

WAKE COUNTY, NC 84  
LAURA M RIDDICK  
REGISTER OF DEEDS  
PRESENTED & RECORDED ON  
09/06/2013 AT 10:32:09

BOOK:015432 PAGE:02539 - 02574

Prepared by and return to: J. Kenneth Edwards, Gwynn & Edwards, PA; Box # 256

NORTH CAROLINA  
WAKE COUNTY

**DECLARATION OF CONDOMINIUM  
FOR HARPS MILL OFFICE CONDOMINIUMS, A CONDOMINIUM**

WALSER FAMILY, LLC, a North Carolina limited liability company, hereinafter referred to as "Declarant," does hereby make, declare and establish this Declaration of Condominium as and for the plan of unit ownership of Harps Mill Office Condominiums, a Condominium, being the property and improvements hereinafter described.

I.

ESTABLISHMENT OF CONDOMINIUM

Declarant is the owner of the fee simple title to that certain real property situated in Wake County, North Carolina, which property is more particularly described on Exhibit "A" attached hereto and incorporated herein by reference, and on which property there has been constructed one (1) one-story building containing two (2) commercial condominium units and their supporting facilities, areas designated for parking spaces and other appurtenant improvements. The building is of steel frame construction and the real estate is more particularly described on Exhibit "A" hereto. The exterior of the building is brick. Declarant does hereby submit the above-described property and improvements to condominium ownership under the provisions of Chapter 47C of the General Statutes of North Carolina (North Carolina Condominium Act), and hereby declares the same to be a condominium to be known and identified as "Harps Mill Office Condominiums, a Condominium," sometimes hereinafter referred to as the "Condominium."

II.

SURVEY AND DESCRIPTION OF IMPROVEMENTS

Recorded contemporaneously herewith and expressly made apart hereof is a survey of the land and graphic descriptions and plans of the improvements constituting the Condominium (the

“Condominium Plan”), identifying the Units and Common Elements, as said terms are hereinafter defined, and their respective locations and approximate dimensions. Each Unit has been assigned an Identifying Number on the Condominium Plan and no Unit bears the same Identifying Number as any other Unit. The Condominium Plan is recorded in Condominium File No. 2013, Pages 549 A1 through 549 A3 Wake County Public Registry.

### III.

#### DEFINITIONS

The Condominium consists of Units and Common Elements, as said terms are hereinafter defined.

A. Units as the term is used herein shall mean and comprise the two (2) separately identified Units that are designated in Exhibit “A” to this Declaration, excluding, however, all spaces and improvements lying:

1. Beneath the subflooring material of all floors;
2. Beneath or behind the interior surfacing material of all perimeter walls, interior bearing walls and/or bearing partitions;
3. Above the interior surfacing material of the ceilings;

and further excluding all pipes, ducts, wires, conduits and other facilities for the furnishing of utilities and other services to multiple Units and Common Elements up to and including the point of entry of such pipes, ducts, wires and conduits through the interior surfacing material for walls and ceilings and subflooring surfacing material for floors. All pipes, ducts, wires, conduits and other such facilities shall become a part of the respective Units at such point of entry.

B. Common Elements shall mean and comprise all of the real property, improvements and facilities of the Condominium other than the Units, including, but not limited to the entrance vestibule, attic space, building signage and parking area, together with all personal property held and maintained for the use and enjoyment of all the Unit Owners.

C. Certain portions of the Common Elements are reserved for the use of a particular Unit or Units to the exclusion of other Units and are designated as “Limited Common Elements.” Any awnings, doorsteps, stoops and all exterior doors, window frames, panes and screens designed to serve a single Unit but located outside the Unit’s boundaries are Limited Common Elements allocated exclusively for the use of that Unit. Any common expense associated with the maintenance, repair or replacement of any such Limited Common Element must be assessed against the Unit to which that limited common element is assigned.

The terms “Allocated Interests,” “Association,” “Common Elements,” “Common Expenses,” “Common Expense Liability; “Condominium,” “Declaration,” “Development

Rights,” “Executive Board,” “Identifying Number,” “Limited Common Element,” “Residential Purposes,” “Special Declarant Rights,” “Unit,” “Unit Owner,” and “Lessee,” unless it is plainly evident from the content of this Declaration that a different meaning is intended, shall, as used herein, have the meaning set out in Section 47C-1-103 of Chapter 47C of the General Statutes of North Carolina, known as the North Carolina Condominium Act, as that statute exists as of the date of the filing of this Declaration.

IV.

OWNERSHIP OF UNITS; ALLOCATED INTEREST IN COMMON ELEMENTS;  
EASEMENTS FAVOR OF DECLARANT

A. Ownership of Units. Each Condominium Unit shall be conveyed and treated as an individual property capable of independent use and fee simple ownership, and the Unit Owner of each Unit shall also own, as an appurtenance to the ownership of each said Unit, an Allocated Interest in the Common Elements.

B. Allocated Interest in the Common Elements. The Allocated Interest appurtenant to each Unit as of the date of this Declaration is as set out in Exhibit “B” attached hereto and made apart hereof. The Allocated Interest in the Common Elements appurtenant to each Unit as shown in said Exhibit is the percentage obtained by multiplying 100 times the ratio produced by dividing the estimated number of square feet of floor area contained in said Unit as set forth in the Condominium Plan (which number, absent gross error, conclusively shall be deemed the actual number of square feet of floor area contained in such Unit) by the aggregate number of square feet of floor area contained in all Units of the Condominium on the date of this Declaration.

C. Easements in Favor of Declarant. Declarant shall be deemed to have such easements on, across and over the Common Elements as shall be reasonably necessary for the exercise of any of the Development Rights reserved in this Declaration. In addition, Declarant shall be deemed to have such easements on, across and over the Common Elements as maybe reasonably necessary in the discharge of any obligations imposed on Declarant by this Declaration or under the North Carolina Condominium Act.

V.

SUBDIVISION OF UNITS, RELOCATION OF BOUNDARIES, AND  
REALLOCATION OF LIMITED COMMON ELEMENTS;  
CREATION OF ADDITIONAL COMMON ELEMENTS;  
SEPARATE CONVEYANCE OF COMMON ELEMENT INTEREST PROHIBITED

A. Subdivision of Units Relocation of Boundaries and Reallocation of Limited Common Elements. Declarant hereby reserves the right for ten (10) years from the date of recording of this Declaration to subdivide any existing Unit or Units owned by Declarant and/or relocate boundaries between adjoining Units owned by Declarant, without the consent of any

other Unit Owners, their mortgagees or the Association. The maximum number of additional Units Declarant may create pursuant to this reserved right is four (4), for a total of up to six (6) Units. New Common Elements and/or Limited Common Elements of a nature and scale similar to those currently existing may be created as part of the subdivision or relocation of boundaries by Declarant. In the event Declarant elects to subdivide any Unit owned by Declarant or relocate boundaries between adjoining Units owned by Declarant in accordance with the foregoing provisions, the Allocated Interests in the Common Elements appurtenant to the Units shall be reapportioned between or among all Units, including the newly configured Units, based on the number of square feet of floor area contained in each Unit relative to the total number of square feet of floor area contained in all Units in accordance with Article IV, Paragraph B.

In addition, a Unit maybe subdivided into two or more Units and the boundaries between adjoining Units maybe relocated by the Owner(s) of such Unit(s) other than Declarant acting pursuant to the foregoing paragraph, provided (i) such subdivision or relocation of boundaries is in accordance with applicable laws, regulations and ordinances and does not cause any other Unit or the Condominium as a whole or any portion of the Condominium to be out of compliance with any applicable laws, regulation end ordinances, (ii) any modifications to the effected Units do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Condominium, (iii) any Unit created or reconfigured by the subdivision or relocation of boundaries contains at least 500 square feet of floor area, and (iv) the Owner(s) of the Unit(s) effected by the subdivision or boundary relocation agree to indemnify and hold harmless the Association and all other Unit Owners from any loss or liability arising from any related construction. New Common Elements and/or Limited Common Elements of a nature and scale similar to those currently existing maybe created as part of the subdivision or relocation of boundaries. Any Unit Owner, other than Declarant acting pursuant to the foregoing paragraph, desiring to subdivide a Unit or relocate boundaries between adjoining Units shall make application to the Association. The application shall be in such form and contain such information and assurances as reasonably required by the Association to confirm that the subdivision or relocation of boundaries meets the foregoing conditions and shall be accompanied by detailed plans of the proposed subdivision or relocation prepared by an architect or engineer licensed or registered as required by the North Carolina Condominium Act for the production of Condominium plans.

If the Association reasonably determines that the proposed subdivision or relocation of boundaries meets the foregoing conditions, the Association shall prepare and record, at the expense of the Unit Owner(s) of the effected Unit(s), an amendment to this Declaration in the public records of Wake County, North Carolina, such amendment to refer specifically to the recording data identifying this Declaration and to be executed, in the same manner as a deed, by the Association and the Unit Owner of the Unit being divided or subdivided. Such amendment shall assign Identifying Numbers to the new Units created thereby, describe any new Common Elements and Limited Common Elements created thereby and, in the case of the latter, designate the Unit(s) to which such Limited Common Elements are reserved and the amendment shall reapportion the Allocated Interests in the Common Elements appurtenant to the Units shall between or among all Units, including the newly configured Units, based on the number of square *feet of* floor area contained in each Unit relative to the total number of square feet of floor area contained in all Units in accordance with Article IV,

Paragraph B. In addition to the execution and recordation of the amendment to the Declaration described above, the Association, at the expense of the Unit Owner(s) of the effected Units, shall prepare and record in the public records of Wake County supplemental plats and plans of the Condominium meeting the requirements of the North Carolina Condominium Act and evidencing the changes effected by the division or subdivision.

B. Creation of Additional Common Elements. Declarant hereby reserves the right for ten (10) years from the date of recording of this Declaration to construct one or more of the proposed demising walls from time-to-time shown on the Condominium Plan and labeled "NEED NOT BE BUILT," provided that at the time of such construction either Declarant owns both of the Units separated by the proposed demising wall or all of the Owners of the Units separated by the proposed demising wall have given Declarant their consent to the construction of the demising wall. Any such demising wall(s) constructed by Declarant shall be built to the same general specification as the existing interior demising walls. Upon completion of any demising wall in accordance with the terms of this paragraph, Declarant shall prepare and record in the public records of Wake County supplemental plats and plans of the Condominium showing the constructed demising wall, whereupon, the demising wall shall become a Common Element of the Condominium and shall be maintained by the Association to the same extent as the demising walls existing at the time of the recording of this Declaration.

In addition, any such proposed demising wall maybe constructed by the Owner(s) of the Units separated by the proposed demising wall other than Declarant acting pursuant to the foregoing paragraph, provided (i) the construction of the proposed demising wall is in accordance with applicable laws, regulations and ordinances and does not cause any Unit or the Condominium as a whole or any portion of the Condominium to be out of compliance with any applicable laws, regulation and ordinances, (ii) the construction of the demising wall does not impair the structural integrity or mechanical systems or lessen the support of any portion of the Condominium, (iii) the demising wall is constructed in a good and workmanlike manner, by contractors reasonably acceptable to the Association and generally to the specification of the existing interior demising walls, and (iv) the Owner(s) of the Units separated by the proposed demising wall agree to indemnify and hold harmless the Association and all other Unit Owners from any loss or liability arising from such construction. Any Unit Owner(s) (other than Declarant acting pursuant to the previous paragraph) desiring to construct a demising wall shall make application to the Association. The application shall be in such form and contain such information and assurances as reasonably required by the Association to confirm that the construction of the demising wall meets the foregoing conditions and shall be accompanied by detailed plans of the proposed demising wall. If the Association reasonably determines that the proposed construction meets the foregoing conditions, the Association shall prepare approve the Owner(s) request. Upon completion of any demising wall in accordance with the terms of this paragraph, the Association, at the expense of the Owners of the Units separated by the newly constructed demising wall, shall prepare and record in the public records of Wake County supplemental plats and plans of the Condominium showing the constructed demising wall, whereupon, the demising wall shall become a Common Element of the Condominium and shall be maintained by the Association to the same extent as the demising walls existing at the time of the recording of this Declaration.

C. Separate Conveyance of Common Element Interest Prohibited. Except as otherwise provided in this Declaration, the Allocated Interest in the 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 Allocated Interest in the Common Elements appurtenant to each Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Unit even though such Allocated Interest is not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Unit. Any conveyance, encumbrance, judicial sale or other voluntary or involuntary transaction 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 affect any interest in a Unit and its Allocated Interest in 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 Identifying Number assigned thereto in Exhibit "A" without limitation or exception, shall be deemed and construed to affect the entire Unit and its Allocated Interest in the Common Elements. Nothing herein contained shall be construed as limiting or preventing ownership of any Unit and its Allocated Interest in the Common Elements by more than one person or entity as tenants in common, joint tenants, or as tenants by the entirety.

#### VI.

#### THE CONDOMINIUM SUBJECT TO MATTERS OF RECORD

The Units, Common Elements and Limited Common Elements shall be, and the same are hereby declared to be, subject to the restrictions, easements, conditions and covenants prescribed and established herein governing the use thereof and setting forth the obligations and responsibilities incident to ownership of each Unit and its Allocated Interest in the Common Elements, and said Units, Common Elements 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 Condominium.

#### VII.

#### PERPETUAL NON-EXCLUSIVE EASEMENT IN COMMON ELEMENTS; CONVEYANCE OR ENCUMBRANCE OF COMMON ELEMENTS

The Common Elements shall be, and the same are hereby declared to be, subject to a perpetual non-exclusive easement in favor of all of the Unit Owners for their use and the use of their employees, invitees and guests, for all proper and normal purposes, and for the furnishing of services and facilities for which the Common Elements are reasonably intended and for the enjoyment of said Unit Owners. Notwithstanding anything above provided in this Article, Harps Mill Office Condominium Association, Inc., hereinafter identified, shall have the exclusive right to establish the rules and regulations pursuant to which Unit Owners, their employees, invitees and guests, maybe entitled to use the Common Elements, including the right to make permanent and temporary assignments of parking spaces and/or to establish other restrictions concerning the

use thereof and the right to establish sign and/or lighting requirements and minimum and/or maximum hours of operation.

Portions of the Common Elements may be conveyed or subjected to a security interest, if such conveyance or encumbrance is approved by Unit Owners owning at least seventy-five percent (75%) of the Allocated Interest in the Common Elements (including one hundred percent (100%) of the Unit Owners owning Units appurtenant to any Limited Common Elements which are proposed to be conveyed or encumbered); provided, however, no such conveyance or encumbrance of the Common Elements shall unreasonably interfere with or obstruct ingress, egress and regress to and from any Unit. In connection with any encumbrance of the Common Elements, the Association also may assign its right to future income, including the right to receive Common Expense assessments, if such assignment is approved by Unit Owners owning at least seventy-five percent (75%) of the Allocated Interests in the Common Elements. The approval of Unit Owners required above shall be evidenced in a writing executed by all such Unit Owners, in the same manner as a deed, and recorded in the public records of Wake County, North Carolina. The agreement must specify a date after which it will be void unless then recorded. Any proceeds derived from the conveyance or encumbrance of Limited Common Elements shall be distributed as agreed upon between the Association and the Unit Owners owning the Units to which such Limited Common Elements are appurtenant. Any proceeds derived from the conveyance or encumbrance of Common Elements other than Limited Common Elements shall be an exclusive asset of the Association. Notwithstanding the foregoing, however, the Association shall have the authority and power to grant such easements, leases, licenses, and concessions through or over the Common Elements, including reciprocal cross easements for access, parking and landscaping, as the Executive Board of the Association may deem in the best interest of the Unit Owners and the Association without a vote or the consent of the Unit Owners or the holders of first mortgage or deed of trust liens. Notwithstanding anything herein provided to the contrary, no conveyance or encumbrance of any portion of the Common Elements shall interfere with or obstruct ingress, egress and regress to, or from, the Units.

#### VIII.

#### RESTRAINT UPON SEPARATION AND PARTITION OF COMMON ELEMENTS

Recognizing that the proper use of a Unit by its Unit Owner(s) is dependent upon the use and enjoyment of the Common Elements in common with the Unit Owners of all other Units, and that it is in the interest of all Unit Owners that the ownership of the Common Elements be retained in common by the Unit Owners, it is hereby declared that the Allocated Interest in the Common Elements appurtenant to each Unit shall remain undivided and no Unit Owner shall bring or have any right to bring any action for partition or division.

## IX

ADMINISTRATION OF THE CONDOMINIUM BY HARPS MILL OFFICE  
CONDOMINIUM ASSOCIATION, INC.

To efficiently and effectively provide for the administration of the Condominium by the Unit Owners, a nonprofit North Carolina corporation known and designated as Harps Mill Office Condominium Association, Inc. (the "Association") has been organized, and said corporation shall administer the operation and management of the Condominium and undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation and By-Laws. The Unit Owner(s) of each Unit shall automatically become members of said corporation upon his, their or its acquisition of an ownership interest in title to any Unit and its Allocated Interest in the Common Elements, and the membership of such Unit Owner(s) shall terminate automatically upon such Unit Owner(s) being divested of such ownership interest in the title to such Unit, regardless of the means by which such ownership may be divested. On all matters which the membership of the Association shall be entitled to vote, the Unit Owner(s) of each Unit shall have a vote equal to the Allocated Interest appurtenant to such Unit, to be cast or exercised by the Unit Owner(s) of each Unit in such manner as may be provided in the Bylaws of the Association. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any Unit shall be entitled, by virtue of such lien, mortgage or other encumbrance, to membership in said corporation or to any of the rights or privileges of such membership except as set forth in Article XXIX hereof. In the administration of the operation and management of the Condominium, the Association shall have and is hereby granted all of the powers and authorities granted to non-profit corporations under the law pursuant to which the Association is chartered, and all of the powers and privileges which maybe granted the Association under any other applicable laws of the State of North Carolina, including the North Carolina Condominium Act, which powers include, without limitation, the power and authority to enforce the provisions of this Declaration, to levy and to collect assessments in the manner hereinafter provided, to adopt, promulgate and enforce such rules and regulations governing the use of the Units and Common Elements as the Executive Board of said Association may deem to be in the best interests of the Unit Owners and the Association and to grant such easements, leases, licenses, and concessions through or over the Common Elements, including reciprocal cross easements for access, parking and landscaping, as the Executive Board of the Association may deem in the best interest of the Unit Owners and the Association.

## X.

USE RESTRICTIONS APPLICABLE TO UNITS;  
THE CONDOMINIUM TO BE USED FOR LAWFUL PURPOSES;  
RESTRICTION AGAINST NUISANCES

A. Prohibited Uses. No Unit shall be used for residential purposes (including "halfway" houses, life care communities, retirement or nursing homes), or as an adult establishment (which shall include any bar, nightclub, tavern or lounge featuring adult entertainment and any establishment which sells or rents "adult" or pornographic books, videos or other materials), veterinary office, animal hospital, kennel, funeral home, crematorium, or for

the purpose of performing autopsies, embalming, cremation, or for any other purpose which involves cadavers or deceased human or animal bodies. In addition, the sale of alcoholic beverages, whether for on-site or off-site consumption, is a prohibited use of any Unit.

B. Nuisances. No immoral, improper, offensive or unlawful use shall be made of any Unit or of the Common Elements, nor any part thereof, and all laws, ordinances and regulations of all governmental authorities having jurisdiction of the Condominium shall be observed. No Unit Owner shall permit or suffer anything to be done or kept in his Unit or on the Common Elements, including any Limited Common Elements, which will obstruct or interfere with the rights of other occupants of the Condominium nor shall any Unit Owner undertake any use or practice which shall create and constitute a nuisance to any other Unit Owner by reason of the emission or creation of odors, gases, dust, smoke, noise, fumes, cinders, soot, glare, reflected sunlight, vibrations, radiation or waste or otherwise, or which interferes with the peaceful possession and proper use of any other Unit or the Common Elements. The use of the Common Elements and the Units by the Unit Owners and all other parties authorized to use the same also shall be at all times subject to such reasonable rules and regulations as may now or hereafter be prescribed by the Association.

C. Smoking Restrictions. Smoking is prohibited throughout the Condominium (specifically including the Building, the grounds and the Units) except as follows:

1. The Association may from time to time promulgate rules and regulations identifying one or more smoking areas outside the Building which must be sufficiently far from Building entrances and exits as not to interfere with the use of such areas by others and as to prevent smoke from entering the Building.

2. A Unit Owner may apply to the Association for permission to allow smoking within such Owner's Unit. The Association must reject any such application unless the Owner can demonstrate to the Association's satisfaction that additional ventilation has been installed in the Unit sufficient to assure that smoke from the Unit does not migrate to other portions of the Building. Any such approval given by the Association may at anytime be retracted by the Association if it is shown that the additional ventilation is insufficient to prevent smoke migration to other Units or the Common Elements.

C. Compliance with Laws: Hazardous Uses. No Unit Owner shall use or permit such Unit Owner's Unit or the Common Elements or any part thereof to be used in violation of any law or ordinance or any regulation of any governmental authority, for any hazardous purpose or in any manner which will constitute a nuisance or that will violate, suspend, void or make inoperative any policy or policies of insurance of any kind whatsoever at any time carried on the Unit, any neighboring Unit or the common elements or any part thereof.

D. Hazardous Substances. No Unit Owner shall handle, store, process, dispose of or generate on the Condominium or transport to or from the Condominium, and no Unit Owner shall permit any officer, principal, servant, employee, lessee, agent or contractor of such Unit Owner or any other person under the direction or control of such Unit Owner to handle, store, process, dispose of or generate on the Condominium or transport to or from the

Condominium, any hazardous or toxic materials, waste and/or substances (which includes but is not limited to polychlorinated biphenyls, petroleum, flammable explosives, radioactive materials and asbestos), as defined in any environmental law of any municipality, state or federal agency or body applicable to the property ("Hazardous Substances"); provided, however, a Unit Owner may, ancillary to and in the normal course of an otherwise permitted use of the Unit, use or permit to be used Hazardous Substances that are commonly used in the normal course of business office or retail facilities if such use does not under applicable law require a permit from, or that a report, notice, registration or business plan be filed with, any governmental authority or that an office be given to persons entering or occupying the Unit or neighboring properties. Any use, storage or disposal of any such Hazardous Substances must be conducted in a reasonably prudent manner and in a manner which is: (i) consistent with standards recognize by the health care industry; (ii) in compliance with all applicable laws, ordinances and regulations of any governmental authority; and (iii) not harmful to any mechanical or structural component of the Condominium, including, without limitation the plumbing, water and sewer, electrical and heating and ventilation systems. Each Unit Owner agrees to indemnify, defend and hold harmless all other Unit Owners and the Association from and against any loss incurred as a result of the use, handling, storage, generation, transportation or disposal of Hazardous Substances by such Unit Owner or any officer, principal, servant, employee, agent or contractor of such Unit Owner or any other person under the direction or control of such Unit Owner. The cost of any testing or remediation performed by the Association, including without limitation all engineering and attorneys' fees, made necessary as a result of any Owner's breach of the foregoing restrictions shall be assessed exclusively against the responsible Unit Owner and the assessment, together with attorneys' fees and all other costs of collection, shall be the personal obligation of such Unit Owner and a lien against such Unit Owner's Unit to the same extent provided under Article XXIV of this Declaration.

E. Leases. Any lease or rental agreement for a Unit shall be in writing. The initial term of any lease or rental agreement for a Unit shall not be less than thirty (30) days. Such leases shall provide that the terms of the lease are subject to the provisions of this Declaration, the Articles of Incorporation, the Bylaws and the rules and regulations of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a default under the terms of the lease. The Executive Board shall be furnished with a memorandum of all leases evidencing compliance with the foregoing.

F. Parking. Each Unit Owner shall insure its employees park on their respective side of the building to allow guests and clients to park in front of the building. No Unit Owner shall be permitted to leave personal vehicles in the front of the building and there shall be no parking directly in front of the common entrance area.

G. Outdoor Storage. Each Unit Owner shall maintain the Common Elements in a neat and attractive manner. No Unit Owner shall store or place any materials or property behind the building or on any other Common Element, including, but not limited to the parking area and fenced trash receptacle area. Each Unit Owner will keep the access area to the fenced trash receptacle clear and free from any vehicle, trash, materials or other items which may hinder trash removal.

H. Signs. Each of the initial Unit Owners shall be entitled to equal signage on the monument sign located on Falls of Neuse Road and the building sign on the front of the building. In addition, each Unit Owner, subject to the approval of the City of Raleigh and the Association, may construct and maintain a 24' x 36' sign beside the common entrance way to the building. Such signs located at the common entrance way shall be uniform in color, font, logo, design and any other characteristics so as to present uniformity and harmony at the common entrance way. Subject to the approval of the Association, in the entrance vestibule each Unit Owner may add signage on their side of the vestibule not to exceed six (6) square feet. A single "For Sale" sign not to exceed six (6) square feet may be placed at the midway point of each Unit Owner's Unit in the front of the building. Under no condition shall any signs be placed in any window of a Unit. Except as expressly permitted above, no Unit Owner shall allow the installation or insertion of any other signs, political, temporary or otherwise.

## XI.

### USE OF COMMON ELEMENTS SUBJECT TO RULES OF ASSOCIATION

The use of Common Elements, including the Limited Common Elements, by the Unit Owners, 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 governing such use, or which may be hereafter prescribed and established by the Association.

## XII.

### RIGHT OF DECLARANT TO REPRESENTATION ON EXECUTIVE BOARD OF THE ASSOCIATION

For the period commencing on the date the Association is formed and ending one hundred twenty (120) days after the conveyance of the first unit (including units which maybe created pursuant to Special Declarant Rights) to Unit Owners other than a declarant, but in any event no longer than two (2) years after Declarant has ceased to offer Units for sale in the ordinary course of business or five (5) years from the date of recording of this Declaration, whichever occurs first, Declarant shall have the right to designate and select all of the persons who shall serve as members of each Executive Board of the Association, except as follows:

Not later than 60 days after conveyance of fifty percent (50%) of the units (including units which may be created pursuant to Special Declarant Rights) to Unit Owners other than a declarant, at least one member and not less than fifty percent (50%) of the members of the Executive Board shall be elected by Unit Owners other than the Declarant; and

Whenever Declarant shall be entitled to designate and select any person or persons to serve on any Executive Board of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or Bylaws of the

Association, and Declarant shall have the right to remove any person or persons selected by it to act and serve on said Executive Board and to replace such person or persons with another person or other persons to act and serve in the place of any member or members of the Executive Board so removed for the remainder of the unexpired term of any member or members of the Executive Board so removed.

### XIII.

#### RIGHT OF ENTRY INTO UNITS IN EMERGENCIES

In case of any emergency originating in or threatening any Unit or the Common Elements, regardless of whether the Unit Owner is present at the time of such emergency, the Executive Board of the Association, or any other person authorized by it, or the managing agent, shall have the right to enter any Unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate. In addition the Executive Board of the Association, or any other person authorized by it, or the managing agent, shall have the right to enter any Unit for the purpose of repairing or maintaining the electrical equipment or water service closet serving the entire building even though the electrical equipment or water service closet may be located within the boundaries of a single Unit.

### XIV.

#### RIGHT OF ENTRY FOR IMPROVEMENT, MAINTENANCE, OR REPAIR

Whenever it maybe deemed necessary or otherwise expedient by Declarant or the Association (on behalf of itself or any Unit Owner) to enter any Unit for any of the purposes set forth below, the Unit Owner(s) of such Unit shall permit the licensed contractors, subcontractors and other authorized agents of Declarant, the Association, or the Unit Owner(s) requesting entry, as the case maybe, to enter such Unit for such purpose:

- (i) performing any improvement, maintenance, alteration or repair to any Common Elements, including any Limited Common Elements, whether or not such Limited Common Elements serve the Unit entered, or
- (ii) performing any improvement, maintenance, alteration or repair to any equipment, improvements, wires, pipes and other facilities or conduits serving another Unit but located within or accessible through the Common Elements or another Unit.

Such entry shall be made only at reasonable times and with reasonable advance notice and all activities conducted in the Unit shall be conducted in such away as to minimize any interference with the use and occupancy of the Unit. In such instances, Declarant, the Association or the Unit Owner requesting entry, as the case maybe, shall promptly restore the entered Unit to the condition existing prior to entry and shall indemnify, defend and hold

harmless the Unit Owner(s) of the entered Unit from and against any loss, damage or liability incurred as a result of such entry.

XV.

LIMITATION UPON RIGHT OF UNIT OWNERS TO  
ALTER AND MODIFY UNITS;  
NO RIGHT TO ALTER COMMON ELEMENTS

1. A Unit Owner may make improvements or alterations to his Unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Condominium.

2. The Association, through the Executive Board (or its Architectural Control Committee), shall regulate the external design, appearance, use, location and maintenance of the Condominium and of improvements thereon in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography. No Unit Owner shall cause any improvements, alterations, repairs or changes to be made to the exterior of the Condominium (including painting or other decoration, the installation of electrical wiring, television or radio antennae or any other objects or devices which may protrude through the walls or roof of the Condominium), in any manner alter the interior of the Unit so as to alter or affect the appearance of the exterior of the Condominium, or in any other manner alter the appearance of the exterior portion of the building without the written consent of the Association being first had and obtained. No Unit Owner shall cause any object to be fixed to the Common Elements (including the location or construction offences and the planting or growing of flowers, trees, shrubs or any other vegetation) or to any Limited Common Elements or in any manner change the appearance of the Common Elements or Limited Common Elements without the written consent of the Association being first had and obtained.

Any Unit Owner desiring to make any improvement, alteration or change described above shall submit the plans and specifications therefor, showing the nature, kind, shape, height, materials and location of the same, to the Executive Board which shall evaluate such plans and specifications in light of the purpose of this Article set forth above. As a condition to the granting of approval of any request made under this Article, the Association may require that the Unit Owner requesting such change be liable for any cost of maintaining, repairing and insuring the approved alteration. If such condition is imposed, the Unit Owner shall evidence his consent thereto by a written document in recordable form satisfactory to the Association. Thereafter, the Unit Owner, and any subsequent Owner of the Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree that the cost of maintaining, repairing and insuring such alteration shall be assessed exclusively against, and shall be the personal obligation of, the Unit Owner(s) of such Unit and a lien against such Unit to the same extent as set forth in Article XXIV of this Declaration.

## XVI.

RIGHT OF ASSOCIATION TO ALTER AND  
IMPROVE COMMON ELEMENTS AND ASSESSMENT THEREFOR

The Association shall have the right to make or cause to be made such alterations or improvements to the Common Elements (including the right to grant and establish upon, over and across the Common Elements such easements as are necessary or desirable for providing service or utilities to the Units and the Common Elements) which do not materially prejudice the rights of any Unit Owner in the use and enjoyment of his Unit, provided the making of such alterations and improvements are approved by the Executive Board of the Association, and the cost of such alterations or improvements shall be Common Expenses to be assessed and collected from all Unit Owners. However, where any alterations and improvements are exclusively or substantially for the benefit of the Unit Owner(s) of certain Unit(s) requesting the same, then the cost of making, maintaining, repairing and insuring such alterations or improvements shall be assessed against and collected solely from the Unit Owner(s) of the Unit(s) exclusively or substantially benefited, the assessment to be levied in such proportion as maybe determined by the Executive Board of the Association.

## XVII.

MAINTENANCE AND REPAIR OF UNITS BY UNIT OWNERS

Every Unit Owner shall perform promptly all maintenance and repair work within his Unit which, if omitted, would affect the Condominium, either in its entirety or in a part belonging to other Unit Owners, every Unit Owner being expressly responsible for the damages and liability which his failure to do so may engender. Each Unit Owner shall be liable and responsible for the maintenance, repair and replacement, as the case may be, of all air conditioning and heating equipment, stoves, refrigerators, fans or other appliances or equipment, including any utility fixtures and/or their connections required to provide water, light, power, telephone, sewage and sanitary service to his Unit whether located in the Unit or the Common Elements. In addition, each Unit Owner shall be responsible for the maintenance, repair and replacement of all window, door and other glass surfaces serving such Unit Owner's Unit and shall perform routine maintenance, such as sweeping and snow removal, of the sidewalk and loading areas located immediately adjacent to such Unit Owner's Unit. Each Unit Owner shall further be responsible and liable for the maintenance, repair and replacement of the interior surface of any and all walls, ceilings and floors within his Unit including painting, decorating and furnishings, and all other accessories which such Unit Owner may desire to place or maintain in his Unit. Whenever the maintenance, repair and replacement of any item for which a Unit Owner is obligated to maintain, replace or repair at his own expense is occasioned by any loss or damage which maybe covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement except that such Unit Owner shall be, in said instance, required to pay such portion of the costs of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance or by any

other reason, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

If a Unit Owner fails to perform any maintenance or repair within his Unit which, if omitted, would affect the Condominium, either in its entirety or in a part belonging to other Unit Owners, the Association may perform such maintenance as it deems necessary, twenty days (20) after giving written notice to such Unit Owner of the necessary maintenance. The cost of such maintenance performed by the Association shall be assessed exclusively against such Unit Owner and the assessment shall be the personal obligation of such Unit Owner and a lien against such Unit to the same extent provided under Article XXIV of this Declaration.

#### XVIII.

#### MAINTENANCE AND REPAIR OF COMMON ELEMENTS BY THE ASSOCIATION

Except as otherwise herein provided, the Association shall be responsible for the maintenance, repair and replacement of all of the Common Elements, including those portions thereof which contribute to the support of the buildings, and all conduits, ducts, plumbing, wiring and other facilities located in the Common Elements for the furnishing of utility and other services to the Units and said Common Elements, and 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 Common Elements, the Association shall, at its expense, repair such incidental damage. The Association shall be deemed to have such easements on, across and over the Common Elements as shall be reasonably necessary in the exercise and discharge of its maintenance rights and obligations reserved and imposed by this Declaration or under the North Carolina Condominium Act. Whenever the maintenance, repair and replacement of any item for which the Association is obligated to maintain, replace or repair at its expense is occasioned by any act of a Unit Owner, his immediate family, guests or invitees, and such loss or damage maybe covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement and the Unit Owner who is responsible for the act causing the damage (whether done by himself or by his family, guests or invitees) shall be required to pay such portion of the cost of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance or by any other reason, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

#### XIX.

#### INSURANCE, AUTHORITY TO PURCHASE

Insurance policies upon the Condominium (other than title insurance) shall be purchased by the Association in the name of the managing agent or Executive Board of the Association, as trustees for the Unit Owners and their respective mortgagees as their interests may appear, and

shall provide for the issuance of certificates or memoranda of insurance to the Association and, upon written request, to any Unit Owner or mortgagee endorsements or to the holders of first mortgages on the Units or any of them.

Such insurance policies must provide that:

1. Each Unit Owner is an insured person under the policy with respect to liability arising out of his interest in the Common Elements or membership in the Association;
2. The insurer waives its right to subrogation under the policy against any Unit Owner, the Association and their respective employees, servants, agents and guests;
3. No act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, will preclude recovery under the policy;
4. If, at anytime of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the Policy described in this Article, the Association's policy provides primary insurance; and
5. The insurer issuing the Policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, to each Unit Owner and to each mortgagee or beneficiary under a deed of trust to whom certificates or memoranda of insurance have been issued at their respective last-known addresses.

Each Unit Owner may obtain insurance, at his own expense, affording coverage upon his Unit, his personal property and for his personal liability and as may be permitted or required by law, but all such insurance shall contain the same waiver of subrogation as that referred to above if the same is available.

XX.

INSURANCE COVERAGE TO BE MAINTAINED: USE AND DISTRIBUTION OF INSURANCE PROCEEDS

A. Commencing not later than the time of the first conveyance of a Unit to a person other than a declarant, the Association shall maintain in full force and effect the following insurance coverage:

- (1) Casualty insurance covering the Common Elements and Units, except such personal property as may be owned by the Unit Owners, shall be procured in an amount equal to 100% of the current replacement cost (exclusive of excavation, foundations, streets and parking facilities) as determined annually by the insurance company affording such coverage. Such policy shall contain an Agreed Amount Endorsement or an Inflation Guard Endorsement, if available. By way of illustration and not of limitation, such casualty insurance shall cover fixtures, installations or additions, or equal replacements thereof, comprising a part of the building within each

individual Unit (as that term is defined in Article III hereof) in accordance with the original Condominium plans and specifications. In determining the amount of coverage for such fixtures, installations or additions, the Executive Board of the Association shall annually set the standard allowance for such items as carpeting, cabinets, wall covering, vinyl floor covering, ceramic tile, appliances, shelves, etc., which were included in the original Condominium plans and specifications. By way of illustration and not of limitation, such casualty insurance shall not cover furniture, equipment or other personal property owned by, used by or in the care, custody, or control of a Unit Owner (whether located within or without the Unit), or fixtures, installations or additions that are placed in an individual Unit by a Unit Owner thereof at his expense. Such coverage shall afford protection against: (a) loss or damage by fire and other hazards covered by the standard extended coverage endorsement; and (b) such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use, including, but not limited to, vandalism and malicious mischief.

(2) A comprehensive policy of public liability insurance insuring the Association in such reasonable amounts and in such forms as shall be required by the Association insuring against claims for personal injury and/or property damage, such coverage to include protection against liability for non-owned and hired automobiles and liability for property of others, and, if available, may include coverage for water damage.

B. The Association, in the discretion of its Executive Board, may maintain fidelity coverage against dishonest acts by the Association's officers, directors, trustees and employees, and all others who are responsible for handling funds of the Association. If the Association employs a professional property management person or firm to manage the Association and to receive and disburse the monies of the Association, then such professional management person or firm shall have adequate fidelity coverage against dishonest acts.

C. All liability insurance shall contain cross-liability endorsements to cover liabilities of the Unit Owners as a group to a Unit Owner.

D. Premiums upon insurance policies purchased by the Association shall be paid by the Association as Common Expenses to be assessed and collected from all of the Unit Owners in proportion to each Unit's share of the Allocated Interests, unless otherwise specifically allocated by the Executive Board, in its sole discretion.

E. If the insurance described in this Article is not reasonably available, in the sole determination of the Executive Board of the Association, the Executive Board shall promptly cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Unit Owners.

F. All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds payable as a result of casualty losses shall be paid to the Association. The Association shall hold such proceeds in trust for the benefit of the Association, the Unit Owners and their respective mortgagees, to be utilized and distributed as set out in Article XXI of this Declaration.

G. In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held for the mortgagee and the Unit Owner as their interests may appear.

## XXI.

### RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE

A. If any part of the Condominium shall be damaged by casualty, the damaged area shall be reconstructed or repaired unless:

- (1) The Condominium is terminated as provided in Article XXVI hereof; or
- (2) Repair or replacement would violate any state or local health or safety statute or ordinance; or
- (3) The Unit Owners, by a unanimous vote of the Unit Owners determine not to rebuild or restore all or any portion of the damaged area.

B. In the event the Condominium is terminated, insurance proceeds shall be distributed in accordance with Paragraph D of Article XXVI of this Declaration.

C. Any reconstruction or repair shall be performed substantially in accordance with the plans and specifications contained herein and on file with and approved by Wake County, North Carolina.

D. If the damage is only to those parts of one or more Units for which the responsibility for maintenance and repair is that of such Unit Owner(s), then such Unit Owner(s) shall be responsible for reconstruction and repair after casualty. The responsible Unit Owner (s) shall immediately undertake efforts to make such repair after casualty and shall pursue the repairs to completion in a reasonable and diligent manner. In all other instances, the responsibility of reconstruction and repair after casualty shall be that of the Association.

E. Immediately after the casualty causing damage to property for which the Association has the responsibility for maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Executive Board deems necessary or appropriate.

F. When the damage is to both Common Elements and Units or to Common Elements only, the insurance proceeds shall be payable to the Association and shall be applied first to the cost of repairing the Common Elements, then to the cost of repairing the Units.

G. In the event the Unit Owners determine, pursuant to Paragraph A of this Article, that less than all of the damaged area is to be repaired or restored, the insurance proceeds shall be utilized and/or distributed as follows:

(1) Proceeds attributable to damaged Common Elements shall be used to restore such Common Elements to a condition compatible with the remainder of the Condominium;

(2) Proceeds attributable to Units and to Limited Common Elements which are not to be rebuilt or restored shall be distributed to the Unit Owners and mortgagees of Units which are not to be rebuilt or restored and to the Unit Owners and mortgagees of the Units appurtenant to the damaged Limited Common Elements, in proportion to the damage to such Units and/or Limited Common Elements; and

(3) Any remaining proceeds shall be distributed among all Unit Owners and mortgagees, as their interests may appear, in proportion to the Allocated Interests appurtenant to each Unit.

H. Each Unit Owner shall be deemed to have delegated to the Executive Board of the Association his right to adjust with insurance companies all losses under policies purchased by the Association.

L All remittances to Unit Owners and their mortgagees shall be payable jointly to them.

J. In the event that Unit Owners vote not to rebuild a damaged Unit, that Unit's Allocated Interest in the Common Elements shall be automatically reallocated among the remaining Units at the time of such vote, in proportion to each remaining Unit's (exclusive of the damaged Unit) respective Allocated Interest prior to the casualty. The Association shall prepare, execute and record an amendment to the Declaration reflecting such reallocation.

## XXII.

### CONDEMNATION OF COMMON ELEMENTS OR UNITS

A. In the event a Unit or a portion thereof is acquired by eminent domain, the condemnation award thereof shall be paid to the Unit Owner. If the condemning authority does not acquire the Unit's share of Allocated Interest in the Common Elements, that Unit's Allocated Interest shall be automatically reallocated to all remaining Units in proportion to each remaining Unit's (exclusive of the condemned Unit) respective Allocated Interest prior to the taking. The Association shall prepare, execute and record an amendment to the Declaration reflecting such reallocation. Any portion of a Unit remaining after condemnation of that Unit shall thereafter be a part of the Common Elements.

B. In the event a portion of the Limited Common Elements is acquired by eminent domain, any portion of the condemnation award attributable to the taking of Limited Common Elements shall be paid to the Association as trustee for Unit Owners, and the Association shall apportion the award among the Unit Owners of Units to which such Limited Common Elements

were allocated at the time of the taking, in shares of equal value, or in such other proportion as the Association, in its sole discretion, shall determine.

C. In the event a portion of the Common Elements is acquired by eminent domain, any portion of the condemnation award attributable to the taking of the Common Elements not payable directly to a Unit Owner shall be paid to the Association.

#### XXIII.

#### ASSOCIATION TO MAINTAIN REGISTER OF UNIT OWNERS AND MORTGAGEES

The Association shall at all times maintain a register setting forth the names of the Unit Owners. In the event of the sale or transfer of any Unit to a third party, the purchaser or transferee shall notify the Association in writing of his interest in such Unit, together with such recording information as shall be pertinent to identify the instrument by which such purchaser or transferee has acquired his interest in any Unit. Further, each Unit Owner shall notify the Association of the names of the parties holding any mortgage or mortgages on his Unit, the amount of such mortgage or mortgages and the recording information which shall be pertinent to identify the mortgage or mortgages. The holder of any mortgage or mortgages upon any Unit may, if he so desires, notify the Association of the existence of any mortgage or mortgages held by such party on any Unit and, upon receipt of such notice, the Association shall register in its records all pertinent information relating thereto.

#### XXIV.

#### ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT

The Association is given the authority to administer the operation and management of the Condominium, it being recognized that the delegation of such duties to one entity is in the best interest of the Unit Owners. To administer properly the operation and management of the Condominium, the Association will incur for the mutual benefit of all of the Unit Owners, costs and expenses which are sometimes herein referred to as "Common Expenses." To provide the funds necessary for such proper operation, management and capital improvement, the Association has been granted the right to make, levy and collect assessments against the Unit Owners and their Units. In furtherance of this grant of authority to the Association to make, levy and collect assessments to pay the costs and expenses for the operation, management of and capital improvements to the Condominium, the following provisions shall be operative and binding upon all Unit Owners.

A. Unless specifically otherwise provided for in this Declaration, all assessments made by the Association shall be in such an amount that any assessment levied against a Unit Owner and his Unit shall bear the same ratio to the total assessment made against all Unit Owners and their Units as the Allocated Interest in the Common Elements appurtenant to each Unit bears to the total Allocated Interest in the Common Elements appurtenant to all Units; provided, however, that any portion of the Common Expense which, in the opinion of the

Executive Board, was incurred on behalf of or benefited fewer than all Unit Owners maybe assessed solely against the Unit Owners so benefited, in such proportions as the Executive Board, in the reasonable exercise of its discretion, shall determine.

In the event utility services which are provided to Unit Owners are charged to and paid for by the Association, the cost of such utilities shall be a part of the Common Expenses and levied against each Unit Owner in proportion to his Unit's share of the Allocated Interest, or in such other proportions as the Executive Board, in the exercise of its reasonable discretion, shall determine. The initial Unit Owners shall split equally the cost of electricity and water which shall be part of the Common Expenses. However, if either of the two (2) initial Unit Owners requests that either the cost of electricity or water be split and independent meters be installed in each Unit, then, in the case of electricity meters, the requesting Unit Owner shall pay the costs associated with installation of the electric meters for both Units, and, in the case of water meters, both of the initial Unit Owners shall split the costs of installing the water meters in both Units. Thereafter, each Unit Owner shall pay its actual cost for electricity and/or water based upon the monthly metered amounts and the cost shall be removed from Common Expenses.

B. Assessments provided for herein shall be payable in monthly installments as determined by the Executive Board of the Association. Such assessments shall commence for each Unit on the first day of the first month following the recordation of a plat showing such Unit in the Wake County Public Registry.

C. In addition to the annual assessment authorized above, the Executive Board may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of the Common Elements, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of Unit Owners entitled to cast at least seventy-five percent (75%) of the votes of the Association, voting in person or by proxy at a meeting duly called for such purpose; provided, however, no such special assessment shall be approved or otherwise used for the purpose of completing the initial Condominium improvements.

D. The Executive Board of the Association shall establish an annual budget in advance for each fiscal year (which shall correspond to the calendar year, except that in the initial year of operation of the Condominium, the fiscal year shall commence with the closing of the sale of the first Unit). Such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Condominium, including a reasonable allowance for contingencies and reserves, and the budget shall take into account projected anticipated income which is to be applied in reduction of the amounts required to be collected as an assessment each year. The Executive Board shall keep separate, in accordance with paragraph "G" of this Article XXIV, items relating to operation and maintenance from items relating to capital improvements. Within thirty (30) days after adoption of the budget by the Executive Board, the Executive Board shall provide a copy of said budget or a summary thereof to each Unit Owner, and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than 14 nor more than 30 days after mailing of the budget or summary to the Unit Owners. There shall be no requirement that a quorum be present at the meeting. The budget is deemed ratified unless at the meeting the budget is rejected by the

members entitled to cast at least seventy-five percent (75%) of the votes of the Association, voting in person or by proxy. In the event the Executive Board fails to propose a budget or fails to call a meeting for the ratification of a proposed budget or a proposed budget is rejected, the annual budget last ratified shall be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Executive Board.

E. The Executive Board of the Association, in establishing the annual budget for operation, management and maintenance of the Condominium, shall designate therein a sum to be collected and maintained as a reserve fund for replacement of and capital improvements to the Common Elements (Capital Improvement Fund). This Fund shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting apart of the Common Elements, as well as the replacement of portions of the Common Elements. The amount to be allocated to the Capital Improvement Fund shall be established by the Executive Board so as to collect and maintain a sum reasonably necessary to anticipate the need for replacement of Common Elements. The amount collected for the Capital Improvement Fund may be maintained in a separate account by the Association and such monies shall be used only to make capital improvements to Common Elements. Any interest earned on monies in the Capital Improvement Fund may, in the discretion of the Executive Board of the Association, be expended for current operation and maintenance. Each Unit Owner shall be deemed to own a portion of the Capital Improvement Fund equal to his Units Allocated Interest in the Common Elements and the Association shall annually notify each Unit Owner of the amount of his balance in the Capital Improvement Fund. However, such balance shall not be subject to withdrawal by a Unit Owner.

F. All monies collected by the Association shall be treated as the separate property of the Association, and such monies maybe applied by the Association to the payment of any expense of operating and managing the Condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the By-Laws of the Association. As monies for any assessment are paid to the Association by any Unit Owner, the same maybe commingled with monies paid to the Association by the other Unit Owners. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom or from the leasing or use of Common Elements, shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Unit. When a Unit Owner shall cease to be a member of the Association by reason of his divestment of ownership of such Unit, by whatever means, the Association shall not be required to account to such Unit Owner for any share of the funds or assets of the Association, or which may have been paid to the Association by such Unit Owner, as all monies which any Unit Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Condominium.

G. The payment of any assessment or installment thereof shall be in default if such assessment or installment is not paid to the Association within thirty (30) days of the due date for such payment. When in default, the delinquent assessment or delinquent installment thereof due to the Association shall bear interest at the rate of twelve percent (12%) per annum until such

delinquent assessment or installment thereof, and all interest due thereon, has been paid in full to Association. Any assessment levied pursuant to this Declaration, or any installment thereof, which is not paid within ten (10) days after it is due, shall be subject to such reasonable late charge per month for each monthly assessment in arrears as the Executive Board may from time to time fix. All monies owing to the Association shall be due and payable at the main office of Association in the State of North Carolina.

H. The Unit Owner(s) of each Unit shall be personally liable, jointly and severally, to the Association for the payment of all assessments, regular or special, which maybe levied by the Association against such Unit while such party or parties are Unit Owner(s). In the event that any Unit Owner(s) are in default in payment of any assessment or installment thereof owed to the Association, such Unit Owner(s) shall be personally liable, jointly and severally, for interest on such delinquent assessment or installment thereof as above provided, and for all late charges and costs of collecting such assessment or installment thereof and interest thereon, including a reasonable attorneys' fee, whether suit be brought or not.

I. No Unit Owner may exempt himself from liability for any assessment levied against him or his Unit by waiver of the use of enjoyment of any of the Common Elements, or by abandonment of the Unit or in any other way.

J. Recognizing that proper operation and management of the Condominium requires the continuing payment of costs and expenses therefor, and that such proper operation and management results in benefit to all of the Unit Owners, and that the payment of such Common Expenses represented by the assessments levied and collected by the Association is necessary in order to preserve and protect the investment of each Unit Owner, the Association is hereby granted a lien upon each Unit and its appurtenant Allocated Interest, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the Unit Owner(s) of each such Unit, which lien shall also secure interest, if any, which maybe due on the amount of any delinquent assessments owing to the Association, and which lien shall also secure all late charges, fines and all costs and expenses, including reasonable attorneys' fees, which maybe incurred by the Association in enforcing this lien upon said Unit and its appurtenant Allocated Interest in the Common Elements. The lien granted to the Association maybe foreclosed in the same manner that real estate deeds of trust and mortgages maybe foreclosed under power of sale under the laws of the State of North Carolina, and in any suit for the foreclosure of said lien, the Association shall be entitled to a reasonable rental from the Unit 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 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, and the Association shall further be entitled to interest at the rate of twelve percent (12%) per annum on any such advances made for such purpose. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any Unit, or who maybe given or acquire a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien rights granted to the Association, and shall acquire such interest in any Unit expressly subject to such lien rights.

K. The lien herein granted unto the Association shall be enforceable from and after the time of recording a claim of lien in the Office of the Clerk of Superior Court of Wake County, North Carolina, in the manner provided by Article 8 of Chapter 44 of the North Carolina General Statutes, which claim shall state the description of the Unit encumbered thereby, the name of the record owner(s), the amount due and the date when due. The claim of lien shall be recordable any time after default and the lien shall continue in effect until all sums secured by said lien as herein provided shall have been fully paid. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, fees, charges, late charges, fines, costs, attorneys' 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, it shall be satisfied of record.

The lien provided for herein shall be subordinate to: (i) any liens and encumbrances recorded before the docketing of the lien (including any mortgage or deed of trust); and (ii) liens for real estate taxes and other governmental assessments or charges against the Unit. Any person, firm or corporation acquiring title to any Unit and its appurtenant Allocated Interest in the Common Elements by virtue of any foreclosure of a first deed of trust, deed in lieu of foreclosure of a first deed of trust or judicial sale relating to a first deed of trust, shall be liable and obligated only for assessments as shall accrue and become due and payable for said Unit and its Allocated Interest in the Common Elements subsequent to the date of acquisition of such title, and it shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquired such title. In the event of the acquisition of title to a Unit by foreclosure, deed in lieu of foreclosure or judicial sale, any assessment or assessments as to which the party so acquiring title shall not be liable shall be absorbed and paid by all Unit Owners as apart of the Common Expense, including such purchaser, its heirs, successors and assigns, 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.

L. Whenever any Unit maybe leased, sold or mortgaged by the Unit Owner(s) thereof, the Association, upon written request of the Unit Owner(s), shall furnish to the proposed lessee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Association on account of such Unit. Such statement shall be executed by any officer of the Association, and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.

In the event that a Unit is to be leased, sold or mortgaged at the time when payment of any assessment against such Unit and its Unit Owner(s) due to the Association shall be in default (whether or not a claim of lien has been recorded by the Association), then the rent, proceeds of such purchase or mortgage proceeds shall be applied by the lessee or purchaser first to payment of any then delinquent assessment or installments thereof due to the Association before the payment of any rent, proceeds of purchase or mortgage proceeds to any Unit Owner who is responsible for payment of such delinquent assessment.

M. Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which shall prevent it from thereafter seeking, by foreclosure action, enforcement of the collection of any sums remaining owing to it, nor shall proceeding by foreclosure to attempt such collection be deemed to be an election precluding the institution of a suit at law to collect any sum then remaining owing to Association.

N. In any voluntary conveyance of a Unit, the purchaser thereof shall not be personally liable for any unpaid assessments owed by the seller prior to the time of such voluntary conveyance.

## XXV.

### COMMON SURPLUS

“Common Surplus,” meaning all funds and other assets of the Association (including excess of receipts of the Association, including but not limited to assessments, rents, profits and revenues from whatever source) over amount of the Common Expenses, shall be owned by the Unit Owners in the same proportion that the Allocated Interest in Common Elements appurtenant to each Unit Owner’s(s’) Unit bears to the total of all Allocated Interest in Common Elements appurtenant to all Units. The Common Surplus shall be held by the Association in the manner prescribed in, and subject to, the terms, provisions and conditions of this Declaration; provided, however, that the Association shall have the sole discretion as to whether any distribution of Common Surplus should be made to Unit Owners and, if so, when. Nothing in this Article shall require periodic distributions of Common Surplus. Except for distribution of any insurance indemnity herein provided, or upon termination of the Condominium, any attribution or distribution of Common Surplus which maybe made from time to time shall be made to the then current Unit Owners in accordance with their Allocated Interest in Common Surplus.

## XXVI.

### TERMINATION

The Condominium shall be terminated, if at all, in the following manner:

A. Except in the case of a taking of all of the Units by eminent domain, the termination of the Condominium maybe effected only by the agreement of Unit Owners entitled to cast at least seventy-five percent (75%) of the votes of the Association, expressed in a termination agreement to that effect executed in the same manner as a deed; and, provided, that the holders of all liens affecting any of the Units consent thereunto, or agree, in either case by instrument duly recorded, that their liens be transferred to the percentage of the Allocated Interest of the Unit Owner in the Condominium as provided in subparagraph “C” below and provided further that so long as a declarant retains the right to designate and select a majority of the persons who shall serve as members of each Executive Board of the Association, Declarant consents thereto in writing by instrument duly recorded. The termination agreement shall become

effective when it has been recorded in the public records of Wake County, North Carolina, and shall specify a date after which it will be void unless then recorded.

B. Following termination of the Condominium, the Association, on behalf of the Unit Owners, may contract for the sale of real estate in the Condominium, but such contract shall not be binding on the Unit Owners until approved by unanimous agreement of all Unit Owners and the termination agreement described in paragraph A above reflects such approval and is recorded as required. For purposes of any such sale following termination, title to that real estate, upon approval of sale, shall be deemed vested in the Association as trustee for those holding an interest in the Units and the Common Elements. Thereafter, the Association shall have all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the Association shall continue in existence with all powers vested in the Association before the termination. Proceeds of the sale must be distributed to the Unit Owners and lien holders, as their interests may appear, in proportion to the respective interests in the Common Elements of the Unit Owners and their mortgagees as set forth in Paragraph D of this Article. All remittances to Unit Owners and lienholders shall be payable jointly to them. Unless otherwise specified in the termination agreement, as long as the Association is deemed to hold title to the real estate, each Unit Owner and his successors in interest shall have an exclusive right to occupancy of the portion of the real estate that formerly constituted his Unit. During the period of that occupancy, each Unit Owner and his successors in interest shall remain liable for all assessments and other obligations imposed on Unit Owners by law and under this Declaration.

C. In the event the real estate constituting the Condominium is not to be sold following termination, title to the Common Elements and to all real estate in the Condominium shall vest in the Unit Owners as tenants in common in proportion to each Unit's Allocated Interest, and all liens on such Units shall shift accordingly. While such tenancy in common exists, each Unit Owner and his successors in interest shall have an exclusive right to occupancy of the property that formerly constituted his Unit. The property may be subject to an action for partition upon the application of any Unit Owner.

D. The respective ownership interests of Unit Owners described in this Article XXVI are as follows:

1. Except as provided in subparagraph 2 below, the respective interest of a Unit Owner is the fair market value of such Unit Owner's Unit, Limited Common Elements and such Unit's Allocated Interest in the Common Elements immediately before the termination, as determined by one or more independent appraisers selected by the Association. The appraisals shall be distributed to the Unit Owners and shall become final unless disapproved within thirty (30) days after distribution by Unit Owners of Units to which twenty-five percent (25%) or more of the votes in the Association are allocated. The proportion of any Unit Owner's interest to that of all Unit Owners is determined by dividing the fair market value of that Unit Owner's Unit's Allocated Interest in the Common Elements by the total fair market values of all the Units and Common Elements.

2. If any Unit or any Limited Common Element is destroyed to the extent that an appraisal of the fair market value thereof prior to destruction cannot be made, the interest of each Unit Owner shall be the Allocated Interest appurtenant to his Unit immediately before termination.

XXVII.

AMENDMENT OF DECLARATION OF CONDOMINIUM

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

A. An Amendment or Amendments to this Declaration of Condominium maybe proposed by the Executive Board of the Association acting upon a vote of a majority of the Directors, or by Unit Owners of Units to which at least seventy-five percent (75%) of the votes in the Association are allocated, whether meeting as members or by instrument in writing signed by them. Upon any Amendment or Amendments to this Declaration of Condominium being proposed by the Executive Board or members, such proposed Amendment or Amendments shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a Special Meeting of the Members of the Association for a date not sooner than ten (10) days nor later than fifty (50) days from receipt by him of the proposed Amendment or Amendments. It shall be the duty of the Secretary to give to each member written or printed notice of such Special Meeting, stating the time and place thereof, and reciting the proposed Amendment or Amendments in reasonably detailed form, which notice shall be mailed not less than ten (10) days nor more than fifty (50) days before the date set for such Special Meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States Mail addressed to the member at his Post Office address as it appears on the records of the Association, the postage thereon prepaid. 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 notice to such member. An affirmative vote of Unit Owners to which at least seventy-five percent (75%) of the votes in the Association are allocated shall be required to amend this Declaration. In addition, so long as a declarant retains the right to designate and select a majority of the persons who shall serve as members of each Executive Board of the Association, any amendment to this Declaration shall require the consent and joinder of such declarant(s). Upon adoption such Amendment or Amendments of this Declaration of Condominium shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted. The original or an executed copy of such Amendment or Amendments, so certified and executed with the same formalities as a deed, shall be recorded in the Public Records of Wake County, North Carolina. Such Amendment or Amendments shall specifically refer to the recording data identifying the Declaration of Condominium and shall become effective upon recordation. Thereafter, a copy of said Amendment or Amendments in the form in which the same were placed of record by the officers of the Association shall be delivered to all Unit Owners, but delivery of a copy thereof shall not be a condition precedent to the effectiveness of such Amendment or Amendments.

B. Declarant shall have the right to file amendments to this Declaration pursuant to Article IV hereof, without the consent or joinder of any Unit Owners or their mortgagees.

C. The Association shall have the right to file amendments to this Declaration pursuant to the provisions of N.C.G.S. § 47C-1-107, and 47C-2-106(d) and Articles XXI and XXII of this Declaration, without the consent of any Unit Owners or their mortgagees.

D. Certain Unit Owners, acting in conjunction with the Association, shall have the right to file amendments to this Declaration asset forth in N.C.G.S. §47C-2-108(b) without the consent of other Unit Owners or their mortgagees not parties to the amendment.

E. Except to the extent expressly permitted or required by the North Carolina Condominium Act or the terms of this Declaration, including, without limitation, amendments filed pursuant to Article V hereof, no amendment to this Declaration may create or increase Special Declarant Rights, increase the number of Units, or change the boundaries of any Unit, the Allocated Interest appurtenant to a Unit, or the use restrictions contained in Article X, without the unanimous consent of all of the Unit Owners.

F. No amendment or modification of this Declaration, the Articles of Incorporation or Bylaws of the Association which alters any provision governing the subordination of assessment liens, or imposes any further restrictions on a Unit Owner's right to sell or transfer his or her Unit; or modifies, amends or supplements the use restrictions contained in Paragraphs A of Article X; or alters any provision that expressly benefits Institutional Lenders, shall become effective without the prior written consent of Institutional Lenders (as hereinafter defined) holding first mortgage loans on the effected Units to which at least fifty percent (50%) of the votes of the effected Units have been assigned.

G. Notwithstanding the foregoing provisions of this Article XXVII, no amendment to this Declaration shall abridge, amend or alter the right of Declarant to designate and select members of each Executive Board of the Association, or otherwise alter, amend or modify the rights and privileges granted and reserved in the Bylaws or the Articles of Incorporation of the Association, or hereunder in favor of the Declarant, may be adopted or become effective without the prior written consent of Declarant.

## XXVIII.

### REMEDIES IN EVENT OF DEFAULT

The Unit Owner(s) of each Unit shall be governed by and shall comply with the provisions of this Declaration, and the Articles of Incorporation and By-Laws of the Association, as any of the same are now constituted or as they may be amended from time to time. A default by any Unit Owner shall entitle the Association or the Unit Owner of any other Units to the following relief:

A. Failure to comply with any of the terms of this Declaration of Condominium or other restrictions and regulations contained in the Articles of Incorporation or By-Laws of the

Association, or which maybe adopted pursuant thereto, shall be grounds for relief, including without limitation an action to recover sums due for damages, injunctive relief, foreclosure of lien, or any combination thereof. Such relief may be sought by the Association or, if appropriate, by an aggrieved Unit Owner.

B. As provided herein and in the Bylaws, each Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. 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. The By-Laws of the Association provide that the Association may fine a Unit Owner in an amount not to exceed One Hundred Fifty Dollars (\$150.00) for each violation of this Declaration, the By-Laws or the rules and regulations of the Association, or may assess liability against a Unit Owner in an amount not to exceed Five Hundred Dollars (\$500.00) for any occurrence of damage to Common Elements caused by Unit Owner which is not covered by the Association's insurance, As set forth in the By-Laws, a hearing for the accused Unit Owner must be held before an adjudicatory panel appointed by the Association, which panel shall accord to the party charged with the violation: (i) notice of the charge; (ii) opportunity to be heard and to present evidence; and (iii) a notice of the decision. Any such fine or liability assessment shall be both the personal obligation of the Unit Owner against whom the fine is assessed and a lien upon the Unit of such Unit Owner and its appurtenant Allocated Interest, to the same extent as the assessments described in Article XXIV hereof.

D. If damage is inflicted on any Unit by an agent of the Association acting within the scope of his activities as such agent, the Association shall be liable to repair such damage or to reimburse the Unit Owner for the cost of repairing such damages. The Association shall also be liable for any losses to the Unit Owner.

E. In any proceeding arising because of an alleged default by a Unit Owner, the Association, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be determined by the Court.

F. The failure of the Association or any Unit Owner to enforce any right, provision, covenant or condition which may be granted by this Declaration or the other above mentioned documents shall not constitute a waiver of the right of the Association or of the Unit Owner to enforce such right, provision, covenant or condition in the future.

G. All rights, remedies and privileges granted to the Association or the Unit Owners, pursuant to any terms, provisions, covenants or conditions of the Declaration 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 firm exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

H. The failure of an Institutional Lender or Institutional Lenders, as said term is herein defined, to enforce any right, provision, privilege, covenant or condition which may be granted to it or them by this Declaration or other above mentioned documents, shall not constitute a waiver of the right of said party or parties to thereafter enforce such right, privilege, covenant or condition in the future.

## XXIX.

### RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS

“Institutional Lender” or “Institutional Lenders,” as the terms are used herein, shall mean and refer to banks, savings and loan associations, insurance companies, other firms or entities customarily affording loans secured by real property and eligible insurers and governmental guarantors of such secured loans that have served or caused to be served written notice upon the Association by Registered or Certified Mail addressed to the Association of its desire that the provisions of this Declaration be applicable to it, which notice shall (1) identify the Unit or Units upon which such lender holds a mortgage or mortgages and any Unit it owns, (2) contain facts sufficient to identify such mortgage or mortgages and (3) designate the place to which notices are to be given to it by the Association. In addition to any other rights set forth in this Declaration, so long as any Institutional Lender or Institutional Lenders shall hold any first mortgage upon or shall be the owner of any Unit or Units such Institutional Lender or Institutional Lenders shall have the following rights:

1. To be notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association and to be furnished copies of all such policies.
2. To examine, at reasonable times and upon reasonable notice, the books and records of the Association and to be furnished at least one copy of the annual financial statement and report of the Association, prepared by an independent accountant designated by the Association, such financial statement and report to be furnished by May 15 of each calendar year.
3. To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any proposed Amendment to this Declaration, or the Articles of Incorporation and By Laws of the Association requiring the consent of a percentage of Institutional Lenders or the proposed termination or abandonment of the Condominium. Such notice shall state the nature of the Amendment or action being proposed.
4. To be given notice of any delinquency in the payment of any assessment or charge (which delinquency remains uncured for a period of sixty (60) days) by any Unit Owner

owning a Unit encumbered by a mortgage held by the Institutional Lender or Institutional Lenders, such notice to be given in writing and to be sent to the principal office of such Institutional Lender or Institutional Lenders, or to the place which it or they may designate in writing.

5. To be given notice of any condemnation loss or casualty loss which affects a material portion of the Common Elements or a material portion of the Unit on which it holds a mortgage or deed of trust.

XXX.

SEVERABILITY

In the event that any of the terms, provisions or covenants of this Declaration 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.

XXXI.

LIBERAL CONSTRUCTION

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating an uniform plan of Condominium ownership. Throughout this Declaration where ever appropriate the singular shall include the plural and the masculine gender shall include the feminine or neuter. The Article headings are for convenience of reference only and shall not be considered terms of this Declaration.

XXXII.

DECLARATION OF CONDOMINIUM BINDING  
ON ASSIGNS AND SUBSEQUENT UNIT OWNERS

The restrictions and burdens imposed by the covenants of this Declaration are intended to end shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Unit and its appurtenant undivided interest in Common Elements. This Declaration shall be binding upon Declarant, its successors and assigns, and upon all parties who may subsequently become Unit Owners, and their respective heirs, legal representatives, successors and assigns.

## XXXIII.

AGENT FOR SERVICE OF PROCESS

The following named individual is designated as the person to receive service of process for the Association: Mark E. Walser, whose address is 7019 Harps Mill Road, Suite 100, Wake County, Raleigh, North Carolina, 27615.

## XXXIV.

CONTRACT RIGHTS OF ASSOCIATION

The undertakings and contracts entered into by or on behalf of the Association (including contracts for the management of the Condominium) during the time Declarant has the right to appoint a majority of the members of the Executive Board of the Association shall be binding upon the Association in the same manner as though such undertakings and contracts had been entered into by or on behalf of the Association after the Executive Board duly elected by the membership of the Association takes office; provided, however that (1) any management contract, employment contract, or lease of recreational or parking areas or facilities, (2) any other contract or lease between the Association and a declarant or an affiliate of a declarant, or (3) any contract or lease that is not bona fide or was unconscionable to the Unit Owners at the time entered into under the circumstances then prevailing, may be terminated by the Association without penalty at any time after the Executive Board a majority of the members of which are elected by the Unit Owners takes office, effective upon written notice to the other party. Notice of the substance of the provisions of this Article shall be set out in each contract entered into by or on behalf of the Association during the time Declarant has the right to appoint a majority of the members of the Executive Board of the Association.

IN WITNESS WHEREOF, **Walser Family, LLC**, has caused this Declaration to be executed in its name under seal, this 5<sup>th</sup> day of September, 2013.

**Walser Family, LLC**,  
a North Carolina limited liability company  
[Signature]  
By: Mark E. Walser, Manager

STATE OF NORTH CAROLINA, COUNTY OF WAKE

I, J. Kenneth Edwards, a Notary Public for said County and State, certify that Mark E. Walser, Manager of Walser Family, LLC, a North Carolina Limited Liability Company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for and on behalf of the Limited Liability Company.

Witness my hand and official stamp or seal, this the 5<sup>th</sup> day of September, 2013.

[Signature]  
Notary Public J. Kenneth Edwards

My commission expires: 1-11-2016

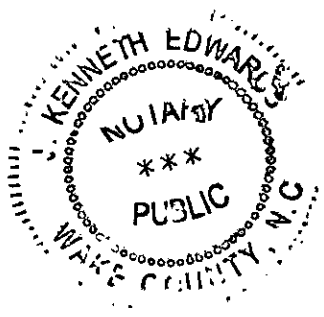


EXHIBIT A

Lying and being in the City of Raleigh, Wake County, North Carolina, and being more particularly described as follows:

BEING all of Lot C (1.380 acres) per plat of survey thereof entitled "Recombination Survey for Hock MOBs, LLC and Gary M. Hock" recorded in Book of Maps 1998, Page 167, Wake County Registry, to which map reference is hereby made for a more particular description of same.

EXHIBIT "B"

UNIT'S ALLOCATED INTERESTS  
IN  
COMMON AREAS AND FACILITIES

<u>SUITE NUMBER</u>	<u>ALLOCATED INTEREST</u>
Suite 100	49.45%
Suite 200	50.55%



BOOK:015432 PAGE:02539 - 02574

**Yellow probate sheet is a vital part of your recorded document.  
Please retain with original document and submit for rerecording.**



**Wake County Register of Deeds  
Laura M. Riddick  
Register of Deeds**

**This Customer Group**  
\_\_\_\_\_ # of Time Stamps Needed

**This Document**  
\_\_\_\_\_ New Time Stamp  
\_\_\_\_\_ # of Pages

36  
F