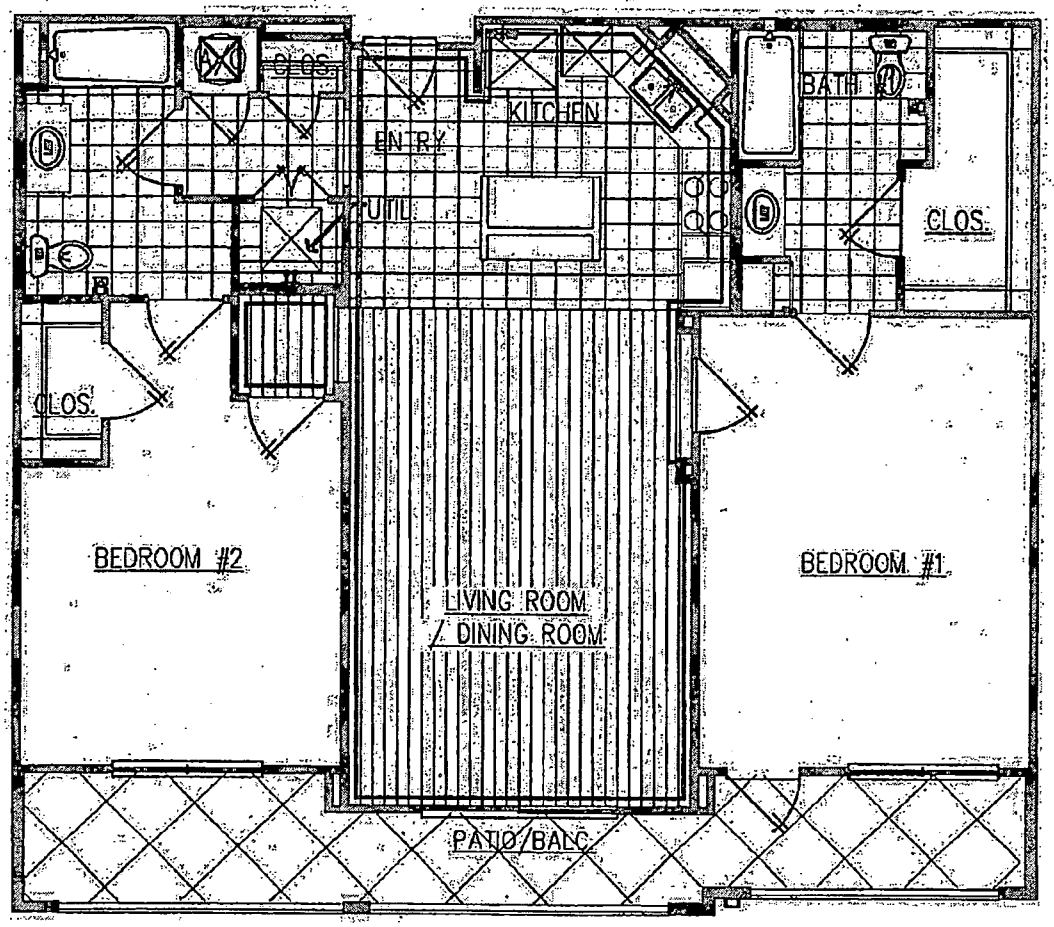
UNIT C2	
2 BEDROOM	2 BATH
CONDITION AREA:	1,274 S.F.
UTILITY AREA:	S.F.
BALC./MISC.AREA:	204 S.F.
TOTAL AREA	1,478 S.F.
NUMBER OF UNITS	7

UNIT NUMBERS:
214, 314, 414

MIRRORED UNITS
UNIT NUMBERS:
116, 216, 316, 416

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UNIT TYPE C2-HC - BUILDING -(1ST FLOOR)

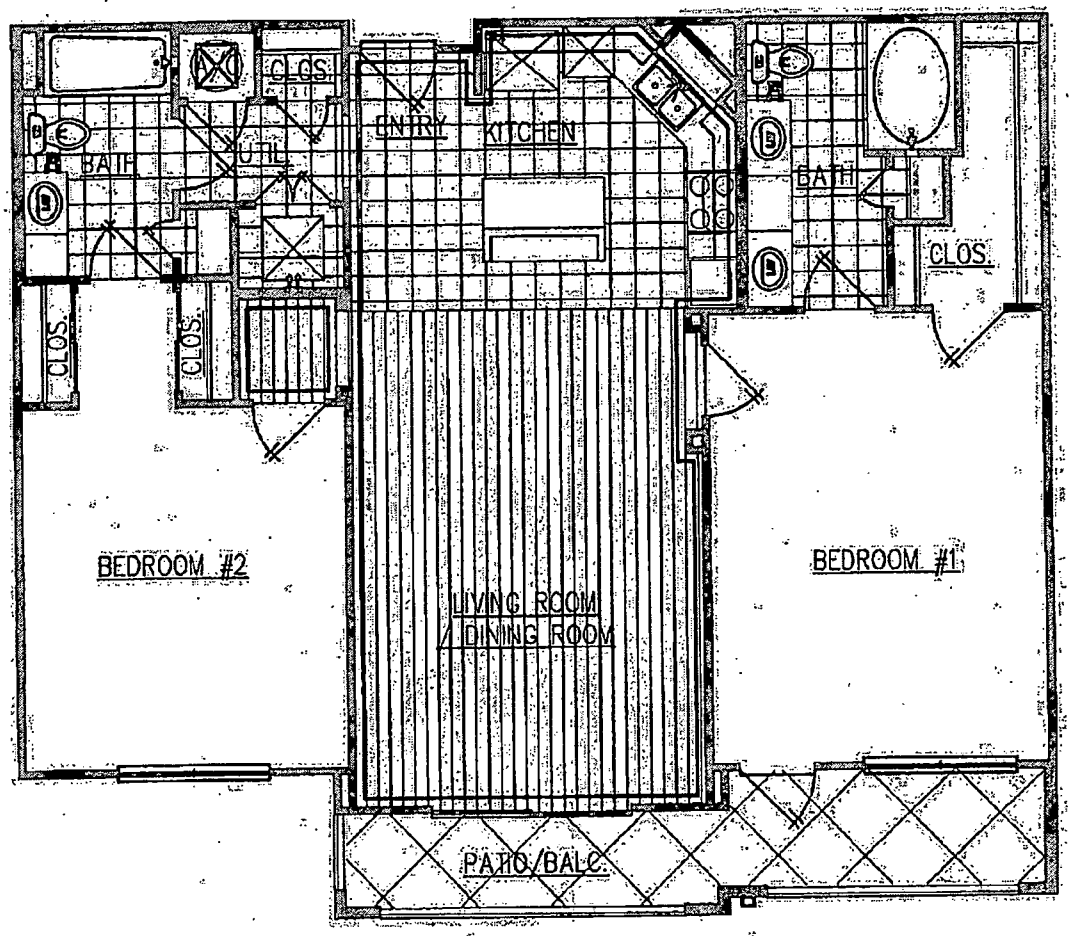
SCALE: NTS

UNIT	C2-HC
2 BEDROOM	2 BATH
CONDITION AREA	1,275 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	203 S.F.
TOTAL AREA	1,478 S.F.
NUMBER OF UNITS	1

UNIT NUMBER:
114

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UNIT TYPE C3A - BUILDING -(2ND, 3RD, 4TH FLOORS)

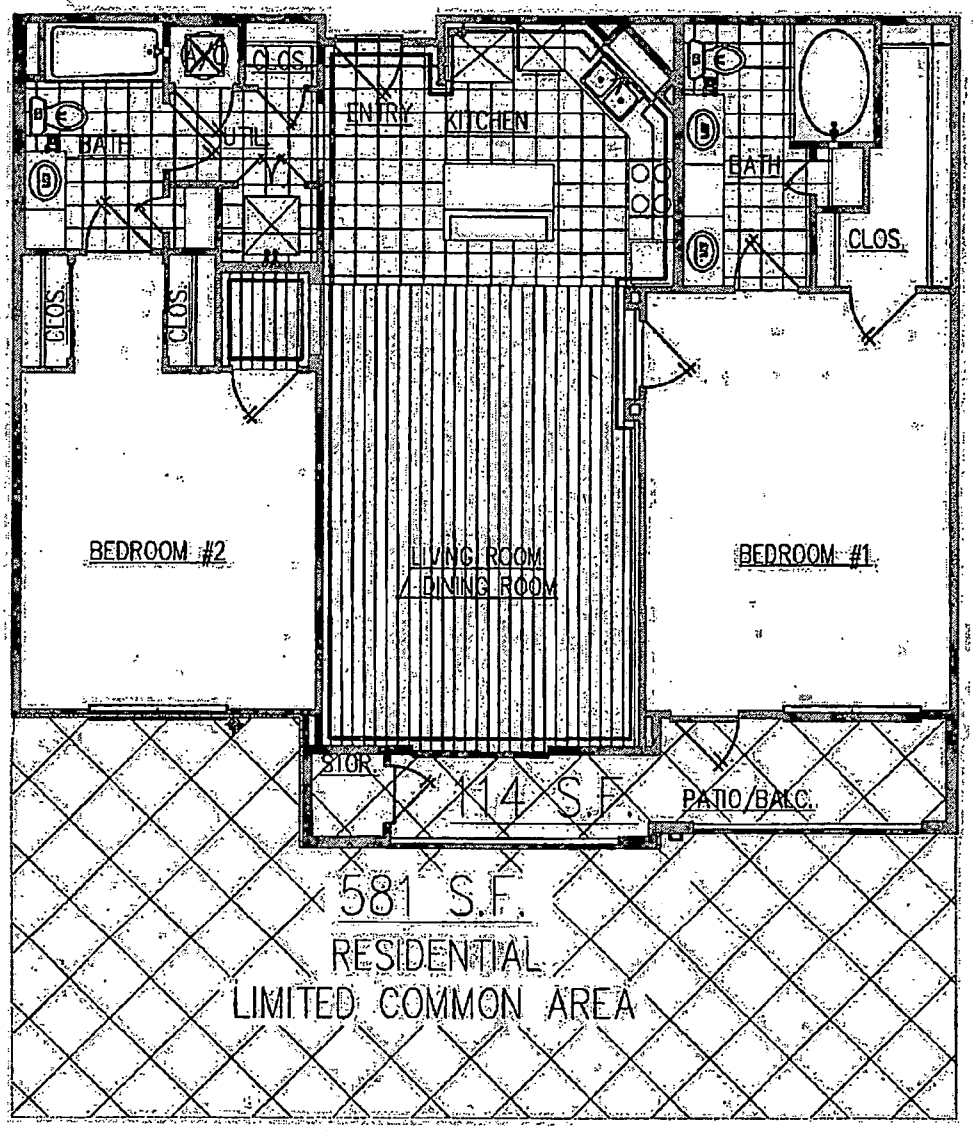
SCALE: NTS

UNIT C3	
2 BEDROOM,	2 BATH
CONDITION AREA	1,275 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	131 S.F.
TOTAL AREA	1406 S.F.
NUMBER OF UNITS	3

UNIT NUMBERS:
248, 348, 448

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UNIT TYPE C3A – BUILDING –(1ST FLOOR)

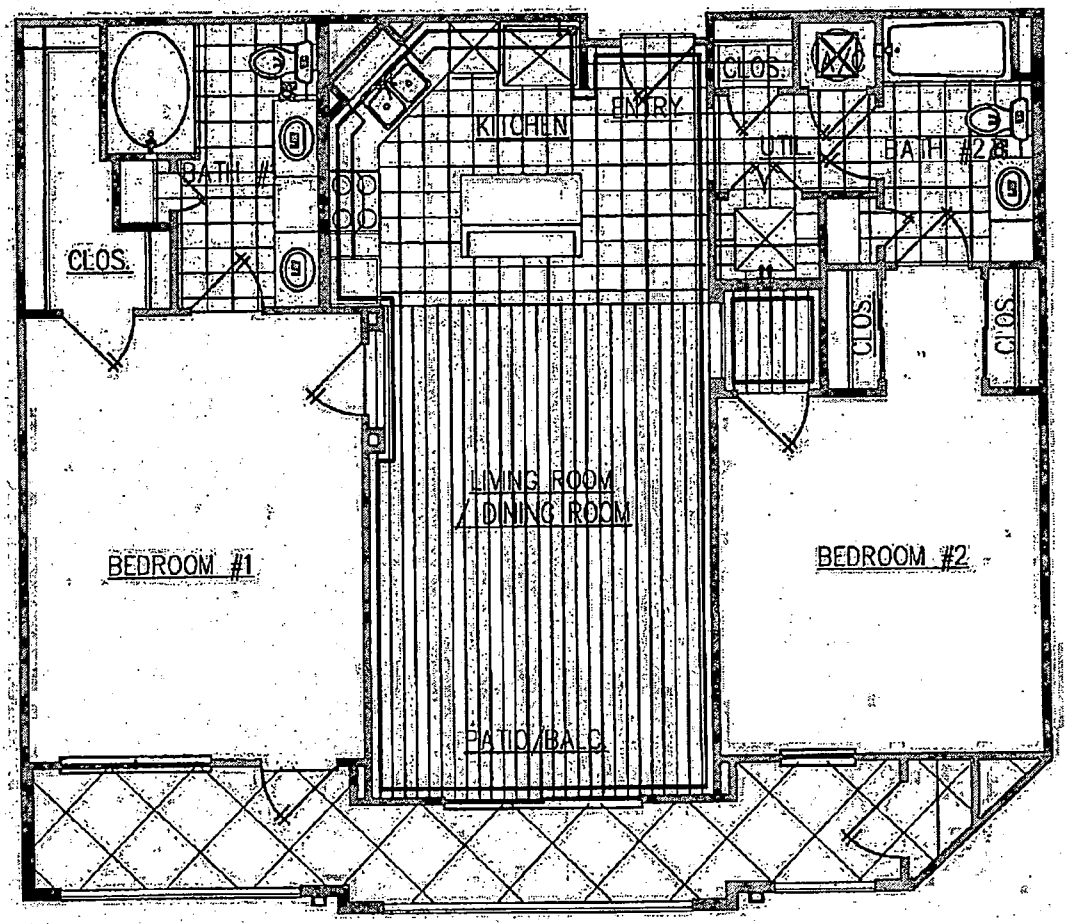
SCALE: N.T.S.

UNIT	C3A
2 BEDROOM	2 BATH
CONDITION AREA	1,275 S.F.
UTILITY AREA	17 S.F.
RESIDENTIAL LCA	581 S.F.
BALC./MISC.AREA	114 S.F.
TOTAL AREA	1,987 S.F.
NUMBER OF UNITS	1

UNIT NUMBER:
148

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UNIT TYPE C4 – BUILDING –(1ST, 2ND, 3RD, 4TH FLOORS)

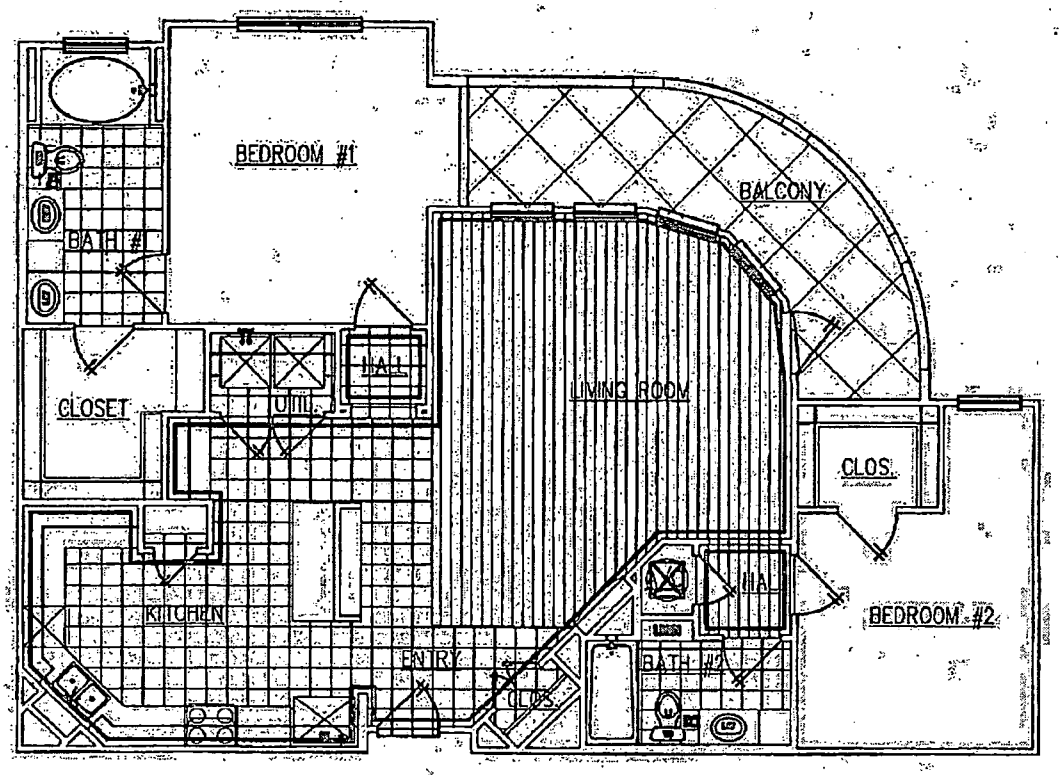
SCALE: NTS

UNIT C4	
2 BEDROOM	2 BATH
CONDITION AREA	1,262 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	186 S.F.
TOTAL AREA	1,448 S.F.
NUMBER OF UNITS	4

UNIT NUMBERS:
129, 229, 329, 429

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UNIT TYPE D – BUILDING –(2ND, 3RD, 4TH FLOORS)

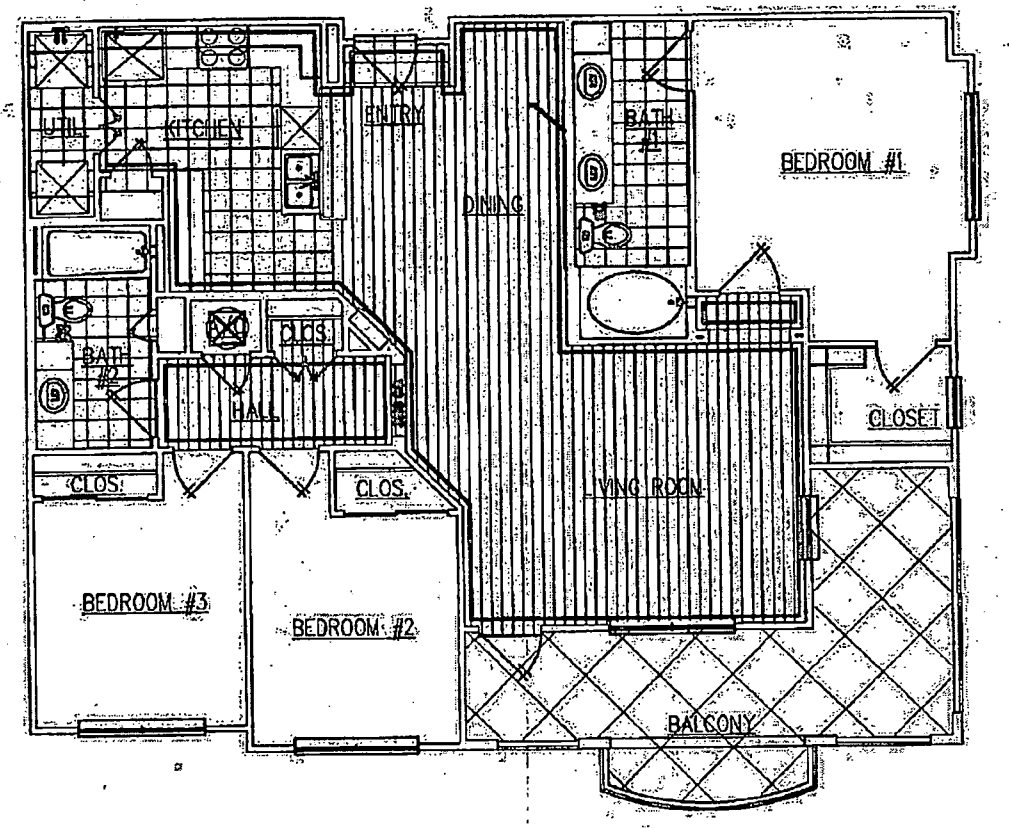
SCALE: NTS

UNIT D	
2 BEDROOM	2 BATH
CONDITION AREA:	1,346 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	171 S.F.
TOTAL AREA	1,519 S.F.
NUMBER OF UNITS	3

UNIT NUMBERS:
212, 312, 412

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UNIT TYPE E1 – BUILDING = (1ST, 2ND, 3RD, 4TH FLOORS)

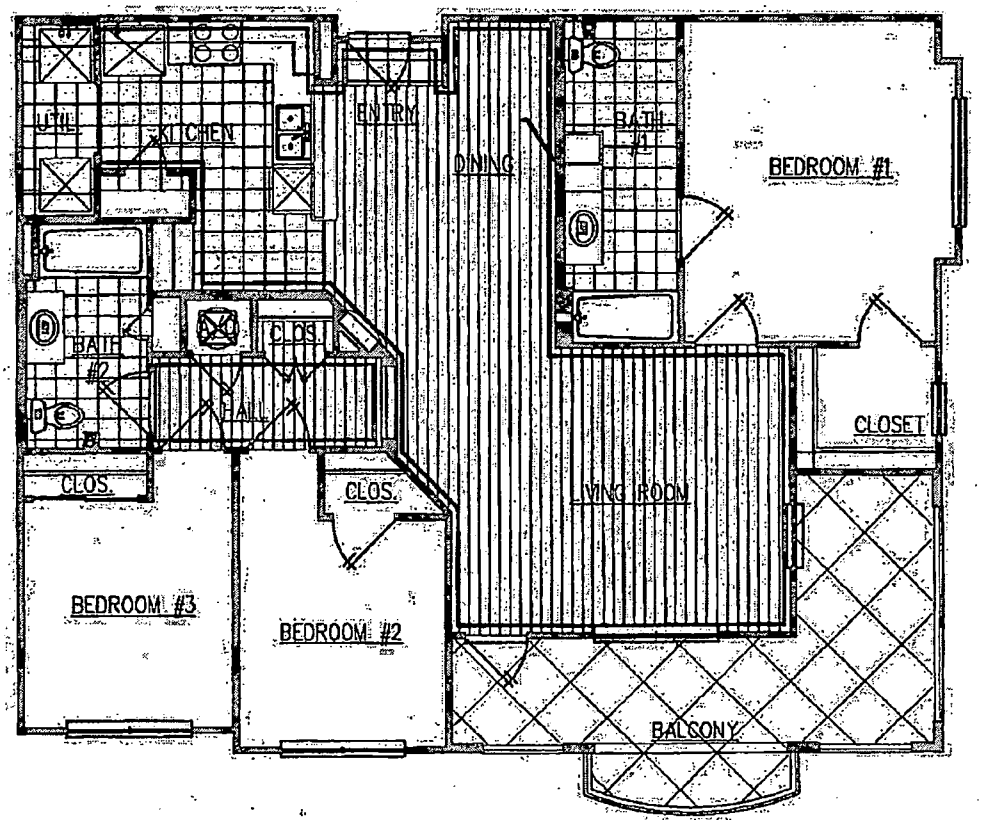
SCALE: NTS

UNIT E1	
3 BEDROOM	2 BATH
CONDITION AREA	1,372 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	215 S.F.
TOTAL AREA	1,587 S.F.
NUMBER OF UNITS	6

UNIT NUMBERS:
145, 219, 319,
345, 419, 445

The Gates at Williams-Brice HPR
Columbia, South Carolina

Book/Page: R 1334/2078 (This is not an Official Copy)



UNIT TYPE E1-HC - BUILDING -(2ND FLOOR)

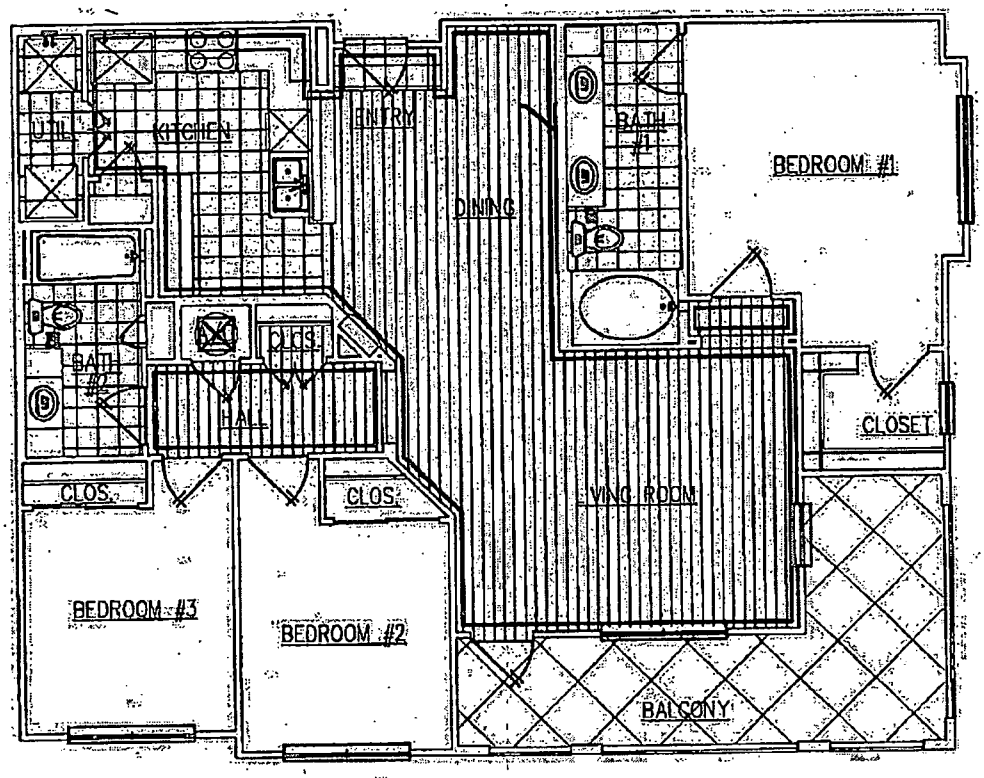
SCALE: NTS

UNIT	E1-HC
3 BEDROOM	2 BATH
CONDITION AREA	1,372 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	215 S.F.
TOTAL AREA	1,587 S.F.
NUMBER OF UNITS	1

UNIT NUMBER:
245

The Gates at Williams-Brice HPR
Columbia, South Carolina

Book/Page: R-1334/2079 (This is not an Official Copy)



UNIT TYPE E1-ALT - BUILDING - (1ST FLOOR)

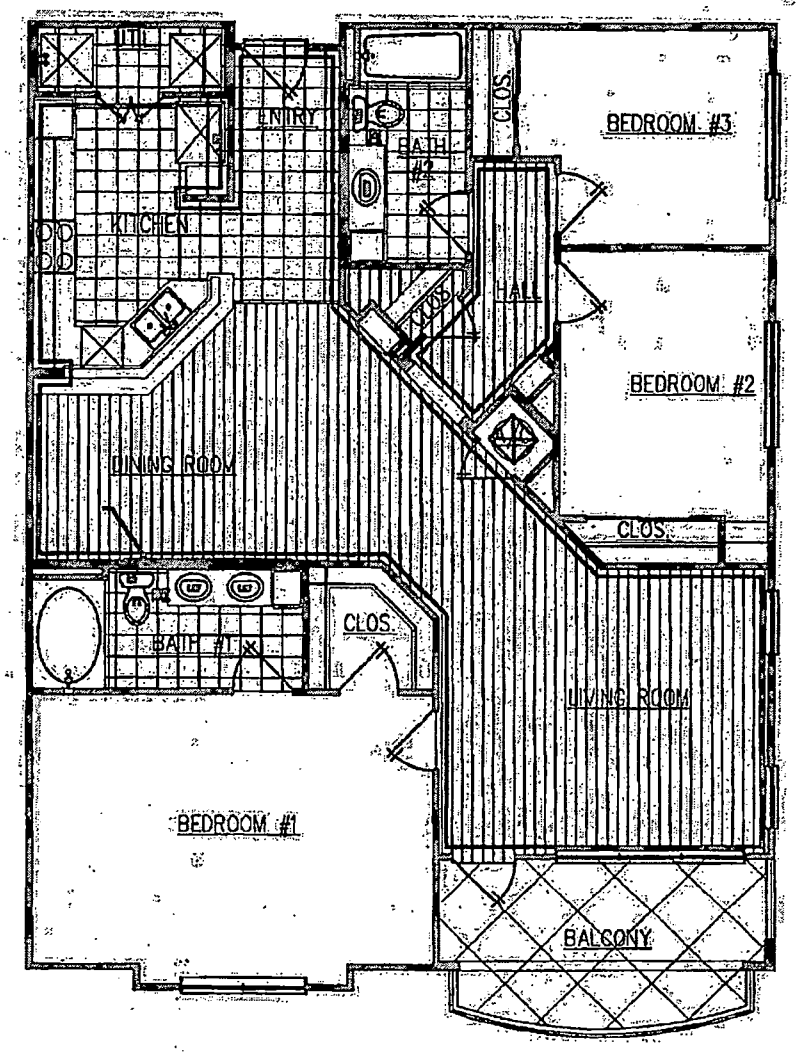
SCALE: NTS

UNIT	E1-ALT	
3 BEDROOM	2 BATH	
CONDITION AREA:	1,372 S.F.	
UTILITY AREA	S.F.	
BALC./MISC.AREA	187 S.F.	
TOTAL AREA	1,559 S.F.	
NUMBER OF UNITS:	1	

UNIT NUMBER:
119

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Columbia, South Carolina

Book/Page: R 13542/0080 (This is not an Official Copy)



UNIT TYPE E2 - BUILDING - (1ST, 2ND, 3RD, 4TH FLOORS)

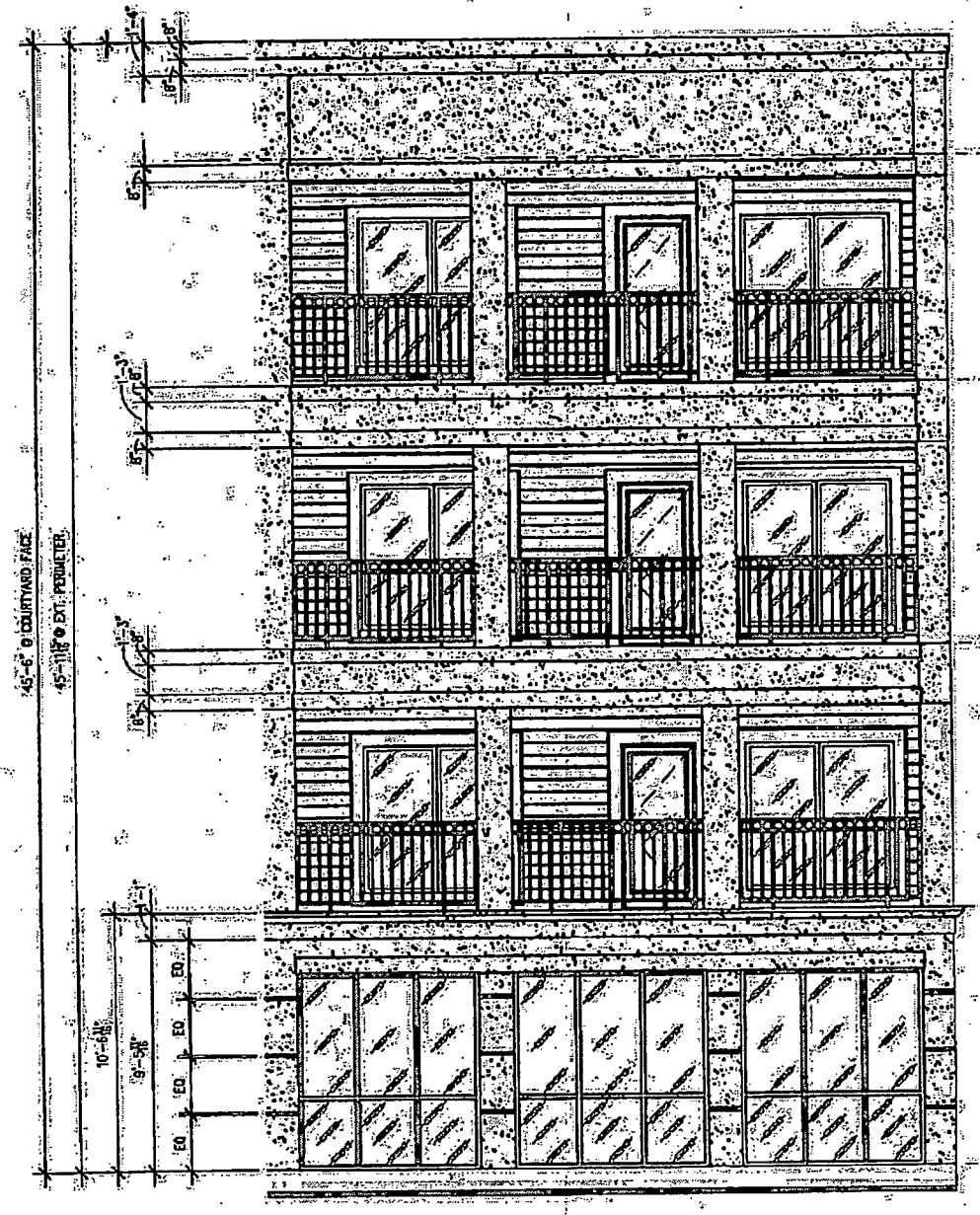
SCALE: NTS

UNIT	E2
3 BEDROOM	2 BATH
CONDITION AREA	1,543 S.F.
UTILITY AREA	S.F.
BALC./MISC AREA	83 S.F.
TOTAL AREA	1,626 S.F.
NUMBER OF UNITS	4

UNIT NUMBERS:
143, 243, 343, 443

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Columbia, South Carolina

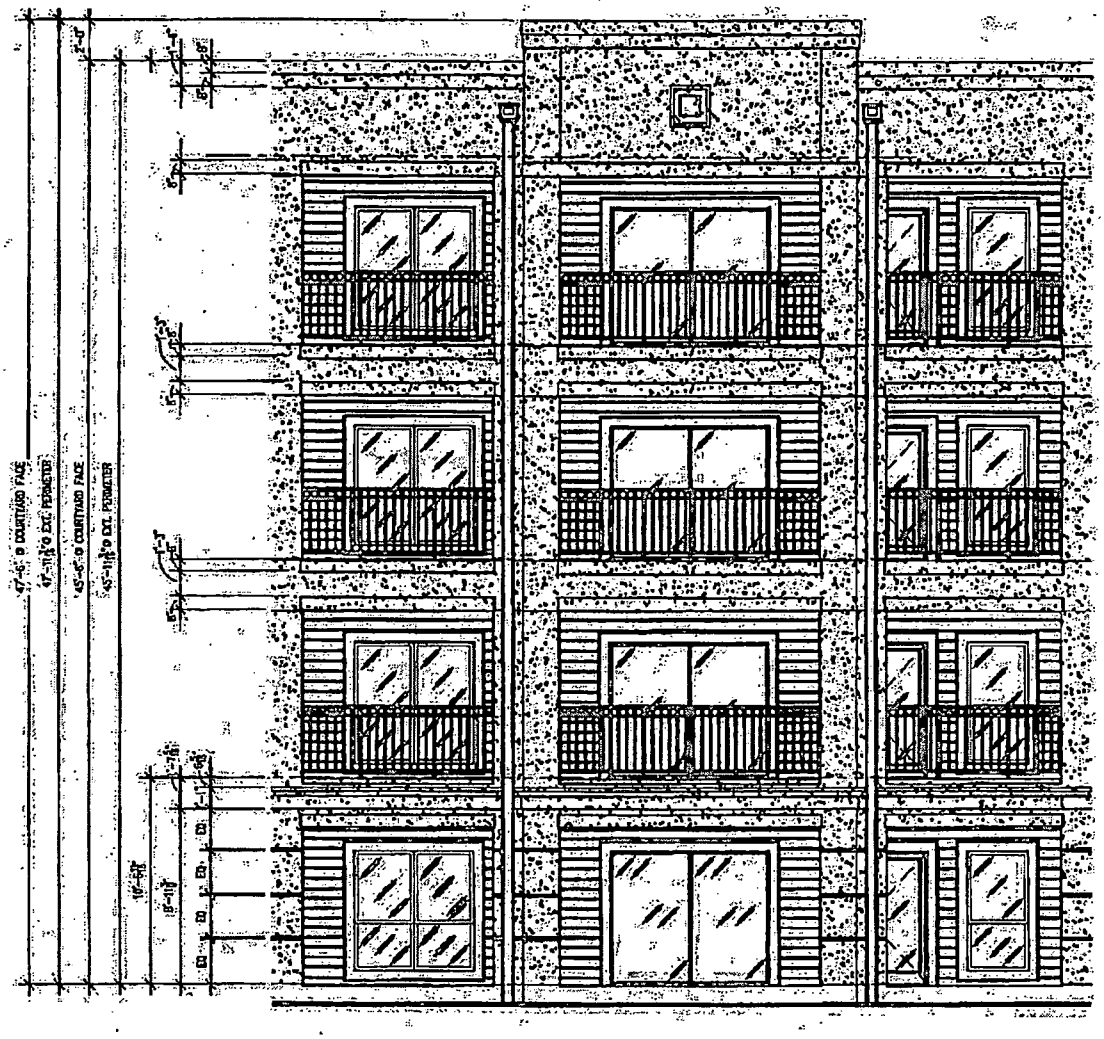
Book/Page: R 1354/2091 (This is not an Official Copy)



UNIT ELEVATION – 'A' UNIT / FITNESS

The Gates at Williams-Brice HPR
Columbia, South Carolina

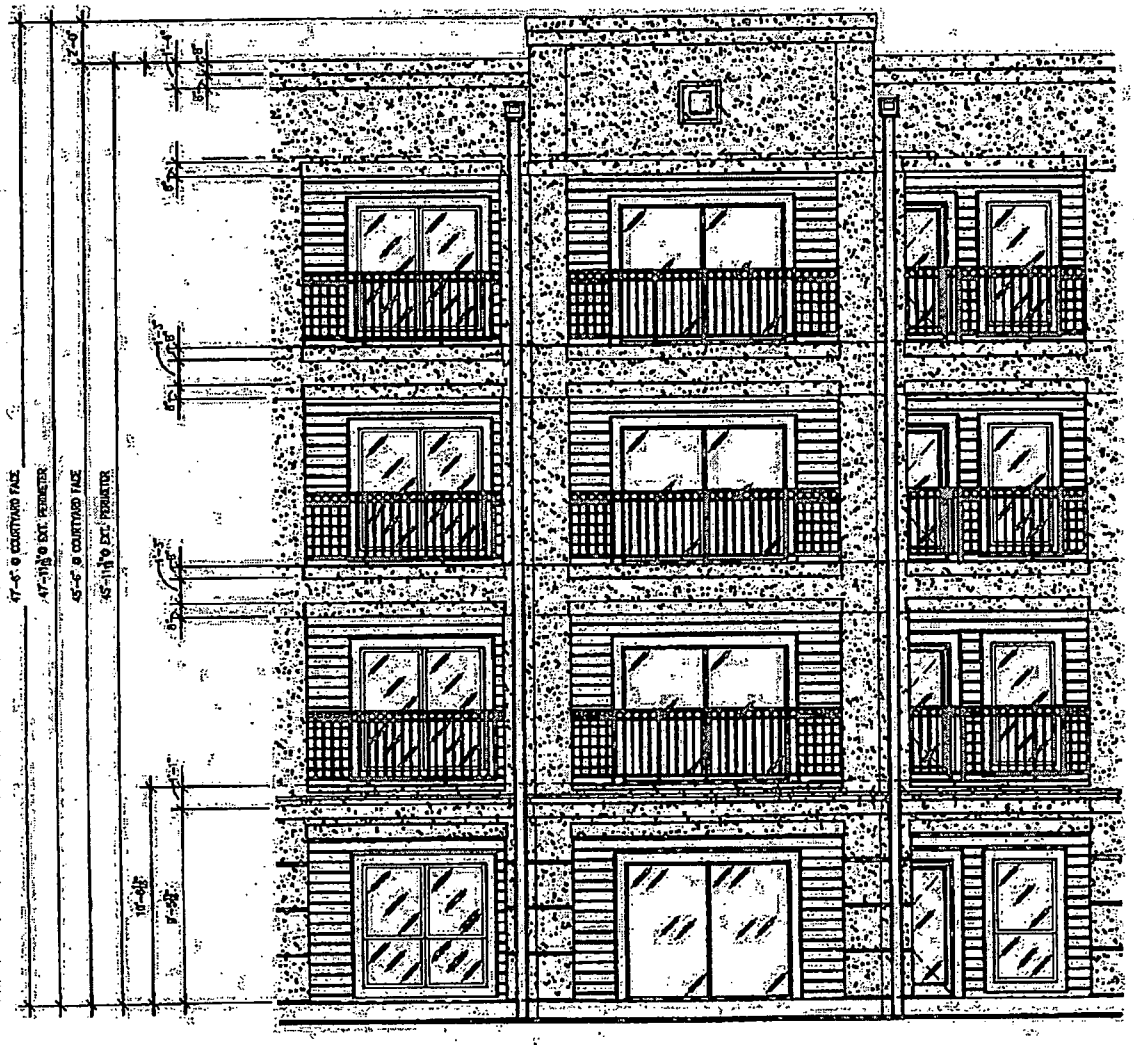
Book/Page: R 1334/2092 (This is not an Offical Copy)



UNIT ELEVATION – 'B' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina

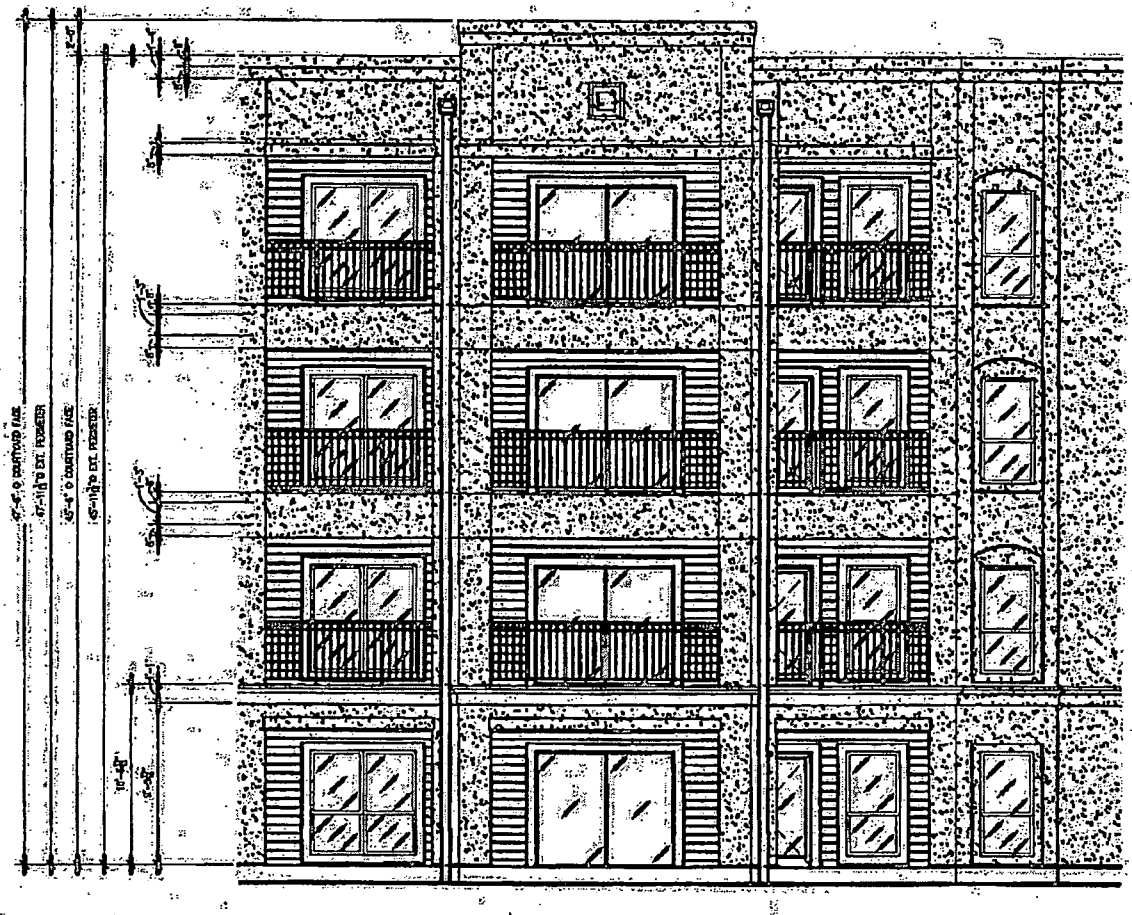
Book/Page: R 1334/2065 (This is not an Official Copy)



UNIT ELEVATION – Ba UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina

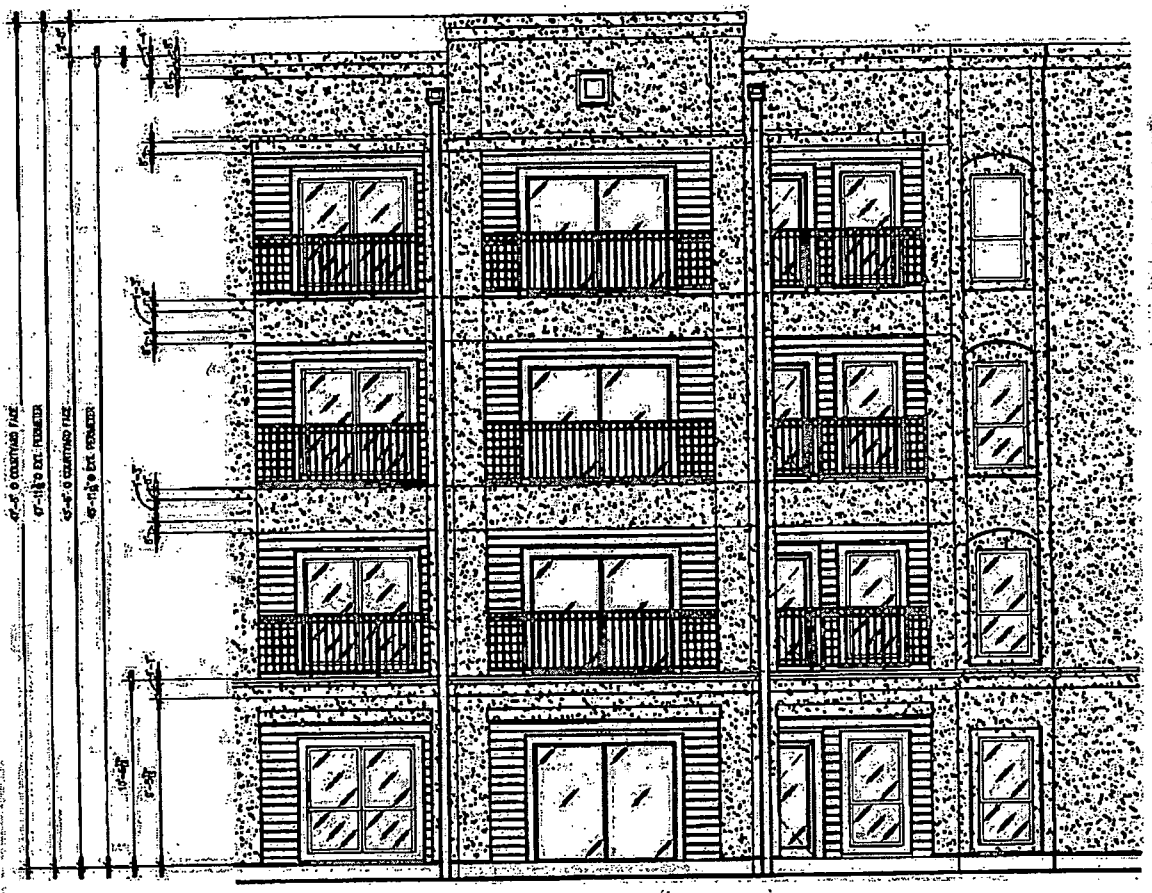
Book/Page: R 1394/2084 - (This is not an Official Copy)



UNIT ELEVATION – "B1" UNIT / FITNESS

The Gates at Williams-Brice HPR
Columbia, South Carolina

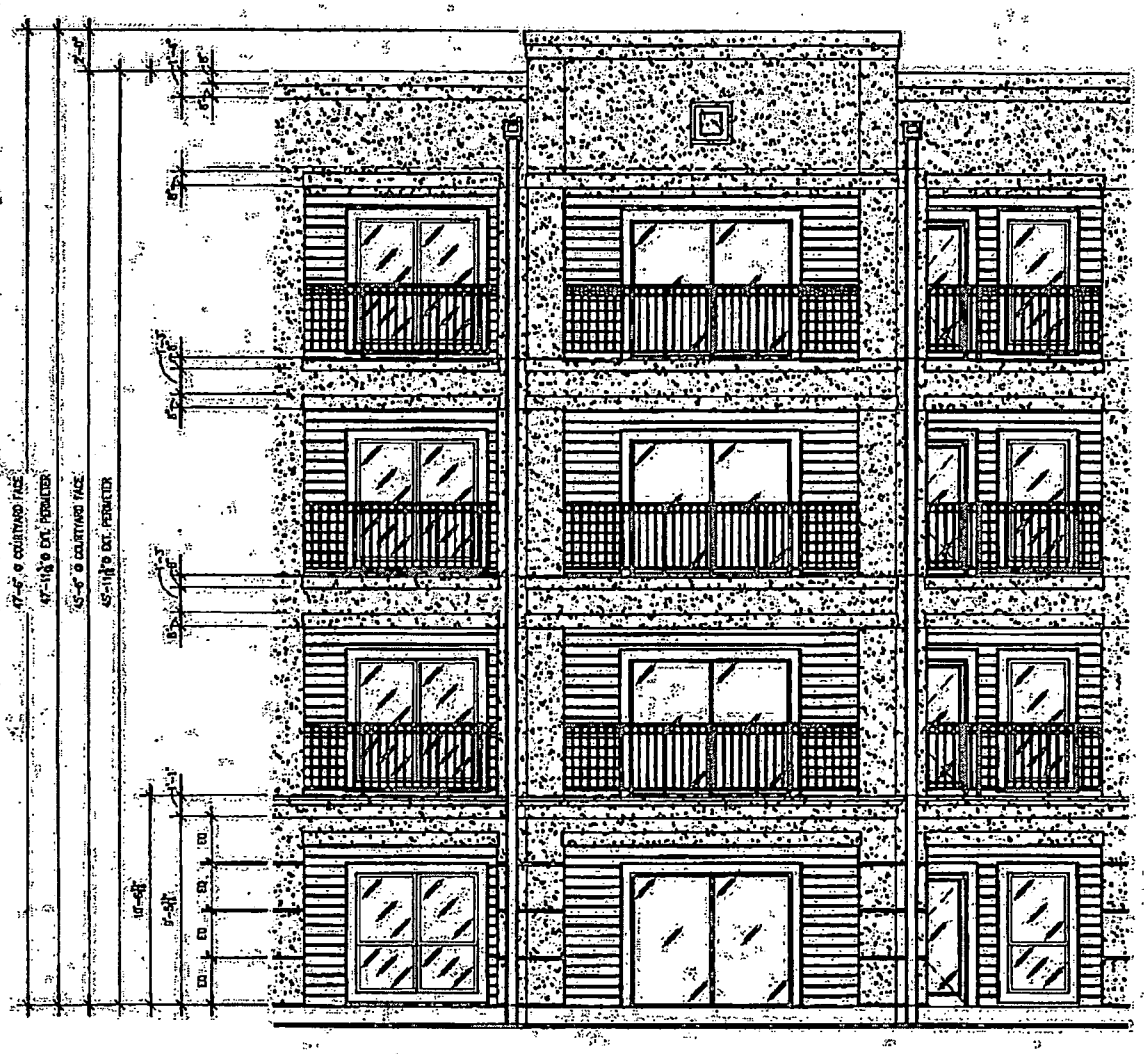
Book/Page: R 1334/2085 (This is not an Offical Copy)



UNIT ELEVATION – 'B2' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina

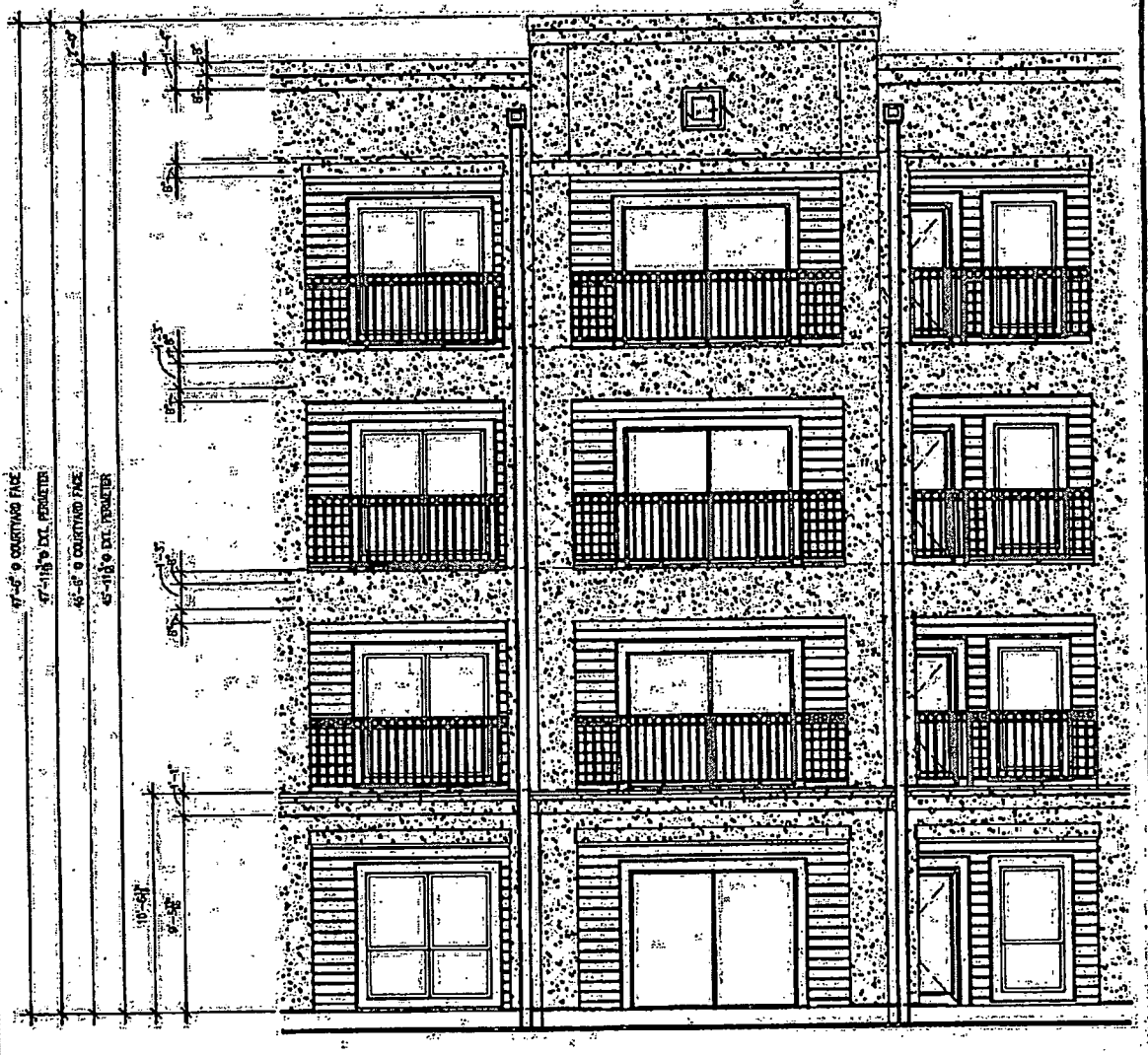
Book/Page: R 1334/2086 (This is not an Official Copy)



UNIT ELEVATION – 'B3' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina

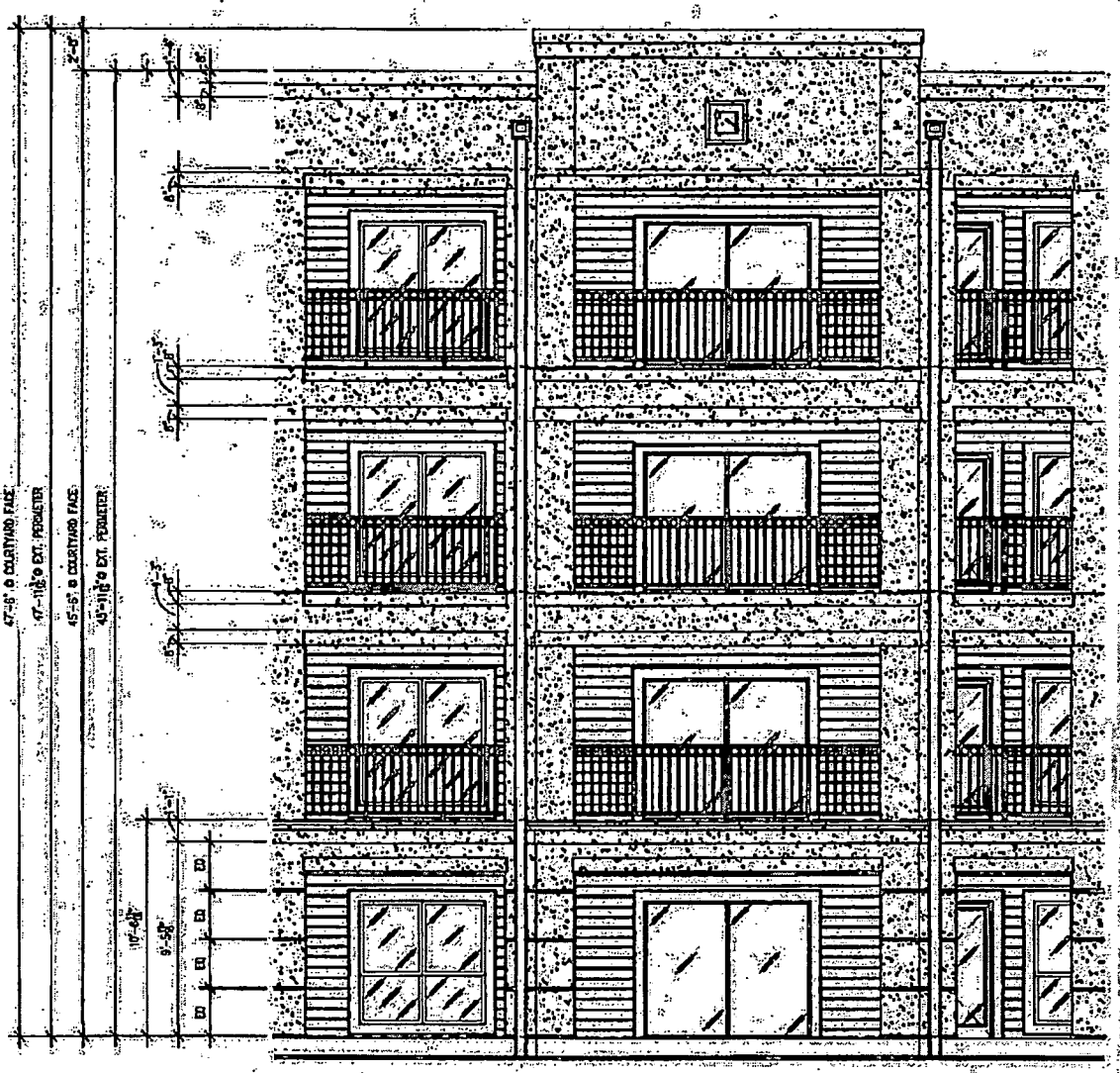
Book/Page: R 13347/2087 (This is not an Official Copy)



UNIT ELEVATION – 'B4' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina

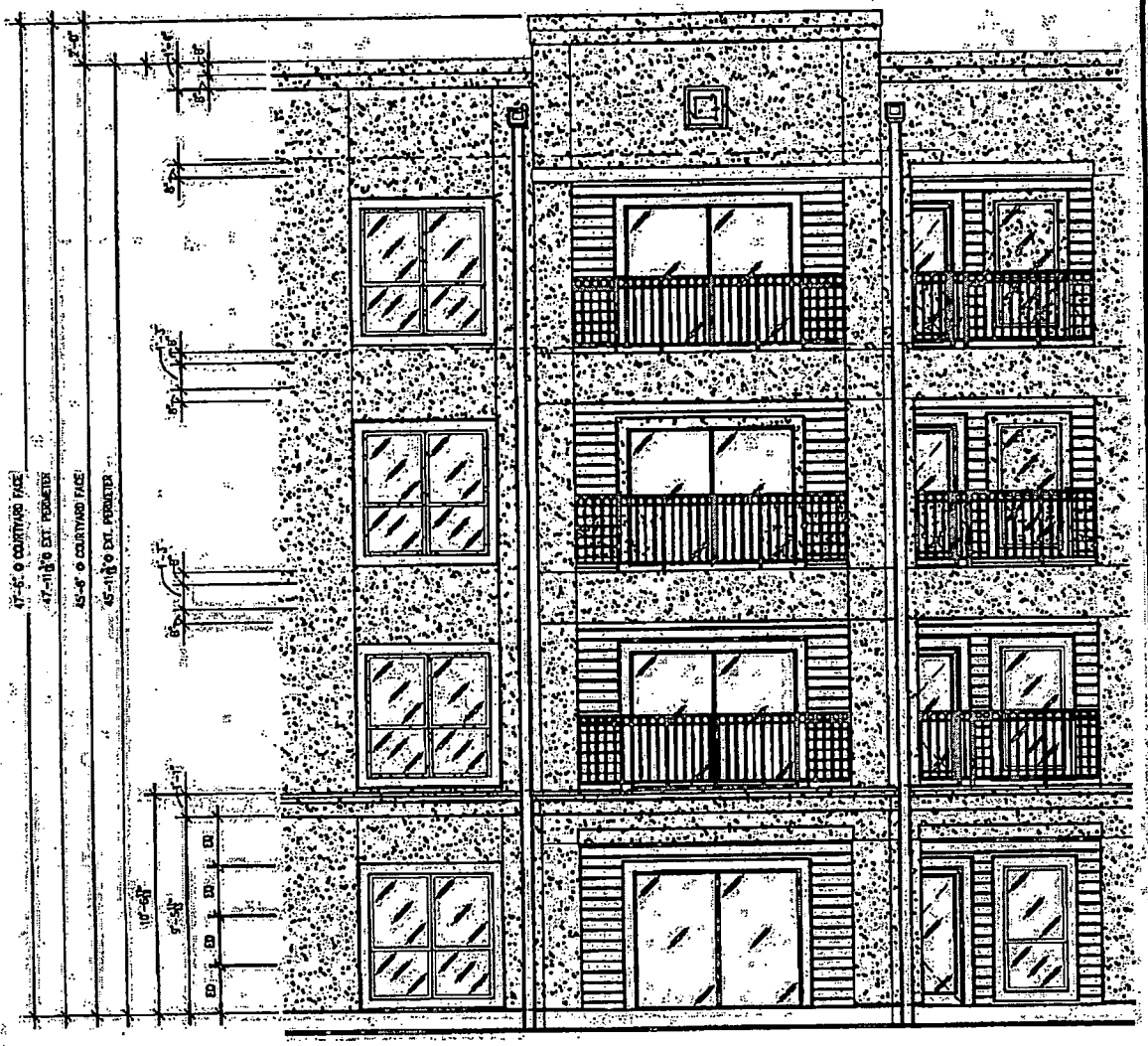
Book/Page: R 1334/2088 (This is not an Official Copy)



UNIT ELEVATION – 'B5' UNIT / FITNESS

The Gates at Williams-Brice HPR
Columbia, South Carolina

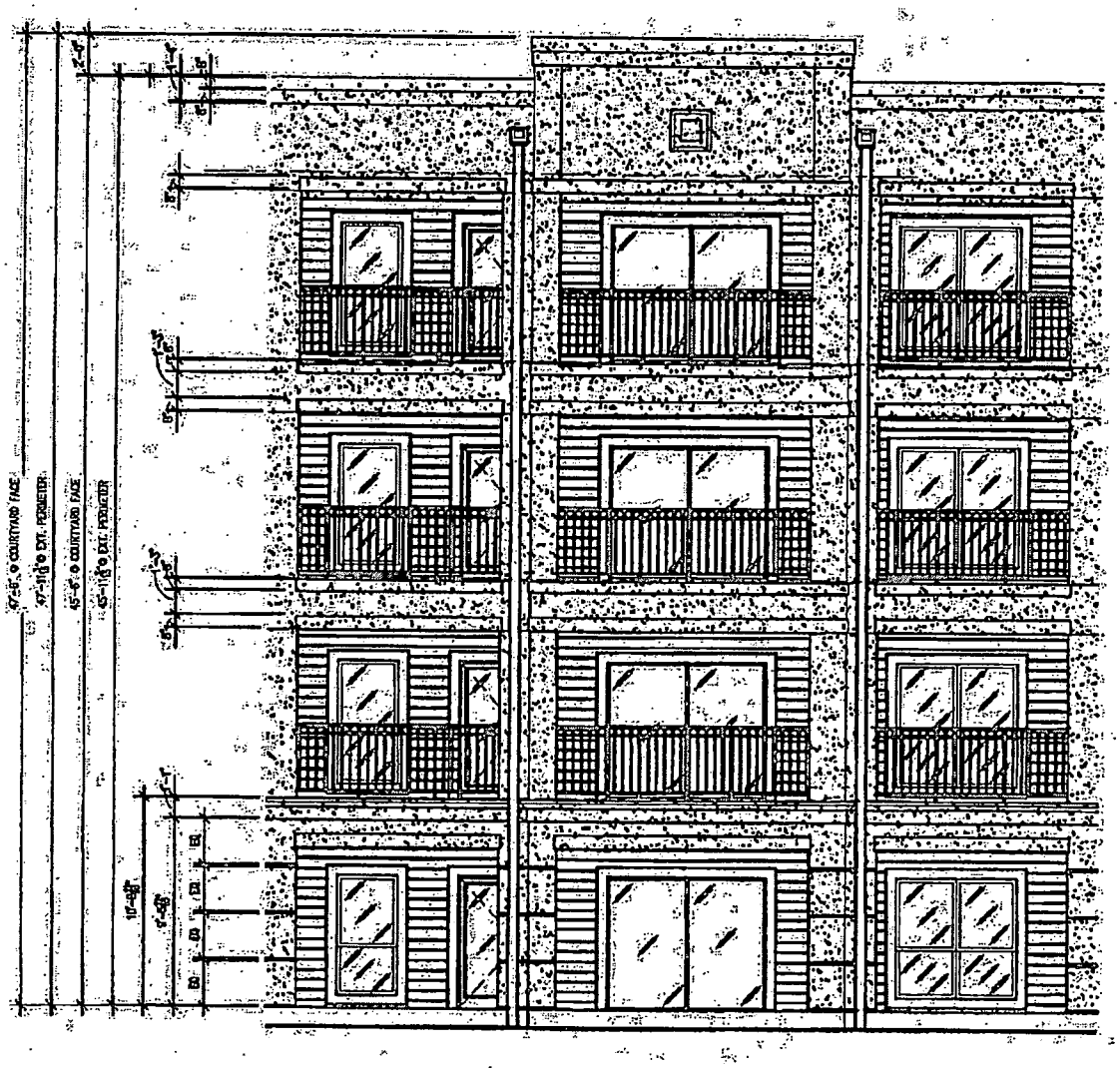
Book/Page: R 1334/2099 (This is not an Official Copy)



UNIT ELEVATION – 'B6' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina

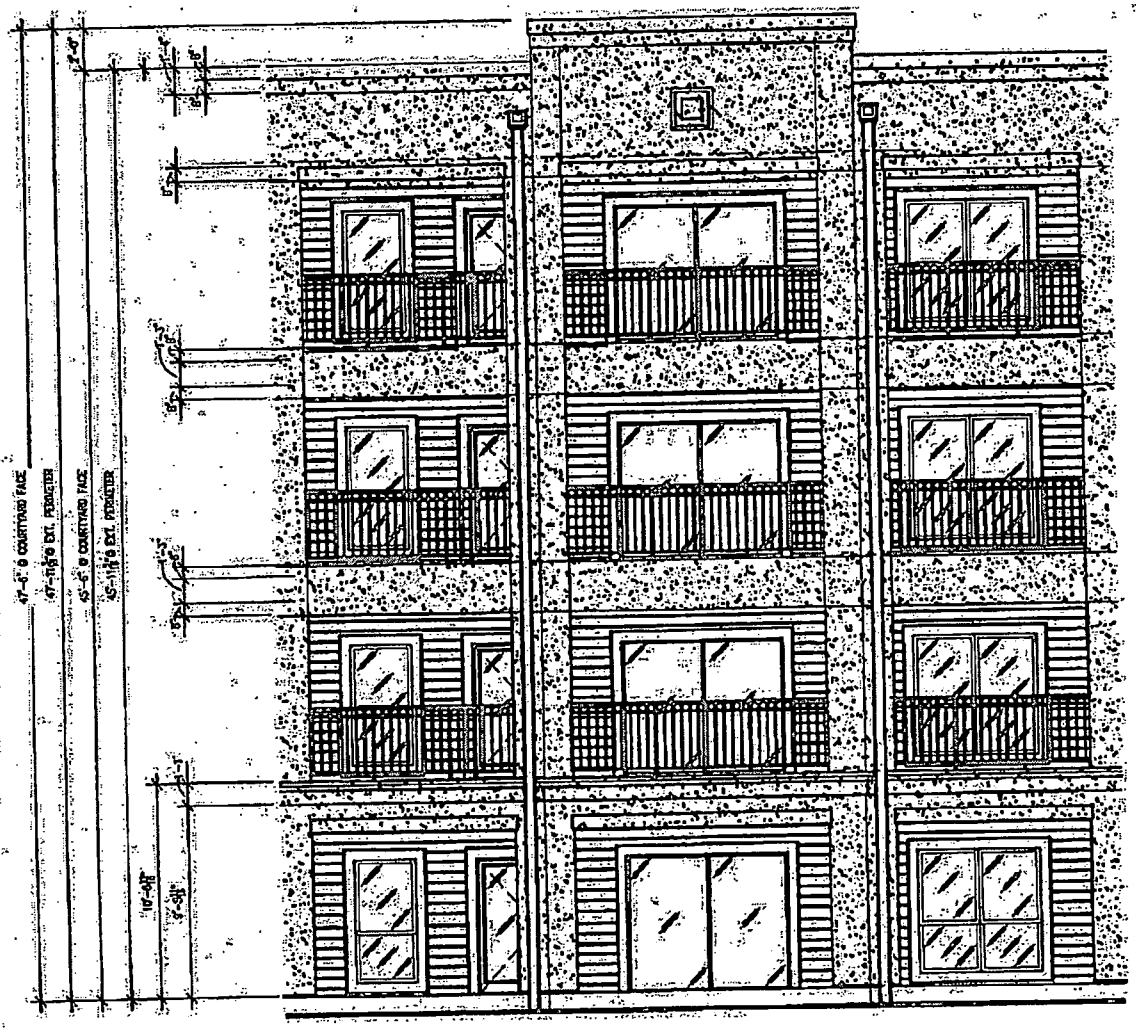
Book/Page: R 1334/2030 (This is not an Official Copy)



UNIT ELEVATION = 'C' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina

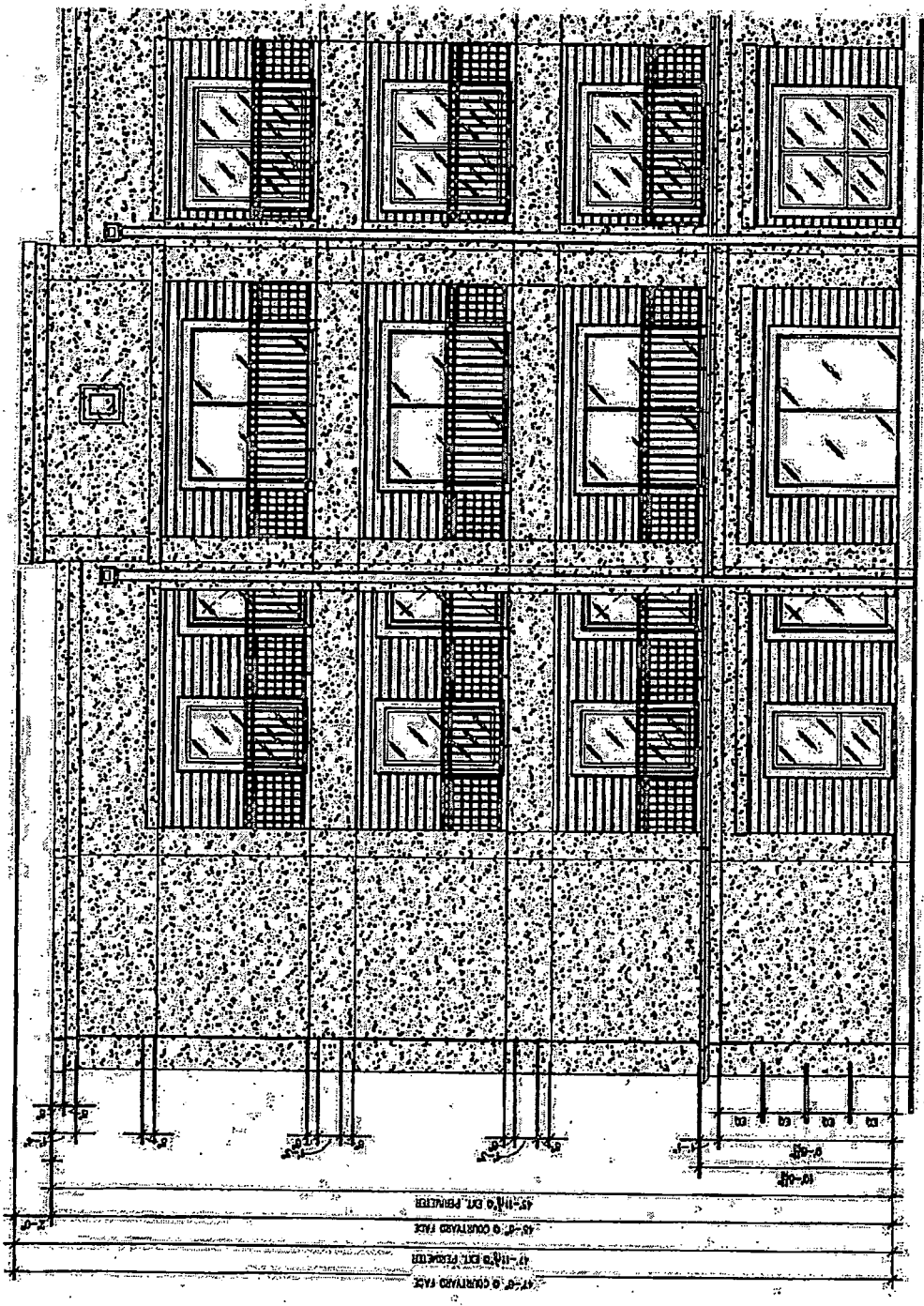
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UNIT ELEVATION – 'Co' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina

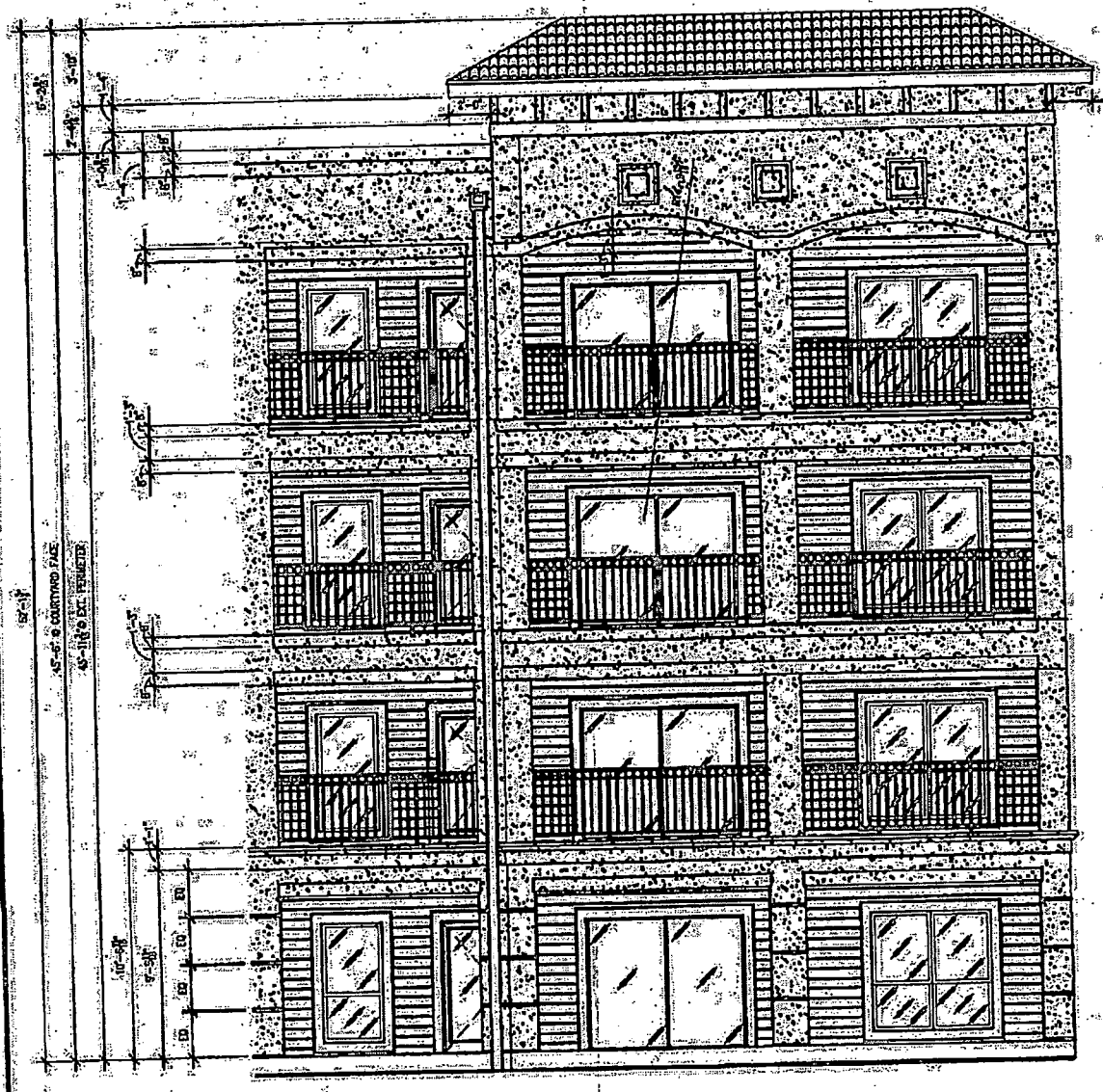
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UNIT ELEVATION – 'C1' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina

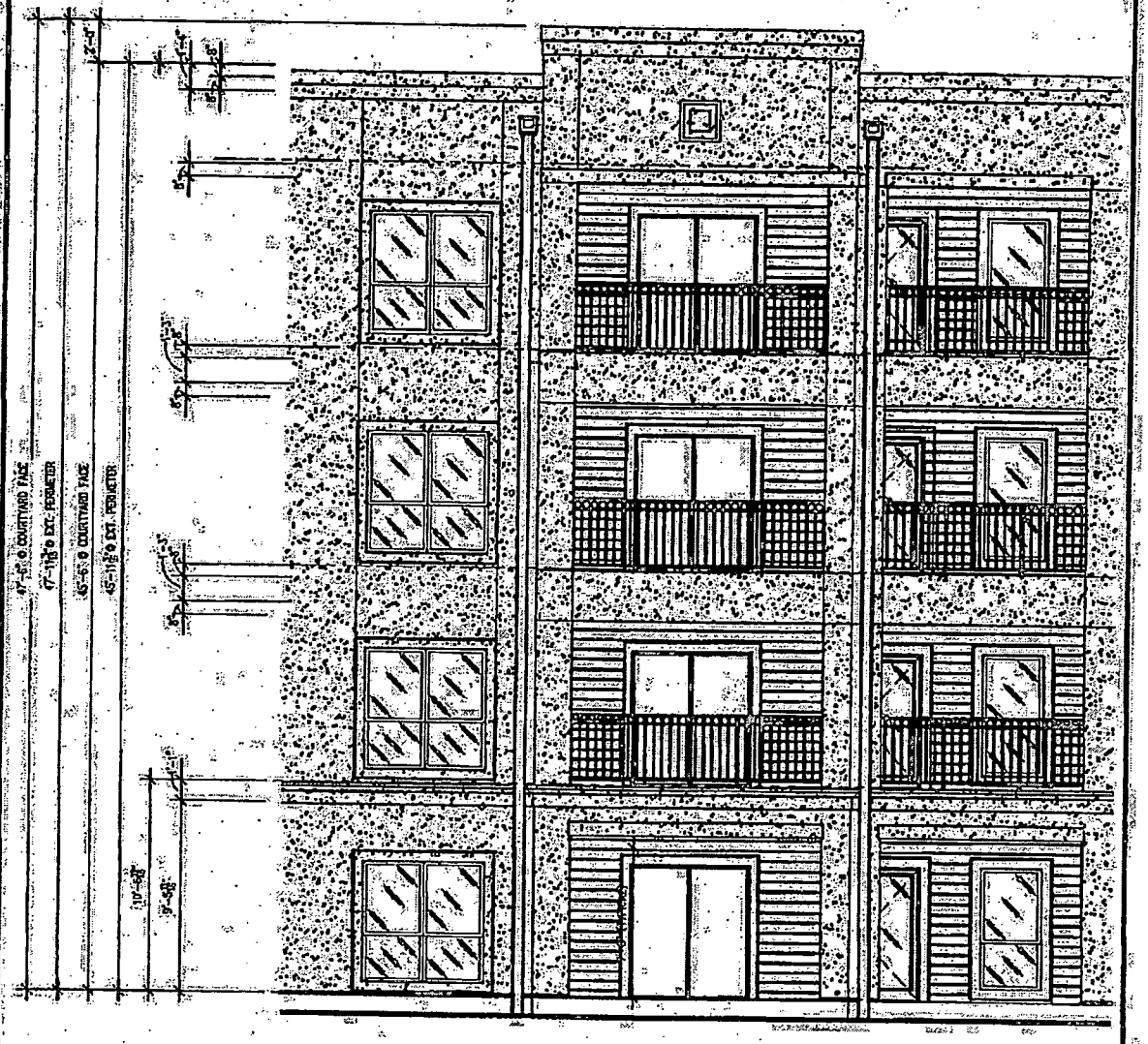
Book/Page: R 1334/2093 (This is not an Official Copy)



UNIT ELEVATION – 'C2' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina

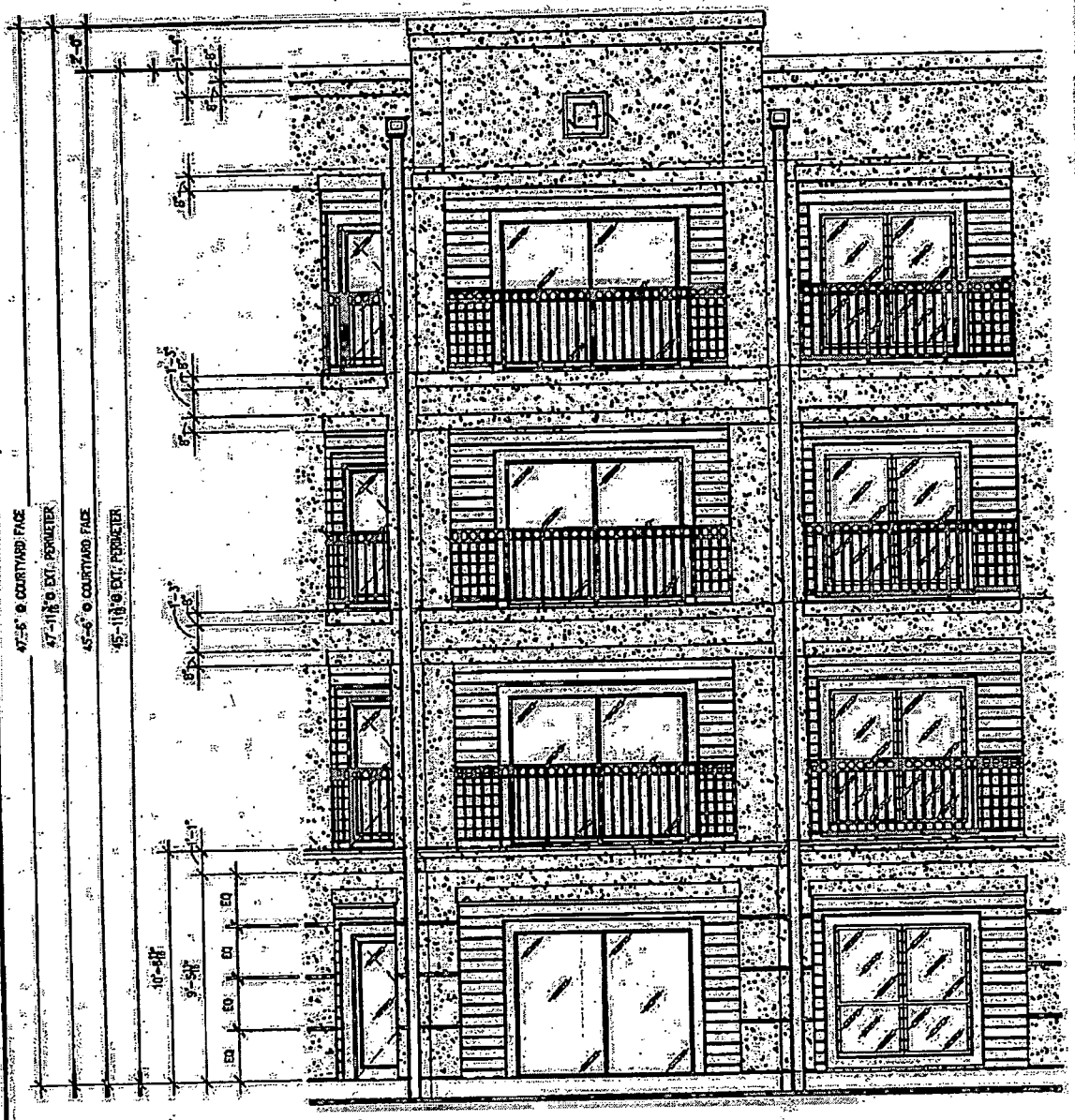
Book/Page: R 1334/2094: (This is not an Official Copy)



UNIT ELEVATION = 'C3' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina

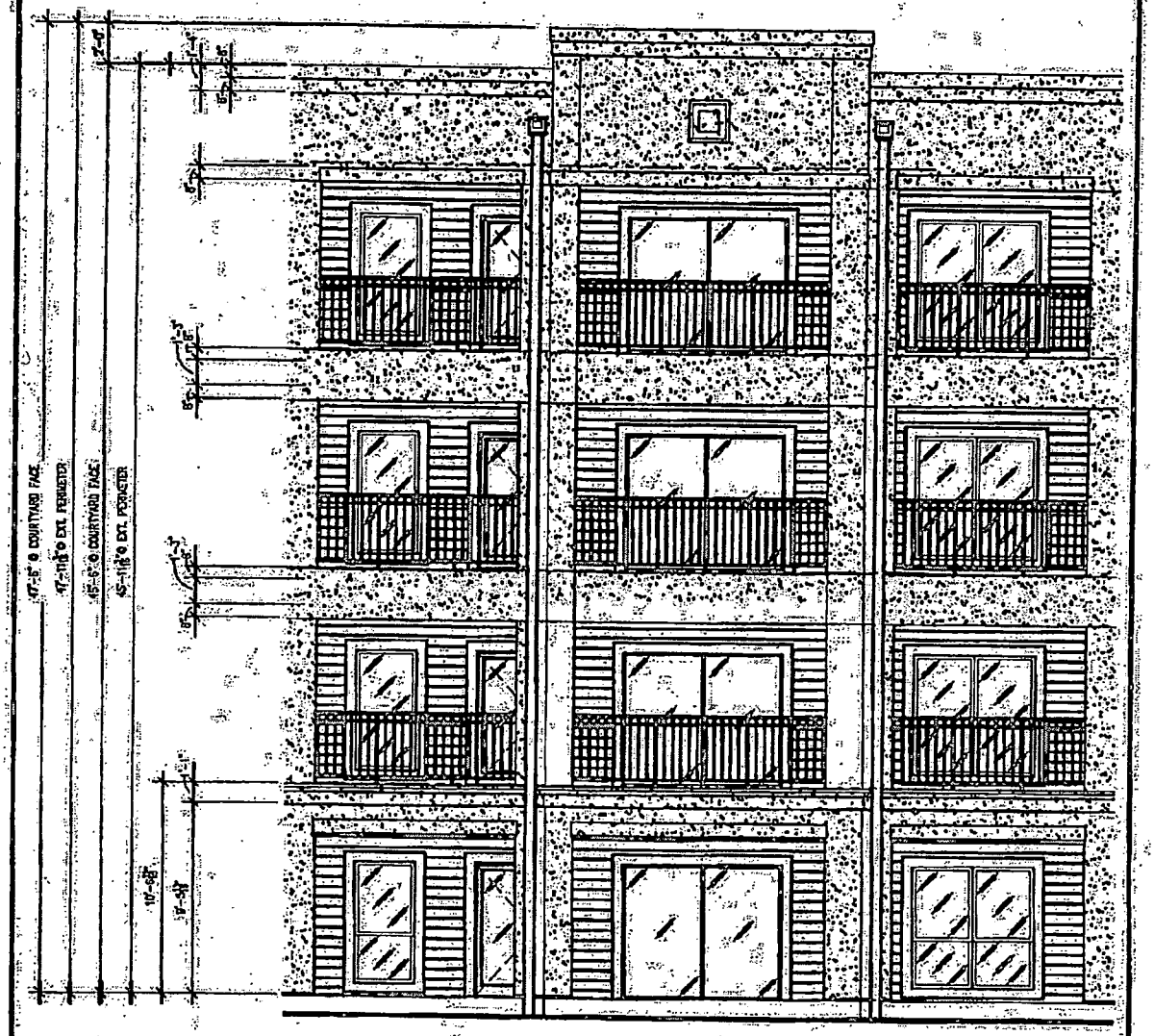
Book/Page: R 1334/2095 (This is not an Offical Copy)



UNIT ELEVATION — 'C4' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina

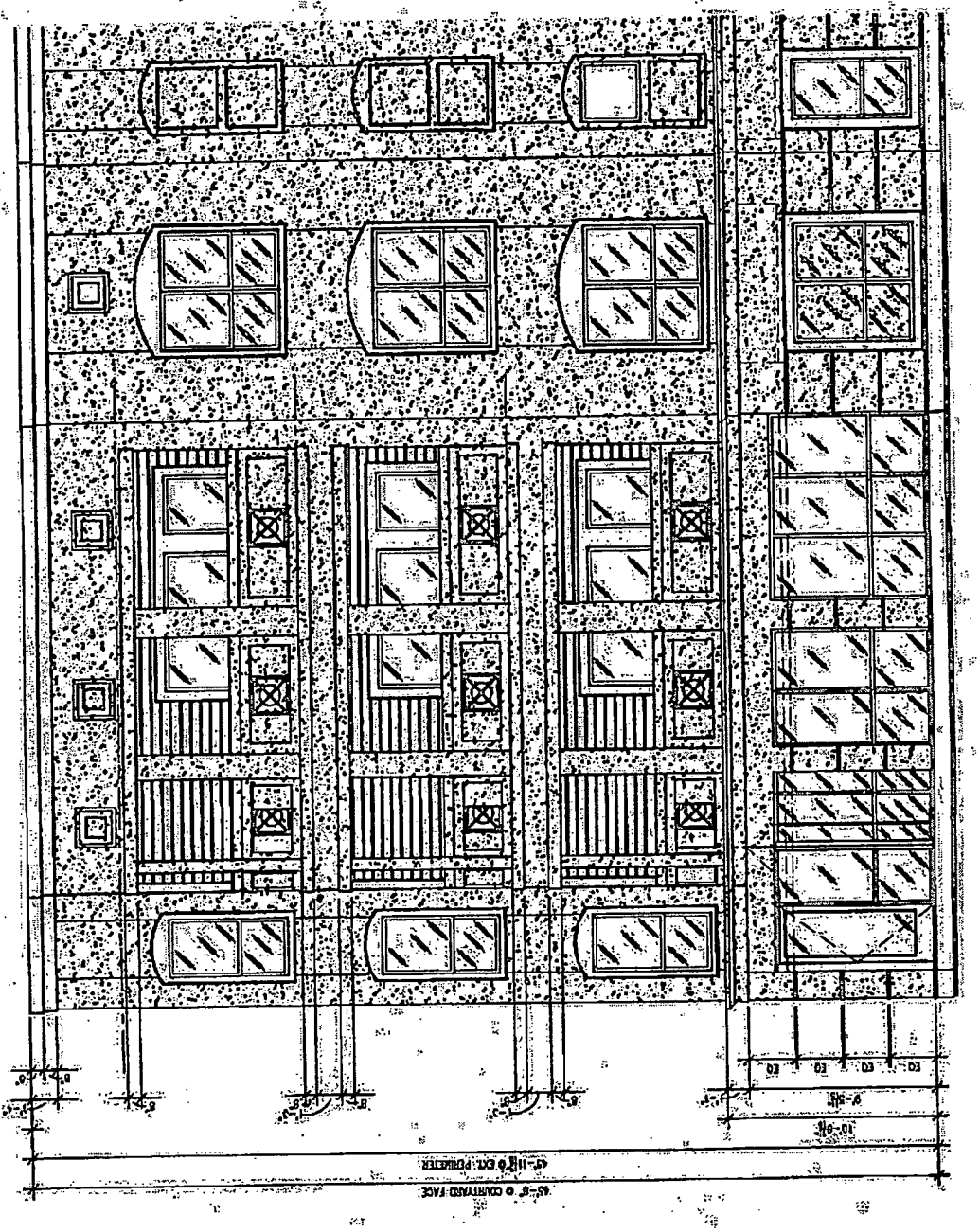
Book/Page: R 13347/2058 (This is not an Official Copy)



UNIT ELEVATION – 'C5' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina

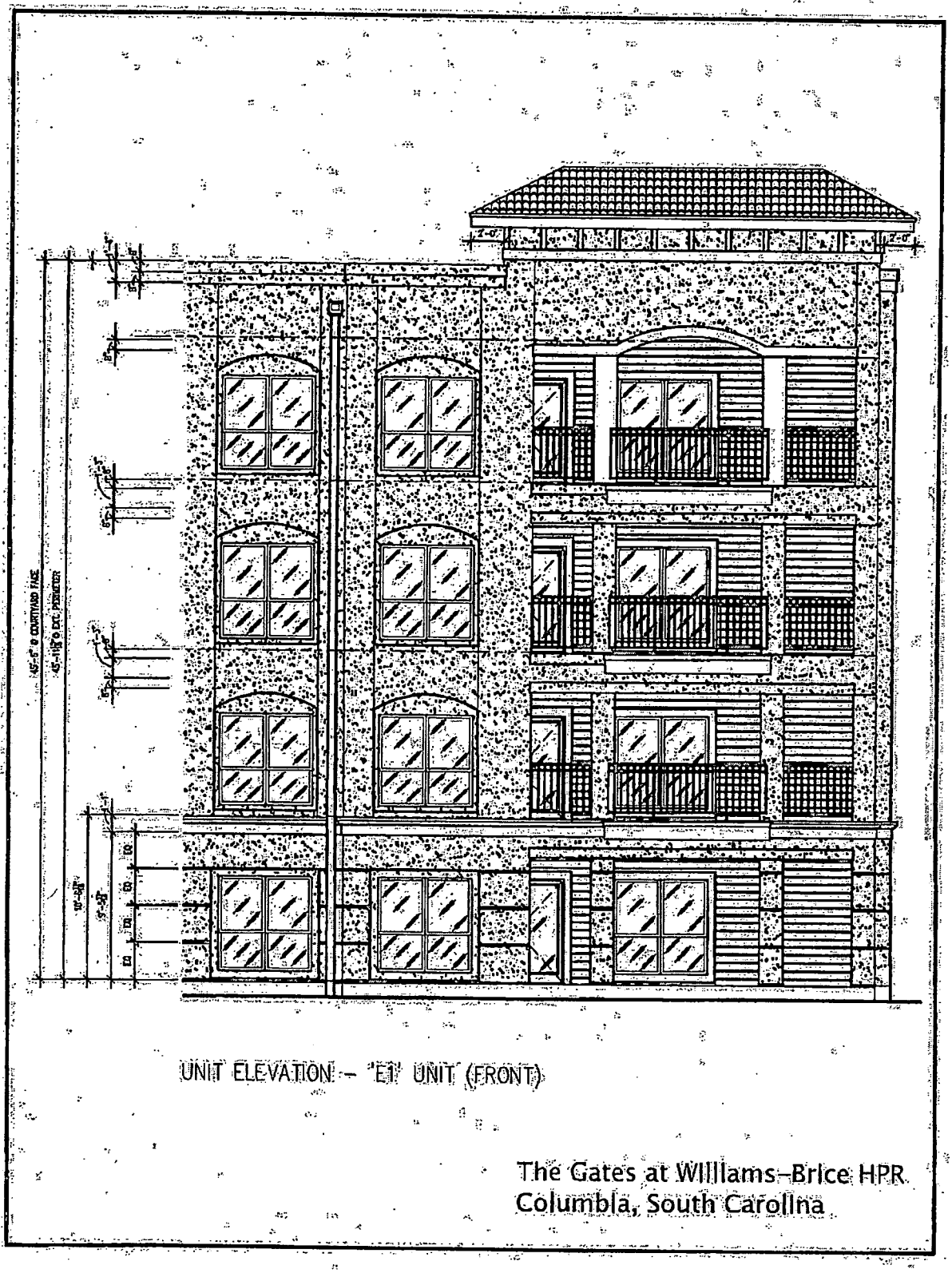
Book/Page: R 1334/2097 (This is not an Official Copy)



UNIT ELEVATION – 'D' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina

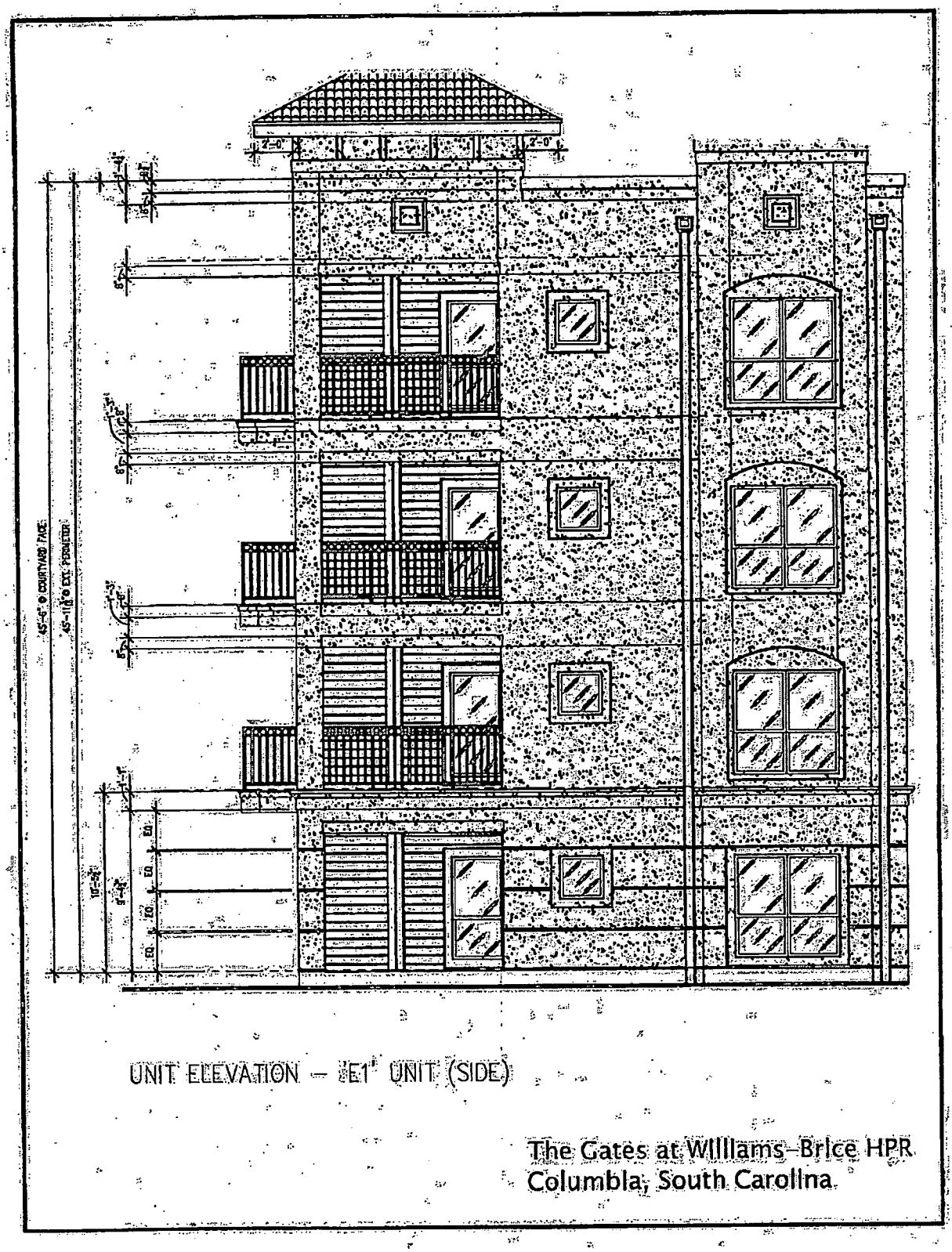
Book/Page: R 1354/2098 (This is not an Offical Copy)



UNIT ELEVATION – 'E1' UNIT (FRONT)

The Gates at Williams-Brice HPR
Columbia, South Carolina

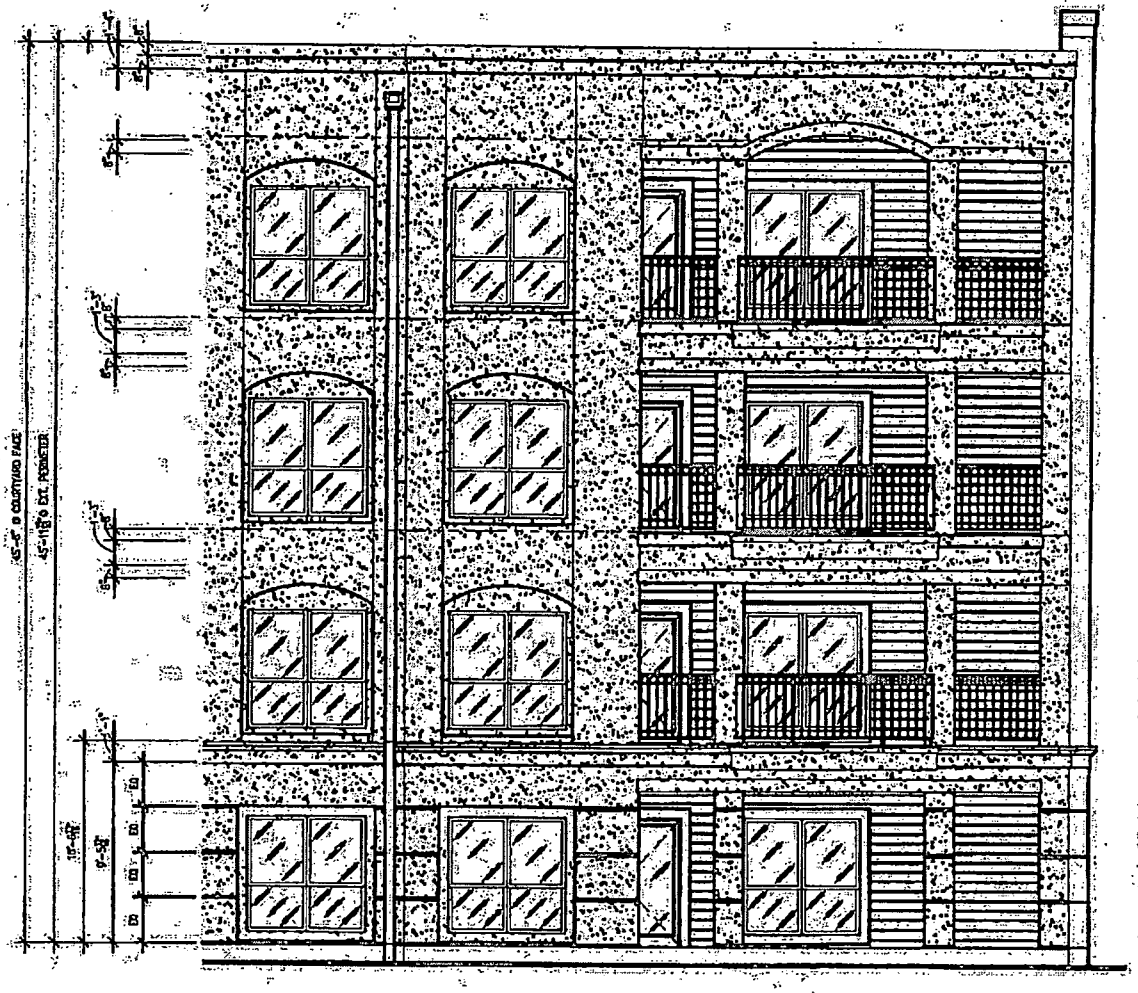
Book/Page: R 1334/2099: (This is not an Official Copy)



UNIT ELEVATION – 'E1' UNIT (SIDE)

The Gates at Williams-Brice HPR
Columbia, South Carolina

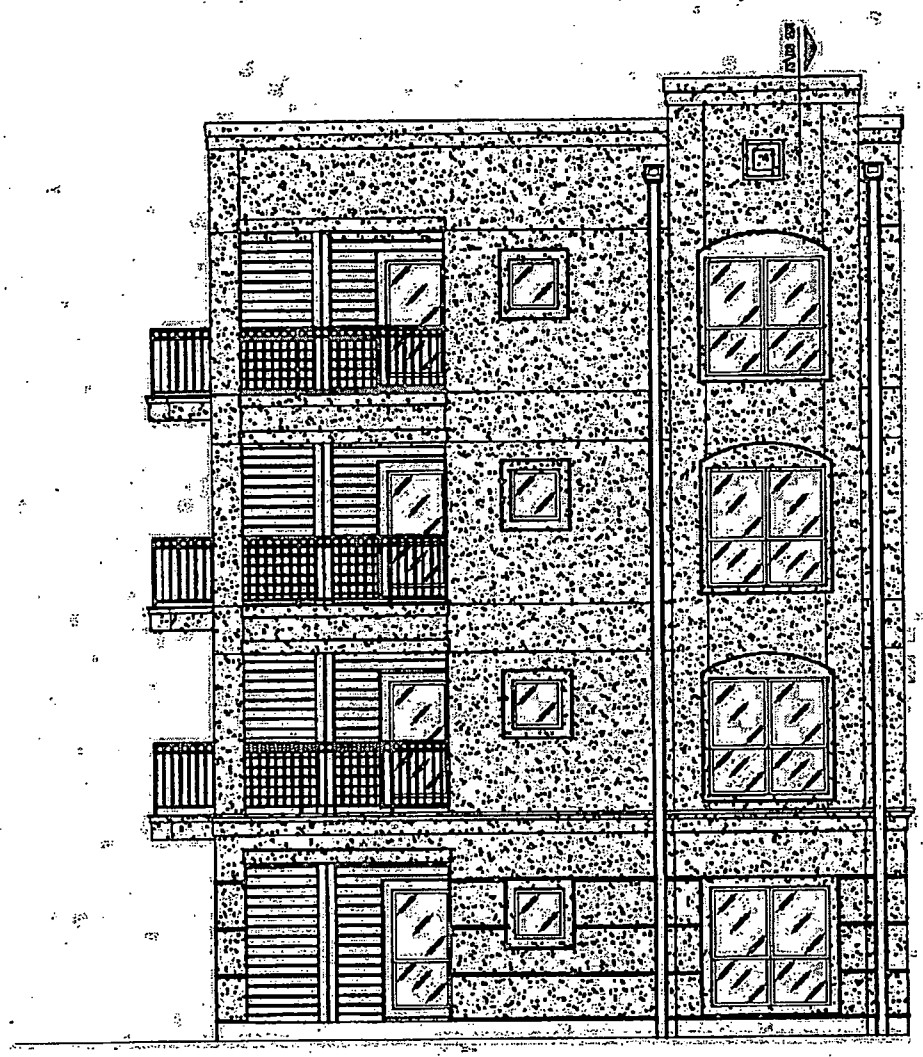
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UNIT ELEVATION – 'E1A' UNIT (FRONT)

The Gates at Williams-Brice HPR
Columbia, South Carolina

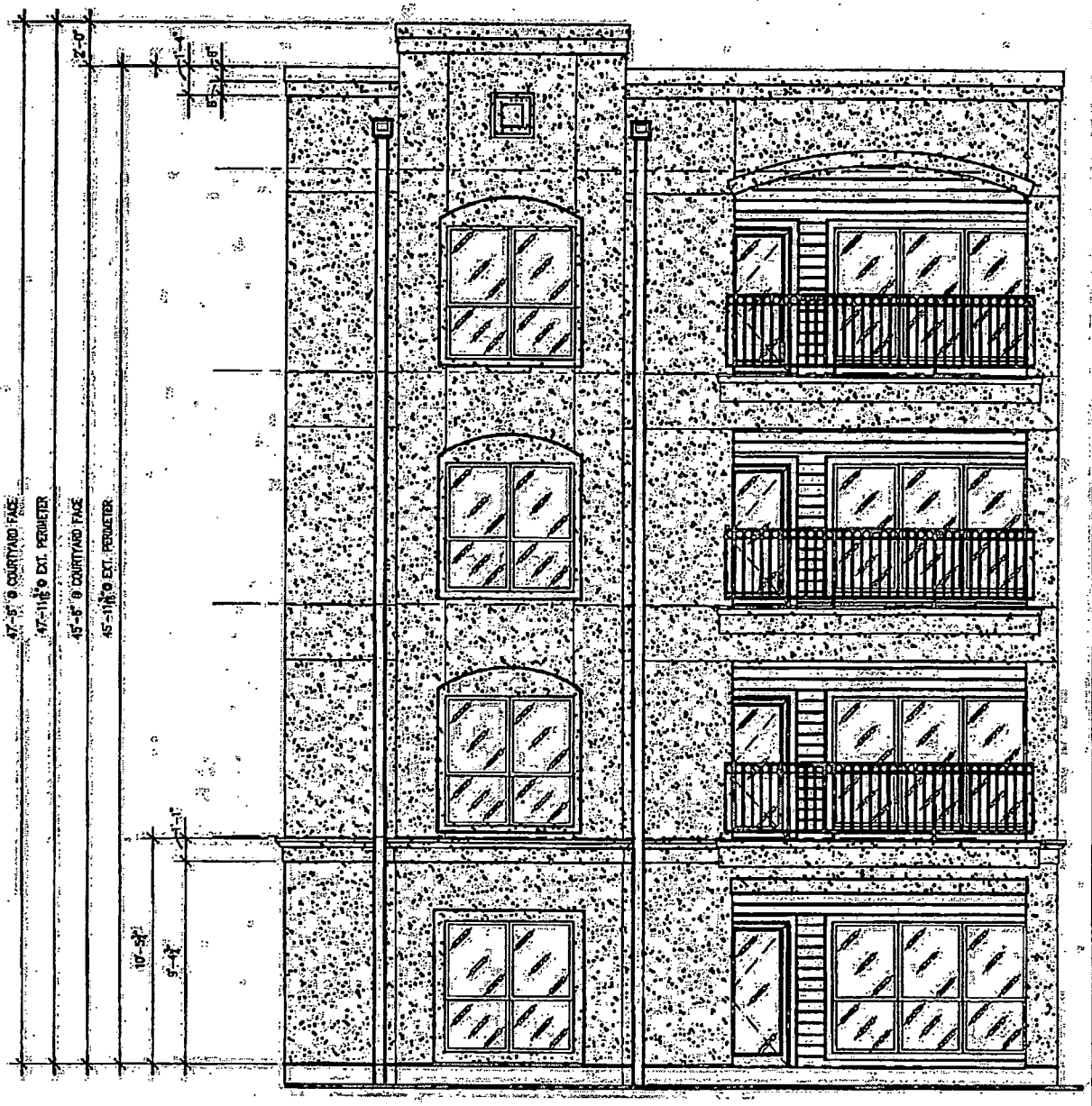
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UNIT ELEVATION – 'EIA' UNIT – SIDE

The Gates at Williams-Brice HPR
Columbia, South Carolina

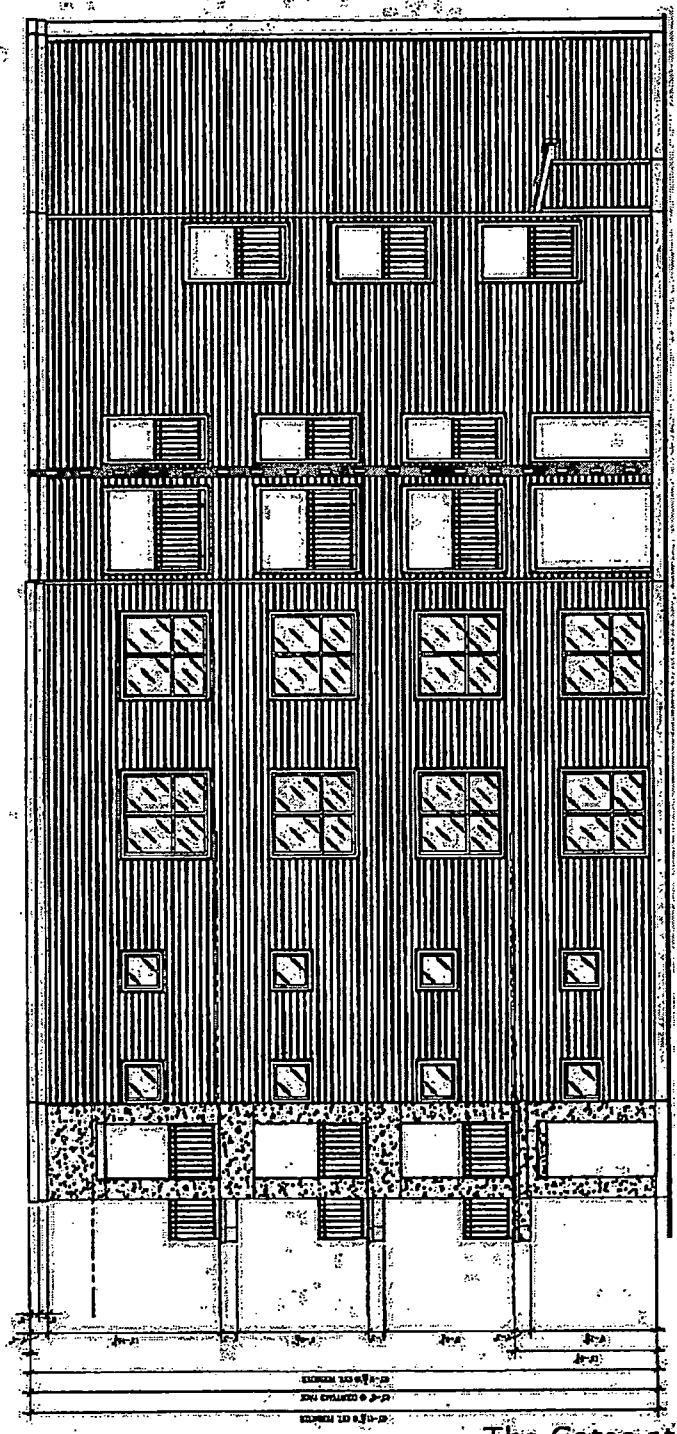
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UNIT ELEVATION – 'E2' UNIT (FRONT)

The Gates at Williams-Brice HPR
Columbia, South Carolina

Book/Page: R 1534/2103 : (This is not an Official Copy)



UNIT ELEVATION – 'E2' UNIT / BREEZEWAY / STAIRS

The Gates at Williams-Brice HPR
Columbia, South Carolina

Book/Page: R-1334/2104 (This is not an Official Copy)

EXHIBIT "D"

[Table of Values – Unit Percentage Ownership Interests in Common Elements of Regime]

Attached Hereto and Incorporated Herein By Reference

Book/Page: R 13342 105, (This is not an Official Copy)

UNIT TYPE	UNITS	SQ. FT. PER UNIT	% OF OWNERSHIP PER UNIT
A and A-HC	311, 411, 211	948	0.48492%
B	118, 121, 136, 218, 221, 236, 318, 321, 336, 418, 421, 436, 144, 244, 344, 444, 122, 149, 222, 249, 322, 349, 422, 449, 117, 141, 217, 241, 317, 341, 417, 441	1105	0.56522%
B1	132, 232, 332, 432	1245	0.63684%
B2	138, 238, 338, 438	1235	0.63172%
B3	135, 235, 335, 435	1310	0.67008%
B4	127, 227, 327, 427	1142	0.58415%
B5	133, 233, 333, 433	1250	0.63939%
B6, B6-HC, B6-A, and B6-B	146, 150, 250, 346, 350, 446, 450, 246	1105	0.56522%
C	123, 125, 131, 134, 137, 139, 223, 225, 231, 234, 237, 239, 323, 325, 331, 334, 337, 339, 423, 425, 431, 434, 437, 439, 120, 220, 320, 420, 113, 115, 124, 126, 130, 140, 142, 147, 213, 215, 224, 226, 230, 240, 242, 247, 313, 315, 324, 326, 330, 340, 342, 347, 413, 415, 424, 426, 430, 440, 442, 447	1275	0.65218%
C1	128, 228, 328, 428,	1425	0.72891%
C2 and C2-HC	214, 314, 414, 116, 216, 316, 416, 114	1274	0.65167%
C3 and C3-A	148, 248, 348, 448	1275	0.65218%
C4	129, 229, 329, 429	1262	0.64553%
D	212, 312, 412	1346	0.68850%
E1, E1-ALT and E1-HC	145, 219, 319, 345, 419, 445, 119, 245	1372	0.70180%
E2	143, 243, 343, 443	1543	0.78927%
GRAND TOTALS	168 UNITS	TOTAL SQ FOOTAGE OF ALL UNITS	TOTAL % OWNERSHIP OF ALL UNITS
		195498	100%

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6/25/2007

Book/Page: R 1334/2109 (This is not an Official Copy)

EXHIBIT "E"

[Certification to Plans]

Attached Hereto and Incorporated Herein By Reference

Book/Page: R 1334/2107 (This is not an Official Copy)

EXHIBIT "E"
TO MASTER DEED OF
THE GATES AT WILLIAMS-BRICE HORIZONTAL PROPERTY REGIME

Pursuant to S. C. Code Ann. § 27-31-110, I certify that the building plans for The Gates at Williams-Brice Horizontal Property Regime, consisting of the site plan, floor plans, and unit plans in the attached Exhibit "C" in, fully and graphically depict the layout, dimensions, location, area and number identification of the Units and the General and Limited Common Elements of the Regime.



By: John L. Chambers
Its: Professional Engineer

S.C. License No.
06501

Columbia, Richland County, South Carolina
This 27th day of June, 2007

CLT 1047720v1

Book/Page: R 1334/2109 (This is not an Official Copy)

EXHIBIT "F"

[Articles of Incorporation of The Gates at Williams-Brice Condominium Association]

Attached Hereto and Incorporated Herein By Reference

Book/Page: R 1334/2109 (This is not an Official Copy)

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

MAY 02 2007

SECRETARY OF STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA
SECRETARY OF STATE
NONPROFIT ORGANIZATION
ARTICLES OF INCORPORATION

1. The name of the nonprofit corporation is The Gates at Williams-Brice Condominium Association.

2. The initial registered office of the nonprofit corporation is 75 Beattie Place, Two Insignia Financial Plaza, Greenville, South Carolina, 29601.

The name of the registered agent of the nonprofit corporation at that office is CT Corporation System.

3. Check (a), (b), or (c) whichever is applicable. Check only one box.

a. [ ] The nonprofit corporation is a public benefit corporation.

b. [ ] The nonprofit corporation is a religious corporation.

c. [x] The nonprofit corporation is a mutual benefit corporation.

4. Check (a) or (b), whichever is applicable.

a. [x] This corporation will have members.

b. [ ] This corporation will not have members.

5. The address of the principal office of the nonprofit corporation is 1085 Shop Road, Columbia, South Carolina 29201.

6. If this nonprofit corporation is either a public benefit corporation (box a. or b. of paragraph 3. is checked), complete either (a) or (b), whichever is applicable, to describe how the remaining assets of the corporation will be distributed upon dissolution of the corporation.

a. [ ] Upon dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, of the government, or to a state or local government, for a public purpose. Any such asset not so disposed of shall be disposed of a by the court of common pleas of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operated exclusively for such purposes.

070502-0166 FILED: 05/02/2007
GATES AT WILLIAMS-BRICE CONDOMINIUM ASSOCIATION
Filing Fee: $25.00 ORIG
Mark Hammond South Carolina Secretary of State

CLT 962493v1

Book/Page: R 1334/2110 (This is not an Official Copy)

b. [ ]Upon dissolution of the corporation, consistent with law, the remaining assets of the corporation shall be distributed to: _____.

7. If the corporation is a mutual benefit corporation (box c. of paragraph 3. is checked), complete either (a) or (b), whichever is applicable, to describe how the [remaining] assets of the corporation will be distributed upon the dissolution of the corporation.

a. [x] Upon dissolution of the mutual benefit corporation the [remaining] assets shall be distributed to its members, or if it has no members, to those persons to whom the corporation holds itself out as benefiting or serving.

b. [ ] Upon dissolution of the mutual benefit corporation the [remaining] assets, consistent with law, shall be distributed to:

8. The optional provisions which the nonprofit corporation elects to include in the articles of incorporation are as follow (See Section 33-31-202(c) of the 1976 South Carolina Code, the applicable comments hereto, and the instructions to this form):

Reference is hereby made to the Master Deed of The Gates at Williams-Brice Horizontal Property Regime and the By-Laws of The Gates at Williams-Brice Condominium Association (the "Association") for a complete description and explanation of the administration and membership of the Association.

9. The name and address (with zip code) of each incorporator is as follows (only one is required): Michael Eisenrauch, Parker Poe Adams & Bernstein LLP, Two Founders Centre, Suite 202, 611 Burroughs & Chapin Boulevard, Myrtle Beach, South Carolina 29577.

10. Each original director of the nonprofit corporation must sign the articles but only if the directors are named in these articles:

_____ Signature of director
(only if named in articles)

11. Each incorporator must sign the articles.

_____
Signature of incorporator: *Michael Eisenrauch*

FILING INSTRUCTIONS

1. Two copies of this form, the original and either a duplicate original or a conformed copy, must be filed.
2. If space in this form is insufficient, please attach additional sheets containing a reference to the appropriate paragraph in this form, or prepare using a computer disk which will allow for expansion of space on the form.
3. This form must be accompanied by the filing fee of $25.00 payable to the Secretary of State.

Book/Page: R 1334/2111 (This is not an Official Copy)

The State of South Carolina

Office of Secretary of State Mark Hammond

Certificate of Incorporation, Nonprofit Corporation

I, Mark Hammond, Secretary of State of South Carolina Hereby certify that:

GATES AT WILLIAMS-BRICE CONDOMINIUM ASSOCIATION THE, a nonprofit corporation duly organized under the laws of the State of South Carolina on May 2nd, 2007, and having a perpetual duration unless otherwise indicated below, has as of the date hereof filed a Declaration and Petition for Incorporation of a nonprofit corporation for Religious, Educational, Social, Fraternal, Charitable, or other eleemosynary purpose.

Now, therefore, I Mark Hammond, Secretary of State, by virtue of the authority in me vested by Chapter 31, Title 33, Code of 1976 and Acts amendatory thereto, do hereby declare the organization to be a body politic and corporate, with all the rights, powers, privileges and immunities, and subject to all the limitations and liabilities, conferred by Chapter 31, Title 33, Code of 1976 and Acts amendatory thereto.

Given under my Hand and the Great Seal of the State of South Carolina this 2nd day of May, 2007.

Mark Hammond

Mark Hammond, Secretary of State

Book/Page: R 1334/2112 (This is not an Offical Copy)

EXHIBIT "G"

[By-Laws of The Gates at Williams-Brice Condominium Association]

Attached Hereto and Incorporated Herein By Reference

Book/Page: R 1334/2113 (This is not an Official Copy)

BY-LAWS
OF
THE GATES AT WILLIAMS-BRICE CONDOMINIUM ASSOCIATION

1. IDENTITY

These are the By-Laws of The Gates at Williams-Brice Condominium Association, a non-profit corporation existing under the laws of the State of South Carolina (hereinafter called "the Association"), which has been organized for the purpose of administering The Gates at Williams-Brice Horizontal Property Regime, a horizontal property regime established pursuant to S.C. Code Ann. §27-31-10 et seq. (1976) (hereinafter called "the Regime"). The Regime is identified by the name The Gates at Williams-Brice and is located upon the real property in Richland County, South Carolina, described on Exhibit "A" attached to the Master Deed and made a part hereof by reference.

(a) The provisions of these By-Laws are applicable to the Regime, and the terms and provisions hereof are expressly subject to the effect of the terms, provisions, conditions, and authorizations contained in the Articles of Incorporation and which may be contained in the formal Master Deed which will be recorded in the public records of Richland County, South Carolina, at the time said property and the improvements now or thereafter situate thereon are submitted to the plan of condominium ownership, the terms and provisions of said Articles and Master Deed to be controlling whenever the same may be in conflict herewith.

(b) All present or future co-owners, tenants, future tenants, or their employees, or any other person that might use the Regime or any of the facilities thereof in any manner are subject to the regulations set forth in these By-Laws and in said Charter and Master Deed.

(c) The office of the Association shall be 1085 Shop Road, Columbia, South Carolina, 29201, or such other place as the Board of Directors of the Association may designate from time to time;

(d) The fiscal year of the Association shall be the calendar year;

(e) The seal of the Association shall bear the name of the Association and the words "South Carolina."

2. MEMBERSHIP, VOTING, QUORUM, PROXIES

(a) All Unit Owners are Members of the Association, beginning when they take title to their Unit and terminating when they convey title away.

(b) A Member's vote shall be weighed based upon that Members percentage interest in

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the Common Elements of the Regime as set forth in Exhibit "D" of the Master Deed.

(c) The quorum at members' meetings shall consist of persons entitled to cast a majority of the votes of the entire membership (a determined by the percentage interest in the Common Elements of the Regime as set forth in Exhibit "D" of the Master Deed). The joinder of a member in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such person for the purpose of determining quorum.

(d) The vote of the co-owners of a Unit owned by more than one person or by a corporation or other entity shall be cast by the person named in a certificate signed by all of the co-owners of the Unit and filed with the Secretary of the Association. Such certificate shall be valid until revoked by subsequent certificate. If such a certificate is not on file, the vote of such co-owners shall not be considered in determining the requirement for a quorum, nor for any other purpose.

(e) Votes may be cast in person or by proxy. Proxies must be filed with the secretary before the appointed time of the meeting for which their use is sought.

(f) Approval or disapproval of a Unit co-owner upon any matters, whether or not the subject of an Association meeting, shall be by the same person who casts the vote of such co-owner in an Association meeting.

(g) Except where otherwise required under the provisions of the Articles of Incorporation of the Association, these By-Laws, the Master Deed, or where the same may otherwise be required by law, the affirmative vote of the co-owners of a majority of the Units represented at any duly called members' meeting at which a quorum is present shall be binding upon the members (as determined by the percentage interest in the Common Elements of the Regime as set forth in Exhibit "D" of the Master Deed).

3. ANNUAL AND SPECIAL MEETINGS OF MEMBERSHIP

(a) **The annual members' meeting shall be held at the office of the Association or such other place as may be designated by the Board of Directors, at a date and time set by the Board of Directors in its reasonable discretion after proper notice for the purpose of electing directors and of transacting any other business authorized to be transacted by the members.**

(b) Special members' meetings shall be held whenever called by the President or Vice President or by a majority of the Board of Directors and must be called by such officers upon receipt of a written request from the members of the Association as required by the South

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Carolina Nonprofit Corporation Act.

(c) Notice of all members' meetings, regular or special, shall be given by the President, Vice President, or Secretary of the Association, or other officers of the Association in the absence of said officers, to each member, unless waived, in writing. Such notice is to be written or printed and shall include a description of any matter as required by §33-31-705, of the Code of Laws of South Carolina (1976), as amended, and shall state the time and place of the member's meeting and shall be given to each member not less than ten (10) days nor more than sixty (60) days prior to the date set for such meeting. Notice shall be mailed first class or registered mail or presented personally to each member within said time. If presented personally, receipt of such notice shall be signed by the member, indicating the date on which such notice was received by him. If mailed, such notice shall be deemed properly given five (5) days after being deposited in the United States Mail, addressed to the member at his post office address as it appears in the records of the Association, the postage thereon prepaid or where otherwise provided by Section 33-31-141 of the Code of Laws of South Carolina (1976), as amended from time to time. Proof of such mailing shall be given by Affidavit of the person giving the notice. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. If any members' meeting cannot be organized because a quorum has not been attended, or because the greater percentage of the membership required to constitute a quorum for particular purposes has not attended, wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation, these By-Laws, or the Master Deed, the members who are present, either in person or by proxy, may adjourn the meeting, from time to time until a quorum, or the required percentage of attendance greater than a quorum, is present.

(d) At meetings of membership, the President or other officer of the Association shall preside or, in the absence of such officers, the membership present shall select a chairman.

(e) The order of business at annual members' meeting, and, as far as practical, at any other members' meeting, shall be:

i) Calling of the roll and certifying proxies;

ii) Proof of notice of meeting or waiver of notice;

iii) Reading of Minutes;

iv) Reports of officers, president and chief financial officer;

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v) Reports of committees;

vi) Appointment by chairman of inspectors of election;

vii) Election of directors;

viii) Unfinished business;

ix) New business; and

x) Adjournment.

4. BOARD OF DIRECTORS.

(a) The initial Board of Directors of the Association (hereinafter sometimes referred to as the "Board") shall be comprised of three (3) directors until the first members' meeting, at which time five (5) directors will be elected. Thereafter, the Board shall consist of five (5) directors. Subject to the remainder of this paragraph, the Grantor may appoint and remove members of the Board for a period not exceeding five (5) years from the date of the first conveyance of a Unit to a person other than the Grantor. The period of Grantor control terminates no later than sixty (60) days after conveyance of seventy-five percent (75%) of the Units in the entire Regime to Unit owners other than the Grantor. The Grantor may voluntarily surrender the right to appoint and remove members of the Board before termination of that time period.

Whenever Grantor shall be entitled to designate and select any person or persons to serve on any Board of Directors of Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or By-Laws of the Association and Grantor shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or other persons to act and serve in the place of any director or directors so removed, for the remainder of the unexpired term of any director or directors so removed. Any director designated and selected by Grantor need not be a resident in the Regime. Anything to the contrary notwithstanding, the power in the Grantor to designate directors shall terminate five years from the date of the Master Deed.

Any representative of Grantor serving on the Board shall not be required to disqualify himself upon any vote upon any management contract or other matter between Grantor and Association where the said Grantor may have a pecuniary or other interest. Similarly, Grantor as a member of the Association, shall not be required to disqualify itself in any vote which may come before the membership of the Association upon any management contract or other matter between Grantor and Association where Grantor may have a pecuniary or other interest. This

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provision does not limit or restrict the requirement of Section 33-31-831, Code of Laws of South Carolina (1976), as amended.

An individual Co-owner other than Grantor engaged by the Regime in a commercial operation or otherwise earning monies from servicing the premises, i.e. rental company, contractor, hardware store, painter, or property manager may not serve on the Board as long as the individual is engaged in a business performing a service in connection with the Regime.

(b) Election of directors shall be conducted in the following manner:

i) Grantor, as Sponsor of the Regime, shall, at the beginning of the election of the Board designate and select that number of the members of the Board which it should be entitled to designate and select in accordance with the provisions of these By-Laws, and upon such designation and selection by Grantor by written instrument presented to the meeting at which such election is held, said individuals so designated and selected by Grantor shall be deemed and considered for all purposes directors of the Association, and shall thenceforth perform the duties of such directors until their successors shall have been selected or elected in accordance with the provisions of these By-Laws;

ii) All members of the Board whom Grantor shall not be entitled to designate and select under the terms and provisions of these By-Laws shall be elected by a plurality of the votes cast at the annual meeting of the members of the Association immediately following the designation and selection of the members of the Board whom Grantor shall be entitled to designate and select;

iii) Vacancies in the Board may be filled until the date of the next annual meeting by the remaining directors, except that should any vacancy in the Board be created in any directorship previously filled by a person designated and selected by Grantor, such vacancy shall be filled by Grantor designating and selecting, by written instrument delivered to any officer of the Association, the successor director to fill the vacated directorship for the unexpired term thereof;

iv) At the first annual meeting of the members held after the property identified herein has been submitted to the plan of condominium ownership and the Master Deed has been recorded in the public records of Richland County, South Carolina, the term of office of the three (3) directors receiving the highest plurality of votes shall be established as two (2) years, and the terms of office of the other two (2) directors shall be established as one (1) year. Thereafter, as many directors of the Association shall be elected at the annual meeting as there are regular

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terms of office of directors expiring at such time, and the term of the directors so elected at the annual meeting of the members each year shall be for two (2) years expiring at the second annual meeting following their election, and thereafter until their successors are duly elected and qualified or until removed in the manner elsewhere provided or as may be provided by law for the removal of directors of South Carolina Nonprofit Corporation Act. If, at the time of the first annual meeting, Grantor still has the right to appoint directors, then Grantor shall have the right to designate and select two (2) directors whose term of office shall be established at two (2) years, and one (l) director whose term of office shall be established at one year;

v) In the election of directors, there shall be appurtenant to each Unit as many votes for directors as there are directors to be elected, provided, however, that no member or co-owner of any Unit may cast more than one vote for any person nominated as director, it being the intent hereof that voting for directors shall be non-cumulative;

vi) In the event that Grantor, in accordance with the privilege granted unto it, selects any person or persons to serve on any Board, the said Grantor shall have the absolute right at any time, in its sole discretion, to replace any such person or persons with another person or persons to serve on said Board. Replacement of any person or persons designated by Grantor to serve on any Board shall be made by written instrument delivered to the President or Secretary of the Association or to the presiding officer of the Board, which instrument shall specify the name or names of the person or persons designated as successor or successors to the person or persons so removed from said Board. The removal of any director and designation of his successor shall be effective immediately upon delivery of such written instrument by Grantor to such officer of the Association and the director;

(c) The organizational meeting of newly elected Board shall be held within ten (10) days of its election, at such time and at such place as shall be fixed by the directors at the meeting at which they were elected, and no further notice of the organization meeting shall be necessary provided a quorum shall be present;

(d) Regular meetings of the Board may be held without notice at such time and place as shall be determined from time to time by a majority of the directors;

(e) Special meetings of the directors may be called by the President and must be called by the Secretary at the written request of one-third (1/3) of the votes of the Board. Not less than two (2) days notice of a meeting shall be given to each director personally, or by mail, telephone, or telegram, which notice shall state the time, place, and purpose of the meeting;

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(f) Any director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice;

(g) A quorum at a directors' meeting shall consist of the directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board, except as specifically otherwise provided in the Articles of Incorporation, these By-Laws, or the Master Deed. If any director's meeting cannot be organized because a quorum has not attended or because the greater percentage of the directors required to constitute a quorum for particular purposes has not attended, wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation, these By-Laws, or the Master Deed, the directors who are present may adjourn the meeting, from time to time, until a quorum, or the required percentage of attendance greater than a quorum, is present. At any adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a director in the action of a meeting by signing and concurring the minutes thereof shall constitute the presence of such director for the purpose of determining a quorum;

(h) The presiding officer of directors' meetings shall be the President. In the absence of the President, the directors present shall designate one of their number to preside;

(i) Directors' fees, if any, shall be determined by the members of the Association;

(j) The Board shall manage and direct the affairs of the Association and subject to any restrictions imposed by law, by the Master Deed, or these By-Laws, may exercise all of the powers of the Association subject only to approval by the members when such is specifically required by the Master Deed or by these By-Laws. The Board shall exercise such duties and responsibilities as shall be incumbent upon it by law, the Master Deed, or these By-Laws, as it may deem necessary or appropriate in the exercise of its powers and shall include, without limiting the generality of the foregoing, the following:

i) To make, levy, and collect assessments against members and members' Units to defray the cost of the common areas and facilities of the Regime, and to use the proceeds of said assessments in the exercise of the powers and duties granted unto the Association;

ii) To carry out the maintenance, care, upkeep, repair, replacements, operation, surveillance, and the management of the general and limited elements, services, and facilities of the Regime wherever the same is required to be done and accomplished by the Association for the benefit of its members;

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iii) To carry out the reconstruction of improvements after casualty and the further improvement of the property, real and personal;

iv) To make and amend regulations governing the use of the property, real and personal, in the Regime and to establish fines for the violation of same, so long as such regulations or amendments thereto and fines do not conflict with the restrictions and limitations which may be placed upon the use of such property under the terms of the Articles of Incorporation and Master Deed;

v) To acquire, operate, lease, manage, and otherwise trade and deal with property, real and personal, including Units in the Regime, as may be necessary or convenient in the operation and management of the Regime, and in accomplishing the purposes set forth in the Master Deed; provided, however, that any agreement for professional management of the Regime, or any other contract providing for services of the Grantor, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice; provided, further, that any contract entered into prior to passage of control of the Association from the Grantor may be terminated by the Association without cause and without penalty at any time after the transfer of control upon not more than ninety (90) days notice to the other party thereto unless ratified by a majority of the Board after passage of control;

vi) By competitive bidding, to contract for the management of the common areas and facilities in the Regime and to designate to such contractor all of the powers and duties of the Association, except those which may be required by the Master Deed to have approval of the Board or membership of the Association;

vii) To enforce by legal means the provisions of the Articles of Incorporation and By-Laws of the Association, the Master Deed, and the regulations and fines hereinafter promulgated governing use of the property in the Regime;

viii) To pay all taxes and assessments which are liens against any property of the Regime, other than Units and the appurtenances thereto, and to assess the same against the members and their respective Units subject to such liens;

ix) To carry insurance for the protection of the members and the Association against casualty and liability;

x) To pay all costs of power, water, sewer, and other utility services rendered to

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the condominium and not billed to the owners of the separate Units; and

xi) To employ personnel for reasonable compensation to perform the services required for proper administration of the purposes of the Association, as well as to dismiss said personnel;

xii) Pursuant to Article XV of the Master Deed, to assign, reassign, or designate parking spaces for conditional exclusive use to such Co-Owners as it shall decide and to revoke such assignment or designation from time to time; and

xiii) to otherwise carry out all other duties and responsibilities set forth in the Master Deed, Bylaws, and Rules and Regulations of the Association, explicitly stated or implied therein.

(k) The first Board shall be comprised of three (3) persons designated to act and serve as directors by the Grantor. Said persons shall serve until their successors are elected or appointed at the first meeting of the members of the Association called after the property identified herein has been submitted to the plan of condominium ownership and the Master Deed has been recorded in the public records of Richland County, South Carolina. Should any member of said first Board be unable to serve for any reason, a majority of the remaining members of the Board shall have the right to select and designate a party to act and serve as a director for the unexpired term of said director who is unable to serve;

(l) The undertakings and contracts authorized by said first Board shall be binding upon the Association in the same manner as though such undertakings and contracts had been authorized by the first Board duly elected by the membership after the property identified herein has been submitted to the plan of condominium ownership and said Master Deed has been recorded in the Richland County public records, so long as any undertakings and contracts are within the scope of powers and duties which may be exercised by the Board in accordance with all applicable Regime Documents;

(m) Directors may be removed from office in the manner provided by law for the removal of directors of South Carolina nonprofit corporations.

6. ADDITIONAL PROVISIONS ABOUT MEETINGS OF MEMBERS AND DIRECTORS

(a) Notwithstanding anything contained in these By-Laws to the contrary, any meeting of members or Board may be held at any place within or without the State of South Carolina or by telephone conference.

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(b) To the extent now or from time to time hereafter permitted by the laws of South Carolina, the Board may take any action which they might take at a meeting of directors without a meeting. One or more written consents of any such action so taken, signed by each director, is to be retained in the Association's minute book and given equal dignity by all persons to the minutes of meetings duly called and held.

(c) Any action of the members may be taken by written ballot in accordance with §33-31-704, Code of Laws of South Carolina (1976), as amended, or by written consent in accordance with §33-31-704 of said Code.

7. OFFICERS

(a) The executive officers of the Association shall be a President, who shall be a director, a Vice President, a Treasurer, and a Secretary, all of whom shall be elected annually by the Board of Directors and who may be peremptorily removed by vote of the directors at any meeting. No person may hold more than two (2) offices. The Board, shall from time to time, elect such other officers or committees and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

(b) The President shall be the principal executive officer of the Corporation and subject to the control of the Board. He or she shall, in general, supervise and control all of the business and affairs of the Corporation. He or she shall preside at all meetings of the shareholders and of the Board. He or she may sign, with the Secretary or any other proper officer of the Corporation authorized by the Board, any deeds, mortgages, bonds, contracts, or other instruments which the Board has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board or by these By-Laws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board.

(c) The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the directors.

(d) The Secretary shall keep the minutes of all proceedings of the directors and the members. He shall attend to the giving and serving of all notices to the members and directors, and such other notices required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep the records of the

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Association, except those of the Treasurer, perform all other duties incident to the office of Secretary of any association, and as may be required by the directors or President.

(e) The Treasurer shall have custody of all of the property of the Association, including funds, securities, and evidences of indebtedness. He shall keep the assessment rolls, the accounts of members, and the books of the Association in accordance with good accounting practices. He shall perform all other duties incident to the office of Treasurer.

(f) The compensation of all officers and employees of the Association, if any, shall be fixed by the Board. This provision shall not preclude the Board from employing the Grantor as an employee of the Association, nor preclude the contracting with the Grantor for management of the Regime. Officers need not be Unit owners.

8. FISCAL MANAGEMENT

The provisions for fiscal management of the Association set forth in the Master Deed and Articles of Incorporation shall be supplemented by the following provisions:

(a) The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Unit. Such an account shall designate the name and address of the Co-owner or Co-owners, the amount of each assessment against the amounts paid upon the account and, the balance due upon assessments;

(b) The initial Board shall adopt a budget for the period commencing upon submission of the property to Horizontal Property Regime, continuing through the end of the following calendar year, and shall establish assessments for that period;

(c) The Board shall adopt a budget for each calendar year, which shall contain estimates of the cost of performing the functions of the Association, including, but not limited to, the following items:

i) Common expense budget, which shall include without limiting the generality of the foregoing, the estimated amounts necessary for maintenance and operation of General Common Elements, landscaping, street and walkways, office expenses, swimming pool, utility services, casualty insurance, liability insurance, administration, and reserves (operating and replacement);

ii) Budget for the maintenance of the semi-private yards, the expenses of which will be assessed separately against only those co-owners with Units that have semi-private yards (as depicted in Exhibit "C" to the Master Deed);

iii) Assessments for specific maintenance or repairs or other items benefiting one

or more Units but not all the Units in the Regime performed by the Association ("Specific Assessments");

iv) Assessments for individual Unit water usage, which is based upon actual water usage per Unit and billed individually and not commonly shared amongst all the Units.

v) Proposed assessments against each member. Copies of the budget and proposed assessments shall be given to each member at each annual meeting. If the budget is subsequently amended before the assessments are made, a copy of the amended budget shall be furnished to each concerned member. Delivery of a copy of any budget or amended budget to each member shall not affect the liability of any member for any such assessment, nor shall delivery of a copy of such budget of amended budget be considered as a condition precedent to the effectiveness of said budget and assessments levied pursuant thereto, and nothing herein contained shall be construed as restricting the right of the Board, at any time, in their sole discretion to levy an additional assessment in the event that the budget originally adopted shall appear to be insufficient to pay costs and expenses of operation and management, or in the event of emergencies.

(d) The Board shall determine the method of payment of such assessments and the due dates thereof and shall notify the members thereof. The assessments will initially be on a monthly-in-advance basis unless changed by a vote of the majority of the Board;

(e) The depository of the Association shall be such bank, savings and loan, or other Federally Insured depositories as shall be designated from time to time by the directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the directors.

(f) The Board shall require fidelity bonds from all officers and employees of the Association and from any contractor handling or responsible for Association funds. The amount of such bonds shall be determined by the directors, but shall be at least the amount of the total annual estimated operating expense and revenues. The premiums on such bonds shall be paid by the Association as a common expense.

9. PARLIAMENTARY RULES:

Roberts Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Articles of Incorporation and these By-Laws or with the statutes of the State of South Carolina.

10. ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT

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The Board, as and for the co-owners, is given the authority to administer the operation and management of the Regime, it being recognized that the delegation of such duties to one entity is in the best interests of the co-owners of all Units. To properly administer the operation and management of the project, the Association will incur, for the mutual benefit of all of the co-owners of Units, costs and expenses which will be continuing or non-recurring costs, as the case may be, which costs and expenses are sometimes herein referred to as "common expense." To provide the funds necessary for such proper operation and management, the said Board is hereby granted the right to make, levy, and collect assessments against the co-owners of all Units and said Units. In furtherance of said grant of authority to the Board to make, levy, and collect assessments to pay the costs and expenses for the operation and management of the Regime, the following provisions shall be operative and binding upon the co-owners of all Units, to wit:

(a) Except for those assessments relating to the maintenance of the semi-private yards, Specific Assessments, Special Assessments, and assessments for individual Unit water usage, all assessments levied against the co-owners of Units and said Units shall be uniform ("General Assessments" or "Regular Assessments") and, unless specifically otherwise provided for in these By-Laws or the Master Deed, the assessments made by the Board shall be in such proportion that the amount of assessment levied against each co-owner of a Unit and his Unit shall bear the same ratio to the total assessment made against all co-owners of Units and their Units as does the undivided interest in General Common Elements appurtenant to each Unit bear to the total undivided interest in the Regime (per the percentage interests in the Common Elements of the Regime as set forth in Exhibit "D" of the Master Deed);

(b) The Board shall have the authority to levy Specific Assessments at any time and from time to time against one or more Units, but not all the Units, for services benefiting or related to said Unit or Units or their Limited Common Elements or their assigned Common Element parking spaces or storage spaces;

(c) The Board shall have the authority to levy Special Assessments at any time and from time to time against any Unit for a violation of these Bylaws, the Master Deed, or the Rules & Regulations, or for reimbursement of the Association's remedial efforts to cure said violation.

(d) The Board shall have the authority to levy Special Assessments at any time and from time to time against all the Units in the Regime in times of financial crisis with the affirmative vote of two-thirds of the membership of the Association (as determined by the percentage interest in the Common Elements of the Regime as set forth in Exhibit "D" of the Master Deed).

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(e) The Board, in establishing said annual budget for operation, management, and maintenance of the project shall include therein a sum to be collected and maintained as reserve fund for replacement of General Common Elements, which reserve fund shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a part of the General Common Elements as well as the replacement of personal property which may constitute a portion of the General Common Elements held for the joint use and benefit of all the co-owners of all Units. The amount to be allocated to such reserve fund for replacements shall be established by said Board so as to accrue and maintain at all times a sum reasonably necessary to anticipate the need for replacements of said General Common Elements. The amount collected and allocated to the reserve fund for replacements from time to time shall be maintained in a separate account by the Association, although nothing herein contained shall prohibit the Association from applying any monies in such reserve fund for replacements to meet other needs or requirements of the Association in operating or managing the project in the event of emergencies or in the event the sums collected from the co-owners of Units are insufficient to meet the then fiscal financial requirements of the Association, but it shall not be a requirement that these monies be used for such latter purposes, as a separate assessment may be levied therefor if deemed to be preferable by the Board in the sole discretion of said Board;

(f) Additionally, a working capital fund must be established for the initial months of the project operation equal to at least a two months' estimated common area charge for each Unit. Each Unit's share of the working capital fund must be collected and transferred to the Association at the time of the initial closing of the sale of each Unit estate and maintained for the use and benefit of the Association. The contribution to the working capital fund for each unsold Unit shall be paid to the Association within sixty (60) days after the date of the conveyance of the first Unit in the project. The purpose of the fund is to ensure that the Association will have cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or desirable by the Board. Amounts paid into the fund are not to be considered as advance payment of regular assessments. The Grantor shall not use the working capital funds to pay any of its expenses, reserve contributions, construction costs, or to make up any budget deficits while it is in control of the Association. However, when unsold Units are sold, the Grantor may reimburse itself for funds it paid the Association for an unsold Unit's share of the working capital fund by using funds collected at Closing when the Unit is sold;

(g) The Board, in establishing said annual budget for operation, management, and

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maintenance of the project, shall include therein a sum to be collected as a general operating reserve which shall be used to provide a measure of financial stability during periods of special stress when such sums may be used to meet deficiencies existing from time to time as a result of delinquent payment of assessments by co-owners of Units, emergencies, or other reasons placing financial stress upon the Association;

(h) All monies collected by the Association shall be treated as the separate property of the Association and such monies may be applied by the said Association to the payment of any expense of operating and managing the Regime or to the proper undertaking of all acts and duties imposed upon it by virtue of these By-Laws and the Articles of Incorporation and Master Deed of the said Association. As the monies for any assessment are paid unto the Association by any co-owner of a Unit the same may be commingled with the monies paid to the Association by the other Co-owners of Units. All funds and other assets of the Association, and any increments thereto or profits derived therefrom or from the leasing or use of General Common Elements, shall be held for the benefit of the members of the Association, who shall own any common surplus in the proportions of their percentage of undivided interest in the Regime. No member of the Association shall have the right to assign, hypothecate, pledge, or in any manner transfer this interest therein; except as an appurtenance to his Unit;

(i) The payment of any assessment or installment thereof due to the Association shall be in default if such assessment, or any installment thereof, is not paid unto the Association on or before the due dates for such payment. When in default, the Board may accelerate the remaining installments of the annual assessment upon notice thereof to the Unit co-owner, whereupon the entire unpaid balance of the annual assessment shall become due upon the date stated in the notice which shall not be less than ten (10) days after the date of the notice. In the event any assessment, installment, or accelerated assessments are not paid within twenty (20) days after their due date, the Association, through its Board, may proceed to enforce and collect the said assessments against the Unit co-owner owing the same in any manner provided for by the Master Deed or the Bylaws, including the right of foreclosure and sale. When in default, the delinquent assessment or delinquent installment thereof due to the Association shall bear interest at the highest rate allowed by law until such delinquent assessment or installment thereof and all interest due thereon has been paid to the Association. If any assessment or installment thereof is not paid when due, the Board may assess such late fees and interest as it deems appropriate from time to time;

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(j) The co-owner or co-owners of each Unit shall be personally liable to the Association for the payment of all assessments, regular or special, which may be levied by the Association while such party or parties are co-owner or co-owners of a Unit in the Regime. In the event that any co-owner or co-owners are in default in payment of any assessment or installment thereof owed to the Association, such co-owner or co-owners of any Unit shall be personally liable for interest on such delinquent assessment or installment thereof as above provided, and for all costs of collecting such assessment or installment thereof and interest thereon, including a reasonable attorney's fee, whether suit is brought or not.

(k) No co-owner may exempt himself from liability for any assessment levied against such co-owner and his Unit by waiver of the use or enjoyment of any of the General Common Elements, by abandonment, or in any other manner.

(l) Recognizing that the necessity for providing proper operation and management of the project entails the continuing payment of costs and expenses therefor which results in benefit to all of the co-owners of Units and that the payment of such common expense represented by the assessments levied and collected by the Association is necessary in order to preserve and protect the investment of the co-owner of each Unit, the Association is hereby granted a lien upon such Unit and its appurtenant undivided interest in General Common Elements, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the co-owner of each Unit, such lien shall also secure interest, if any, which may be due on the amount of any delinquent assessments owing to the Association and all costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association in enforcing this lien upon said Unit and its appurtenant undivided interest in the General Common Elements. The lien granted to the Association may be foreclosed in the same manner as mortgages may be foreclosed in the State of South Carolina. In any suit for the foreclosure of said lien, the Association shall be entitled to rental from the co-owner of any Unit from the date on which the payment of any assessment or installment thereof became delinquent and shall be entitled to the appointment of a receiver for said Unit. The rental required to be paid shall be equal to the rental charged on comparable type of Units in Columbia, South Carolina. The lien granted to the Association shall further secure such advances for taxes and payments on account of superior mortgages, liens, or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien. The Association shall further be entitled to interest at the highest rate allowed by law on any such advance made for such purpose. All persons, firms, or

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corporations who shall acquire, by whatever means, any interest in the ownership of any Unit, are hereby placed on notice of the lien granted to Association and shall acquire such interest in any Unit expressly subject to such lien. The lien shall be subordinate to all mortgages or other liens duly recorded prior to the filing of the lien encumbering the Unit;

(m) The lien herein granted unto Association shall be effective from and after the time of recording in the public records of Richland County, South Carolina, a claim of lien stating the description of the Unit encumbered thereby, the name of the record co-owner, the amount, and the date when due. The lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney fees, advances to pay taxes and prior encumbrances, and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record;

(n) In the event that any person, firm, or corporation shall acquire title to any Unit and its appurtenant undivided interest in General Common Elements by virtue of any foreclosure, judicial sale, or deed in lieu of foreclosure, such person, firm, or corporation so acquiring title shall only be liable and obligated for assessments as shall accrue and become due and payable for said Unit and its appurtenant undivided interest in General Common Elements subsequent to the date of acquisition of such title and shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquires such title. In the event of the acquisition of title to a Unit by foreclosure, judicial sale, or deed in lieu of foreclosure, any assessment or assessments as to which the party so acquiring title shall not be liable shall be absorbed and paid by all co-owners of all Units as part of the common expense, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure;

(o) Whenever any Unit may be sold or mortgaged by the co-owner thereof, which sale shall be concluded only upon compliance with other provisions of these By-Laws, Association, upon written request of the co-owner of such Unit, shall furnish a statement verifying the status of payment of any assessment which shall be due and payable to Association by the owner of such Unit to the proposed purchaser or mortgagee. Such statement shall be executed by an officer of the Association and any purchaser or mortgagee may rely upon such statement in concluding the proposed purchase or mortgage transaction, as Association shall be bound by

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such statement. Any holder of any mortgage on any Unit shall have the right at all reasonable times and frequency to inquire as to the past due status of any assessment payments. The Association shall, upon request, promptly notify any such mortgagee when any assessment payment becomes more than sixty (60) days past due or when any default in the performance of any obligation required by the Master Deed or these By-Laws as to such Unit is not cured within sixty (60) days;

(p) In the event that a Unit is to be sold or mortgaged at the time when payment of any assessment against the co-owner of said Unit is due to the Association, such Unit shall be in default, whether or not a claim of lien has been recorded by the Association. Then the proceeds of such purchase or mortgage shall be applied by the purchaser or mortgagee first to payment of any then delinquent assessment or installment thereof due to the Association before the payment of any proceeds of purchase or mortgage proceeds to the co-owner of any Unit who is responsible for payment of such delinquent assessment;

(q) Institution of a suit at law to attempt to effect the collection of payment of delinquent assessments shall not be deemed to be an election by the Association which shall prevent its thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed an election precluding the institution of suit at law to attempt to effect collection of any sums then remaining owing it; and

(r) Assessments begin to accrue once the Master Deed for the Regime is recorded at the Richland County ROD Office.

11. MANAGER

(a) Employment. The Board may employ a professional Manager to assist in or take charge of the administration of the Association and the Property. The Board shall solicit competitive bids for such management.

(b) Authority and Duties. The Manager shall have such authority and duties as may be determined by the Board and shall report to the Board or to the President, as the Board may determine.

(c) Compensation. The Manager shall receive such compensation as the Board may determine.

12. DEFINITIONS

The definitions contained in § 27-31-20 S. C. Code Ann. (1976), are hereby incorporated herein

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and made a part hereof by reference. "Unit" shall have the same meaning as "Apartment".

13. CONFLICTS

In the event of any conflict between the provisions of the Master Deed and the provisions of these By-Laws, the provisions of the Master Deed shall control.

14. SEVERABILITY

The provisions of these By-Laws are severable, and the invalidity of one or more provisions thereof shall not be deemed to impair or affect in any manner the enforceability or effect of the remainder hereof.

15. CAPTIONS

The captions herein are inserted only as a matter of convenience and or reference and in no way define, limit, or describe the scope of these By-Laws or the intent of any provision hereof.

16. GENDER AND NUMBER

All pronouns used herein shall be deemed to include the masculine, the feminine, and the neuter, as well as and the singular and the plural whenever the context requires or permits.

17. AMENDMENT TO MASTER DEED AND BY-LAWS

Amendments to the Master Deed and these By-Laws shall be proposed and adopted in the following manner:

(a) Amendments may be proposed by the Board acting upon vote of the majority of the directors, or by members of the Association pursuant to the South Carolina Nonprofit Corporation Act;

(b) Upon any amendment or amendments being proposed by said Board or members, such proposed amendment or amendments shall be transmitted to the President of the Association, or other officer of the Association in absence of the President, who shall thereupon call a special joint meeting of the members of the Board and the membership for a date not sooner than twenty (20) days or later than sixty (60) days from receipt by such officer of the proposed amendment or amendments, and it shall be the duty of the Secretary to give to each member written or printed notice of such meeting in the same form and in the same manner as notice of the call of a special meeting of the members is required as set forth herein;

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(c) In order for amendment or amendments to become effective, the same must be approved by an affirmative vote of the members owning two-thirds of the total value of the property in the Regime (as determined by the percentage interests in the Common Elements of the Regime as set forth in Exhibit "D" of the Master Deed). Thereupon, such amendment or amendments shall be transcribed, certified by the Secretary of the Association, and, in the event of an amendment to the Master Deed, a copy thereof recorded in the public records of Richland County, South Carolina (amendments to the Bylaws need not be recorded).

(d) At any meeting held to consider such amendment or amendments to the By-Laws, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association at or prior to such meeting; and

(e) Notwithstanding the foregoing provisions of this Article, no amendment to these By-Laws or the Master Deed which shall abridge, amend or alter the right of The Grantor to designate and select members of the Board may be adopted or become effective without the prior written consent of the Grantor. No amendment shall be effective until all the requirements of the Master Deed have been met.

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The foregoing is the original set of By-Laws adopted this 2nd day of July, 2007.

The Gates at Williams-Brice Condominium Association

By: _____

Name: Mark Foraker

Its: President

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO. 2012-CP-40-8512

The Gates At Williams-Brice Condominium Association And Katharine Swinson, individually, and on behalf of all others similarly situated,

Plaintiffs,

vs.

DDC Construction, Inc.; Kapasi Glass Mart, Inc.; DMC Consolidated, Inc.; DMC Builders, Co. Inc., individually and d/b/a The Dinerstein Companies; DC Developers – Columbia Condos, Inc.; Columbia Condos, LP; DMC Developers I, Ltd.; 31-W Insulation Company, Inc.; Associated Concrete Contractors, Inc.; Bailey Electric Company, LLC; C&B Utilities, LP; Carolina Floor Systems, Inc.; Century Fire Protection, LLC; Cherokee Inc.; Coronado Stucco, LP; Cross Plains Custom Tile, Inc.; Lowry Construction & Framing Inc.; LTB Construction, Inc.; Martin Morales Jr. Painting & Drywall, LLC; Metal Construction Materials, Inc.; Southwest Ironworks, Inc.; The Clerkley/Watkins Group, LP; Tindall Corporation; Triad Pest Control, Inc.; Wyman Acoustics LLC; Alenco Holding Corporation, Alenco Window GA, LLC, New Alenco Window, Ltd.; AWC Holding Company; Crosby Window, Inc., f/k/a/ Action WinDoor Technology, Inc.; Geo-Systems Design & Testing, Inc.; HGE Consulting, Inc.; Maintenance Builders Supply, Ltd.; SCA Engineers, Inc.; Sinclair & Associates, Inc.; Faultless Hardware, individually and d/b/a Pamex Inc.; T & M Concrete, Inc.; Loveless Commercial Contracting, Inc.; Economy Waterproofing, Inc.; BMC West Corporation; Highway One Construction, Inc.; J.I. Windows LLC; Dietrich Industries, Inc., a/k/a Dietrich

PLAINTIFFS' MEMORANDUM IN OPPOSITION TO DINERSTEIN DEFENDANTS' MOTION FOR NON-JURY TRIAL AND TO STRIKE PLAINTIFFS' CLASS ACTION ALLEGATIONS AND JURY TRIAL DEMAND

Metal Framing, Inc., n/k/a Clarkwestern Dietrich Building Systems LLC; Best Masonry and its successor in interest; OldCastleAPG; Headwaters, Inc. d/b/a Best Masonry; and John Doe #1-10.

Defendants.

SUMMARY OF ARGUMENT

This Court should deny DDC's Motion for a Non-Jury Trial and to Strike Plaintiff's Class Action Claims and Jury Demand because DDC's Motion is procedurally improper and substantively without merit. Principally, the Gates Master Deed no longer contains either a Class Action or Non-Jury Waiver, and thus, DDC cannot request this Court enforce non-existent provisions. Moreover, DDC (a) failed to challenge issues concerning the mode of trial at its first opportunity; (b) failed to challenge the validity of the Second Amendment to the Master Deed; and (c) is precluded from challenging the Second Amendment altogether given its lack of membership or interest in the Gates' Regime. Additionally, DDC waived any right to enforce its unseverable anti-suit provisions, whereas Plaintiffs' did not waive its right to amend Gates' Master Deed. Finally, even assuming the purported waivers somehow apply, and are severable from each other, they are independently unconscionable, and thus, still unenforceable.

FACTS

Circa July 1, 2007, the Certificate of Occupancy was issued for The Gates at Williams-Brice. On July 11, 2007, the Master Deed was recorded. On or about April 7, 2008, prior to the Dinerstein Defendants' turnover of the Board to the Homeowners, the Dinerstein Defendants recorded the First Amendment to Master Deed and Bylaws of The Gates at Williams-Brice Horizontal Property Regime (related to conformance with lending approval requirements). The

Dinerstein Defendants subsequently handed over the Board to the Homeowners circa August 24, 2009 (Ex. 14).

In the Fall of 2012, the Homeowners were put on initial notice of the first defects that gave rise to this suit when a maintenance company (Watertight) refused to bid the exterior caulk job. On December 26, 2012, suit was filed, which the Dinerstein Defendants answered in early 2013. Plaintiffs subsequently filed an Amended Complaint on May 15, 2013 and Second Amended Complaint on February 19, 2014; the Dinerstein Defendants filed answers on July 22, 2013 (as to all Dinerstein Defendants except DMC Builder Co., Inc. d/b/a Dinnerstein, which answered on August 1, 2013) and March 21, 2014 respectively.

On May 23, 2013, the Homeowners passed the Second Amendment to Master Deed and By-Laws of The Gates at Williams-Brice Horizontal Property Regime with a 74.78% proxy vote in favor of amendment. The Second Amendment removed provisions of the Master Deed included by the Dinerstein Defendants that purported to limit the Homeowners' rights, including their rights to bring suit and to receive a jury trial (requiring binding arbitration instead) as well as their warranty rights (including warranties of merchantability, soundness, quality, workmanlike service, value, suitability, fitness, habitability and fitness for a particular purpose).

On June 5, 2013, the Second Amendment was recorded in Richland County in Deed Book 1867, page 408. (See Second Amendment attached hereto). The Second Amendment was made in conformance with the provisions required for amendment under the Master Deed in Section XXVII and Section XIII, subpart 4.[1]

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[1] The Master Deed sets forth the requirements for its amendment:

XXVII. Amendment of Master Deed

Neither this Master Deed nor the Bylaws nor any of its provisions shall be amended without the acquiescence of the co-owners owning at least two-thirds of the total interest in the Common Elements per the percentages set forth in Exhibit "D". Any amendment of this Master Deed shall be executed and subscribed with the same formalities

On or about March 24, 2014, the Dinerstein Defendants (hereinafter "DDC") filed their pending Motion for Non-Jury Trial and To Strike Plaintiff's Class Action Allegations and Jury Trial Demand.

A.) The Second Amendment Deleted All Warranty Limitations and Anti-Suit Provisions in the Gates' Master Deed

The Board of Directors has broad powers to manage and direct the affairs of the Association subject only to approval of the Association where such approval is specifically required by the Master Deed or By-Laws. (See Master Deed and Bylaws attached to the Motion). These powers include the power to call for amendment of the Master Deed. Section 4(j) of the By-Laws provides the Board with powers to legally enforce the Master Deed, By-Laws and Articles of Incorporation, "to carry out the maintenance, care, upkeep, repair, replacements, operation, surveillance, and the management of the general and limited elements, services, and facilities of the Regime wherever the same is required to be done and accomplished by the Association for the benefit of its members" and "to otherwise carry out all other duties and responsibilities set forth in the Master Deed, Bylaws, and Rules and Regulations of the Association, explicitly stated or implied therein." (Bylaws, pp. 7-9).[2] Using these powers, the

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required in South Carolina for the making of deeds, and recorded in the public records of Richland County. Any amendment of the Bylaws does not require such recordation.

Without limiting the foregoing, the Grantor, its successors or assigns, "acting alone" shall have the power, but not the obligation, at any time (and from time to time), to unilaterally amend the Master Deed and Bylaws to correct typographical or scrivener's errors, to correct inconsistencies, and to cause the Master Deed to conform to the requirements of the South Carolina Horizontal Property Act, the South Carolina Non-Profit Corporation Act, the City of Columbia, the requirements of the Federal National Mortgage Association (specifically in order to receive FNMA condominium project approval), and/or the Federal Home Loan Mortgage Corporation.

These amendment provision shall not apply to modifications to the Rules and Regulations of the Association, which shall be freely modifiable by the Board of Directors as long as such changes are posted within a reasonable period of time afterward.

Master Deed, p. 33.

[2] The By-Laws set forth the Board of Director's powers (pp. 7-9).

Board called for a vote on the Second Amendment to Master Deed to remove warranty limitations and anti-suit provisions included by DDC in the Master Deed; as referenced above, the Second Amendment was duly executed and recorded by the POA and its members pursuant to the Regime Instruments and the Horizontal Property Regime Act.

B.) The Purported "Waiver" Provisions Deleted

j) The Board shall manage and direct the affairs of the Association and subject to any restrictions imposed by law, by the Master Deed, or these By-Laws, may exercise all of the powers of the Association subject only to approval by the members when such is specifically required by the Master Deed or by these By-Laws. The Board shall exercise such duties and responsibilities as shall be incumbent upon it by law, the Master Deed, or these By-Laws, as it may deem necessary or appropriate in the exercise of its powers and shall include, without limiting the generality of the foregoing, the following:

i) To make, levy, and collect assessments against members and members' Units to defray the cost of the common areas and facilities of the Regime, and to use the proceeds of said assessments in the exercise of the powers and duties granted unto the Association;

ii) To carry out the maintenance, care, upkeep, repair, replacements, operation, surveillance, and the management of the general and limited elements, services, and facilities of the Regime wherever the same is required to be done and accomplished by the Association for the benefit of its members;

iii) To carry out the reconstruction of improvements after casualty and the further improvement of the property, real and personal;

iv) To make and amend regulations governing the use of the property, real and personal, in the Regime and to establish fines for the violation of same; so long as such regulations or amendments thereto and fines do not conflict with the restrictions and limitations which may be placed upon the use of such property under the terms of the Articles of Incorporation and Master Deed;

v) To acquire, operate, lease, manage, and otherwise trade and deal with property, real and personal, including Units in the Regime, as may be necessary or convenient in the operation and management of the Regime, and in accomplishing the purposes set forth in the Master Deed; provided, however, that any agreement for professional management of the Regime, or any other contract providing for services of the Grantor, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice; provided, further, that any contract entered into prior to passage of control of the Association from the Grantor may be terminated by the Association without cause and without penalty at any time after the transfer of control upon not more than ninety (90) days' notice to the other party thereto unless ratified by a majority of the Board after passage of control;

vi) By competitive bidding, to contract for the management of the common areas and facilities in the Regime and to designate to such contractor all of the powers and duties of the Association, except those which may be required by the Master Deed to have approval of the Board or membership of the Association;

vii) *To enforce, by legal means the provisions of the Articles of Incorporation and By-Laws of the Association, the Master Deed, and the regulations and fines hereinafter promulgated governing use of the property in the Regime;*

viii) To pay all taxes and assessments which are liens against any property of the Regime, other than Units and the appurtenances thereto, and to assess the same against the members and their respective Units subject to such liens;

ix) To carry insurance for the protection of the members and the Association against casualty and liability;

x) To pay all costs of power, water, sewer, and other utility services rendered to the condominium and not billed to the owners of the separate Units; and xi) To employ personnel for reasonable compensation to perform the services required for proper administration of the purposes of the Association, as well as to dismiss said personnel;

xii) Pursuant to Article XV of the Master Deed, to assign, reassign, or designate parking spaces for conditional exclusive use to such Co-Owners as it shall decide and to revoke such assignment or designation from time to time; and

xiii) *to otherwise carry out all other duties and responsibilities set forth in the Master Deed, Bylaws, and Rules and Regulations of the Association, explicitly stated or implied therein.* (emphasis added).

Buried within a hundred plus page document, worded using boiler-plate language difficult for a layperson to understand, the pertinent provisions deleted from Gates' Master Deed attempt to wrongfully disclaim DDC's liability, waive express and implied warranties and unconscionably restrict both the POA and its members' right to bring suit and to receive a jury trial:

> **Waiver of Jury Trial**
>
> BY ACCEPTANCE OF A DEED TO ANY UNIT OR OTHER PROPERTY HEREUNDER COOWNER(S) HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY HEREBY AGREE, THAT: (I) NEITHER CO-OWNER NOR ANY ASSIGNEE, SUCCESSOR, HEIR, OR LEGAL REPRESENTATIVE OF CO-OWNER OR GRANTOR, SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, OR ANY OTHER LITIGATION PROCEDURE ARISING FROM OR BASED UPON THE MATTERS SET FORTH HEREUNDER, OR TO THE DEALINGS OR RELATIONSHIP BETWEEN OR AMONG THE GRANTOR, ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, ARCHITECTS, ENGINEERS AND THE CO-OWNERS OR THE ASSOCIATION, INCLUDING WITHOUT LIMITATION WAIVER OF ANY TYPE OF CLASS ACTION SUIT; (Ii) NEITHER CO-OWNER NOR GRANTOR WILL SEEK TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN OR CANNOT BE WAIVED; (Iii) NEITHER OWNER NOR GRANTOR HAS IN ANY WAY AGREED WITH OR REPRESENTED TO ANY OTHER PARTY THAT THE PROVISIONS OF THIS SECTION WILL NOT BE FULLY ENFORCED IN ALL INSTANCES; AND (Iv) THE PROVISIONS CONTAINED IN THIS ARTICLE ARE A MATERIAL INDUCEMENT FOR GRANTOR TO MAKE THE DECLARATIONS SET FORTH HEREIN.

Master Deed, pp. 39-41.

> **Arbitration**[3]
>
> EACH AND EVERY CLAIM AND CAUSE OF ACTION ARISING OUT OF OR RELATED IN ANY WAY TO THE DESIGN, CONSTRUCTION, SALE, MAINTENANCE, HABITABILITY OF, OR CONDITION OF ANY UNIT OR ANY COMMON AREA THAT IS ASSERTED BY (I) ANY PERSON OR ENTITY THAT NOW HAS OR HEREAFTER ACQUIRES ANY INTEREST

[3]The arbitration provisions of Gates' Pre-Amended Master Deed are not recited in their entirety since DDC's Motion is not one to compel arbitration.

IN A UNIT, (II) THE GRANTOR OR EVELOPER, (III) THE UNIT OWNER'S ASSOCIATION (INCLUDING ANY CORPORATION OR OTHER ENTITY FORMED TO SERVE AS UNIT OWNERS' ASSOCIATION), (IV) ANY PERSON OR ENTITY THAT HAS PREVIOUSLY OR HEREAFTER SUPPLIES (DIRECTLY OR INDIRECTLY) LABOR, MATERIALS, DESIGN SERVICES, EQUIPMENT OR OTHER THINGS OF VALUE IN CONNECTION WITH THE CONSTRUCTION OR MAINTENANCE OF ANY UNIT OR THE COMMON AREA, OR (V) ANY HEIR, SUCCESSOR, DELEGATEE OR ASSIGNEE OF ANY SUCH PERSONS OR ENTITIES, SHALL BE RESOLVED BY FINAL AND BINDING ARBITRATION BEFORE A PANEL OF THREE ARBITRATORS PURSUANT TO THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION AS MODIFIED HEREIN.

***

THE GRANTOR, DEVELOPER, CONTRACTOR, ARCHITECT, THE ASSOCIATION, AND THE INDIVIDUAL UNIT OWNERS EXPRESSLY WAIVE ALL RESORT TO TRIAL BY JURY OF ANY AND ALL ISSUES OTHERWISE SO TRIABLE. ANY CLAIM OR CAUSE OF ACTION NOT COVERED BY THIS ARBITRATION AGREEMENT SHALL BE COVERED BY ARTICLE XXXV HEREIN.

Master Deed, pp.3-6.

In addition to the foregoing provisions, the pre-Amended Master Deed contained other provisions, drafted and incorporated by DDC, which attempted to dispel other significant rights and remedies lawfully available to Plaintiffs such as (a) Plaintiffs' right express and implied warranties including merchantability, soundness, quality, workmanlike service, value, suitability, fitness, habitability and fitness for a particular purpose; (b) Plaintiffs' right to receive monetary damages; and (c) Plaintiffs' right to bring claims within statutory prescribed time frames. Master Deed, p. 4.

ARGUMENT

A.) *DDC Failed to Timely Raise Issues Relating to the Mode of Trial*

Under our jurisprudence, it is well established "issues regarding mode of trial must be raised in the trial court *at the first opportunity*." *Foggie v. CSX Transp., Inc.*, 313 S.C. 98, 431 S.E.2d 587 (1993) (emphasis added). Here, DDC's Motion is based upon issues "regarding the mode of trial," issues which DDC now raises eighteen months *after* the filing of Plaintiffs' Complaint and *after* DDC filed its Answer to the same. Clearly, the raising of these issues by DDC *more than a year after* answering Plaintiffs' Complaint is not "at the first opportunity," thus rendering DDC's Motion untimely.

Indeed, DDC's *obligation to file* either a Motion to Dismiss pursuant to Rule 12(b) SCRCP, or a Motion to Strike pursuant to Rule 12(f), SCRCP, *prior to answering* Plaintiffs' Complaint was the "first opportunity" to raise these issues, an opportunity (and obligation) conveniently ignored by DDC. *See* Rule 12(b)(7), SCRCP ("Every defense, in law or fact, to a cause of action in any pleading . . . shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion. . . (7) failure to join a party under Rule 19. . ."); Rule 12(f), SCRCP (providing Motions to Strike must be made *before responding to a pleading* or *within 30 days* following the service of the pleading if no response is required). Given this missed opportunity, as well as DDC's role in the drafting of Gates' Master Deed, DDC *has no excuse* for failing to timely raise these "mode of trial" issues so as to minimize the already significant prejudice to Plaintiffs.

B.) The Gates' Master Deed Does Not Contain a Jury Trial or Class Action Waiver.

Not only is DDC's Motion concerning mode of trial untimely, the "mode of trial" DDC requests is not even allowed for in the Gates' Master Deed. Specifically, DDC's sole grounds for this Motion is that Plaintiffs waived the right to a jury trial and waived the right to bring a class action based upon boilerplate provisions *no longer in the Master Deed*. The Master Deed, via way of Amendment, contains neither of these alleged waivers, and notably, DDC does not and

cannot challenge the Amendment's validity. Accordingly, DDC's Motion is fundamentally flawed because it's procedurally precluded — DDC failed to challenge the validity of the Amendment deleting the alleged waivers from the Master Deed, and thus, DDC cannot plausibly maintain any argument as to the effectiveness of such waivers rendered ineffective by virtue of this proper (and unchallenged) Amendment.

1.) The Amendment to Gates' Master Deed Retroactively Applies

Indeed, the amendment to the document establishing a condominium association is recognized as having "the same force and effect as if it had been part of the original Declaration." *Apple II Condo. Ass'n v. Worth Bank & Trust Co.*, 659 N.E.2d 93, 98 (Ill. 1995) *cf. Wavburn v. Smith*, 270 S.C. 38, 41, 239 S.E.2d 890, 892 (1977) ("In South Carolina, deeds are to be construed as a whole and effect given to every part of the deed (aka including Amendments."); *see also* 15A Am. Jur. 2d §9 (2000) ("The power of a condominium's governing body to make amendments to the declaration is limited by a determination of whether the action is unreasonable, arbitrary, capricious, or discriminatory. The restrictions set out in an amendment have the same force and effect as if the amendment had been part of the original declaration.")

Thus, where a property owner's association enacts a valid amendment to the Master Deed, the amended Master Deed then controls the rights of the owner's association, the unit owners, and the developer. *Queens Grant II Horizontal Prop. Regime v. Greenwood Dev. Corp.*, 368 S.C. 342, 365, 628 S.E.2d 902, 915 (Ct. App. 2006) *citing* S.C. Code § 27-31-100(f) ("The Act requires that the master deed include a comprehensive list of particulars, including a description of the full legal rights and obligations, both currently existing and which may occur, of the apartment owner, the co-owners, and the person establishing the regime."). "This is

consistent with right of parties to a contract to give retroactive effect to contractual provisions." *See, e.g., Frantz v. Piccadilly Place Condominium Ass'n*, 597 S.E.2d 354, 357 (Ga. 2004) (holding that an amendment to condominium declaration applied retroactively to condominium association's claims against a unit owner); *see also Crest Builders, Inc. v. Willow Falls Improvement Ass'n*, 393 N.E.2d 107, 109-10 (Ill. 1979) (holding a developer could not have a vested interest in right to advertise units under a declaration where the condominium association's amended the declaration to remove those rights and the developer had not included a provision that prevented amendments to those rights and did not retain a veto power).

2.) DDC Was Aware of Plaintiff's Right to Amend the Master Deed, and Was On Notice of the Amendment Deleting Alleged Waiver Provision from Gates' Master Deed.

By Second Amendment recorded June 5, 2013, the Gates' Master Deed no longer contains the purported waiver provision which DDC now seeks to rely upon. DDC was constructively on notice of this Amendment; and further, if there was any doubt, DDC received actual notice of the Amendment in early March, two weeks before filing the instant Motion, during the deposition of Bill Yarborough on March 5, 2014.

Moreover, DDC did not limit the Plaintiffs' ability *to amend the Master Deed* to eliminate the provisions that foreclose the HOA or its members' right to bring a suit or to maintain a class action. Quite the contrary, DDC, in drafting the Gates' Master Deed, specifically conveyed to the HOA and its members express amendment rights. Because DDC expressly conferred amendment rights, DDC was undoubtedly aware of Plaintiffs' capacity to amend any and all provisions of the Gates' Master Deed. In light of said awareness, DDC cannot now challenge *the effect* of an amendment in an attempt to pervade justice and avoid liability.

3.) DDC Failed to Challenge the Second Amendment and Cannot Do So Within This Motion.

As evidenced by its Motion and Memorandum in Support, DDC fails to challenge, in any aspect, the validity of the June 3, 2013 Amendment to Gates' Master Deed. If DDC desires to challenge the Amendment, it must properly notice such a challenge and bring it in the appropriate vehicle and forum, which it cannot do.

a. **The Uniform Non-Profit Corporation Act Precludes DDC From Challenging the Amendment**

First, DDC is barred from challenging the Amendment by the applicable provisions of South Carolina's Uniform Non-Profit Corporation Act. *See* S.C. Code § 33-31-403(a). Specifically, DDC is not a member of the POA, and thus, DDC cannot meet the requirements of Section 33-31-403(b) of the Act which allows *Ultra Vires* challenges to be brought only in "a proceeding . . . to enjoin" the action and mandates such proceedings must be brought by a "member or members" of the non-profit corporation.

Specifically, S.C. Code § 33-31-304 Ultra vires provides as follows:

> (a) Except as provided in subsection (b), the **validity of corporate action may not be challenged on the ground that the corporation lacks or lacked power to act.**
> (b) A corporation's power to act may be challenged in a proceeding against the corporation to enjoin an act where a third party has not acquired rights. The proceeding **may be brought by the Attorney General, a director, or by a member or members in a derivative proceeding.**
> (c) A corporation's power to act may be challenged in a proceeding against an incumbent or former director, officer, employee, or agent of the corporation. The proceeding may be brought by a director, the corporation, directly, derivatively, or through a receiver, a trustee, or other legal representative, or in the case of a public benefit corporation, by the Attorney General.

S.C. Code § 33-31-304 (a)-(c).

b. **Further, DDC May Not Unilaterally Deprive Plaintiffs' Interests in the Regime Because DDC No Longer Owns Interest in Regime.**

Governed by the HPRA, the Gates Master Deed created this particular horizontal property regime and caused the entire property to be subject to the statutes of the Act. Certain sections of the Act provide that once common elements are set aside and vested in the "co-owners" of property subject to a Master Deed, such co-owners may not be unilaterally deprived of their interests in the common elements by the actions of the developer. *Reyhani v. Stone Creek Cove Condo. II Horiz. Prop. Regime*, 329 S.C. 206, 211, 494 S.E.2d 465, 468 (Ct. App. 1997) ("[O]nce common elements are set aside and vested in the co-owners, *such co-owners may not be unilaterally deprived of their interests in the common elements by the actions of the developer.*").

The HOA and its members, as co-owners of the common elements, necessarily possess an interest in recovering damages arising from construction defects existing within the same. DDC, no longer a "co-owner" and no longer in control of the HOA, no longer possesses any interest in the common elements or any other aspect of Regime. Given DDC's lack of interest in the Regime, the HPRA prohibits DDC from unilaterally depriving the HOA and its members of the interests they actually possess in Regime, rendering DDC's Motion meritless. *See Reyhani, supra; see also AJG Holdings, LLC v. Dunn*, 392 S.C. 160, 708 S.E.2d 218 (2011) ("Because [developer] did not retain any property interest in the development, [developer] did not retain developer's rights.").

C.) Plaintiffs' Did Not Waive Their Right to Amend the Gates' Regime Instruments

The Plaintiffs' did not waive their right to amend the Gate's Regime Instruments, and thus, the Plaintiffs cannot have waived their right to a jury trial or its right to pursue this jury action in a class capacity. Consequently, it does not matter whether the HOA or its members read the pre-Amended Master Deed or that the pre-Amended Master Deed contained alleged waivers, as DDC suggests. The Master Deed also contained provisions which allowed for the very

Amendment of these waivers. The proper question is whether the HOA and its members waived their right to amend the Master Deed – not whether the HOA and its members waived their right to request a jury trial, or a class action. Obviously, the HOA and its members cannot be considered to have waived their right to amend the Master Deed where this right is expressly provided for in the Master Deed, reiterated in the bylaws, and in accord with the HPRA.

D.) Even If Offending Provisions Had Not Been Deleted, There Has Been No Knowing, Voluntary Waiver By The Association Or The Owners

In addition to not waiving their right to amend the Gates' Master Deed, Plaintiffs also did not knowingly and voluntary waive their right to bring a class action including a jury demand. Under South Carolina jurisprudence, "waiver" has been repeatedly defined as the intentional relinquishment of a known right. *See Sanford v. S.C. State Ethics Com'n*, 385 S.C. 483, 685 S.E.2d 600 (2009) (holding waiver is a voluntary and intentional abandonment or relinquishment of a known right); *Strickland v. Strickland*, 375 S.C. 76, 85, 650 S.E.2d 465, 470 (2007) ("Waiver requires a party to have known of a right, and known that the party was abandoning that right."); *Jervey v. Martint Environmental, Inc.*, 396 S.C. 442, 721 S.E.2d 469 (Ct. App. 2012) (noting same); *King v. James*, 388 S.C. 16, 694 S.E.2d 35 (Ct. App. 2010) (noting same). As aptly noted by our Supreme Court in *Harvey v. Jefferson Standard Life Ins. Co.*, 165 S.C. 427, 427, 164 S.E. 6, 8 (1932):

> The definition of waiver is this: "The voluntary relinquishment of a known legal right." The knowledge of the legal right is not limited to the knowledge that there exists such right in one's favor, ***but it must be also a knowledge of the circumstances in which the parties are placed when the waiver is alleged to have occurred.*** It must be a voluntary act, with knowledge of the conditions calling for action, or the voluntary refraining from action. One cannot relinquish his right voluntarily and knowingly ***when he does not know that his right is in peril or in question.***

Based upon the foregoing definition, the Plaintiff HOA waived none of its rights because the Plaintiff HOA, in it's infancy, was controlled by DDC, and thus, independently had no way to "voluntarily" relinquish any rights. Moreover, the HOA, at the time the Master Deed was executed and recorded, had no way to know the common elements *subsequently vested by DDC* in their entirety to the HOA and its members *were riddled with latent defects*. Clearly, had the homeowner-controlled HOA known DDC would convey deficient common elements or known DDC would misrepresent the property's condition (knowledge which is clearly impossible for the HOA to have – no one can anticipate untruthfulness), objections clearly would have been made as DDC was duty bound to convey the Gates' Regime to the HOA and its members in good repair or required to provide the HOA with the funds necessary to so repair. *See, e.g., Goddard v. Fairways Dev. Gen. Partn.*, 310 S.C. 408, 426 S.E.2d 828 (Ct. App. 1993) (holding a developer owes fiduciary duties to both the property owners' association as well as the individual homeowners. The developer's fiduciary duties include the duties (a) to hand over common elements or amenities which the developer has represented as a part of the development; (b) in good condition; and (c) to act in the best interests of property owners while controlling the development's property owners' association.).

In light of the foregoing, the HOA and its members lacked both the voluntary capacity and the requisite knowledge necessary to understand that its interests in the common elements was at risk – the HOA and its members did not know (a) DDC would ultimately vest defective common elements; and (b) DDC would fail to properly fund the repair of the same. *See Janasik v. Fairway Oaks Villas Horizontal Prop. Regime*, 307 S.C. 339, 344, 415 S.E.2d 384, 387-88 (1992) ("Generally, the party claiming waiver must show that the party against whom waiver is

asserted possessed, at the time, actual or constructive knowledge of his rights or of all the material facts upon which they depended . . .").

To hold otherwise would allow DDC to employ the waiver doctrine as a means to unfairly profit from their breach of the contractual obligations and fiduciary duties which they owed to the HOA and its members. *Id.* (finding a waiver's "operation in all cases should be limited to saving harmless or making whole the party in whose favor they arise and should not, in any case, be made the instruments of gain or profit").

E.) The Alleged Jury Trial And Class Action Waivers Are Integral To The Provision To Arbitrate, Rights Which DDC Has Waived)

In South Carolina, it is generally held that the right to enforce an arbitration clause may be waived. *See, e.g., Davis v. KB Home of S.C., Inc.*, 394 S.C. 116, 131, 713 S.E.2d 799, 807 (Ct. App. 2011) ("The right to enforce arbitration may be waived."); *Hyload, Inc. v. Pre-Engineered Prods., Inc.*, 308 S.C. 277, 280, 417 S.E.2d 622, 624 (Ct. App. 1992) ("A party may waive the right to arbitrate given by a contract."). In fact, it is uniformly accepted in this State that a party who (a) fails to timely request arbitration, (b) engages in deceptive conduct, or (c) fully avails itself of the Court's discovery processes by noticing multiple depositions and engaging in substantial written discovery, as is the case here, has waived its right to invoke an arbitration clause.[4]

[4] *Partain v. Upstate Automotive Group*, 386 S.C. 488, 494-495 (2010) (arbitration clause held to be unenforceable where auto dealership's fraudulent conduct of substituting lesser quality car was unforeseeable to purchaser); *Aiken v. World Fin. Corp. of South Carolina*, 373 S.C. 144, 151, 644 S.E.2d 705,709 (2007)("because even the most broadly-worded arbitration agreements still have limits founded in general principles of contract law, this Court will refuse to interpret any arbitration agreement as applying to outrageous torts that are unforeseeable to a reasonable consumer in the context of normal business dealings."; *Rhodes v. Benson Chrysler–Plymouth, Inc.*, 374 S.C. 122, 128, 647 S.E.2d 249, 252 (Ct. App. 2007) (finding a ten-month period in which parties exchanged written interrogatories and requests to produce and took five depositions was sufficient to demonstrate waiver); *Evans v. Accent Manufactured Homes, Inc.*, 352 S.C. 544, 551, 575 S.E. 74, 77 (Ct. App. 2003) ("We find evidence in the record that Accent availed itself of discovery tools unavailable in arbitration, thereby prejudicing Evans by obtaining information from her it might not have been able to otherwise obtain. . . . As the party seeking arbitration, Accent bore the onus to halt discovery by seeking the court's protection. Instead, Accent failed to seek court protection and continued to engage in discovery to its benefit."); *Liberty Builders, Inc. v. Horton*, 336 S.C. 658, 665, 521 S.E.2d

To date, DDC has (a) participated in dozens of depositions; (b) taken several homeowner and Board Member depositions; (b) filed cross claims against other defendants; (d) conducted written discovery of other defendants; (e) filed many motions; and (f) actively litigated. Undoubtedly, DDC has waived its right to arbitrate, and the record reflects there are numerous parties DDC cannot compel to arbitrate. It logically follows, given the circumstances, DDC prefers the judicial form to redress its own claims.

F.) The Alleged Jury Trial Waiver And Class Action Wavier Which Movant Seeks To Avail Itself of is Contained Within, and is an Integral Part of, Other Unconscionable Provisions, Rendering the Provisions Unseverable from Each Other

An additional sustaining ground supporting this Court's denial of DDC's Motion is based upon the wholly unconscionable waiver terms DDC seeks to (albeit erroneously) enforce, especially when considered together with the equally unconscionable arbitration and alternate dispute related provisions. Having waived arbitration, DDC simply cannot piecemeal the enforcement of other similarly amended, waived and unconscionable provisions in an attempt to cherry-pick the relief DDC feels best suits its interests. Simply stated, the alleged waivers, arbitration and alternate dispute provisions DDC purport to rely upon cumulatively, and wrongfully, compromise Plaintiffs' rights. Because of their physical placement, these provisions necessarily form a part of or relate to the other provisions, so that where "one" provision is waived, all are waived given the lack of any clear distinctions. Moreover, because of their cumulative effect, these provisions are cumulatively unconscionable, and thus, should be

749, 753 (Ct. App. 1999) (holding the right to compel arbitration waived when motion compelling arbitration filed more than thirteen months after the filing of the complaint.); (finding a ten-month period in which parties exchanged written interrogatories and requests to produce and took five depositions was sufficient to demonstrate waiver); *see also Davis*, 394 S.C. at 131, 713 S.E.2d at 807 (noting the three factors to consider when determining whether a party has waived its right to compel arbitration include: (1) whether a substantial length of time transpired between the commencement of the action and the commencement of the motion to compel arbitration; (2) whether the party requesting arbitration engaged in extensive discovery before moving to compel arbitration; and (3) whether the non-moving party was prejudiced by the delay in seeking arbitration).

construed together so that, as a whole, these provisions are not severable from each other, and thus, rejected as one.

In South Carolina, courts must look to our laws governing formation of contract to determine whether valid agreement arose between the parties. *Cf. Smith v. D.R. Horton, Inc.*, 403 S.C. 10, 742 S.E.2d 37 (Ct. App. 2013) ("When deciding a motion to compel arbitration *under the SCUAA or the FAA*, *the court* should look to *the state law that ordinarily governs the formation of contracts* in determining whether a valid arbitration agreement arose between the parties."); *see also Green Tree Financial Corp. v. Bazzle*, 539 U.S. 444, 452 (2003) ("*Bazzle*)"("Whether parties are bound by a given arbitration clause," typically involves certain "gateway matters, such as whether the parties have a valid arbitration agreement at all."). Specifically, in states such as South Carolina, where state law and equity govern issues concerning the validity, revocability and enforcement of contracts and deeds generally, state law and equity also govern issues concerning the validity, revocability and enforcement of clauses contained with the same, including arbitration and anti-suit provisions.[5][6] As such, it naturally follows a party may challenge the validity of these clauses under "state-based" grounds, such as unconscionability, and in doing so, properly directs said challenge to the court for ultimate determination.

Under our jurisprudence, "unconscionability" is defined to include both an absence of meaningful choice as well as oppressive, one-sided contractual provisions. *Simpson v. MSA of Myrtle Beach*, 373 S.C. 14, 25 644 S.E.2d 663, 668-69 (2007); *Carolina Care Plan, Inc. v.*

[5] As aptly noted by Justices Breyer, Ginsburg, Sotomayor and Kagan in their dissenting opinion to *AT&T Mobility, LLC v. Concepcion*: "even though contract defenses, *e.g.*, duress and unconscionability, slow down the dispute resolution process, *federal arbitration law normally leaves such matters to the States*." 131 S.Ct. 1740, 1760 (2011) (emphasis added); *Rent–A–Center*, 130 S.Ct. at 2775 (2010) (arbitration agreements "may be invalidated by 'generally applicable contract defenses'"); *Munoz v. Green Tree Financial Corp.*, 343 S.C. 531, 539, 542 S.E.2d 360, 363-64 (2001) ("General contract principles of state law apply to arbitration clauses governed by the FAA").

[6] According to South Carolina law, a party may seek revocation of a contract under "such grounds as exist at law or in equity," including fraud, duress, and unconscionability. S.C. Code § 15–48–10(a).

United Health Care Servs., Inc., 361 S.C. 544, 554, 606 S.E.2d 752, 757 (2004) (defining unconscionability as "the absence of meaningful choice on the part of one party due to one-sided contract provisions, together with terms that are so oppressive that no reasonable person would make them and no fair and honest person would accept them."). Given the absence of meaningful choice necessarily involved in connection with boiler-plate contracts such as the Master Deed, coupled with the one-sided nature of the Master Deed's "remedial" provisions, this Court should find said provisions unenforceable, and thus, refuse to enforce the same.

1.) **Absence of Meaningful Choice**

"Absence of meaningful choice on the part of one party generally speaks to the fundamental fairness of the bargaining process in the contract at issue." *Id.* (citations omitted). "In determining whether a contract was 'tainted by an absence of meaningful choice,' courts should take into account the nature of the injuries suffered by the plaintiff, whether the plaintiff is a substantial business concern, the relative disparity in the parties' bargaining power, the parties' relative sophistication, whether there is an element of surprise in the inclusion of the challenged clause, and the conspicuousness of the clause." *Lucey v. Meyer*, 401 S.C. 122, 140 736 S.E.2d 274, 284 (Ct. App. 2012), *r'hrg granted* (October 24, 2012) (citations omitted). "[U]nder general principles of state contract law, an adhesion contract is a standard form contract offered on a 'take-it-or-leave-it' basis with terms that are not negotiable." *Id.* In circumstances involving adhesion contracts, an absence of meaningful choice is readily apparent based upon the lack of bargaining power. Accordingly, adhesion contracts "are subject to considerable skepticism upon review, due to the disparity in bargaining positions of the parties." *Id.* ("the presumption in favor of arbitration clauses is substantially weaker when there are strong indications that the contract at issue is an adhesion contract, and the arbitration clause itself

appears to be adhesive in nature. In this situation there arises considerable doubt that any true agreement ever existed to submit disputes to arbitration.").

Here, Plaintiffs clearly had *no choice* and *zero input* as to *any aspect* of pre-Amended Master Deed, including the Deed's legal remedies provisions. As Plaintiffs are unsophisticated, lacked bargaining power and presented with Master Deed on a take it or leave it basis, there is clearly an absence of meaningful choice. This is even more the case given pre-amended provisions result in both (a) the loss of the right to a jury trial as well as (b) the loss of other certain remedies otherwise allowed by South Carolina law. As such, this Court cannot ignore the "adhesive" nature of these provisions - non-negotiable provisions which were drafted by DDC on a take it or leave it basis - and which functioned to contract away certain significant rights and remedies otherwise lawfully available to Plaintiffs. *See Simpson* (2007) ("Although this Court acknowledges that parties are always free to contract away their rights, *we cannot, under the circumstances, ignore the inconspicuous nature of a provision, which was drafted by the superior party, and which functioned to contract away certain significant rights and remedies otherwise available to Simpson by law. . .*")

2.) Oppressive/One-Sided Terms

Specifically as to oppressive terms, the South Carolina Court of Appeals in *Smith versus D.R. Horton*[7] recently affirmed a trial court's decision finding the arbitration provision contained in a D.R. Horton purchase contract unconscionable and unenforceable due to the "cumulative effect" of one-sided provisions which riddled the purchase contract. The trial court, confronted with a motion to compel arbitration brought by D.R. Horton, viewed the warranties and arbitration section of the purchase contract *as a whole, finding it "referenced that certain*

[7] *Smith v. D.R. Horton, Inc.*, 403 S.C. 10, 742 S.E.2d 37 (Ct. App. 2013).

disputes are to be resolved by mandatory binding arbitration along with an entire host of attempted waivers of important legal remedies. . ."

Per said review, the trial court held the sections' collective attempt to disclaim implied warranty claims was oppressive and unconscionable. The trial court further found "perhaps even more stark [were] the provisions in the Limitations of Liability. . ." in which D.R. Horton claimed it could not be liable for monetary damages of any kind. Based upon the foregoing, the trial court concluded, and our Court of Appeals subsequently affirmed, the arbitration provision was "wholly unconscionable and unenforceable based on the cumulative effect of a number of oppressive and one-sided provisions."

A review of the pre-amended Master Deed reveals strikingly similar warranty limitations and disclaimers to those addressed, and ultimately rejected, by the *D.R. Horton* Court. Thus, akin to *D.R. Horton*, all offending pre-Amended Master Deed provisions should be read together, and ultimately rejected together (which, technically, Plaintiffs already accomplished via way of the Second Amendment). *See Smith v. D.R. Horton*, 742 S.E.2d at 42 ("We conclude the *arbitration clause in this case should not be severed from the numerous unconscionable provisions* (aka read together) and particularly [D.R.] Horton's attempt to waive any seller liability for monetary damages of any kind, including secondary, consequential, punitive, general, special or indirect damages."); *see also Ingle v. Circuit City Stores, Inc.*, 328 F.3d 1165, 1180 (9th Cir. 2003) (finding arbitration agreement wholly unenforceable because of an "insidious pattern" of unconscionable provisions, and therefore "any earnest attempt to ameliorate the unconscionable aspects of [the] arbitration agreement would require [the] court to assume the role of contract author rather than interpreter"); *In re Cotton Yarn Antitrust Litig.*, 406 F.Supp.2d 585, 604 (M.D.N.C. 2005)("[W]here, as here, multiple provisions of the arbitration clauses are

inconsistent with Plaintiffs' ability to effectively vindicate their statutory rights ... the Court finds that the better course of action in this case *is to excise the arbitration clauses altogether.*").

G.) The Attempted Class Action and Non-Jury Waiver is Also Independently Unconscionable Because the Waiver (a) Violates the HPRA and the Non-Profit Corporation Act; (b) Wrongfully Deprives Plaintiffs' of Their Rights; and is (c) Inherently Unclear, Rendering All Gates' Regime Instruments Ambiguous

Even when construed independently, the attempted class action and non-jury waiver is still unconscionable, and thus, enforceable for a multitude of reasons.

1.) The Purported Waiver Violates the HPRA

The Horizontal Property Act mandates that the administration of the property shall be governed by the BYLAWS. *See* S.C. Code Ann. § 27-31-150 ("[t]he administration of the property constituted into horizontal property . . . shall be governed by bylaws which shall be inserted in or appended to and recorded with the master deed or lease."); *Ortega v. Kingfisher Homeowners Association, Inc.*, 314 S.C. 180, 442 S.E.2d 202 (Ct. App. 1994) (nothing horizontal property regimes are administered by bylaws inserted in or appended to the Master Deed.). The HPRA further provides:

> The bylaws must necessarily provide for at least the following:
>
> (a) Form of administration, indicating whether this shall be in charge of an administrator or of a board of administration, or otherwise, and specifying the powers, manner of removal and, where proper, the compensation thereof;
>
> (b) Method of calling or summoning the co-owners to assemble, that a majority of at least fifty-one percent is required to adopt decisions; who is to preside over the meeting and who will keep the minutes book wherein the resolutions shall be recorded;
>
> (c) Care, upkeep and surveillance of the property and its general or limited common elements and services; ...

> The sole owner of the property or, if there be more than one, the co-owners representing two thirds of the total value of the property, may at any time modify the system of administration, **but each one of the particulars set forth in this section *shall always be embodied in the bylaws*...**.

S.C. Code § 27-31-160 (emphasis added).

Because the Bylaws govern the HOA's administration of the Regime, any limitation on the HOA's power to so administrate that is not included in the Bylaws violates the HPRA. Here, the purported class action and jury trial waiver which operates to limit the HOA's power to "administrate" was formerly contained in the Master Deed – not the Bylaws. As such, this purported limitation violates the HPRA.

Moreover, the Master Deed conveys ownership of common elements to the Gates Regime, but each owner owns an undivided interest in the Regime property. Master Deed, p. 12-13. Pursuant to Section 27-31-70 of the HPRA, the common elements, ***both general and limited***, shall remain undivided and shall ***not*** be the object of an action for partition or division of the co-ownership. ***Any covenant to the contrary shall be void.*** The waiver, when read in conjunction with the other anti-suit provisions, attempts to "divide" the ownership of the common and limited common elements by purporting to require "each owner" to represent its own interest in the same. The division of such interests, in this manner, is precluded by the HPRA.

2.) The Purported Waivers Violate the Non-Profit Corporation Act

The HOA, as a non-profit corporation, has the powers conferred upon it by the statutory provisions allowing its very existence and delineating its powers. Section 33-31-302 of the South Carolina Code endows all non-profit corporations with the powers described in subsection (1) – (18) of that statute which reads, in pertinent part, as follows:

> Unless its articles of incorporation provide otherwise, every corporation has ... the same powers as an individual to do all things necessary or convenient to carry out its affairs including, WITHOUT LIMITATION, power: (1) To sue and be sued, complaint and defendant in its corporate name. ... (emphasis added)

In other words, non-profit corporations such as the HOA possess the power, *without limitation*, to sue, unless the articles of incorporation provide otherwise. Here, the articles of incorporation do not provide otherwise. (See Articles of Incorporation attached to the Master Deed.)

3.) The Purported Waivers Are Facially Ambiguous and Unconscionable

Buried within a hundred plus page document, worded using boiler-plate language difficult for a layperson to understand, the now-deleted class action and non-jury waiver attempts to wrongfully disclaim DDC's liability and unconscionably restrict both the HOA and its members' right to bring suit and to receive a jury trial. In addition to its unconscionable nature, the waiver is ambiguous on its face – it's embedded under an Alternative Dispute Resolution Heading, references only "jury trial" in its caption, and is written in boiler-plate language undecipherable to an unsophisticated party. Further, the waiver's caption makes no reference to "class action," and the language of the "jury trial" part of the waiver, itself, makes to reference to the Association.

4.) The Alleged Waivers Render Gates' Regime Instruments Ambiguous

The HPRA stipulates Plaintiffs must strictly comply with the bylaws and provisions of the Master Deed. "Each co-owner shall comply strictly with the bylaws...and with the covenants, conditions, and restrictions set forth in the master deed. . ." S.C. Code § 27-31-170 (emphasis added). However, the Gates' bylaws have no limitation on Plaintiffs' right to sue, and it's the bylaws which govern the administration of the Gates' Regime. Because the bylaws contain no limitations on Plaintiffs' right to sue, any provision contained in the Gates' Master Deed which purportedly operates to preclude Plaintiffs right, such as the alleged class action and non-jury waiver, creates an ambiguity which this Court must construe in favor of Plaintiffs.

CONCLUSION

Based upon the foregoing, DDC's Motion is both procedurally and substantially flawed, and therefore, this Court should deny the same.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this date, mailed, postage prepaid, a true and correct copy of ***Plaintiffs' Memorandum In Opposition To Dinerstein Defendants' Motion For Non-Jury Trial And To Strike Plaintiffs' Class Action Allegations And Jury Trial Demand*** to the following counsel and parties as follows:

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STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FIFTH JUDICIAL CIRCUIT

The Gates at Williams-Brice Condominium Association and Katharine Swinson, individually, and on behalf of all others similarly situated,

Plaintiffs,

vs.

DDC Construction, Inc.; Kapasi Glass Mart, Inc.; DMC Consolidated, Inc., DMC Builders, Co., Inc., individually and d/b/a The Dinerstein Companies; DC Developers – Columbia Condos, Inc.; Columbia Condos, LP; DMC Developers I, Ltd.; 31-W Insulation Company, Inc.; Associated Concrete Contractors, Inc.; Bailey Electric Company, LLC; C&B Utilities, LP; Carolina Floor Systems, Inc.; Century Fire Protection, LLC; Cherokee Inc.; Coronado Stucco, LP; Cross Plains Custom Tile, Inc.; Lowry Construction & Framing Inc.; LTB Construction, Inc.; Martin Morales Jr. Painting & Drywall, LLC; Metal Construction Materials, Inc.; Southwest Ironworks, Inc.; The Clerkley/Watkins Group, LP; Tindall Corporation; Triad Pest Control, Inc.; Wyman Acoustics LLC; Alenco Inc. d/b/a Ply Gem Window Group; Crosby Window, Inc., f/k/a Action WinDoor Technology, Inc.; Geo-Systems Design & Testing, Inc.; HGE Consulting, Inc.; Maintenance Builders Supply, Ltd.; SCA Engineers, Inc.; Sinclair & Associates, Inc.; Faultless Hardware, individually and d/b/a Pamex Inc. and John Doe #1-10,

Defendants.

Civil Action No: 2012-CP-40-8512

SUPPLEMENT TO RECORD IN FURTHER SUPPORT OF MOTION FOR NON-JURY TRIAL AND TO STRIKE PLAINTIFFS' CLASS ACTION ALLEGATIONS AND JURY TRIAL DEMAND

FILED
2013 JUN 19 PM 3:01
CLERK OF COURT
RICHLAND COUNTY, SC

DDC Construction, Inc., DMC Consolidated, Inc., DMC Builders, Co., Inc., individually as d/b/a The Dinerstein Companies, DC Developers-Columbia Condos, Inc, Columbia Condos, LP, DMC Developers I, Ltd, Associated Concrete Contractors, Inc., Bailey Electric Company, LLC, C&B Utilities, LP, Carolina Floor Systems, Inc., Century Fire Protection, LLC, Cherokee, Inc., Coronado Stucco, LP, Cross Plains Custom Tile, Inc., Lowry Construction & Framing, Inc., LTB Construction, Inc., Martin Morales Jr. Painting & Drywall, LLC, Metal Construction Materials, Inc., Wyman Acoustics, LLC and Highway One Construction, Inc. ("Defendants") hereby supplement the Record in further support of its Motion for Non-Jury Trial and to Strike Plaintiffs' Class-Action Allegations and Jury Trial Demand. The materials being filed are:

1. A copy of Bylaws of the Gates at Williams-Brice Homeowners Association;
2. A copy of the Deed of Title for Katharine Swinson, which is an exemplar of a Deed of Title for a Gates condominium unit;
3. A copy of the purchase contract of William Yarborough, which is an exemplar of a purchase contract for a Gates condominium unit;
4. Relevant excerpts of deposition testimony from Katharine Swinson, named class representative, and William Yarborough, the Association board chair;
5. A copy of the Master Deed of the Gates at Williams-Brice Horizontal Property Regime; and
6. Second Amendment to the Master Deed of the Gates at Williams-Brice Horizontal Property Regime.

Further, any additional documents or other materials referenced in Defendants' briefing or oral argument before the Court are herby incorporated by reference as if contained herein.

<signature block next page>

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6/19, 2014.



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BY-LAWS
OF
THE GATES AT WILLIAMS-BRICE CONDOMINIUM ASSOCIATION

1. IDENTITY

These are the By-Laws of The Gates at Williams-Brice Condominium Association, a non-profit corporation existing under the laws of the State of South Carolina (hereinafter called "the Association"), which has been organized for the purpose of administering The Gates at Williams-Brice Horizontal Property Regime, a horizontal property regime established pursuant to S.C. Code Ann. §27-31-10 et seq. (1976) (hereinafter called "the Regime"). The Regime is identified by the name The Gates at Williams-Brice and is located upon the real property in Richland County, South Carolina, described on Exhibit "A" attached to the Master Deed and made a part hereof by reference.

(a) The provisions of these By-Laws are applicable to the Regime, and the terms and provisions hereof are expressly subject to the effect of the terms, provisions, conditions, and authorizations contained in the Articles of Incorporation and which may be contained in the formal Master Deed which will be recorded in the public records of Richland County, South Carolina, at the time said property and the improvements now or thereafter situate thereon are submitted to the plan of condominium ownership, the terms and provisions of said Articles and Master Deed to be controlling whenever the same may be in conflict herewith.

(b) All present or future co-owners, tenants, future tenants, or their employees, or any other person that might use the Regime or any of the facilities thereof in any manner are subject to the regulations set forth in these By-Laws and in said Charter and Master Deed.

(c) The office of the Association shall be 1085 Shop Road, Columbia, South Carolina, 29201, or such other place as the Board of Directors of the Association may designate from time to time;

(d) The fiscal year of the Association shall be the calendar year;

(e) The seal of the Association shall bear the name of the Association and the words "South Carolina."

2. MEMBERSHIP, VOTING, QUORUM, PROXIES

(a) All Unit Owners are Members of the Association, beginning when they take title to their Unit and terminating when they convey title away.

(b) A Member's vote shall be weighed based upon that Members percentage interest in

EXHIBIT 1

the Common Elements of the Regime as set forth in Exhibit "D" of the Master Deed.

(c) The quorum at members' meetings shall consist of persons entitled to cast a majority of the votes of the entire membership (a determined by the percentage interest in the Common Elements of the Regime as set forth in Exhibit "D" of the Master Deed). The joinder of a member in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such person for the purpose of determining quorum.

(d) The vote of the co-owners of a Unit owned by more than one person or by a corporation or other entity shall be cast by the person named in a certificate signed by all of the co-owners of the Unit and filed with the Secretary of the Association. Such certificate shall be valid until revoked by subsequent certificate. If such a certificate is not on file, the vote of such co-owners shall not be considered in determining the requirement for a quorum, nor for any other purpose.

(e) Votes may be cast in person or by proxy. Proxies must be filed with the secretary before the appointed time of the meeting for which their use is sought.

(f) Approval or disapproval of a Unit co-owner upon any matters, whether or not the subject of an Association meeting, shall be by the same person who casts the vote of such co-owner in an Association meeting.

(g) Except where otherwise required under the provisions of the Articles of Incorporation of the Association, these By-Laws, the Master Deed, or where the same may otherwise be required by law, the affirmative vote of the co-owners of a majority of the Units represented at any duly called members' meeting at which a quorum is present shall be binding upon the members (as determined by the percentage interest in the Common Elements of the Regime as set forth in Exhibit "D" of the Master Deed).

3. ANNUAL AND SPECIAL MEETINGS OF MEMBERSHIP:

(a) The annual members' meeting shall be held at the office of the Association or such other place as may be designated by the Board of Directors, at a date and time set by the Board of Directors in its reasonable discretion after proper notice for the purpose of electing directors and of transacting any other business authorized to be transacted by the members.

(b) Special members' meetings shall be held whenever called by the President or Vice President or by a majority of the Board of Directors and must be called by such officers upon receipt of a written request from the members of the Association as required by the South

Carolina Nonprofit Corporation Act.

(c) Notice of all members' meetings, regular or special, shall be given by the President, Vice President, or Secretary of the Association, or other officers of the Association in the absence of said officers, to each member, unless waived, in writing. Such notice is to be written or printed and shall include a description of any matter as required by §33-31-705, of the Code of Laws of South Carolina (1976), as amended, and shall state the time and place of the member's meeting and shall be given to each member not less than ten (10) days nor more than sixty (60) days prior to the date set for such meeting. Notice shall be mailed first class or registered mail or presented personally to each member within said time. If presented personally, receipt of such notice shall be signed by the member, indicating the date on which such notice was received by him. If mailed, such notice shall be deemed properly given five (5) days after being deposited in the United States Mail, addressed to the member at his post office address as it appears in the records of the Association, the postage thereon prepaid or where otherwise provided by Section 33-31-141 of the Code of Laws of South Carolina (1976), as amended from time to time. Proof of such mailing shall be given by Affidavit of the person giving the notice. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. If any members' meeting cannot be organized because a quorum has not been attended, or because the greater percentage of the membership required to constitute a quorum for particular purposes has not attended, wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation, these By-Laws, or the Master Deed, the members who are present, either in person or by proxy, may adjourn the meeting, from time to time until a quorum, or the required percentage of attendance greater than a quorum, is present.

(d) At meetings of membership, the President or other officer of the Association shall preside or, in the absence of such officers, the membership present shall select a chairman.

(e) The order of business at annual members' meeting, and, as far as practical, at any other members' meeting, shall be:

i) Calling of the roll and certifying proxies;
ii) Proof of notice of meeting or waiver of notice;
iii) Reading of Minutes;
iv) Reports of officers, president and chief financial officer;

v) Reports of committees;

vi) Appointment by chairman of inspectors of election;

vii) Election of directors;

viii) Unfinished business;

ix) New business; and

x) Adjournment.

4. BOARD OF DIRECTORS.

(a) The initial Board of Directors of the Association (hereinafter sometimes referred to as the "Board") shall be comprised of three (3) directors until the first members' meeting, at which time five (5) directors will be elected. Thereafter, the Board shall consist of five (5) directors. Subject to the remainder of this paragraph, the Grantor may appoint and remove members of the Board for a period not exceeding five (5) years from the date of the first conveyance of a Unit to a person other than the Grantor. The period of Grantor control terminates no later than sixty (60) days after conveyance of seventy-five percent (75%) of the Units in the entire Regime to Unit owners other than the Grantor. The Grantor may voluntarily surrender the right to appoint and remove members of the Board before termination of that time period.

Whenever Grantor shall be entitled to designate and select any person or persons to serve on any Board of Directors of Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or By-Laws of the Association and Grantor shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or other persons to act and serve in the place of any director or directors so removed for the remainder of the unexpired term of any director or directors so removed. Any director designated and selected by Grantor need not be a resident in the Regime. Anything to the contrary notwithstanding, the power in the Grantor to designate directors shall terminate five years from the date of the Master Deed.

Any representative of Grantor serving on the Board shall not be required to disqualify himself upon any vote upon any management contract or other matter between Grantor and Association where the said Grantor may have a pecuniary or other interest. Similarly, Grantor as a member of the Association, shall not be required to disqualify itself in any vote which may come before the membership of the Association upon any management contract or other matter between Grantor and Association where Grantor may have a pecuniary or other interest. This

provision does not limit or restrict the requirement of Section 33-31-831, Code of Laws of South Carolina (1976), as amended.

An individual Co-owner other than Grantor engaged by the Regime in a commercial operation or otherwise earning monies from servicing the premises, i.e. rental company, contractor, hardware store, painter, or property manager may not serve on the Board as long as the individual is engaged in a business performing a service in connection with the Regime.

(b) Election of directors shall be conducted in the following manner:

i) Grantor, as Sponsor of the Regime, shall, at the beginning of the election of the Board designate and select that number of the members of the Board which it should be entitled to designate and select in accordance with the provisions of these By-Laws, and upon such designation and selection by Grantor by written instrument presented to the meeting at which such election is held, said individuals so designated and selected by Grantor shall be deemed and considered for all purposes directors of the Association, and shall thenceforth perform the duties of such directors until their successors shall have been selected or elected in accordance with the provisions of these By-Laws;

ii) All members of the Board whom Grantor shall not be entitled to designate and select under the terms and provisions of these By-Laws shall be elected by a plurality of the votes cast at the annual meeting of the members of the Association immediately following the designation and selection of the members of the Board whom Grantor shall be entitled to designate and select;

iii) Vacancies in the Board may be filled until the date of the next annual meeting by the remaining directors, except that should any vacancy in the Board be created in any directorship previously filled by a person designated and selected by Grantor, such vacancy shall be filled by Grantor designating and selecting, by written instrument delivered to any officer of the Association, the successor director to fill the vacated directorship for the unexpired term thereof;

iv) At the first annual meeting of the members held after the property identified herein has been submitted to the plan of condominium ownership and the Master Deed has been recorded in the public records of Richland County, South Carolina, the term of office of the three (3) directors receiving the highest plurality of votes shall be established as two (2) years, and the terms of office of the other two (2) directors shall be established as one (1) year. Thereafter, as many directors of the Association shall be elected at the annual meeting as there are regular

terms of office of directors expiring at such time, and the term of the directors so elected at the annual meeting of the members each year shall be for two (2) years expiring at the second annual meeting following their election, and thereafter until their successors are duly elected and qualified or until removed in the manner elsewhere provided or as may be provided by law for the removal of directors of South Carolina Nonprofit Corporation Act. If, at the time of the first annual meeting, Grantor still has the right to appoint directors, then Grantor shall have the right to designate and select two (2) directors whose term of office shall be established at two (2) years, and one (1) director whose term of office shall be established at one year;

v) In the election of directors, there shall be appurtenant to each Unit as many votes for directors as there are directors to be elected, provided, however, that no member or co-owner of any Unit may cast more than one vote for any person nominated as director, it being the intent hereof that voting for directors shall be non-cumulative;

vi) In the event that Grantor, in accordance with the privilege granted unto it, selects any person or persons to serve on any Board, the said Grantor shall have the absolute right at any time, in its sole discretion, to replace any such person or persons with another person or persons to serve on said Board. Replacement of any person or persons designated by Grantor to serve on any Board shall be made by written instrument delivered to the President or Secretary of the Association or to the presiding officer of the Board, which instrument shall specify the name or names of the person or persons designated as successor or successors to the person or persons so removed from said Board. The removal of any director and designation of his successor shall be effective immediately upon delivery of such written instrument by Grantor to such officer of the Association and the director;

(c) The organizational meeting of newly elected Board shall be held within ten (10) days of its election, at such time and at such place as shall be fixed by the directors at the meeting at which they were elected, and no further notice of the organization meeting shall be necessary provided a quorum shall be present;

(d) Regular meetings of the Board may be held without notice at such time and place as shall be determined from time to time by a majority of the directors;

(e) Special meetings of the directors may be called by the President and must be called by the Secretary at the written request of one-third (1/3) of the votes of the Board. Not less than two (2) days notice of a meeting shall be given to each director personally, or by mail, telephone, or telegram, which notice shall state the time, place, and purpose of the meeting;

(f) Any director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice;

(g) A quorum at a directors' meeting shall consist of the directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board, except as specifically otherwise provided in the Articles of Incorporation, these By-Laws, or the Master Deed. If any director's meeting cannot be organized because a quorum has not attended or because the greater percentage of the directors required to constitute a quorum for particular purposes has not attended, wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation, these By-Laws, or the Master Deed, the directors who are present may adjourn the meeting, from time to time, until a quorum, or the required percentage of attendance greater than a quorum, is present. At any adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a director in the action of a meeting by signing and concurring the minutes thereof shall constitute the presence of such director for the purpose of determining a quorum;

(h) The presiding officer of directors' meetings shall be the President. In the absence of the President, the directors present shall designate one of their number to preside;

(i) Directors' fees, if any, shall be determined by the members of the Association;

(j) The Board shall manage and direct the affairs of the Association and subject to any restrictions imposed by law, by the Master Deed, or these By-Laws, may exercise all of the powers of the Association subject only to approval by the members when such is specifically required by the Master Deed or by these By-Laws. The Board shall exercise such duties and responsibilities as shall be incumbent upon it by law, the Master Deed, or these By-Laws, as it may deem necessary or appropriate in the exercise of its powers and shall include, without limiting the generality of the foregoing, the following:

i) To make, levy, and collect assessments against members and members' Units to defray the cost of the common areas and facilities of the Regime, and to use the proceeds of said assessments in the exercise of the powers and duties granted unto the Association;

ii) To carry out the maintenance, care, upkeep, repair, replacements, operation, surveillance, and the management of the general and limited elements, services, and facilities of the Regime wherever the same is required to be done and accomplished by the Association for the benefit of its members;

iii) To carry out the reconstruction of improvements after casualty and the further improvement of the property, real and personal;

iv) To make and amend regulations governing the use of the property, real and personal, in the Regime and to establish fines for the violation of same, so long as such regulations or amendments thereto and fines do not conflict with the restrictions and limitations which may be placed upon the use of such property under the terms of the Articles of Incorporation and Master Deed;

v) To acquire, operate, lease, manage, and otherwise trade and deal with property, real and personal, including Units in the Regime, as may be necessary or convenient in the operation and management of the Regime, and in accomplishing the purposes set forth in the Master Deed; provided, however, that any agreement for professional management of the Regime, or any other contract providing for services of the Grantor, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice; provided, further, that any contract entered into prior to passage of control of the Association from the Grantor may be terminated by the Association without cause and without penalty at any time after the transfer of control upon not more than ninety (90) days notice to the other party thereto unless ratified by a majority of the Board after passage of control;

vi) By competitive bidding, to contract for the management of the common areas and facilities in the Regime and to designate to such contractor all of the powers and duties of the Association, except those which may be required by the Master Deed to have approval of the Board or membership of the Association;

vii) To enforce by legal means the provisions of the Articles of Incorporation and By-Laws of the Association, the Master Deed, and the regulations and fines hereinafter promulgated governing use of the property in the Regime;

viii) To pay all taxes and assessments which are liens against any property of the Regime, other than Units and the appurtenances thereto, and to assess the same against the members and their respective Units subject to such liens;

ix) To carry insurance for the protection of the members and the Association against casualty and liability;

x) To pay all costs of power, water, sewer, and other utility services rendered to

the condominium and not billed to the owners of the separate Units; and

xi) To employ personnel for reasonable compensation to perform the services required for proper administration of the purposes of the Association, as well as to dismiss said personnel;

xii) Pursuant to Article XV of the Master Deed, to assign, reassign, or designate parking spaces for conditional exclusive use to such Co-Owners as it shall decide and to revoke such assignment or designation from time to time; and

xiii) to otherwise carry out all other duties and responsibilities set forth in the Master Deed, Bylaws, and Rules and Regulations of the Association, explicitly stated or implied therein.

(k) The first Board shall be comprised of three (3) persons designated to act and serve as directors by the Grantor. Said persons shall serve until their successors are elected or appointed at the first meeting of the members of the Association called after the property identified herein has been submitted to the plan of condominium ownership and the Master Deed has been recorded in the public records of Richland County, South Carolina. Should any member of said first Board be unable to serve for any reason, a majority of the remaining members of the Board shall have the right to select and designate a party to act and serve as a director for the unexpired term of said director who is unable to serve;

(l) The undertakings and contracts authorized by said first Board shall be binding upon the Association in the same manner as though such undertakings and contracts had been authorized by the first Board duly elected by the membership after the property identified herein has been submitted to the plan of condominium ownership and said Master Deed has been recorded in the Richland County public records, so long as any undertakings and contracts are within the scope of powers and duties which may be exercised by the Board in accordance with all applicable Regime Documents;

(m) Directors may be removed from office in the manner provided by law for the removal of directors of South Carolina nonprofit corporations.

6. ADDITIONAL PROVISIONS ABOUT MEETINGS OF MEMBERS AND DIRECTORS.

(a) Notwithstanding anything contained in these By-Laws to the contrary, any meeting of members or Board may be held at any place within or without the State of South Carolina or by telephone conference.

(b) To the extent now or from time to time hereafter permitted by the laws of South Carolina, the Board may take any action which they might take at a meeting of directors without a meeting. One or more written consents of any such action so taken, signed by each director, is to be retained in the Association's minute book and given equal dignity by all persons to the minutes of meetings duly called and held.

(c) Any action of the members may be taken by written ballot in accordance with §33-31-704, Code of Laws of South Carolina (1976), as amended, or by written consent in accordance with §33-31-704 of said Code.

7. OFFICERS

(a) The executive officers of the Association shall be a President, who shall be a director, a Vice President, a Treasurer, and a Secretary, all of whom shall be elected annually by the Board of Directors and who may be peremptorily removed by vote of the directors at any meeting. No person may hold more than two (2) offices. The Board, shall from time to time, elect such other officers or committees and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

(b) The President shall be the principal executive officer of the Corporation and subject to the control of the Board. He or she shall, in general, supervise and control all of the business and affairs of the Corporation. He or she shall preside at all meetings of the shareholders and of the Board. He or she may sign, with the Secretary or any other proper officer of the Corporation authorized by the Board, any deeds, mortgages, bonds, contracts, or other instruments which the Board has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board or by these By-Laws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board.

(c) The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the directors.

(d) The Secretary shall keep the minutes of all proceedings of the directors and the members. He shall attend to the giving and serving of all notices to the members and directors, and such other notices required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep the records of the

Association, except those of the Treasurer, perform all other duties incident to the office of Secretary of any association, and as may be required by the directors or President.

(e) The Treasurer shall have custody of all of the property of the Association, including funds, securities, and evidences of indebtedness. He shall keep the assessment rolls, the accounts of members, and the books of the Association in accordance with good accounting practices. He shall perform all other duties incident to the office of Treasurer.

(f) The compensation of all officers and employees of the Association, if any, shall be fixed by the Board. This provision shall not preclude the Board from employing the Grantor as an employee of the Association, nor preclude the contracting with the Grantor for management of the Regime. Officers need not be Unit owners.

8. FISCAL MANAGEMENT

The provisions for fiscal management of the Association set forth in the Master Deed and Articles of Incorporation shall be supplemented by the following provisions:

(a) The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Unit. Such an account shall designate the name and address of the Co-owner or Co-owners, the amount of each assessment against the amounts paid upon the account and, the balance due upon assessments;

(b) The initial Board shall adopt a budget for the period commencing upon submission of the property to Horizontal Property Regime, continuing through the end of the following calendar year, and shall establish assessments for that period;

(c) The Board shall adopt a budget for each calendar year, which shall contain estimates of the cost of performing the functions of the Association, including, but not limited to, the following items:

i) Common expense budget, which shall include without limiting the generality of the foregoing, the estimated amounts necessary for maintenance and operation of General Common Elements, landscaping, street and walkways, office expenses, swimming pool, utility services, casualty insurance, liability insurance, administration, and reserves (operating and replacement);

ii) Budget for the maintenance of the semi-private yards, the expenses of which will be assessed separately against only those co-owners with Units that have semi-private yards (as depicted in Exhibit "C" to the Master Deed);

iii) Assessments for specific maintenance or repairs or other items benefiting one

or more Units but not all the Units in the Regime performed by the Association ("Specific Assessments");

iv) Assessments for individual Unit water usage, which is based upon actual water usage per Unit and billed individually and not commonly shared amongst all the Units.

v) Proposed assessments against each member. Copies of the budget and proposed assessments shall be given to each member at each annual meeting. If the budget is subsequently amended before the assessments are made, a copy of the amended budget shall be furnished to each concerned member. Delivery of a copy of any budget or amended budget to each member shall not affect the liability of any member for any such assessment, nor shall delivery of a copy of such budget of amended budget be considered as a condition precedent to the effectiveness of said budget and assessments levied pursuant thereto, and nothing herein contained shall be construed as restricting the right of the Board, at any time, in their sole discretion to levy an additional assessment in the event that the budget originally adopted shall appear to be insufficient to pay costs and expenses of operation and management, or in the event of emergencies.

(d) The Board shall determine the method of payment of such assessments and the due dates thereof and shall notify the members thereof. The assessments will initially be on a monthly-in-advance basis unless changed by a vote of the majority of the Board;

(e) The depository of the Association shall be such bank, savings and loan, or other Federally Insured depositories as shall be designated from time to time by the directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the directors.

(f) The Board shall require fidelity bonds from all officers and employees of the Association and from any contractor handling or responsible for Association funds. The amount of such bonds shall be determined by the directors, but shall be at least the amount of the total annual estimated operating expense and revenues. The premiums on such bonds shall be paid by the Association as a common expense.

9. PARLIAMENTARY RULES

Roberts Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Articles of Incorporation and these By-Laws or with the statutes of the State of South Carolina.

10. ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT

The Board, as and for the co-owners, is given the authority to administer the operation and management of the Regime, it being recognized that the delegation of such duties to one entity is in the best interests of the co-owners of all Units. To properly administer the operation and management of the project, the Association will incur, for the mutual benefit of all of the co-owners of Units, costs and expenses which will be continuing or non-recurring costs, as the case may be, which costs and expenses are sometimes herein referred to as "common expense." To provide the funds necessary for such proper operation and management, the said Board is hereby granted the right to make, levy, and collect assessments against the co-owners of all Units and said Units. In furtherance of said grant of authority to the Board to make, levy, and collect assessments to pay the costs and expenses for the operation and management of the Regime, the following provisions shall be operative and binding upon the co-owners of all Units, to wit:

(a) Except for those assessments relating to the maintenance of the semi-private yards, Specific Assessments, Special Assessments, and assessments for individual Unit water usage, all assessments levied against the co-owners of Units and said Units shall be uniform ("General Assessments" or "Regular Assessments") and, unless specifically otherwise provided for in these By-Laws or the Master Deed, the assessments made by the Board shall be in such proportion that the amount of assessment levied against each co-owner of a Unit and his Unit shall bear the same ratio to the total assessment made against all co-owners of Units and their Units as does the undivided interest in General Common Elements appurtenant to each Unit bear to the total undivided interest in the Regime (per the percentage interests in the Common Elements of the Regime as set forth in Exhibit "D" of the Master Deed);

(b) The Board shall have the authority to levy Specific Assessments at any time and from time to time against one or more Units, but not all the Units, for services benefiting or related to said Unit or Units or their Limited Common Elements or their assigned Common Element parking spaces or storage spaces;

(c) The Board shall have the authority to levy Special Assessments at any time and from time to time against any Unit for a violation of these Bylaws, the Master Deed, or the Rules & Regulations, or for reimbursement of the Association's remedial efforts to cure said violation.

(d) The Board shall have the authority to levy Special Assessments at any time and from time to time against all the Units in the Regime in times of financial crisis with the affirmative vote of two-thirds of the membership of the Association (as determined by the percentage interest in the Common Elements of the Regime as set forth in Exhibit "D" of the Master Deed).

(e) The Board, in establishing said annual budget for operation, management, and maintenance of the project shall include therein a sum to be collected and maintained as reserve fund for replacement of General Common Elements, which reserve fund shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a part of the General Common Elements as well as the replacement of personal property which may constitute a portion of the General Common Elements held for the joint use and benefit of all the co-owners of all Units. The amount to be allocated to such reserve fund for replacements shall be established by said Board so as to accrue and maintain at all times a sum reasonably necessary to anticipate the need for replacements of said General Common Elements. The amount collected and allocated to the reserve fund for replacements from time to time shall be maintained in a separate account by the Association, although nothing herein contained shall prohibit the Association from applying any monies in such reserve fund for replacements to meet other needs or requirements of the Association in operating or managing the project in the event of emergencies or in the event the sums collected from the co-owners of Units are insufficient to meet the then fiscal financial requirements of the Association, but it shall not be a requirement that these monies be used for such latter purposes, as a separate assessment may be levied therefor if deemed to be preferable by the Board in the sole discretion of said Board;

(f) Additionally, a working capital fund must be established for the initial months of the project operation equal to at least a two months' estimated common area charge for each Unit. Each Unit's share of the working capital fund must be collected and transferred to the Association at the time of the initial closing of the sale of each Unit estate and maintained for the use and benefit of the Association. The contribution to the working capital fund for each unsold Unit shall be paid to the Association within sixty (60) days after the date of the conveyance of the first Unit in the project. The purpose of the fund is to ensure that the Association will have cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or desirable by the Board. Amounts paid into the fund are not to be considered as advance payment of regular assessments. The Grantor shall not use the working capital funds to pay any of its expenses, reserve contributions, construction costs, or to make up any budget deficits while it is in control of the Association. However, when unsold Units are sold, the Grantor may reimburse itself for funds it paid the Association for an unsold Unit's share of the working capital fund by using funds collected at Closing when the Unit is sold;

(g) The Board, in establishing said annual budget for operation, management, and

maintenance of the project, shall include therein a sum to be collected as a general operating reserve which shall be used to provide a measure of financial stability during periods of special stress when such sums may be used to meet deficiencies existing from time to time as a result of delinquent payment of assessments by co-owners of Units, emergencies, or other reasons placing financial stress upon the Association;

(h) All monies collected by the Association shall be treated as the separate property of the Association and such monies may be applied by the said Association to the payment of any expense of operating and managing the Regime or to the proper undertaking of all acts and duties imposed upon it by virtue of these By-Laws and the Articles of Incorporation and Master Deed of the said Association. As the monies for any assessment are paid unto the Association by any co-owner of a Unit the same may be commingled with the monies paid to the Association by the other Co-owners of Units. All funds and other assets of the Association, and any increments thereto or profits derived therefrom or from the leasing or use of General Common Elements, shall be held for the benefit of the members of the Association, who shall own any common surplus in the proportions of their percentage of undivided interest in the Regime. No member of the Association shall have the right to assign, hypothecate, pledge, or in any manner transfer this interest therein, except as an appurtenance to his Unit;

(i) The payment of any assessment or installment thereof due to the Association shall be in default if such assessment, or any installment thereof, is not paid unto the Association on or before the due dates for such payment. When in default, the Board may accelerate the remaining installments of the annual assessment upon notice thereof to the Unit co-owner, whereupon the entire unpaid balance of the annual assessment shall become due upon the date stated in the notice which shall not be less than ten (10) days after the date of the notice. In the event any assessment, installment, or accelerated assessments are not paid within twenty (20) days after their due date, the Association, through its Board, may proceed to enforce and collect the said assessments against the Unit co-owner owing the same in any manner provided for by the Master Deed or the Bylaws, including the right of foreclosure and sale. When in default, the delinquent assessment or delinquent installment thereof due to the Association shall bear interest at the highest rate allowed by law until such delinquent assessment or installment thereof and all interest due thereon has been paid to the Association. If any assessment or installment thereof is not paid when due, the Board may assess such late fees and interest as it deems appropriate from time to time;

(j) The co-owner or co-owners of each Unit shall be personally liable to the Association for the payment of all assessments, regular or special, which may be levied by the Association while such party or parties are co-owner or co-owners of a Unit in the Regime. In the event that any co-owner or co-owners are in default in payment of any assessment or installment thereof owed to the Association, such co-owner or co-owners of any Unit shall be personally liable for interest on such delinquent assessment or installment thereof as above provided, and for all costs of collecting such assessment or installment thereof and interest thereon, including a reasonable attorney's fee, whether suit is brought or not.

(k) No co-owner may exempt himself from liability for any assessment levied against such co-owner and his Unit by waiver of the use or enjoyment of any of the General Common Elements, by abandonment, or in any other manner.

(l) Recognizing that the necessity for providing proper operation and management of the project entails the continuing payment of costs and expenses therefor which results in benefit to all of the co-owners of Units and that the payment of such common expense represented by the assessments levied and collected by the Association is necessary in order to preserve and protect the investment of the co-owner of each Unit, the Association is hereby granted a lien upon such Unit and its appurtenant undivided interest in General Common Elements, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the co-owner of each Unit, such lien shall also secure interest, if any, which may be due on the amount of any delinquent assessments owing to the Association and all costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association in enforcing this lien upon said Unit and its appurtenant undivided interest in the General Common Elements. The lien granted to the Association may be foreclosed in the same manner as mortgages may be foreclosed in the State of South Carolina. In any suit for the foreclosure of said lien, the Association shall be entitled to rental from the co-owner of any Unit from the date on which the payment of any assessment or installment thereof became delinquent and shall be entitled to the appointment of a receiver for said Unit. The rental required to be paid shall be equal to the rental charged on comparable type of Units in Columbia, South Carolina. The lien granted to the Association shall further secure such advances for taxes and payments on account of superior mortgages, liens, or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien. The Association shall further be entitled to interest at the highest rate allowed by law on any such advance made for such purpose. All persons, firms, or

corporations who shall acquire, by whatever means, any interest in the ownership of any Unit, are hereby placed on notice of the lien granted to Association and shall acquire such interest in any Unit expressly subject to such lien. The lien shall be subordinate to all mortgages or other liens duly recorded prior to the filing of the lien encumbering the Unit;

(m) The lien herein granted unto Association shall be effective from and after the time of recording in the public records of Richland County, South Carolina, a claim of lien stating the description of the Unit encumbered thereby, the name of the record co-owner, the amount, and the date when due. The lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney fees, advances to pay taxes and prior encumbrances, and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record;

(n) In the event that any person, firm, or corporation shall acquire title to any Unit and its appurtenant undivided interest in General Common Elements by virtue of any foreclosure, judicial sale, or deed in lieu of foreclosure, such person, firm, or corporation so acquiring title shall only be liable and obligated for assessments as shall accrue and become due and payable for said Unit and its appurtenant undivided interest in General Common Elements subsequent to the date of acquisition of such title and shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquires such title. In the event of the acquisition of title to a Unit by foreclosure, judicial sale, or deed in lieu of foreclosure, any assessment or assessments as to which the party so acquiring title shall not be liable shall be absorbed and paid by all co-owners of all Units as part of the common expense, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure;

(o) Whenever any Unit may be sold or mortgaged by the co-owner thereof, which sale shall be concluded only upon compliance with other provisions of these By-Laws, Association, upon written request of the co-owner of such Unit, shall furnish a statement verifying the status of payment of any assessment which shall be due and payable to Association by the owner of such Unit to the proposed purchaser or mortgagee. Such statement shall be executed by an officer of the Association and any purchaser or mortgagee may rely upon such statement in concluding the proposed purchase or mortgage transaction, as Association shall be bound by

such statement. Any holder of any mortgage on any Unit shall have the right at all reasonable times and frequency to inquire as to the past due status of any assessment payments. The Association shall, upon request, promptly notify any such mortgagee when any assessment payment becomes more than sixty (60) days past due or when any default in the performance of any obligation required by the Master Deed or these By-Laws as to such Unit is not cured within sixty (60) days;

(p) In the event that a Unit is to be sold or mortgaged at the time when payment of any assessment against the co-owner of said Unit is due to the Association, such Unit shall be in default, whether or not a claim of lien has been recorded by the Association. Then the proceeds of such purchase or mortgage shall be applied by the purchaser or mortgagee first to payment of any then delinquent assessment or installment thereof due to the Association before the payment of any proceeds of purchase or mortgage proceeds to the co-owner of any Unit who is responsible for payment of such delinquent assessment;

(q) Institution of a suit at law to attempt to effect the collection of payment of delinquent assessments shall not be deemed to be an election by the Association which shall prevent its thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed an election precluding the institution of suit at law to attempt to effect collection of any sums then remaining owing it; and

(r) Assessments begin to accrue once the Master Deed for the Regime is recorded at the Richland County ROD Office.

11. MANAGER

(a) Employment. The Board may employ a professional Manager to assist in or take charge of the administration of the Association and the Property. The Board shall solicit competitive bids for such management.

(b) Authority and Duties. The Manager shall have such authority and duties as may be determined by the Board and shall report to the Board or to the President, as the Board may determine.

(c) Compensation. The Manager shall receive such compensation as the Board may determine.

12. DEFINITIONS

The definitions contained in § 27-31-20 S. C. Code Ann. (1976), are hereby incorporated herein

and made a part hereof by reference. "Unit" shall have the same meaning as "Apartment".

13. CONFLICTS

In the event of any conflict between the provisions of the Master Deed and the provisions of these By-Laws, the provisions of the Master Deed shall control.

14. SEVERABILITY

The provisions of these By-Laws are severable, and the invalidity of one or more provisions thereof shall not be deemed to impair or affect in any manner the enforceability or effect of the remainder hereof.

15. CAPTIONS

The captions herein are inserted only as a matter of convenience and or reference and in no way define, limit, or describe the scope of these By-Laws or the intent of any provision hereof.

16. GENDER AND NUMBER

All pronouns used herein shall be deemed to include the masculine, the feminine, and the neuter, as well as and the singular and the plural whenever the context requires or permits.

17. AMENDMENT TO MASTER DEED AND BY-LAWS

Amendments to the Master Deed and these By-Laws shall be proposed and adopted in the following manner:

(a) Amendments may be proposed by the Board acting upon vote of the majority of the directors, or by members of the Association pursuant to the South Carolina Nonprofit Corporation Act;

(b) Upon any amendment or amendments being proposed by said Board or members, such proposed amendment or amendments shall be transmitted to the President of the Association, or other officer of the Association in absence of the President, who shall thereupon call a special joint meeting of the members of the Board and the membership for a date not sooner than twenty (20) days or later than sixty (60) days from receipt by such officer of the proposed amendment or amendments, and it shall be the duty of the Secretary to give to each member written or printed notice of such meeting in the same form and in the same manner as notice of the call of a special meeting of the members is required as set forth herein;

(c) In order for amendment or amendments to become effective, the same must be approved by an affirmative vote of the members owning two-thirds of the total value of the property in the Regime (as determined by the percentage interests in the Common Elements of the Regime as set forth in Exhibit "D" of the Master Deed). Thereupon, such amendment or amendments shall be transcribed, certified by the Secretary of the Association, and, in the event of an amendment to the Master Deed, a copy thereof recorded in the public records of Richland County, South Carolina (amendments to the Bylaws need not be recorded).

(d) At any meeting held to consider such amendment or amendments to the By-Laws, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association at or prior to such meeting; and

(e) Notwithstanding the foregoing provisions of this Article, no amendment to these By-Laws or the Master Deed which shall abridge, amend or alter the right of The Grantor to designate and select members of the Board may be adopted or become effective without the prior written consent of the Grantor. No amendment shall be effective until all the requirements of the Master Deed have been met.

[The remainder of this page has been left blank intentionally. The signature page immediately follows.]

The foregoing is the original set of By-Laws adopted this 2nd day of July, 2007.

The Gates at Williams-Brice Condominium Association

By: _____

Name: Mark Foraker

Its: President



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STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
COUNTY OF RICHLAND)

KNOW ALL MEN BY THESE PRESENTS, **CLYDE J. SWINSON AND REBECCA P. SWINSON** ("Grantor") in the State aforesaid, for and in consideration of the sum of Five and 00/100 ($5.00) **DOLLARS AND LOVE AND AFFECTION** to us paid by **CLYDE J. SWINSON, REBECCA P. SWINSON and KATHARINE P. SWINSON** (hereinafter called "Grantee") in the State aforesaid (the receipt whereof is hereby acknowledged), have granted, bargained, sold and released, and by these Presents do(es) grant, bargain, sell and release, unto the said:

CLYDE J. SWINSON, REBECCA P. SWINSON AND KATHARINE P. SWINSON, THEIR HEIRS AND ASSIGNS FOREVER:

APARTMENT (UNIT) NUMBER 435 in THE GATES AT WILLIAMS-BRICE HORIZONTAL PROPERTY REGIME located in the City of Columbia, County of Richland, State of South Carolina, a horizontal property regime established pursuant to the South Carolina Horizontal Property Act (Section 27-31-10 et seq., S.C. Code Ann. (1976) as amended) by Master Deed dated July 2, 2007, as amended with appended By-laws and Exhibits including plat and plot plans which Master Deed including the By-laws and Exhibits are recorded in the Office of the Register of Deeds for Richland County in Book 1334 at page 2001, et seq. as amended. The Master Deed, By-laws, plot plan and plat above-mentioned, and the records thereof, are incorporated herein and by this reference are made a part hereof.

This being the same property conveyed unto Clyde J. Swinson and Rebecca P. Swinson by Deed of Avery R. MacDowell, dated July 8, 2010 and recorded in the Office of the ROD for Richland County in Book 1618at Page 1302.

TMS: 11296-04-23

Grantee's Address: 1085 Shop Road, Unit 435
Columbia, SC 29201

This conveyance is made subject to all existing easements, restrictions, rights of way and/or encroachments.

Book 1653-2054
2010084304 12/15/2010 10:11:53:853 Deed
Fee:$10.00 County Tax: $0.00 State Tax: $0.00

2010084304 Richard W. Rodden Richland County R O D

EXHIBIT
2

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the said premises before mentioned unto the said **CLYDE J. SWINSON, REBECCA P. SWINSON AND KATHARINE P. SWINSON**, their Heirs and Assigns forever.

And the said, **CLYDE J. SWINSON AND REBECCA P. SWINSON** do hereby bind Themselves and Their Heirs and Assigns to warrant and forever defend all and singular the said premises unto the said **CLYDE J. SWINSON, REBECCA P. SWINSON AND KATHARINE P. SWINSON**, their Heirs and Assigns against Themselves and Their Heirs and Assigns and against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

WITNESS our Hand(s) and Seal(s) this 10 day of December, 2010.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Witness #1

Clyde J. Swinson

Witness #2

Rebecca P. Swinson

STATE OF Virginia)
) ACKNOWLEDGMENT
COUNTY OF Fauquier)

I, Arun Nowlakha, Notary Public for Virginia, do hereby certify that Clyde J. Swinson and Rebecca P. Swinson personally appeared before me this day and acknowledged the due execution of the foregoing deed.

Sworn before me this 10th day of December, 2010.

Notary Public for Virginia
My commission expires: July 31, 2011

ARUN NOWLAKHA NOTARY PUBLIC REG. #7125600 MY COMMISSION EXPIRES 7/31/2011 COMMONWEALTH OF VIRGINIA



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RECYCLED PAPER
RECYCLABLE

YOU ARE HEREBY NOTIFIED THAT THIS CONTRACT OF SALE IS SUBJECT TO ARBITRATION PURSUANT TO THE SOUTH CAROLINA VERSION OF THE UNIFORM ARBITRATION ACT S.C. CODE ANN. SECTION 15-48-10 ET SEQ.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

CONTRACT OF SALE
THE GATES AT WILLIAMS-BRICE

WHEREAS, Columbia Condos, L.P., a Delaware Limited Partnership (hereinafter "Seller") owns or intends to purchase the property located at 1085 Shop Road, Columbia, South Carolina, in order to construct a residential condominium development containing One Hundred and Fifty Eight (158) condominium units, as generally shown on that certain Site Plan on file at the Seller's offices entitled "Shop Road Condominiums, 1085 Shop Road, Columbia, South Carolina" prepared by The Clerkley Watkins Group dated May 11, 2006, as may be further revised and modified by Seller without notice to Purchaser (hereinafter the "Site Plan"), and will declare same a horizontal property regime (hereinafter the "Regime") known as *The Gates at Williams-Brice Horizontal Property Regime* (hereinafter the "Development"), by filing a master deed (hereinafter the "Master Deed") according to the laws of the State of South Carolina, and

WHEREAS,

PRIMARY PURCHASER	SECONDARY PURCHASER (attach additional pages if necessary)
NAME: William H. Yarborough Sr.	NAME:
SS#: 250-92-1055	SS#:
ADDRESS: 800 Elm Ave Columbia	ADDRESS:
CITY: Columbia	CITY:
STATE: SC ZIP 29205	STATE: ZIP
HOME PHONE: 803-217-4238	HOME PHONE:
BUSINESS PHONE: 803-609-6161	BUSINESS PHONE:
FAX #:	FAX #:
MOBILE PHONE #: 803-609-6161	MOBILE PHONE #:
EMAIL ADDRESS:	EMAIL ADDRESS:

IF LLC, PARTNERSHIP OR CORPORATION, PROVIDE CONTACT NAME:

UNIT CLOSING DATE: 07/15/09

(Hereinafter the "Purchaser") desires to purchase unfurnished unit number 225 (hereinafter the "Unit") which is more fully described in the plans attached to the preliminary Master Deed of The Gates at Williams-Brice Horizontal Property Regime, on file at the Seller's office (hereinafter the "Plans"). In the event this Unit is purchased by more than one person, a partnership, a corporation, limited liability company, or group, the Purchaser appoints the person at address above to be the designated "Primary Purchaser" as shown above. Said Primary Purchaser shall receive all notices and correspondence from the Seller relating to this Contract of Sale (hereinafter the "Contract").

NOW THEREFORE, for and in consideration of Five Thousand dollars Dollars ($2500.00) paid herewith and balance of Two Thousand Five Hundred Dollars ($ 2500.00) paid to Seller on or before three (3) days after written notice from Seller, (collectively "Earnest Money") to the Escrow Agent (as defined in Paragraph 8) and the mutual promises contained herein, it is agreed by the parties as follows:

1. The Purchaser will purchase the Unit for One Hundred Sixty Five Thousand Dollars ($ 165,000), (hereinafter the "Purchase Price") and Purchaser authorizes

Buyer Initial WHY Date 6/12/09

Buyer Initial _____ Date _____

Seller Initial [illegible] Date 6/12/09

EXHIBIT 3

CLT0021076v1

Received Time Jun. 11. 2009 1:09PM No. 4257

the Seller, its successors and assigns, Seller's agents, or the Unit Permanent Lender to check their credit and verify their employment and banking deposits.

2. Purchaser shall deliver the balance of the Purchase Price to Seller at the Closing, in a Bank cashier's check or collected wired funds.

3. Purchaser shall be solely responsible for obtaining any financing necessary to accomplish the purchase of the Unit and shall pay all costs connected with same. The Purchaser understands that this Contract is not contingent upon obtaining mortgage financing for the purchase. If Purchaser desires to accept any financing made available by the Seller's Designated "Preferred Lender", Bank of America Mortgage (Contact Mark Tibshrany at 803-255-7764, 1901 Main Street, 3rd Floor, Columbia, SC 29201) or Palmetto South Mortgage Group (Contact Eugenia Bambas at 803-791-9790 ext. 116, 830 Gracern Road, Columbia, SC 29210), they may do so but contract remains not contingent upon financing and must close no later than 30 days from the date of this contract.

4. Purchaser understands that the Development and the sale of its Units are exempt from, and therefore not registered with, the United States Department of Housing and Urban Development or any state registration office.

5. If the Purchaser applies for financing with the Seller's Designated Lender or Other Permanent Lender, and decides after submitting an application to obtain financing from another source, the Purchaser shall be responsible for all costs incurred in processing said application, including, but not limited to, application fees, appraisal fees, credit report charges, attorney's fees and costs, Lender's inspection fee, title insurance commitment fees, and policy premiums, and such charges may be paid by Escrow Agent from the Earnest Money. If the Purchaser is turned down for a loan, the Purchaser will pay costs associated with the loan, including, but not limited to, loan application fee and credit report charges and the Escrow Agent may, at its option, deduct same from the Earnest Money.

6. Purchaser shall indicate by initialing below whether or not Purchaser intends to apply for financing referred to above (check one of the following):

___ I will pay CASH at Closing and will not require financing.

___ I am undecided at this time.

✓ I DO intend to apply for mortgage financing provided by the Seller's Designated Lender.

___ I DO NOT intend to apply to Seller's Designated Lender for such mortgage financing, but I will apply for other financing.

7. The Purchaser will, at settlement of the Unit (hereinafter the "Closing") pay all prepaid and closing costs, including, but not limited to: the Unit's share of the cost of the entire first year's insurance of the Regime; a Working Capital Contribution for the Regime (in the amount equal to two (2) months Regime fees); a pro-rated amount of the Regime fee for the month of Closing and the following month's Regime fee; the Unit's share of the estimated pro-rata real property and personal property taxes for the year of the Closing; deed recording fee for the Unit (but not the deed stamps, which are paid by the Seller); title insurance premiums for owner's and loan policies; title insurance binder and simultaneous issue fees; and any fees, costs or pre-paids required by lender or closing attorney to close the sale. Notwithstanding anything to the contrary, if Purchaser should elect to close (i) with Seller's Preferred Lender, or close paying all cash without financing or a mortgage of any kind, and (ii) with Seller's designated attorney (hereinafter "Seller's Attorney") acting as Settlement Agent, then Seller shall pay for the cost of Purchaser's Owner's and, if applicable, Lender's Title Insurance Policy Premium(s).

8. The following Seller's designated attorney shall be the Settlement Agent at Closing:

Hanson Law Firm, P.A. (offices located at 6156 St. Andrews Road, Columbia, SC 29212)

The above-Closing Attorney shall also act as the Escrow Agent under the terms and conditions of this Contract ("Escrow Agent"). Seller reserves the right, at any time and without the consent of the Purchaser, to change

Buyer Initial [illegible] Date 6/12/09 Seller Initial [illegible] Date 6/12/09

Buyer Initial _____ Date _____

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the above-stated Closing Attorney designation at its sole discretion to any attorney licensed in the state of South Carolina of its choosing as long as Seller provides reasonable notice to Purchaser of such a change. As long as the Seller's designated Closing Attorneys are acting as the Settlement Agents for the Closing, the fee of the Seller's Attorney for closing the sale and/or loan from the Purchaser's lender shall be paid by the Seller. Any services rendered by Seller's Attorney for the Purchaser other than basic settlement services shall be at fees agreed to by the Purchaser and Seller's Attorney. If Purchaser employs its own attorney to review closing documentation or otherwise participate in the closing, Purchaser shall be responsible for its attorney's fees.

8. The Seller may not use the Escrow Money at any time prior to the Closing or prior to default by Purchaser. The Escrow Agent shall place the Earnest Money in an interest bearing account and all interest thereon shall be paid to the Seller. Purchaser agrees to and understands that they have been informed of their right to ownership of the interest earned on the Earnest Money but relinquished to the Seller, by this written Contract, said right of ownership. The Earnest Money shall be applied to the Purchase Price at Closing, but the interest earned thereon shall not be applied to the Purchase Price.

10. The Contract is subordinate to any mortgages for loans, now or hereinafter obtained by the Seller for purchase or development of the Development.

11. At Closing, Seller shall deliver to Purchaser a properly executed South Carolina general warranty deed in exchange for Purchaser's payment of the remainder of the Purchase Price, which deed shall convey insurable fee simple title to the property subject to the following: Pro-rata taxes and assessment not yet due and payable; all the terms, provisions, rights, privileges, obligations, easements, assessments and liens set forth and described in the Master Deed and By-Laws of The Gates at Williams-Brice Horizontal Property Regime. Title shall also be subject to zoning laws, PUD regulations and ordinances, licenses and easements of record which may affect the property, and all facts which may be shown by a survey of the property.

12. The Closing shall be conducted at a time, place and date selected by the Seller and the Seller shall give the Purchaser not less than ten (10) days prior written notice thereof. The Purchaser must inspect the Unit with the Seller and/or the contractor, at a time designated by the Seller, prior to Closing, and immediately notify the Seller and contractor of any items which are not completed in a workmanlike manner so that arrangements can be made with the contractor to correct same. Since the Seller is providing the one (1) year Limited Warranty hereafter mentioned, the failure of the contractor to correct these items prior to the Closing date shall not delay the Closing, so long as the Certificate of Occupancy has been issued for the Unit by the governmental authority having jurisdiction, or, if none, by the Development architect. Acceptance at the Closing by the Purchaser of the Deed from the Seller shall constitute full performance by the Seller in accordance with the Contract, except for items correctable under the terms of the one (1) year Limited Warranty. The terms and conditions set out in the attached Limited Warranty, Limitation of Remedies & Disclaimer and Exclusion of All Other Warranties (the "Limited Warranty") is attached hereto and incorporated herein by reference. Seller and Purchaser will execute the Limited Warranty at closing and the terms thereof shall be included in the deed from the Seller to the Purchaser. The Purchaser will acknowledge the terms of the Limited Warranty as set out in the deed by signing the deed and the terms of the Limited Warranty shall be binding on the heirs, successors, and assigns of the grantee and run with the title to the Unit.

13. Inspection Procedure for the Unit:

A. This inspection shall be made by the Purchaser at a time and date designated by the Seller and in the company of a representative of the Seller and/or the contractor. Items to be corrected as mutually agreed are listed in an inspection report ("Inspection Report") which is signed by the Purchaser and representative of the Seller and/or the contractor.

B. The Seller shall make every reasonable effort to correct all of the items listed in the Inspection Report.

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C. No corrections will be made for defects not recorded on the Seller's Inspection Report or for defects first claimed or discovered after the expiration of the Limited Warranty period. Correction of latent defects as defined above will be made within a reasonable time after the Seller is notified in writing during the Limited Warranty period.

14. Upon request by the Purchaser, Seller at its option may extend the Closing date under such terms and conditions as Seller may require in its sole discretion, which terms and conditions may include, but not be limited to, the following:

A. Purchaser paying an additional 5% Earnest Money to Seller.

B. Purchaser authorizing Escrow Agent to pay the Earnest Money to Seller.

C. At Closing, Purchaser paying to Seller interest on the balance of the Purchase Price, at the prime rate set by the construction lender, plus 1.5%, from the original scheduled Closing date to the actual date of Closing.

D. All pro-rations, as set forth herein, shall be calculated from the original scheduled Closing date.

15. The Unit shall be constructed to conform substantially with the Plans. The Purchaser acknowledges that in the course of construction of the Unit, certain changes, directions or omissions may be necessary because of the requirements of governmental authorities having jurisdiction over the Unit, lender's or particular conditions of the job. Further the Purchaser acknowledges that in the course of construction of the Unit certain changes, deviations or omissions may result in variation of the dimensions of the Unit and the rooms, changes in size, shape and location of doors and window and the Common Elements.

16. Based upon the foregoing, the Purchaser hereby authorizes the Seller to undertake, without the need for specific authorization, any changes, deviations or omissions required by the governmental authorities, lender, or particular conditions of the job and to make changes and substitutions of materials of equal or greater quality than those shown in any model or specified on the Plans. The Purchaser further certifies that it has not relied upon the accuracy of the representations of the Seller with respect to the Plans which are on file with any governmental authority with respect to the square footage of the Unit.

17. The Purchaser understands that certain items and improvements to the Unit may vary and differ from samples shown on the Plans or to the Purchaser. In the event that materials or items to be used in the construction of the Unit or the Development become unavailable, the Seller reserves the right to substitute substantially equivalent materials and items for the unavailable materials and items. Certain items in model Units are for display only, and unless such items are shown on the Plans or listed in the Seller's standard selections for the Units per Paragraph 25 of this Contract, such display items are not included in this Contract.

18. A recorded Master Deed and Exhibits thereto shall be posted on the Seller's website. The preliminary Master Deed and Exhibits may be changed during construction by Seller without notice to the Purchaser and such changes shall be posted on the Seller's website from time to time, including without limitation changes to the preliminary plans that mirror a Unit in the opposite position as originally depicted, and all other such non-material changes. Such changes shall neither affect the validity or enforceability of the Contract nor entitle the Purchaser to any reduction of the Purchase Price or to terminate the Contract.

19. AT CLOSING, THE SELLER WILL DELIVER THE ATTACHED CERTIFICATE OF "LIMITED WARRANTY, LIMITATION OR REMEDIES, DISCLAIMER AND EXCLUSION OF ALL OTHER WARRANTIES" FORM (hereinafter the "Limited Warranty"). THE LIABILITY OF THE SELLER IS EXPRESSLY LIMITED ONLY TO THE LIMITED WARRANTY CONTAINED THEREIN, IF ANY. SELLER MAKES NO WARRANTY, EXPRESSED OR IMPLIED, FOR THE UNIT OR ANY FURNISHINGS, FURNITURE OR EQUIPMENT PURCHASED ALONG WITH THE UNIT (INCLUDING, BUT NOT LIMITED TO, WARRANTY OF HABITABILITY OR FITNESS FOR PURPOSE, WARRANTY OF

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MERCHANTABILITY, SOUNDNESS, QUALITY, WORKMANLIKE SERVICE, VALUE, SUITABILITY, OR FITNESS), OTHER THAN THE EXPRESS WARRANTY OF TITLE CONTAINED HEREIN.

20. Time is of the essence in this Contract and failure of the Purchaser to close at the scheduled closing time and date shall constitute a breach of the Contract by the Purchaser and shall entitle the Seller to pursue the remedies set out in Section 27 hereof in addition to any other remedies under the common or statutory laws of South Carolina.

21. Any notice shall be in writing and shall be delivered to the Seller at: 3411 Richmond Avenue Suite 200 Houston, Texas 77046 , Attn: Kelly Eleinart, or such other place designated by the Seller in writing, with a copy to Michael Eisenrauch, Parker Poe Adams & Bernstein, 200 Meeting Street, Suite 301, Charleston, South Carolina, 29401. Any written notice to the Purchaser shall be deemed received if addressed to Primary Purchaser's mailing address as set out herein and deposited in the U.S. Mail, sent via electronic mail (e-mail), or by facsimile.

22. Common party walls between Units will contain a blanket of sound insulation with a thickness of three (3) inches. The exterior walls will contain three (3) inches batt insulation with an R-Value of R-13. The roof area will be insulated with blown or batt insulation to a varying thickness, which according to the manufacturer will yield an average R-Value of R30. Characteristics of insulation to be installed are based upon information received from the manufacturer, installer or supplier, and reviewed by the Development's architect. Being a holder of a sales contract on the above Unit, Purchaser understands that the developer and sales agent are required by the Federal Trade Commission to represent to the proposed Purchaser of the above Unit the types and thickness of insulation which are to be installed in the Unit and Purchaser hereby acknowledges receipt of such notice.

23. The term "Purchaser" as used herein shall be deemed to refer to and include all persons or more than one who execute the Contract as Purchaser. The Contract is binding upon heirs, successors, assigns and personal representative of the parties and shall be construed and interpreted under the laws of the State of South Carolina. The terms of this Contract shall survive the Closing of this sale. **This Contract may not be assigned by Purchaser except with the express written consent of the Seller, and then only to such person or persons who have complied with all of the terms of the Contract as it relates to obtaining financing or proving to the Seller the ability of such person or persons to purchase the Unit.** It is expressly understood that the Purchaser shall remain primarily liable under the provisions of this Contract and the Seller may assign its rights and obligations under this Contract without the Purchaser's consent. The Purchaser hereby consents to personal jurisdiction of the courts of South Carolina and agrees that all actions arising out of or connected to this Contract shall be in the County of Richland, State of South Carolina.

24. In the event that the Purchaser fails to perform any of the obligations under this Contract, the Seller shall have the following rights and remedies which are not exclusive or in lieu of any remedies that the Seller may have under the statutory or common law of the State in which the Unit is located , or any other paragraph hereof: (1) the Seller shall be released from any further obligation to Purchaser under this Contract, (2) the Seller shall have the right to be paid the Earnest Money and any money deposited at time of any extension as liquidated damages. This provision for liquidated and agreed upon damages is a provision for bona fide damages, such damages are not a penalty. The parties hereto acknowledge and expressly understand that by the execution of the Contract, the Purchaser has induced the Seller to bind itself to the sale of the Unit, thus withdrawing the Unit from the sale to the general public at a time when other parties would be interested in purchasing the Unit. The parties further acknowledge and agree that the damage resulting to the Seller upon a default by Purchaser shall be substantial, but not subject to specific ascertainment and therefore this provision for agreed upon and liquidated damages is incorporated as a benefit to both parties.

25. In order to maintain safety standards, the Purchaser agrees he shall not restrict, interrupt, or in any manner interfere with the construction of the Unit and the Purchaser and Purchaser's contractors, employees or associates shall not enter upon the Development unless it has (I) obtained advanced written permission from Seller to enter, or (II) is escorted by Seller or Seller's Agent, or (III) Purchaser has closed and fully funded the purchase of the Unit. Failure to comply with this provision may be deemed a default by the Purchaser.

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26. Partial loss or damage to the Property by fire, storm, other casualty between the date hereof and the Closing shall not void or impair this Contract, but all such damages prior to Closing may be repaired by the Seller. In the event of total or substantial loss as a result of the hazards mentioned above, the Seller shall, subject to the rights of any construction lender, have sole rights to all insurance proceeds payable with respect to such loss and the Seller shall have the option to repair all damages at its cost or to cancel this Contract and refund the Earnest Money without interest or charge.

27. This Contract contains the entire agreement between the parties hereto. No modifications may be made to the Seller's form Contract of Sale. Both parties must sign all addendums to the Contract of Sale. No changes may be made to the wording of the Seller's form Contract of Sale or form addendums by the Purchaser. The form Contract of Sale and all form addendums thereto are kept on file in the office of Seller's designated attorney. Any changes to this form Contract not set out on Seller's form addendum shall be null and void.

28. The Purchaser will faithfully comply with the provisions of this Contract, the covenants and restrictions contained in the final Master Deed and By-Laws for the Regime, and shall pay when due all applicable assessments.

29. Should any provision of this Contract be void or become unenforceable at law or in equity, the remaining provisions shall remain in full force and effect and not in any manner be affected or impaired thereby.

30. This Contract is executed by the Purchaser, or Purchaser's duly authorized agent, in South Carolina, is entered into in South Carolina, and is not valid until accepted by the Seller.

31. This Contract may also be executed by a party signing a facsimile or Internet e-mail copy thereof and transmitting same to the other party by facsimile or e-mail.

32. THE LAW REQUIRES THAT THE PURCHASER AND SELLER RECEIVE AN AGENCY DISCLOSURE BROCHURE, ALONG WITH AN EXPLANATION OF THE AGENCY DISCLOSURE BROCHURE. THIS BROCHURE DEFINES THE RELATIONSHIP BETWEEN THE PARTIES AND CAN BE OBTAINED FROM PURCHASER'S REAL ESTATE AGENT. A FULL DISCLOSURE AND AN EXPLANATION OF THE RELATIONSHIPS ARE INCLUDED IN THE AGENCY DISCLOSURE BROCHURE. SHOULD THE PURCHASER HAVE ANY QUESTIONS ABOUT THIS BROCHURE OR THE AGENCY RELATIONSHIP, THEY ARE DIRECTED TO THE BROKER-IN-CHARGE OF THE PURCHASER'S AGENT, IF APPLICABLE, OR THE SOUTH CAROLINA REAL ESTATE COMMISSION OR AN ATTORNEY OF THEIR CHOICE.

33. This Contract supersedes any and all understandings and agreements between the parties and constitutes the sole and entire agreement between the parties. No oral statements or representations or sales material whatsoever shall be considered a part hereof.

34. This Contract has important legal consequences that should be read thoroughly prior to signing. If you have any questions about your rights or responsibilities under this Contract, you may wish to consult an attorney.

35. The Seller and Purchaser agree that any and all disputes which the Purchaser, his, its, or their heirs, successors and assigns may now or in the future have with the Seller, its agents and broker (if any), the Development's general contractor and its subcontractors, the Development's architect, or any of them, or any of their successors or assigns, agents, employees or subcontractors regarding the sale, design, condition, construction or merchantability, habitability, fitness for purpose or any other warranty, or any other claims or rights of action for Condominiums or the purchased Unit, the Limited Warranty, the Limitation of Remedies, and the Disclaimer and Exclusion of all other Warranties, or any provision of any of them shall be subject to arbitration in the State of South Carolina pursuant to the South Carolina version of the Uniform Arbitration Act, S.C. Code Ann. § 15-48-10 et seq. In the event that the arbitration provision herein is invalidated by a court of competent jurisdiction, the Seller, the Development's general contractor and its subcontractors, and the Development's architect, and Purchaser, his, its, or their heirs, successors and assigns hereby expressly agree that any and all disputes which would have been subject to the said arbitration provision shall be tried non-jury and further expressly agree that they

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hereby waive all resort to trial by jury or any and all issues otherwise so triable, including without limitation waiver of any type of class action suit. Seller and Purchaser hereby consent to jurisdiction in South Carolina. Any notice or service of process may be made by certified mail return receipt requested and any arbitration shall be held in Richland County, South Carolina. This provision shall survive Closing and shall be binding on the heirs, successors and assigns of the parties.

36. Purchaser has three (3) working days from the Closing of the Unit to have SCE&G put the account for electricity in his or her name. If at the end of the three (3) working days this has not taken place, the Development's general contractor will notify SCE&G to remove the electrical meter for this Unit.

37. BY ACCEPTANCE OF A DEED TO THE UNIT, PURCHASER IS ACCEPTING THE UNIT AND COMMON ELEMENTS THAT ARE IN SUBSTANTIAL COMPLIANCE WITH THE APPLICABLE BUILDING CODES IN EFFECT AT THE TIME THE UNIT AND COMMON ELEMENTS RECEIVED THE CERTIFICATE OF OCCUPANCY FROM THE APPLICABLE GOVERNMENTAL AUTHORITY.

38. NO OFFICER, MANAGER, MEMBER, AGENT, OR EMPLOYEE OF THE SELLER OR SALES AGENT NOR ANY OTHER PERSON HAS BEEN AUTHORIZED TO MAKE REPRESENTATIONS, PLEDGES, COVENANTS NOR COMMITMENTS REGARDING THE TERMS OF PURCHASER'S PURCHASE, THE DEVELOPMENT OF THE PROJECT, OF THE UNIT OR THE INVESTMENT OR RENTAL INCOME TO BE REALIZED THEREFROM, OTHER THAN THOSE MADE IN THIS CONTRACT, AND IF MADE, MAY NOT BE RELIED UPON BY PURCHASER OR ANY OTHER PERSON AS BEING MADE BY SELLER. PURCHASER MUST WRITE ALL ORAL REPRESENTATIONS OR PROMISES MADE BY ANY PERSON THAT ARE NOT INCLUDED IN WRITING ELSEWHERE IN THIS CONTRACT AND WHICH ARE IMPORTANT TO PURCHASER IN ENTERING INTO THIS CONTRACT IN RELIANCE ON ANY ORAL REPRESENTATIONS OR PROMISES REGARDING THE UNIT, THE DEVELOPMENT, WARRANTY, ADJACENT PROPERTIES, AND FUTURE DEVELOPMENT, OR ANY OTHER STATEMENT OR PROMISE THAT IS NOT MADE A PART OF THIS CONTRACT, AND SUCH STATEMENT(S) MUST BE WRITTEN BY PURCHASER IN THE SPACE BELOW. IF PURCHASER IS SATISFIED THAT ALL OF THE STATEMENTS, REPRESENTATIONS AND PROMISES THEY ARE RELYING ON ARE ADEQUATELY AND CLEARLY SET FORTH IN WRITING ELSEWHERE IN THIS CONTRACT, PURCHASER SHALL WRITE IN THE SPACE PROVIDED BELOW "NO ORAL STATEMENTS OR PROMISES" OR WORDS HAVING THE SAME MEANING. DO NOT WRITE IN THIS SPACE WITHOUT FIRST READING THIS WHOLE PROVISION.

(Purchaser must complete this section in his or her handwriting in the space provided below)

_____

_____

_____

_____

The Purchaser acknowledges that the Seller is under no obligation to accept or ratify any oral statements or promises made by any person, including without limitation a sales representative or agent, and the Seller has the right to reject this Contract or any amendment or addendum thereto if the Purchaser alleges that oral statements have been made upon which the Purchaser has relied. If the Seller rejects this Contract due to the Purchaser's reliance on such statements, the Purchaser shall have the right to waive such statements and proceed with this Contract.

39. This Contract is not intended to be an offer to sell nor a solicitation of offers to buy real estate in South Carolina by residents of Connecticut, Hawaii, Idaho, Illinois, New York, New Jersey, North Carolina, and Oregon, or in any other jurisdiction where prohibited by law. Columbia Condos I, P., a Delaware Limited Partnership and its agents (excluding Kelly Elenhart who is licensed to sell real estate in the State of Florida) are not licensed to sell real estate in any other state and all sales activity shall be conducted in SC.

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40. Columbia Condos L.P., a Delaware Limited Partnership is NOT a rental Company, and we do not discuss economic or tax benefits of rental arrangements or provide projected rental rates and occupancies of comparable Units, and we do not provide purchasers with any data concerning rental rates or occupancy rates of comparable Units.

41. Ownership may include the opportunity to place Purchaser's Unit in a rental arrangement. Prospective purchasers are free to use any rental management services they choose or manage the rental themselves.

42. 3-DAY RIGHT TO RESCISSION OF CONTRACT: PURCHASER MAY RESCIND THIS CONTRACT FOR ANY REASON AND RECEIVE FULL REIMBURSEMENT OF ITS EARNEST MONEY IF PURCHASER ELECTS TO RESCIND IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION NO LATER THAN THREE (3) DAYS AFTER THE EXECUTION DATE OF THIS CONTRACT. PURCHASER'S RESCISSION MUST BE IN WRITING, SIGNED BY ALL PURCHASERS LISTED ON THIS CONTRACT, AS AMENDED, AND DELIVERED TO SELLER NO LATER THAN 5:00PM EASTERN STANDARD TIME ON THE THIRD AND FINAL DAY OF THE RESCISSION PERIOD. DELIVERY OF THE RESCISSION NOTICE MUST BE MADE BY: (1) HAND DELIVERY, WITH SIGNATURE OF RECEIPT DATED PRIOR TO THE EXPIRATION OF THE RESCISSION PERIOD; (2) FACSIMILE TRANSMISSION, WITH A PRINTED CONFIRMATION OF RECEIPT TO SELLER'S DESIGNATED FAX NUMBER DATED PRIOR TO THE EXPIRATION OF THE RESCISSION PERIOD; OR (3) OVERNIGHT PRIORITY DELIVERY WITH FED EX, UPS, OR SOME OTHER SIMILAR DELIVERY SERVICES THAT PROVIDE TRACKING DATA ON THEIR SHIPMENTS, WITH RECEIPT ACCOMPLISHED PRIOR TO THE EXPIRATION OF THE RESCISSION PERIOD AS VERIFIED BY THE CARRIER'S TRACKING DATA. ANY ORAL OR EMAIL/ELECTRONIC COMMUNICATIONS CONCERNING RESCISSION NOTICE DO NOT SATISFY THE DELIVERY AND RECEIPT REQUIREMENTS HEREIN.

[THE REMAINDER OF THIS PAGE IS BLANK. SIGNATURE PAGE TO FOLLOW]

Buyer Initial [illegible] Date 6/12/09

Buyer Initial _____ Date _____

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MAKE CHECKS PAYABLE TO THE ESCROW AGENT ON PAGE THREE OF THIS CONTRACT.
Purchaser verifies that this Contract with the attached Limited Warranty, Limitation of Remedies, Disclaimer and Exclusion of All Other Warranties was duly executed and signed by Purchaser in South Carolina.

IN WITNESS WHEREOF, the undersigned have set their hands and seal on the date(s) indicated below. If the dates of signature differ between the parties, the later of the dates shall serve as the execution date of this Contract.

WITNESSES AS TO PURCHASER(S):
(Two (2) witnesses 18 years or older)

J M Crowe
WITNESS

WITNESS

WITNESS

WITNESS

WITNESS

WITNESS

WITNESS

WITNESS

WITNESS

PURCHASER(S):

Purchaser

Date: 6-10-09

Purchaser

Date:

Purchaser

Date:

Purchaser

Date:
(Attach additional pages if necessary)

WITNESSES AS TO SELLER:
(Two (2) witnesses 18 years or older)

WITNESS

WITNESS

SELLER:

By:

Date:

OR
By: [signature] Bill Graham
AUTHORIZED OFFICER
Date: 6/12/09

Bill Graham
BUYER'S AGENT (PLEASE PRINT)

CB United Realtors, Inc.
AGENCY NAME & ADDRESS (PLEASE PRINT)

758-1644 254-0106
PHONE NUMBER FAX NUMBER

BUYER'S AGENT COMMISSION: 5.0 % OF PURCHASE PRICE
(valid only if Seller's signature appears below)
(earned, due and payable upon closing/conveyance of the Unit)

SELLER'S REPRESENTATIVE (PLEASE PRINT)

Kowen Yip, Remax Real Estate Services, 110-3 Forum Drive Columbia, SC 29229
SELLER'S AGENT & AGENCY NAME, ADDRESS, PHONE NUMBER & FAX NUMBER (PLEASE PRINT)
(P) 803-546-2112 (F) 877-889-9126

Buyer Initial [initials] Date 6/12/09

Buyer Initial _____ Date _____

Seller Initial [initials] Date 6/12/09

YOU ARE HEREBY NOTIFIED THAT THIS LIMITED WARRANTY, LIMITATION OF REMEDIES & DISCLAIMER AND EXCLUSION OF ALL OTHER WARRANTIES IS SUBJECT TO ARBITRATION PURSUANT TO THE SOUTH CAROLINA VERSION OF THE UNIFORM ARBITRATION ACT S.C. CODE ANN. SECTION 15-48-10 ET SEQ.

Attached To and Part of
The Gates at Williams-Brice Contract of Sale

LIMITED WARRANTY,
LIMITATION OF REMEDIES &
DISCLAIMER AND EXCLUSION OF ALL OTHER WARRANTIES

Dwelling # 225 (the "Dwelling")

NOTE: THIS DOCUMENT IS CONTRACTUAL IN NATURE AND LIMITS YOUR RIGHTS IN SIGNIFICANT RESPECTS.

This document provides a LIMITED WARRANTY, a LIMITATION OF REMEDIES, and a DISCLAIMER AND EXCLUSION OF ALL OTHER WARRANTIES.

The Limited Warranty identifies the sole limited warranty provided to the Buyer, by the Seller, pertaining to the Dwelling.

The Limitation of Remedies limits the obligations of the Seller to the Buyer in case of claims by the Buyer under the Limited Warranty. The Seller's only obligation is limited to the repair or replacement, at Seller's option, of the defective condition.

The DISCLAIMER AND EXCLUSION OF ALL OTHER WARRANTIES disclaims all other warranties besides the LIMITED WARRANTY. The LIMITED WARRANTY is the Buyer's sole warranty on the Dwelling.

The LIMITED WARRANTY, the LIMITATION OF REMEDIES, and the DISCLAIMER AND EXCLUSION OF ALL OTHER WARRANTIES, are all subject to the ADDITIONAL TERMS AND CONDITIONS described herein.

Columbia Condos, L.P. ("Seller"), assigns to Purchaser all its rights under the LIMITED WARRANTY as received from DDS Construction, Inc. (the "Contractor"), and more fully described in the Project Manual for The Gates at Williams-Brice, Columbia, South Carolina, prepared by the Development Architect. This warranty is limited to the Work performed by the Contractor pursuant to the Plans and does not apply to any portion of the Dwelling which has not been constructed by the Contractor. The term of this warranty shall be for a period of 1 calendar year from the date of the closing of the unit.

The LIMITED WARRANTY is further subject to the following LIMITATION OF REMEDIES, DISCLAIMER AND EXCLUSION OF ALL OTHER WARRANTIES, and ADDITIONAL TERMS AND CONDITIONS.

Seller's sole obligation and Purchaser's sole remedy under the Limited Warranty described above, to the exclusion of all other remedies, is limited to the repair or replacement, at Seller's option, of the defective condition of the work pursuant to the Plans (the "Work"). Any portion of the buildings or other improvements not included in the Plans, is sold "AS IS" without warranty.

THE "LIMITED WARRANTY" PROVIDED ABOVE IS IN LIEU OF ALL OTHER WARRANTIES OF SELLER, WHETHER EXPRESS OR IMPLIED (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, SOUNDNESS, QUALITY, WORKMANLIKE SERVICE, VALUE, SUITABILITY, FITNESS, HABITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE).

THE "LIMITED WARRANTY" PROVIDED ABOVE IS NON-TRANSFERABLE AND IS PERSONAL ONLY TO THE PURCHASER WHO HAS SIGNED AND APPROVED THIS LIMITED WARRANTY, UNLESS APPROVAL IS OBTAINED FROM SELLER PRIOR TO TRANSFER.

AS TO ANY FURNITURE, FURNISHINGS, OR OTHER PERSONAL PROPERTY (INCLUDING WITHOUT LIMITATION, FAN COIL UNITS(S), MOTORIZED DAMPERS, AND HEATING, VENTILATING AND COOLING CONTROLS) CONVEYED ALONG WITH THE DWELLING BY THE SELLER TO THE PURCHASER, AND AS TO ANY "CONSUMER PRODUCT" (AS THAT TERM MAY BE DEFINED UNDER APPLICABLE FEDERAL LAW OR IMPLEMENTING REGULATIONS, OR AS A TERM OF SIMILAR MEANING MAY BE DEFINED UNDER STATE, OR LOCAL LAWS, OR THEIR IMPLEMENTING REGULATIONS), AND AS TO ANY PORTION OF THE CONDOMINIUM AND OTHER IMPROVEMENTS, NOT

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Buyer Initial _____ Date _____

CONSTRUCTED BY CONTRACTOR PURSUANT TO THE PLANS WHICH MAY BE CONTAINED IN THE PURCHASED DWELLING, OR THE COMMON AREA, SELLER NEITHER MAKES NOR ADOPTS ANY WARRANTY WHATSOEVER AND SPECIFICALLY EXCLUDES, EXPRESS OR IMPLIED, WARRANTIES OF ANY NATURE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE. ADDITIONALLY, THE SELLER EXCLUDES ALL WARRANTIES OF SOUNDNESS, QUALITY, WORKMANLIKE SERVICE, VALUE, SUITABILITY, FITNESS, OR OF HABITABILITY.

Additional Terms and Conditions:

The Limited Warranty provided above is subject to the following terms, conditions and exclusions, all of which are a part hereof:

1. Inspection Procedure.

(a) The Purchaser has the right to a pre-occupancy inspection of the purchased Dwelling to be made prior to the scheduled Closing. This inspection is to be made by Purchaser in the company of a representative of the Seller and/or the Contractor. Items to be corrected as mutually agreed upon are listed in an inspection report ("Inspection Report"), which is signed by the Purchaser and a representative of the Seller and/or the Contractor.

(b) The Seller and Contractor shall make every reasonable effort to correct all of the items listed in the Inspection Report.

(c) No corrections will be made for defects in the Work not recorded on Seller's Inspection Report or for defects in the Work first claimed or discovered after the expiration of the Warranty Period. Correction of latent defects as defined above will be made within a reasonable time after Seller is notified in writing during the Warranty Period.

2. Warranty Exclusions. The following exclusions and limitations apply to the Seller's LIMITED WARRANTY obligations set forth above:

(a) All chips, scratches or mars on items such as tile, walls, porcelain, glass (including breakage or cracks), plumbing fixtures, plastic laminate counter tops, granite or marble, must be noted on the Inspection Report, or else they will not be covered under the Seller's LIMITED WARRANTY obligations set forth above.

(b) Faucet leaks, toilet door and door frame adjustments, floor and wall tile grouting are covered for a period of one (1) year after Closing. Thereafter, any repairs or corrections become the sole responsibility of the Purchaser.

(c) Nail or screw pops or cracks in the walls and ceilings which do not result from faulty workmanship or defective materials but are the result of natural shrinkage and drying of building materials, or of normal settlement of the building, wind loads or other normal movement of the building components are not covered. To the extent that the Seller may elect at its sole discretion to perform repairs for the above conditions, provided that notice of such conditions in writing is received by Seller during the Warranty Period, Seller will not be liable for repainting, wallpapering or refinishing any repaired areas.

(d) The LIMITED WARRANTY obligations set forth above do not cover correction of the results of ordinary wear-and-tear, or damage due to misuse or neglect, negligence, or the Purchaser's or Association's failure to provide proper maintenance.

(e) The LIMITED WARRANTY obligations set forth above do not cover damage arising from leaks or water infiltration at perimeter walls or ceilings.

(f) The LIMITED WARRANTY obligations set forth above do not cover the Common Elements.

(g) The LIMITED WARRANTY obligations set forth above do not cover any personal property.

(h) The LIMITED WARRANTY obligations set forth above do not extend to any item which has been modified or repaired by Purchaser, or any items which are installed or constructed pursuant to a separate contract or agreement between the Purchaser and any party other than Seller.

(i) The LIMITED WARRANTY obligations set forth above specifically exclude any and all secondary, incidental or consequential damages caused by any defect or breach hereof.

(j) No steps taken by Seller to correct defects shall act to extend the scope or duration of this LIMITED WARRANTY beyond the Warranty Period.

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Seller Initial _____ Date 4/10/09

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(k) No representative of the Seller has the authority to expand or extend the scope of the LIMITED WARRANTY obligations set forth above or to make verbal agreements with respect thereto.

(l) All requests for correction pursuant to the LIMITED WARRANTY obligations set forth above must be in written form and shall be delivered to Seller, Columbia Condos, L.P. at 6363 Woodway, Suite 1000, Houston, TX 77057, Attn: Kelly Elerhart.

(m) LIMITED WARRANTY obligations set forth above are not assignable and any attempted assignment shall be null and void without Seller's prior written consent.

3. Arbitration Agreement. The Seller and Purchaser agree that any and all disputes which the Purchaser, his, its, or their heirs, successors and assigns may now or in the future have with the Seller, the Seller's sales and marketing company, its agents and broker, the Development's general contractor and its subcontractors, the Development's architect, or any of them; or any of their successors or assigns, agents, employees or subcontractors regarding the sale, design, condition, construction or merchantability, habitability, fitness for purpose or any other warranty, or any other claims or rights of action for Condominiums or the purchased Unit, the Limited Warranty, the Limitation of Remedies, and the Disclaimer and Exclusion of all other Warranties, or any provision of any of them shall be subject to arbitration in the State of South Carolina pursuant to the South Carolina version of the Uniform Arbitration Act, S.C. Code Ann. § 15-48-10 et seq.

4. Waiver of Jury Trial. In the event that the arbitration provision herein is invalidated by a court of competent jurisdiction, the Seller, the Development's general contractor and its subcontractors, and the Development's architect, and Purchaser, his, its, or their heirs, successors and assigns hereby expressly agree that any and all disputes which would have been subject to the said arbitration provision shall be tried non-jury and further expressly agree that they hereby waive all resort to trial by jury of any and all issues otherwise so triable.

6. Severability. The invalidity or ambiguity of any agreement, restriction, condition, reservation, or any other provision of this LIMITED WARRANTY, LIMITATION OF REMEDIES, DISCLAIMER AND EXCLUSION OF ALL OTHER WARRANTIES, shall not impair or affect in any manner the validity or effect of the rest of this document.

Buyer Initial [illegible] Date 6/12/09

Buyer Initial _____ Date _____

Seller Initial [illegible] Date 6/12/09

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STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND

THE GATES AT WILLIAMS-BRICE CONDOMINIUM ASSOCIATION AND KATHARINE SWINSON, INDIVIDUALLY, AND ON BEHALF OF ALL OTHERS SIMILIARLY SITUATED,

Plaintiff(s),

vs.

Case No.: 2012-CP-40-8512

DDC CONSTRUCTION, INC., ET AL.,

Defendant(s).

D E P O S I T I O N

WITNESS: KATHARINE SWINSON

DATE: Tuesday, March 4, 2014

TIME: 9:20 a.m.

LOCATION: Nelson, Mullins, Riley & Scarborough
1320 Main Street, 17th Floor
Columbia, South Carolina

TAKEN BY: Attorneys for the Defendants

REPORTED BY: SHERI L. BYERS
Registered Professional Reporter

COMPUSCRIPTS, INC.
A Full-Service Court Reporting Agency
Post Office Box 7172
Columbia, South Carolina 29202
803-988-0086
1-888-988-0086
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EXHIBIT 4

not sure the status of it. But, anyway, it's going to be if it hasn't been at some point.

I wanted to ask you just a few questions. If you can flip over to first page of the actual complaint. There's a motion form on the front, whatever, so it should be the first page of Exhibit 1.

A. Does it say "Second Amended Complaint" on it?

Q. It does. It does. Right at the very top.

A. Okay.

Q. Okay. I'll ask you just a couple of questions, the first of all, is that this indicates that you are filing this complaint individually on behalf of all other similarly situated.

Who are those people that are similarly situated to you?

A. All the other owners of units at The Gates.

Q. So all the other owners, right?

A. Uh-huh.

Q. And the HOA also is bringing an action separately, correct?

A. Uh-huh.

Q. Are -- is the HOA and you and all the other unit owners that you're here representing as the named plaintiff bound by the master deed?

MS. DRAWDY: Objection.

BY MR. NORTON:

Q. Do you know what the master deed is?

A. Yes.

Q. What is the master deed? Can you tell me what it is? You can look at it if you want.

A. Yeah.

Q. If that will help you, you're welcome to take a look at it. I have one extra copy. I was going to mark this as an exhibit.

A. The master deed relates to the entire building as a whole, correct?

Q. I'm asking you what your understanding of the master deed --

A. I do not know the ins and outs of what a master deed has. I know that it is related to the entire property and the regime as a whole.

Q. Let me back up just a little bit. Have you ever read the master deed?

A. This --

Q. This document?

A. -- huge packet?

Q. This huge packet, have you ever read it?

A. Not fully, no.

Q. Have you ever read it in part?

A. I don't believe I have, but likely that my

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

THE GATES AT WILLIAMS-BRICE CONDOMINIUM ASSOCIATION AND KATHARINE SWINSON, INDIVIDUALLY, AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED,

Plaintiff(s),

vs.

Case No.: 2012-CP-40-8512

DDC CONSTRUCTION, INC., ET AL.,

Defendant(s).

D E P O S I T I O N

WITNESS: BILL YARBOROUGH

DATE: Wednesday, March 5, 2014

TIME: 9:14 a.m.

LOCATION: Nelson, Mullins, Riley & Scarborough
1320 Main Street, 17th Floor
Columbia, South Carolina

TAKEN BY: Attorneys for the Defendants

REPORTED BY: SHERI L. BYERS
Registered Professional Reporter

COMPUSCRIPTS, INC.
A Full-Service Court Reporting Agency
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Q. All right. Mr. Yarborough, I'm going to show you a document and ask you if you have ever seen it before.

MR. NORTON: For the record, this is a document titled Master Deed, The Gates at Williams-Brice. Let me mark that as Exhibit 1.

THE WITNESS: Yes, sir, I've seen this.

(DEFT. EXH. 1, Master Deed of The Gates at Williams-Brice, was marked for identification.)

BY MR. NORTON:

Q. Have you read this document?

A. I don't think I have.

Q. While you served on the board, have there been efforts or attempts to amend this document?

A. The document has been amended at least one time that I know of.

Q. And what was the purpose of that amendment?

A. The document has language in here, I believe that the owners cannot sue Dinerstein. I believe that's my words. And we had that amended -- the owners had that amended.

Q. When was that amended?

A. Since we hired counsel.

Q. Was it amended after the lawsuit was filed?

A. I don't recall.

Q. Was there a vote taken to amend?
A. Well, all the residents -- it was a decision of the residents to do it. It had to be a decision of the owners to do it, to make the amendment.
Q. So there was some sort of vote taken?
A. Yes.
Q. There was a board meeting and the vote done?
A. I believe it was explained at a board meeting and might have been a written-proxy-type thing.
Q. So there should be some minutes somewhere --
A. Yes.
Q. -- reflecting that?
A. Yes, sir.
Q. The board still keeps minutes to its meetings?
A. Yes, sir.
Q. Do you know if all of the board meeting minutes have been turned over to your counsel?
A. I'm sure they have, yes, sir.
Q. To date?
A. Oh, yes, sir.
Q. As your -- as you understand it, the HOA is sort of governed by the master deed; is that fair to say?
A. I would say it's governed by the master deed

until we see something we need to address.

Q. Okay. Well, I guess what I'm saying, this is a document that the HOA is obligated to follow. Would you agree with that?

A. I don't think so because we had it amended.

Q. The document as amended would be --

A. Yes, sir. As amended would be, I would think so.

Q. If the amendment was proper and all that stuff, then you would be obligated to follow --

A. I agree.

Q. -- whatever the document is?

A. I think so, yes, sir.

Q. And each individual unit owner is also obligated to follow the rules of the master deed; would you agree with that?

A. I would agree with that.

Q. And, in fact, as the HOA, you oftentimes take actions against unit owners if they don't comply with the master deed in some way; is that also true?

A. We take actions on different things. Whether it's, you know, part of the master deed, I'm just not sure.

Q. Certainly if they break the HOA rules in some way --



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THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION PURSUANT TO THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION

MASTER DEED

OF

THE GATES AT WILLIAMS-BRICE

HORIZONTAL PROPERTY REGIME

City of Columbia
County of Richland
State of South Carolina

Developer:

COLUMBIA CONDOS, L.P.

Prepared by:

Michael W. Eisenrauch, Esquire

Law Offices of
PARKER POE ADAMS & BERNSTEIN LLP
TWO FOUNDERS CENTRE, SUITE 202
611 BURROUGHS & CHAPIN BLVD.
MYRTLE BEACH, SOUTH CAROLINA 29577
www.parkerpoe.com

Book 1334-2002
2007061782 07/11/2007 10:58:59.090
Fee:$145.00 County Tax: $0.00
Master Deed
State Tax: $0.00
2007061782 Richard W. Rodden
Richland County ROD

GLT 962333v2

EXHIBIT
5

THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION PURSUANT TO THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION

MASTER DEED
OF
THE GATES AT WILLIAMS-BRICE

Horizontal Property Regime

Richland County, Columbia, South Carolina

****

Columbia Condos, L.P., a Delaware Limited Partnership, by DC Developers – Columbia Condos, Inc., a Texas Corporation, its General Partner, having its principal office in Houston, Texas, hereinafter referred to as the "Grantor", as the sole owner of the land and improvements hereinafter described, does hereby make, declare, and publish its intention and desire to submit, and does hereby submit, the lands and buildings herein described, together with all other improvements thereon, including all easements, rights, and appurtenances thereto belonging, to a Horizontal Property Regime (to be known as The Gates at Williams-Brice Horizontal Property Regime, hereinafter called the "Regime") in the manner provided for by the South Carolina Horizontal Property Act, as amended, S.C. Code Ann. § 27-31-10 et seq. (1976), in conformity with § 27-31-30 and § 27-31-100 of said Act; the Grantor sets forth the following particulars:

I. **Legal Description**

The lands (the "Real Property") which are hereby submitted to the Regime are described on Exhibit "A" attached hereto and made a part hereof by reference. The Real Property as so described has an area set forth on the survey (the "Survey" or "Plat") attached as Exhibit "B".

II. **Survey and Description of Improvements**

incorporated herein by reference, as is set forth in full herein, is the Plat (attached as Exhibit "B") showing the location of the building and other improvements on the Real Property, and the site plan, floor plans, unit plans, and elevations (collectively referred to herein as the "Plans" and attached hereto as Exhibit "C") showing the location of the building and other improvements on the Real Property and graphically showing the dimensions, area, and location of each Unit and Limited Common Elements in the building on the Real Property and General Common Elements on the Real Property affording access to each Unit. Each Unit is identified thereon by specific number and no Unit bears the same designation as any other Unit. Said Plans are attached hereto as Exhibit "C". The building containing the Units has an aggregate area set forth thereon.

III. Notice of Restrictions

The Regime is subject to all restrictions, easements, assessments, conditions, and limitations now of record and shown on the Plat affecting the Real Property and the improvements thereon. The Gates at Williams-Brice Condominium Association ("Association") as a whole and each Unit co-owner individually is subject to the terms and conditions of said restrictions, easements, assessments, conditions, and limitations.

The Regime is subject to that certain DEED TO SANITARY SEWER LINES FOR THE GATES AT WILLIAMS-BRICE; RICHLAND COUNTY TMS#11210-01-17; CF#293-14, and associated sewer line easements contained therein, given by Columbia Condos, L.P. to the City of Columbia, dated May 24, 2007 and recorded June 14, 2007 in the Richland County ROD Office in Book 1324 at Page 2913 ("Sewer Line Easement"). The Regime is further subject to that certain HOLD HARMLESS AND INDEMNIFICATION AGREEMENT FOR ENCROACHMENT WITHIN THE CITY'S EXISTING 15' SANITARY SEWER EASEMENT FOR THE GATES AT WILLIAMS BRICE; RICHLAND COUNTY TMS#11210-01-17 (PORTION); CF#293-14, by and between Columbia Condos, L.P. and the City of Columbia, dated May 24, 2007 and recorded June 29, 2007 in the Richland County ROD Office in Book 1330 at Page 2088 ("Hold Harmless Agreement"). The Association's repair, replacement, and maintenance responsibilities pursuant to the Sewer Line Easement and the Hold Harmless Agreement are spelled out in Article XXII of this Master Deed.

IV. Warranty

GRANTOR ASSIGNS TO THE ASSOCIATION ALL ITS RIGHTS UNDER THE LIMITED WARRANTY AS RECEIVED FROM ITS CONTRACTOR, DDS CONSTRUCTION, INC. ("CONTRACTOR"), AND MORE

FULLY DESCRIBED IN THE PROJECT MANUAL FOR THE GATES AT WILLIAMS-BRICE, COLUMBIA, SOUTH CAROLINA, PREPARED BY THE DEVELOPMENT ARCHITECT. THIS WARRANTY IS LIMITED TO THE WORK PERFORMED BY THE CONTRACTOR PURSUANT TO THE PLANS AND DOES NOT APPLY TO ANY PORTION OF THE COMMON ELEMENTS WHICH HAVE NOT BEEN CONSTRUCTED BY THE CONTRACTOR.

GRANTOR'S, CONTRACTOR'S, AND ARCHITECT'S SOLE OBLIGATION, TO THE EXCLUSION OF ALL OTHER REMEDIES, IS LIMITED TO THE REPAIR OR REPLACEMENT, AT GRANTOR'S, CONTRACTOR'S, AND ARCHITECT'S OPTION, OF THE DEFECTIVE CONDITION OF THE WORK PURSUANT TO THE PLANS ("WORK") RELATING SOLELY TO THE GENERAL AND LIMITED COMMON ELEMENTS.

FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF ISSUANCE BY THE APPLICABLE GOVERNMENTAL BODY OF THE OCCUPANCY PERMIT FOR THE REGIME, GRANTOR OR ITS CONTRACTOR WILL, AT NO COST TO REGIME, REPAIR OR REPLACE ANY PORTION OF THE GENERAL AND LIMITED COMMON ELEMENTS, EXCEPT FIXTURES, FURNITURE, ACCESSORIES, AND APPLIANCES COVERED BY A WARRANTY OF MANUFACTURERS AND DEALERS, WHICH ARE DEFECTIVE AS TO MATERIAL OR WORKMANSHIP. THE LIABILITY OF THE GRANTOR IS EXPRESSLY LIMITED TO SUCH REPAIRS OR REPLACEMENT AND GRANTOR MAKES NO OTHER WARRANTIES EXPRESSED OR IMPLIED (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, SOUNDNESS, QUALITY, WORKMANLIKE SERVICE, VALUE, SUITABILITY, FITNESS, HABITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE).

THIS LIMITED WARRANTY IS NONTRANSFERABLE AND IS PERSONAL ONLY TO THE ASSOCIATION.

AS TO ANY PERSONAL PROPERTY (INCLUDING WITHOUT LIMITATION, FAN COIL UNIT(S), MOTORIZED DAMPERS, AND HEATING, VENTILATING AND COOLING CONTROLS) CONVEYED ALONG WITH THE GENERAL AND LIMITED COMMON ELEMENTS BY THE GRANT TO THE ASSOCIATION, AND AS TO ANY "CONSUMER PRODUCT" (AS THAT TERM MAY BE DEFINED UNDER APPLICABLE FEDERAL LAW OR IMPLEMENTING REGULATIONS, OR AS A TERM OF SIMILAR MEANING MAY BE DEFINED UNDER STATE OR LOCAL LAWS, OR THEIR IMPLEMENTING REGULATIONS) WHICH MAY BE CONTAINED IN THE COMMON ELEMENTS, GRANTOR NEITHER MAKES NOR ADOPTS ANY WARRANTY WHATSOEVER AND SPECIFICALLY EXCLUDES EXPRESS OR IMPLIED WARRANTIES OF ANY NATURE, INCLUDING ANY IMPLIED

WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE. ADDITIONALLY, THE GRANTOR EXCLUDES ALL WARRANTIES OF SOUNDNESS, QUALITY, WORKMANLIKE SERVICE, VALUE, SUITABILITY, FITNESS, OR OF HABITABILITY.

Additional Warranty Exclusions:

1. Nail or screw pops or cracks in the walls and ceilings of the General and Limited Common Elements which do not result from faulty workmanship or defective materials but are the result of natural shrinkage and drying of building materials, or of normal settlement of the building, wind loads or other normal movement of the building components. To the extent that the Grantor may elect at its sole discretion to perform repairs for the above conditions, provided that notice of such conditions in writing is received by Grantor, Contractor and Architect during the Warranty period, Grantor, Contractor and Architect will not be liable for repainting, wallpapering or refinishing any repaired areas.

2. Ordinary wear and tear, or damage due to misuse or neglect, negligence, or the Association's failure to provide proper maintenance to the General an Limited Common Elements or the Association's failure to perform maintenance as required by the manufacturer.

3. This Limited Warranty does not cover the Individual Units.

4. Any item which has been modified or repaired by the Association, or any items which are installed or constructed pursuant to a separate contract or agreement between the Association and any party other than Grantor.

5. Any and all secondary, incidental or consequential damages caused by any defect or breach hereof.

6. No steps taken by Grantor, Contractor and Architect to correct defects shall act to extend the scope of duration of this Limited Warranty beyond the Warranty period.

7. No representative of the Grantor, Contractor, and Architect has the authority to expand or extend the scope of this Limited Warranty or to make verbal agreements with respect thereto.

8. All requests for correction pursuant to this Limited Warranty must be in written form and delivered to the Grantor, Contractor, and Architect, or their designated representatives.

ARBITRATION AGREEMENT:

EACH AND EVERY CLAIM AND CAUSE OF ACTION ARISING OUT OF OR RELATED IN ANY WAY TO THE DESIGN, CONSTRUCTION, SALE, MAINTENANCE, HABITABILITY OF, OR CONDITION OF ANY UNIT OR ANY COMMON AREA THAT IS ASSERTED BY (I) ANY PERSON OR ENTITY THAT NOW HAS OR HEREAFTER ACQUIRES ANY INTEREST IN A UNIT, (II) THE GRANTOR OR DEVELOPER, (III) THE UNIT OWNER'S ASSOCIATION (INCLUDING ANY CORPORATION OR OTHER ENTITY FORMED TO SERVE AS UNIT OWNERS' ASSOCIATION), (IV) ANY PERSON OR ENTITY THAT HAS PREVIOUSLY OR HEREAFTER SUPPLIES (DIRECTLY OR INDIRECTLY) LABOR, MATERIALS, DESIGN SERVICES, EQUIPMENT OR OTHER THINGS OF VALUE IN CONNECTION WITH THE CONSTRUCTION OR MAINTENANCE OF ANY UNIT OR THE COMMON AREA , OR (V) ANY HEIR, SUCCESSOR, DELEGATEE OR ASSIGNEE OF ANY SUCH PERSONS OR ENTITIES, SHALL BE RESOLVED BY FINAL AND BINDING ARBITRATION BEFORE A PANEL OF THREE ARBITRATORS PURSUANT TO THE COMMERCIAL ARBITRATION RULES OF

THE AMERICAN ARBITRATION ASSOCIATION, AS MODIFIED HEREIN. THE ARBITRATION HEARING SHALL BE CONDUCTED IN RICHLAND COUNTY, SOUTH CAROLINA. ALL CLAIMS AND CAUSES OF ACTION OF ALL PERSONS AND ENTITIES ENTITLED TO ENFORCE (OR BOUND BY) THIS ARBITRATION PROVISION SHALL BE ASSERTED IN A SINGLE ARBITRATION PROCEEDING, AND MULTIPLE PARTIES MAY BE JOINED IN THE ARBITRATION PROCEEDING SO THAT ALL DISPUTES MAY BE RESOLVED IN ONE FORUM. NO CLAIM OR CAUSE OF ACTION MAY BE ASSERTED THAT WOULD BE BARRED BY THE STATUTE OF LIMITATIONS OR THE STATUTE OF RESPONSE.

IN ANY ARBITRATION PROCEEDING, REQUESTS FOR PRODUCTION OF DOCUMENTS MAY BE SERVED BY EACH PARTY, AND NON-PRIVILEGED, RESPONSIVE DOCUMENTS THAT WOULD BE DISCOVERABLE UNDER RULE 34 OF THE FEDERAL RULES OF CIVIL PROCEDURE (WERE THE CLAIMS AND CAUSES OF ACTION BEING ASSERTED IN *UNITED STATES DISTRICT COURT*) SHALL BE PRODUCED. DEPOSITIONS MAY BE TAKEN AS ALLOWED BY THE ARBITRATION PANEL, WHICH PANEL SHALL REASONABLY LIMIT THE NUMBER OF DEPOSITIONS IN ORDER TO AVOID UNNECESSARY OR EXCESSIVE EXPENSE, DELAY, OR HARASSMENT.

THE ARBITRATION PANEL SHALL ISSUE A WRITTEN DECISION IDENTIFYING WITH SPECIFICITY EACH CLAIM OR CAUSE OF ACTION ASSERTED OR RESOLVED IN ANY ARBITRATION, AND THE LEGAL PRINCIPLES OF RES JUDICATA AND COLLATERAL ESTOPPEL SHALL BE APPLICABLE TO ANY ARBITRATION AWARD. ANY ARBITRATION AWARD MAY BE CONFIRMED AND ENFORCED IN ANY COURT OF JURISDICTION.

THIS ARBITRATION PROVISION IS EXPRESSLY INTENDED TO BENEFIT AND BE ENFORCEABLE BY EACH PERSON AND ENTITY REFERENCED IN SUBPARAGRAPHS (I) - (V) ABOVE WHETHER OR NOT SUCH PERSON OR ENTITY IS BOUND BY THIS ARBITRATION PROVISION. ANY ATTEMPT BY ANY SUCH PERSON OR ENTITY TO ENFORCE THIS ARBITRATION PROVISION SHALL CONSTITUTE CONCLUSIVE CONSENT TO BE BOUND HEREBY.

THE GRANTOR, DEVELOPER, CONTRACTOR, ARCHITECT, THE ASSOCIATION, AND THE INDIVIDUAL UNIT OWNERS EXPRESSLY WAIVE ALL RESORT TO TRIAL BY JURY OF ANY AND ALL ISSUES OTHERWISE SO TRIABLE.

ANY CLAIM OR CAUSE OF ACTION NOT COVERED BY THIS ARBITRATION AGREEMENT SHALL BE COVERED BY ARTICLE XXXV HEREIN.

V. Units and General and Limited Common Elements

The Regime consists of Units and General and Limited Common Elements, as said terms are hereinafter defined:

Units, as the term is used herein, shall mean and comprise the one hundred and fifty eight (158) residential Units which are separately designated in Exhibit "C" to this Master Deed, including but not limited to the space, interior partitions or interior walls, fixtures and appliances therein, excluding, however, all spaces and improvements lying beneath the undecorated and/or unfinished inner surfaces of

the perimeter walls and floors, and above the undecorated and/or unfinished inner surfaces of the ceilings and floors of each Unit, and further excluding all spaces and improvements lying beneath the undecorated and/or unfinished inner surface of all interior load-bearing columns, and further excluding all pipes, ducts, wires, conduits and other facilities running through any interior wall or partition for the furnishing of utility services to other Units or to the Limited or General Common Elements. The general description and number of each Unit in the building on the Real Property, expressing its area, general location, and any other data necessary for its identification, also appears in Exhibit "C". The residential Units include entry area, living/dining area, kitchen area, including appliances therein, bathrooms, bedrooms, closets and the HVAC system components located within the Unit (excluding the HVAC system components located outside the Unit, including without limitation those located on the roof as shown on the Plans, which are Limited Common Elements). There are thirty-eight (38) residential Units on the first floor and forty (40) residential Units per floor on the second, third, and fourth floors. The Units are generally described as follows:

Units 211, 311, and 411. These Units each contain approximately 948 square feet in heated space. These Units each have one bedroom, one bath, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 130 square feet. **Unit 211** is a disabled accessible Unit and shown as Unit Type A-HC on the attached Exhibit "C" plans. **Units 311 and 411** are shown as Unit Type A on the attached Exhibit "C" plans.

Units 118, 121, 136, 218, 221, 236, 318, 321, 336, 418, 421, 436, 122, 149, 222, 249, 322, 349, 422, 449, 144, 244, 344, 444, 117, 141, 217, 241, 317, 341, 417, and 441. These Units each contain approximately 1,105 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 219 square feet. These Units are shown as Unit Type B on the attached Exhibit "C" plans. **Units 117, 121 and 149** each have a Pool Access Gate (hereinafter defined) as part of their Limited Common Element patio fencing. **Unit 118** has an additional Limited Common Element Semi-Private Yard (hereinafter defined) of approximately 1165 square feet. **Unit 136** has an additional Limited Common Element Semi-Private Yard of approximately 992 square feet. **Unit 122** has an additional Limited Common Element Semi-Private yard of approximately 957 square feet.

Units 132, 232, 332, and 432. These Units each contain approximately 1,245 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 219 square feet.

These Units are shown as Unit Type B1 on the attached Exhibit "C" plans. **Unit 132** has an additional Limited Common Element Semi-Private Yard of approximately 1277 square feet.

Units 138, 238, 338, and 438. These Units each contain approximately 1,235 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 219 square feet. These Units are shown as Unit Type B2 on the attached Exhibit "C" plans. **Unit 138** has an additional Limited Common Element Semi-Private Yard of approximately 1299 square feet.

Units 135, 235, 335, and 435. These Units each contain approximately 1,310 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 232 square feet. These Units are shown as Unit Type B3 on the attached Exhibit "C" plans.

Units 127, 227, 327, and 427. These Units each contain approximately 1,142 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 219 square feet. These Units are shown as Unit Type B4 on the attached Exhibit "C" plans. **Unit 127** has an additional Limited Common Element Semi-Private Yard of approximately 891 square feet.

Units 133, 233, 333, and 433. These Units each contain approximately 1,250 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 230 square feet. These Units are shown as Unit Type B5 on the attached Exhibit "C" plans.

Units 146, 246, 150, 250, 346, 350, 446, and 450. These Units each contain approximately 1,105 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 149 square feet. **Units 250, 346, 350, 446, and 450** are shown as Unit Type B6 on the attached Exhibit "C" plans. **Unit 246** is a disabled accessible Unit and shown as Unit Type B6-HC on the attached Exhibit "C" plans. **Unit 146** has an additional Limited Common Element yard/patio area (not a Semi-Private Yard) of approximately 699 square feet and is shown as Unit Type B6A on the attached Exhibit "C" plans. **Unit 150** has an additional Limited Common Element yard/patio area (not a Semi-Private Yard) of approximately 709 square feet and is shown as Unit Type B6B on the attached Exhibit "C" plans.

Units 123, 125, 131, 134, 137, 139, 223, 225, 231, 234, 237, 239, 323, 325, 331, 334, 337, 339, 423, 425, 431, 434, 437, 439, 113, 115, 124, 126, 130, 140, 142, 147, 213, 215, 224, 226, 230, 240, 242, 247, 313, 315, 324, 326, 330, 340, 342, 347, 413, 415, 424, 426, 430, 440, 442, 447, 120, 220, 320, and 420. These Units each contain approximately 1,275 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 195 square feet. These Units are shown as Unit Type C on the attached Exhibit "C" plans. **Units 123, 125, 113, 115, and 147** each have a Pool-Access Gate as part of their Limited Common Element patio fencing. **Unit 134** has an additional Limited Common Element Semi-Private Yard of approximately 974 square feet. **Unit 124** has an additional Limited Common Element Semi-Private Yard of approximately 837 square feet. **Unit 126** has an additional Limited Common Element Semi-Private Yard of approximately 833 square feet. **Unit 130** has an additional Limited Common Element Semi-Private Yard of approximately 929 square feet. **Unit 140** has an additional Limited Common Element Semi-Private Yard of approximately 1320 square feet. **Unit 142** has an additional Limited Common Element Semi-Private Yard of approximately 1544 square feet. **Unit 120** has an additional Limited Common Element Semi-Private Yard of approximately 824 square feet.

Units 128, 228, 328, and 428. These Units each contain approximately 1,425 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 213 square feet. These Units are shown as Unit Type C1 on the attached Exhibit "C" plans. **Unit 128** has an additional Limited Common Element Semi-Private Yard of approximately 996 square feet.

Units 114, 214, 314, 414, 116, 216, 316, and 416. These Units each contain approximately 1,274 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 204 square feet. **Unit 114** is a disabled accessible Unit and shown as Unit Type C2-HC on the attached Exhibit "C" plans. **Units 214, 314, 414, 116, 216, 316, and 416** are shown as Unit Type C2 on the attached Exhibit "C" plans. **Unit 114** has an additional Limited Common Element Semi-Private Yard of approximately 411 square feet. **Unit 116** has an additional Limited Common Element Semi-Private Yard of approximately 1020 square feet.

Units 148, 248, 348, and 448. These Units each contain approximately 1,275 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. **Units 248, 348, and 448** each have a Limited Common Element patio/balcony of approximately 131

square feet and are shown as Unit Type C3 on the attached Exhibit "C" plans. Unit 148 has a Limited Common Element patio/balcony of approximately 114 square feet with an attached Limited Common Element storage area of approximately 17 square feet and is shown as Unit Type C3A on the attached Exhibit "C" plans. Unit 148 has an additional Limited Common Element yard/patio area (not a Semi-Private Yard) of approximately 681 as shown on the attached Exhibit "C" plans.

Units 129, 229, 329, and 429. These Units each contain approximately 1,262 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 186 square feet. These Units are shown as Unit Type C4 on the attached Exhibit "C" plans.

Units 212, 312, and 412. These Units each contain approximately 1,346 square feet in heated space. These Units each have two bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 171 square feet. These Units are shown as Unit Type D on the attached Exhibit "C" plans.

Units 145, 219, 319, 345, 419, 445, 119 and 245. These Units each contain approximately 1,372 square feet in heated space. These Units each have three bedrooms, two baths, kitchen, living/dining area, and entry area. **Unit 245** is a disabled accessible Unit, has a Limited Common Element patio/balcony of approximately 215 square feet, and is shown as Unit Type E1-HC on the attached Exhibit "C" plans. **Units 145, 219, 319, 345, 419, and 445** each have a Limited Common Element patio/balcony of approximately 215 square feet, and are shown as Unit Type E1 on the attached Exhibit "C" plans. **Unit 119** has a Limited Common Element balcony/patio of approximately 187 square feet and an additional Limited Common Element Semi-Private Yard of approximately 1098 square feet and is shown as Unit Type E1-Alt on the attached Exhibit "C" plans.

Units 143, 243, 343, and 443. These Units each contain approximately 1,543 square feet in heated space. These Units each have three bedrooms, two baths, kitchen, living/dining area, and entry area. Each of these Units has a Limited Common Element patio/balcony of approximately 83 square feet. These Units are shown as Unit Type E2 on the attached Exhibit "C" plans. **Unit 143** has an additional Limited Common Element Semi-Private Yard of approximately 967 square feet.

The residential Units are shown generally on the Floor Plans attached to Exhibit "C", however the owners may have made interior alterations to the Floor Plan of a Unit, which are not shown in Exhibit "C". **THE**

DIMENSIONS OF THE ROOMS IN EACH UNIT ARE CALCULATED FROM EXHIBIT "C" AND MAY NOT ACCURATELY DEPICT THE DIMENSIONS OF THE UNITS AND THE ROOMS IN EACH UNIT.

General Common Elements means and includes:

(1) The land on which the buildings are constructed, more fully described above, together with all of the other real property described in Exhibit "A";

(2) The foundations, main walls, roofs, utility rooms, property management rooms, halls, corridors, railings in the corridors, elevator lobbies, pools, hot tubs, fitness rooms, office areas, decks, stairways, elevators, storage rooms, lounge areas, and communication ways of the buildings;

(3) The sprinkler system, courtyards, pavilions, dog walks, shrubs, planter boxes, exterior lights, fire alarms, fire hoses, signs, maintenance equipment, and storm drainage system, except as otherwise provided or stipulated;

(4) The compartments or installations of central services such as power, light, telephone, security, television, cold and hot water, surveillance cameras and screens, refrigeration, generator, fuel tank and water pump, and the like;

(5) All parking areas, including parking decks, as shown and depicted in the attached Exhibit "C";

(6) In general, all devices or installations existing for common use;

(7) Non-Limited Common Element (i.e., non-patio/balcony) fencing and gating;

(8) All other elements of the property rationally of common use or necessary to its existence, upkeep, and safety; and

(9) The Common Area containing such areas as are shown on said Plat and shown on the Plans attached hereto in Exhibit "C".

Limited Common Elements means and includes:

(1) Any mailboxes, porches, balconies, patios, fencing, gating, floor, ceiling, railings and walls, entrance or exit ways, and all exterior doors and windows or other fixtures designed to serve one or more but less than all Units, are Limited Common Elements allocated exclusively to such Unit or Units.

(2) If any flue, duct, wire, conduit, load bearing wall, load bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion serving only that Unit is a Limited Common Element allocated solely to that Unit.

(3) Insofar as possible, the Limited Common Elements are shown graphically and described in detail in words and figures in the Plat and Plans.

(4) The HVAC components on the Roof Level are Limited Common Elements, limited to the use of the Units they serve.

(5) The semi-private yard areas and the fencing surrounding them ("Semi-Private Yards") attached to Units 114, 116, 118, 119, 120, 122, 124, 126, 127, 128, 130, 132, 134, 136, 138, 140, 142, and 143 are Limited Common Elements and are subject to special maintenance and assessment provisions of this Master Deed, as hereinafter set forth.

(6) The yard/patio areas and the fencing surrounding them attached to Units 146, 148, and 150 are normal Limited Common Elements and are not subject to any special maintenance and assessment provisions beyond those that already apply to Limited Common Elements.

VI. Ownership of Units and Appurtenant Interest in General Common Elements.

A Unit in the Regime may be individually conveyed and encumbered and may be the subject of ownership, possession, or sale, and of all types of juridical acts, inter vivos or mortis causa, as if it were sole and entirely independent of the other Units in the Regime of which it forms a part, and the corresponding individual titles and interests are recordable.

Any Unit may be held and owned by more than one person as tenants in common or in any other form of real property ownership recognized in this State.

A Unit owner shall have the exclusive ownership of his Unit and shall have a common right to a share, with the other co-owners, in the Common Elements of the Regime, equivalent to the percentage

representing the value of the individual Unit, with relation to the value of the whole Regime. This percentage, which is set forth on Exhibit "D" attached hereto and made a part hereof by reference, shall have a permanent character, and shall not be altered without the acquiescence of the co-owners representing all the Units of the Regime.

The basic value, which shall be fixed for the sole purpose of this Master Deed and irrespectively of the actual value, shall not prevent each co-owner from fixing a different circumstantial value to his Unit in all types of acts and contracts.

VII. Restriction Against Further Subdividing of Units and Separate Conveyance of Appurtenant Common Elements, Etc.

A Unit may not be divided or subdivided into a smaller Unit or smaller Units than as described in Exhibit "C" attached hereto, nor shall any Unit, or portion thereof, be added to or incorporated into any other Unit without consent of the Grantor. The undivided interest in the General and Limited Common Elements declared to be an appurtenance to each Unit shall not be conveyed, devised, encumbered, or otherwise dealt with separately from said Unit and the undivided interest in General and Limited Common Elements appurtenant to each Unit shall be deemed conveyed, devised, encumbered, or otherwise included with the Unit even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering, or otherwise dealing with such Unit. Any conveyance, mortgage, or other instrument which purports to effect the conveyance, devise, or encumbrance, or which purports to grant any right, interest or lien in, to, or upon a Unit, shall be null, void, and of no effect insofar as the same purports to effect any interest in a Unit and its appurtenant undivided interest in General and Limited Common Elements, unless the same purports to convey, devise, encumber, or otherwise trade or deal with the entire Unit. Any instrument conveying, devising, encumbering or otherwise dealing with any Unit which describes said Unit by the Unit Number assigned thereto in Exhibit "C" without limitation or exception, shall be deemed and construed to affect the entire Unit and its appurtenant undivided interest in the General and Limited Common Elements. Nothing herein contained shall be construed as limiting or preventing ownership of any Unit and its appurtenant undivided interest in the General and Limited Common Elements by more than one person or entity as tenants in common, joint tenants, or any other form of real property ownership recognized in this State or preventing the leasing of sign areas to one or more real estate sales and/or property management companies provided the use shall not violate the zoning ordinances of the applicable governmental authority. Except as allowed in the previous sentence, all Common Elements shall be owned by the Regime and may not be subject to a lease between the Unit owners (or the Association) and another party, except that the Association shall have the authority to

lease: (a) General Common Element space directly to Unit Owners, (b) General Common Element space on the rooftop of the building or the parking deck to a third party for purposes of placing and maintaining electronic transmitting equipment and the like for the benefit of the Unit owners, and (c) telephone, internet, and related communication and electronic transmitting equipment from a third party for the benefit of the Unit owners.

VIII. Horizontal Property Regime Subject to Restrictions, Etc.

Each and every Unit and the General and Limited Common Elements shall be, and is hereby declared to be, subject to the restrictions, easements, conditions, and covenants prescribed and established herein, governing the use of said Unit and General and Limited Common Elements, and setting forth the obligations and responsibilities incident to ownership of each Unit and its appurtenant undivided interest in the General and Limited Common Elements. Said Units and General and Limited Common Elements are further declared to be subject to the restrictions, easements, conditions, and limitations now of record affecting the land and improvements of the Real Property.

IX. Perpetual Non-Exclusive Easements in General Common Elements

The General Common Elements shall be, and are hereby declared to be, subject to a perpetual non-exclusive easement in favor of all of the co-owners of Units in the Horizontal Property Regime for their use and the use of their immediate family, guests, and invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended, or the enjoyment of said co-owners of Units.

The Grantor reserves unto itself and its successors or assigns an easement, including a construction easement, through all General and Limited Common Elements as may be reasonably necessary for the purpose of discharging Grantor's rights or obligations of exercising special Grantor rights reserved in this Master Deed.

As part of the right of Grantor to construct the General and Limited Common Elements of this Regime, Grantor reserves unto itself, and its successors and assigns, easements for ingress and egress over, under and across all Common Elements, Limited and General and such other reasonable right of access to and use of the Common Elements, Limited and General, subject to this Regime as may be necessary for the construction, maintenance and marketing of the Units and the General and Limited Common Elements, including without limitation the right to place signage on any portion of the Common Elements.

Notwithstanding anything above provided in this Article, the Association shall have the unfettered right to establish the rules and regulations pursuant to which the co-owner or co-owners of any Unit may be conditionally assigned the use of any parking space or spaces located on the Real Property or in the improvements thereon, including the Parking Deck, as further set forth in Article XV of this Master Deed.

Grantor and the Association hereby reserve the right to grant easement and/or access rights to adjoining land owners over portions of the Common Elements for purposes of emergency inspection and/or repair of abutting buildings.

X. Perpetual Exclusive Easement to Use Limited Common Elements

Subject to Grantor's rights reserved herein, each co-owner shall have the exclusive right to use the Limited Common Elements allocated to such co-owner's Unit for his use and the use of his immediate family, guests, and invitees for all proper and normal purposes. Such right to use shall be a perpetual exclusive easement in favor of such co-owner.

XI. Easement for Unintentional and Non-Negligent Encroachments

In the event that any portion of the General and Limited Common Elements now or hereafter encroaches upon any Unit, or vice versa, or in the event that any portion of one Unit now or hereafter encroaches upon another Unit, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, does and shall exist.

XII. Restraint Upon Separation and Partition of General and Limited Common Elements

The Common Elements, both general and limited, shall remain undivided and shall not be the object of an action for partition or division of the co-ownership. Any covenant to the contrary shall be void.

All of the co-owners or the sole owner of the Regime may waive the Regime and regroup or merge the records of the individual Units with the Real Property, provided that the individual Units are unencumbered, or if encumbered, that the creditors in whose behalf the encumbrances are recorded agree to accept as security the undivided portions of the property owned by the debtors.

Subject to the other provisions of this Article, Article XIII, and Article XXXV, unless all of the first mortgagees (based upon one vote for each first mortgage owned) and all owners of the Units have given their prior written approval, the Association shall not be entitled to:

(a) by act or omission, seek to abandon or terminate the Regime or legal status of the project as a condominium;

(b) change the pro rata interest of any Unit for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Unit in the General and Limited Common Elements;

(c) partition or subdivide any Unit; or

(d) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Regime or Association shall not be deemed a transfer within the meaning of this subparagraph (d). The Association may also lease portions of the Common Elements per Article VII of this Master Deed and it may freely assign portions of the Common Elements, including without limitation parking spaces and storage spaces, to the Unit Owners.

XIII. Rights of Eligible Mortgage Holders and Eligible Insurers or Guarantors

1. Notice of Action. Upon written request to the Association, identifying the name and address of the holder, insurer, or guarantor and the Unit number or address, any such eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Regime or any Unit on which there is a first mortgage held, insured, or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable;

(b) Any delinquency in the payment of assessments or charges owed by a co-owner of a Unit subject to a first mortgage held, insured, or guaranteed by such eligible holder or eligible insurer or guarantor, which remains uncured for a period of sixty (60) days;

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and

(d) Any proposed action which would require the consent of a specified percentage of eligible mortgage holders as specified in this Master Deed.

2. Other Provisions for Eligible Mortgage Holders: To the extent permitted by applicable law, eligible mortgage holders shall also be afforded the following rights:

(a) Any restoration or repair of the Regime, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with this Master Deed and the original plans and specifications, unless other action is approved by Eligible Mortgage Holders holding mortgages on Units which have at least fifty-one percent (51%) of the votes of Units subject to Eligible Mortgage Holders;

(b) Any election to terminate the legal status of the Regime after substantial destruction or a substantial taking in condemnation of the Regime property must require the approval of Eligible Mortgage Holders holding mortgages on Units which have at least fifty-one percent (51%) of the votes of Units subject to Eligible Mortgage Holders;

(c) No reallocation of interests in the Common Areas resulting from a partial condemnation or partial destruction of such a Regime may be effected without the prior approval of Eligible Mortgage Holders holding mortgages on all remaining Units, whether existing in whole or in part, and which have at least fifty-one percent (51%) of the votes of such remaining Units subject to Eligible Mortgage Holders; and

(d) When professional management has been previously required by any Eligible Mortgage Holder, insurer, or guarantor, whether such entity became an Eligible Mortgage Holder, insurer or guarantor at that time or later, any decision to establish self-management by the Association shall require the prior consent of co-owners of Units to which at least sixty-seven percent (67%) of the votes in the Association per the percentages in Exhibit "D" are allocated and the approval of Eligible Mortgage Holders holding mortgages on Units which have at least fifty-one percent (51%) of the votes of Units subject to Eligible Mortgages Holders.

3. Non-Material Amendments to Master Deed: An addition or amendment to this Master Deed, By-Laws, or other exhibits shall not be considered material if it is for the purpose of correcting technical, scriveners or typographical errors or for clarification and consistency.

4. Material Amendments to Master Deed: In addition to the foregoing requirements, Amendments of a material nature must be agreed to by Unit owners who represent at least sixty-seven percent (67%) of the total allocated votes in the Association per the percentages in Exhibit "D" and by Eligible Mortgage Holders who represent at least fifty-one percent (51%) of the votes that are subject to mortgages held by eligible holders. An Eligible Mortgage Holder who receives a written request to approve additions or amendments that does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request. A change to any of the provisions governing the following would be considered as material:

(a) voting rights;

(b) increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens, or the priority of the assessment liens;

(c) reductions in reserves for maintenance, repair, and replacement of Common Elements;

(d) responsibility for maintenance and repairs;

(e) reallocation of interests in the General or Limited Common Elements, or rights to their use;

(f) redefinition of any Unit boundaries;

(g) convertibility of Units into Common Elements or vice versa;

(h) expansion or contraction of the Regime, or the addition, annexation, or withdrawal of property to or from the Regime;

(i) hazard or fidelity insurance requirements;

(j) Imposition of any additional restrictions on the leasing of the Units;

(k) Imposition of any additional restrictions on a Unit owner's right to sell or transfer his or her Unit; and

(l) any provisions that expressly benefit mortgage holders, insurers, or guarantors.

XIV. Residential Use Restriction

Each Unit is hereby restricted to residential use by the co-owner or co-owners thereof, their immediate families, guests, tenants, lessees, licensees, and invitees; provided, however, that so long as the Grantor shall retain any interest in the Regime or any Unit, it may utilize a Unit or Units of its choice owned or leased by Grantor from time to time, for a sales office, model, or other usage for the purpose of selling or closing the sale of Units in said Regime or outside of the Regime. Grantor may assign this commercial usage right to such other persons or entities as it may choose; provided, however, that when all Units have been sold this right of commercial usage shall immediately cease. Except for the easement rights relating to signage as described in Article IX herein, no "For Sale" or "For Rent" signs or the like shall be permitted on any General or Limited Common Element or any Unit so as to be visible from any General or Limited Common Element or public street or area. Nothing herein shall prevent the Association from providing portions of the Common Elements to management companies for use as an office, model or other purpose connected with the management of the Regime or to grant licenses and easements over the Common Areas for utilities, roads, electronic transmitting equipment, and other purposes reasonably necessary or usable for the proper maintenance and operation of the Regime.

Any lease or rental agreement concerning the use of the Unit must be in writing and subject to the requirements of the Master Deed and the rules and regulations of the Association and terms adopted by the Board of Directors of the Association. The Association shall at all times have the authority to regulate the length of term of leases of Units in the Regime, or any other lease provision it deems appropriate and reasonable to regulate in its sole discretion.

In order to alleviate problems of security and disruption associated with frequent changes in occupancy, No Unit in the Regime will be used for or subject to any type of Vacation Time Sharing Plan or Vacation Multiple Ownership Interest as defined by the South Carolina Horizontal Property Act or any subsequent laws of this State dealing with that or similar type of ownership by an Owner (including, without limitation,

any type of equity or non-equity club), or which is used for, in conjunction with and/or as an advertised part of any time share exchange program which makes available as accommodations the Unit and which is not otherwise registered as a Vacation Time Sharing Plan or Vacation Multiple Ownership Interest or which utilizes the Unit as accommodations for time share sale prospects of any Person, without the prior written consent of the Grantor or the Association.

XV. Rules & Regulations of Association & Control Over Common Area

The use of the Condominium Property, including the Units, General and Limited Common Elements, by the co-owner or co-owners of all Units, and all other parties authorized to use the same, shall be at all times subject to such reasonable rules and regulations as may be prescribed and established and amended from time to time governing such or which may hereafter be prescribed and established and amended from time to time by the Association. The rules and regulations of the Association are prescripted, established, and amendable by the Board of Directors and do not require membership voting or any recorded amendment in order to modify or amend them.

Parking

All parking areas and spaces on the Property are General Common Elements. The Grantor and the Association, through the Board of Directors, in keeping with its overall authority to control and regulate the Common Elements of the Regime, reserves the authority to assign and reassign all parking areas and spaces to Unit Owners at its sole discretion. Said parking space assignment entitles an Owner to exclusive use of a parking space but does not create any vested right in the parking space nor does it change its classification from a General Common Element to a Limited Common Element. Therefore, the assignment of parking spaces by the Association is conditional and is at all times subject to change by the Association and subject to the terms and conditions of this Master Deed, the Bylaws, and the Rules and Regulations of the Association. Once a parking space is assigned to a Unit Owner, said Unit Owner is responsible for the upkeep and maintenance of the parking space, and if the Unit Owner fails to do so the Association shall have the authority to impose any of the remedies available to it under this Master Deed, the Bylaws, and the Rules & Regulations, including without limitation the authority to take away a parking space assignment from an Owner who is in violation. The Association retains the right, however, to maintain the parking space itself and pass on the cost to the Unit Owner in the form of a Specific Assessment. The Association may also lease parking spaces to Unit Owners under terms and conditions as it sees fit in its sole discretion, however said leasing shall not create any vested rights and shall be conditional in the same manner as the assignment process outlined above. The Association may charge usage fees or rents for the assignment or leasing of parking spaces.

Storage

The Grantor and the Association, through the Board of Directors, in keeping with its overall authority to control and regulate the Common Elements of the Regime, reserves the authority to assign and reassign all General Common Element storage areas and rooms to Unit Owners at its sole discretion. Said General Common Element storage area and room assignment entitles an Owner to exclusive use of a storage space/room but does not create any vested right in the storage space/room nor does it change its classification from a General Common Element to a Limited Common Element. Therefore, the assignment of storage spaces/rooms by the Association is conditional and is at all times subject to change by the Association and subject to the terms and conditions of this Master Deed, the Bylaws, and the Rules and Regulations of the Association. Once a storage space/room is assigned to a Unit Owner, said Unit Owner is responsible for the upkeep and maintenance of the storage space/room, and if the Unit Owner fails to do so the Association shall have the authority to impose any of the remedies available to it under this Master Deed, the Bylaws, and the Rules & Regulations, including without limitation the authority to take away a storage space/room assignment from an Owner who is in violation. The Association may also lease storage spaces/rooms to Unit Owners under terms and conditions as it sees fit in its sole discretion, however said leasing shall not create any vested rights and shall be conditional in the same manner as the assignment process outlined above. The Association may charge usage fees or rents for the assignment or leasing of storage spaces.

Gamedays

By acceptance of the deed to their Unit, Owners acknowledge and agree that on days (and the days immediately surrounding) the University of South Carolina football team plays home games at Williams-Brice Stadium, or other large functions held at the Stadium, the Association, and its Management Company shall have the authority to impose strict controls on access to the Condominium Property, and that Owners may be restricted as to whom and how many guests they are allowed to bring onto the Property and identification procedures and parking restrictions may be implemented which may be burdensome to the Owners. In addition, additional security personnel and measures may be taken by the Association during such times, however there is no duty upon the Association to do so. The Association, the Management Company, and its agents, shall have full authority to remove people and vehicles from the Property that are in violation of this Master Deed, the Bylaws, or the Rules and Regulations.

XVI. Horizontal Property Regime to be Used for Lawful Purposes; Restriction Against Nuisances, Etc.

No immoral, improper, offensive, or unlawful use shall be made of any Unit or of the General or Limited Common Elements, nor any part thereof, and all laws, zoning ordinances, and regulations of all governmental authorities having jurisdiction over the Regime shall be observed by the Unit co-owners and occupants. No co-owner or occupant of any Unit shall permit or suffer anything to be done or kept in a Unit, or on the General or Limited Common Elements, which will increase the rate of insurance on the Regime, or which will obstruct or interfere with the rights of other occupants of the building or annoy them by unreasonable noises, nor shall any such co-owner or occupant of any Unit undertake any use or practice which shall create and constitute a nuisance to any other co-owner of a Unit, or which interferes with the peaceful possession and proper use of any other Unit or the General or Limited Common Elements.

The Association shall have full authority to regulate all aspects of pet ownership on the Condominium Property.

In addition to its authority to control and regulate activity and use of the General Common Elements, the Association also controls the activity and use of the Limited Common Elements, including without limitation the balconies, patios, and yards.

XVII. Right of Entry into Units in Emergencies

In case of any emergency originating in or threatening any Unit, regardless of whether the co-owner is present at the time of such emergency, the Board of Directors of the Association or any other person or firm authorized by it, or the building superintendent or managing agent, shall have the right to enter such Unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate. To facilitate entry in the event of any such emergency, the co-owner of each Unit, if required by the Association, shall deposit under the control of the Association a key to such Unit.

XVIII. Right of Entry for Maintenance of General Common Elements

Whenever it is necessary to enter any Unit for the purpose of performing any maintenance, alteration, or repair to any portion of the Common Elements, the co-owner of each Unit shall permit other co-owners or their representatives, or the duly constituted and authorized agent of the Association, to enter such Unit, provided that such entry shall be made only at reasonable times and with reasonable advance notice.

XIX. Limitation Upon Right of Co-Owners to Alter and Modify Units and Common Elements

No co-owner of a Unit shall permit any structural modification or alterations to be made therein without first obtaining the written consent of the Association, whose consent may be withheld if a majority of the Board of Directors of said Association determine, in their sole discretion, that such structural modifications or alterations would affect or in any manner endanger the building in part or in its entirety. If the modification or alteration desired by the co-owner of any Unit involves the removal of any permanent interior partition, the Association shall have the right to permit such removal so long as the permanent interior partition to be removed is not a load-bearing partition, and so long as the removal thereof would in no manner affect or interfere with the provision of utility services constituting General or Limited Common Elements located therein. No co-owner shall cause the balcony abutting his Unit to be enclosed, or cause any improvements or changes to be made on the exterior of the building, the balconies, or railings, including painting or other decoration, the patios, including patio fencing and gates, or the installation of electrical wiring, wire screening, any railing cover, television, radio or telecommunication antennae, machines or air conditioning Units which may protrude through the walls or roof of the building, or in any manner change the appearance of any portion of the building, including balconies, patios, fencing and railings not within the walls of such Unit. No storm panels or awnings shall be affixed to any Unit without first obtaining the written consent of the Association. Nothing herein shall prevent a co-owner from protecting Unit with protective covering on the doors when a hurricane is hitting the area, provided such protective covering meets the reasonable rules and regulations of the Association.

No Owner shall modify or alter any of the General or Limited Common Elements unless written approval is obtained from the Association; provided, however, that under no circumstances shall the Association grant such written approval to a Unit owner (or engage in its own modifications or alterations to General or Limited Common Elements) if said changes in any way affect the patio fence gates providing access to the pool for Units 113, 115, 117, 121, 123, 125, 147, and 149 ("Pool Access Gates") without written permission to do so from the South Carolina Department of Health and Environmental Control ("DHEC").

XX. Right of the Association to Alter and Improve General and Limited Common Elements and Assessment Therefor

The Association shall have the right to make or cause to be made alterations, modifications, and improvements to the General and Limited Common Elements, provided such alterations, modifications, or improvements are first approved in writing by the Board of Directors of the Association. The cost of such alterations, modifications, or improvements shall be assessed as common expenses and collected from

the co-owners of all Units according to their percentage of ownership of the General and Limited Common Elements.

XXI. Maintenance and Repair by Co-Owners of Units

Every co-owner must perform promptly all maintenance and repair work within his Unit (and to the Common Element areas identified in Article XXII as the responsibility of the Unit Owners, if applicable – hereinafter known as the "Owner-Responsible Common Elements") which, if omitted, would adversely affect the Regime in its entirety or in a part belonging to other co-owners, and is expressly responsible for the damages and liability which his failure to do so may engender. The co-owner of each Unit shall be liable and responsible for the maintenance, repair, and replacement, as the case may be, of all air conditioning and heating equipment located within the Unit and Owner-Responsible Common Elements, hot water heaters, stoves, refrigerators, garbage disposals, dishwashers, fans, or other appliances or equipment, including any fixtures and/or their connections or receptacles required to provide water, light, power, telephone, television, and sewerage and sanitary service to his Unit and which may now or hereafter be situated in his Unit including toilets, lavatories, sinks, tubs, and showers. Such co-owner shall further be responsible and liable for maintenance, repair, and replacement of any and all window glass, glass doors, wall, ceiling and floor surfaces or coverings, painting, decorating and furnishings, and all other accessories which such co-owner may desire to place or maintain in his Unit Owner-Responsible Common Elements. Whenever the maintenance, repair, and replacement of any items for which the co-owner of a Unit is obligated to maintain, repair, or replace at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association, or the Insurance Trustee hereinafter designated, shall be used for the purpose of making such maintenance, repair, and replacement. Any cost of maintenance, repair, or replacement, by reason of the applicability of any deductibility provision of such insurance which is not paid by the insurance of the Association, shall be paid by such Co-owner. Reference is made to S.C. Code Ann. § 27-31-250 (1976) as amended, which is controlling of insurance proceeds use when said code section is applicable by its terms.

If a Unit or Owner-Responsible Common Element or any portion thereof is damaged by another co-owner's Unit, whether due to the other co-owner's failure to maintain their Unit or not, the Association shall be responsible for repairing the damage and fixing the cause of the problem. If the damage was caused by the other co-owner's failure to properly maintain their Unit in accordance with the provisions of this Master Deed, the Association shall have the authority to assess a Special Assessment against the negligent co-owner, which shall be a lien on said co-

owner's Unit until paid in full along with all accrued interest, costs, and attorney's fees related to collection in accordance with Article XXVIII of this Master Deed. If the Unit damage was caused by a problem with the Common Elements, the Association shall be responsible for the cost of repair.

Co-owners are hereby notified of the following Unit temperature control recommendations in order to insure proper humidity levels to protect woodwork, furniture and electronic equipment in the Units: the Unit's thermostat should never be set higher than seventy-nine (79°) degrees nor lower than seventy (70°) degrees in the cooling mode; in the heating mode the thermostat should never be set lower than fifty-five (65°) degrees nor higher than seventy-five (75°) degrees. UNDER NO CIRCUMSTANCES SHOULD THE AIR CONDITIONING SYSTEM FOR THE INDIVIDUAL UNITS BE TURNED OFF. Co-owners are responsible for any damage to their Units or to the contents of their Units if these temperature control recommendations are not adhered to.

Once a General Common Element parking or storage space is conditionally assigned to a Unit Owner by the Grantor or Association, the Unit Owner becomes responsible for the maintenance of said parking or storage space. However the Association retains the right to maintain the parking or storage space and pass the cost onto the Unit Owner in the form of a Specific Assessment.

If an Owner fails to maintain or repair pursuant to it obligations hereunder, he or she shall be subject to any and all remedies set forth in Article XXVIII.

XXII. Maintenance and Repair of General and Limited Common Elements by the Association

The Association, at its expense, shall be responsible for the maintenance, repair, and replacement of all of the General and Limited Common Elements, including those portions thereof which contribute to the support of the building, and all conduits, ducts, plumbing, wiring, and other facilities located in the General or Limited Common Elements for the furnishing of utility services to the Units and said General and Limited Common Elements, including without limitation the Limited Common Elements located on the roof as shown on Exhibit "C". Should any incidental damage be caused to any Unit by virtue of any work which may be done or caused to be done by the Association in the maintenance, repair, or replacement of any General or Limited Common Elements, the Association shall, at its expense, repair such incidental damage. Excepted herefrom, however, are the maintenance of the (1) floor and interior walls of the Limited Common Element balcony or balconies attached to the Unit, (2) the Limited Common Element patio areas attached to the Unit, (3) the Limited Common Element yard/patio area attached to Units 146,

148, and 150, and (4) assigned General Common Element parking and storage spaces - all of which shall be maintained by the individual Unit Owners themselves.

The Semi-Private Yards attached to several ground-floor Units (as depicted in the attached Exhibit "C" plans and described in Article V herein) are Limited Common Elements and will be maintained by the Association. Owners of Units with said Semi-Private Yards shall be separately assessed in the form of a Specific Assessment for the cost of this maintenance.

All Limited Common Element fencing and gating around patios and balconies and yards is maintained by the Association. Depending upon the nature of said maintenance of the number of Units receiving such maintenance, the Association shall have the discretion to impose either a general assessment applicable to all Owners for the costs of said maintenance or a specific assessment against only those Owners benefiting from said maintenance. Notwithstanding the above provisions of this Section, any maintenance or repair work contemplated by the Association affecting the Pool-Access Gates must be approved in writing by DHEC prior to the initiation of any such work.

The Association is responsible for insuring that the Regime's management company conduct, or have conducted at the Association's expense, a visual inspection of the exterior Common Elements of the building a minimum of twice a year or as necessary for the purpose of determining needed repairs and maintenance and to insure that the building does not deteriorate and compromise the water tightness of the exterior skins. Said visual inspection shall include, but not be limited to, the following: (1) exterior stucco; (2) sealant around doors, windows and all dissimilar materials; (3) water proof membrane on the balcony concrete slabs and breezeways; (4) patio fencing and Pool-Access Gates; (5) roofing materials and related flashing; (6) roof penetrations at mechanical units, supports, etc.; (7) handrail sleeves and anchorage; (8) expansion joint assemblies; (9) ventilation equipment and louvers; and (10) elevator equipment and related items. Further, the Association is responsible for ensuring that the Regime's management company performs properly any maintenance to the Common Elements and Unit HVAC units located outside of the Units, as required by the manufacturer. In addition to the Association's inspection and maintenance obligations set forth herein, the Grantor reserves the right to independently conduct inspections of the Regime's buildings and improvements for a period of ten (10) years after the recording of this Master Deed. If the Grantor's inspections produce reports recommending maintenance or repair, the Association shall act on said recommendations in a timely manner. The Association and the Unit co-owners hereby indemnify and hold Grantor harmless for any losses, damages, or claims related to or arising out of the Association's failure to either inspect or maintain the Common Elements as set forth herein.

Reference is hereby made to that certain Sewer Line Easement and Hold Harmless Agreement defined in defined in Article III herein. Pursuant to said documents, sanitary sewer lines run underneath the Common Elements of the Condominium Property. The underground sanitary sewer lines themselves are owned by the City of Columbia and the City also possesses an easement over the General and Limited Common Elements of the Condominium Property, as shown on the Plat in Exhibit "B", for purposes of ingress, egress, operation and maintenance of the sanitary sewer lines. If requested or required by the City of Columbia, any and all maintenance, repair, and/or removal of improvements located in the easement area shall be the sole responsibility of the Association and the costs associated therewith shall be borne by all members of the Association (i.e., not by Specific Assessment against only those Unit Owners whose Limited Common Elements are effected). The Association and all Owners and this Master Deed are hereby subject to the terms and conditions set forth in said Sewer Line Easement and Hold Harmless Agreement.

XXIII. Personal Liability and Risk of Loss of Co-Owner and Unit and Separate Insurance Coverage, Etc.

The co-owner of each Unit may, at his own expense, obtain insurance coverage for loss of or damage to any furniture, furnishings, personal effects, and other personal property belonging to such co-owner and may, at his own expense and option, obtain insurance coverage against personal liability or injury to the person or property of another while within such co-owner's Unit or upon the General or Limited Common Elements. All such insurance obtained by the co-owner of each Unit shall, where available, provide that the insurer waives its right of subrogation as to any claims against other co-owners of Units, the Association, and the respective servants, agents and guests of said other co-owners and the Association. Risk of loss or damage to any furniture, furnishings, personal effects, and other personal property (other than such furniture, furnishings, and personal property constituting a portion of the General or Limited Common Elements or which is insured by the Association) belonging to a co-owner or carried on the person of the co-owner of each such Unit or carried by such co-owner in, to, or upon General or Limited Common Elements shall be borne by the co-owner of each such Unit. All furniture, furnishings, and personal property constituting a portion of the General or Limited Common Elements and held for the joint use and benefit of all co-owners of all Units shall be covered by such insurance as shall be maintained in force and effect by Association as hereinafter provided. The co-owner of a Unit shall have no personal liability for any damages caused by the Association. The co-owner of a Unit shall be liable for injuries or damage resulting from an accident in his own Unit, to the same extent and degree that the co-owner of a house would be liable for an accident occurring within the house.

XXIV. Condemnation

A. Units Acquired. If a Unit is acquired by eminent domain, or if part of a Unit is acquired by eminent domain, leaving the Unit owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Master Deed, the award must compensate the Unit owner for his Unit and its General and Limited Common Element Interest, whether or not any General or Limited Common Element interest is acquired. Upon acquisition, unless the decree otherwise provides, that Unit's entire General and Limited Common Element interest, votes in the Association, and common expense liability are automatically reallocated to the remaining Units in proportion to the respective interests and votes, and the Association shall promptly prepare, execute, and record an amendment to this Master Deed reflecting the reallocations. Any remnant of a Unit remaining after part of a Unit is taken under this subsection is thereafter a General and Limited Common Element.

B. Part of Unit Acquired. Except as provided above, if part of a Unit is acquired by eminent domain, the award must compensate the Unit owner for the reduction of value of the Unit and its Common Element Interest. Upon acquisition, (1) that Unit's Limited and General Common Element percentage interest, votes in the Association, and common expense liability are reduced in proportion to the reduction in size of the Unit, and (2) the portion of Limited and General Common Element interest, votes, and common expense liability divested from the partially acquired Unit are automatically reallocated to that Unit and the remaining Units in the percentages set out in Exhibit "D".

C. Claims. The Board of Directors of the Association shall have exclusive authority to negotiate and settle on behalf of the owners all claims arising from condemnation of any portion or all of the Units or General or Limited Common Elements and the owners hereby appoint the Board of Directors as their attorney in fact for this purpose. Any proceeds from such condemnation shall be distributed in accordance with the provisions of Article XXV Insurance, Paragraph F Insurance Proceeds.

XXV. Insurance

A. Hazard Insurance. The Association shall insure all Units and all General and Limited Common Elements against all hazards and risks normally covered by a standard hazard policy, including fire and lightning, the hazards and risks covered by "extended coverage," vandalism, and malicious mischief, and by hazards or risks covered by the National Flood Insurance Act, windstorm and hail policies and all other coverage commonly required by lending institutions in the area. All Units and all General and Limited

Common Elements shall be insured for the full replacement cost thereof, and where possible, the policy of insurance shall have a full replacement cost rider. Each year the Association shall update the replacement value cost rider. Such insurance shall cover only the Units and General and Limited Common Elements. The Association shall not be responsible for insuring the contents of the Unit (other than standard fixtures originally installed therein by Grantor and being a part of such Unit). The hazard insurance obtained by the Association shall provide that the maximum deductible amount shall be lesser of (a) Ten Thousand Dollars ($10,000.00) or (b) one percent (1%) of the policy face amount. The deductible related to an individual Unit should be the higher of (a) One Thousand Dollars ($1,000.00) or (b) one percent (1%) of the replacement cost of the Unit; however, the deductible for the individual Unit may be the higher of (a) Two Thousand Dollars ($2,000.00) or (b) two percent (2%) of the replacement cost of the Unit if the policy provides for a wind-loss deductible (either in the policy itself or in a separate endorsement). Any such deductible portion shall be borne by the Association as a Common Expense regardless of the number of co-owners directly affected by the loss.

B. Liability Insurance. The Association shall also obtain premises liability insurance on all Units and General and Limited Common Elements and the policy shall provide for a single limit indemnity of not less than One Million Dollars ($1,000,000.00) and cover bodily and personal injury and property damage, including, but not limited to, injury or property damage caused to third parties, co-owners, the Limited and General Common Elements or the Units or any improvements therein. Such liability insurance shall cover claims of one or more co-owners against one or more co-owners as well as claims of third parties against one or more co-owners. The Association shall not be required however, to obtain public liability insurance covering accidents occurring within the limits of a Unit or off the Regime Property. If available at a reasonable cost, the Association shall cause premises medical payment coverage to be included within the policy of liability insurance.

C. General Provisions. All insurance obtained on the Units and General and Limited Common Elements by the Association shall be written in the name of the Association as trustee for the Owners, and the cost of such insurance shall be a common expense. All such insurance shall be obtained from a company of companies licensed to do business in the State of South Carolina and currently rated "A" or better by Best's Insurance Ratings. No such insurance shall be permitted to expire except upon resolution of sixty-seven percent (67 %) of the co-owners per the percentages in Exhibit "D" to that effect and all mortgagees. Duplicate originals of all policies of hazard insurance obtained on the Property by the Board of Directors, together with proof of payment of the premiums thereon, shall be delivered upon request to any co-owner or to any person holding a security interest in a Unit.

D. Hazard Policy Provisions. All policies of hazard insurance on the Units and General and Limited Common Elements obtained by the Board of Directors shall provide as follows:

1. The indemnity payable on account of any damage to or destruction of the Units or General and Limited Common Elements shall be payable to the owner and/or to any persons holding security interests in any damaged Units as their interests may appear;

2. The policy shall not be canceled without thirty (30) days prior written notice to the Board of Directors and to every holder of a security interest in any Unit who is named in the policy or an endorsement thereto;

3. No co-owner shall be prohibited from insuring his own Unit for his own benefit;

4. No insurance obtained by a co-owner on his own Unit shall be brought into contribution with the insurance obtained by the Board of Directors;

5. If the Board of Directors determines that it is possible to obtain such a provision, no right to subrogation shall exist against any owner or members of his household or his social guests;

6. If possible, the policy should provide that the insurer shall not be entitled to reconstruct in lieu of paying the indemnity in cash if the owners determine, in the manner provided in the Master Deed, not to repair or restore the damaged property; and

7. The policy shall not be canceled on account of the actions of one or more of the co-owners.

If a policy of insurance containing all of the foregoing provisions cannot be obtained at a reasonable cost, one or more of such provisions may be waived by resolution of the Board of Directors.

E. Claims. The Board of Directors of the Association shall have exclusive authority to negotiate and settle on behalf of the owners all claims arising under policies of hazard insurance obtained on the Property by the Board of Directors except to the extent institutional mortgagees are granted such rights by co-owners. In the event of damage to or destruction of any portion of the Units or General or Limited Common Elements, the Board of Directors shall promptly file a claim for any indemnity due under any such policies. The Board of Directors shall simultaneously notify the holders of any security interest in the Property who may be entitled to participate in such claim of the filing of same.

F. Insurance Proceeds. If the insurance proceeds exceed Five Thousand ($5,000.00) Dollars, the net proceeds received by the Board of Directors from any indemnity paid under a policy of hazard insurance obtained on the Property by the Board of Directors shall promptly be paid by the Board of Directors to an Insurance Trustee as trustee for the co-owners as hereinafter provided. The Insurance Trustee shall be a state or federally chartered bank or savings and loan association selected by the Board of Directors and having trust powers and capital and surplus of Five Million Dollars ($5,000,000.00) or more or a Professional Property Management Company with a like amount of Fidelity Insurance coverage. The Insurance Trustee shall hold the insurance proceeds in trust and disburse said proceeds, after deduction of all reasonable fees and expenses of the Insurance Trustee, as follows:

1. If the co-owners determine, in the manner provided in S.C. Code Ann. § 27-31-260 (1976) as amended, not to reconstruct the damaged property, the Insurance Trustee shall distribute the insurance proceeds among all the owners and/or mortgagees with liens upon the Units, as their respective interests may appear, in proportion to their respective undivided interests in the portion or portions of the property damaged or destroyed.

2. If the Board of Directors is required to provide for the reconstruction of the damaged property, the Insurance Trustee shall disburse the insurance proceeds to the person or persons employed by the Board of Directors to effect such reconstruction in accordance with written authorizations submitted to the Insurance Trustee by the architect supervising the reconstruction or by the Board of Directors. Any portion of the insurance proceeds remaining after all the costs of reconstructing the Property have been paid shall be disbursed to the co-owners and their mortgagees in proportion to their interests in the portion or portions of the property repaired or restored.

In making disbursements of the insurance proceeds, the Insurance Trustee shall be entitled to rely upon the written authorization submitted as provided above or upon any written certification of facts submitted to the Insurance Trustee by the Board of Directors as hereinafter provided without further inquiry. The Insurance Trustee shall in no event be responsible for obtaining insurance on the Property, paying the premiums on any such insurance, or filing claims for any payments due under any such insurance.

G. Insurance by Owners. Each co-owner shall be responsible for obtaining such amounts of the following types of insurance as he deems necessary or desirable:

1. Hazard insurance on his Unit for his own benefit;

2. Hazard Insurance on the contents of his Unit and on improvements made to his Unit, and

3. Liability insurance covering accidents occurring within the boundaries of his Unit.

Any owner who obtains hazard insurance on his dwelling for his own benefit shall within thirty (30) days of obtaining the same deliver to the Board of Directors a copy of the policy of insurance, should the Board request.

XXVI. Apportionment of Tax or Special Assessment if Levied and Assessed Against the Regime as a Whole

In the event that any taxing authority having jurisdiction over the Regime shall levy or assess any tax or special assessment against the Regime as a whole, as opposed to levying and assessing such tax or special assessment against each Unit and its appurtenant undivided interest in General and Limited Common Elements as now provided by law, then such tax or special assessment so levied shall be paid as a common expense by the Association, and any taxes or special assessments which are to be levied shall be included wherever possible, in the estimated annual budget of Association, or shall be separately levied and collected as an assessment by the Association, against all of the co-owners of Units and said Units if not included in said annual budget. The amount of any tax or special assessment paid or to be paid by the Association in the event that such tax or special assessment is levied against the Regime, as a whole, instead of against each separate Unit and its appurtenant undivided interest in General and Limited Common Elements shall be apportioned among the co-owners of all Units so that the amount of such tax or special assessment so paid or to be paid by the Association and attributable to and to be paid by the co-owner or co-owners of each Unit shall be that portion of such total tax or special assessment which bears the same ratio to said total tax or special assessment as the undivided interest in General and Limited Common Elements appurtenant to each Unit bears to the total undivided interest in General and Limited Common Elements appurtenant to all Units. In the event that any tax or special assessment shall be levied against the Regime in its entirety, without apportionment by the taxing authority of the Regime and appurtenant undivided interests in General and Limited Common Elements, then the assessment by the Association, which shall include the proportionate share of such tax or special assessment attributable to each Unit and its appurtenant undivided interest in General and Limited Common Elements, shall separately specify and identify the amount of such assessment attributable to such tax or special assessments and the amount of such tax or special assessment so designated shall be a lien prior to all mortgages and encumbrances upon any Unit and its appurtenant undivided interest in

General and Limited Common Elements, regardless of the date of the attachment and/or recording of such mortgage or encumbrance, to the same extent as though such tax or special assessment had been separately levied by the taxing authority upon each Unit and its appurtenant undivided interest in General and Limited Common Elements.

XXVII. Amendment of Master Deed

Neither this Master Deed nor the Bylaws nor any of its provisions shall be amended without the acquiescence of the co-owners owning at least two-thirds of the total interest in the Common Elements per the percentages set forth in Exhibit "D". Any amendment of this Master Deed shall be executed and subscribed with the same formalities required in South Carolina for the making of deeds, and recorded in the public records of Richland County. Any amendment of the Bylaws does not require such recordation.

Without limiting the foregoing, the Grantor, its successors or assigns, "acting alone" shall have the power, but not the obligation, at any time (and from time to time), to unilaterally amend the Master Deed and Bylaws to correct typographical or scrivener's errors, to correct inconsistencies, and to cause the Master Deed to conform to the requirements of the South Carolina Horizontal Property Act, the South Carolina Non-Profit Corporation Act, the City of Columbia, the requirements of the Federal National Mortgage Association (specifically in order to receive FNMA condominium project approval), and/or the Federal Home Loan Mortgage Corporation.

These amendment provisions shall not apply to modifications to the Rules and Regulations of the Association, which shall be freely modifiable by the Board of Directors as long as such changes are posted within a reasonable amount of time afterward.

XXVIII. Remedies In Event of Default

The co-owner or co-owners of each Unit shall be governed by and shall comply with the provisions of this Master Deed, the Articles and the By-Laws of the Association, and its rules and regulations as any of the same are now constituted or as they may be adopted and/or amended from time to time. A default by the co-owner or co-owners of any Unit shall entitle the Association or the co-owner or co-owners of other Unit or Units to the following relief:

A. Failure to comply with any of the terms of this Master Deed or other restrictions and regulations contained in the Articles of Incorporation, By-Laws of the Association, its rules and

regulations, or decisions made pursuant thereto shall be grounds for relief which may include, without intending to limit the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien or any combination thereof. Relief may be sought by the Association, or if appropriate, by an aggrieved co-owner of a Unit or both;

B. The co-owner or co-owners of each Unit shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by his act, neglect, or carelessness, or by that of any member of his family, or his or their guests, employees, agents, or lessees. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of a Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation;

C. In any proceeding arising because of an alleged default by the co-owner of any Unit, the Association, if successful, shall be entitled to recover the costs of the proceedings and such reasonable attorney's fees as may be determined by the Court, and the co-owner of any Unit shall be entitled to such attorney's fees and costs if successful in such action;

D. The failure of the Association or of the co-owner of a Unit to enforce any right, provision, covenant, or condition which may be granted by this Master Deed or other above mentioned documents shall not constitute a waiver of the right of the Association or of the co-owner of a Unit to enforce such right, provision, covenant, or condition in the future; and

E. All rights, remedies, and privileges granted to Association or the Co-owner or co-owners of a Unit pursuant to any terms, provisions, covenants, or conditions of this Master Deed or other above mentioned documents, shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional right, remedies, or privileges as may be available to such party at law or in equity.

For any violation of this Master Deed, the Bylaws, or the Rules and Regulations, whether it be a failure to pay Assessments, to maintain property, or otherwise, the Association has the authority to (in addition to any other remedy set forth herein), where appropriate in its sole discretion: (i) exercise self-help and enter a Unit or Limited Common Element and remedy the violation (e.g., perform maintenance) and bill the costs of such as a Special Assessment; (ii) fine an Owner, and said fines can be added to the Association's assessment lien against the Unit (as further prescribed in the Bylaws); (iii) suspend the

Association voting and membership rights of an Owner; (iv) place a lien on the Unit and foreclose said lien pursuant to the provisions of the Bylaws; (v) suspend an Owner's rights to use the Common Area amenities and facilities; (vi) require an Owner to temporarily leave the Common Elements.

Except in cases where it is not practical (e.g., requiring an Owner or their guest to leave the Common Element pool due to behavior creating a nuisance), the Association shall not impose any remedy of a violation of this Master Deed, the Bylaws, or the Rules and Regulations of the Association until such time as it has reasonably given notice of such violation to the Owner and provided a reasonable opportunity for the Owner to cure the violation. The Association shall be the sole determiner of what constitutes reasonable notice and reasonable opportunity to cure.

XXIX. Use or Acquisition of Interest in the Regime to Render User or Acquirer Subject to Provisions of Master Deed Rules and Regulations, Bylaws and Binding Arbitration.

All present or future co-owners, tenants, or any other person who might use the facilities of the Regime in any manner are subject to the provisions of this Master Deed and all documents appurtenant thereto and incorporated herewith. The acquisition or rental of any Unit, or the mere act of occupancy of any Unit, shall signify that the provisions of this Master Deed, By-laws, and Rules and Regulations of the Association are accepted and ratified in all respects. **Such owner or occupant agrees that any dispute arising out of use, ownership or occupancy of a Unit or the Common Elements in Regime and any complaint against the Grantor shall be settled by binding arbitration pursuant to the provisions of Articles IV and XXXV hereof.**

XXX. Council of Co-Owners Association; Control of Board of Directors.

Subject to the remainder of this paragraph, the Grantor may appoint and remove members of the Board of Directors of the Association of the Co-Owners ("Board") for a period not exceeding five (5) years from the date of the first conveyance of any Unit to a person other than the Grantor. This period of Grantor control terminates no later than sixty (60) days after conveyance of seventy-five percent (75%) of the Units to Unit owners other than the Grantor. The Grantor may voluntarily surrender the right to appoint and remove members of the Board before termination of that time period.

Whenever Grantor shall be entitled to designate and select any person or persons to serve on any Board of Directors of the Association, the manner in which such person or persons shall be designated shall be as provided in the By-Laws of the Association. Grantor shall have the right to remove any person or

persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or other persons to act and serve in the place of any director or directors so removed for the remainder of the unexpired term of any director or directors so removed. Any director designated and selected by Grantor need not be an owner or a resident in the Regime. Anything to the contrary notwithstanding, the power in the Grantor to designate directors shall terminate five (5) years from the date of recording of the Master Deed.

Any representative of Grantor serving on the Board of Directors of the Association shall not be required to disqualify himself upon any vote upon any management contract or other matter between Grantor and Association where the said Grantor may have a pecuniary or other interest.

Transfer of Rights. All rights, duties and obligations of the Grantor herein may be performed by the Grantor, its successors and assigns.

XXXI. Annual Reports to be Provided to Lender

So long as any institutional lender is the co-owner or holder of a mortgage encumbering a Unit in the Regime, the Association shall furnish said lender upon request with at least one copy of the annual financial statement and report of the Association audited satisfactorily, setting forth such details as the said lender may reasonably require, including a detailed statement of annual carrying charges or income collected and operating expense; with such financial statement and report to be furnished within ninety (90) days following the end of each fiscal year.

Such statement shall be prepared in accordance with generally accepted accounting principles and shall contain the certificate of the accountant or accounting firm to that effect. Further, the accountant or accounting firm shall include as a special item(s) any information to which a reasonable man would attach importance in the management of his own financial affairs, should said information not appear readily from the face of the statement.

The Association shall make available to Unit owners, lenders, lienholders, insurers, or guarantors of any first mortgage current copies of the Master Deed, By-Laws, other rules concerning the project 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.

Any holder, insurer, or guarantor of a first mortgage shall be entitled, upon written request, to a financial statement of the immediately preceding fiscal year, free of charge to the party so requesting.

Any financial statement requested pursuant to this section shall be furnished within a reasonable time following such request.

XXXII. Severability

In the event that any of the terms, provisions, or covenants of this Master Deed are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify, or impair in any manner whatsoever any of the other terms, provisions, or covenants hereof or the remaining portions of any terms, provisions, or covenants held to be partially invalid or unenforceable.

XXXIII. Master Deed Binding Upon Grantor, Its Successor and Assigns, and Subsequent Co-Owners

The restrictions and burdens imposed by the covenants of this Master Deed are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Unit and its appurtenant undivided interest in General and Limited Common Elements. This Master Deed and all easements reserved herein shall be binding upon Grantor, its successors and assigns, and upon all parties who may subsequently become co-owners of Units in the Regime and their respective heirs, legal representative, and successors and assigns.

XXXIV. Definitions

The definitions contained in S. C. Code Ann. § 27-31-10 et seq. (1976), are hereby incorporated herein and made a part hereof by reference. The words, "Unit" and "Apartment" shall have the same meaning as the word "Unit" as defined in S. C. Code Ann. § 27-31-20 (1976).

XXXV. Alternative Dispute Resolution

Any claim or cause of action not covered by Article IV's Arbitration Agreement shall be covered by the provisions of this Article.

A. Definitions Applicable to this Article XXXV

1. Bound Party. Includes: Grantor; all co-owners; the Association and its officers, directors, and committee members, including any corporation or other entity formed to serve as the Association; all persons and entities subject to this Master Deed; any person or entity not otherwise subject to this Master Deed who agrees to submit to this Article; any person or entity that now has or hereafter acquires any interest in a Unit; the developer of the Regime; any person or entity that has previously or hereafter supplies (directly or indirectly) labor, materials, design services, equipment or other things of value in connection with the construction or maintenance of any Unit or Common Element in the Regime; any heir, successor, delegatee or assignee of any person or entity listed in this paragraph.

2. Claim. Refers to any claim, grievance or dispute arising out of or relating to:

(i) the interpretation, application, or enforcement of this Master Deed, including all documents attached thereto or incorporated by reference therein; (ii) the rights, obligations, and duties of any Bound Party under the Master Deed, including all documents attached thereto or incorporated by reference therein; or (iii) the design or construction of Improvements within the Regime, including but not limited to, disputes with the Grantor, the Contractor, the Architect, or any of their successors or assigns, agents, employees, or subcontractors and the co-owners of the Units and/or the Association regarding the sale, design or construction of The Gates at Williams-Brice or the purchased Unit, the Limited Warranty, the Limitation of Remedies, or the Disclaimer and Exclusion of All Other Warranties, or any provision of any of them;

except that the following shall not be considered a Claim unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section B of this Article:

(i) any suit by the Association to collect assessments or other amounts due from any Co-Owner of a Unit; (ii) any suit between Unit Co-owners, which does not include Grantor or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Master Deed; and (iii) any suit in which any indispensable party is not a Bound Party.

3. Claimant. A Bound Party asserting a Claim.

4. Respondent. A Bound Party against whom a Claim is made.

B. ARBITRATION.

1. CLAIMANT HEREBY SUBMITS TO IN PERSONAM JURISDICTION OF THE STATE OF SOUTH CAROLINA AND AGREES THAT ITS CLAIM SHALL BE DETERMINED BY AN ARBITRATOR AS PROVIDED HEREIN IN THE STATE OF SOUTH CAROLINA AND HEREBY WAIVES ALL OBJECTIONS TO VENUE. ALL MATTERS ARISING HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH THE LAW AND PRACTICE OF SOUTH CAROLINA AND CLAIMANT AGREES THAT ANY SERVICE OF PROCESS MAY BE ACCOMPLISHED BY CERTIFIED MAIL RETURN RECEIPT REQUESTED AT THE CLAIMANT'S LAST KNOWN HOME ADDRESS OR ANY OTHER METHOD ALLOWED IN THE STATE OF SOUTH CAROLINA OR CLAIMANT'S HOME STATE.

2. EACH AND EVERY CLAIM AND CAUSE OF ACTION ARISING OUT OF OR RELATED IN ANY WAY TO THE DESIGN, CONSTRUCTION, SALE, MAINTENANCE, HABITABILITY OF, OR CONDITION OF ANY UNIT OR ANY COMMON AREA THAT IS ASSERTED BY CLAIMANT SHALL BE RESOLVED BY FINAL AND BINDING ARBITRATION BEFORE A PANEL OF THREE (3) ARBITRATORS PURSUANT TO THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION, AS MODIFIED HEREIN. THE ARBITRATION HEARING SHALL BE CONDUCTED IN RICHLAND COUNTY, SOUTH CAROLINA. ALL CLAIMS AND CAUSES OF ACTION OF ALL PERSONS AND ENTITIES ENTITLED TO ENFORCE (OR BOUND BY) THIS ARBITRATION PROVISION SHALL BE ASSERTED IN A SINGLE ARBITRATION PROCEEDING, AND MULTIPLE PARTIES MAY BE JOINED IN THE ARBITRATION PROCEEDING SO THAT ALL DISPUTES MAY BE RESOLVED IN ONE FORUM. NO CLAIM OR CAUSE OF ACTION MAY BE ASSERTED THAT WOULD BE BARRED BY THE STATUTE OF LIMITATIONS OR THE STATUTE OF RESPONSE.

3. IN ANY ARBITRATION PROCEEDING, REQUESTS FOR PRODUCTION OF DOCUMENTS MAY BE SERVED BY EACH PARTY, AND NON-PRIVILEGED, RESPONSIVE DOCUMENTS THAT WOULD BE DISCOVERABLE UNDER RULE 34 OF THE FEDERAL RULES OF CIVIL PROCEDURE (WERE THE CLAIMS AND CAUSES OF ACTION BEING ASSERTED IN UNITED STATES DISTRICT COURT) SHALL BE PRODUCED. DEPOSITIONS MAY BE TAKEN AS ALLOWED BY THE ARBITRATION PANEL, WHICH PANEL SHALL REASONABLY LIMIT THE NUMBER OF DEPOSITIONS IN ORDER TO AVOID UNNECESSARY OR EXCESSIVE EXPENSE, DELAY, OR HARASSMENT.

4. THE ARBITRATION PANEL SHALL ISSUE A WRITTEN DECISION IDENTIFYING WITH SPECIFICITY EACH CLAIM OR CAUSE OF ACTION ASSERTED OR RESOLVED IN ANY ARBITRATION, AND THE LEGAL PRINCIPLES OF RES JUDICATA AND COLLATERAL ESTOPPEL SHALL BE APPLICABLE TO ANY ARBITRATION AWARD. ANY ARBITRATION AWARD MAY BE CONFIRMED AND ENFORCED IN ANY COURT OF JURISDICTION.

5. THIS ARBITRATION PROVISION IS EXPRESSLY INTENDED TO BENEFIT AND BE ENFORCEABLE BY EACH BOUND PARTY WHETHER OR NOT SUCH PERSON OR ENTITY IS BOUND BY THIS ARBITRATION PROVISION. ANY ATTEMPT BY ANY SUCH PERSON OR ENTITY TO ENFORCE THIS ARBITRATION PROVISION SHALL CONSTITUTE CONCLUSIVE CONSENT TO BE BOUND HEREBY.

C. Association Claims

In addition to compliance with the foregoing arbitration procedures outlined in this Article, the Board shall not be authorized or obligated to, and the Association shall not initiate any judicial or administrative proceeding unless first approved by a seventy-five percent (75%) affirmative vote of the entire Association membership per the percentages in Exhibit "D", except that no such approval shall be required for actions or proceedings:

(1) initiated to enforce the provisions of this Master Deed against a co-owner or occupant of any Unit or Common Element (excluding the provisions of the Limited Warranty contained in Article IV herein) including all documents attached thereto or incorporated by reference therein, including, but not limited to, collection of assessments and foreclosure of liens;
(2) initiated to challenge property taxation or condemnation proceedings;
(3) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This Section C shall not be amended unless such amendment is approved by one hundred percent (100%) of votes of the Association membership.

D. Waiver of Jury Trial

BY ACCEPTANCE OF A DEED TO ANY UNIT OR OTHER PROPERTY HEREUNDER CO-OWNER(S) HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY HEREBY AGREE, THAT:

(I) NEITHER CO-OWNER NOR ANY ASSIGNEE, SUCCESSOR, HEIR, OR LEGAL REPRESENTATIVE OF CO-OWNER OR GRANTOR, SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, OR ANY OTHER LITIGATION PROCEDURE ARISING FROM OR BASED UPON THE MATTERS SET FORTH HEREUNDER, OR TO THE DEALINGS OR RELATIONSHIP BETWEEN OR AMONG THE GRANTOR, ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, ARCHITECTS, ENGINEERS AND THE CO-OWNERS OR THE ASSOCIATION, INCLUDING WITHOUT LIMITATION, WAIVER OF ANY TYPE OF CLASS ACTION SUIT;

(ii) NEITHER CO-OWNER NOR GRANTOR WILL SEEK TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN OR CANNOT BE WAIVED;

(iii) NEITHER OWNER NOR GRANTOR HAS IN ANY WAY AGREED WITH OR REPRESENTED TO ANY OTHER PARTY THAT THE PROVISIONS OF THIS SECTION WILL NOT BE FULLY ENFORCED IN ALL INSTANCES; AND

(iv) THE PROVISIONS CONTAINED IN THIS ARTICLE ARE A MATERIAL INDUCEMENT FOR GRANTOR TO MAKE THE DECLARATIONS SET FORTH HEREIN.

XXXVI. Miscellaneous:

(a) Attached hereto as Exhibit "A", Legal Description.
(b) Attached hereto as Exhibit "B", As-Built Survey.
(c) Attached hereto as Exhibit "C", Plans.
(d) Attached hereto as Exhibit "D", Table of Values.
(e) Attached hereto as Exhibit "E", Certification to Plans.
(f) Attached hereto as Exhibit "F", Articles of Incorporation of The Gates at Williams-Brice Condominium Association.
(g) Attached hereto as Exhibit "G", By-Laws of The Gates at Williams-Brice Condominium Association.

LEGAL DESCRIPTION

All that certain piece, parcel or tract(s) of land lying and being situate in the City of Columbia, Richland County, South Carolina, having the following metes and bounds as shown on a plat entitled: "As-Built ALTA/ACSM Land Title Survey for Columbia Condos, LP", prepared by Sinclair & Associates, LLC, dated June 21, 2007, revised June 28, 2007, and recorded July 11, 2007 in the Register of Deeds Office for Richland County in Plat Book 1334 at Page 2001:

Beginning at a concrete monument found on the right-of-way of Shop Road, said point being 530 feet SouthWest from the centerline intersection of George Rogers Blvd & Shop Road. Said point being the Point of Beginning, thence following the right-of-way of Shop Road, South 45 deg. 10 min. 29 sec. East for a distance of 421.55 feet to a ½" rebar found at the common property corner of Colonial Warehouse, LLC. Thence leaving Shop Road and following the common property line of Colonial Warehouse, LLC., South 44 deg. 50 min 30 sec. West for a distance of 450.45 feet to a ½" rebar found at the common property corner of Colonial Warehouse, LLC & along the right-of-way of Seaboard Coastline Railroad. Thence following the right-of-way at SeaBoard Coastline Railroad, North 45 deg. 08 min 34 sec West for a distance of 135.65 feet to a concrete monument found, thence North 44 deg. 38 min. 44 sec. East for a distance of 15.47 feet to a concrete monument found, thence with a Radius of 349.11 feet and an Arc Length of 338.54 feet (North 16 deg. 44 min. 26 sec. West for a distance of 325.43 feet) to a concrete monument, thence leaving the right-of-way of SeaBoard Coastline Railroad, North 44 deg. 55 min. 00 sec. East for a distance of 279.95 feet to a concrete monument, said concrete monument being the Point of Beginning and containing 3.95 acres, more or less.

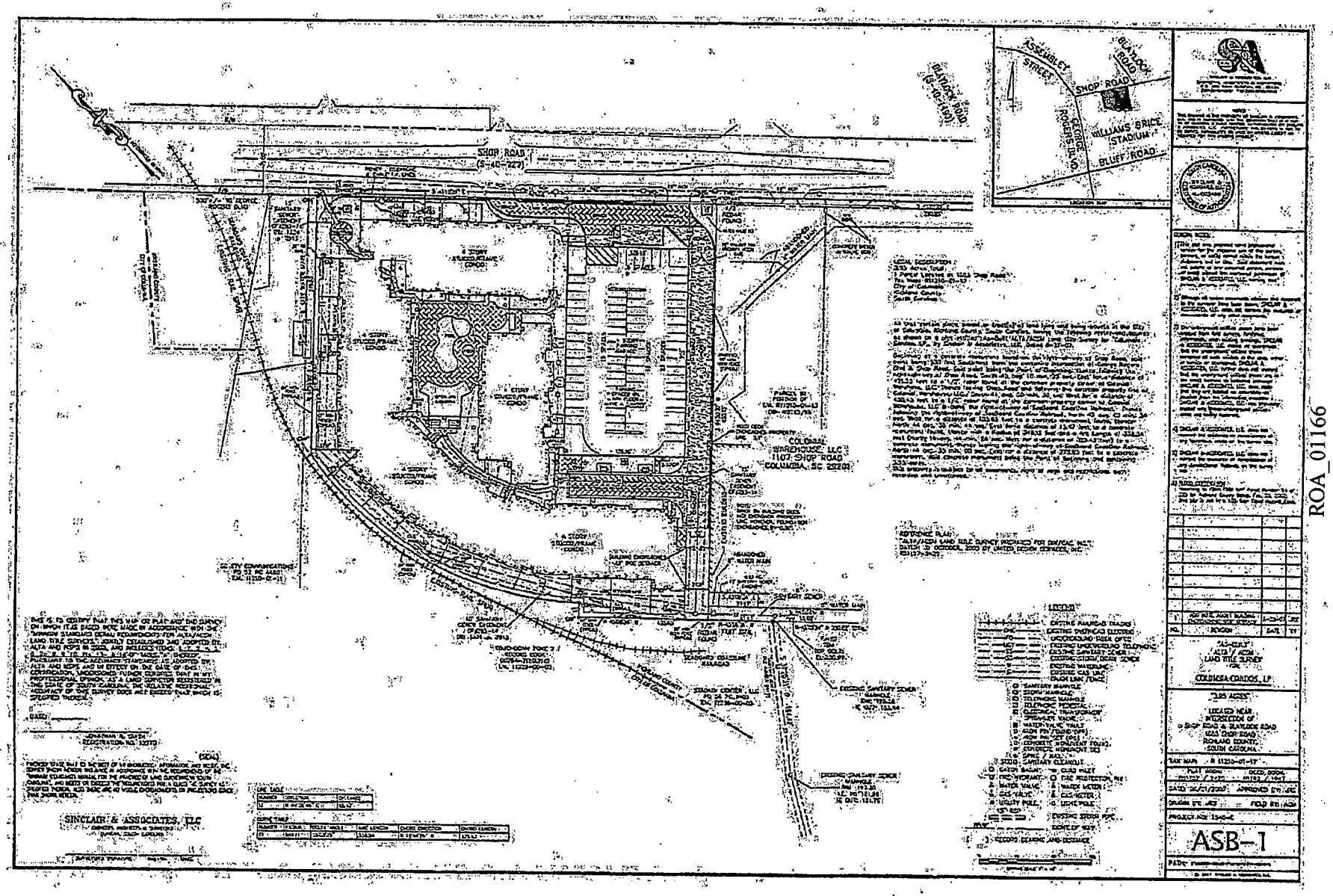
This property is subject to all easements, right of ways and restrictions, both recorded and unrecorded.

Tax Map No. R11210-01-17

EXHIBIT "B"

[As-Built Survey]

Attached Hereto and Incorporated Herein By Reference

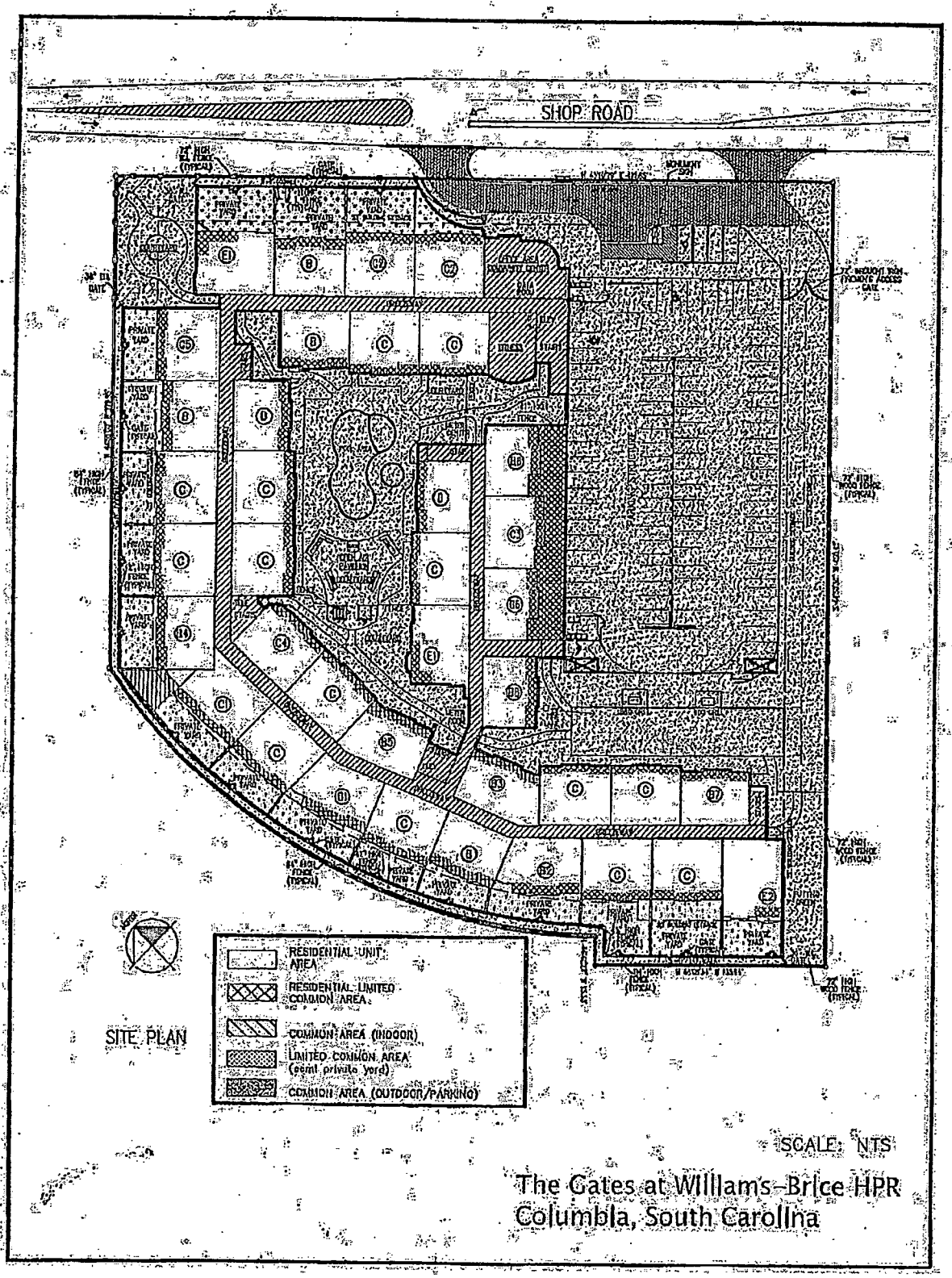

SHOP ROAD
(S-40-127)
BLAYDON ROAD
(S-40-1490)
ASSEMBLY STREET
SHOP ROAD
BLAYDON ROAD
GEORGE ROGERS BLVD.
WILLIAMS BRICE STADIUM
BLUFF ROAD
COLONIAL WAREHOUSE, LLC
1107 SHOP ROAD
COLUMBIA, SC 29201
SINCLAIR & ASSOCIATES, LLC
ASB-1

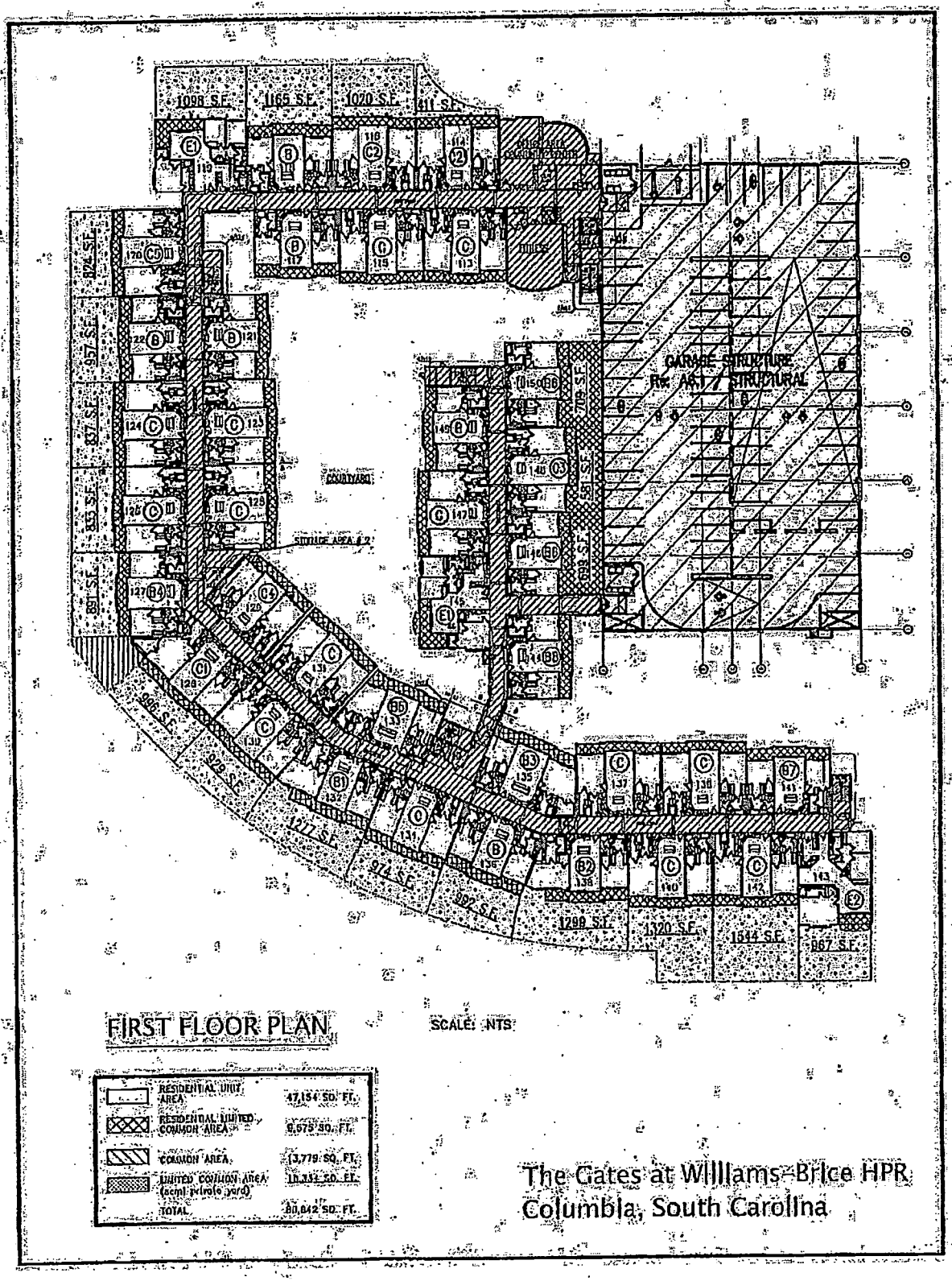
ROA_01166

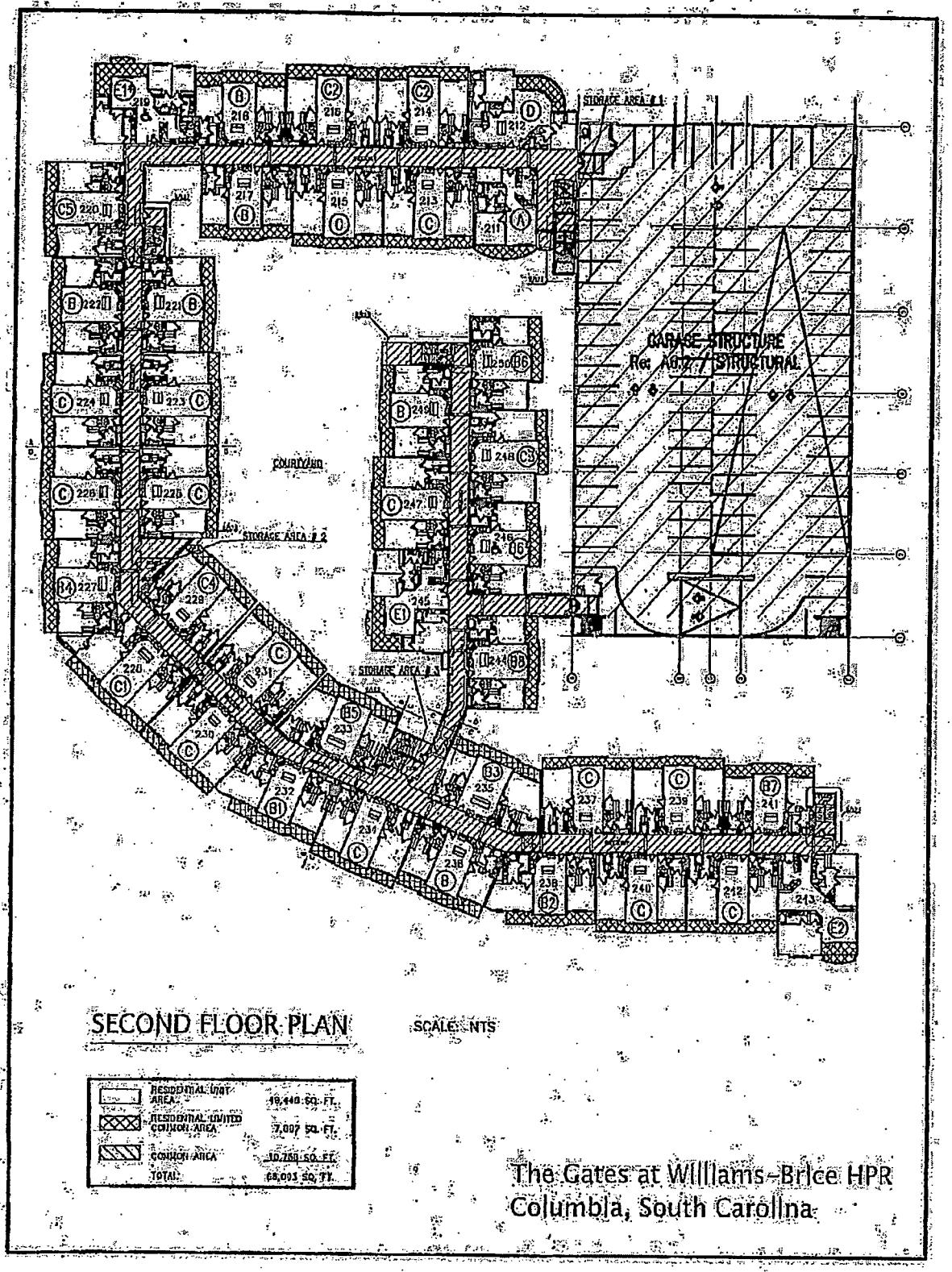
EXHIBIT "C"

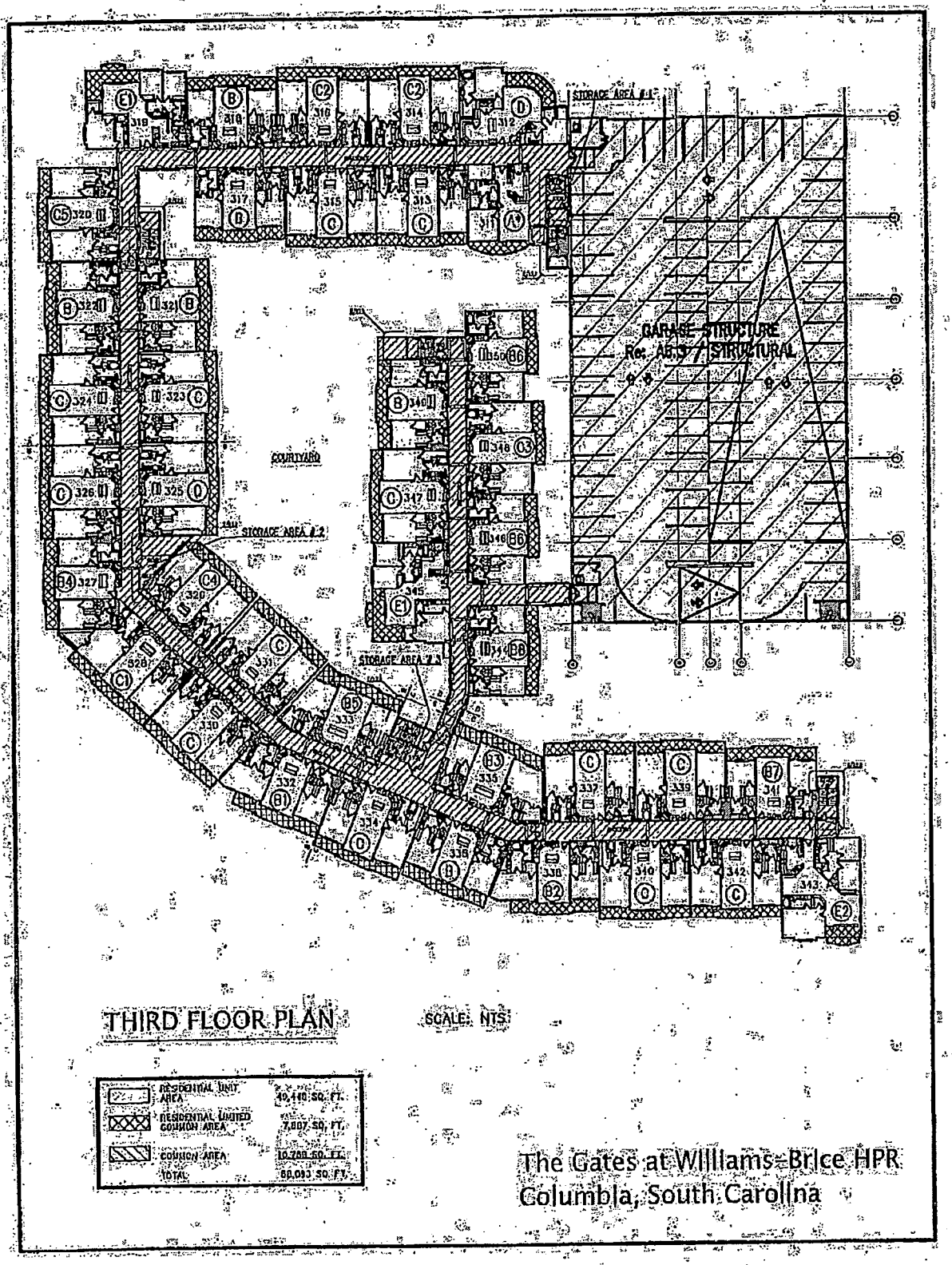
[Plans, consisting of
Site Plan, Floor Plans, Unit Plans, and Elevations]

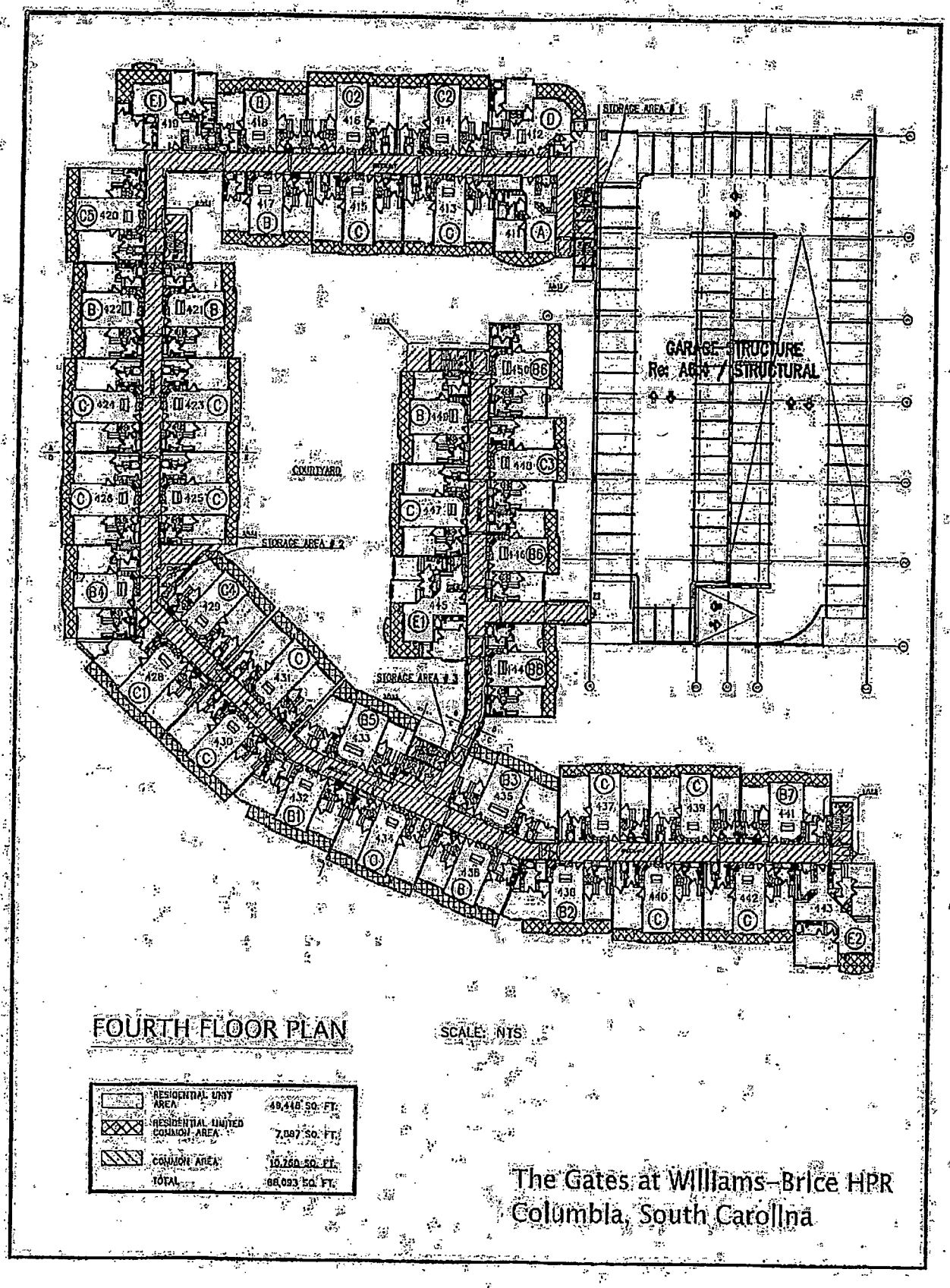
Attached Hereto and Incorporated Herein By Reference


SHOP ROAD
RESIDENTIAL UNIT AREA
RESIDENTIAL LIMITED COMMON AREA
COMMON AREA (INDOOR)
LIMITED COMMON AREA (semi private yard)
COMMON AREA (OUTDOOR/PARKING)
SITE PLAN
SCALE: NTS
The Gates at William's Brice HPR
Columbia, South Carolina


1098 S.F.
1165 S.F.
1070 S.F.
411 S.F.
824 S.F.
957 S.F.
933 S.F.
COURTYARD
SERVICE AREA
GARAGE STRUCTURE
PK AR / STRUCTURAL
1277 S.F.
974 S.F.
1299 S.F.
1120 S.F.
1544 S.F.
967 S.F.
FIRST FLOOR PLAN
SCALE: NTS
RESIDENTIAL UNIT AREA 47,154 SQ. FT.
RESIDENTIAL LIMITED COMMON AREA 6,675 SQ. FT.
COMMON AREA 13,779 SQ. FT.
LIMITED COMMON AREA (exempt private yard) 10,234 SQ. FT.
TOTAL 80,842 SQ. FT.
The Gates at Williams-Brice HPR
Columbia, South Carolina


STORAGE AREA # 1
GARAGE STRUCTURE
Ref: Arch / STRUCTURAL
COURTYARD
STORAGE AREA # 2
STORAGE AREA # 3
SECOND FLOOR PLAN
SCALE: NTS
RESIDENTIAL UNIT AREA 19,440 SQ. FT.
RESIDENTIAL LIMITED COMMON AREA 7,007 SQ. FT.
COMMON AREA 30,756 SQ. FT.
TOTAL 68,003 SQ. FT.
The Gates at Williams-Brice HPR
Columbia, South Carolina


STORAGE AREA # 1
GARAGE STRUCTURE
Ref. A6.3 / STRUCTURAL
COURTYARD
STORAGE AREA # 2
STORAGE AREA # 3
THIRD FLOOR PLAN
SCALE: NTS
RESIDENTIAL UNIT AREA 40,410 SQ. FT.
RESIDENTIAL LIMITED COMMON AREA 7,807 SQ. FT.
COMMON AREA 10,288 SQ. FT.
TOTAL 58,093 SQ. FT.
The Gates at Williams-Brice HPR
Columbia, South Carolina

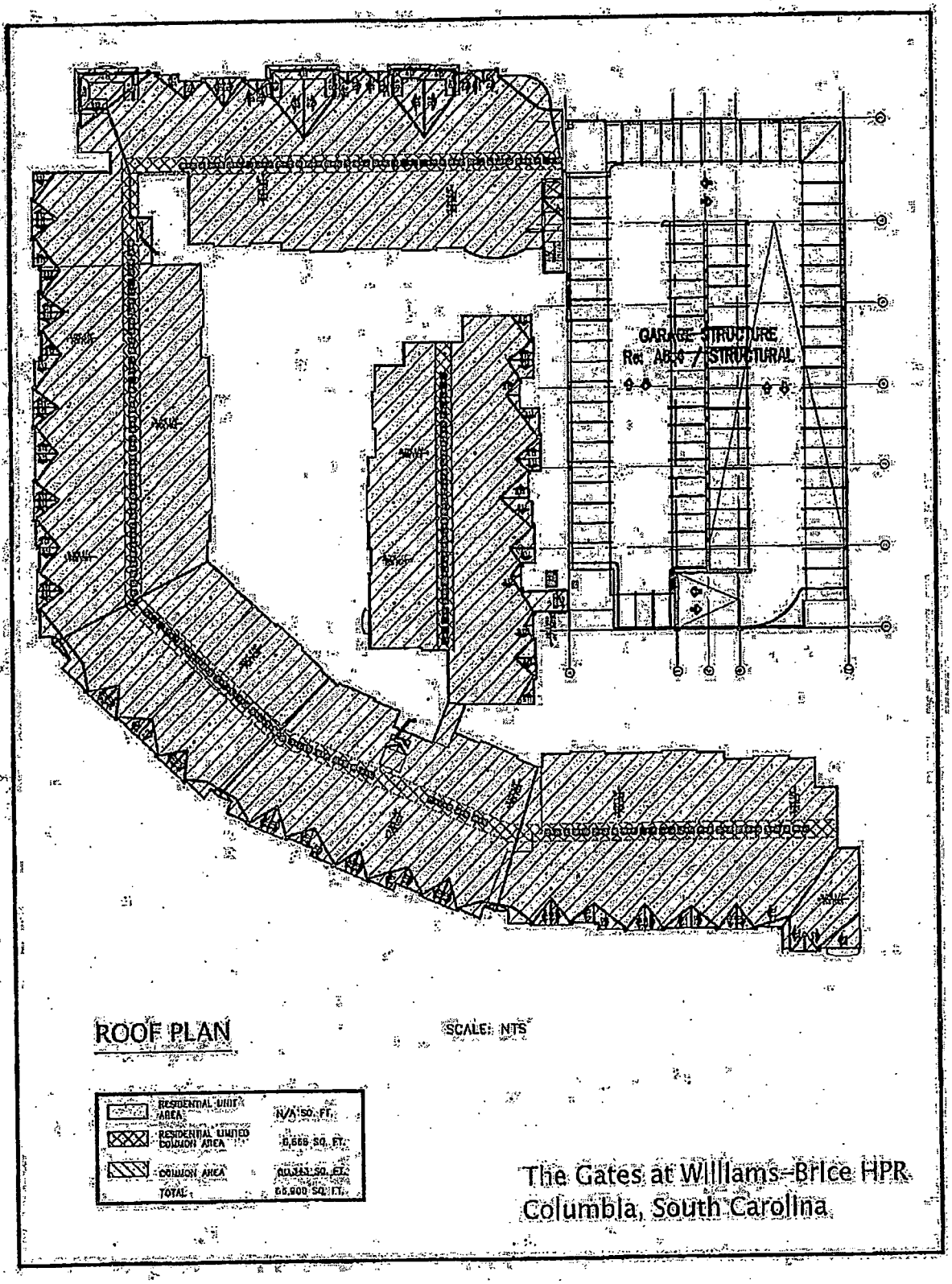


FOURTH FLOOR PLAN

SCALE: NTS

	RESIDENTIAL UNIT AREA	49,448 SQ. FT.
	RESIDENTIAL LIMITED COMMON AREA	7,097 SQ. FT.
	COMMON AREA	10,260 SQ. FT.
	TOTAL	66,093 SQ. FT.

The Gates at Williams-Brice HPR
Columbia, South Carolina

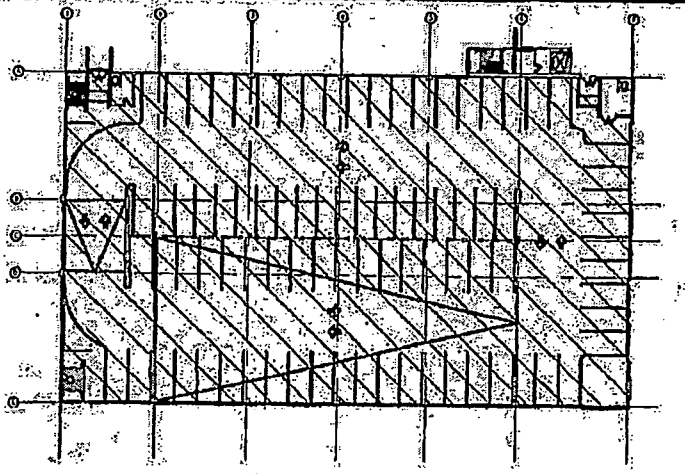


ROOF PLAN

SCALE: NTS

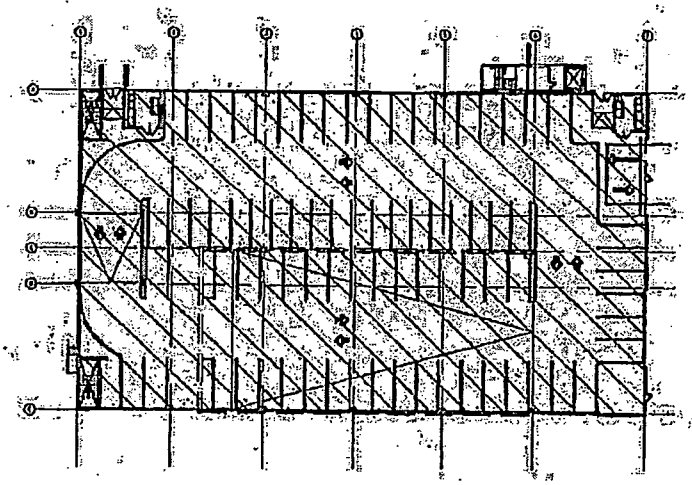
	RESIDENTIAL UNIT AREA	N/A SQ. FT.
	RESIDENTIAL LIMITED COMMON AREA	6,668 SQ. FT.
	COMMON AREA	60,232 SQ. FT.
	TOTAL:	66,900 SQ. FT.

The Gates at Williams-Brice HPR
Columbia, South Carolina



SECOND FLOOR GARAGE SCALE: 1/16"

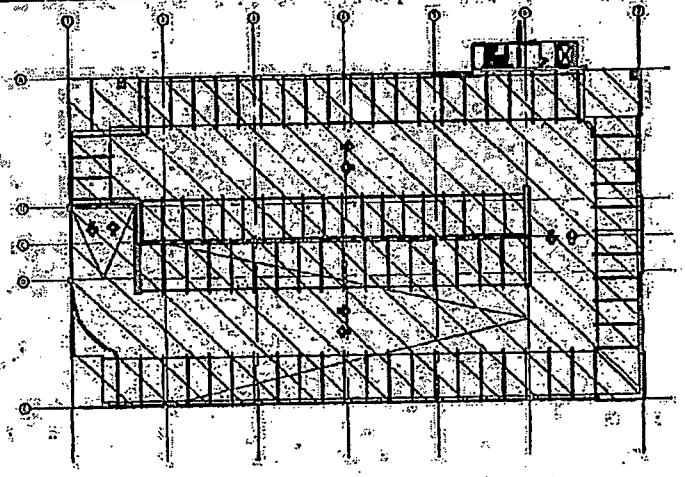
RESIDENTIAL UNIT AREA	000 SQ. FT.	
RESIDENTIAL LIMITED COMMON AREA	000 SQ. FT.	
COMMON AREA	28,520 SQ. FT.	
TOTAL	28,520 SQ. FT.	



FIRST FLOOR GARAGE SCALE: 1/16"

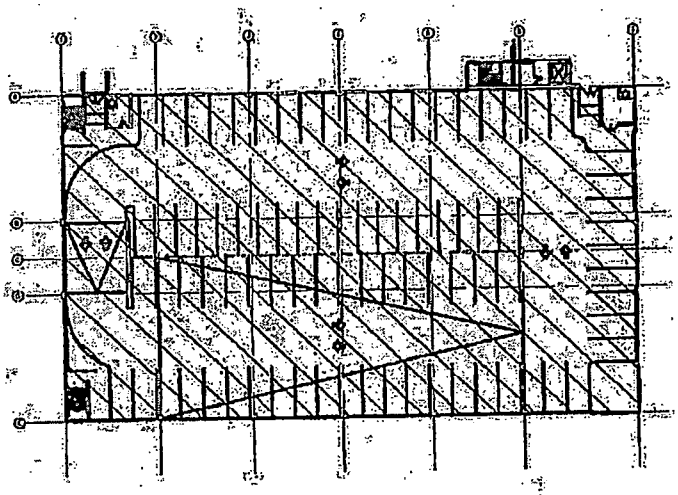
RESIDENTIAL UNIT AREA	000 SQ. FT.	
RESIDENTIAL LIMITED COMMON AREA	000 SQ. FT.	
COMMON AREA	28,520 SQ. FT.	
TOTAL	28,520 SQ. FT.	

The Gates at Williams-Brice HPR
Columbia, South Carolina



FOURTH FLOOR GARAGE SCALE: NTS

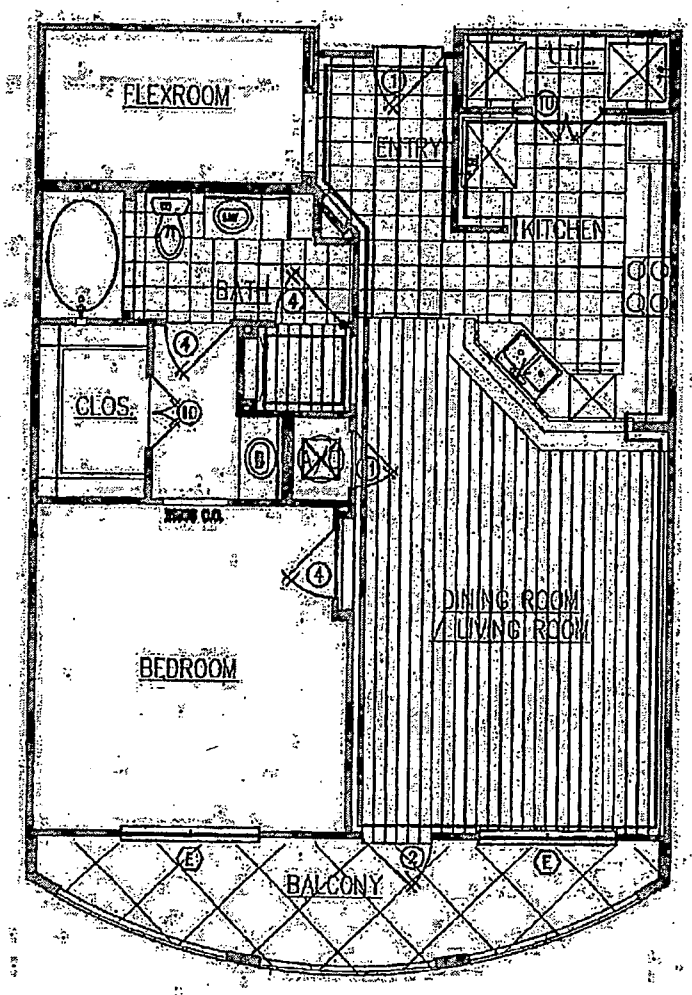
RESIDENTIAL UNIT AREA	000 SQ. FT.	
RESIDENTIAL LIMITED COMMON AREA	000 SQ. FT.	
COMMON AREA	28,628 SQ. FT.	
TOTAL	28,628 SQ. FT.	



THIRD FLOOR GARAGE SCALE: NTS

RESIDENTIAL UNIT AREA	000 SQ. FT.	
RESIDENTIAL LIMITED COMMON AREA	000 SQ. FT.	
COMMON AREA	28,628 SQ. FT.	
TOTAL	28,628 SQ. FT.	

The Gates at Williams-Brice HPR
Columbia, South Carolina



UNIT TYPE A – BUILDING #(3RD, 4TH FLOORS)

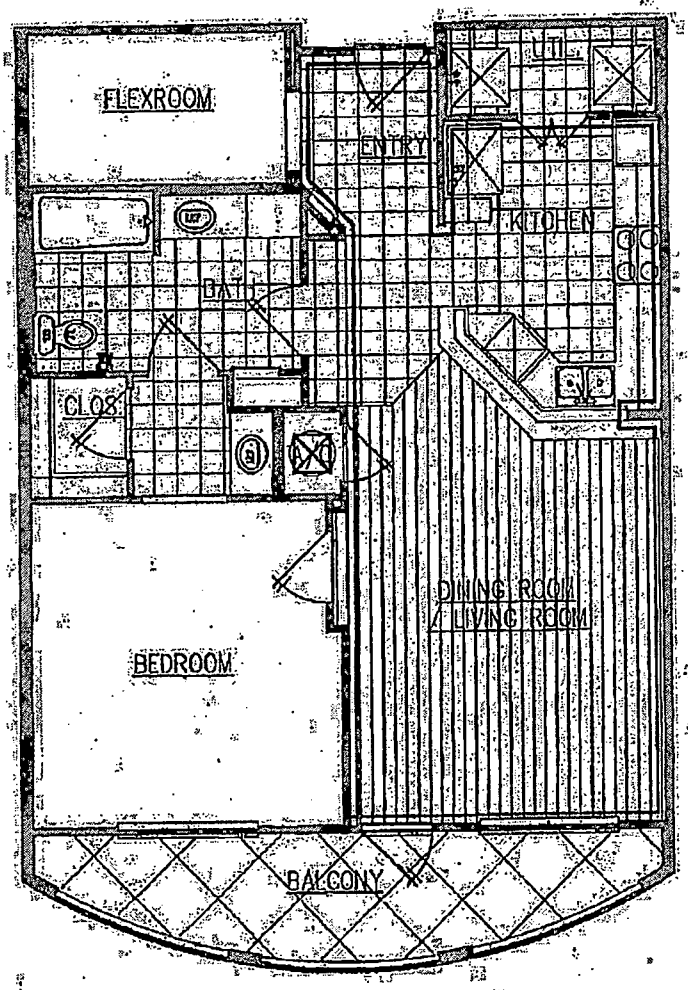
SCALE: NTS

UNIT A	
1 BEDROOM	1 BATH
CONDITION AREA	948 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	130 S.F.
TOTAL AREA	1,078 S.F.
NUMBER OF UNITS	2

UNIT NUMBERS:

311, 411

The Gates at Williams-Brice HPR
Columbia, South Carolina



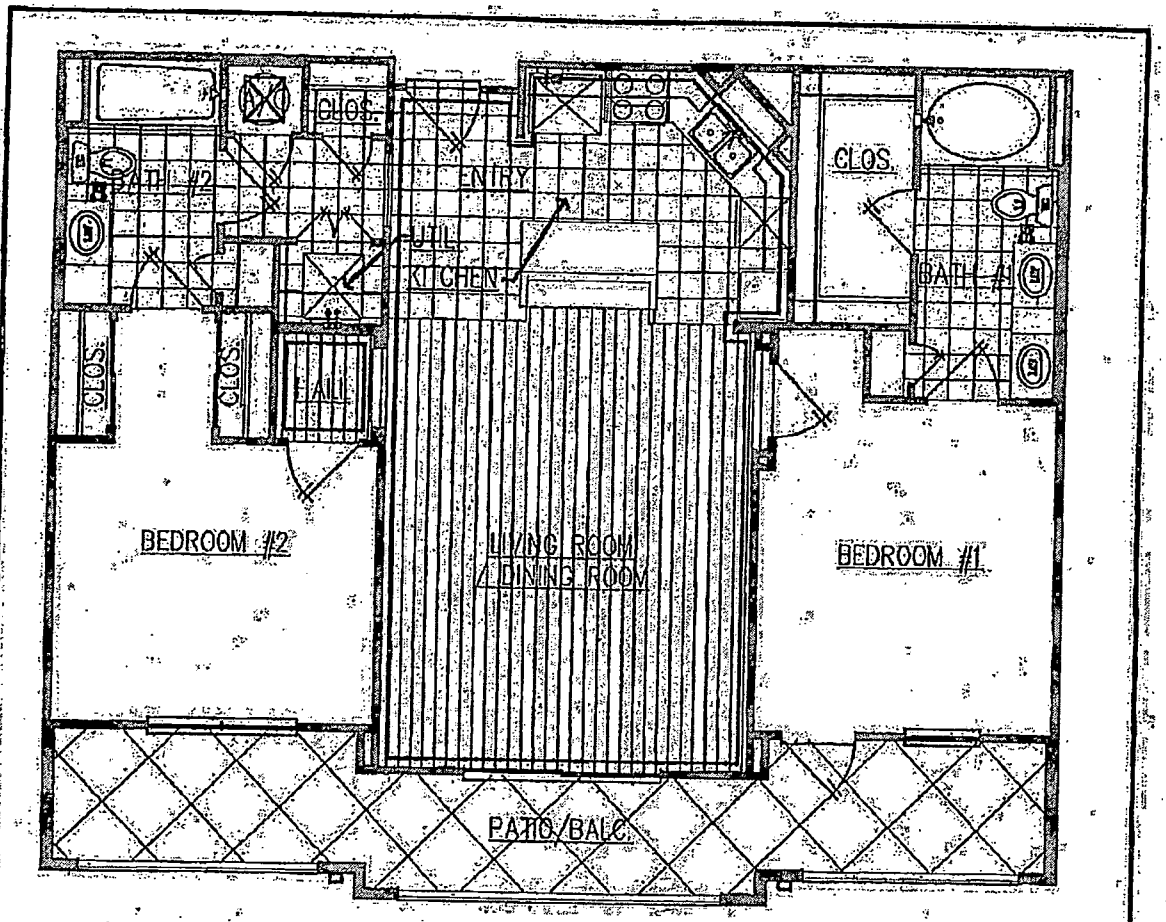
UNIT TYPE A-HC - BUILDING -(2ND FLOOR)

SCALE: NTS

UNIT	A-HC
1 BEDROOM	1 BATH
CONDITION AREA	948 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	130 S.F.
TOTAL AREA	1,078 S.F.
NUMBER OF UNITS	1

UNIT NUMBER:
211

The Gates at Williams-Brice HPR
Columbia, South Carolina



UNIT TYPE B – BUILDING – (1ST, 2ND, 3RD, 4TH FLOORS) SCALE: NTS

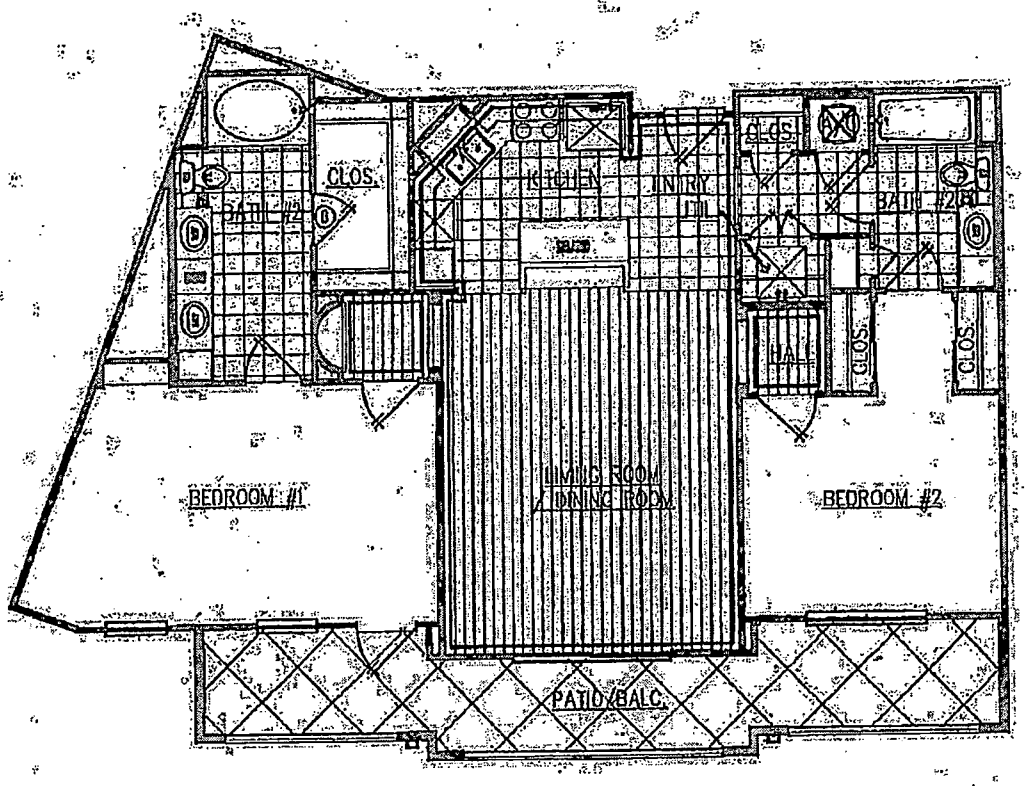
UNIT NUMBERS:
118, 121, 136,
144, 218, 221,
236, 244, 318,
321, 344, 336,
418, 421, 436,
444

UNIT B	
2 BEDROOM	2 BATH
CONDITION AREA	1,105 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	219 S.F.
TOTAL AREA	1,324 S.F.
NUMBER OF UNITS	16

UNIT B	
2 BEDROOM	2 BATH
CONDITION AREA	1,105 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	219 S.F.
TOTAL AREA	1,324 S.F.
NUMBER OF UNITS	16

MIRRORED UNITS
117, 122, 141,
149, 217, 222,
241, 249, 317,
322, 341, 349,
417, 422, 441,
449

The Gates at Williams-Brice HPR
Columbia, South Carolina



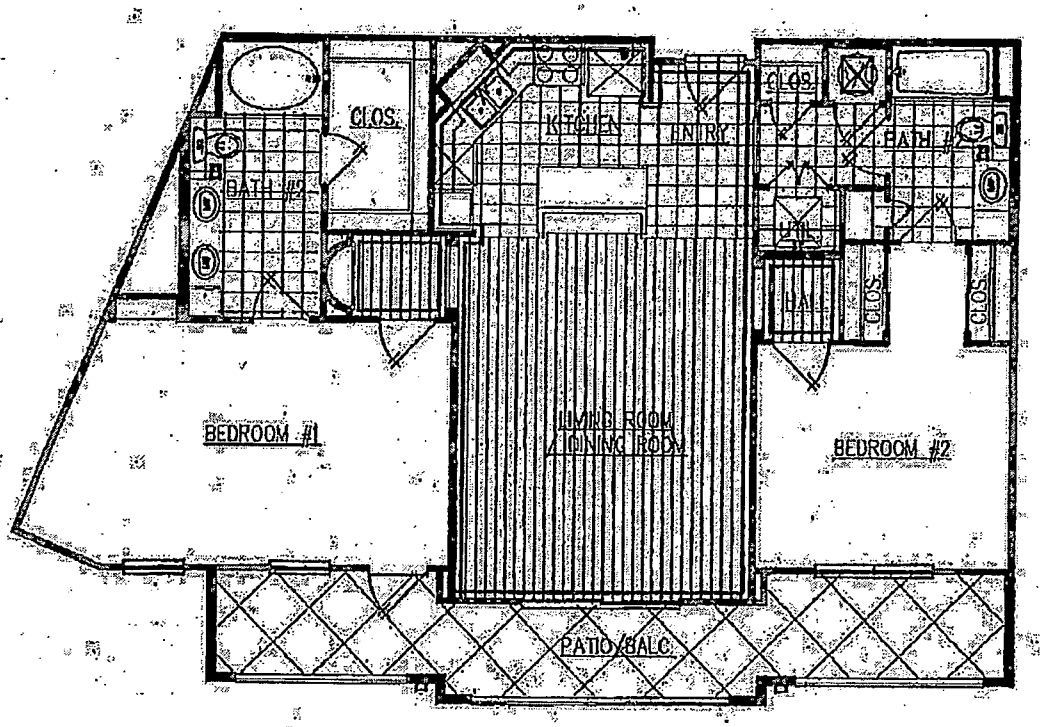
UNIT TYPE B1 – BUILDING – (1ST, 2ND, 3RD, 4TH FLOORS)

SCALE: NTS

UNIT B1	
2 BEDROOM	2 BATH
CONDITION AREA	1,265 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	219 S.F.
TOTAL AREA	1,484 S.F.
NUMBER OF UNITS	4

UNIT NUMBERS:
132, 232,
332, 432

The Gates at Williams-Brice HPR
Columbia, South Carolina



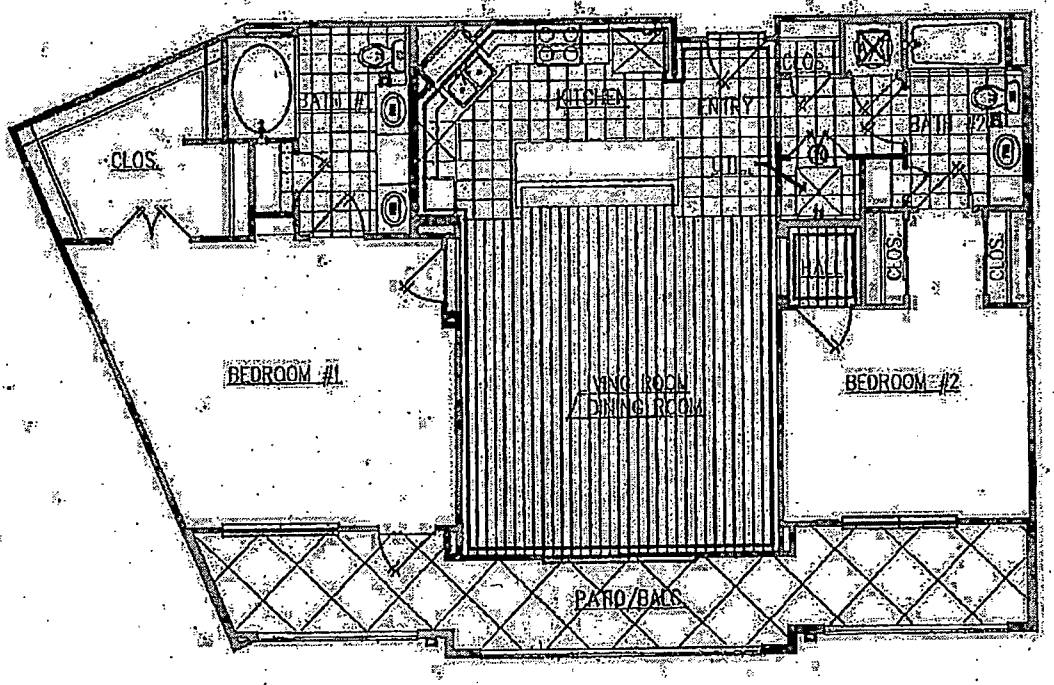
UNIT TYPE B2 - BUILDING - (1ST, 2ND, 3RD, 4TH FLOORS)

SCALE: NTS

UNIT	B2
2 BEDROOM	2 BATH
CONDITION AREA	1,235 S.F.
UTILITY AREA	S.F.
BALC./MISC. AREA	219 S.F.
TOTAL AREA	1,454 S.F.
NUMBER OF UNITS	4

UNIT NUMBERS:
138, 238,
338, 438

The Gates at Williams-Brice HPR
Columbia, South Carolina



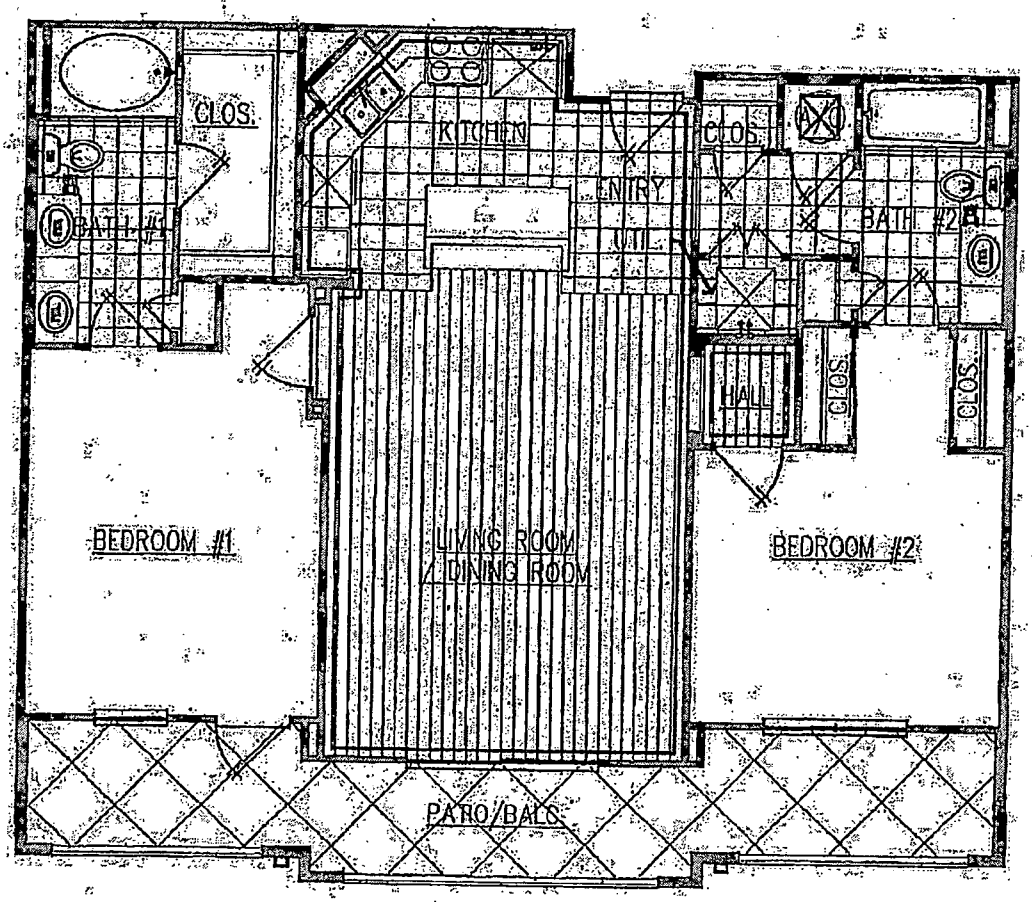
UNIT TYPE B3 - BUILDING -(1ST, 2ND, 3RD, 4TH FLOORS)

SCALE: NTS

UNIT B3	
2 BEDROOM	2 BATH
CONDITION AREA	1,310 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	232 S.F.
TOTAL AREA	1,542 S.F.
NUMBER OF UNITS	4

UNIT NUMBERS:
135, 235,
335, 435

The Gates at Williams-Brice HPR
Columbia, South Carolina



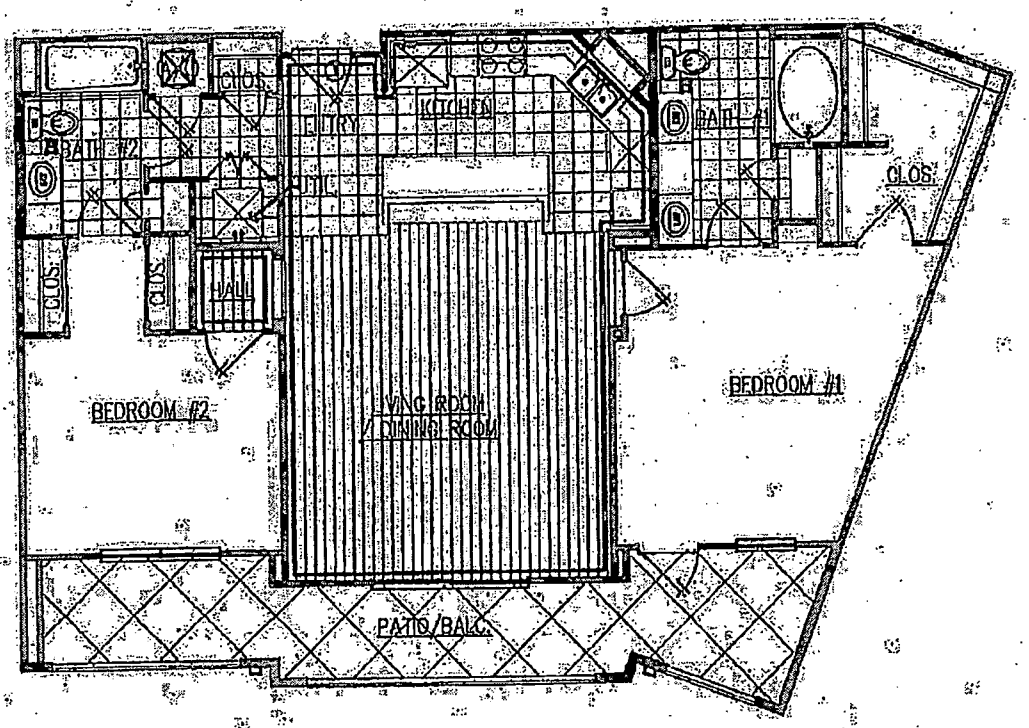
UNIT TYPE B4 – BUILDING -(1ST, 2ND, 3RD, 4TH FLOORS)

SCALE: NTS

UNIT	B4
2 BEDROOM	2 BATH
CONDITION AREA	1,142 SF
UTILITY AREA	SF
BALC./MISC.AREA	219 SF
TOTAL AREA	1,361 SF
NUMBER OF UNITS	4

UNIT NUMBERS:
127, 227,
327, 427

The Gates at Williams-Brice HPR
Columbia, South Carolina



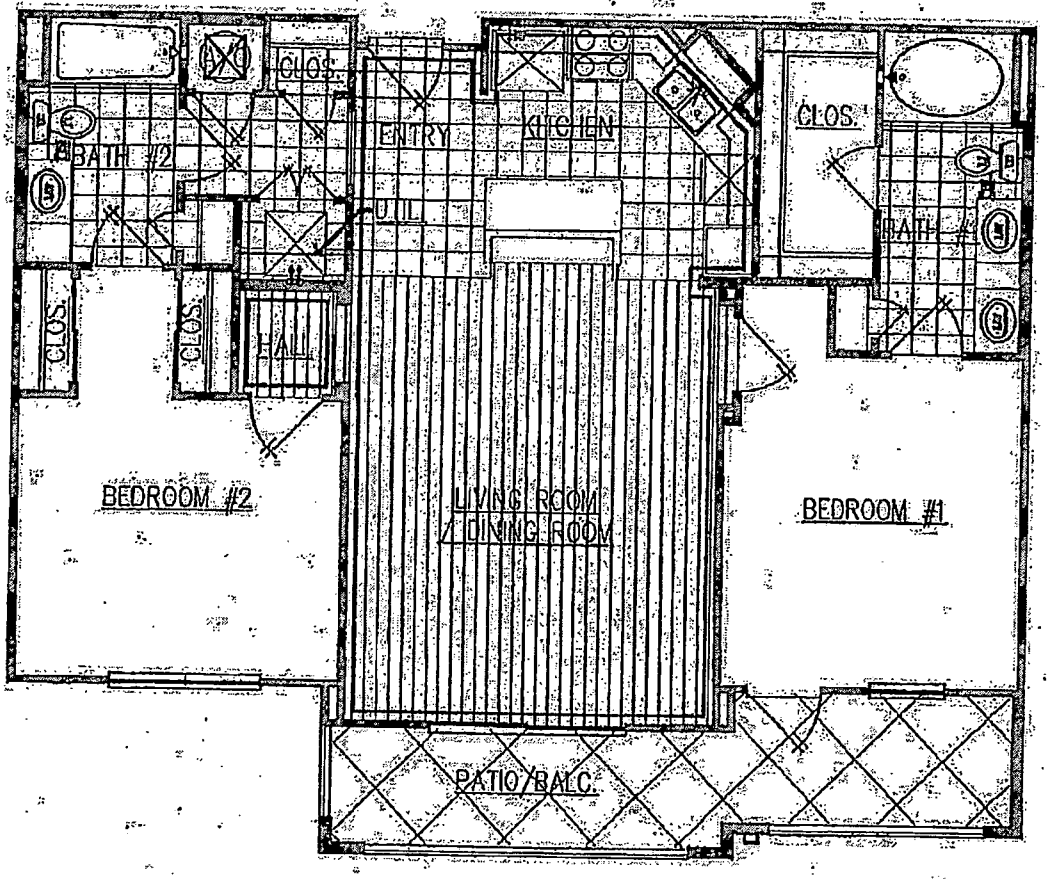
UNIT TYPE B5 - BUILDING - (1ST, 2ND, 3RD, 4TH FLOORS)

SCALE: NTS

UNIT	B5
2 BEDROOM	2 BATH
CONDITION AREA	1,250 S.F.
UTILITY AREA	S.F.
BALC./MISC AREA	230 S.F.
TOTAL AREA	1,480 S.F.
NUMBER OF UNITS	4

UNIT NUMBERS:
133, 233,
333, 433

The Gates at Williams-Brice HPR
Columbia, South Carolina



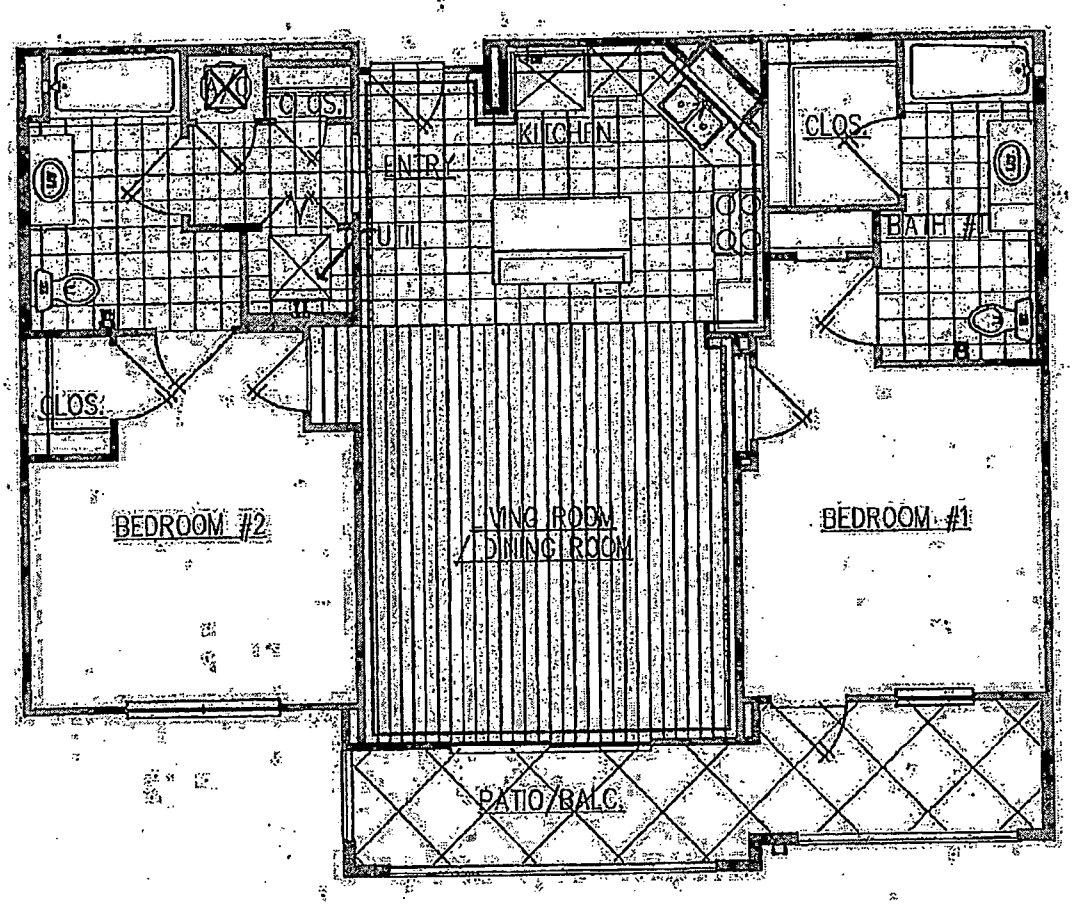
UNIT TYPE B6 - BUILDING - (2ND, 3RD, 4TH FLOORS)

SCALE: NTS

UNIT B6	
2 BEDROOM	2 BATH
CONDITION AREA	1,105 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	149 S.F.
TOTAL AREA	1,254 S.F.
NUMBER OF UNITS	6

UNIT NUMBERS:
250, 346, 350,
446, 450

The Gates at Williams-Brice HPR
Columbia, South Carolina



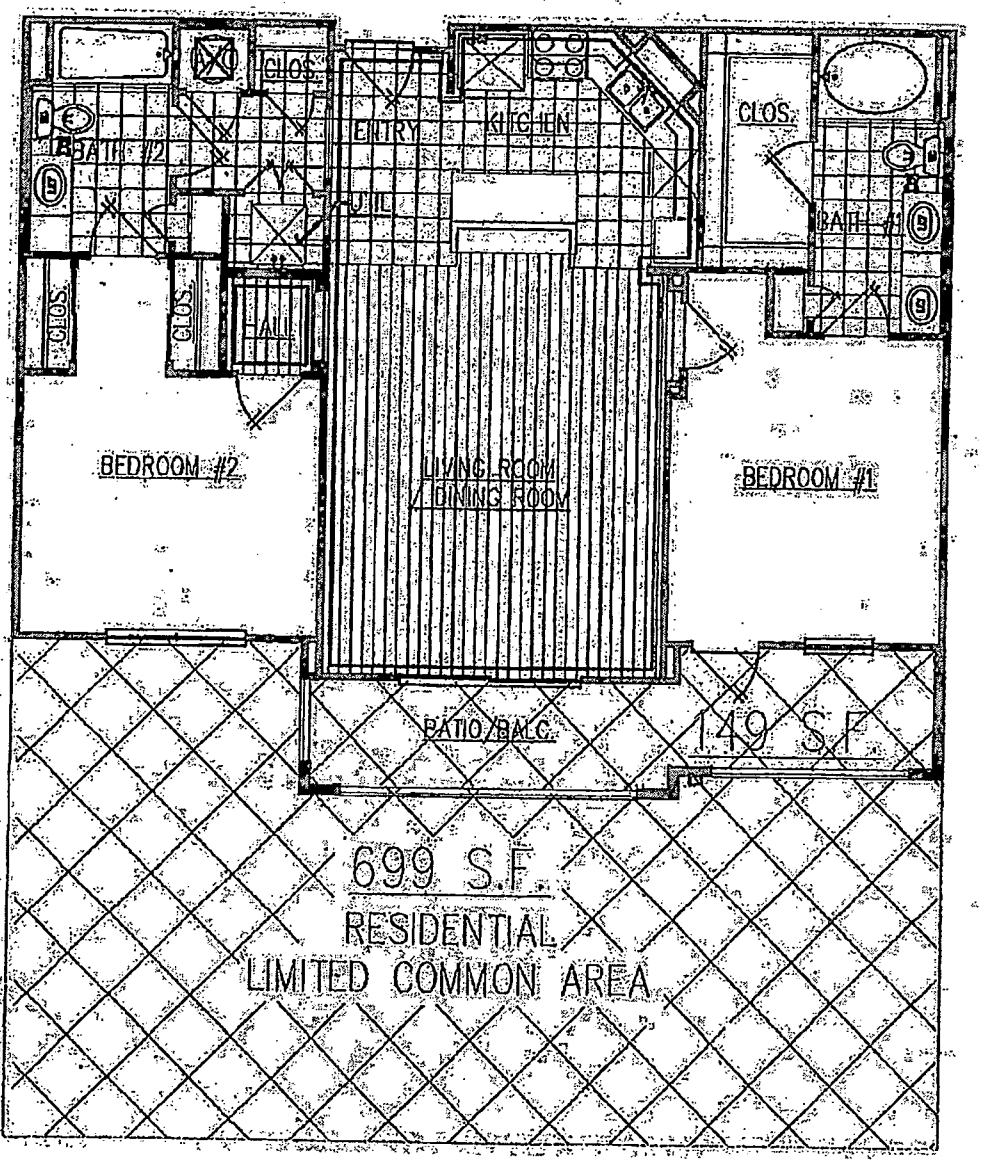
UNIT TYPE B6-HC - BUILDING - (2ND FLOOR)

SCALE: NTS

UNIT	B6-HC
2 BEDROOM	2 BATH
CONDITION AREA	1,105 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	149 S.F.
TOTAL AREA	1,264 S.F.
NUMBER OF UNITS	1

UNIT NUMBER:
246

The Gates at Williams-Brice HPR
Columbia, South Carolina



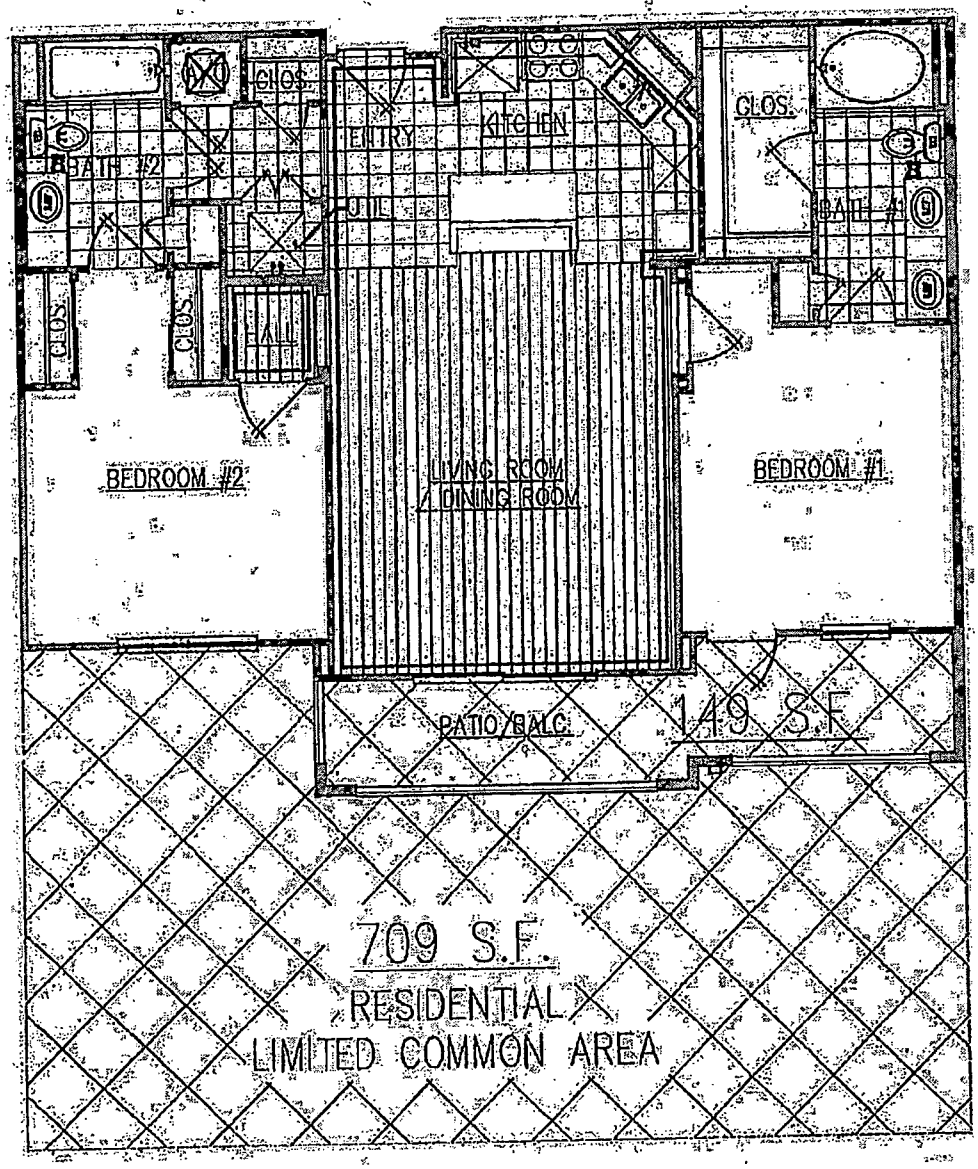
UNIT TYPE B6A - BUILDING -(1ST FLOOR)

SCALE: NTS

UNIT B6A	
2 BEDROOM	2 BATH
CONDITION AREA	1,105 S.F.
RESIDENTIAL LCA	699 S.F.
BALC./MISC AREA	149 S.F.
TOTAL AREA	1,953 S.F.
NUMBER OF UNITS	1

UNIT NUMBER:
146

The Gates at Williams-Brice HPR
Columbia, South Carolina



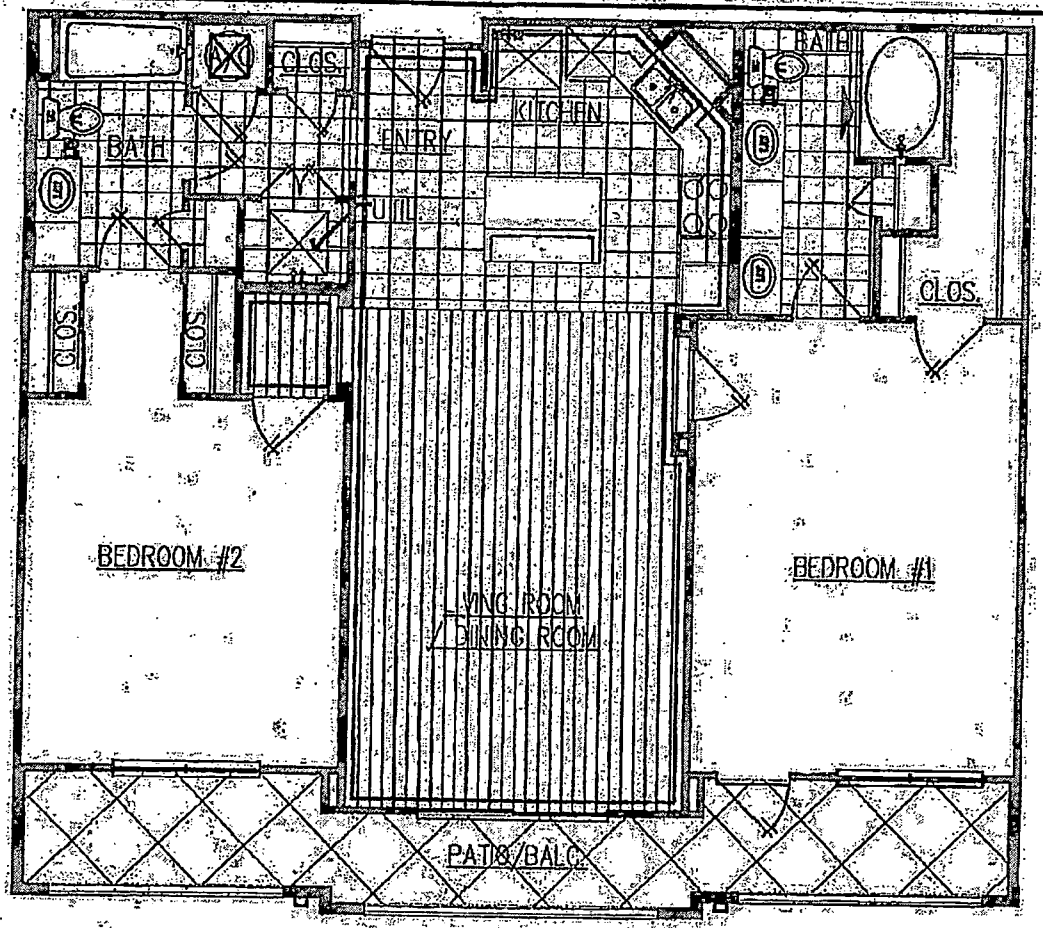
UNIT TYPE B6B – BUILDING -(1ST FLOOR)

SCALE: NTS

UNIT	B6B
2 BEDROOM	2 BATH
CONDITION AREA	1,105 S.F.
RESIDENTIAL LOA	709 S.F.
BALC./MISC AREA	149 S.F.
TOTAL AREA	1,983 S.F.
NUMBER OF UNITS	1

UNIT NUMBER:
150

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Columbia, South Carolina



UNIT TYPE C - BUILDING - (1ST, 2ND, 3RD, 4TH FLOORS)

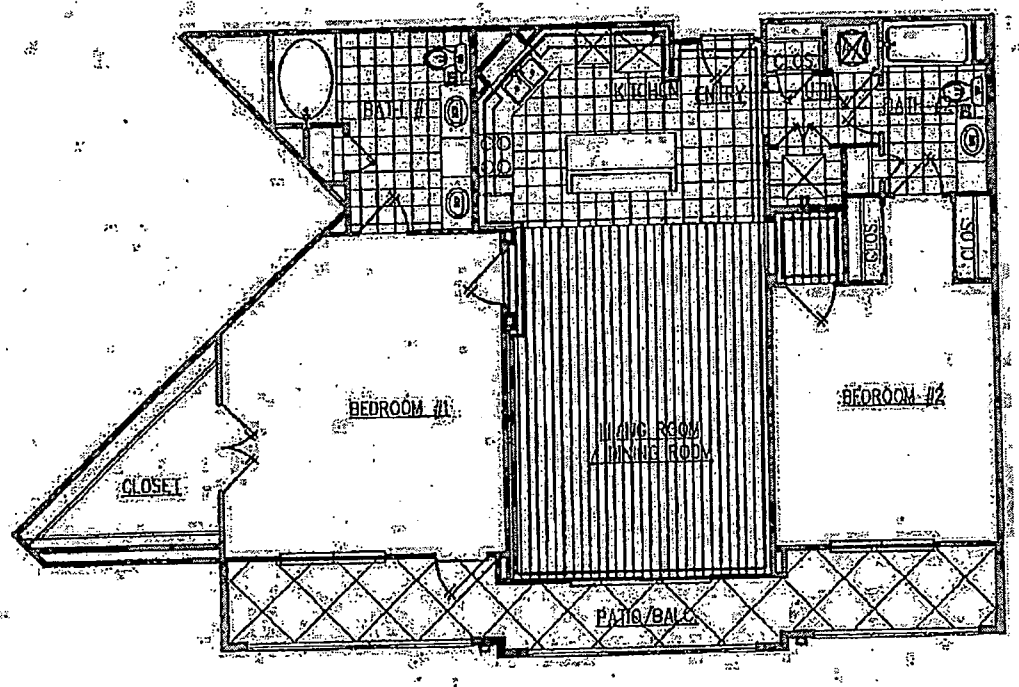
SCALE: NTS

UNIT C	
2 BEDROOM	2 BATH
CONDITION AREA	1,275 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	195 S.F.
TOTAL AREA	1,470 S.F.
NUMBER OF UNITS	60

UNIT NUMBERS		
120,	123,	125,
131,	134,	137,
139,	220,	223,
225,	231,	234,
237,	239,	320,
323,	325,	331,
334,	337,	339,
420,	423,	425,
431,	434,	437,
439,		

MIRRORED UNITS UNIT NUMBERS		
113,	115,	124,
126,	130,	140,
142,	147,	213,
215,	224,	226,
230,	240,	242,
247,	313,	315,
324,	326,	330,
340,	342,	347,
413,	415,	424,
426,	430,	440,
442,	447	

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Columbia, South Carolina



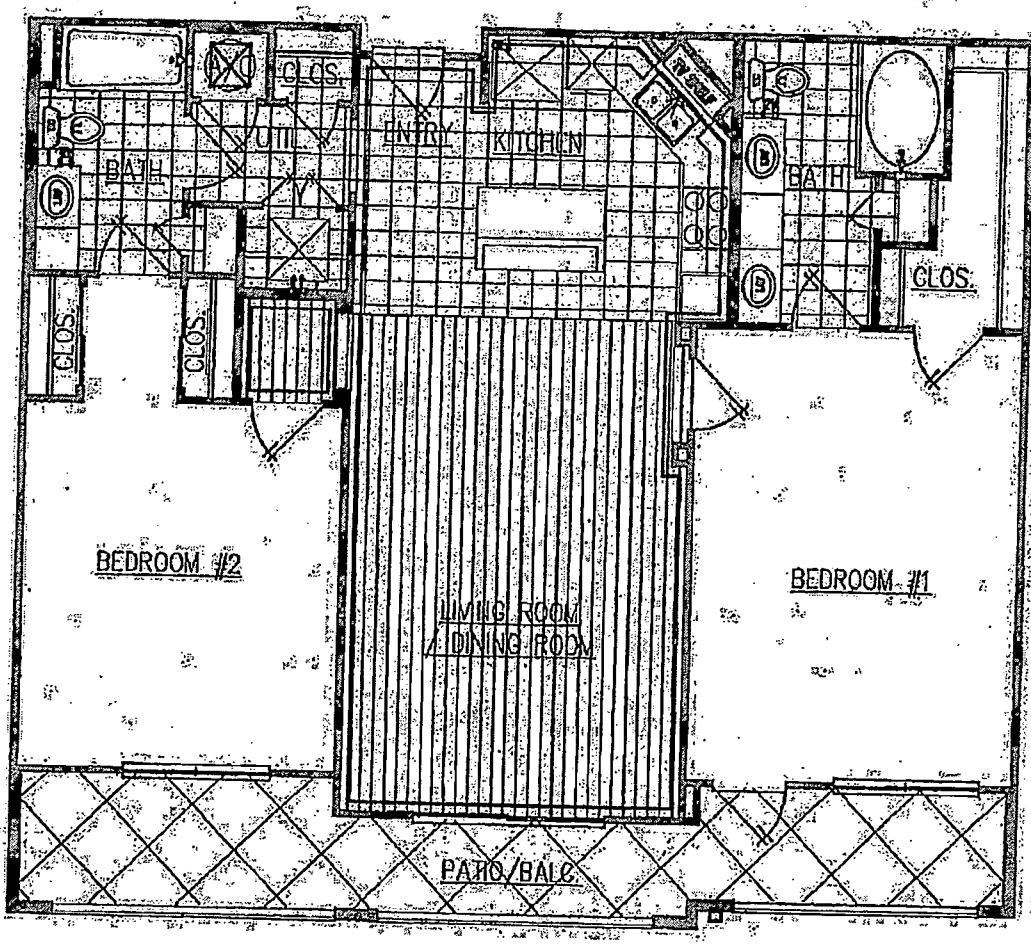
UNIT TYPE C1 - BUILDING - (1ST, 2ND, 3RD, 4TH FLOORS)

SCALE: NTS

UNIT	C1
2 BEDROOM	2 BATH
CONDITION AREA	1,425 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	213 S.F.
TOTAL AREA	1,638 S.F.
NUMBER OF UNITS	4

UNIT NUMBERS:
128, 228, 328, 428

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Columbia, South Carolina



UNIT TYPE C2 - BUILDING - (1ST, 2ND, 3RD, 4TH FLOORS)

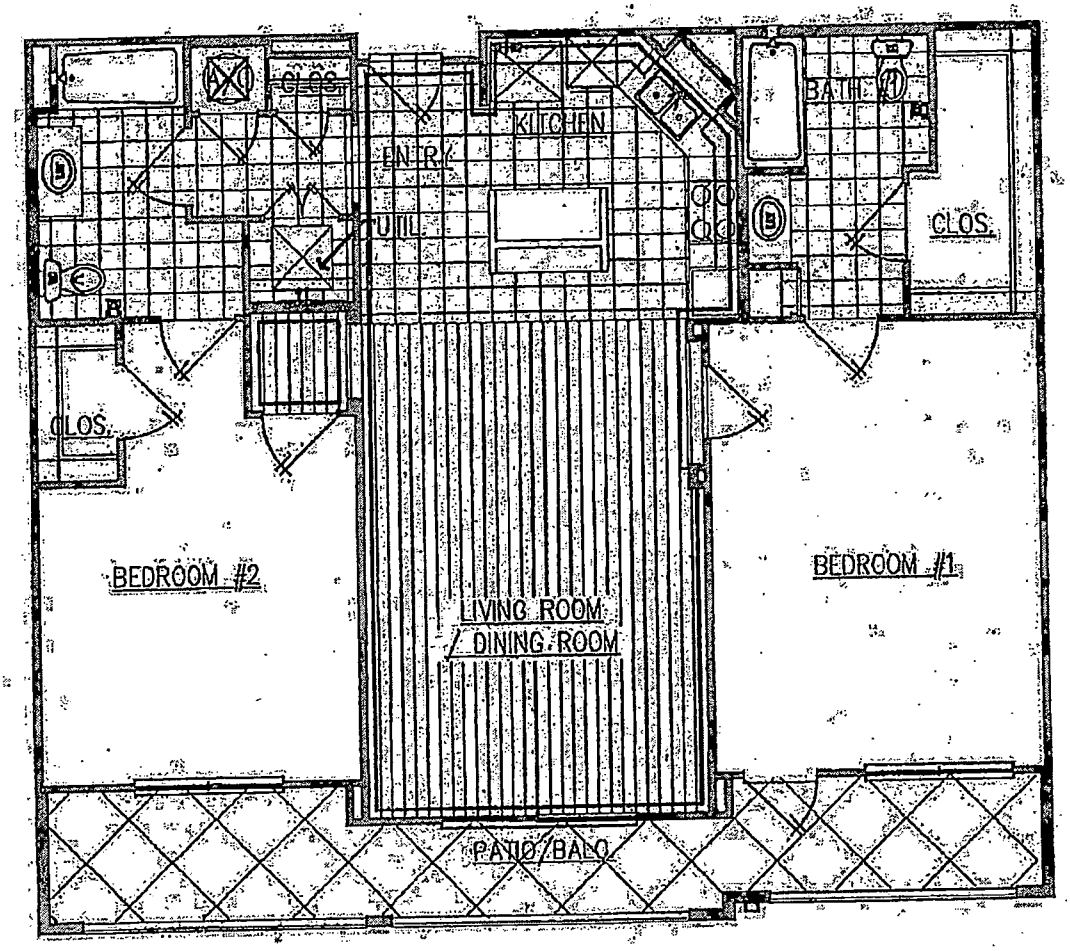
SCALE: NTS

UNIT C2	
2 BEDROOM	2 BATH
CONDITION AREA	1,274 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	204 S.F.
TOTAL AREA	1,478 S.F.
NUMBER OF UNITS	7

UNIT NUMBERS:
214, 314, 414

MIRRORED UNITS
UNIT NUMBERS:
116, 216, 316, 416

The Gates at Williams-Brice HPR
Columbia, South Carolina



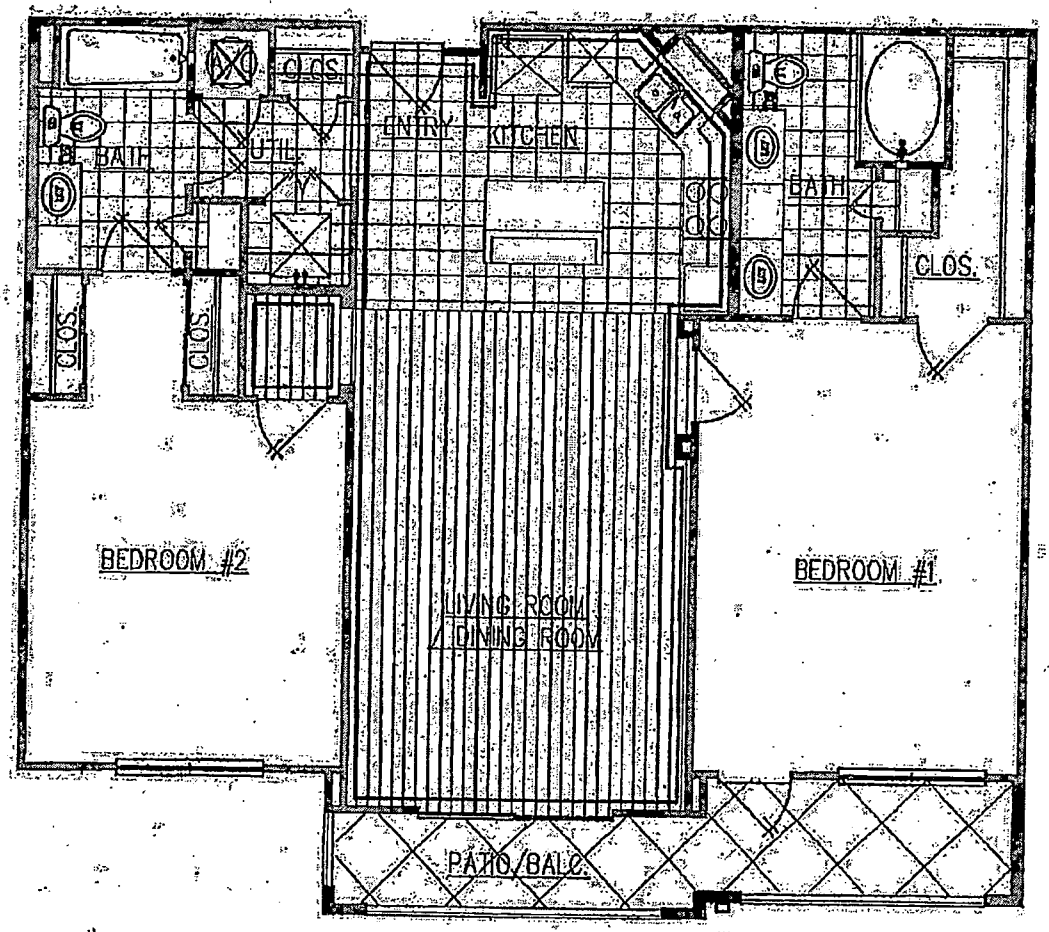
UNIT TYPE C2-HC - BUILDING - (1ST FLOOR)

SCALE: NTS

UNIT	C2-HC
2 BEDROOM	2 BATH
CONDITION AREA	1,275 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	203 S.F.
TOTAL AREA	1,478 S.F.
NUMBER OF UNITS	1

UNIT NUMBER:
114

The Gates at Williams-Brice HPR
Columbia, South Carolina



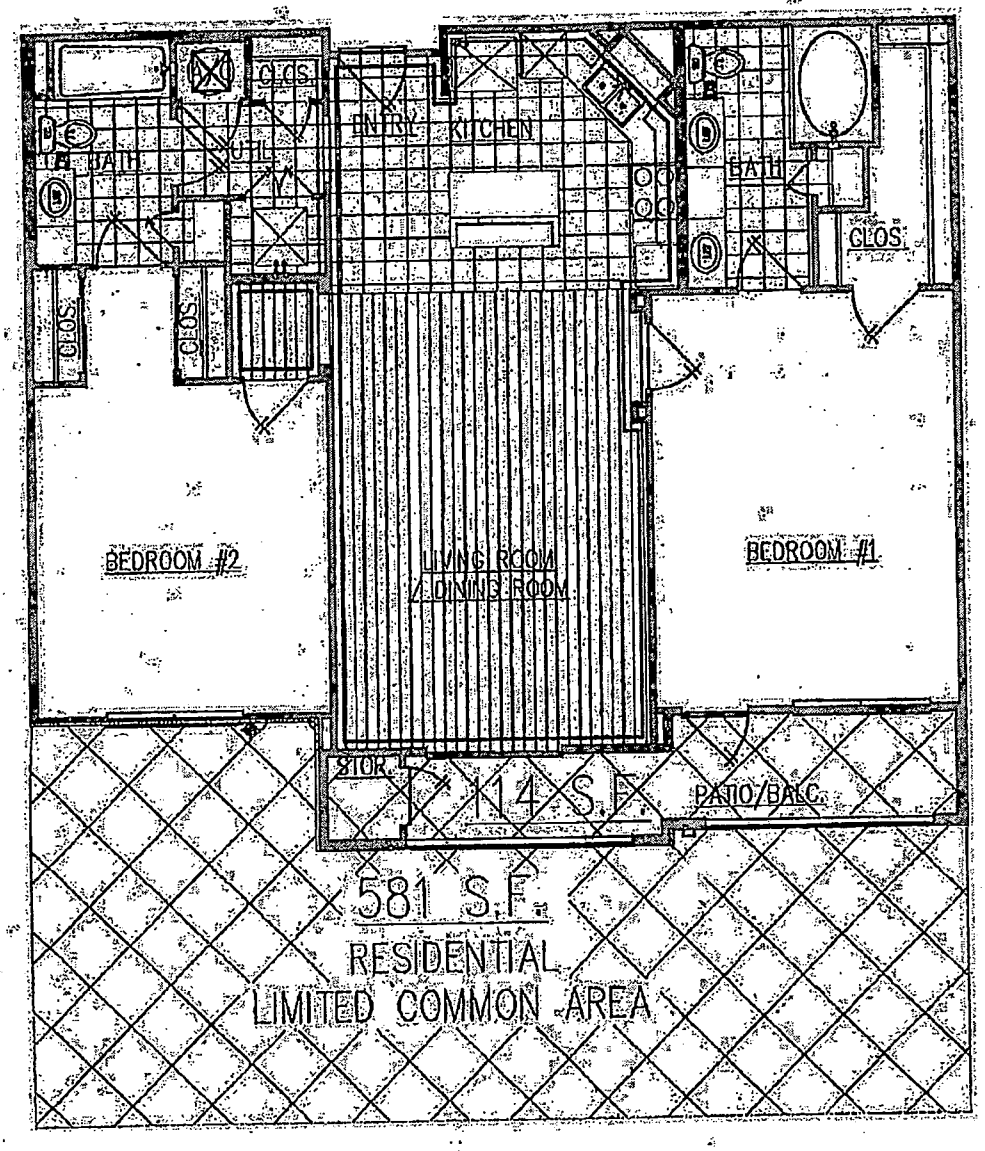
UNIT TYPE C3A - BUILDING -(2ND, 3RD, 4TH FLOORS)

SCALE: NTS

UNIT	C3
2 BEDROOM	2 BATH
CONDITION AREA	1,275 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	131 S.F.
TOTAL AREA	1400 S.F.
NUMBER OF UNITS	3

UNIT NUMBERS:
248, 348, 448

The Gates at Williams-Brice HPR
Columbia, South Carolina



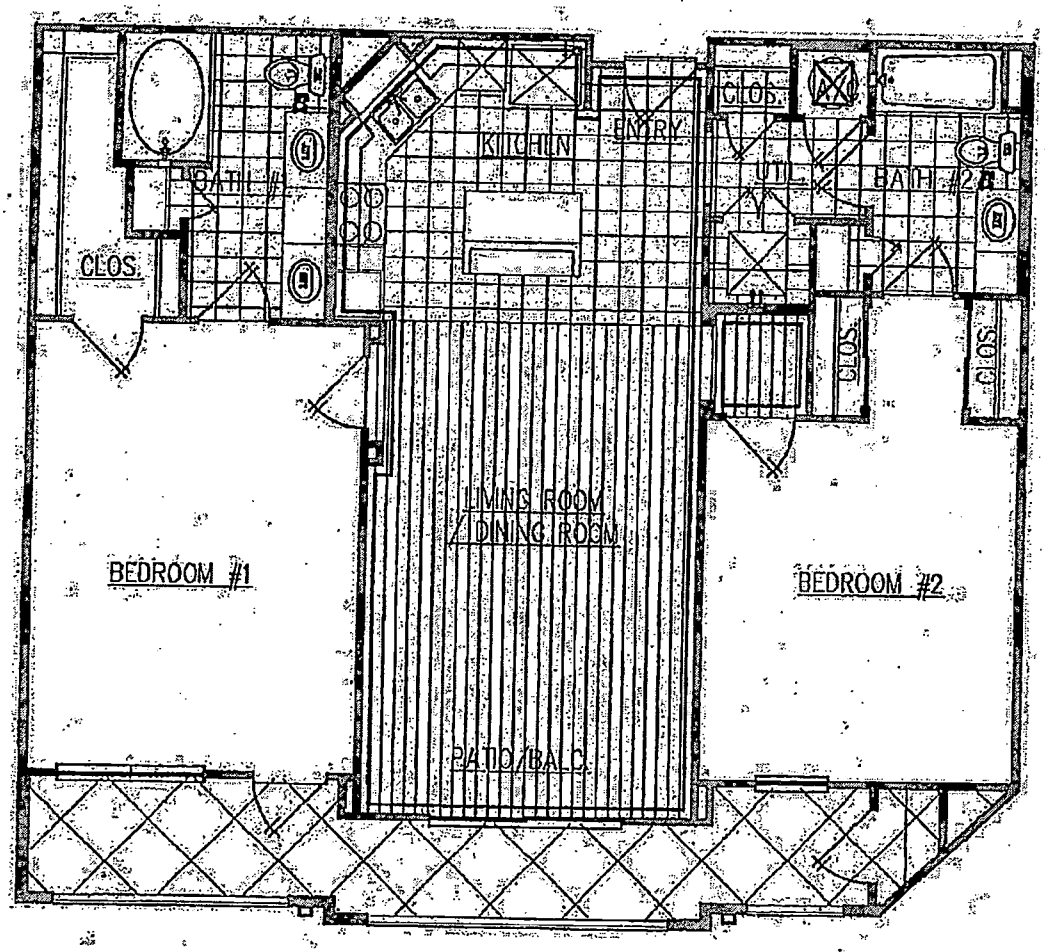
UNIT TYPE C3A – BUILDING – (1ST FLOOR)

SCALE: NTS

UNIT C3A	
2 BEDROOM	2 BATH
CONDITION AREA	1,275 S.F.
UTILITY AREA	17 S.F.
RESIDENTIAL LCA	581 S.F.
BALC./MISC AREA	114 S.F.
TOTAL AREA	1,987 S.F.
NUMBER OF UNITS	1

UNIT NUMBER:
148

The Gates at Williams-Brice HPR
Columbia, South Carolina



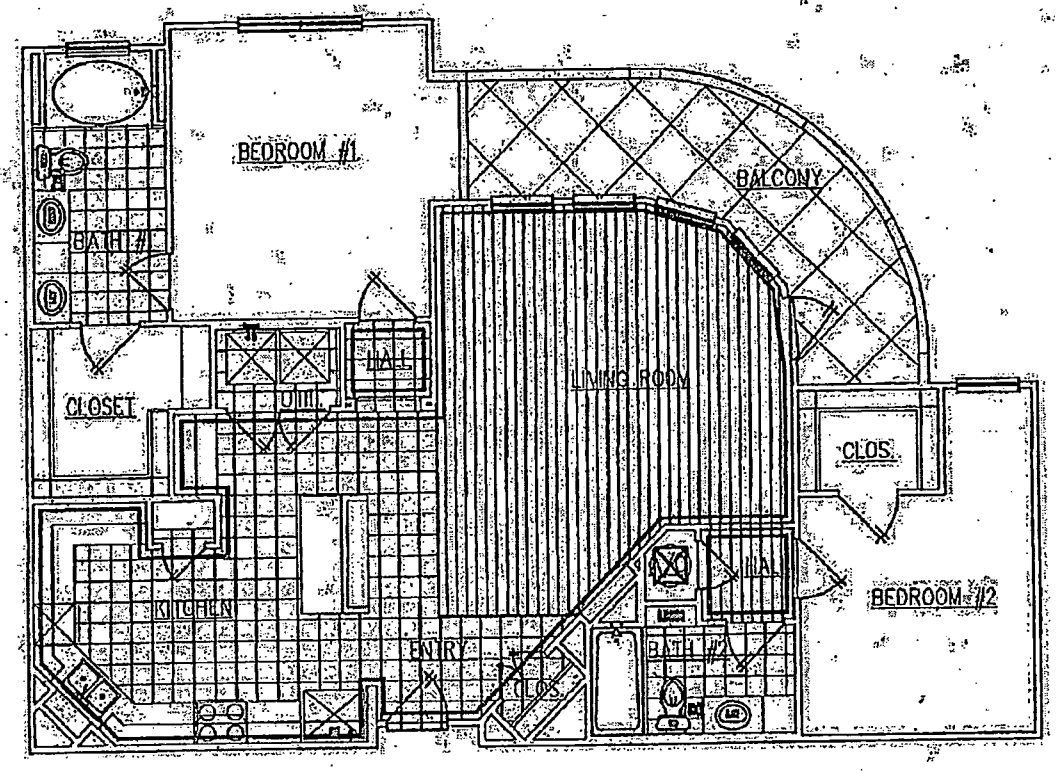
UNIT TYPE C4 – BUILDING – (1ST, 2ND, 3RD, 4TH FLOORS)

SCALE: NTS

UNIT	C4
2 BEDROOM	2 BATH
CONDITION AREA	1,262 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	186 S.F.
TOTAL AREA	1,448 S.F.
NUMBER OF UNITS	4

UNIT NUMBERS:
129, 229, 329, 429

The Gates at Williams-Brice HPR
Columbia, South Carolina



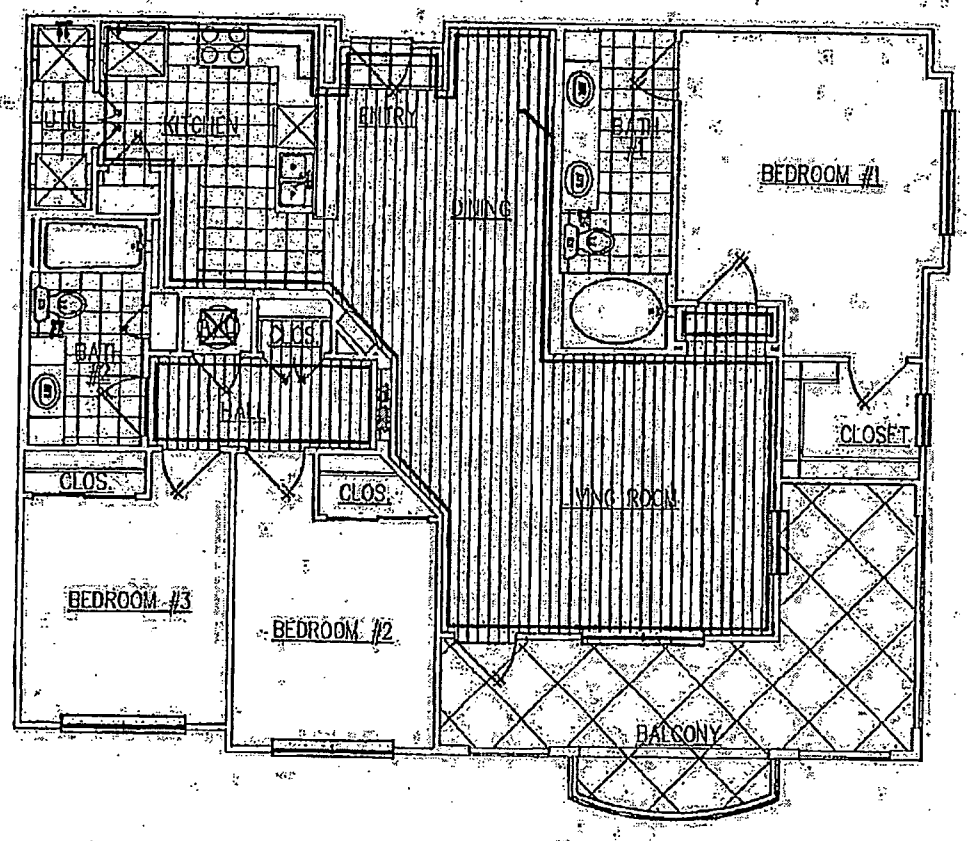
UNIT TYPE D - BUILDING - (2ND, 3RD, 4TH FLOORS)

SCALE: NTS

UNIT D	
2 BEDROOM	2 BATH
CONDITION AREA	1,348 S.F.
UTILITY AREA	S.F.
BALC./MISC AREA	171 S.F.
TOTAL AREA	1,519 S.F.
NUMBER OF UNITS	3

UNIT NUMBERS:
212, 312, 412

The Gates at Williams-Brice HPR
Columbia, South Carolina



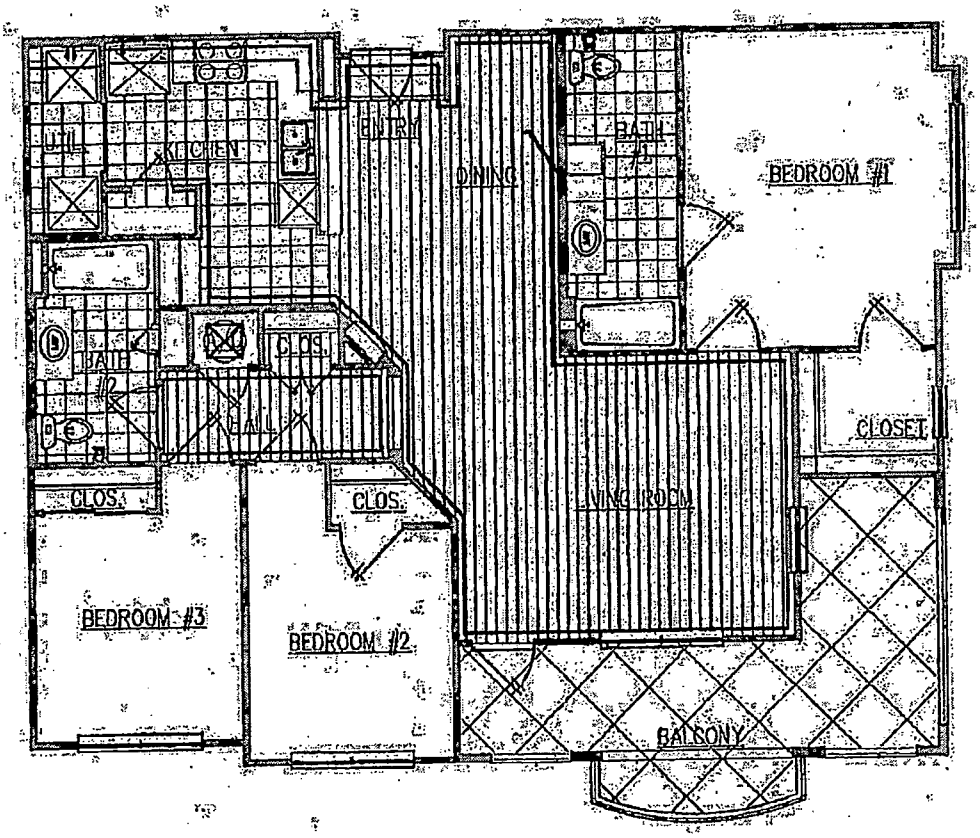
UNIT TYPE E1 – BUILDING –(1ST, 2ND, 3RD, 4TH FLOORS)

SCALE: NTS

UNIT E1	
3 BEDROOM	2 BATH
CONDITION AREA	1,372 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	215 S.F.
TOTAL AREA	1,587 S.F.
NUMBER OF UNITS	6

UNIT NUMBERS:
145, 219, 319,
345, 419, 445

The Gates at Williams-Brice HPR
Columbia, South Carolina



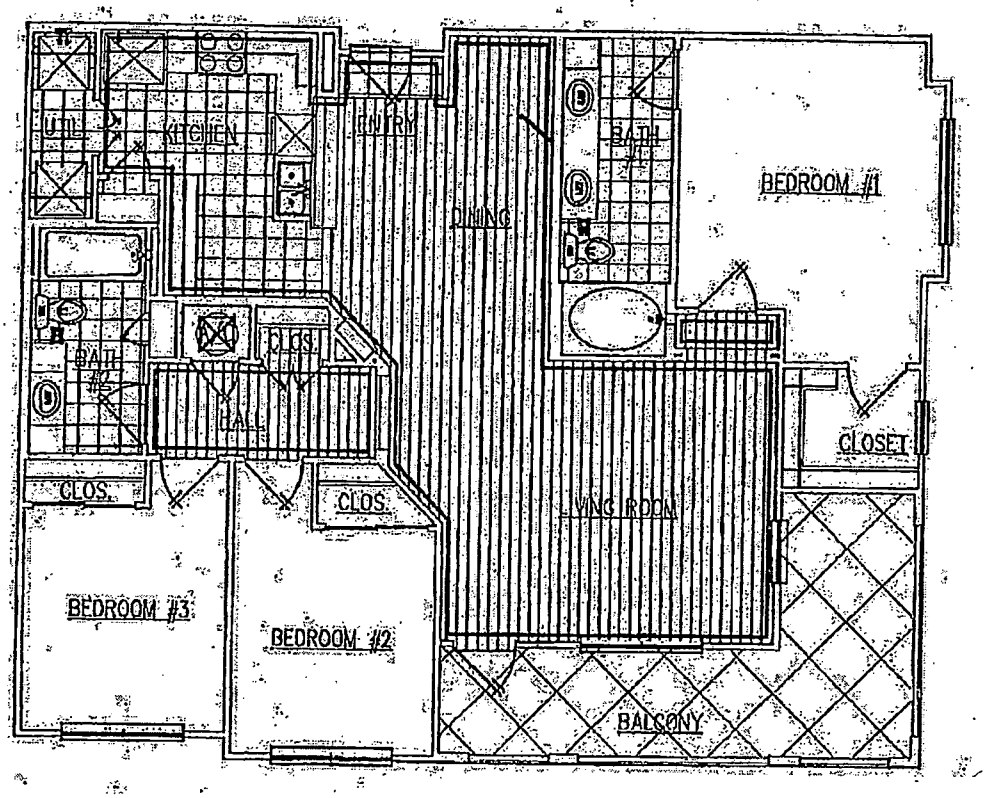
UNIT TYPE E1-HC - BUILDING - (2ND FLOOR)

SCALE: NTS

UNIT E1-HC	
3 BEDROOM	2 BATH
CONDITION AREA	1,372 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	215 S.F.
TOTAL AREA	1,587 S.F.
NUMBER OF UNITS	1

UNIT NUMBER:
245

The Gates at Williams-Brice HPR
Columbia, South Carolina



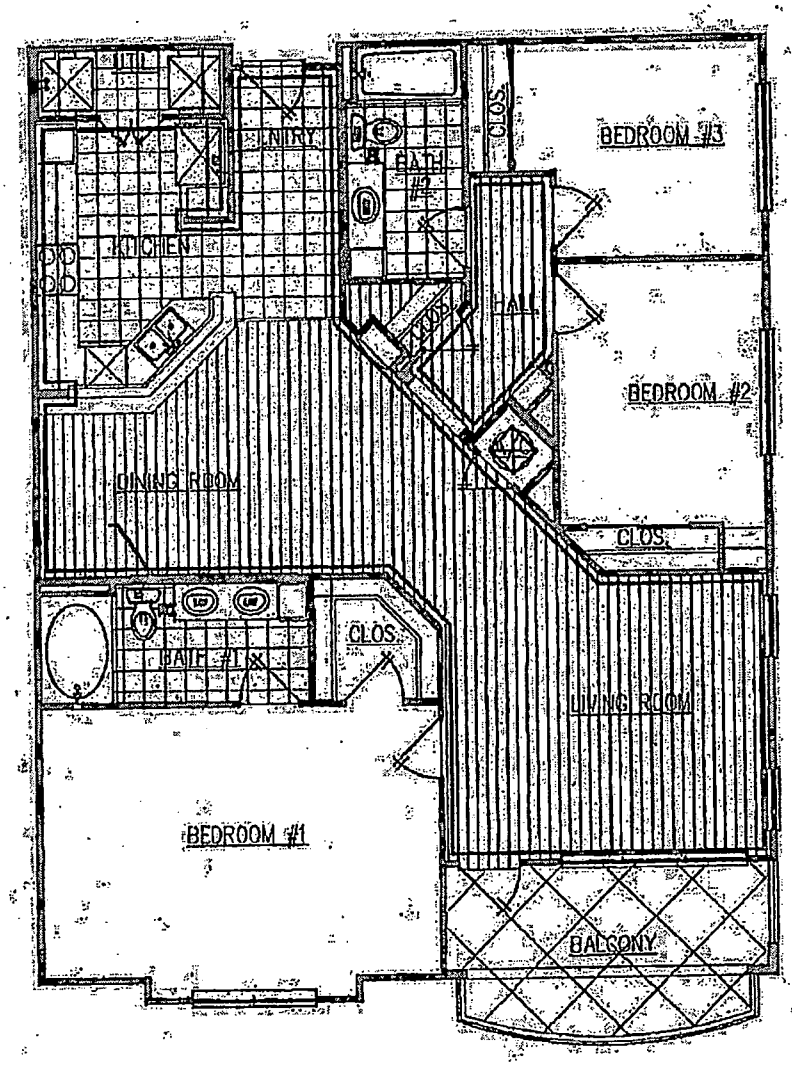
UNIT TYPE E1-ALT - BUILDING -(1ST FLOOR)

SCALE: NTS

UNIT E1-ALT	
3 BEDROOM	2 BATH
CONDITION AREA	1,372 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	187 S.F.
TOTAL AREA	1,559 S.F.
NUMBER OF UNITS	1

UNIT NUMBER:
119

The Gates at Williams-Brice HPR
Columbia, South Carolina



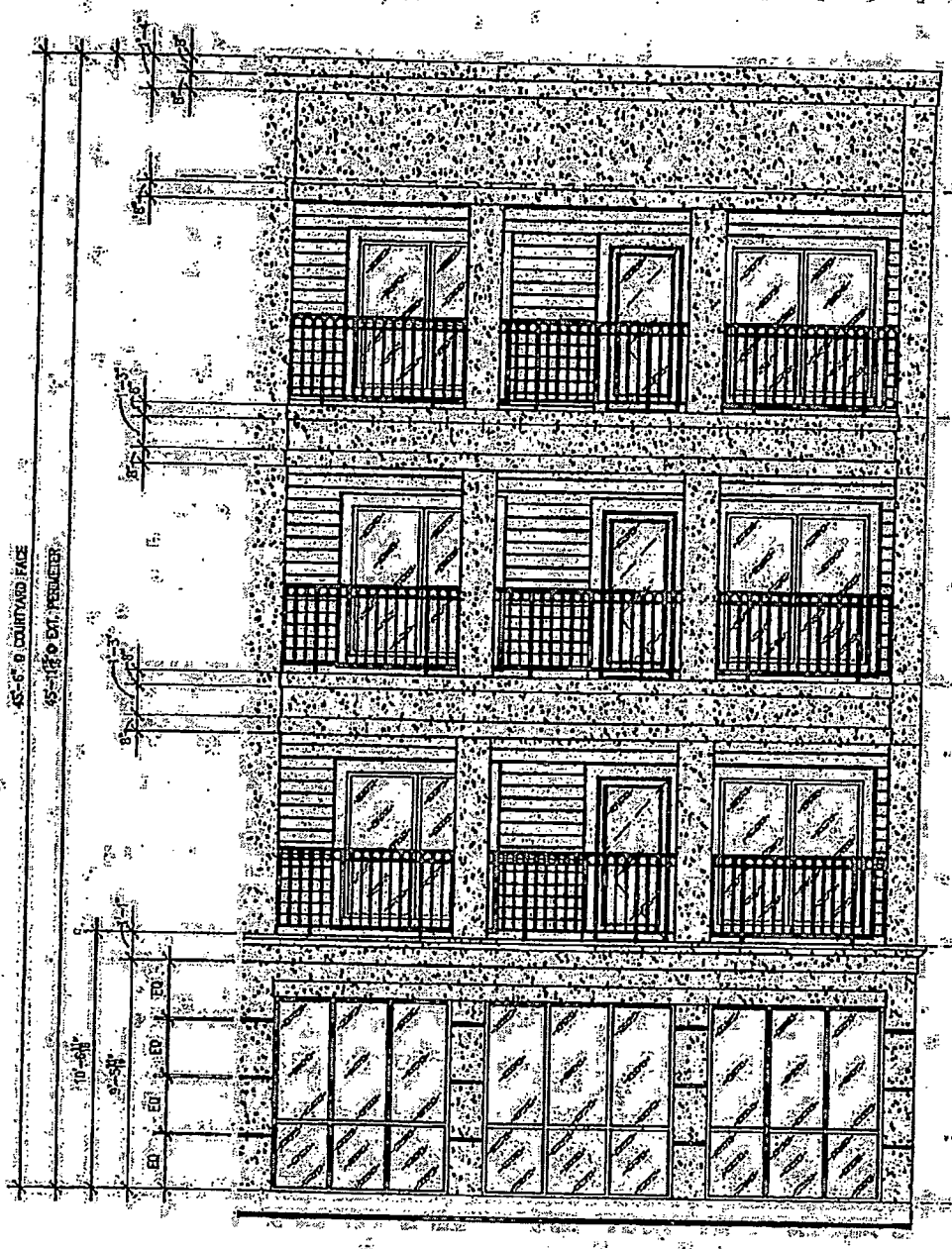
UNIT TYPE E2 – BUILDING – (1ST, 2ND, 3RD, 4TH FLOORS)

SCALE: NTS

UNIT	E2
3 BEDROOM	2 BATH
CONDITION AREA:	1,643 S.F.
UTILITY AREA	S.F.
BALC./MISC.AREA	83 S.F.
TOTAL AREA	1,026 S.F.
NUMBER OF UNITS	4

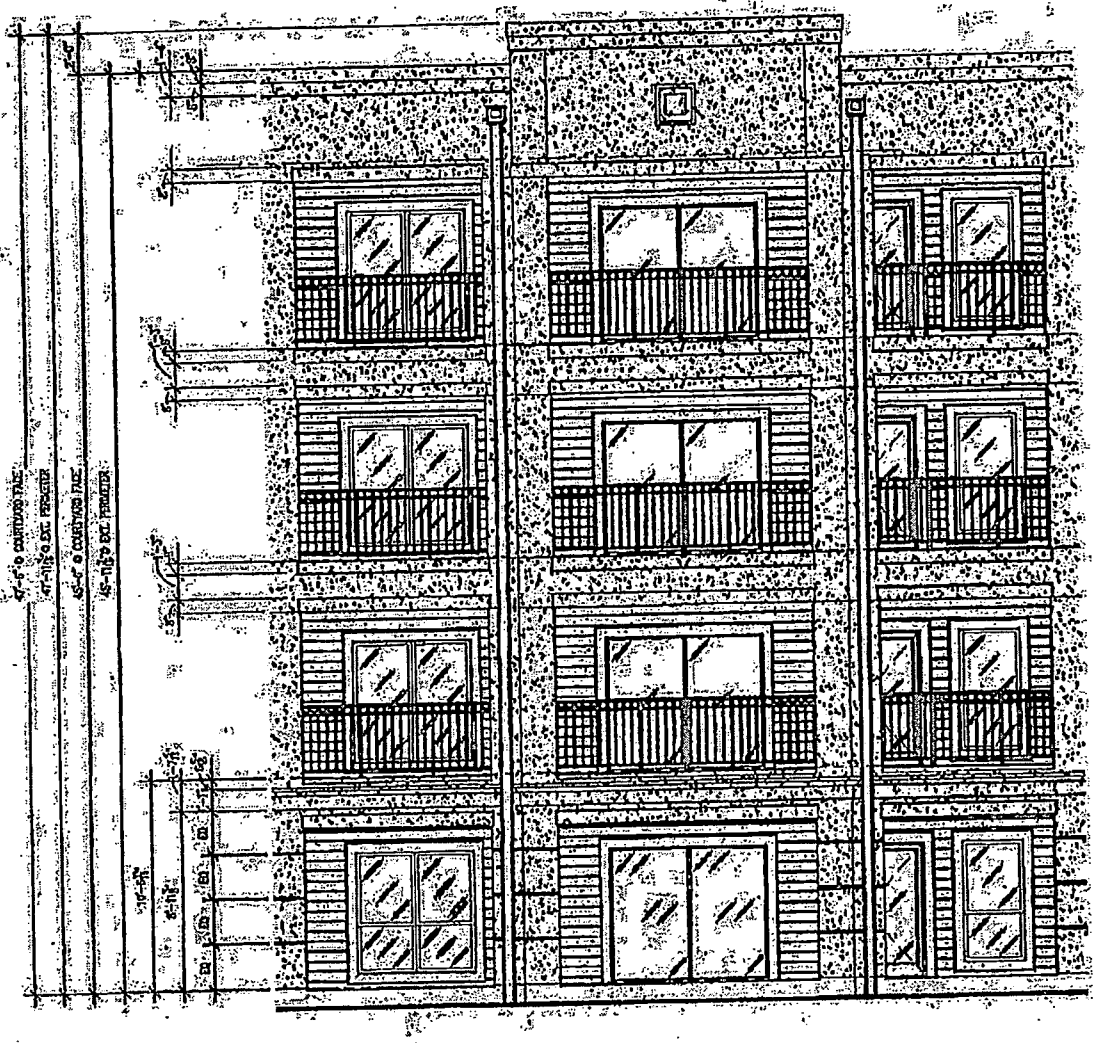
UNIT NUMBERS:
143, 243, 343, 443

The Gates at Williams-Brice HPR
Columbia, South Carolina



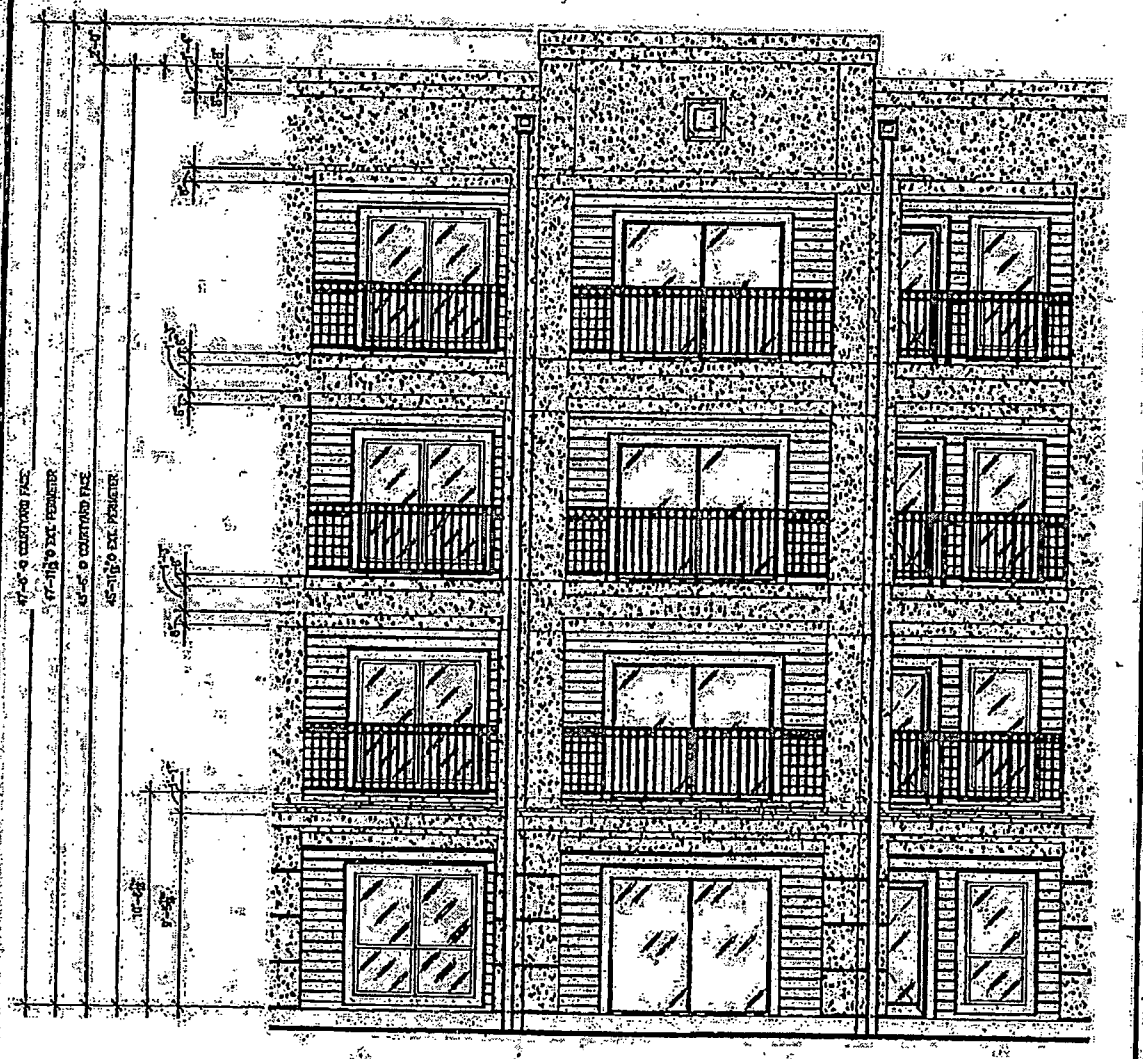
UNIT ELEVATION – 'A' UNIT / FITNESS

The Gates at Williams-Brice HPR
Columbia, South Carolina



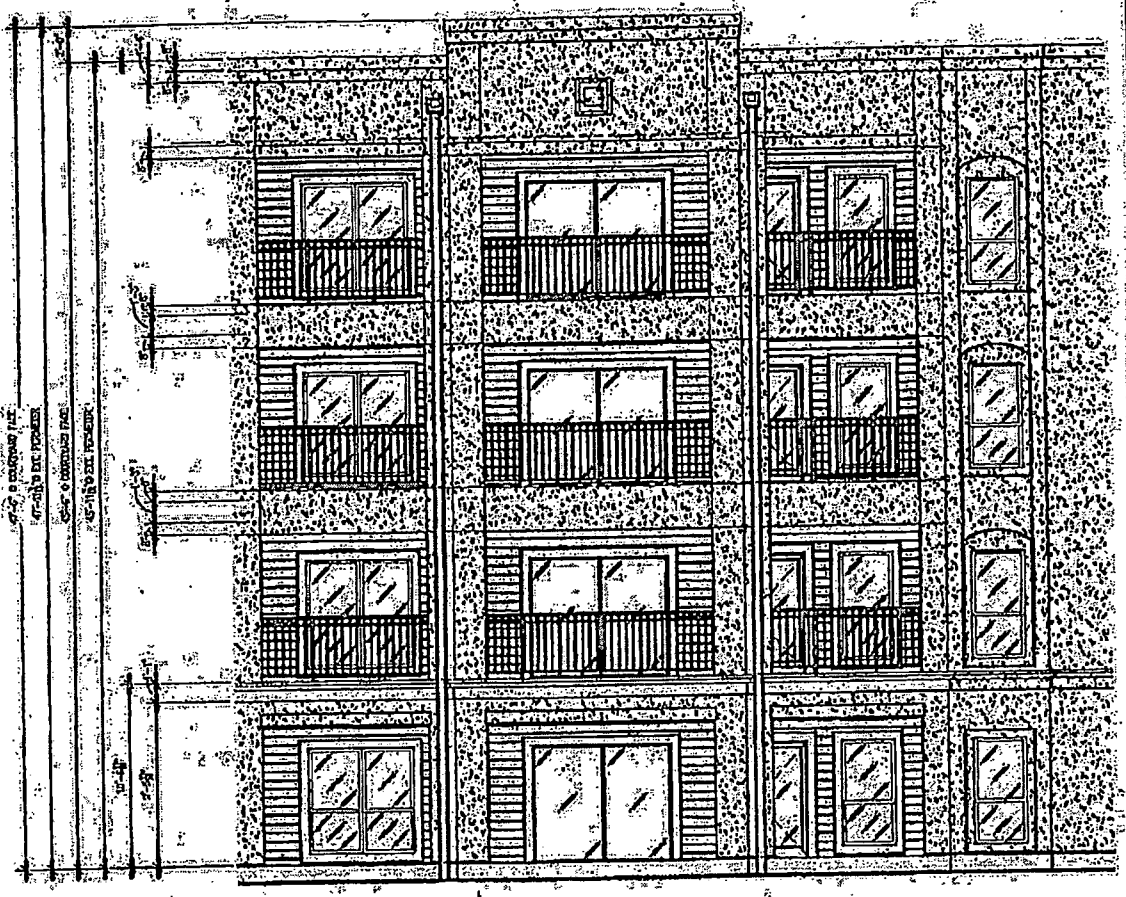
UNIT ELEVATION - 'B' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina



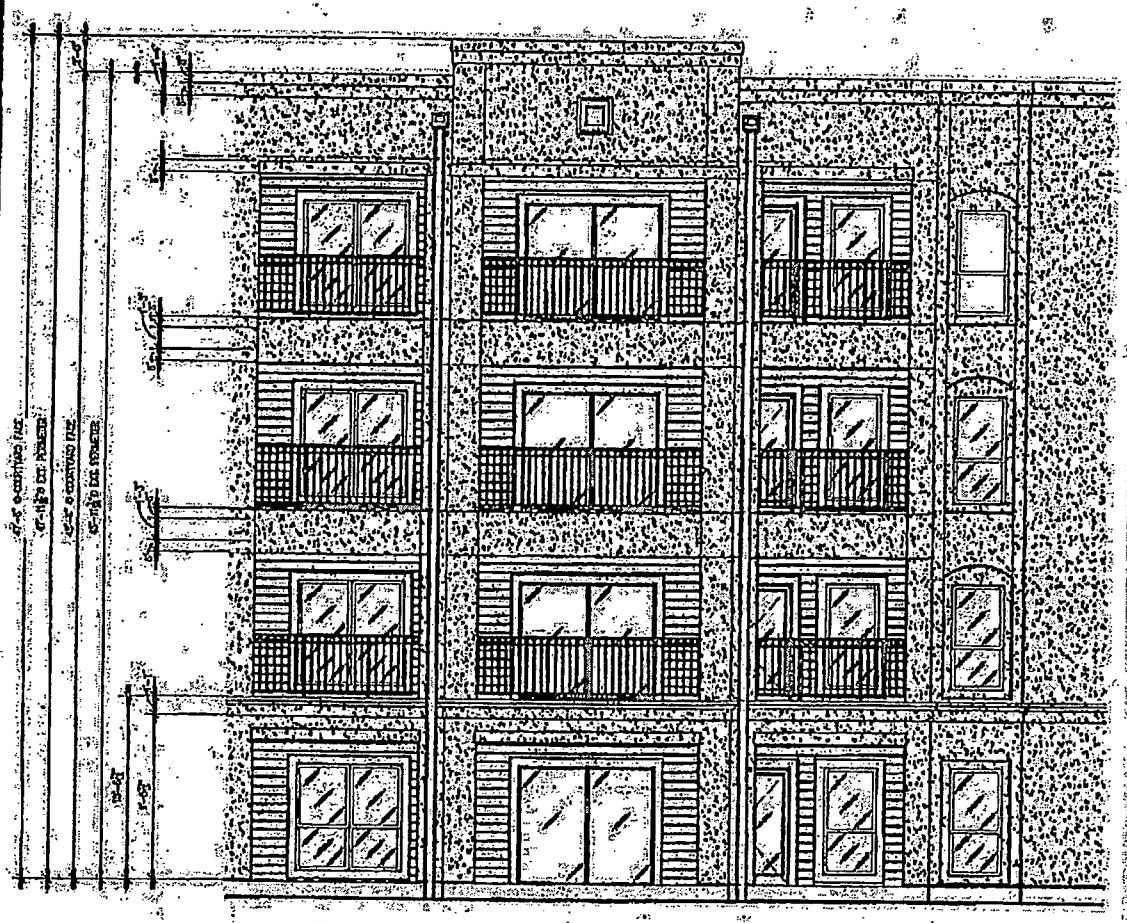
UNIT ELEVATION – Ba UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina



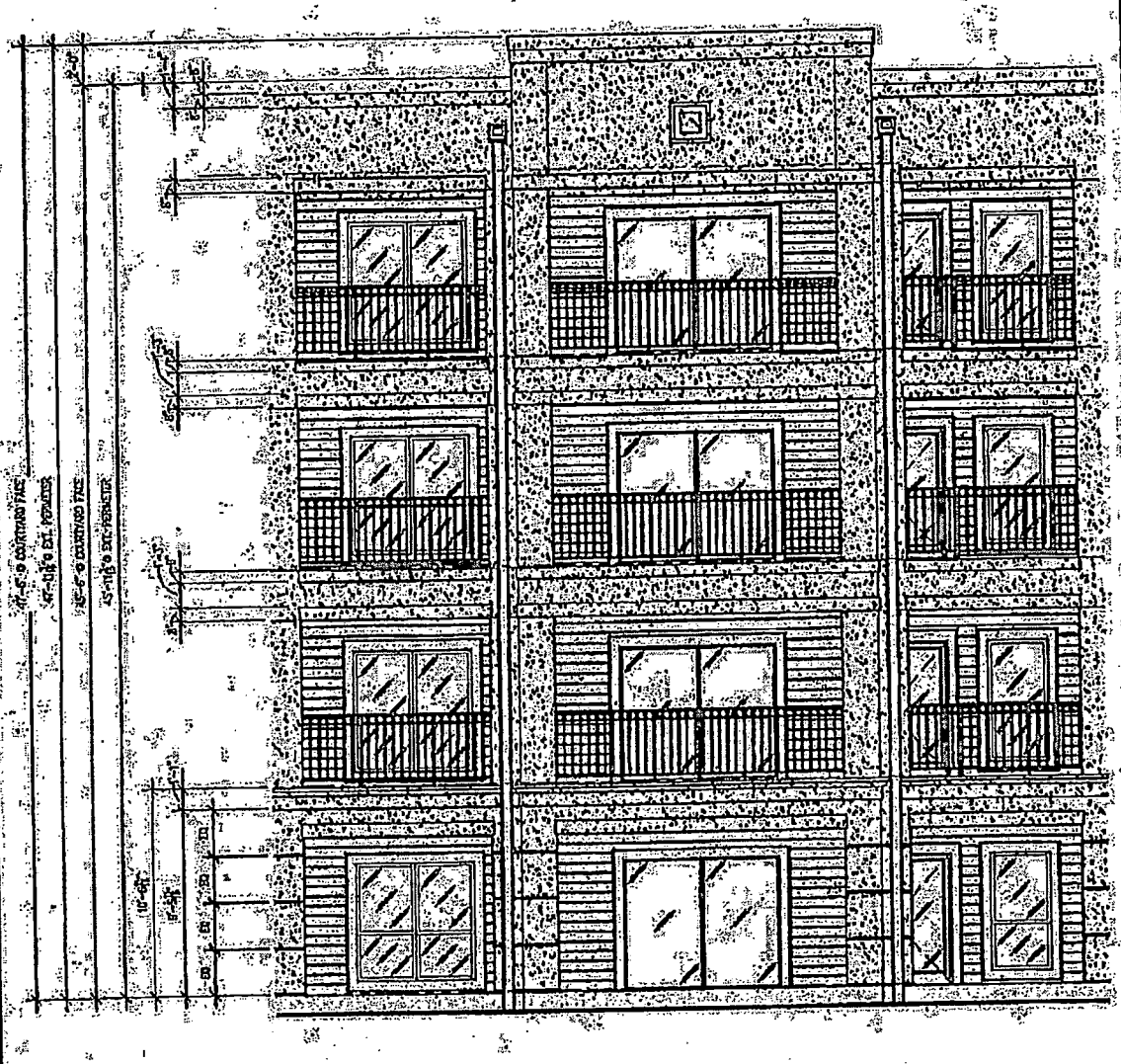
UNIT ELEVATION – B1 UNIT / FITNESS

The Gates at Williams-Brice HPR
Columbia, South Carolina



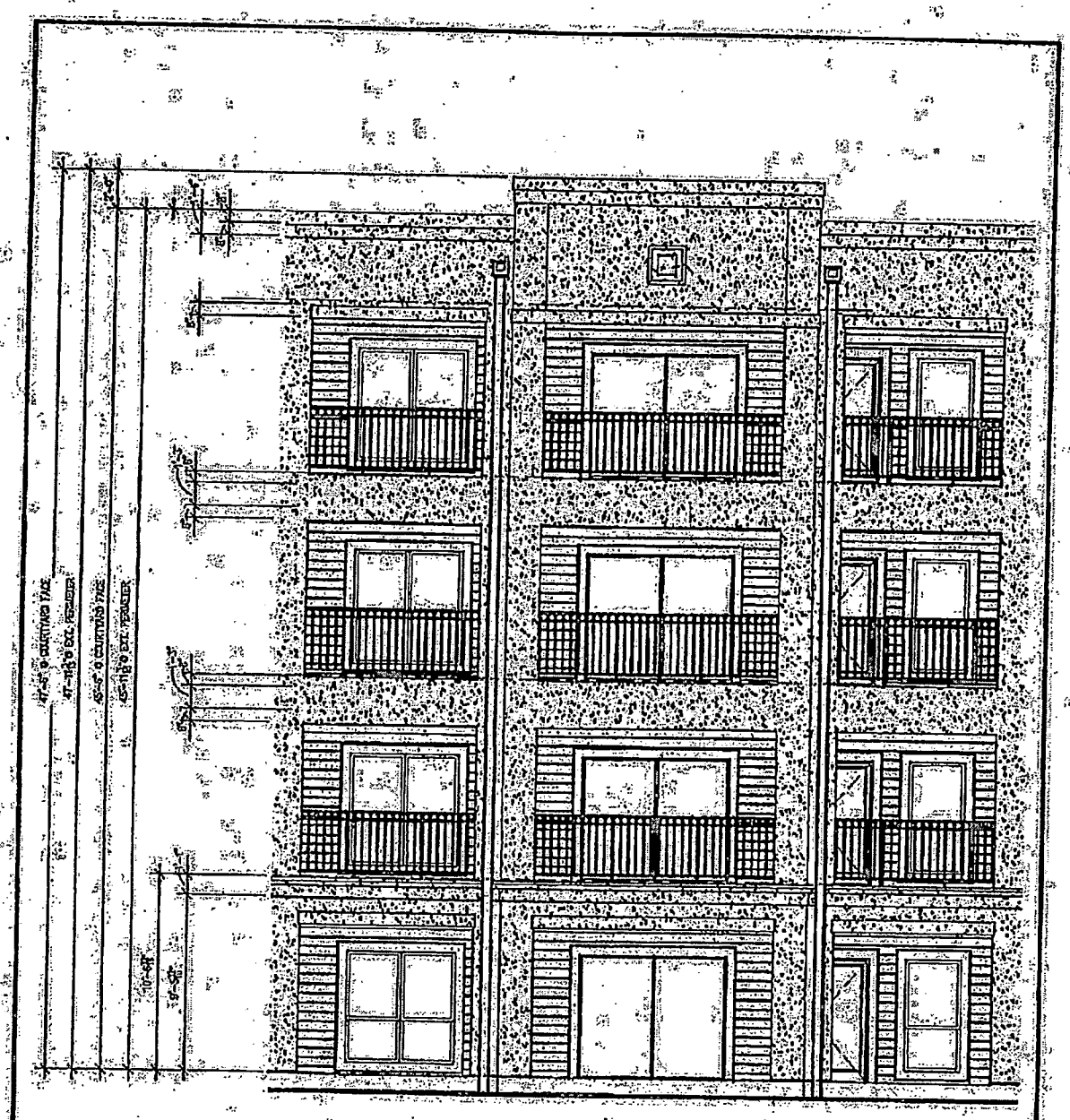
UNIT ELEVATION – B2 UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina



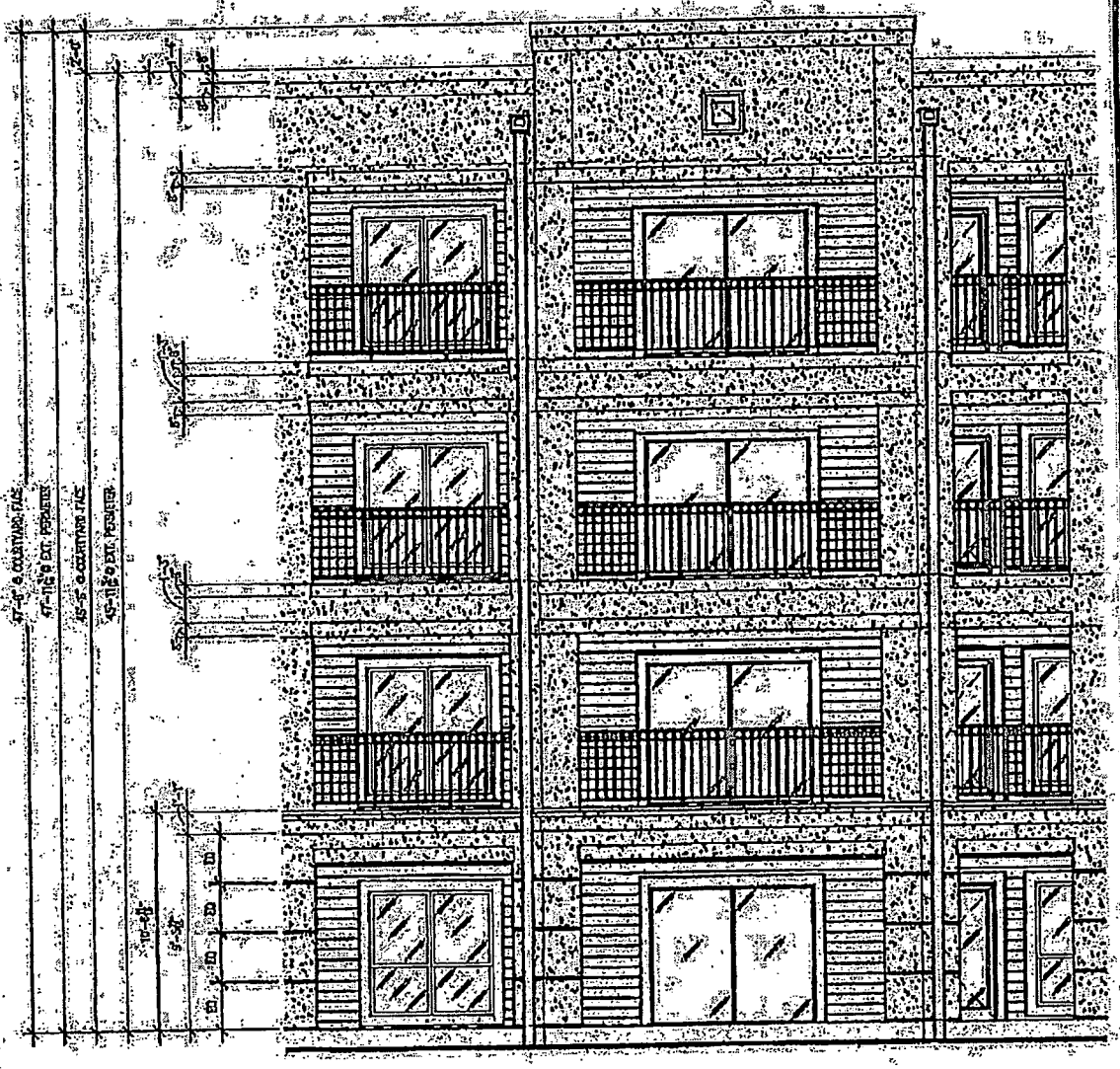
UNIT ELEVATION – B3 UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina



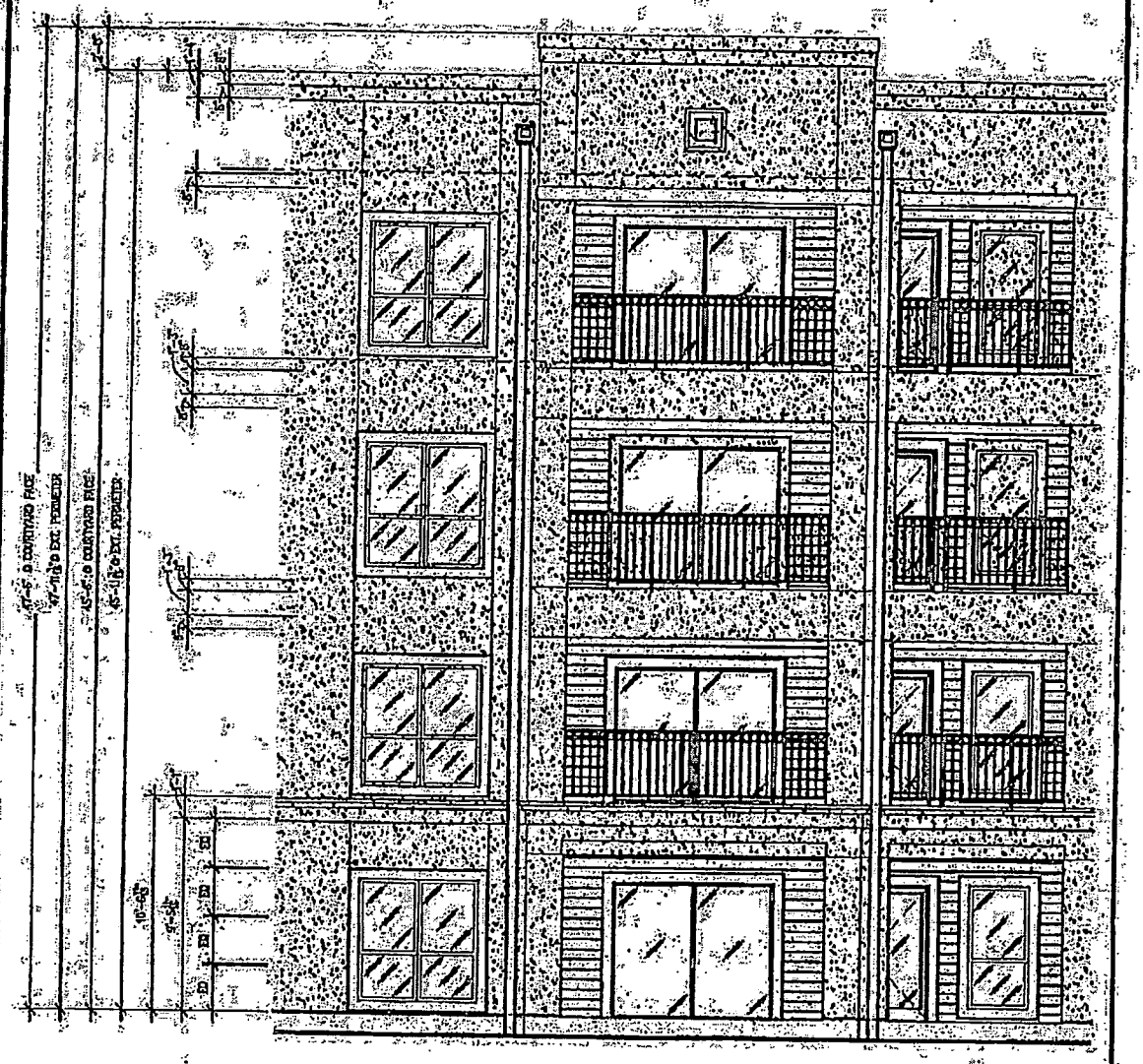
UNIT ELEVATION – B4 UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina



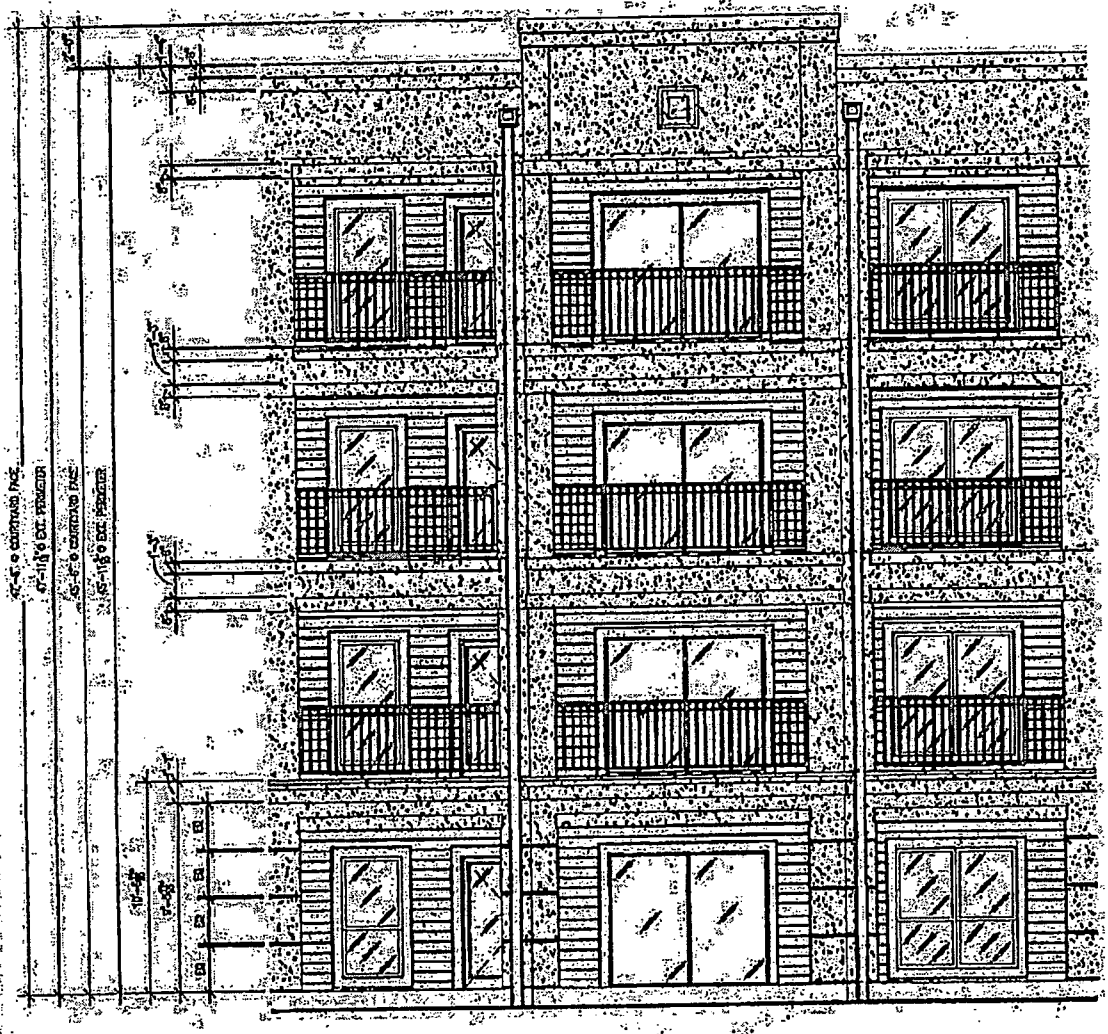
UNIT ELEVATION - B5 UNIT / FITNESS

The Gates at Williams-Brice HPR
Columbia, South Carolina



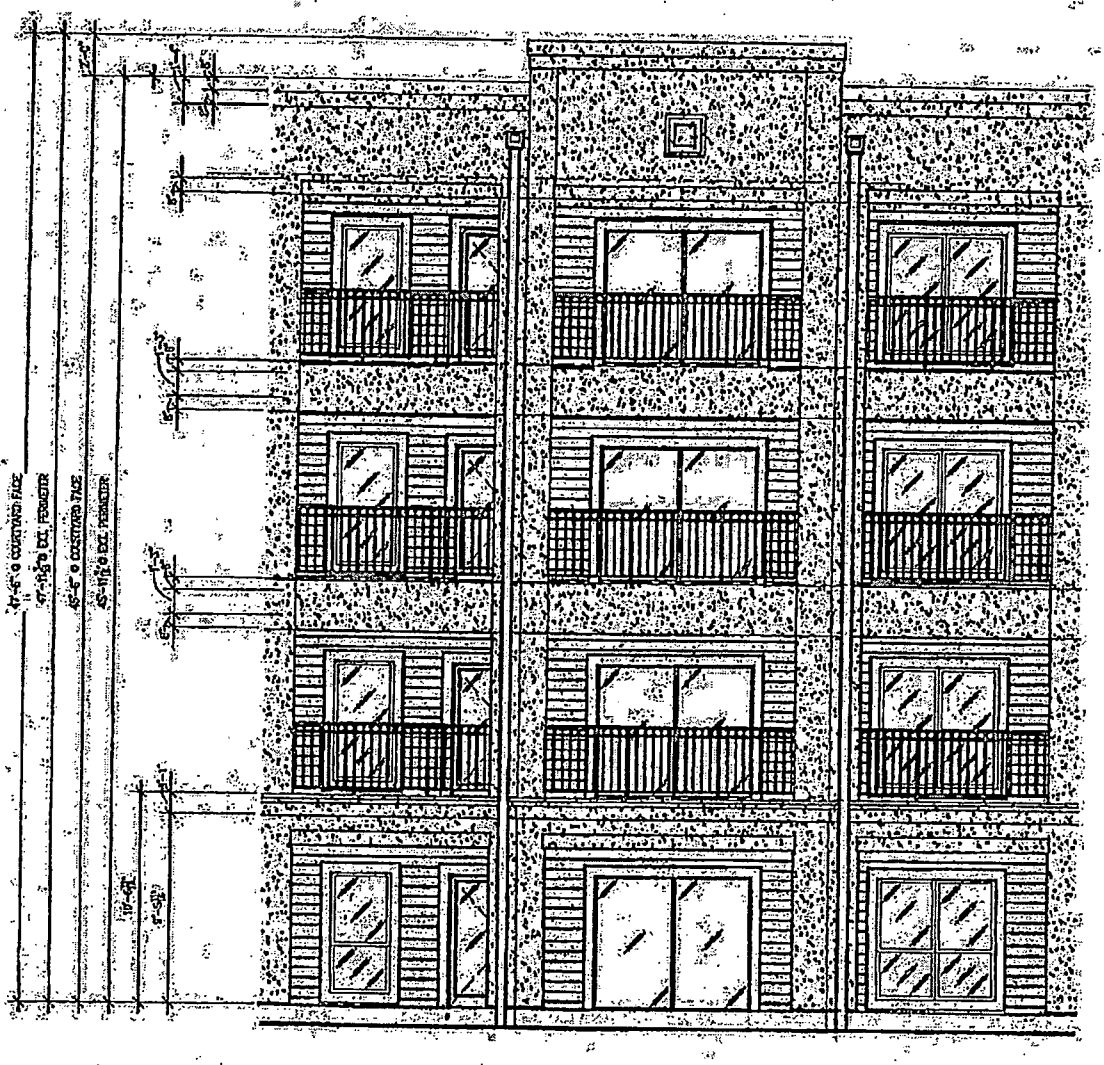
UNIT ELEVATION – B6 UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina



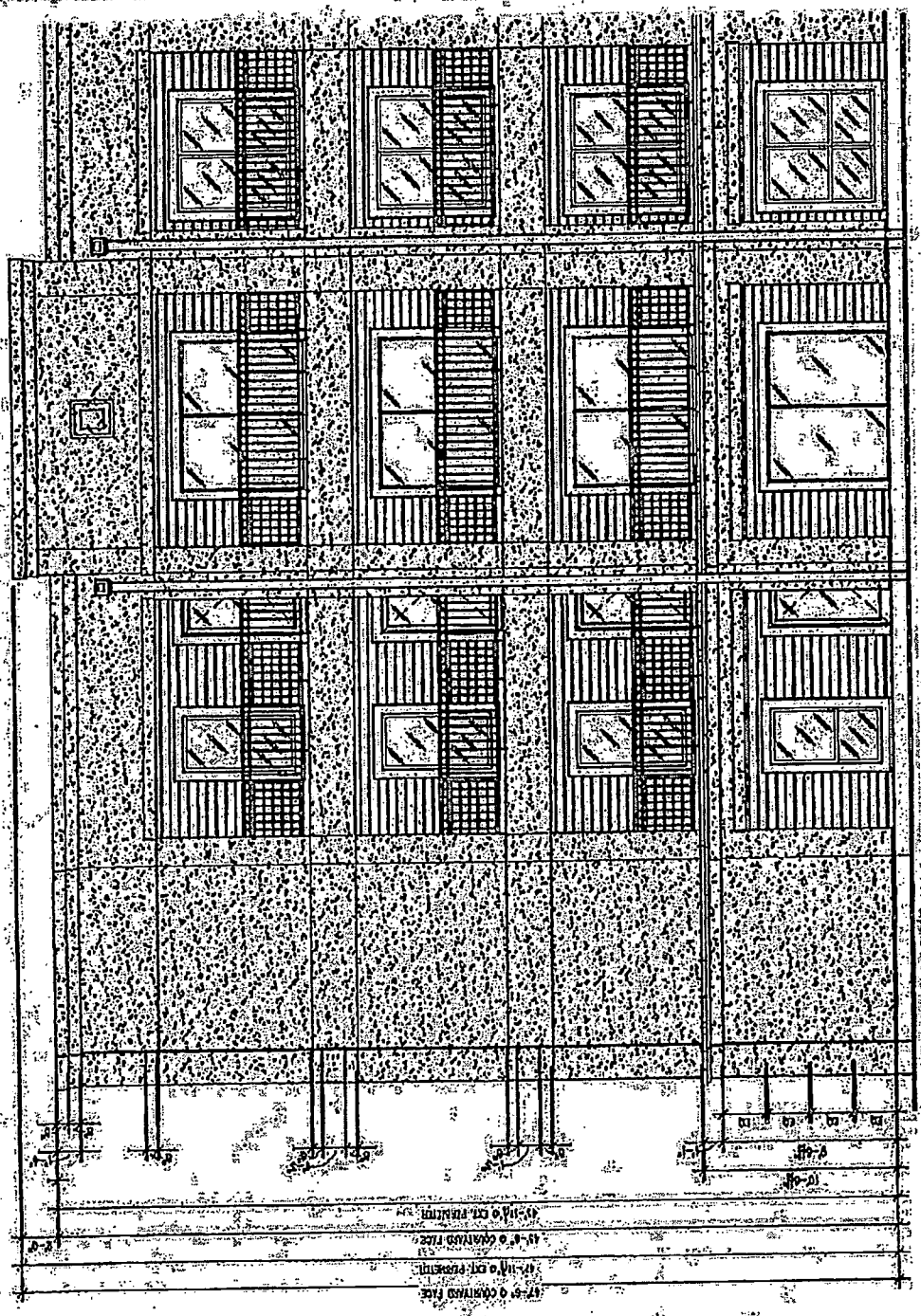
UNIT ELEVATION – 'C' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina



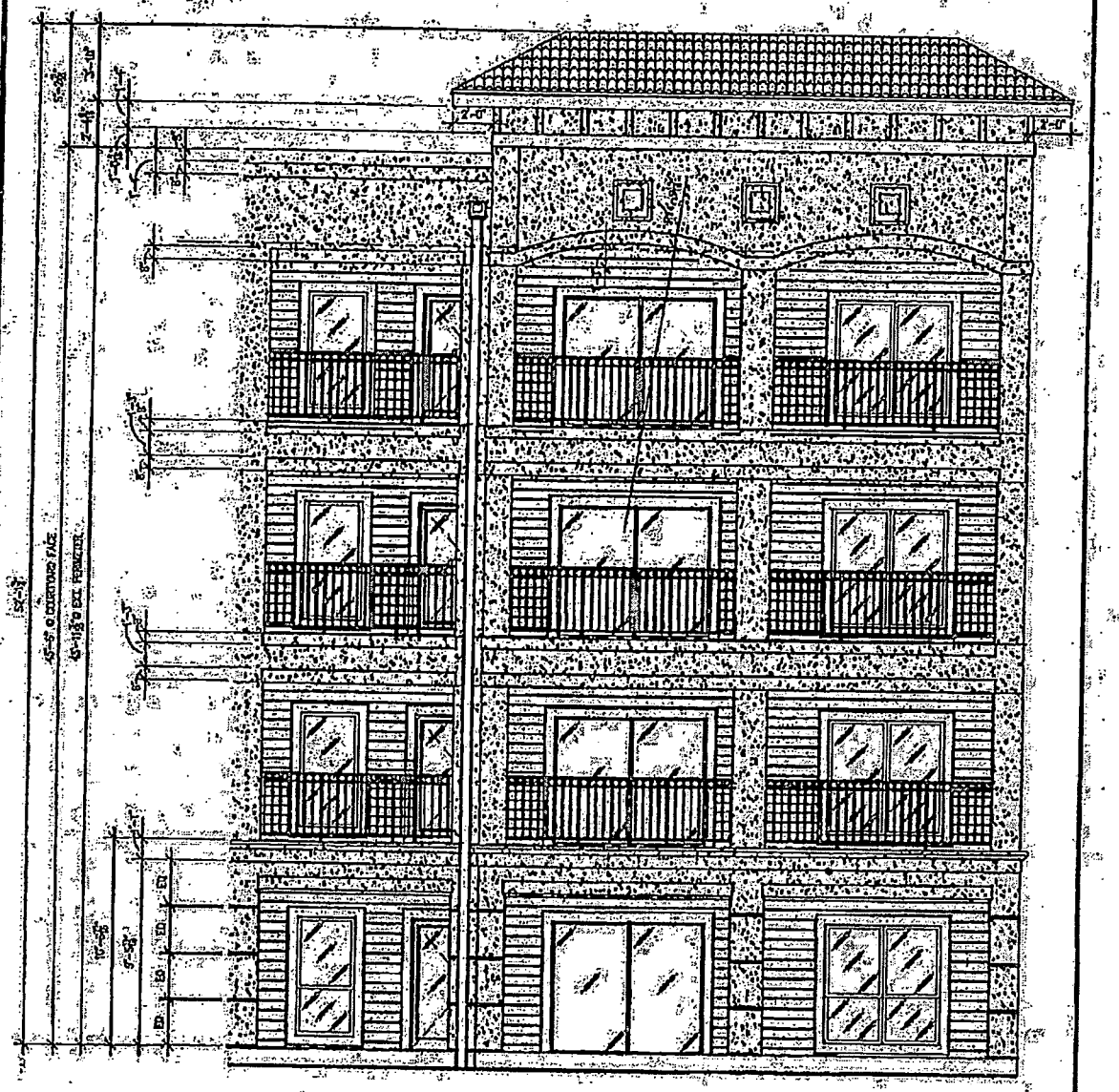
UNIT ELEVATION – 'C' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina



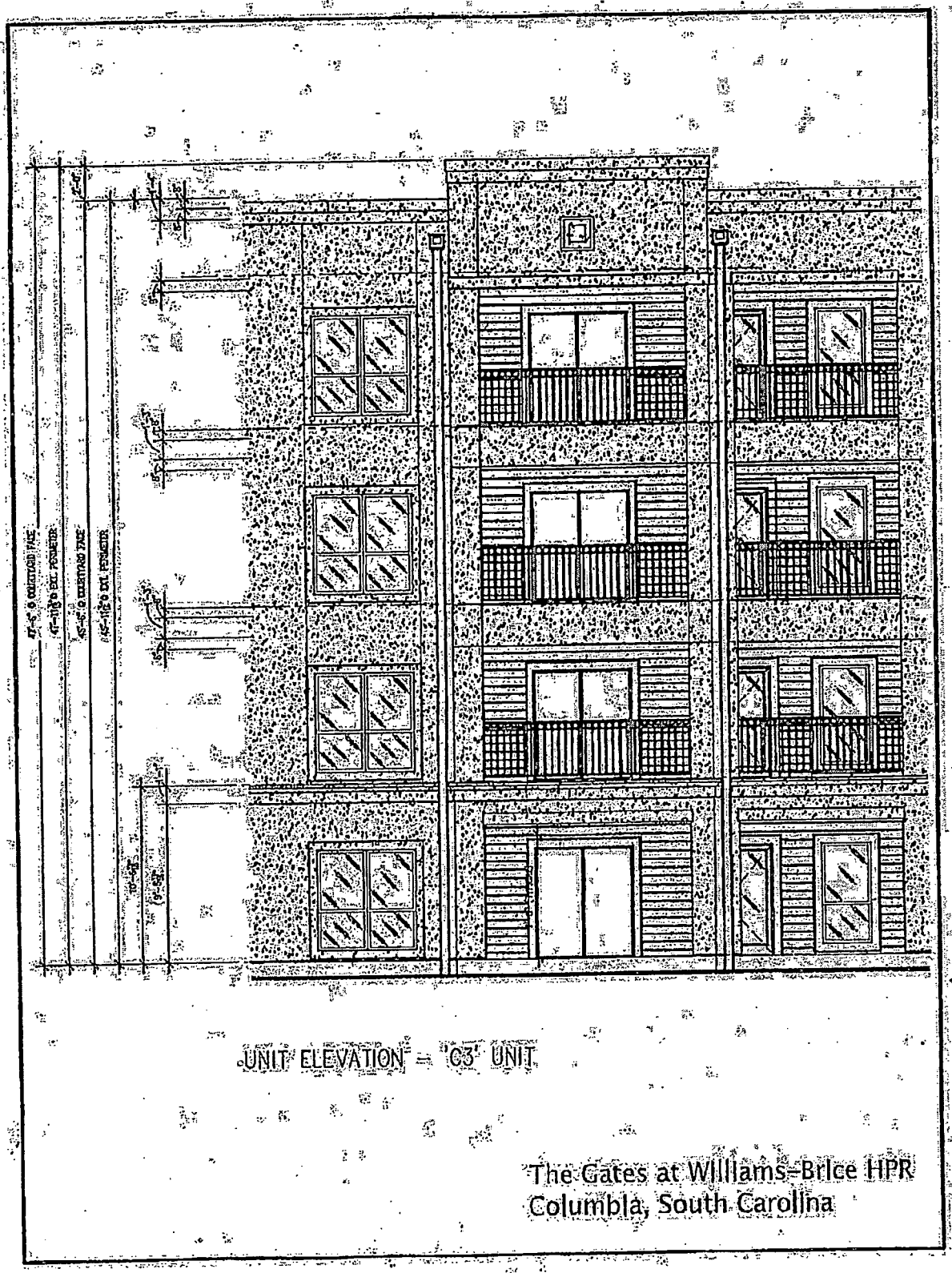
UNIT ELEVATION – 'C' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina



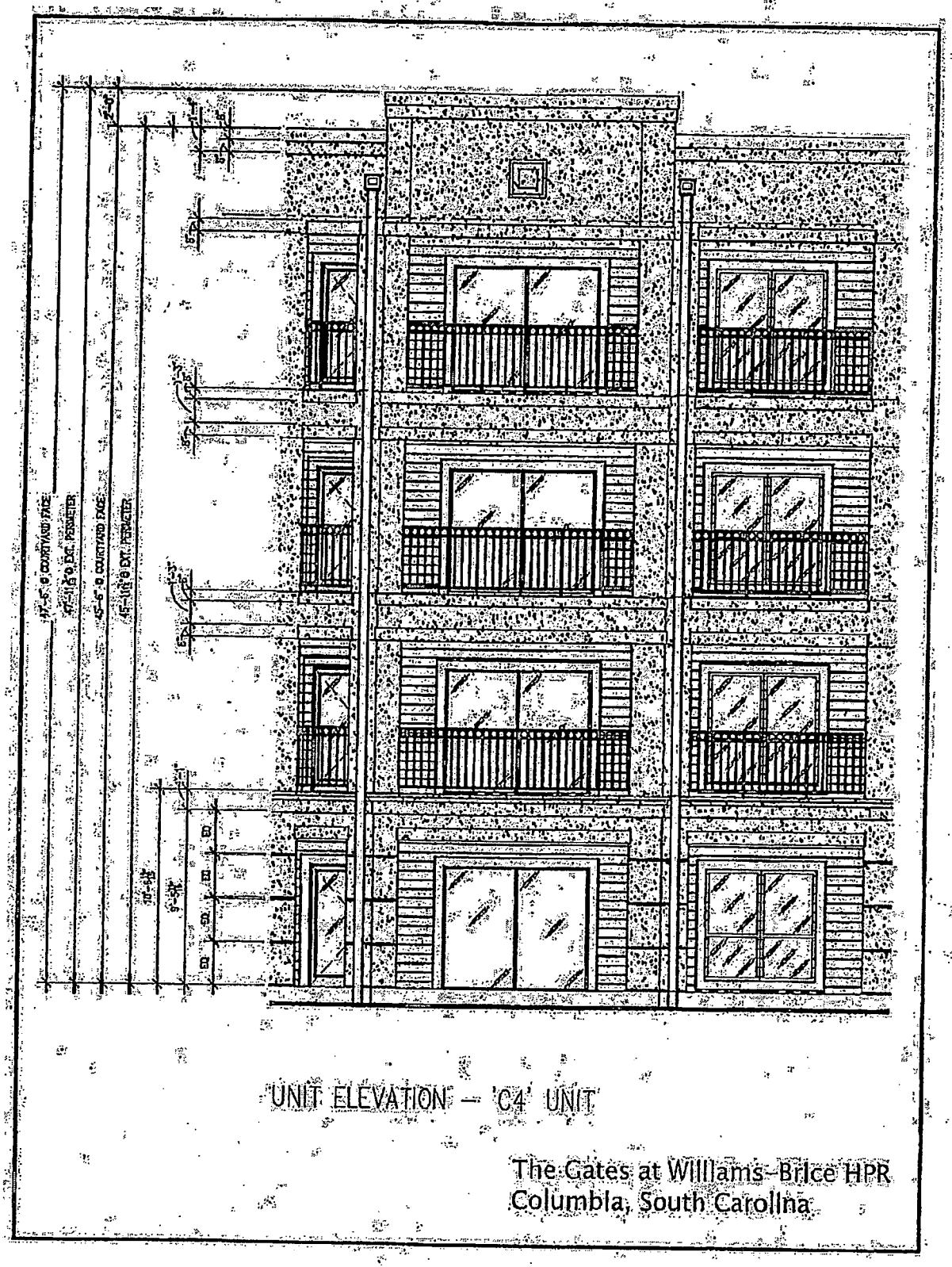
UNIT ELEVATION – 'C2' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina



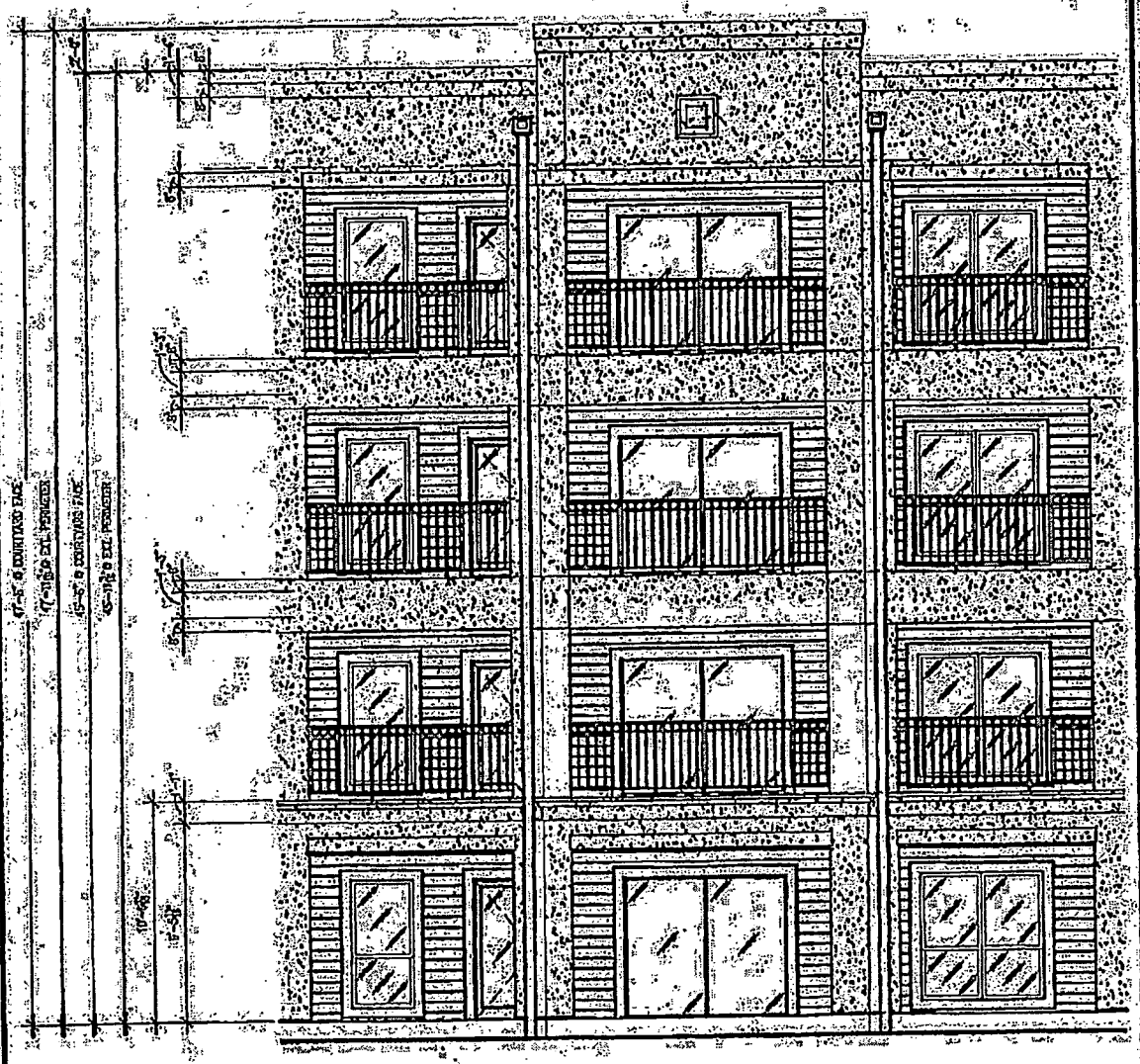
UNIT ELEVATION – 'C3' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina



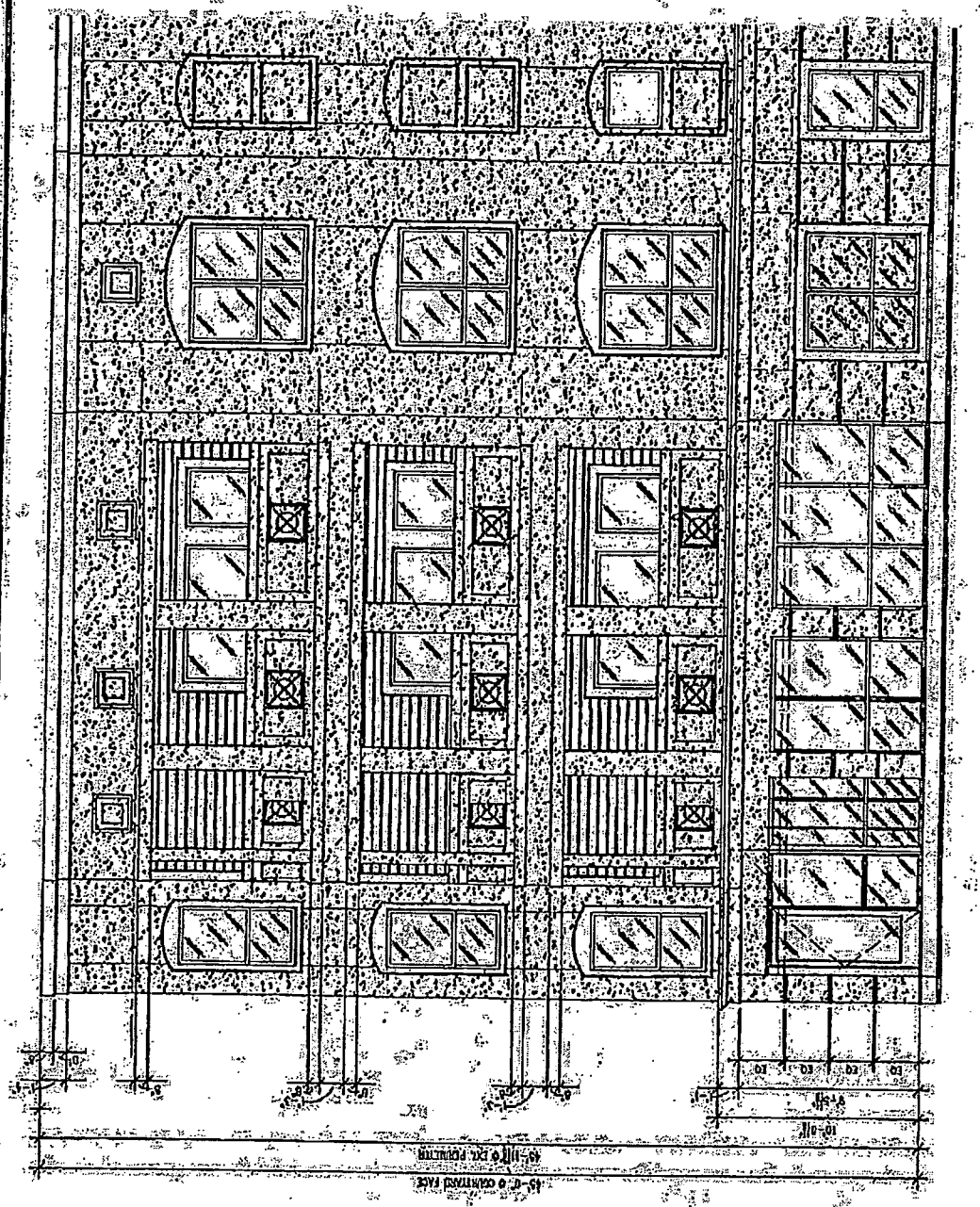
UNIT ELEVATION – 'C4' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina



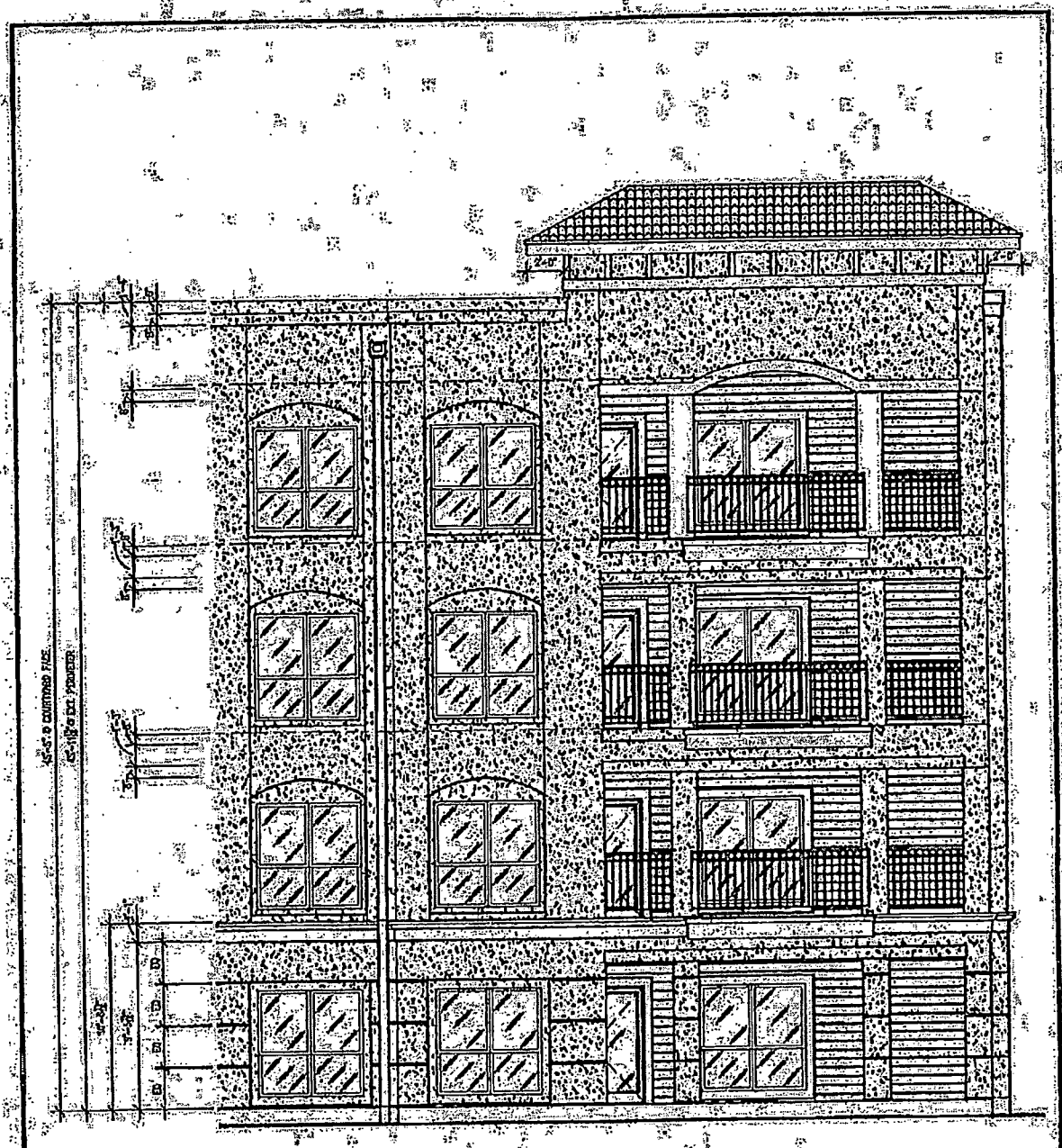
UNIT ELEVATION – 'C5' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina



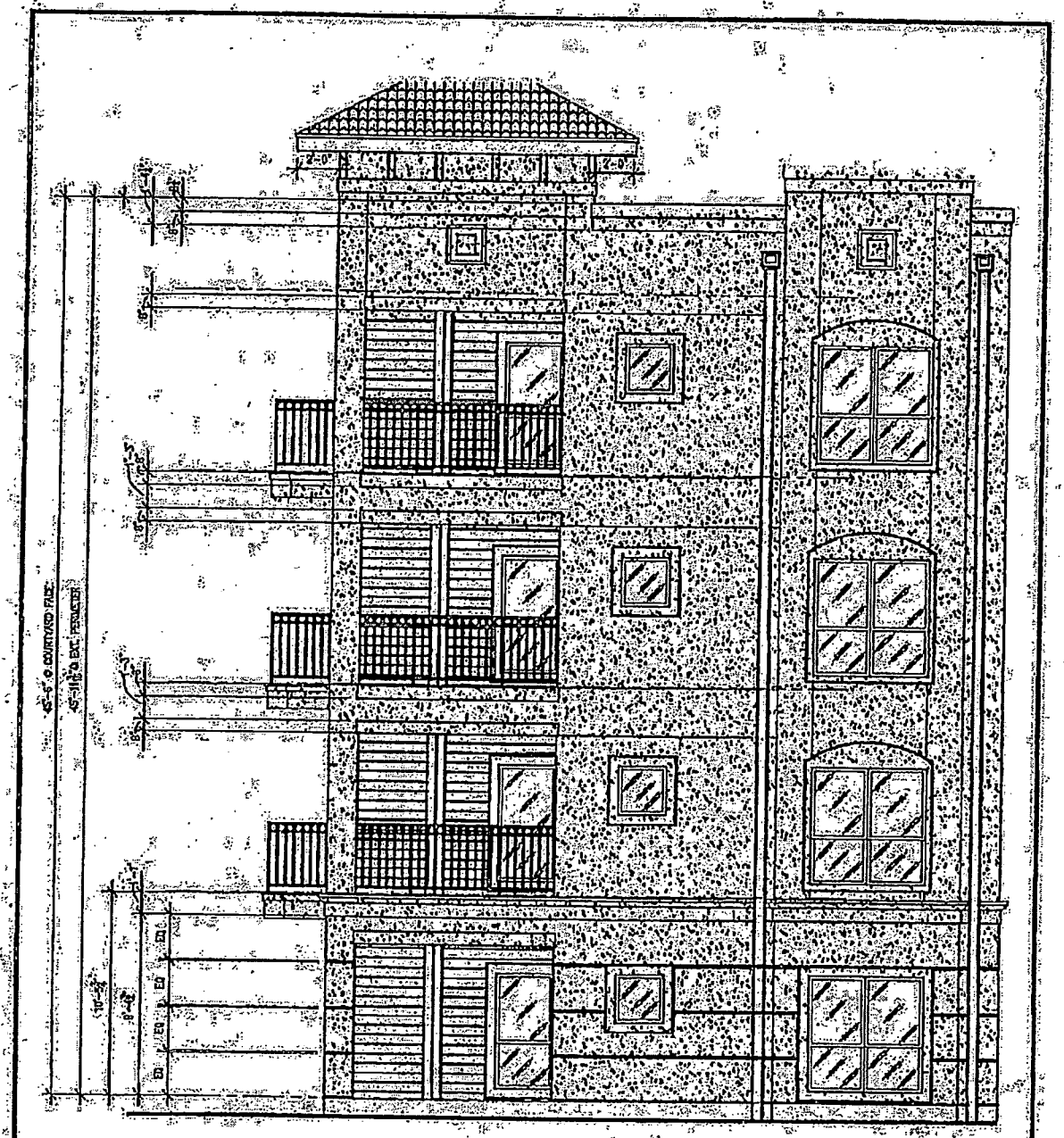
UNIT ELEVATION - 'D' UNIT

The Gates at Williams-Brice HPR
Columbia, South Carolina



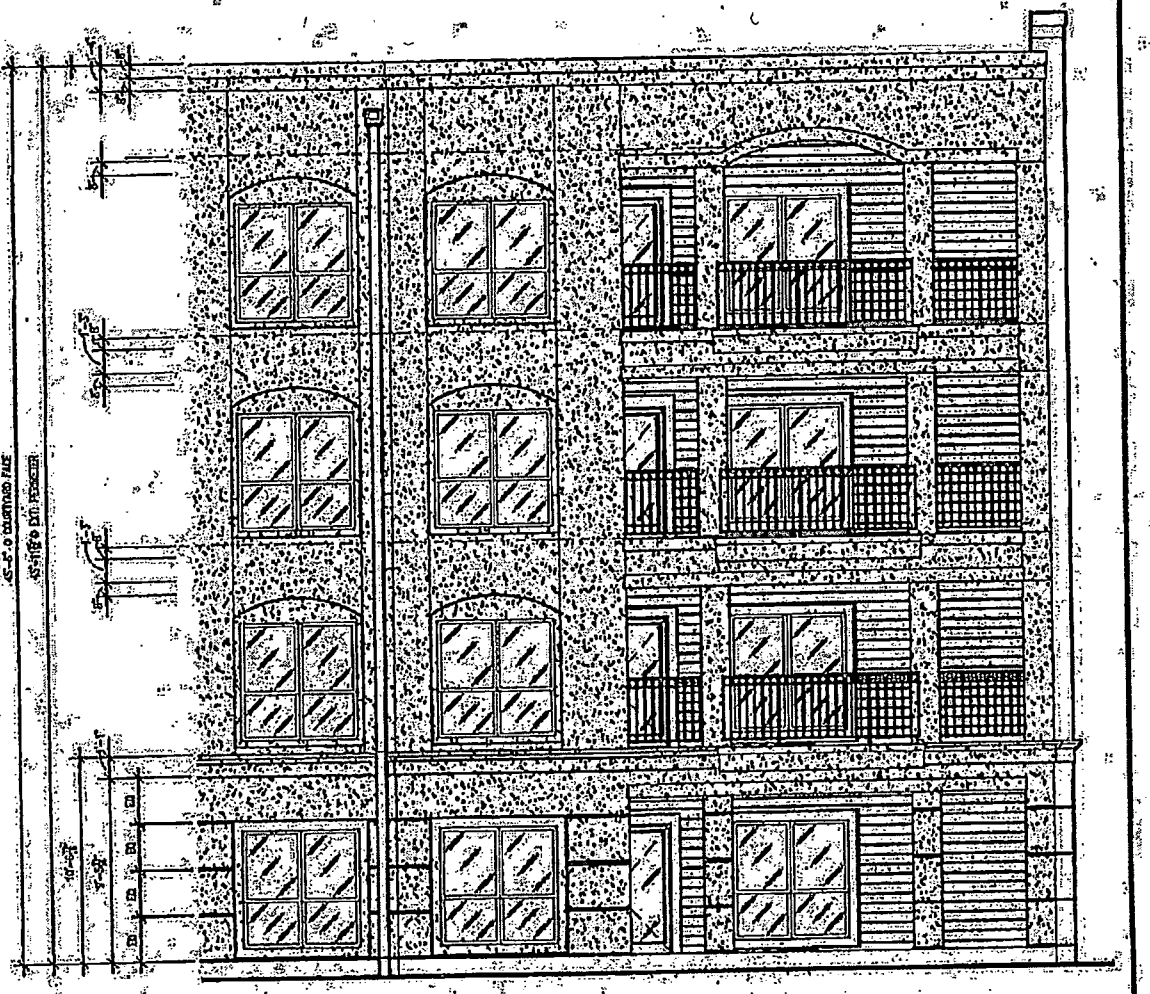
UNIT ELEVATION – E1' UNIT (FRONT)

The Gates at Williams-Brice HPR
Columbia, South Carolina



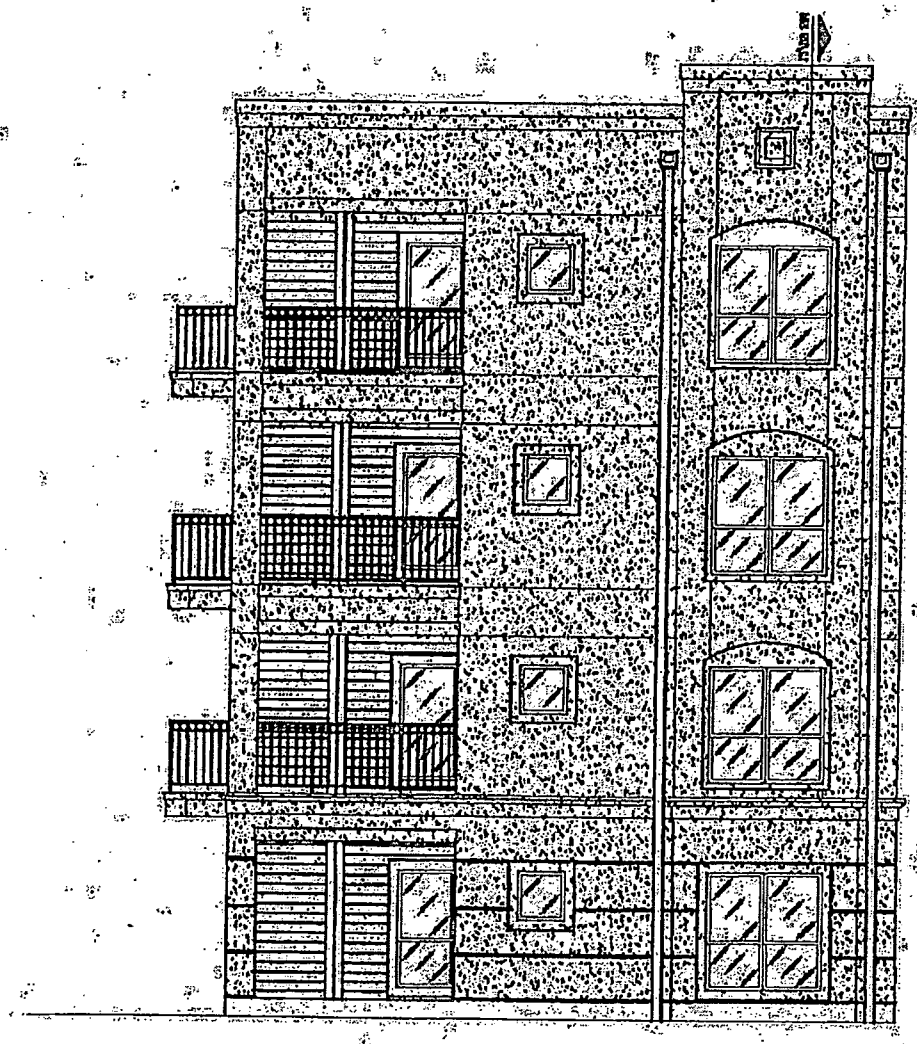
UNIT ELEVATION – 'E1' UNIT (SIDE)

The Gates at Williams-Brice HPR
Columbia, South Carolina



UNIT ELEVATION - "E1A" UNIT (FRONT)

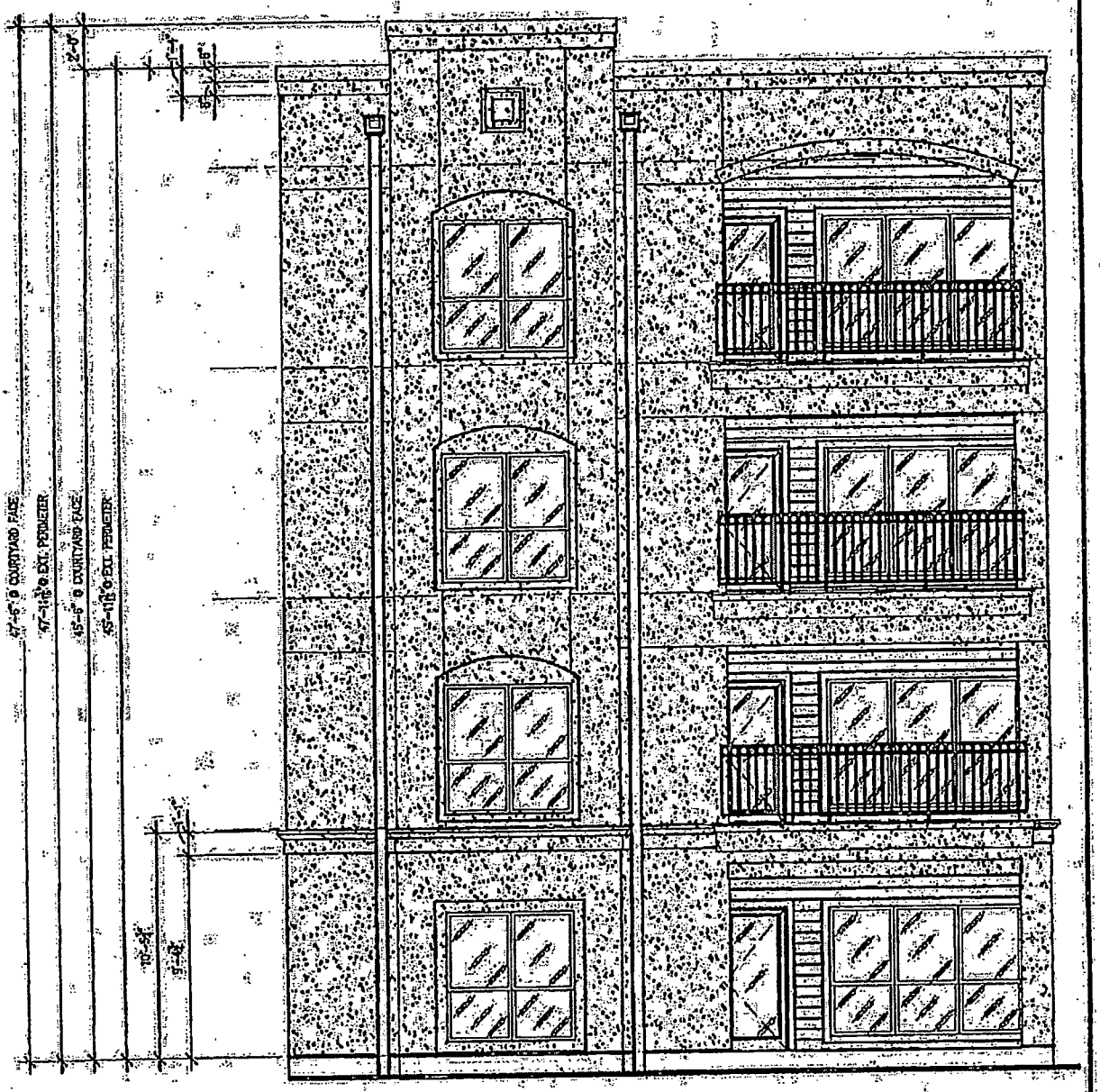
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Columbia, South Carolina



UNIT ELEVATION - 'E1A' UNIT - SIDE

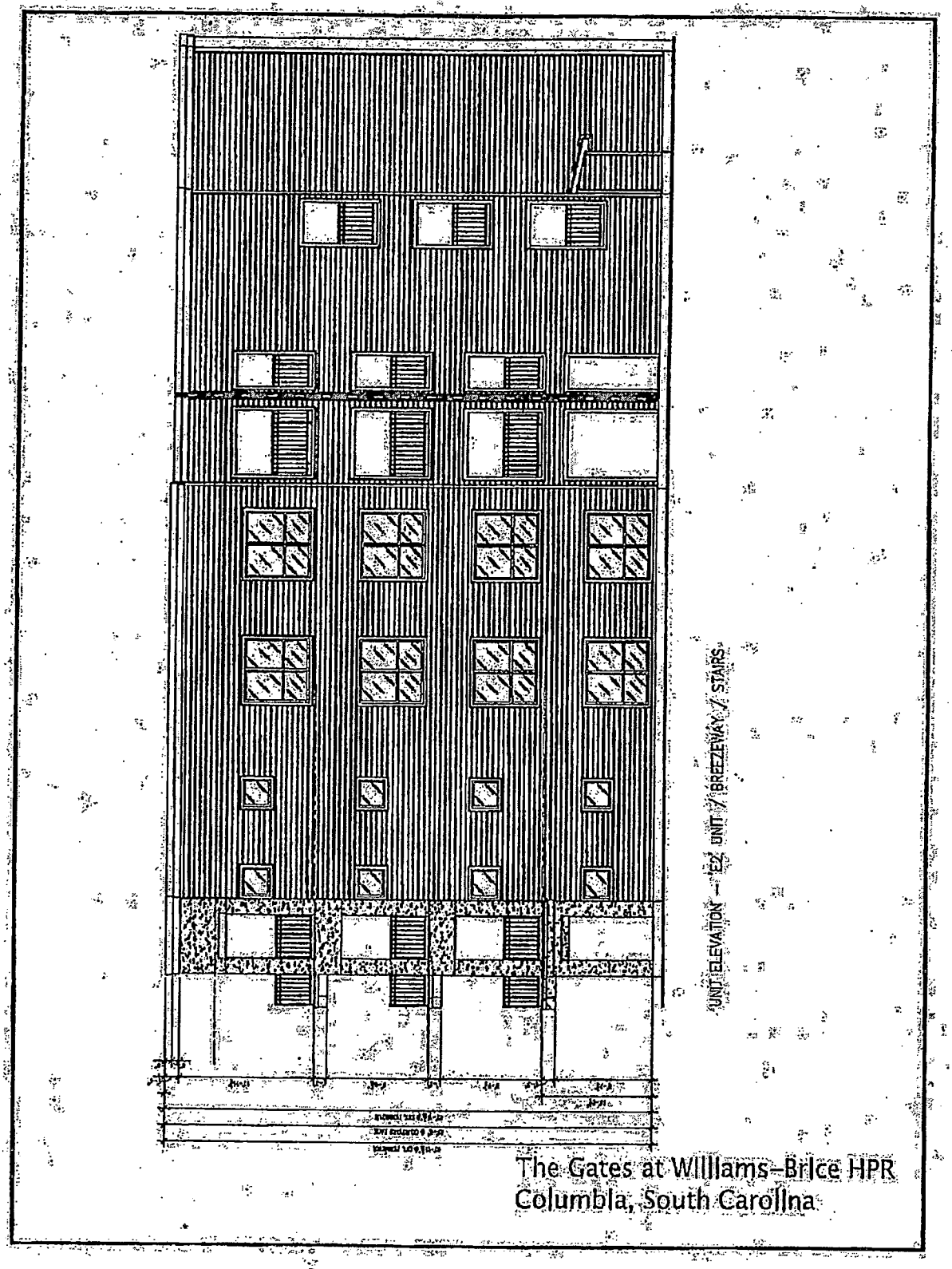
The Gates at Williams-Brice HPR
Columbia, South Carolina

2



UNIT ELEVATION – 'E2' UNIT (FRONT)

The Gates at Williams-Brice HPR
Columbia, South Carolina



The Gates at Williams-Brice HPR
Columbia, South Carolina

EXHIBIT "D"

[Table of Values – Unit Percentage Ownership Interests In Common Elements of Regime]

Attached Hereto and Incorporated Herein By Reference

UNIT TYPE	UNITS	SQ. FT. PER UNIT	% OF OWNERSHIP PER UNIT
A and A-HC	311, 411, 211	948	0.48492%
B	118, 121, 136, 218, 221, 236, 318, 321, 336, 418, 421, 436, 144, 244, 344, 444, 122, 149, 222, 249, 322, 349, 422, 449, 117, 141, 217, 241, 317, 341, 417, 441	1105	0.56522%
B1	132, 232, 332, 432	1245	0.63684%
B2	138, 238, 338, 438	1235	0.63172%
B3	135, 235, 335, 435	1310	0.67008%
B4	127, 227, 327, 427	1142	0.58415%
B5	133, 233, 333, 433	1250	0.63939%
B6, B6-HC, B6-A, and B6-B	146, 160, 250, 346, 350, 446, 450, 246	1105	0.56522%
C	123, 125, 131, 134, 137, 139, 223, 225, 231, 234, 237, 239, 323, 325, 331, 334, 337, 339, 423, 425, 431, 434, 437, 439, 120, 220, 320, 420, 113, 115, 124, 126, 130, 140, 142, 147, 213, 215, 224, 226, 230, 240, 242, 247, 313, 315, 324, 326, 330, 340, 342, 347, 413, 415, 424, 426, 430, 440, 442, 447	1275	0.65218%
C1	128, 228, 328, 428,	1425	0.72891%
C2 and C2-HC	214, 314, 414, 116, 216, 316, 416, 114	1274	0.65167%
C3 and C3-A	148, 248, 348, 448	1275	0.65218%
C4	129, 229, 329, 429	1262	0.64553%
D	212, 312, 412	1346	0.68850%
E1, E1-ALT and E1-HC	145, 219, 319, 345, 419, 445, 119, 245	1372	0.70180%
E2	143, 243, 343, 443	1543	0.78927%
GRAND TOTALS	168 UNITS	TOTAL SQ. FOOTAGE OF ALL UNITS: 195,498	TOTAL % OWNERSHIP OF ALL UNITS: 100%

[Path]1054229_1.XLS

6/25/2007

EXHIBIT "E"

[Certification to Plans]

Attached Hereto and Incorporated Herein By Reference

EXHIBIT "E"
TO MASTER DEED OF
THE GATES AT WILLIAMS-BRICE HORIZONTAL PROPERTY REGIME

Pursuant to S. C. Code Ann. § 27-31-110, I certify that the building plans for The Gates at Williams-Brice Horizontal Property Regime, consisting of the site plan, floor plans, and unit plans in the attached Exhibit "C" in, fully and graphically depict the layout, dimensions, location, area and number identification of the Units and the General and Limited Common Elements of the Regime.



By: John L. Chambers
Its: Professional Engineer

S.C. License No.
06501

Columbia, Richland County, South Carolina
This 27th day of June, 2007.

CLT 1047720v1

EXHIBIT "F"

[Articles of Incorporation of The Gates at Williams Brice Condominium Association]

Attached Hereto and Incorporated Herein By Reference

CERTIFIED TO BE A TRUE AND CORRECT COPY AS TAKEN FROM AND COMPARED WITH THE ORIGINAL ON FILE IN THIS OFFICE

MAY 02 2007

SECRETARY OF STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA
SECRETARY OF STATE
NONPROFIT ORGANIZATION
ARTICLES OF INCORPORATION

1. The name of the nonprofit corporation is The Gates at Williams-Brice Condominium Association.

2. The initial registered office of the nonprofit corporation is 75 Beattie Place, Two Insignia Financial Plaza, Greenville, South Carolina, 29601.

The name of the registered agent of the nonprofit corporation at that office is CT Corporation System.

3. Check (a), (b), or (c) whichever is applicable. Check only one box.

a. [ ] The nonprofit corporation is a public benefit corporation.

b. [ ] The nonprofit corporation is a religious corporation.

c. [x] The nonprofit corporation is a mutual benefit corporation.

4. Check (a) or (b), whichever is applicable.

a. [x] This corporation will have members.

b. [ ] This corporation will not have members.

5. The address of the principal office of the nonprofit corporation is 1085 Shop Road, Columbia, South Carolina 29201.

6. If this nonprofit corporation is either a public benefit corporation (box a. or b. of paragraph 3. is checked), complete either (a) or (b), whichever is applicable, to describe how the remaining assets of the corporation will be distributed upon dissolution of the corporation.

a. [ ] Upon dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, of the government, or to a state or local government, for a public purpose. Any such asset not so disposed of shall be disposed of a by the court of common pleas of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operated exclusively for such purposes.

070502-0166 FILED: 05/02/2007
GATES AT WILLIAMS-BRICE CONDOMINIUM ASSOCIATION
Filing Fee: $25.00 ORIG

CLT:962493v1

Mark Hammond South Carolina Secretary of State

b. [ ] Upon dissolution of the corporation, consistent with law, the remaining assets of the corporation shall be distributed to: _____.

7. If the corporation is a mutual benefit corporation (box c. of paragraph 3. is checked), complete either (a) or (b), whichever is applicable, to describe how the [remaining] assets of the corporation will be distributed upon the dissolution of the corporation.

a. [x] Upon dissolution of the mutual benefit corporation the [remaining] assets shall be distributed to its members, or if it has no members, to those persons to whom the corporation holds itself out as benefiting or serving.

b. [ ] Upon dissolution of the mutual benefit corporation the [remaining] assets, consistent with law, shall be distributed to:

8. The optional provisions which the nonprofit corporation elects to include in the articles of incorporation are as follow. (See Section 33-31-202(c) of the 1976 South Carolina Code, the applicable comments hereto, and the instructions to this form):

Reference is hereby made to the Master Deed of The Gates at Williams-Brice Horizontal Property Regime and the By-Laws of The Gates at Williams-Brice Condominium Association (the "Association") for a complete description and explanation of the administration and membership of the Association.

9. The name and address (with zip code) of each incorporator is as follows (only one is required): Michael Eisenrauch, Parker Poe Adams & Bernstein LLP, Two Founders Centre, Suite 202, 611 Burroughs & Chapin Boulevard, Myrtle Beach, South Carolina 29577.

10. Each original director of the nonprofit corporation must sign the articles but only if the directors are named in these articles:

_____ Signature of director
(only if named in articles)

11. Each incorporator must sign the articles.

_____
Signature of incorporator: *Michael Eisenrauch*

FILING INSTRUCTIONS

1. Two copies of this form, the original and either a duplicate original or a conformed copy, must be filed.
2. If space in this form is insufficient, please attach additional sheets containing a reference to the appropriate paragraph in this form, or prepare using a computer disk which will allow for expansion of space on the form.
3. This form must be accompanied by the filing fee of $25.00 payable to the Secretary of State.

The State of South Carolina

Office of Secretary of State Mark Hammond

Certificate of Incorporation, Nonprofit Corporation

I, Mark Hammond, Secretary of State of South Carolina Hereby certify that:

GATES AT WILLIAMS-BRICE CONDOMINIUM ASSOCIATION THE, a nonprofit corporation duly organized under the laws of the State of South Carolina on May 2nd, 2007, and having a perpetual duration unless otherwise indicated below, has as of the date hereof filed a Declaration and Petition for Incorporation of a nonprofit corporation for Religious, Educational, Social, Fraternal, Charitable, or other eleemosynary purpose.

Now, therefore, I Mark Hammond, Secretary of State, by virtue of the authority in me vested by Chapter 31, Title 33, Code of 1976 and Acts amendatory thereto, do hereby declare the organization to be a body politic and corporate, with all the rights, powers, privileges and immunities, and subject to all the limitations and liabilities, conferred by Chapter 31, Title 33, Code of 1976 and Acts amendatory thereto.

Given under my Hand and the Great Seal of the State of South Carolina this 2nd day of May, 2007.

Mark Hammond

Mark Hammond, Secretary of State

EXHIBIT "G"

[By-Laws of The Gates at Williams-Brice Condominium Association]

Attached Hereto and Incorporated Herein By Reference

BY-LAWS
OF
THE GATES AT WILLIAMS-BRICE CONDOMINIUM ASSOCIATION

1. IDENTITY

These are the By-Laws of The Gates at Williams-Brice Condominium Association, a non-profit corporation existing under the laws of the State of South Carolina (hereinafter called "the Association"), which has been organized for the purpose of administering The Gates at Williams-Brice Horizontal Property Regime, a horizontal property regime established pursuant to S.C. Code Ann. §27-31-10 et seq. (1976) (hereinafter called "the Regime"). The Regime is identified by the name The Gates at Williams-Brice and is located upon the real property in Richland County, South Carolina, described on Exhibit "A" attached to the Master Deed and made a part hereof by reference.

(a) The provisions of these By-Laws are applicable to the Regime, and the terms and provisions hereof are expressly subject to the effect of the terms, provisions, conditions, and authorizations contained in the Articles of Incorporation and which may be contained in the formal Master Deed which will be recorded in the public records of Richland County, South Carolina, at the time said property and the improvements now or thereafter situate thereon are submitted to the plan of condominium ownership, the terms and provisions of said Articles and Master Deed to be controlling whenever the same may be in conflict herewith.

(b) All present or future co-owners, tenants, future tenants, or their employees, or any other person that might use the Regime or any of the facilities thereof in any manner are subject to the regulations set forth in these By-Laws and in said Charter and Master Deed.

(c) The office of the Association shall be 1085 Shop Road, Columbia, South Carolina, 29201, or such other place as the Board of Directors of the Association may designate from time to time.

(d) The fiscal year of the Association shall be the calendar year.

(e) The seal of the Association shall bear the name of the Association and the words "South Carolina."

2. MEMBERSHIP, VOTING, QUORUM, PROXIES

(a) All Unit Owners are Members of the Association, beginning when they take title to their Unit and terminating when they convey title away.

(b) A Member's vote shall be weighed based upon that Members percentage interest in

the Common Elements of the Regime as set forth in Exhibit "D" of the Master Deed.

(c) The quorum at members' meetings shall consist of persons entitled to cast a majority of the votes of the entire membership (a determined by the percentage interest in the Common Elements of the Regime as set forth in Exhibit "D" of the Master Deed). The joinder of a member in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such person for the purpose of determining quorum.

(d) The vote of the co-owners of a Unit owned by more than one person or by a corporation or other entity shall be cast by the person named in a certificate signed by all of the co-owners of the Unit and filed with the Secretary of the Association. Such certificate shall be valid until revoked by subsequent certificate. If such a certificate is not on file, the vote of such co-owners shall not be considered in determining the requirement for a quorum, nor for any other purpose.

(e) Votes may be cast in person or by proxy. Proxies must be filed with the secretary before the appointed time of the meeting for which their use is sought.

(f) Approval or disapproval of a Unit co-owner upon any matters, whether or not the subject of an Association meeting, shall be by the same person who casts the vote of such co-owner in an Association meeting.

(g) Except where otherwise required under the provisions of the Articles of Incorporation of the Association, these By-Laws, the Master Deed, or where the same may otherwise be required by law, the affirmative vote of the co-owners of a majority of the Units represented at any duly called members' meeting at which a quorum is present shall be binding upon the members (as determined by the percentage interest in the Common Elements of the Regime as set forth in Exhibit "D" of the Master Deed).

3. ANNUAL AND SPECIAL MEETINGS OF MEMBERSHIP

(a) The annual members' meeting shall be held at the office of the Association or such other place as may be designated by the Board of Directors, at a date and time set by the Board of Directors in its reasonable discretion after proper notice for the purpose of electing directors and of transacting any other business authorized to be transacted by the members.

(b) Special members' meetings shall be held whenever called by the President or Vice President or by a majority of the Board of Directors and must be called by such officers upon receipt of a written request from the members of the Association as required by the South

Carolina Nonprofit Corporation Act.

(c) Notice of all members' meetings, regular or special, shall be given by the President, Vice President, or Secretary of the Association, or other officers of the Association in the absence of said officers, to each member, unless waived, in writing. Such notice is to be written or printed and shall include a description of any matter as required by §33-31-705, of the Code of Laws of South Carolina (1976), as amended, and shall state the time and place of the member's meeting and shall be given to each member not less than ten (10) days nor more than sixty (60) days prior to the date set for such meeting. Notice shall be mailed first class or registered mail or presented personally to each member within said time. If presented personally, receipt of such notice shall be signed by the member, indicating the date on which such notice was received by him. If mailed, such notice shall be deemed properly given five (5) days after being deposited in the United States Mail, addressed to the member at his post office address as it appears in the records of the Association, the postage thereon prepaid or where otherwise provided by Section 33-31-141 of the Code of Laws of South Carolina (1976), as amended from time to time. Proof of such mailing shall be given by Affidavit of the person giving the notice. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. If any members' meeting cannot be organized because a quorum has not been attended, or because the greater percentage of the membership required to constitute a quorum for particular purposes has not attended, wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation, these By-Laws, or the Master Deed, the members who are present, either in person or by proxy, may adjourn the meeting, from time to time until a quorum, or the required percentage of attendance greater than a quorum, is present.

(d) At meetings of membership, the President or other officer of the Association shall preside or, in the absence of such officers, the membership present shall select a chairman.

(e) The order of business at annual members' meeting, and, as far as practical, at any other members' meeting, shall be:

i) Calling of the roll and certifying proxies;
ii) Proof of notice of meeting or waiver of notice;
iii) Reading of Minutes;
iv) Reports of officers, president and chief financial officer;

v) Reports of committees;

vi) Appointment by chairman of inspectors of election;

vii) Election of directors;

viii) Unfinished business;

ix) New business; and

x) Adjournment.

4. BOARD OF DIRECTORS

(a) The initial Board of Directors of the Association (hereinafter sometimes referred to as the "Board") shall be comprised of three (3) directors until the first members' meeting, at which time five (5) directors will be elected. Thereafter, the Board shall consist of five (5) directors. Subject to the remainder of this paragraph, the Grantor may appoint and remove members of the Board for a period not exceeding five (5) years from the date of the first conveyance of a Unit to a person other than the Grantor. The period of Grantor control terminates no later than sixty (60) days after conveyance of seventy-five percent (75%) of the Units in the entire Regime to Unit owners other than the Grantor. The Grantor may voluntarily surrender the right to appoint and remove members of the Board before termination of that time period.

Whenever Grantor shall be entitled to designate and select any person or persons to serve on any Board of Directors of Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or By-Laws of the Association and Grantor shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or other persons to act and serve in the place of any director or directors so removed for the remainder of the unexpired term of any director or directors so removed. Any director designated and selected by Grantor need not be a resident in the Regime. Anything to the contrary notwithstanding, the power in the Grantor to designate directors shall terminate five years from the date of the Master Deed.

Any representative of Grantor serving on the Board shall not be required to disqualify himself upon any vote upon any management contract or other matter between Grantor and Association where the said Grantor may have a pecuniary or other interest. Similarly, Grantor as a member of the Association, shall not be required to disqualify itself in any vote which may come before the membership of the Association upon any management contract or other matter between Grantor and Association where Grantor may have a pecuniary or other interest. This

provision does not limit or restrict the requirement of Section 33-31-831, Code of Laws of South Carolina (1976), as amended.

An individual Co-owner other than Grantor engaged by the Regime in a commercial operation or otherwise earning monies from servicing the premises, i.e. rental company, contractor, hardware store, painter, or property manager may not serve on the Board as long as the individual is engaged in a business performing a service in connection with the Regime.

(b) Election of directors shall be conducted in the following manner:

i) Grantor, as Sponsor of the Regime, shall, at the beginning of the election of the Board designate and select that number of the members of the Board which it should be entitled to designate and select in accordance with the provisions of these By-Laws, and upon such designation and selection by Grantor by written instrument presented to the meeting at which such election is held, said individuals so designated and selected by Grantor shall be deemed and considered for all purposes directors of the Association, and shall thenceforth perform the duties of such directors until their successors shall have been selected or elected in accordance with the provisions of these By-Laws;

ii) All members of the Board whom Grantor shall not be entitled to designate and select under the terms and provisions of these By-Laws shall be elected by a plurality of the votes cast at the annual meeting of the members of the Association immediately following the designation and selection of the members of the Board whom Grantor shall be entitled to designate and select;

iii) Vacancies in the Board may be filled until the date of the next annual meeting by the remaining directors, except that should any vacancy in the Board be created in any directorship previously filled by a person designated and selected by Grantor, such vacancy shall be filled by Grantor designating and selecting, by written instrument delivered to any officer of the Association, the successor director to fill the vacated directorship for the unexpired term thereof;

iv) At the first annual meeting of the members held after the property identified herein has been submitted to the plan of condominium ownership and the Master Deed has been recorded in the public records of Richland County, South Carolina, the term of office of the three (3) directors receiving the highest plurality of votes shall be established as two (2) years, and the terms of office of the other two (2) directors shall be established as one (1) year. Thereafter, as many directors of the Association shall be elected at the annual meeting as there are regular

terms of office of directors expiring at such time, and the term of the directors so elected at the annual meeting of the members each year shall be for two (2) years expiring at the second annual meeting following their election, and thereafter until their successors are duly elected and qualified or until removed in the manner elsewhere provided or as may be provided by law for the removal of directors of South Carolina Nonprofit Corporation Act. If, at the time of the first annual meeting, Grantor still has the right to appoint directors, then Grantor shall have the right to designate and select two (2) directors whose term of office shall be established at two (2) years, and one (1) director whose term of office shall be established at one year;

v) In the election of directors, there shall be appurtenant to each Unit as many votes for directors as there are directors to be elected, provided, however, that no member or co-owner of any Unit may cast more than one vote for any person nominated as director, it being the intent hereof that voting for directors shall be non-cumulative;

vi) In the event that Grantor, in accordance with the privilege granted unto it, selects any person or persons to serve on any Board, the said Grantor shall have the absolute right at any time, in its sole discretion, to replace any such person or persons with another person or persons to serve on said Board. Replacement of any person or persons designated by Grantor to serve on any Board shall be made by written instrument delivered to the President or Secretary of the Association or to the presiding officer of the Board, which instrument shall specify the name or names of the person or persons designated as successor or successors to the person or persons so removed from said Board. The removal of any director and designation of his successor shall be effective immediately upon delivery of such written instrument by Grantor to such officer of the Association and the director;

(c) The organizational meeting of newly elected Board shall be held within ten (10) days of its election, at such time and at such place as shall be fixed by the directors at the meeting at which they were elected, and no further notice of the organization meeting shall be necessary provided a quorum shall be present;

(d) Regular meetings of the Board may be held without notice at such time and place as shall be determined from time to time by a majority of the directors;

(e) Special meetings of the directors may be called by the President and must be called by the Secretary at the written request of one-third (1/3) of the votes of the Board. Not less than two (2) days notice of a meeting shall be given to each director personally, or by mail, telephone, or telegram, which notice shall state the time, place, and purpose of the meeting;

(f) Any director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice;

(g) A quorum at a directors' meeting shall consist of the directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board, except as specifically otherwise provided in the Articles of Incorporation, these By-Laws, or the Master Deed. If any director's meeting cannot be organized because a quorum has not attended or because the greater percentage of the directors required to constitute a quorum for particular purposes has not attended, wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation, these By-Laws, or the Master Deed, the directors who are present may adjourn the meeting, from time to time, until a quorum, or the required percentage of attendance greater than a quorum, is present. At any adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a director in the action of a meeting by signing and concurring the minutes thereof shall constitute the presence of such director for the purpose of determining a quorum;

(h) The presiding officer of directors' meetings shall be the President. In the absence of the President, the directors present shall designate one of their number to preside;

(i) Directors' fees, if any, shall be determined by the members of the Association;

(j) The Board shall manage and direct the affairs of the Association and subject to any restrictions imposed by law, by the Master Deed, or these By-Laws, may exercise all of the powers of the Association subject only to approval by the members when such is specifically required by the Master Deed or by these By-Laws. The Board shall exercise such duties and responsibilities as shall be incumbent upon it by law, the Master Deed, or these By-Laws, as it may deem necessary or appropriate in the exercise of its powers and shall include, without limiting the generality of the foregoing, the following:

i) To make, levy, and collect assessments against members and members' Units to defray the cost of the common areas and facilities of the Regime, and to use the proceeds of said assessments in the exercise of the powers and duties granted unto the Association;

ii) To carry out the maintenance, care, upkeep, repair, replacements, operation, surveillance, and the management of the general and limited elements, services, and facilities of the Regime wherever the same is required to be done and accomplished by the Association for the benefit of its members;

iii) To carry out the reconstru. on of improvements after casualty and the further improvement of the property, real and personal;

iv) To make and amend regulations governing the use of the property, real and personal, in the Regime and to establish fines for the violation of same, so long as such regulations or amendments thereto and fines do not conflict with the restrictions and limitations which may be placed upon the use of such property under the terms of the Articles of Incorporation and Master Deed;

v) To acquire, operate, lease, manage, and otherwise trade and deal with property, real and personal, including Units in the Regime, as may be necessary or convenient in the operation and management of the Regime, and in accomplishing the purposes set forth in the Master Deed; provided, however, that any agreement for professional management of the Regime, or any other contract providing for services of the Grantor, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice; provided, further, that any contract entered into prior to passage of control of the Association from the Grantor may be terminated by the Association without cause and without penalty at any time after the transfer of control upon not more than ninety (90) days notice to the other party thereto unless ratified by a majority of the Board after passage of control;

vi) By competitive bidding, to contract for the management of the common areas and facilities in the Regime and to designate to such contractor all of the powers and duties of the Association, except those which may be required by the Master Deed to have approval of the Board or membership of the Association;

vii) To enforce by legal means the provisions of the Articles of Incorporation and By-Laws of the Association, the Master Deed, and the regulations and fines hereinafter promulgated governing use of the property in the Regime;

viii) To pay all taxes and assessments which are liens against any property of the Regime, other than Units and the appurtenances thereto, and to assess the same against the members and their respective Units subject to such liens;

ix) To carry insurance for the protection of the members and the Association against casualty and liability;

x) To pay all costs of power, water, sewer, and other utility services rendered to

the condominium and not billed to the owners of the separate Units; and

xi) To employ personnel for reasonable compensation to perform the services required for proper administration of the purposes of the Association, as well as to dismiss said personnel;

xii) Pursuant to Article XV of the Master Deed, to assign, reassign, or designate parking spaces for conditional exclusive use to such Co-Owners as it shall decide and to revoke such assignment or designation from time to time; and

xiii) to otherwise carry out all other duties and responsibilities set forth in the Master Deed, Bylaws, and Rules and Regulations of the Association, explicitly stated or implied therein.

(k) The first Board shall be comprised of three (3) persons designated to act and serve as directors by the Grantor. Said persons shall serve until their successors are elected or appointed at the first meeting of the members of the Association called after the property identified herein has been submitted to the plan of condominium ownership and the Master Deed has been recorded in the public records of Richland County, South Carolina. Should any member of said first Board be unable to serve for any reason, a majority of the remaining members of the Board shall have the right to select and designate a party to act and serve as a director for the unexpired term of said director who is unable to serve;

(l) The undertakings and contracts authorized by said first Board shall be binding upon the Association in the same manner as though such undertakings and contracts had been authorized by the first Board duly elected by the membership after the property identified herein has been submitted to the plan of condominium ownership and said Master Deed has been recorded in the Richland County public records, so long as any undertakings and contracts are within the scope of powers and duties which may be exercised by the Board in accordance with all applicable Regime Documents;

(m) Directors may be removed from office in the manner provided by law for the removal of directors of South Carolina nonprofit corporations.

6. ADDITIONAL PROVISIONS ABOUT MEETINGS OF MEMBERS AND DIRECTORS.

(a) Notwithstanding anything contained in these By-Laws to the contrary, any meeting of members or Board may be held at any place within or without the State of South Carolina or by telephone conference.

(b) To the extent now or from time to time hereafter permitted by the laws of South Carolina, the Board may take any action which they might take at a meeting of directors without a meeting. One or more written consents of any such action so taken, signed by each director, is to be retained in the Association's minute book and given equal dignity by all persons to the minutes of meetings duly called and held.

(c) Any action of the members may be taken by written ballot in accordance with §33-31-704, Code of Laws of South Carolina (1976), as amended, or by written consent in accordance with §33-31-704 of said Code.

7. OFFICERS

(a) The executive officers of the Association shall be a President, who shall be a director, a Vice President, a Treasurer, and a Secretary, all of whom shall be elected annually by the Board of Directors and who may be peremptorily removed by vote of the directors at any meeting. No person may hold more than two (2) offices. The Board, shall from time to time, elect such other officers or committees and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

(b) The President shall be the principal executive officer of the Corporation and subject to the control of the Board. He or she shall, in general, supervise and control all of the business and affairs of the Corporation. He or she shall preside at all meetings of the shareholders and of the Board. He or she may sign, with the Secretary or any other proper officer of the Corporation authorized by the Board, any deeds, mortgages, bonds, contracts, or other instruments which the Board has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board or by these By-Laws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board.

(c) The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the directors.

(d) The Secretary shall keep the minutes of all proceedings of the directors and the members. He shall attend to the giving and serving of all notices to the members and directors, and such other notices required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep the records of the

Association, except those of the Treasurer, perform all other duties incident to the office of Secretary of any association, and as may be required by the directors or President.

(e) The Treasurer shall have custody of all of the property of the Association, including funds, securities, and evidences of indebtedness. He shall keep the assessment rolls, the accounts of members, and the books of the Association in accordance with good accounting practices. He shall perform all other duties incident to the office of Treasurer.

(f) The compensation of all officers and employees of the Association, if any, shall be fixed by the Board. This provision shall not preclude the Board from employing the Grantor as an employee of the Association, nor preclude the contracting with the Grantor for management of the Regime. Officers need not be Unit owners.

8. FISCAL MANAGEMENT

The provisions for fiscal management of the Association set forth in the Master Deed and Articles of Incorporation shall be supplemented by the following provisions:

(a) The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Unit. Such an account shall designate the name and address of the Co-owner or Co-owners, the amount of each assessment against the amounts paid upon the account and, the balance due upon assessments;

(b) The initial Board shall adopt a budget for the period commencing upon submission of the property to Horizontal Property Regime, continuing through the end of the following calendar year, and shall establish assessments for that period;

(c) The Board shall adopt a budget for each calendar year, which shall contain estimates of the cost of performing the functions of the Association, including, but not limited to, the following items:

i) Common expense budget, which shall include without limiting the generality of the foregoing, the estimated amounts necessary for maintenance and operation of General Common Elements, landscaping, street and walkways, office expenses, swimming pool, utility services, casualty insurance, liability insurance, administration, and reserves (operating and replacement);

ii) Budget for the maintenance of the semi-private yards, the expenses of which will be assessed separately against only those co-owners with Units that have semi-private yards (as depicted in Exhibit "C" to the Master Deed);

iii) Assessments for specific maintenance or repairs or other items benefiting one

or more Units but not all the Units in the Regime performed by the Association ("Specific Assessments");

iv) Assessments for individual Unit water usage, which is based upon actual water usage per Unit and billed individually and not commonly shared amongst all the Units;

v) Proposed assessments against each member. Copies of the budget and proposed assessments shall be given to each member at each annual meeting. If the budget is subsequently amended before the assessments are made, a copy of the amended budget shall be furnished to each concerned member. Delivery of a copy of any budget or amended budget to each member shall not affect the liability of any member for any such assessment, nor shall delivery of a copy of such budget of amended budget be considered as a condition precedent to the effectiveness of said budget and assessments levied pursuant thereto, and nothing herein contained shall be construed as restricting the right of the Board, at any time, in their sole discretion to levy an additional assessment in the event that the budget originally adopted shall appear to be insufficient to pay costs and expenses of operation and management, or in the event of emergencies.

(d) The Board shall determine the method of payment of such assessments and the due dates thereof and shall notify the members thereof. The assessments will initially be on a monthly-in-advance basis unless changed by a vote of the majority of the Board;

(e) The depository of the Association shall be such bank, savings and loan, or other Federally Insured depositories as shall be designated from time to time by the directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the directors.

(f) The Board shall require fidelity bonds from all officers and employees of the Association and from any contractor handling or responsible for Association funds. The amount of such bonds shall be determined by the directors, but shall be at least the amount of the total annual estimated operating expense and revenues. The premiums on such bonds shall be paid by the Association as a common expense.

9. PARLIAMENTARY RULES

Roberts Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Articles of Incorporation and these By-Laws or with the statutes of the State of South Carolina.

10. ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT

The Board, as and for the co-owners, is given the authority to administer the operation and management of the Regime, it being recognized that the delegation of such duties to one entity is in the best interests of the co-owners of all Units. To properly administer the operation and management of the project, the Association will incur, for the mutual benefit of all of the co-owners of Units, costs and expenses which will be continuing or non-recurring costs, as the case may be, which costs and expenses are sometimes herein referred to as "common expense." To provide the funds necessary for such proper operation and management, the said Board is hereby granted the right to make, levy, and collect assessments against the co-owners of all Units and said Units. In furtherance of said grant of authority to the Board to make, levy, and collect assessments to pay the costs and expenses for the operation and management of the Regime, the following provisions shall be operative and binding upon the co-owners of all Units, to wit:

(a) Except for those assessments relating to the maintenance of the semi-private yards, Specific Assessments, Special Assessments, and assessments for individual Unit water usage, all assessments levied against the co-owners of Units and said Units shall be uniform ("General Assessments" or "Regular Assessments") and, unless specifically otherwise provided for in these By-Laws or the Master Deed, the assessments made by the Board shall be in such proportion that the amount of assessment levied against each co-owner of a Unit and his Unit shall bear the same ratio to the total assessment made against all co-owners of Units and their Units as does the undivided interest in General Common Elements appurtenant to each Unit bear to the total undivided interest in the Regime (per the percentage interests in the Common Elements of the Regime as set forth in Exhibit "D" of the Master Deed);

(b) The Board shall have the authority to levy Specific Assessments at any time and from time to time against one or more Units, but not all the Units, for services benefiting or related to said Unit or Units or their Limited Common Elements or their assigned Common Element parking spaces or storage spaces;

(c) The Board shall have the authority to levy Special Assessments at any time and from time to time against any Unit for a violation of these Bylaws, the Master Deed, or the Rules & Regulations, or for reimbursement of the Association's remedial efforts to cure said violation.

(d) The Board shall have the authority to levy Special Assessments at any time and from time to time against all the Units in the Regime in times of financial crisis with the affirmative vote of two-thirds of the membership of the Association (as determined by the percentage interest in the Common Elements of the Regime as set forth in Exhibit "D" of the Master Deed).

(e) The Board, in establishing said annual budget for operation, management, and maintenance of the project shall include therein a sum to be collected and maintained as reserve fund for replacement of General Common Elements, which reserve fund shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a part of the General Common Elements as well as the replacement of personal property which may constitute a portion of the General Common Elements held for the joint use and benefit of all the co-owners of all Units. The amount to be allocated to such reserve fund for replacements shall be established by said Board so as to accrue and maintain at all times a sum reasonably necessary to anticipate the need for replacements of said General Common Elements. The amount collected and allocated to the reserve fund for replacements from time to time shall be maintained in a separate account by the Association, although nothing herein contained shall prohibit the Association from applying any monies in such reserve fund for replacements to meet other needs or requirements of the Association in operating or managing the project in the event of emergencies or in the event the sums collected from the co-owners of Units are insufficient to meet the then fiscal financial requirements of the Association, but it shall not be a requirement that these monies be used for such latter purposes, as a separate assessment may be levied therefor if deemed to be preferable by the Board in the sole discretion of said Board;

(f) Additionally, a working capital fund must be established for the initial months of the project operation equal to at least a two months' estimated common area charge for each Unit. Each Unit's share of the working capital fund must be collected and transferred to the Association at the time of the initial closing of the sale of each Unit estate and maintained for the use and benefit of the Association. The contribution to the working capital fund for each unsold Unit shall be paid to the Association within sixty (60) days after the date of the conveyance of the first Unit in the project. The purpose of the fund is to ensure that the Association will have cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or desirable by the Board. Amounts paid into the fund are not to be considered as advance payment of regular assessments. The Grantor shall not use the working capital funds to pay any of its expenses, reserve contributions, construction costs, or to make up any budget deficits while it is in control of the Association. However, when unsold Units are sold, the Grantor may reimburse itself for funds it paid the Association for an unsold Unit's share of the working capital fund by using funds collected at Closing when the Unit is sold;

(g) The Board, in establishing said annual budget for operation, management, and

maintenance of the project, shall include therein a sum to be collected as a general operating reserve which shall be used to provide a measure of financial stability during periods of special stress when such sums may be used to meet deficiencies existing from time to time as a result of delinquent payment of assessments by co-owners of Units, emergencies, or other reasons placing financial stress upon the Association;

(h) All monies collected by the Association shall be treated as the separate property of the Association and such monies may be applied by the said Association to the payment of any expense of operating and managing the Regime or to the proper undertaking of all acts and duties imposed upon it by virtue of these By-Laws and the Articles of Incorporation and Master Deed of the said Association. As the monies for any assessment are paid unto the Association by any co-owner of a Unit the same may be commingled with the monies paid to the Association by the other Co-owners of Units. All funds and other assets of the Association, and any increments thereto or profits derived therefrom or from the leasing or use of General Common Elements, shall be held for the benefit of the members of the Association, who shall own any common surplus in the proportions of their percentage of undivided interest in the Regime. No member of the Association shall have the right to assign, hypothecate, pledge, or in any manner transfer this interest therein, except as an appurtenance to his Unit;

(i) The payment of any assessment or installment thereof due to the Association shall be in default if such assessment, or any installment thereof, is not paid unto the Association on or before the due dates for such payment. When in default, the Board may accelerate the remaining installments of the annual assessment upon notice thereof to the Unit co-owner, whereupon the entire unpaid balance of the annual assessment shall become due upon the date stated in the notice which shall not be less than ten (10) days after the date of the notice. In the event any assessment, installment, or accelerated assessments are not paid within twenty (20) days after their due date, the Association, through its Board, may proceed to enforce and collect the said assessments against the Unit co-owner owing the same in any manner provided for by the Master Deed or the Bylaws, including the right of foreclosure and sale. When in default, the delinquent assessment or delinquent installment thereof due to the Association shall bear interest at the highest rate allowed by law until such delinquent assessment or installment thereof and all interest due thereon has been paid to the Association. If any assessment or installment thereof is not paid when due, the Board may assess such late fees and interest as it deems appropriate from time to time;

(j) The co-owner or co-owners of each Unit shall be personally liable to the Association for the payment of all assessments, regular or special, which may be levied by the Association while such party or parties are co-owner or co-owners of a Unit in the Regime. In the event that any co-owner or co-owners are in default in payment of any assessment or installment thereof owed to the Association, such co-owner or co-owners of any Unit shall be personally liable for interest on such delinquent assessment or installment thereof as above provided, and for all costs of collecting such assessment or installment thereof and interest thereon, including a reasonable attorney's fee, whether suit is brought or not.

(k) No co-owner may exempt himself from liability for any assessment levied against such co-owner and his Unit by waiver of the use or enjoyment of any of the General Common Elements, by abandonment, or in any other manner.

(l) Recognizing that the necessity for providing proper operation and management of the project entails the continuing payment of costs and expenses therefor which results in benefit to all of the co-owners of Units and that the payment of such common expense represented by the assessments levied and collected by the Association is necessary in order to preserve and protect the investment of the co-owner of each Unit, the Association is hereby granted a lien upon such Unit and its appurtenant undivided interest in General Common Elements, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the co-owner of each Unit, such lien shall also secure interest, if any, which may be due on the amount of any delinquent assessments owing to the Association and all costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association in enforcing this lien upon said Unit and its appurtenant undivided interest in the General Common Elements. The lien granted to the Association may be foreclosed in the same manner as mortgages may be foreclosed in the State of South Carolina. In any suit for the foreclosure of said lien, the Association shall be entitled to rental from the co-owner of any Unit from the date on which the payment of any assessment or installment thereof became delinquent and shall be entitled to the appointment of a receiver for said Unit. The rental required to be paid shall be equal to the rental charged on comparable type of Units in Columbia, South Carolina. The lien granted to the Association shall further secure such advances for taxes and payments on account of superior mortgages, liens, or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien. The Association shall further be entitled to interest at the highest rate allowed by law on any such advance made for such purpose. All persons, firms, or

corporations who shall acquire, by whatever means, any interest in the ownership of any Unit, are hereby placed on notice of the lien granted to Association and shall acquire such interest in any Unit expressly subject to such lien. The lien shall be subordinate to all mortgages or other liens duly recorded prior to the filing of the lien encumbering the Unit;

(m) The lien herein granted unto Association shall be effective from and after the time of recording in the public records of Richland County, South Carolina, a claim of lien stating the description of the Unit encumbered thereby, the name of the record co-owner, the amount, and the date when due. The lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney fees, advances to pay taxes and prior encumbrances, and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record;

(n) In the event that any person, firm, or corporation shall acquire title to any Unit and its appurtenant undivided interest in General Common Elements by virtue of any foreclosure, judicial sale, or deed in lieu of foreclosure, such person, firm, or corporation so acquiring title shall only be liable and obligated for assessments as shall accrue and become due and payable for said Unit and its appurtenant undivided interest in General Common Elements subsequent to the date of acquisition of such title and shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquires such title. In the event of the acquisition of title to a Unit by foreclosure, judicial sale, or deed in lieu of foreclosure, any assessment or assessments as to which the party so acquiring title shall not be liable shall be absorbed and paid by all co-owners of all Units as part of the common expense, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure;

(o) Whenever any Unit may be sold or mortgaged by the co-owner thereof, which sale shall be concluded only upon compliance with other provisions of these By-Laws, Association, upon written request of the co-owner of such Unit, shall furnish a statement verifying the status of payment of any assessment which shall be due and payable to Association by the owner of such Unit to the proposed purchaser or mortgagee. Such statement shall be executed by an officer of the Association and any purchaser or mortgagee may rely upon such statement in concluding the proposed purchase or mortgage transaction, as Association shall be bound by

such statement. Any holder of any mortgage on any Unit shall have the right at all reasonable times and frequency to inquire as to the past due status of any assessment payments. The Association shall, upon request, promptly notify any such mortgagee when any assessment payment becomes more than sixty (60) days past due or when any default in the performance of any obligation required by the Master Deed or these By-Laws as to such Unit is not cured within sixty (60) days;

(p) In the event that a Unit is to be sold or mortgaged at the time when payment of any assessment against the co-owner of said Unit is due to the Association, such Unit shall be in default, whether or not a claim of lien has been recorded by the Association. Then the proceeds of such purchase or mortgage shall be applied by the purchaser or mortgagee first to payment of any then delinquent assessment or installment thereof due to the Association before the payment of any proceeds of purchase or mortgage proceeds to the co-owner of any Unit who is responsible for payment of such delinquent assessment;

(q) Institution of a suit at law to attempt to effect the collection of payment of delinquent assessments shall not be deemed to be an election by the Association which shall prevent its thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed an election precluding the institution of suit at law to attempt to effect collection of any sums then remaining owing it; and

(r) Assessments begin to accrue once the Master Deed for the Regime is recorded at the Richland County ROD Office.

11. MANAGER

(a) Employment. The Board may employ a professional Manager to assist in or take charge of the administration of the Association and the Property. The Board shall solicit competitive bids for such management.

(b) Authority and Duties. The Manager shall have such authority and duties as may be determined by the Board and shall report to the Board or to the President, as the Board may determine.

(c) Compensation. The Manager shall receive such compensation as the Board may determine.

12. DEFINITIONS

The definitions contained in § 27-31-20 S. C. Code Ann. (1976), are hereby incorporated herein

and made a part hereof by reference. "Unit" shall have the same meaning as "Apartment".

13. CONFLICTS

In the event of any conflict between the provisions of the Master Deed and the provisions of these By-Laws, the provisions of the Master Deed shall control.

14. SEVERABILITY

The provisions of these By-Laws are severable, and the invalidity of one or more provisions thereof shall not be deemed to impair or affect in any manner the enforceability or effect of the remainder hereof.

15. CAPTIONS

The captions herein are inserted only as a matter of convenience and or reference and in no way define, limit, or describe the scope of these By-Laws or the intent of any provision hereof.

16. GENDER AND NUMBER

All pronouns used herein shall be deemed to include the masculine, the feminine, and the neuter, as well as and the singular and the plural whenever the context requires or permits.

17. AMENDMENT TO MASTER DEED AND BY-LAWS

Amendments to the Master Deed and these By-Laws shall be proposed and adopted in the following manner:

(a) Amendments may be proposed by the Board acting upon vote of the majority of the directors, or by members of the Association pursuant to the South Carolina Nonprofit Corporation Act;

(b) Upon any amendment or amendments being proposed by said Board or members, such proposed amendment or amendments shall be transmitted to the President of the Association, or other officer of the Association in absence of the President, who shall thereupon call a special joint meeting of the members of the Board and the membership for a date not sooner than twenty (20) days or later than sixty (60) days from receipt by such officer of the proposed amendment or amendments, and it shall be the duty of the Secretary to give to each member written or printed notice of such meeting in the same form and in the same manner as notice of the call of a special meeting of the members is required as set forth herein;

(c) In order for amendment or amendments to become effective, the same must be approved by an affirmative vote of the members owning two-thirds of the total value of the property in the Regime (as determined by the percentage interests in the Common Elements of the Regime as set forth in Exhibit "D" of the Master Deed). Thereupon, such amendment or amendments shall be transcribed, certified by the Secretary of the Association, and, in the event of an amendment to the Master Deed, a copy thereof recorded in the public records of Richland County, South Carolina (amendments to the Bylaws need not be recorded).

(d) At any meeting held to consider such amendment or amendments to the By-Laws, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association at or prior to such meeting; and

(e) Notwithstanding the foregoing provisions of this Article, no amendment to these By-Laws or the Master Deed which shall abridge, amend or alter the right of The Grantor to designate and select members of the Board may be adopted or become effective without the prior written consent of the Grantor. No amendment shall be effective until all the requirements of the Master Deed have been met.

[The remainder of this page has been left blank intentionally. The signature page immediately follows.]

The foregoing is the original set of By-Laws adopted this 2nd day of July, 2007.

The Gates at Williams-Brice Condominium Association

By: _____

Name: Mark Foraker

Its: President

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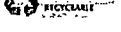
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STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

SECOND
AMENDMENT TO THE MASTER DEED
OF THE GATES AT WILLIAMS-BRICE
HORIZONTAL PROPERTY REGIME
(Master Deed recorded Book 1334 at Page 2002)

THIS SECOND AMENDMENT TO MASTER DEED AND BY-LAWS OF THE GATES AT WILLIAMS-BRICE HORIZONTAL PROPERTY REGIME (the "Second Amendment") is made this 5 day of June, 2013, by THE GATES AT WILLIAMS-BRICE CONDOMINIUM ASSOCIATION (the "COA").

W I T N E S S E T H:

WHEREAS, the COA, by that certain Master Deed of the Gates at Williams-Brice Horizontal Property Regime dated July 2, 2007 and recorded July 11, 2007 in the Office of Register of Deeds for Richland County in Deed Book 1334 at Page 2002, as further amended and/or supplemented, including all exhibits attached thereto (the Master Deed; Exhibit "G" to the Master Deed is the By-Laws), created a horizontal property regime upon certain property situated in Richland County, South Carolina, and as amended by First Amendment to Master Deed and By-Laws of The Gates at Williams-Brice Horizontal Property Regime recorded April 8, 2008 in Book 1418 at Page 1221 (the "Master Deed"); and

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENT that the COA does hereby exercise its right under the Master Deed to amend the Master Deed and By-Laws as follows:

WHEREAS, by the affirmative vote of the owners of at least two-thirds (2/3) percent of the total interest in the Common Elements (as set forth in Exhibit G attached to the Master Deed) per the percentages of The Gates at Williams-Brice Horizontal Property Regime (as set forth in Exhibit D attached to the Master Deed), cast at a meeting duly held in accordance with the provisions of the By-Laws, the owners have adopted the following amendments to the Master Deed and have authorized the execution and filing of this instrument in the RMC Office for Richland County, SC by the COA. This amendment shall not be effective until recorded in the RMC Office for Richland County.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENT, that the Subsection entitled "Arbitration Agreement" under Section IV of the Master Deed entitled "Warranty" is hereby permanently deleted and forever waived.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENT, that Paragraph 5 of the Subsection entitled "Additional Warranty Exclusions" under Section IV of the Master Deed entitled "Warranty" is hereby permanently deleted and forever waived.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENT, that Section XXXV of the Master Deed entitled "Alternative Dispute Resolution" is hereby permanently deleted and forever waived.

Book 1867-406
2013046443 06/07/2013 10:38:01:933
Fee:17.00 County Tax:$0.00
Amend to Deed & Master Deed
State Tax:$0.00



EXHIBIT
6

GWB 037308
WESTON

Except as herein modified, and subject to the foregoing, every provision, condition, obligation and covenant contained in the Master Deed shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned has executed this Second Amendment to the Master Deed of The Gates at Williams-Brice Horizontal Property Regime this 5th day of May, 2013.

SIGNED SEALED AND DELIVERED IN THE PRESENCE OF

Signature of Witness #1

Signature of Witness #2

THE GATES AT WILLIAMS-BRICE CONDOMINIUM ASSOCIATION

By: Bill Yarborough
President,
The Gates at Williams-Brice COA

By: Barbara Strong
Barbara Strong
Secretary,
The Gates at Williams-Brice COA

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

ACKNOWLEDGEMENT

The foregoing instrument was acknowledged before me this 5 day of June, 2013 by The Gates at Williams-Brice Condominium Association, a South Carolina non-profit corporation, acting herein by Bill Yarborough, its President, and Barbara Strong, its Secretary, on behalf of the said corporation.

(SEAL)
Notary Public of South Carolina
My Commission Expires: 2-3-2021

GWB 037309
WESTON

IN WITNESS WHEREOF, the Grantor, by its authorized officer, has hereunto caused this Master Deed to be executed this 2nd day of July, 2007.

Signed, sealed and delivered
in the presence of:

COLUMBIA CONDOS, L.P.,
a Delaware Limited Partnership (SEAL)

By: DC Developers – Columbia Condos, Inc.,
a Texas corporation
Its: General Partner

By: _____
Name: Tom Caltagirone
Its: Chief Operating Officer

Witnesses:

_____

_____

STATE OF TEXAS)
)
COUNTY OF HARRIS)

PROBATE

Personally appeared before me, the undersigned witness, and made oath that (s)he saw the within-named COLUMBIA CONDOS, L.P., by its C.O.O. of its General Partner, sign, seal and as its act and deed, deliver the within Master Deed for the uses and purposes therein mentioned, and that (s)he with the other subscribed witness witnessed the execution thereof.

_____
(witness signature)

SWORN TO BEFORE ME

This 2nd day of July, 2007.

_____ (L.S.)

Notary Public for Harris County, Texas

My Commission Expires: 6/24/2010

KATHRYN O. WILLIS
NOTARY PUBLIC
STATE OF TEXAS
EXPIRES
06-24-2010

EXHIBIT "A"

[Legal Description]

Attached Hereto and Incorporated Herein By Reference

CERTIFICATE OF SERVICE

I, the undersigned, of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Defendant, DDC Construction, do hereby certify that I have served all counsel in this action with a copy of the document(s) hereinbelow specified.

Document(s):

> Supplement to Record in Further Support of Motion for Non-Jury Trial and to Strike Plaintiffs' Class Action Allegations and Jury Trial Demand by DDC Construction, Inc., DMC Consolidated, Inc., DMC Builders, Co., Inc., individually as d/b/a The Dinerstein Companies, DC Developers-Columbia Condos, Inc., Columbia Condos, LP, DMC Developers I, Ltd, Associated Concrete Contractors, Inc., Bailey electric Company, LLC, C&B Utilities, LP, Carolina Floor Systems, Inc., Century Fire Protection, LLC, Cherokee, Inc., Coronado Stucco, LP, Cross Plains Custom Tile, Inc., Lowry Construction & Framing, Inc., LTB Construction, Inc., Martin Morales, Jr. Painting & Drywall, LLC, Metal Construction materials, Inc., Wyman Acoustics, LLC and Highway One Construction, Inc.

Counsel Served *(via email and US Mail to Counsel for whomever the response is directed to and email only to all other counsel)*

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Lisa S. Shumpert

June 19, 2014

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FIFTH JUDICIAL CIRCUIT

The Gates at Williams-Brice Condominium Association and Katharine Swinson, individually, and on behalf of all others similarly situated, Plaintiffs, vs. DDC Construction, Inc., et al. Defendants.) Civil Action No. 2012-CP-40-8512

MOTION AND ORDER INFORMATION COVER SHEET

Plaintiffs' Attorney:	Defendants' Attorney:
Justin O'Toole Lucey PO Box 806 Mt. Pleasant, SC 29465	Erik T. Norton P. O. Box 11070 Columbia, SC 29201

RICHLAND COUNTY FILED
2014 AUG -1 PM 4:15
JEANNETTE W. McBRIDE
C.C.P., G.S.

☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Motion for Reconsideration
Estimated Time Needed: 20 min Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

/s/ Erik T. Norton
Signature of Attorney for ☐ Plaintiffs / ☒ Defendants

August 1, 2014
Date submitted

SECTION III: Motion Fee

☒ PAID – AMOUNT: $25.00
☐ EXEMPT (check reason)
- ☐ Rule to Show Cause in Child or Spousal Support
- ☐ Domestic Abuse or Abuse and Neglect
- ☐ Indigent Status ☐ State Agency v. Indigent Party
- ☐ Sexually Violent Predator Act ☐ Post Conviction Relief
- ☐ Motion for Stay in Bankruptcy
- ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
- ☐ Proposed order submitted at request of the court, or, reduced to writing from motion made in open court per judge's instructions
  Name of Court Reporter: _____
- ☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.
☐ Other: _____

JUDGE CODE: _____
Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____
☐ MOTION FEE COLLECTED: $ _____
☐ CONTESTED – AMOUNT DUE: $ _____

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FIFTH JUDICIAL CIRCUIT

The Gates at Williams-Brice Condominium Association and Katharine Swinson, individually, and on behalf of all others similarly situated,

Plaintiffs,

vs.

DDC Construction, Inc.; Kapasi Glass Mart, Inc.; DMC Consolidated, Inc.; DMC Builders, Co., Inc., individually and d/b/a The Dinerstein Companies; DC Developers – Columbia Condos, Inc.; Columbia Condos, LP; DMC Developers I, Ltd.; 31-W Insulation Company, Inc.; Associated Concrete Contractors, Inc.; Bailey Electric Company, LLC; C&B Utilities, LP; Carolina Floor Systems, Inc.; Century Fire Protection, LLC; Cherokee Inc.; Coronado Stucco, LP; Cross Plains Custom Tile, Inc.; Lowry Construction & Framing Inc.; LTB Construction, Inc.; Martin Morales Jr. Painting & Drywall, LLC; Metal Construction Materials, Inc.; Southwest Ironworks, Inc.; The Clerkley/Watkins Group, LP; Tindall Corporation; Triad Pest Control, Inc.; Wyman Acoustics LLC; Alenco Inc. d/b/a Ply Gem Window Group; Crosby Window, Inc., f/k/a Action WinDoor Technology, Inc.; Geo-Systems Design & Testing, Inc.; HGE Consulting, Inc.; Maintenance Builders Supply, Ltd.; SCA Engineers, Inc.; Sinclair & Associates, Inc.; Faultless Hardware, individually and d/b/a Pamex Inc. and John Doe #1-10,

Defendants.

Civil Action No. 2012-CP-40-8512

MOTION TO RECONSIDER

RICHLAND COUNTY
FILED
2014 AUG -7 PM 4:15
JEANNETTE W. McBRIDE
C.C.P. & G.S.

PLAINTIFF'S MOTION PURSUANT TO S.C. R. CIV. P. 52 AND 59(e) REGARDING ORDER DATED JULY 17, 2014, DENYING MOTION DEMANDING NON-JURY TRIAL AND DISMISSAL OF CLASS ACTION ALLEGATIONS

Pursuant to S.C. R. Civ. P. 52 and 59, Defendants DDC Construction, Inc.; DMC Consolidated, Inc.; DMC Builders, Co., Inc., individually and improperly identified as d/b/a The Dinerstein Companies; DC Developers – Columbia Condos, Inc.; Columbia Condos, LP; DMC Developers I, Ltd.; Associated Concrete Contractors, Inc.; Bailey Electric Company, LLC; C&B Utilities, LP; Carolina Floor Systems, Inc.; Century Fire Protection, LLC; Cherokee Inc.; Coronado Stucco, LP; Cross Plains Custom Tile, Inc.; Lowry Construction & Framing Inc.; LTB Construction, Inc.; Martin Morales Jr. Painting & Drywall, LLC; Metal Construction Materials, Inc.; Wyman Acoustics LLC; and Highway One Construction, Inc. ("Moving Defendants") timely request that this Court reconsider, alter, amend and/or clarify its Order dated July 17, 2014 ("Order") denying Moving Defendants' Motion For Non-Jury Trial and To Strike Class Action Allegations and Jury Trial Demand ("Motion"). The undersigned received notice of the entry of the Order on July 23, 2014, and this motion is therefore timely filed.

Moving Defendants request that the Court reconsider its rulings denying the Motion, reverse those rulings, and alter its order to expressly rule on Moving Defendants' arguments in their favor, including those that present questions ripe for review that the Court did not expressly address in the Order. Among the issues the Court should reconsider and address are:

(1) the timeliness of Moving Defendants' challenge to the mode of trial and class action allegations;

(2) the effect of class action and jury trial waivers in the Master Deed;

(3) retroactive application of the Second Amendment to the Master Deed and By-Laws;

(4) Plaintiffs' right to amend the Master Deed to eliminate jury trial waivers and class action waivers incorporated into contracts with condominium purchasers;

(5) waiver of the jury trial waivers and class action waivers;

(6) unconscionability of the jury trial waivers and class action waivers.

The grounds supporting Moving Defendants' arguments as to each issue for the Court to reconsider are set forth below. Moving Defendants also expressly incorporate by reference their motions, with attachments, their Answers to the various Complaints filed in this matter, and the Supplement to Record in Further Support of Motion for Non-Jury Trial and To Strike Plaintiffs' Class Action Allegations and Jury Trial Demand filed by Moving Defendants in this matter, the Proposed Order submitted by Moving Defendants, the arguments made at the hearings before this Court, and such other and further pleadings, motions, and affidavits in the Record and considered by this Court in deciding this motion.

I. Moving Defendants Timely Objected To Plaintiffs' Demand For Jury Trial And Class Action Allegations.

The Order incorrectly finds that Moving Defendants did not file a motion objecting to Plaintiffs' request for a jury trial and class action allegations prior to filing their Answer to the original Complaint. See Order at 8-9. To reach this conclusion, the Order wrongly relies only on timeliness requirements pursuant to certain provisions of S.C. R. Civ. P. 12 and fails to address Moving Defendants' arguments under S.C. R. Civ. P. 39 and 23, which do not contain any requirements as to when a motion

pursuant to these Rules may be filed. See Order at 8-9. In fact, neither Rule 23(d) nor Rule 39 even require a motion to be filed for the Court to find that a party is not entitled to a jury trial, both allowing the Court to rule on its own initiative.

Further, holding that a motion is required prior to a party's *initial* responsive pleading is inconsistent with S.C. R. Civ. P. 38(d), which allows a party to demand a jury trial within ten days of its *last* pleading. Here, Plaintiffs have amended three times with a fourth request to amend approved pending a Motion for Reconsideration filed by other defendants. Moving Defendants have denied Plaintiffs' right to a jury trial and a class action in each responsive pleading, and this Motion plainly was filed prior to Plaintiffs' *last* responsive pleading, which has not even been served at this point. Therefore, even if there were a requirement for when a motion under Rule 39 had to be filed, Moving Defendants' motion would be timely in this case because Plaintiffs continue to amend their Complaint.

Further, the Order cites Foggie v. CSX Transp., Inc., 313 S.C. 98, 431 S.E.2d 587 (1993), for the proposition that issues regarding mode of trial should be raised at the first opportunity. This Court's Order and the Plaintiffs' arguments are short-sighted. First, Foggie is wholly unrelated to motions to dismiss class action allegations under Rule 23. Second, Foggie is a case where the issues regarding mode of trial were not raised until appeal. Of course the mode of trial issue was waived in that case—the parties had already tried the case before the issue was even raised. That is not the case here, where the Moving Defendants raised the issue in their initial responsive pleading and all responsive pleadings since. Certainly, this case has not been tried as was the case in Foggie.

Moreover, like Rule 39, Foggie does not require that any motion be filed. Foggie only informs us that the party desiring a trial by the court cannot wait until after trial to ask for it. This Court's Order does not address or acknowledge that, in their Answer to the initial Complaint, Moving Defendants denied Plaintiffs' allegations that they are entitled to a jury trial and to proceed as a class. Because Moving Defendants raised the issue in their initial responsive pleading, to the extent Foggie applies, they met the Foggie requirement by raising the issue at the earliest opportunity. See, e.g., Rule 38(b), SCRCP (providing that a demand for a jury trial must be made in the pleadings or within 10 days of service of the last pleading).

Plaintiffs also have continued to amend their claims, adding parties who have the right to a non-jury trial and to enforce the class action waiver, such as Highway One Construction, who was named in the Second Amended Complaint and filed this motion within approximately thirty days of being named in this action. The other Moving Defendants have denied that Plaintiffs have any right to a jury trial and class action proceeding in every single responsive pleading they have filed in this action and have asserted waiver as an affirmative defense in every single responsive pleading. In response to the operative pleading in the case, in order to clarify whatever confusion Plaintiffs may claim existed about the Moving Defendants' prior express objections and assertion of waiver, all Moving Defendants specifically asserted waiver of jury trial and waiver of class action claims as separate affirmative defenses in their operative responsive pleadings.

Further, the great weight of authority is contradictory to the Court's ruling. In fact, "it is well established that a party (or the court on its own initiative) may move to strike a jury demand at any time, even on the eve of trial." Mowbray v. Zumot, 536 F.

Supp. 2d 617, 621 (D. Md. 2008) (citing James William Moore et al., Moore's Federal Practice § 39.13) (interpreting Rule 39 of the Federal Rules of Civil Procedure); Beach Co. v. Twillman, Ltd., 351 S.C. 56, 62, 566 S.E.2d 863, 865-66 (Ct. App. 2002) (noting that South Carolina courts may rely on federal law interpreting a Federal Rule of Civil Procedure to interpret the same South Carolina Rule of Civil Procedure). See also RCSH Operations, L.L.C. v. Third Crystal Park Associates L.P., 115 Fed. Appx. 621, 633, 2004 WL 2596032, 10 (4th Cir. 2004) (affirming the enforcement of a jury waiver provision where the motion to strike the jury demand was made approximately four weeks before trial); Tracinda Corp. v. DaimlerChrysler, AG, 502 F.3d 212, 227 (3rd Cir. 2007) ("Because a party may file a motion to strike a jury demand at any time under Rule 39(a), we conclude that DaimlerChrysler did not commit inexcusable delay by filing its motion to strike after the close of discovery."); Kramer v. Banc of Am. Secs., LLC, 355 F.3d 961, 968 (7th Cir. 2004) (affirming decision granting motion to strike jury demand made two weeks prior to trial); U.S. v. Schoenborn, 860 F.2d 1448 (8th Cir. 1988) (holding no abuse of discretion when request for jury trial was stricken one day prior to trial); Armco, Inc. v. Armco Burglar Alarm Co., 693 F.2d 1155, 1158 (5th Cir. 1982) (noting the trial judge's grant of a motion to strike jury demand filed on the eve of trial); CPI Plastics, Inc. v. USX Corp., 22 F. Supp. 2d 1373 (N.D. Ga. 1988), aff'd 212 F.3d 599 (11th Cir. 2000) (granting a motion to strike jury demand filed two weeks before trial); Jones-Hailey v. Corporation of Tennessee Valley Authority, 660 F. Supp. 551, 553 (E.D. Tenn. 1987) (granting a motion to strike made one month before the scheduled trial date); Bear, Stearns Funding, Inc. v. Interface Group-Nev., Inc., 03-Civ-8259, 2007 U.S. Dist. Lexis 82557, *9-16 (S.D.N.Y. Nov. 7, 2007) (striking request for jury trial after the end of discovery and coupled with a

summary judgment brief).

In sum, the Moving Defendants filed their motion timely and did not waive their rights to challenge Plaintiffs' demand for a class action (i.e., Rule 23) or jury trial (i.e., Rule 39, Lester, and Foggie) by first raising the issue in their answer(s) and then by filing the subject motion before the case is tried.

II. The Jury Trial and Class Action Waivers Should Be Enforced Because The HOA's Amendment Of The Master Deed After It Filed The Complaint Does Not Apply Retroactively.

The Order finds that the Amendment to the Master Deed purporting to eliminate the jury trial and class action waivers ("Second Amendment") applies retroactively to this action even though the Second Amendment was made some four months after the Complaint was filed. See Order at 9-11. However, none of the cases cited in the Order for this holding actually support retroactive application.

First, the Order cites the case of Apple II Condo. Ass'n v. Worth Bank & Trust Co., 659 N.E.2d 93, 98 (Ill. App. Ct. 1995). See Order at 9-10. As an initial matter, this Illinois case, which is not binding on our courts, deals with applying amendments to a Declaration of Covenants to *owners* of a condominium unit rather than applying amendments to a Master Deed to the *developer* of the condominium project. Apple II, 659 N.E.2d 93. More importantly, although the Apple II court dealt with an amendment to a condominium association's Declaration, the amendment was not applied retroactively in the sense that Plaintiffs request here. Id.

In Apple II, Mr. and Mrs. Harmon leased their condominium unit to three women for one year. Id. at 95. During that year, the association amended the Declaration to add a provision which allowed unit owners to lease their unit only once

and prohibited any *subsequent* lease. Id. Nevertheless, the Harmons renewed their lease to the three women at the end of the year. Id. at 96. The Association then sought to evict the Harmons' tenants, and the Harmons argued that the amendment could not be given "retroactive application" to members who had purchased their units before the amendments were enacted. Id.

The court held that Illinois' Condominium Property Act specifically provided that such amendments are "deemed effective upon recordation unless the amendment sets forth a different effective date" and unit owners had notice that such amendments could take place. Id. at 97. Therefore, the Harmons were bound by the amendment and were not allowed to enter into the subsequent lease despite the fact that they purchased their unit prior to the amendment. Id. at 97-99. In this sense, the amendment was "retroactively applied" to those who purchased their units before the amendments. However, the amendment itself only applied prospectively—namely, to future leases—and the amendment only became effective once it was recorded.

The Order also cites Queens Grant II Horizontal Prop. Regime v. Greenwood Dev. Corp., 368 S.C. 342, 365, 628 S.E.2d 902, 915 (S.C. Ct. App. 2006), which similarly fails to provide any support for the Court's ruling. See Order at 10. Like Apple II, Queens Grant II deals with applying amendments to a Declaration of Covenants to *owners* of a condominium unit rather than applying amendments to a Master Deed to the *developer* of a condominium project. 368 S.C. 342, 628 S.E.2d 902. Moreover, Queens Grant II only deals with a forward-looking amendment increasing maintenance assessments from which unit owners sought prospective relief. Id. In fact, the Queens Grant II court specifically noted that this claim sought only prospective relief. Id. at 354, 628 S.E.2d at 910. Like in Apple II, the issue was

whether the assessments applied to purchasers who bought prior to the amendment, not application of the amendment prior to its stated effective date.

Next, the Order cites another non-binding case, Frantz v. Piccadilly Place Condominium Ass'n, 597 S.E.2d 354, 357 (Ga. 2004), claiming that it holds "an amendment to condominium declaration applied retroactively to condominium association's claims against a unit owner." See Order at 10. However, the Frantz court did not accept the argument that the amendment was being retroactively applied as suggested in the Order. 597 S.E.2d 354.

In Frantz, the condominium association amended its declaration to allow it to suspend utilities to any unit that had total final judgments of more than $750 after it had obtained a judgment against Frantz for unpaid assessments of more than $9,000 for his unit. Id. at 356. The trial court refused Frantz's request for a temporary restraining order to prevent the suspension of his utilities, and Frantz argued that this inappropriately gave retroactive application to the amendment. Id. at 356-57. The appellate court did not agree that the amendment applied retroactively, noting that it was merely an "alleged retroactivity." Id. The opinion does note that, under Georgia law, contracting parties may agree for terms to apply retroactively, but in this case the amendment was specifically made effective after the Complaint was filed and, in any event, the Moving Defendants certainly did not agree to it.[1]

Finally, the Court cites Crest Builders, Inc. v. Willow Falls Improvement Ass'n, 393 N.E.2d 107, 109-10 (Ill. Ct. App. 1979), to support its retroactive

[1] The Order cites several cases for the proposition that parties to a contract may give retroactive effect to their contractual provision. However, the Order ignores that the parties specifically chose to do the opposite in this instance. See Order at 10-11. The Second Amendment explicitly states that it "shall not be effective until recorded in the RMC Office for Richland County."

application of the Second Amendment. See Order at 10. Although a non-binding out-of-state case, it too does not deal with any retroactive application of a condominium's declaration as suggested by the Order. In Crest Builders, the association amended the declaration to terminate the developer's rights to advertise and promote units in the condominium complex—a totally prospective amendment. 393 N.E.2d at 108. In discussing the developer's request to enjoin the association from implementing the amendment, the court noted that the developer would "no longer" be able to advertise or show the units. Id. at 109. There was simply no discussion of the amendment being effective prior to its enactment and, therefore, it provides no support for this Court's ruling.

Other cases cited by the Court in support of its retroactive application of the Second Amendment are not related to amendments to condominium Declarations or Master Deeds whatsoever and, therefore, provide no support for the Court's ruling. See Order at 9-11 (citing Wayburn v. Smith, 270 S.C. 38, 42, 239 S.E.2d 890, 892 (1977) (construing a deed as a whole by ascertaining the grantor's intent where the granting clause indicates the conveyance of only a life estate of the property but the habendum clause indicates conveyance in fee simple); Easterby-Thackston, Inc. v. Chrysler Corp., 477 F. Supp. 954, 956 (D.S.C. 1979)[2] (determining that South Carolina's Regulation of Manufacturers, Distributors and Dealers Act did not apply retroactively to a particular dealership contract); Fort Sumter Tours, Inc. v. Babbitt, 66 F.3d 1324, 1331-32 (4th Cir. 1995) (addressing the validity of a contractual provision

[2] Although this case was included in the Order, it was not included in Plaintiffs' memorandum in support of their position on this Motion.

allowing for the readjustment of franchise fees which was found not to be a modification of the contract)).

Therefore, although Plaintiffs now attempt to argue that the amendment is effective retroactively as of the date of the original Master Deed, their own amendment specifically states that it is effective only upon its recording. Because the amendment deletes the jury trial and class action waivers as of its recording on June 5, 2013, these waivers would not be in effect after that date (if the amendment is valid). However, the jury trial and class actions waivers were in effect prior to June 5, 2013, including at the time the Complaint was filed on December 26, 2012. As such, this Court should enforce them and refer this case to the non-jury docket and dismiss the class action allegations.

III. The Second Amendment Is Not Enforceable As To The Moving Defendants Even If It Could Apply Retroactively.

The Order finds that the Moving Defendants cannot challenge the Second Amendment to the Master Deed under provisions of the Uniform Non-Profit Corporation Act. See Order at 11-12. This is incorrect as a matter of law. The Uniform Non-Profit Corporation Act, which applies to challenges to the validity of a corporate act, does not apply to an action to challenge an amendment to the Master Deed. See S.C. Code Ann. § 33-31-101 et seq. The Master Deed is not a corporate governance document of the HOA, but a deed of real property that is to be relied on by both the parties to the document and the public at large. The amendment provisions relied on by Plaintiffs are in the Master Deed, not the HOA's bylaws or other governing documents. The Moving Defendants certainly may challenge an amendment to the Master Deed because the Moving Defendants remain bound to it and also retain

certain rights, as specifically noted in Article XXXIII of the Master Deed and the dispute resolution provisions in Article IV and Article XXXV. Indeed, the Horizontal Property Regime Act requires that the master deed include "a description of the full legal rights and obligations, both currently existing and which may occur, of the apartment owners, the co-owners, and the person establishing the regime." S.C. Code Ann. § 27-31-100(f). The Uniform Non-Profit Act therefore does not prohibit the Moving Defendants from asserting that the Second Amendment to the Master Deed is not effective because amendment of the Master Deed is not an act of the corporation governed by the Uniform Non-Profit Act.

Beyond not having any retroactive effect, the Second Amendment is not effective for two reasons not addressed in the Order. First, it is undisputed that the HOA did not secure the prior permission of mortgage holders as required by Section XIII of the Master Deed. Therefore, the Amendment is not effective.

Second, the Order does not address limitations of the HOA to unilaterally amend the Master Deed. The Order cites, in a string cite without discussion, the non-binding Fourth Circuit case of Fort Sumter Tours, Inc. v. Babbitt[3] for the proposition that a unilateral modification of contractual terms by one party via a process outlined in the contract is enforceable. 66 F.3d. at 1331-32. That case, however, is entirely different from the present case. Fort Sumter addresses the validity of a contractual provision allowing for the readjustment of franchise fees, not amendment of the contract. Id. In fact, the Fourth Circuit held that the readjustment provision "was not technically a modification of the contract at issue." Id. The situation in Fort Sumter

[3] Although this case was included in the Order, it was not included in Plaintiffs' memorandum in support of their position on this Motion.

therefore is entirely different than the amendment to a Master Deed, a publicly filed document which runs with the land instead of a private contract binding only on the parties to that contract.

The undersigned is aware of no reported South Carolina case specifically addressing this issue on similar facts, but other cases are much more instructive as to the HOA's limited power to amend. For example, the North Carolina Supreme Court has held, after collecting cases from across the country holding similarly, that "a provision authorizing a homeowners' association to amend a declaration of covenants does not permit amendments of unlimited scope; rather, every amendment must be *reasonable* in light of the contracting parties' original intent." Armstrong v. Ledges Homeowners Ass'n, Inc., 633 S.E.2d 78, 87 (N.C. 2006) (emphasis in original). The Armstrong court went on to hold that reasonableness is an objective standard to be determined by the Court, stating "[r]easonableness may be ascertained from the language of the declaration, deeds, and plats, together with other objective circumstances surrounding the parties' bargain, including the nature and character of the community." Id.

The amendment at issue in Armstrong authorized broad general-purpose assessments for the common benefit of the community. Id. at 88. However, the small neighborhood had no common elements, no private roads, and no amenities, and the original declaration didn't reveal any intention to confer such broad powers to the association. Id. at 88-89. "This Court will not permit the Association to use the Declaration's amendment provision as a vehicle for imposing a new and different set of covenants, thereby substituting a new obligation for the original bargain of the

covenanting parties." Id. at 89. Based on this, the Armstrong court found that the amendment was unreasonable and, therefore, invalid and unenforceable. Id. at 88-89.

The North Carolina Court of Appeals has recently relied on the Armstrong decision to invalidate unreasonable amendments to an association's declaration. Wallach v. Linville Owners Ass'n, Inc., 2014 WL 2937071, Slip Op. No. COA13-1116 (N.C. Ct. App. July 1, 2014). The amendment at issue terminated benefits afforded to builders in the original declaration including reduced assessments and deferred payment of assessments until the sale or rental of their lot. Id. at *5-6. The Wallach court found the amendment was unreasonable because it "eliminates benefits . . . that likely persuaded builders to purchase lots in the first place and were essential to the original bargain." Id. at *9. The court refused to enforce the unreasonable amendment, ruling that the association should not be permitted to "amend the Declaration to the detriment of the builders who purchased lots with the expectation that they would be afforded the benefits." Id.

Like other courts from across the country, this Court should apply a reasonableness standard to determine whether the Second Amendment is enforceable against the Moving Defendants in this case. When applying the reasonableness test to the facts of this case, the inescapable conclusion is that the HOA's unilateral amendment of the dispute resolution provisions after the lawsuit was filed is unreasonable and invalid as to the Moving Defendants. Consequently, the jury trial and class action waivers remain valid and should be enforced.

IV. The Moving Defendants' Decision Not To Arbitrate Does Not Effect Their Right To A Non-Jury Trial Or The Right To Enforce Plaintiffs' Waiver Of Their Right To Proceed As a Class.

The Order incorrectly finds that the Moving Defendants' decision not to seek arbitration constitutes a waiver of their right to a nonjury trial because the jury trial and class action waivers are not severable from the arbitration provision in the Master Deed. See Order at 14. However, the Order does not address the fact that the jury trial waiver and class action waiver are in separate sections of the Master Deed, or that they were both raised in Moving Defendants' responsive pleadings. The Order also does not address the severability clause found in the Master Deed at Article XXXII. In addition, finding that the decision not to arbitrate constitutes a waiver of the separate non-jury trial provision would violate a basic tenet of contract construction by rendering the nonjury waiver meaningless because all arbitrations are non-jury.

Therefore, the Order is incorrect when it finds that the Moving Defendants' decision not to arbitrate is a knowing waiver of their right to a nonjury trial and to proceed without a class action.

V. The Jury Trial Waivers And Class Action Waivers Are Not Unconscionable.

The Court incorrectly found that the jury trial waivers and class action waivers were unconscionable based on Smith v. D.R. Horton, 403 S.C. 10, 15, 742 S.E.2d 37, 40 (Ct. App. 2013). See Order at 15-17. Smith is wholly inapposite to this case because it involved a consumer purchase contract with multiple objectionable terms limiting liability resulting in an unenforceable one sided contract. Id. The present motion includes jury trial and class action waivers that have been found enforceable in multiple South Carolina cases, as noted in Moving Defendants' prior submissions.

Further, in the present case, the Master Deed contains conspicuous language, is publicly recorded and is required to be explained to Plaintiffs by their counsel at the closing on their condominium units. The waivers are in bold and all capitals with a heading underlined and titled "Waiver of Jury Trial." The language is clear and unambiguous, stating that no one bound by the Master Deed "shall seek a jury trial in any lawsuit . . . ." and further notes that the waiver includes "without limitation waiver of any type of class action suit."

In short, the Master Deed contains ordinary jury trial and class action waiver language located conspicuously in publicly filed documents and explained to parties by counsel at closing. As such, they are enforceable under South Carolina law.

CONCLUSION

The Order errs by allowing Plaintiffs to avoid the effect of valid jury trial and class action waivers by amending the dispute resolution provisions of the Master Deed *after* they filed this litigation. Even if the Second Amendment did apply retroactively, which it does not, it is not valid because the HOA did not have authority to amend the Master Deed without prior permission from mortgage holders. Further, the HOA's deletion of the dispute resolution provisions after litigation had begun was unreasonable. Therefore, the Moving Defendants request that this Court specifically consider and address all arguments and issues brought before it by Moving Defendants, reconsider and reverse, alter, amend or modify the Order to find that Moving Defendants are entitled to a non-jury trial and Plaintiffs have waived their right to a class action lawsuit, refer the case to the non-jury docket, and dismiss Plaintiff's class allegations.

NELSON MULLINS RILEY & SCARBOROUGH LLP

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Attorneys for Moving Defendants

Columbia, South Carolina

August 1, 2014

CERTIFICATE OF SERVICE

I, the undersigned, of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Defendant, DDC Construction, do hereby certify that I have served all counsel in this action with a copy of the document(s) hereinbelow specified:

RICHLAND COUNTY
FILED
14 AUG -1 PM 4:15
ANNETTE W. MCBRIDE
C.C.P. & G.S.

Document(s):

Motion to Reconsider

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