

STATE OF ALABAMA,
BALDWIN COUNTY

I certify that this instrument was filed on

MAY 28 1981 1126A

STATE OF ALABAMA

BALDWIN COUNTY

and that no tax was collected. Recorded in
Book 39 *miss* Henry D. Blaine
Page 371-91 Judge of Probate
MH \$1.00 _____ Index \$ _____ By AE

DECLARATION OF CONDOMINIUM
OF
THE EDGEWATER CONDOMINIUM

Gulf Shores, Alabama

THIS IS A DECLARATION OF CONDOMINIUM made
_____, 1981, by Tempe, Inc., an Alabama corporation,
herein called The Developer, for itself, its successors,
grantees and assigns.

ARTICLE ONE

Submission to Condominium Ownership - The purpose
of this Declaration is to submit the lands herein described
and the improvements heretofore and hereafter constructed
thereon to the condominium form of ownership and use in the
manner provided by §§ 35-8-1 to 35-8-22 CODE OF ALABAMA
1975, hereinafter referred to as The Condominium Ownership
Act.

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ARTICLE TWO

Name and Address of Condominium - The name by
which the condominium is to be identified is The Edgewater
Condominium. Its address is:

West Beach Drive
Gulf Shores, Alabama

ARTICLE THREE

The Lands - The lands owned by The Developer which
are hereby submitted to the condominium form of ownership

are located in the Town of Gulf Shores, Alabama, and particularly described as follows:

Lot 25, Block 3, Unit 2 of Gulf Shores, Alabama, according to the map or plat thereof recorded in the Office of the Judge of Probate, Baldwin County, Alabama, in Map Book 1, page 166.

ARTICLE FOUR

(A) Building and Grounds - The Edgewater Condominium is being developed according to plans and specifications on file in the Developer's office. When completed, the engineering and certification drawings required by law will be filed in the Probate Office of Baldwin County, Alabama. The Edgewater Condominium consists of twenty eight (28) private condominium units housed in a single eight story concrete building, on concrete pilings and concrete foundation. The building is situated on the property described in Article Three, above, with its longest dimension running generally parallel to a line running East and West.

(1) Interior Units - The two interior units on each of the seven living levels are located immediately East and West of the building's North to South center line. All interior units are identical in size and layout, and are designated by two digit condominium unit numbers ending in "2" or "3". All interior units contain two bedrooms, two ceramic tile baths, fire alarm, kitchen with built in range with hood, refrigerator with ice maker, dishwasher, garbage disposal, stacked washer and dryer (in separate laundry room) and an enclosable balcony.

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(3) Interior and Exterior Units Compared - The two interior and two exterior condominium units on each of the seven living levels (Levels 2, 3, 4, 5, 6, 7 and 8) differ in location as indicated above. In addition, the kitchens and laundry rooms of the exterior units are slightly larger than the kitchens and laundry rooms of the interior units. As the result, the exterior units contain slightly more living area (approximately thirty five square feet, more or less) than the interior units.

(4) In addition to the twenty eight private individual condominium units, The Edgewater Condominium consists of a Gulfside pool for the use of all the units, an elevator, stairways and corridors, planted areas and landscaping, driveways, beach recreation area, storage and maintenance area and offstreet automobile parking spaces and areas, all located substantially as shown on the engineer's certification drawings.

(B) The Private Unit Boundaries - Each private individual condominium unit (element) includes that part of the building in which the individual unit is located, as shown on the Engineer's certification drawings. Each private unit proper is bounded as follows:

1. The upper boundary shall be the plane of the lower surfaces of the ceilings.

2. The lower boundary shall be the plane of the upper surfaces of the floor, exclusive of carpet, tile or other floor covering.

3. The vertical boundaries shall be the interior

planes of the interior walls bounding the unit, the outer planes of unit access doors, the outer planes of unit windows, and the interior planes of the exterior walls bounding the unit, except where broken as indicated above by windows or doors. Where there is a balcony attached to the building serving only a single unit, that unit's boundaries shall extend to include all of such balcony and all structures and fixtures thereon.

4. Where fixtures serving only one individual unit are installed partially within and partially without the planar boundaries of the unit as defined above, the entire fixture shall be deemed to be fully within the unit it serves and wholly subject to the exclusive control of the owner of the unit so served.

Each private individual condominium unit includes its own air conditioning and heating and water heating apparatus, but does not include the wires or pipes connected thereto, whether or not within the unit boundaries as described immediately above.

(C) The Common Elements - The common elements of The Edgewater Condominium consist of the entire condominium property, including all parts of the buildings other than the private condominium units and include, by way of example and not by way of limitation, the following:

1. The land on which the buildings and the other improvements are located.
2. All foundations, pilings, slabs, columns,

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girders, beams and supports.

3. All buildings and structures not containing private individual condominium units and, with respect to buildings containing private individual condominium units the following: All exterior walls of such buildings extending, in the case of exterior walls bounding private individual condominium units, from the outermost plane of the wall inward to the wall's interior plane; all walls and partitions separating private individual condominium units from walkways, entranceways, corridors, stairways, elevator shaft, service areas, and other units; and all floors and ceilings outward of the planes of their respective interior surfaces.

4. Roofs, walkways, entranceways, stairs, stairways, elevator and elevator shaft.

5. Grounds, yards, gardens, recreation and community facilities, Gulfside pool, service areas, service facilities, parking spaces and areas and driveways and driveway areas.

6. All facilities for services and utilities, including all pipes, conduits, ducts, wires, the plumbing network, the wiring network, and the sewer network, whether located within common areas, within units or partially within each.

7. All other parts of the condominium property and all apparatus, facilities and installations for common use or necessary or convenient to the existence or safety of the condominium.

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The management of The Edgewater Condominium Owner's Association, Inc., shall have a right of access, during reasonable business hours and upon reasonable prior notice (except that there is no limitation on such access during emergencies) for the purpose of inspecting, maintaining and repairing the common elements (wiring, plumbing, sewer, and heating and cooling networks, common walls, structural members and exterior walls) located within, or adjacent to, any of the units or elsewhere in the condominium.

(D) Identification of Units - The twenty eight (28) private individual condominium units are numbered so that the first digit of the unit number corresponds to level (2, 3, 4, 5, 6, 7 or 8) on which the unit is located.

(1) Level 1 - There are no private individual condominium units on Level 1, which is the ground floor.

(2) Level 2 - The four units on Level 2 are designated, from East to West, 21, 22, 23 and 24.

(3) Level 3 - The four units on Level 3 are designated, from East to West, 31, 32, 33 and 34.

(4) Level 4 - The four units on Level 4 are designated, from East to West, 41, 42, 43 and 44.

(5) Level 5 - The four units on Level 5 are designated, from East to West, 51, 52, 53 and 54.

(6) Level 6 - The four units on Level 6 are designated, from East to West, 61, 62, 63 and 64.

(7) Level 7 - The four units on Level 7 are designated, from East to West, 71, 72, 73 and 74.

(8) Level 8 - The four units on Level 8 are designated, from East to West, 81, 82, 83 and 84.

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(E) Encroachments - To the extent that any unit or common element now or hereafter encroaches on any other unit or common element, whether by reason of any deviation from the plats or plans in the construction, repair, restoration, renovation or replacement of any improvement, or by reason of the settling or shifting of any land or improvement, a valid easement for such encroachment shall exist.

ARTICLE FIVE

Unit Owners - Each unit owner shall have an undivided one twenty eighth (1/28) interest in the common elements of The Edgewater Condominium. The project has no limited common elements as of the filing of this declaration.

ARTICLE SIX

Voting Rights - Each unit of The Edgewater Condominium shall be entitled to one vote with respect to matters arising out of ownership of the common elements of The Edgewater Condominium. There shall therefore be a total of twenty eight such votes, one for each of the private individual units. Each unit owner, or group of owners of a unit, if more than one, shall advise the secretary of The Edgewater Condominium Owner's Association, Inc., of the name of the person entitled to exercise such vote and the secretary shall enter such name in a book kept for that purpose. The Edgewater Condominium Owner's Association, Inc., shall be entitled to rely on such advice, and shall recognize as entitled to so vote only those persons who have been designated as voters, notwithstanding that persons other than those so designated shall have various interests of ownership in the

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individual units from time to time: The majority of the owners of any private individual unit may redesignate, at any time, any person, whether or not an owner, as entitled to exercise the vote of that unit by so notifying the secretary of The Edgewater Condominium Owner's Association, Inc., in writing. The Association shall recognize only the vote of the last person so designated by a majority of the owners of each unit.

ARTICLE SEVEN

Limited Common Elements - As of the filing of this declaration, The Edgewater Condominium has no limited common elements as that term is defined by the Alabama Condominium Ownership Act. ("Limited Common Elements. A part or parts of the condominium property as set forth in the declaration in which more than one but not all unit owners have an undivided interest." §35-8-2(8) CODE OF ALABAMA 1975). This Article Seven of this declaration is hereby reserved for future use should limited common areas of The Edgewater Condominium be later defined by amendment to this declaration.

ARTICLE EIGHT

Common Expense - Common expense shall be shared equally by the twenty eight private individual units, one twenty eighth (1/28) by each unit. Assessments for common expenses shall be made by The Edgewater Condominium Owner's Association, Inc., in accordance with provisions therefor in the by-laws.

ARTICLE NINE

Limited Common Expense - This Article Nine of this declaration is hereby reserved for use in assigning the

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proportion of limited common expense to individual units, should any limited common areas of The Edgewater Condominium be later defined by amendment to this declaration.

ARTICLE TEN

Common Surplus - Common surplus shall be shared equally by the twenty eight private individual units, one twenty eighth (1/28) by each unit. Distribution of common surplus shall be made by The Edgewater Condominium Owner's Association, Inc., in accordance with provisions therefor in the by-laws .

ARTICLE ELEVEN

Limited Common Surplus - This Article Eleven of this declaration is hereby reserved for use in assigning the proportion of limited common surplus to be shared by each or any of the individual units, should any limited common areas of The Edgewater Condominium be later defined by amendment to this declaration.

ARTICLE TWELVE

Unit Owner's Association - The name of the association of the owners of units of The Edgewater Condominium shall be The Edgewater Condominium Owner's Association, Inc. Such association shall be responsible for the administration and management of The Edgewater Condominium in accordance with the provisions of the Alabama Condominium Ownership Act, this declaration, and the articles of incorporation and by-laws of The Edgewater Condominium Owner's Association, Inc. The association shall be incorporated. All unit owners will be members of the association, unless otherwise provided in

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this declaration by amendment. The Edgewater Condominium Owner's Association, Inc., acting through its officers or governing board, shall have the following powers:

1. The association may maintain, repair, replace, clean and sanitize the common elements. (and limited common elements, if any.)

2. The association may assess and collect funds and may pay for common expenses (and limited common expenses, if any) out of such funds as are appropriate.

3. In addition to the enforcement of the covenants and restrictions concerning use, occupancy and transfer of units which are included in this declaration, the association may adopt, distribute, amend and enforce reasonable rules governing the administration and management of the condominium property and the use of the common elements (and limited common elements, if any).

4. The association shall maintain forms of insurance coverage which are for the benefit of the unit owners. The premiums for such insurance shall be assessed to the owners of the private individual units of The Edgewater Condominium on a pro rata basis, and shall constitute a part of each unit owner's liability for common expense. The association shall advise each unit owner of the type and amount of insurance coverage maintained by the association. An insurance committee or trustee may be appointed by the association and charged with responsibility of the proceeds of any such insurance. No unit owner or other person or entity having an insurable risk in The Edgewater Condominium

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shall be precluded from obtaining additional insurance, individually, at his own expense and for his own exclusive benefit, against any risk, whether or not covered by insurance maintained by the association. Insurance maintained by the association shall include but shall not be limited to coverage of the entire condominium property against loss by fire, windstorm, rainstorm, flood and such other hazards as to which the association may desire insurance coverage, and liability insurance against any risk, such as death, personal injury, or damage to property, faced by unit owners or by the association by virtue of their individual, common (or limited common, if any) ownership in or control over the condominium property, including but not limited to the acts and omissions of the association, its agents, servants and employees.

4. (a) In the event of loss or damage to all or any part of The Edgewater Condominium the Association shall have the power to assess the unit owners, on a pro-rata basis, for the amount by which the cost of repair of such loss or damage exceeds the amount of insurance proceeds paid or due to be paid as the result of such loss or damage.

4. (b) In the event of any damage to the condominium property, or any portion thereof, the Association, and each of its officers and directors, shall hold the proceeds of insurance paid as the result of such loss, and all monies assessed and collected from the unit owners pursuant to the provisions of paragraph 4. (a), above, in trust pending formal action by full meeting of the Association unit owners, at

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which meeting there must be a quorum, and shall expend such monies in strict accordance with the wishes of a majority of the unit owners voting at such meeting. The trust hereby established shall be for the benefit of the unit owners and, in the case of mortgaged units, by their respective mortgagees.

5. The association shall have access to each unit from time to time, upon reasonable notice and during reasonable business hours as may be necessary (except that no notice or time limitations shall be required in the case of emergencies) for the maintenance, repair or replacement of any common elements (or limited common elements, if any) therein or accessible therefrom, or for making emergency repairs necessary to prevent damages to any other unit, units, or common areas.

6. The association may purchase units in the condominium and otherwise acquire, hold, lease, mortgage and convey the same. It may also lease or license the use of common elements (and limited common elements, if any) in a manner not inconsistent with the rights of unit owners.

7. The association may acquire or enter into agreements whereby it acquires personal property, real property, leaseholds, memberships, units or other possessory or use interests in lands, facilities, services or utilities.

8. No unit shall be changed or altered except by amendment to this declaration. This provision shall not, however, be construed to prevent the repainting or non-structural remodeling or refurbishing of units by their owners, at their expense.

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9. The association shall arrange for and shall assess as common expenses (or as limited common expenses, if appropriate) garbage service, sewer service, water service, the lighting of common areas, pool and grounds, maintenance and listing for taxation with respect to common areas, if required by law. All other utilities shall be the responsibility of the private individual owners.

10. The association may enter into agreements by which its powers and responsibilities or some of them may be exercised or performed by some other person or persons.

ARTICLE THIRTEEN

Covenants and Restrictions

1. Occupancy - Each private individual unit shall be occupied only by a family, its servants and guests, as a residence and for no other purpose. No unit may be divided or subdivided into a smaller unit without first amending this declaration to allow therefor.

2. Use of Common Elements - The common elements shall be used only for the purposes for which they are intended in the furnishing of access, services and facilities for the private individual units.

3. General Usage - No use or practice shall be permitted on the condominium property which is a source of annoyance to condominium residents or which interferes with the peaceful possession and proper use of the property by the residents. All parts of the property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate nor shall any fire

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hazard be allowed to exist. No private individual unit owner shall permit any use of his unit or of the common elements which will disturb the other unit owners or increase the rate of insurance on the condominium property. No unlawful use may be made of the condominium property or any part thereof. All applicable laws, zoning ordinances and regulations respecting the condominium property shall be observed and obeyed by each private individual unit owner and those persons on the premises with his permission.

4. Completion of Improvements - Until such time as the Developer has completed and sold all of the private individual units, neither the private individual unit owners, nor The Edgewater Condominium Owner's Association, Inc., nor the use of the condominium property shall interfere with the completion of the planned improvements or the sale of units. The Developer may make such use of the unsold units and common areas as may facilitate such completion and sale.

5. Notice and Effect of Encumbrances - The owners of the private individual units shall notify the Association of any and all liens upon their units and any and all suits which may affect title to their units. Such notice shall be given within five (5) days of the attachment of such lien or service of process in such suit. The granting of a mortgage on a unit by its owner(s) shall be construed as conferring upon the mortgagee a conditional proxy to cast the vote or votes attributable to such unit

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at any regular or special meeting of the Association. The condition of such proxy shall be notice by such mortgagee to the Association, in writing, of its intent to exercise the conditional proxy rights granted to it, as mortgagee, by the terms of this subparagraph. In the absence of such written notice, the Association shall be entitled to recognize the unit owner(s) of mortgaged units as fully entitled to cast the vote or votes attributable to their unit. However, once such written notice is received by the Association, the mortgagee's right to cast the vote or votes attributable to that unit shall be recognized by the Association until the mortgagee withdraws its intent to cast such votes, in writing, or until the mortgage is paid in full and satisfied of record, whichever first occurs.

5. (a) If a holder of a mortgage of record or other purchaser of a unit obtains title to such unit as a result of foreclosure of the mortgage, or as the result of execution and delivery of a deed in lieu of foreclosure, such acquirer of title, his successors and assigns shall not be fully liable for the share of common expenses, limited common expenses or other assessments by the Association pertaining to such unit or chargeable to the former unit owner which became due prior to acquisition of title as a result of the foreclosure or deed in lieu of foreclosure. Such unpaid share of common expenses, limited common expenses or other assessments shall be deemed to be common expenses collectable from all of the remaining unit owners including such acquirer, his successors and assigns.

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6. Rules and Regulations - The Edgewater Condominium Owner's Association, Inc., may make and amend from time to time reasonable regulations concerning the use of the condominium property in accordance with the provisions therefor in its articles of incorporation and by-laws.

Copies of all such regulations and amendments shall be furnished by the Association to all private individual unit owners and residents upon request.

7. Liability of Owners - Owners of private individual units of The Edgewater Condominium shall be liable for the expense of any maintenance, repair or replacement of private or common elements rendered necessary by their acts, negligent, careless or otherwise, or those of anyone on the premises with their express or implied consent, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in insurance rates occasioned by such acts or by an owner's use, misuse, occupancy or abandonment of his unit or its appurtenances.

8. Enforcement - In any proceeding to enforce any alleged liability of a unit owner arising under this or any other section of this declaration, the by-laws or the articles of incorporation of The Edgewater Condominium Owner's Association, Inc., the prevailing party shall recover the costs of the proceeding including a reasonable attorney's fee to be assessed by the court.

9. Limitation on Transfer - No unit of The Edgewater Condominium shall be directly sold, assigned or

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otherwise transferred by any unit owner to any third party or other entity without such unit's having first been offered to The Edgewater Condominium Owner's Association, Inc., for purchase at the same price such third party or other entity proposes to pay for such unit, for a period of thirty days, EXCEPT THAT nothing in this paragraph or in any other part of this declaration of condominium, or in the articles of association or by-laws of The Edgewater Condominium Owner's Association, Inc., shall ever be construed as in any way limiting, restricting or prohibiting the free mortgage of a unit to a legitimate mortgagee who shall not be entitled to possession of the unit in question except in the event of foreclosure, and neither shall there be any limitation whatever on the free transfer of any unit of The Edgewater Condominium, or any interest therein, upon the death of an owner by will or by the laws of descent and distribution of any State of the United States, or any foreign country. Upon the written tender of any unit of The Edgewater Condominium for sale to The Edgewater Condominium Owner's Association, Inc., under the terms of this paragraph, which tender shall identify that unit proposed to be sold, the person or other entity who proposes to purchase it, and the price he or it proposes to pay therefor, the failure of the association to act on such tender by purchasing such unit within thirty days shall be deemed a waiver of the association's right to purchase such unit granted by this paragraph. In addition, the association may issue a waiver of its right to such purchase, in writing, at any time. Upon the delivery of a

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written tender to The Edgewater Condominium Owner's Association, Inc., as described above, for the purchase of a unit of The Edgewater Condominium under the terms of this paragraph, the unit proposed to be sold, assigned or transferred shall become immediately transferable to the proposed third party purchaser designated in the tender (and only to such purchaser) upon the expiration of thirty days from tender, or upon the association's issuance of its duly authorized written waiver of its right to purchase such unit under this paragraph, whichever first occurs. The association's right to purchase units of The Edgewater Condominium under the terms of this paragraph shall extend to and include the right to bid on and purchase any unit of The Edgewater Condominium and its contents, at any foreclosure sale, trustee's sale or similar proceeding at which any unit of The Edgewater Condominium may be offered for sale.

10. Non Enforcement - The failure of the Association or any unit owner to enforce any provision, covenant or restriction of this declaration, the articles or by-laws of The Edgewater Condominium Owner's Association, Inc., or the Alabama Condominium Ownership Act, or rule or regulation adopted pursuant thereto shall not constitute a waiver of the right thereafter to do so at any time.

ARTICLE FOURTEEN

Amendments - This declaration may be amended by the votes representing three-fourths (3/4) of the private individual units of The Edgewater Condominium, cast in person or by proxy at a meeting duly held in accordance with

the provisions of the by-laws. The notice of any meeting at which an amendment to this declaration is proposed shall be in writing and shall include specific notice of the nature and terms of the proposed amendment. No amendment may change, alter or eliminate any private individual unit, or effect any change in the percentage or fraction of the ownership of the common elements attributable to that unit, unless and until all of the owners and record mortgage holders of such unit shall have agreed to such amendment, in writing. All amendments shall become effective only upon being placed of record in the Office of the Judge of Probate, Baldwin County, Alabama.

ARTICLE FIFTEEN

The Developer reserves the right to expand The Edgewater Condominium by the addition of one additional floor, story or level to the building structure as described herein. Such floor, if built, may or may not be identical to the other seven living levels described herein, and will if built, increase the number of condominium units comprising The Edgewater Condominium by one, two, three or four additional units as the Developer, in its sole discretion, may elect. The acceptance of delivery of a unit deed, unit mortgage or blanket mortgage of one of the units of the Edgewater Condominium shall operate and be construed as a grant by the grantee(s) or mortgagee(s) of each such unit a limited power of attorney to the Developer authorizing the Developer, acting by and through its chief executive officer, to execute, for and on

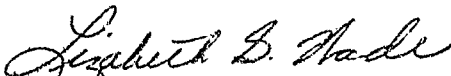
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behalf of such grantee(s) or mortgagee(s), any and all amendments to The Edgewater Condominium Documents (i.e. this Declaration, the By-Laws, the Articles of Incorporation of The Edgewater Condominium Owner's Association, Inc., and the engineer's certification drawings) as may be necessary to reflect the addition to The Edgewater Condominium of such additional living level and all additional condominium units contained thereon. Such limited power of attorney will include, but shall not be limited to, power in the Developer to dilute the grantee(s) or mortgagee(s) interests in the common elements of The Edgewater Condominium to a fraction smaller than the one twenty-eighth (1/28th) undivided interest per unit prescribed by this Declaration; such dilution; if required, to be such as will accurately reflect the actual interest of each unit in the common elements of The Edgewater Condominium as finally constructed.

IN WITNESS WHEREOF, Tempe, Inc., has caused this declaration to be executed by Ronald M. Kirtland, its President, this the 27th day of May, 1981.

ATTEST:

TEMPE, INC.


Elizabeth G. Wade, Secretary

by  (SEAL)
Ronald M. Kirtland, President

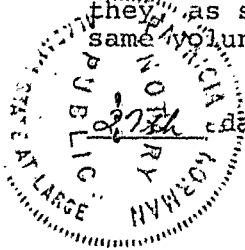
STATE OF ALABAMA
BALDWIN COUNTY

Corporate Acknowledgment

I, the undersigned authority, in and for said county, in said State, hereby certify that Ronald M. Kirtland and Elizabeth G. Wade, whose names as President and Secretary,

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respectively, of Tempe, Inc., are signed to the foregoing Declaration of Condominium of The Edgewater Condominium, and who are known to me, acknowledged before me on this day that, being informed of the contents of the Declaration, they, as such officers and with full authority, executed the same voluntarily on the day the same bears date.



Given under my hand and official seal this the 27th day of May, 1981.

Patricia B. Norman
Notary Public

MY COMMISSION EXPIRES JULY 9, 1982.

This instrument was prepared by:

Samuel G. McKerral
Attorney at Law
P. O. Box 818
Gulf Shores, Alabama 36542

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