

BY LAWS
OF
118 McGOWEN CONDOMINIUM ASSOCIATION, INC.
(a Texas nonprofit corporation)

ARTICLE I

Purposes; Defined Terms

Section 1.1 *Purposes of Association.* The 118 McGowen Condominium Association, Inc., a Texas nonprofit corporation (the "**Association**"), is organized exclusively to exercise the rights and powers and to perform the duties and obligations of the Association in accordance with the Declaration of Condominium for 118 McGowen Condominium, to be recorded in the Real Property Records of Harris County, Texas (the "**Declaration**"), the Articles of Incorporation of the Association (the "**Articles**"), these bylaws (these "**Bylaws**"), and the laws of the State of Texas, as each may be amended from time to time.

Section 1.2 *Purpose of Bylaws.* These Bylaws provide for the governance of the Condominium known as 118 McGowen, located in the City of Houston, Harris County, Texas, subject to and more fully described in the Declaration.

Section 1.3 *Offices.* The principal office of the Association shall be located at 322 Julie Rivers Drive, Sugar Land, Texas 77478. The Association shall have and continuously maintain in the State of Texas a registered office, and a registered agent whose office is identical with such registered office, as required by the Texas Non-Profit Corporation Act. The registered office may, but need not, be identical with the principal office of the Association in the State of Texas, and the registered office and registered agent may be changed from time to time by the Board of Directors. The Association may have such other offices, either within or outside of the State of Texas, as the Board of Directors may determine or as the affairs of the Association may require from time to time. The Board of Directors may change the location of any office of the Association.

Section 1.4 *Definitions.* Capitalized terms not defined herein or in the Declaration shall have the meaning specified or used in the Uniform Condominium Act (Texas Property Code, Chapter 82) (the "**Act**").

ARTICLE II

Members

Section 2.1 *Membership.* Upon becoming an Owner, each Owner shall automatically become a member ("**Member**") of the Association, and shall remain a Member thereof until such time as his or her ownership ceases for any reason, at which time his or her membership in the Association shall also automatically cease, and no other person or entity shall be entitled to

membership in the Association, except as expressly provided herein or in the Declaration. No Owner shall be required to pay any consideration whatsoever solely for his or her membership in the Association. Upon any transfer of ownership of any Unit, the new Owner acquiring or succeeding to such ownership interest shall likewise automatically succeed to such membership in the Association.

Section 2.2 *Annual Meeting.* An annual meeting of the Members of the Association shall be held at a location in Houston, Texas designated by the Board of Directors during the month of January of each year, or at such other time and place as the Board of Directors of the Association shall determine. At annual meetings, the Members shall elect directors of the Association ("**Directors**") in accordance with these Bylaws and may also transact such other business of the Association as may properly come before them.

Section 2.3 *Special Meetings.* Except as otherwise provided by law or the Declaration, a special meeting of the Association may be called by the President, by a majority of the members of the Board of Directors, or by Owners having in the aggregate at least twenty percent (20%) of the Percentages of Common Interest Ownership entitled to be cast at such meeting. Such meeting shall be held within 30 days after being called. No more than two special meetings may be held during any 30-day period. Business transacted at any special meeting of Members shall be limited to the purposes stated in the notice of the meeting given in accordance with the terms of Section 2.5.

Section 2.4 *Open Meetings, Place of Meetings.* All meetings of the Members shall be open to all Owners, and shall be held at the Condominium or at a suitable place convenient to the Members, as determined by the Board of Directors.

Section 2.5 *Notice of Meetings; Waiver.* Notice of each meeting of Members, stating the place, day, and hour of any meeting and, in case of a special meeting of Members, the purpose or purposes for which the meeting is called, shall be given at least ten (10) days but not more than 60 days prior to such meeting. Notices shall also set forth any other items of information deemed appropriate by the Board of Directors. If a Unit is owned by more than one person, notice to one Co-Owner shall be deemed notice to all co-Owners. Notice may be given either personally, by facsimile transmission, electronically by "E-Mail", or by mail, by or at the direction of the persons calling the meeting, to each Member. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, postage prepaid, addressed to the Member at the address shown on the Association's records. If transmitted by facsimile, notice shall be deemed delivered on successful transmission of the facsimile. Whenever any notice is required to be given to a Member, a written waiver of the notice, signed by the person or persons entitled to such notice, whether before or after the time stated in the notice, shall be equivalent to the giving of such notice. Attendance by a Member, whether in person or by proxy, at any meeting of the Association shall constitute a waiver of notice by such Member of the time, place, and purpose of such meeting. If all Members are present at any meeting of the Association, no notice shall be required and any business may be transacted at such meeting.

Section 2.6 *Ineligibility.* The Board of Directors may determine that no Member may (i) vote at meetings of the Association or (ii) be elected to serve as a Director if the Member's financial account with the Association is in arrears on, the record dates provided below, provided each ineligible Member shall be given notice of the arrearage and an opportunity to become

eligible. The Board of Directors may specify the manner, place, and time for payment for purposes of restoring eligibility.

Section 2.7 *Record Dates.*

(a) *Determining Voting Eligibility.* The Board of Directors shall fix a date as the record date for determining the Members entitled to vote at a meeting of the Association. The record date may not be more than sixty (60) days before the date of a meeting of the Association at which Members will vote.

(b) *Determining Rights Eligibility.* The Board of Directors shall fix a date as the record date for determining the Members entitled to exercise any rights other than those described in the preceding paragraph. The record date may not be more than sixty (60) days before the date of the action for which eligibility is required, such as nomination to the Board of Directors.

(c) *Adjournments.* A determination of Members entitled to notice of or to vote at a meeting of the Association is effective for any adjournment of the meeting unless the Board of Directors fixes a new date for determining the right to notice or the right to vote. The Board of Directors must fix a new date for determining the right to notice or the right to vote if the meeting is adjourned to a date more than 90 days after the record date for determining Members entitled to notice of the original meeting.

Section 2.8 *Voting Members List.* The Board of Directors shall prepare and make available a list of the Association's voting Members in accordance with Art. 1396-2.1 1B of the Texas Non-Profit Corporation Act.

Section 2.9 *Quorum.* At any meeting of the Association, the presence in person or by proxy of Members entitled to cast and eligible to vote at least 30 percent of the Percentages of Common Interest Ownership that may be cast shall constitute a quorum. Members present at a meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal, during the course of the meeting, of Members constituting a quorum.

Section 2.10 *Votes.* Each Member shall be entitled to a vote, the value of which shall equal the total of the Percentages of Common Interest Ownership assigned to the Units owned by such Owner as set forth in the Declaration; *provided, however,* that a Member shall not be entitled to a vote if such Member is determined to be ineligible to vote by the Board of Directors pursuant to Section 2.6 of these Bylaws. The vote of a majority of the Percentages of Common Interest Ownership entitled to be cast by Members present, whether in person or by proxy, at a meeting at which a quorum is present shall be binding upon all Members for all purposes, unless the vote of a greater number is required by the Declaration, these Bylaws or by law. The right of a Member to vote at any meeting of the Association is subject to the following limitations:

(a) *Co-Owned Units.* If only one of the multiple Owners of a Unit is present at a meeting of the Association, that person may cast the vote or votes allocated to that Unit, and such vote shall be binding on such Owners who are not present at such meeting unless written notice to the contrary has been received by the Association in which case the unanimous action

of all such Owners (in person or by written proxy) shall be required to cast their vote as Owners. If more than one of the multiple Owners is present, the vote or votes allocated to that Unit may be cast only in accordance with the Owners' unanimous agreement. Multiple Owners are in unanimous agreement if one of the multiple Owners casts the votes allocated to a Unit and none of the other Owners of the Unit makes prompt protest to the person presiding over the meeting.

(b) *Corporation-Owned Units.* If a Unit is owned by a corporation, the vote appurtenant to that Unit may be cast by any officer of the corporation in the absence of express notice of the designation of a specific person by the board of directors or bylaws of the owning corporation. The vote of a partnership may be cast by any general partner of the owning partnership in the absence of express notice of the designation of a specific person by the owning partnership. The person presiding over a meeting or vote may require reasonable evidence that a person voting on behalf of a corporation or partnership is qualified to vote.

(c) *Association-Owned Units.* Votes allocated to a Unit owned by the Association may not be cast.

Section 2.11 *Proxies.* Votes allocated to a Unit may be cast in person or by written proxy. To be valid, each proxy shall (i) be signed and dated by a Member or his or her attorney-in-fact; (ii) identify the Unit to which the vote is appurtenant; (iii) name the person in favor of whom the proxy is granted, such person having agreed to exercise the proxy; (iv) identify the purpose or meeting for which the proxy is given; (v) not purport to be revocable without notice; and (vi) the original (or, an original delivered by legible facsimile transmission) must be delivered to the Secretary or to the person presiding over the Association meeting for which the proxy is designated. Unless the proxy specifies a shorter or longer time, it shall terminate one year after its date. To revoke a proxy, the granting Member must give actual notice of revocation to the person presiding over the Association meeting for which the proxy is designated. A proxy bearing a later date shall be deemed to be a revocation of any prior proxy. Unless revoked, any proxy designated for a meeting which is adjourned, recessed, or rescheduled shall be valid when such meeting reconvenes.

Section 2.12 *Conduct of Meetings.* The President, or any person designated by the Board of Directors, shall preside over meetings of the Association. The Secretary shall keep, or cause to be kept, the minutes of the meeting which shall record all resolutions adopted and all transactions occurring at the meeting, as well as a record of any votes taken at the meeting. The person presiding over the meeting may appoint a parliamentarian. The then-current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Association when not in conflict with the Condominium Documents. Votes shall be tallied by tellers appointed by the person presiding over the meeting.

Section 2.13 *Order of Business.* Unless the notice of meeting states otherwise, the order of business at meetings of the Association shall be as follows:

- (1) Determine votes present by roll call or check-in procedure
- (2) Announcement of quorum
- (3) Proof of notice of meeting
- (4) Reading and approval of minutes of preceding meeting
- (5) Reports

- (6) Election of Directors (when required)
- (7) New business
- (8) Special Business (if any)
- (9) Adjournment

Section 2.14 *Adjournment of Meeting.* At any meeting of the Association, the vote of a majority of the Percentages of Common Interest Ownership entitled to be cast by Members present, whether in person or by proxy, at a meeting at which a quorum is present, may adjourn the meeting to another time.

ARTICLE III

Board of Directors

Section 3.1 *Powers and Duties.* The Board of Directors shall have all the powers and duties necessary for the administration of the Association and for the operation and maintenance of the Condominium. The Board of Directors may do all such acts and things except those which, by law or the Condominium Documents, are reserved to the Members and may not be delegated to the Board of Directors.

Section 3.2 *Number and Term of Office.* During the period of Declarant Control, as set forth in Article XI hereof, the number of Directors shall be three (3) and said Directors shall serve at the pleasure of Declarant. At the first meeting of Owners after expiration of the Declarant Control Period, the Owners shall elect the Board of Directors consisting of three (3) members. At such initial meeting of Owners, one (1) Director shall be elected for a term of three (3) years, one (1) Director shall be elected for a term of two (2) years, and one (1) director shall be elected for a term of one (1) year, respectively. Such three (3) year term, two (2) year terms, and one (1) year term shall be determined based upon the Director receiving, the highest number of votes (three (3) year term), second highest number of votes (2 year term), and third highest number of votes (1 year term). Thereafter, at the annual meeting of Owners, the Owners shall elect a Director to serve a term of three (3) years to fill the position of the Director whose term has expired at the time of the annual meeting. A Director takes office upon the adjournment of the meeting or balloting at which he or she is duly elected or appointed and, absent death, ineligibility, resignation, or removal, will hold office until his or her successor is duly elected or appointed. The number of Directors may be changed by amendment of these Bylaws, but shall not be less than three.

Section 3.3 *Qualification.* No person shall be eligible for election or appointment to the Board of Directors unless such person is a Member. If any Unit is owned by a partnership, corporation, limited liability company, or trust, any officer, partner, trustee, or employee of that Owner shall be eligible to serve as a Director and shall be deemed to be an Owner for purposes of the preceding sentence. Co-Owners of a single Unit may not serve on the Board of Directors at the same time. Co-Owners of more than one Unit may serve on the Board of Directors at the same time, provided the number of Co-Owners serving at one time does not exceed the number of Units they co-own. No Member may be elected or appointed as a Director if any assessment against the Member or such Member's Unit is delinquent at the time of election or appointment. No Member may continue to serve as a Director if any assessment against the Member or such Member's Unit is delinquent more than sixty (60) days.

Section 3.4 *Nomination.* Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting of the Members. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall, in its discretion, determine.

Section 3.5 *Election.* Election to the Board of Directors shall be by written ballot at the annual meeting of the Members.

Section 3.6 *Vacancies.* Vacancies on the Board of Directors caused by any reason, except the removal of a Director by a vote of the Association, shall be filled by a vote of the remaining Directors, even though less than a quorum, at any meeting of the Board of Directors. Each Director so elected shall serve out the remaining term of his or her predecessor.

Section 3.7 *Removal of Directors.* At any annual meeting or special meeting of the Association, any one or more of the Directors may be removed with or without cause by the vote of at least seventy-five percent (75%) of the Percentages of Common Interest Ownership entitled to be cast by Members present, whether in person or by proxy, at such meeting at which a quorum is present, and a successor shall immediately (before any other business is conducted) be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting.

Section 3.8 *Annual Organizational Meeting of the Board of Directors.* An annual organizational meeting of the Board of Directors shall be held each year following the annual meeting of the Members, including following the first such annual meeting, at the place of such annual meeting of Members, for the purpose of electing officers and the transaction of such business as may be properly be brought before it.

No notice of an annual meeting need be given to either old or new members of the Board of Directors.

Section 3.9 *Regular Meetings of the Board of Directors.* Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by the Board of Directors; however, such meetings shall be held at least quarterly. No notice of regular meetings of the Board of Directors is required other than a resolution of the Board of Directors adopted at a duly called meeting of the Board of Directors stating the time and place of the regular meetings.

Section 3.10 *Special Meetings of the Board of Directors.* Special meetings of the Board of Directors may be called by the President or, if he or she is absent or refuses to act, the Secretary, or by any Director. At least three days' notice shall be given to each Director, personally or by telephone or written communication, which notice shall state the place, time, and purpose of such meeting.

Section 3.11 *Conduct of Meetings.* The Board of Directors, at each organizational meeting, shall appoint one of their number as, Chairperson of the Board of Directors and President of the Association. The Chairperson of the Board of Directors shall preside over all meetings of the Board of Directors and the Secretary shall keep, or cause to be kept, a record of

all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings. When not in conflict with law or the Condominium Documents, the then-current edition of Robert's Rules of Order shall govern the conduct of the meetings of the Board of Directors.

Section 3.12 *Quorum*. At all meetings of the Board of Directors, a majority of Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. The Directors present at a duly called or held meeting at which a quorum is present may continue to transact business even if enough Directors leave the meeting so that less than a quorum remains. However, no action may be approved without the vote of at least a majority of the number of Directors required to constitute a quorum. If less than a quorum is present at any meeting of the Board of Directors, the majority of those present may adjourn the meeting from time to time. At any such reconvened meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice. Directors may not designate a proxy to attend and participate in their respective behalf at board meetings.

Section 3.13 *Presumption of Assent*. Any Director of the Association who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his or her dissent shall be entered in the minutes of the meeting and unless he or she shall file his or her written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.

Section 3.14 *Open Meetings*. Regular and special meetings of the Board of Directors shall be open to Members of the Association, but Members who are not Directors may not participate in any deliberations or discussions unless the Board of Directors expressly so authorizes such participation at the meeting. The Board of Directors may adjourn any meeting and reconvene in closed executive session to discuss and vote upon actions involving personnel, pending or threatened litigation, contract negotiations, enforcement actions, matters involving the invasion of privacy of individual Owners, or matters that are to remain confidential by request of the affected parties and agreement of the Board of Directors. The nature of any and all business to be considered in closed executive session shall first be announced in open session.

Section 3.15 *Ex-officio Directors*. The Board of Directors may designate any one or more persons as ex-officio members of the Board of Directors. A person designated as an ex-officio member of the Board of Directors shall be entitled to notice of and to attend meetings of the Board of Directors. The ex-officio member shall not be entitled to vote unless otherwise provided in the Declaration or these Bylaws.

Section 3.16 *Void or Voidable Contracts*. No contract or other transaction between the Association and any Director, or between the Association and any corporation, firm or association (including Developer) in which any Director is pecuniarily or otherwise interested (including, without limitation, any management contract), is either void or voidable because any such Director is present at the meeting of the Board of Directors which authorizes or approves

the contract or transaction, or because his or her vote is counted for such purpose, if (i) the fact of the common interest is disclosed or known to a majority of the Board of Directors or noted in the minutes and the Board of Directors authorizes, approves, or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; (ii) the fact of the common interest is disclosed to at least a majority of the Members and the Members approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or (iii) the contract or transaction is commercially reasonable to the Association at the time it is authorized, approved, ratified, or executed. Any interested Director may be counted in determining the presence of a quorum of any meeting of the Board of Directors which authorizes, approves, or ratifies any contract or transaction and may vote with like force and effect as if such Director was not so interested.

ARTICLE IV

Committees

Section 4.1 *Appointment of Committees.* The Board of Directors may, by resolution passed by a majority of the entire Board of Directors, establish one or more committees, delegate specified authority to a committee, and appoint or remove members of a committee. Unless otherwise provided in the Declaration, each committee of the Association shall consist of one (1) or more Directors, and such other persons appointed from among the Owners as the Board of Directors may determine. The establishment of a committee or the delegation of authority to it shall not relieve the Board of Directors, or any individual Director, of any responsibility imposed by these Bylaws or otherwise imposed by law. Any such committee shall have and may exercise all of the delegated authority of the Board in the management of the business and affairs of the Association, except where action of the full Board is required by statute or by the Condominium Documents. All committees shall keep regular minutes of their proceedings and shall report the same to the Board when requested to do so.

ARTICLE V

Officers

Section 5.1 *Designation.* The principal officers of the Association shall be the President, the Vice President, the Secretary, and the Treasurer. The Board of Directors may appoint one or more Vice Presidents and such other officers and assistant officers as it deems necessary. The President and Secretary shall be Members. Other officers may, but need not, be Members or Directors. Any two offices may be held by the same person, except the offices of President and Secretary. If an officer is absent or unable to act, the Board of Directors may appoint a Director to perform the duties of that officer and to act in place of that officer, on an interim basis.

Section 5.2 *Election of Officers.* The officers shall be elected no less than annually by the Directors and shall hold office at the pleasure of the Board of Directors. The President shall be elected from among the members of the Board of Directors. Except for resignation or removal, officers shall hold office until their respective successors have been designated by the Board of Directors.

Section 5.3 *Removal and Resignation of Officers.* A majority of Directors may remove any officer, with or without cause, at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for that purpose. A successor may be elected at any regular or special meeting of the Board of Directors called for that purpose. An officer may resign at any time by giving written notice to the Board of Directors. Unless the notice of resignation states otherwise, it is effective when received by the Board of Directors and does not require acceptance by the Board of Directors. The resignation or removal of an officer who is also a Director does not constitute resignation or removal from the Board of Directors.

Section 5.4 *President.* As the chief executive officer of the Association, the President shall: (i) preside at all meetings of the Association; (ii) have all the general powers and duties which are usually vested in the office of President of a corporation organized under the laws of the State of Texas; (iii) have general supervision, direction, and control of the business of the Association, subject to the control of the Board of Directors; (iv) be an *ex-officio* member of all standing committees; and (v) see that all orders and resolutions of the Board of Directors are carried into effect.

Section 5.5 *Vice President.* In the absence of the President, or in the event of his or her inability or refusal to act, the Vice President (or in the event there be more than one Vice President, the Vice Presidents in order of their election) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Any action taken by a Vice President in the performance of the duties of the President shall be conclusive evidence of the absence or inability of the President to act at the time such action was taken. Any Vice President shall perform such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors.

Section 5.6 *Secretary.* The Secretary shall: (i) keep or cause to be kept, the minutes of all meetings of the Board of Directors and of the Association; (ii) have charge of such books, papers, and records as the Board of Directors may direct; (iii) maintain or cause to be maintained, a record of the names and addresses of the Members for the mailing of notices; and (iv) in general, perform all duties incident to the office of Secretary.

Section 5.7 *Treasurer.* The Treasurer shall: (i) be responsible for Association funds; (ii) keep or cause to be kept, full and accurate financial records and books of account showing all receipts and disbursements; (iii) cause an annual audit of the Association's books to be made by a certified public accountant; (iv) prepare or cause to be prepared all required financial data and tax returns; (v) deposit all monies or other valuable effects in the name of the Association in such depositories as may from time to time be designated by the Board of Directors; (vi) prepare or cause to be prepared the annual and supplemental budgets of the Association; (vii) review the accounts of the managing agent on a monthly basis in the event such managing agent is responsible for collecting and disbursing Association funds; and (viii) perform all the duties incident to the office of Treasurer,

Section 5.8 *Authorized Agents.* Except when the Condominium Documents require execution of certain instruments by certain individuals, the Board of Directors may authorize any person to execute instruments on behalf of the Association. In the absence of Board of Directors designation, the President and the Secretary shall be the only persons authorized to execute instruments on behalf of the Association.

ARTICLE VI

Rules

Section 6.1 *Rules.* The Board of Directors (upon resolution of its Commercial and Residential Committees, if applicable) shall have the right to establish and amend, from time to time, reasonable rules and regulations for: (i) the administration of the Association and the Condominium Documents; (ii) the maintenance, management, operation, use, conservation, and beautification of the Condominium; and (iii) the health, comfort, and general welfare of the occupants of Units, whether or not any such occupant is an Owner (each such occupant, a "Resident"); *provided, however,* that such rules may not be in conflict with law or the Condominium Documents or materially and adversely affect the interests of the Commercial Unit Owners. The Board of Directors shall, at all times, maintain the then-current and complete rules in a written form which can be copied and distributed to the Members. Rules need not be recorded in the county's real property records.

Section 6.2 *Adoption and Amendment.* Any rule may be adopted, amended, or terminated by the Board of Directors, provided that the rule and the requisite Board of Directors approval are properly recorded as a resolution in the minutes of the meeting of the Board of Directors.

Section 6.3 *Notice and Comment.* The Board of Directors shall give written notice to an Owner of each Unit of any amendment, termination, or adoption of a rule as required by 582.070 of the Texas Property Code, as may be amended from time to time. The Board of Directors may, but shall not be required, to give similar notice to Residents who are not Members.

Section 6.4 *Distribution.* Upon request from any Member or Resident, the Board of Directors shall provide a current and complete copy of rules at the cost of the requesting party. Additionally, the Board of Directors shall, from time to time, distribute copies of the current and complete rules to an Owner of each Unit and, if the Board of Directors so chooses, to non-Member Residents.

ARTICLE VII

Enforcement

Section 7.1 *Enforcement.* The violation of any provision of the Condominium Documents shall give the Board of Directors the right, after notice and hearing, except in case of an emergency, in addition to any other rights set forth in the Condominium Documents:

(a) to enter the Unit or Limited Common Element in which, or as to which, the violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition (except for additions or alterations of a permanent nature that may exist in that Unit) that is existing and creating a danger to the Common Elements contrary to the intent and meaning of the provisions of the Condominium Documents. The Board of Directors shall not be deemed liable for any manner of trespass by this action;

(b) to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; or

(c) to impose fines after notice and hearing.

ARTICLE VIII

Obligations of the Owners

Section 8.1 *Proof of Ownership.* Except for those Owners who initially purchase a Unit from Declarant, any person, on becoming an Owner of a Unit, shall furnish to the Board of Directors evidence of ownership in the Unit, in form and substance as may be required by the Board of Directors from time to time and acceptable to the Board of Directors, which evidence shall remain in the files of the Association. A Member shall not be deemed to be in good standing nor be entitled to vote at any annual or special meeting of the Association unless this requirement is first met.

Section 8.2 *Owners' Addresses.* Not later than the 30th day after the date of acquiring an interest in a Unit, the Owner shall provide the Association with: (i) the Owner's mailing address, telephone number, and driver's license number, if any; (ii) the name and address of the holder of any lien against the Unit, and any loan number; (iii) the name and telephone number of any person occupying the Unit other than the Owner; and (iv) the name, address, and telephone number of any person managing the Unit as agent of the Owner. An Owner shall notify the Association not later than the 30th day after the date the Owner has notice of a change in any of the foregoing information, and shall provide the information on request by the Association from time to time. If an Owner fails to maintain a current mailing address with the Association, the address of that Owner's Unit shall be deemed to be his or her mailing address.

Section 8.3 *Registration of Mortgagees.* An Owner who mortgages his or her Unit shall furnish the Board of Directors with the name and mailing address of his or her mortgagee.

Section 8.4 *Assessments.* As more fully provided in the Declaration, each Member is obligated to pay to the Association Regular Assessments and Special Assessments and Individual Purpose Assessments together with such late charges and interest thereon and costs of collection thereof as provided in the Declaration, which shall be a charge on the Unit and shall be a continuing lien upon each Unit against which each such Assessment is made and shall also be the continuing personal obligation of the Owner of such Unit at the time when the Assessment became due. Any Assessments which are not paid when due shall be delinquent. If any Assessment or part thereof, late charge or service charge is not paid when due, the unpaid amount of such Assessment, late charge or service charge shall bear interest from and after the date when due at the rate which is the lesser of eighteen percent (18%) per annum or the highest lawful rate, and the Association may, at its election, retain the services of an attorney for collection, and there shall also be added to the amount of such unpaid Assessment, late charge or service charge, any and all collection costs incurred hereunder by the Association, including reasonable attorney's fees. No Owner may waive or otherwise escape liability for the Assessments provided for in the Declaration by the non-use of the Common Elements or by the abandonment of his or her Unit. A Member shall be deemed to be in good standing and entitled

to vote at any meeting of the Association if he or she is current in the Assessments made or levied against him or her and his or her Unit.

Section 8.5 *Compliance with Condominium Documents.* Each Owner shall comply with the provisions and terms of the Condominium Documents, and any amendments thereto. Further, each Owner shall always endeavor to observe and promote the cooperative purposes for which the Condominium was established.

ARTICLE IX

Association Records

Section 9.1 *Records.* The Association shall use its best efforts to keep the following records:

- (a) Minutes or a similar record of the proceedings of meetings of the Association.
- (b) Minutes or a similar record of the proceedings of meetings of the Board of Directors.
- (c) The name and mailing address of each Member, the currency and accuracy of the information being the responsibility of the Members.
- (d) The name and mailing address of each mortgagee, the supply of, and the currency and accuracy of, the information being the responsibility of each Member and such Member's mortgagee.
- (e) Financial records and books of account for the Association that comply with generally accepted accounting principles and that are sufficiently detailed to enable the Association to prepare a resale certificate as provided for in the Act. Such financial records and books of account shall specify the maintenance and repair expenses of the Common Elements and any other expenses incurred by or on behalf of the Association and Owners.
- (f) The plans and specifications used to renovate the Condominium.
- (g) The plans and specifications acquired by the Association over time for improvements to the Condominium as provided to the Association by the Declarant or the Owners.
- (h) The Condominium Information Statement and any amendments thereto.
- (i) Copies of income tax returns prepared for the Internal Revenue Service.
- (j) Copies of the Condominium Documents and all amendments to any of these. Also, for at least four (4) years, all voting records, proxies, and correspondence by which amendments to the Condominium Documents were approved.

Section 9.2 *Inspection of Books and Records.* An Owner, on written demand stating the purpose of the demand, has the right to examine and copy, in person or by agent, accountant, or attorney, at any reasonable time, for any proper purpose, the books and records of the Association relevant to that purpose, at the expense of the Owner.

Section 9.3 *Annual Audit.* The books and records of the Association shall be audited annually by qualified independent auditors in accordance with generally accepted accounting principals within ninety (90) days after the end of the fiscal year of the Association, or as soon thereafter as practicable. The cost of such audit shall be a Common Expense, and copies of any such audit shall be made available to all Owners.

Section 9.4 *Resale Certificates.* The Managing Agent, if any, or any officer of the Association may prepare, or cause to be prepared, certify, and execute resale certificates in accordance with Section 82.157 of the Act. The Association may charge a reasonable fee for preparing a resale certificate. The Association may refuse to finish a resale certificate until the fee is paid. Any unpaid fees may be assessed against the Unit for which the resale certificate is furnished.

ARTICLE X

Indemnification and Insurance

Section 10.1 *Indemnification.* Each person who is or was a Director, officer, or committee member of the Association, or any person who, while a Director, officer, or committee member of the Association, is or was serving at the request of the Association as a Director, officer, committee member, partner, venturer, proprietor, employee, agent, or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise, and the heirs, executors, or administrators or estate of such person, shall be indemnified by the Association to the fullest extent permitted or authorized by the Act or any successor provision, as amended from time to time, against any liability, cost, or expense incurred by such person in his or her capacity as a Director, officer, or committee member, or arising out of his or her status as a Director, officer, or committee member, including, without limitation, any act or omission deemed to constitute simple negligence. Provided, however, that the foregoing indemnity obligations shall not apply to acts or omission of a Director which are deemed criminal, as a result of willful misconduct, or outside the scope or capacity of his or her duties and/or office. The rights granted pursuant to this Article X shall be deemed contract rights, and no repeal or amendment of this Article X shall have the effect of limiting or denying any such rights with respect to actions taken or proceedings arising prior to any such amendment or repeal.

Section 10.2 *Advance Payments.* The Association may, but shall not be obligated to, pay expenses incurred in defending a civil or criminal act, suit or proceeding arising out of a Director's, officer's, or committee member's capacity or status as Director, officer, or committee member in advance of the final disposition of such action, suit, or proceeding, without any determination as to the person's ultimate entitlement to indemnification; *provided, however,* that the payment of such expenses incurred by any such person in advance of the final disposition of a proceeding shall be made only upon delivery to the Association of both a written affirmation by such person of his or her good-faith belief that he or she has met the standard of conduct

necessary for indemnification under this Article X and a written undertaking, by or on behalf of such person, to repay all amounts so advanced if it is ultimately determined that such person is not entitled to be indemnified under this Article X or otherwise.

Section 10.3 *Appearance as a Witness.* Notwithstanding any other provision of this Article X, the Association may, but shall not be obligated to, pay or reimburse expenses incurred by a Director, officer or committee member in connection with his or her appearance as a witness or other participation in a proceeding at a time when he or she is not a named defendant or respondent in the proceeding.

Section 10.4 *Indemnification of Employees and Agents.* The Association, by adoption of a resolution of the Board of Directors, may, but shall not be obligated to, indemnify and advance expenses to an employee or agent of the Association to the same extent and subject to the same conditions under which the Association may indemnify and advance expenses to Directors, officers and committee members under this Article X.

Section 10.5 *Non-Exclusive.* The indemnification provided by this Article X shall not be exclusive of any other rights to which those seeking indemnification may be entitled as a matter of law or under any agreement or otherwise.

Section 10.6 *Insurance.* The Association may, but shall not be obligated to, maintain Insurance at its expense, to protect itself and any person who is or was a Director, officer, committee member, employee, or agent of the Association or is or was serving at the request of the Association as a Director, officer, committee member, partner, venturer, proprietor, employee, agent, or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise against any liability asserted against him or her and any liability, cost, or expense incurred by him or her in such capacity or arising out of his or her status as such a person, whether or not the Association would have the power to indemnify such person against that liability under this Article X or the Act.

ARTICLE XI

Declarant Provisions

Section 11.1 *Conflict.* The provisions of this Article XI shall control over any provision to the contrary elsewhere in these Bylaws.

Section 11.2 *Board of Directors.* During the Period of Declarant Control, Section 9 of the Declaration shall govern the number, qualification, and appointment of Directors. The initial Directors shall be appointed by Declarant and need not be Owners or Residents. Directors appointed by Declarant may not be removed by the Owners and may be removed by Declarant only. Declarant has the right to fill vacancies in any directorship vacated by a Declarant appointee.

Section 11.3 *Declarant Control; First Meeting of Owners.* The first meeting of Owners shall be held not later than the earlier of (i) one hundred twenty (120) days following the conveyance by Declarant of more than seventy-five percent (75%) of the Units or (ii) three (3)

years after the first Unit is conveyed by Declarant (such period sometimes referred to herein as the "Period of Declarant Control"). Until the first meeting of Owners, the affairs of the Association shall be managed by the first Board of Directors named in the Articles or their successors, and during such period it shall have the right to exclusively represent, act as and constitute the Board of Directors, shall have the protection referenced under Article X hereof and shall have the right to exclusively exercise and perform all of the rights, powers, authority, functions and duties herein or in the Act or these Bylaws given to the Association or the Board of Directors; *provided, however*, not later than one hundred twenty (120) days following the conveyance by Declarant of more than fifty percent (50%) of the Units, not less than one-third of the members of the Board of Directors shall be elected by Owners other than the Declarant.

ARTICLE XII

Amendment of Bylaws

Section 12.1 *Proposals*. The Association shall provide an Owner of each Unit with any proposed amendment of these Bylaws in accordance with the requirements of §82.070 of the Texas Property Code, as same may be amended from time to time. Such description shall be included in the notice of any annual or special meeting of the Association if such proposed amendment is to be considered at said meeting.

Section 12.2 *Consents*. Except as otherwise provided by law or the Declaration, an amendment shall be adopted by the affirmative vote of at least sixty-seven percent (67%) of the Percentage of Common Interest Ownership entitled to be cast by Members present, whether in person or by proxy, at a meeting at which a quorum is present; *provided, however*, after the period of Declarant control, no amendment hereof, materially, adversely affecting the rights or obligations of the Owners of Commercial Units, shall be valid, unless such amendment is also approved by the Owners of 67% of the Percentage of Common Interest Ownership of all Commercial Units, present, whether in person or by proxy, at a meeting at which a quorum is present.

Section 12.3 *Effective*. To be effective, each amendment must be in writing, reference the names of the Condominium and the Association, be signed by at least two officers acknowledging the requisite approval of Members, and be delivered to an Owner of each Unit at least 10 days before the amendment's effective date. Further, if these Bylaws are publicly recorded, the amendment must recite the recording data for the Bylaws, be in a form suitable for recording as a real property record, and be delivered to the county clerk for recordation.

Section 12.4 *Declarant Protection*. As long as the Declarant owns a Unit in the Condominium, no amendment of these Bylaws may affect the Declarant's rights herein without the Declarant's written and acknowledged consent. Specifically, this Section 12.4 may not be amended without prior written approval of the Declarant. The Declarant's written consent shall be part of the amendment instrument.

ARTICLE XIII

Dissolution

Section 13.1 *Dissolution.* The Association may be dissolved with the consent given in writing and signed by Members entitled to cast at least ninety percent (90%) of the Percentages of Common Interest Ownership; *provided, however,* that no such agreement to dissolve shall be effective unless made at least 120 days in advance of the effective date of such dissolution, and unless written notice of the proposed dissolution is sent to every Member at least thirty (30) days in advance of any action taken. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created. In the event such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

ARTICLE XIV

General Provisions

Section 14.1 *Contracts.* The President shall have the power and authority to execute, on behalf of the Association, contracts or instruments in the usual and regular course of business, and in addition the Board of Directors may authorize any officer or officers, agent or agents, of the Association to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances. Unless so authorized by the Board of Directors or these Bylaws, no officer, agent, or employee shall have any power or authority to bind the Association by any contract or engagement, or to pledge its credit or to render it pecuniarily liable for any purpose or in any amount.

Section 14.2 *Checks, Drafts, etc.* All checks, drafts, or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Association shall be signed by such officers, employees or agents of the Association as shall from time to time be authorized pursuant to these Bylaws or by resolution of the Board of Directors.

Section 14.3 *Depositories.* All funds of the Association shall be deposited from time to time to the credit of the Association in such banks or other depositories as the Board of Directors may from time to time designate, and upon such terms and conditions as shall be fixed by the Board of Directors. The Board of Directors may from time to time authorize the opening and maintaining within any such depository as it may designate, of general and special accounts, and may make such special rules and regulations with respect thereto as it may deem expedient.

Section 14.4 *Corporate Seal.* The corporate seal, if any, shall be in such form as the Board of Directors shall approve, and such seal, or a facsimile thereof, may be impressed on, affixed to, or in any manner reproduced upon, instruments of any nature required to be executed by officers of the Association.

Section 14.5 *Compensation.* A Director, officer, Member, or Resident shall not be entitled to receive any pecuniary profit from the operation of the Association, and no funds or assets of the Association may be paid as a salary or as compensation to, or be distributed to, or inure to the benefit of, a Director, officer, Member, or Resident; *provided, however, that:*

(a) reasonable compensation may be paid to a Director, officer, Member, or Resident for services rendered to the Association;

(b) a Director, officer, Member, or Resident may, from time to time, be reimbursed for his or her actual and reasonable expenses incurred on behalf of the Association in connection with the administration of the affairs of the Association, provided such expense has been approved by the Board of Directors; and this provision does not apply to distributions to Owners permitted or required by the Declaration or the Act.

Section 14.6 *Delegation of Responsibilities.* Except as otherwise provided by the Declaration, the Articles, these Bylaws, or the laws of the State of Texas, the Board of Directors may delegate certain of its responsibilities or the responsibilities of Officers of the Association to a manager or to a managing agent.

Section 14.7 *Action by Non-Unanimous Written Consent.* Unless otherwise restricted by law, the Articles or these Bylaws, any action required or permitted to be taken at any meeting of the Members, members of the Board of Directors, or members of any committee of the Board of Directors may be taken without a meeting if a consent in writing, setting forth the action to be so taken, is signed by a sufficient number of Members, members of the Board of Directors, or committee members as would be necessary to take that action at a meeting at which all of the Members, members of the Board of Directors, or committee members were present and voted. Such written consent shall bear the date of the signature of each Member, member of the Board of Directors, or committee member who signs the consent, and such written consent shall not be effective unless, within sixty (60) days after the date of the earliest dated consent, a consent or consents signed by the required number of Members, members of the Board of Directors, or committee is delivered to the Association. Delivery shall be by hand or certified or registered mail, return receipt requested. Prompt notice of the taking of any action by Members, members of the Board of Directors, or committee members without a meeting by less than unanimous written consent shall be given to all Members, members of the Board of Directors or committee members who did not consent in writing to the action. This Section may not be used to avoid the requirement of an annual meeting.

Section 14.8 *Meetings by Conference Telephone.* The Members, members of the Board of Directors, or members of any committee of the Board of Directors may participate in and hold a meeting of the Members, members of the Board of Directors, or committee members by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in such meeting shall constitute presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

Section 14.9 *Conflicting Provisions.* If any provision of these Bylaws conflicts with any provision of the laws of the State of Texas, such conflicting Bylaws provision shall be null and

void, but all other provisions of these Bylaws shall remain in full force and effect. In the case of any conflict between the Articles and these Bylaws, the Articles shall control. In the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

Section 14.10 *Severability*. Invalidation of any provision of these Bylaws, by judgment or court order, shall in no wise affect any other provision which shall remain in full force and effect. The effect of a general statement shall not be limited by the enumerations of specific matters similar to the general.

Section 14.11 *Fiscal Year*. The fiscal year of the Association shall be set by resolution of the Board of Directors, and is subject to change from time to time as the Board of Directors shall determine. In the absence of a resolution by the Board of Directors, the fiscal year shall be the calendar year.

Section 14.12 *Waiver*. No restriction, condition, obligation, or covenant contained in these Bylaws shall be deemed to have been abrogated or waived by reason of failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

CERTIFICATE

I HEREBY CERTIFY that the foregoing is a true, complete, and correct copy of the Bylaws of 118 McGowen Condominium Association, Inc., a Texas nonprofit-corporation, as adopted by the initial Board of Directors at its organization meeting on the _____ day of _____, 2004.

IN WITNESS WHEREOF, I hereunto set my hand this the ____ day of _____, 2004.

118 McGowen Condominium Association, Inc.

By: _____, Secretary

THE STATE OF TEXAS §
COUNTY OF HARRIS §

Before me, the undersigned authority, on this ____ day of _____, 2004, personally appeared _____, Secretary of 118 McGowen Condominium Association, Inc., a Texas non-profit corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same on behalf said corporation.

Notary Public, State of Texas

EXHIBIT "B"
(to the Declaration)

CONDOMINIUM PLAN

Part I: Legal Description

All of ONE HUNDRED EIGHTEEN McGOWEN, a subdivision of 0.2296 acres out of the Obedience Smith Survey, Abstract No. 696, City of Houston, Harris County, Texas, being a Replat of all of Lots 4 & 5, Block 18, Settegast & Upham Addition to the City of Houston, according to the map or plat thereof recorded at Volume 1, Page 86 of the Harris County Map Records, said plat of ONE HUNDRED EIGHTEEN McGOWEN being recorded at Harris County Clerk's File No. X569601, Real Property Records of Harris County, Texas.

EXHIBIT "B"
(to the Declaration)

CONDOMINIUM PLAN

Part II: Plat and Plans

(SEE ATTACHED GRAPHICS FOLLOWING EXHIBIT "C")

EXHIBIT "B"
(to the Declaration)
CONDOMINIUM PLAN

Part III: Percentage Ownership

<u>Unit</u>	<u>Percentage Ownership</u>
A	9.88%
B	8.64%
C	8.64%
D	8.64%
E	8.64%
F	9.88%
G	9.88%
H	8.64%
I	8.64%
J	8.64%
<u>K</u>	<u>9.88%</u>
TOTAL	100%

EXHIBIT "C"
(to the Declaration)

EASEMENTS AND LICENSES

Restrictions, easements, and all other terms and conditions contained in the Condominium Declaration for the 118 McGowen Condominium, the Bylaws of 118 McGowen Condominium Association, Inc., a Texas non-profit corporation ("Association"), the Rules and Regulations of the Association and the Articles of Incorporation of the Association.