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NEW HANOVER COUNTY,

TAMMY THEUSCH BEASLEY

REGISTER OF DEEDS

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Prepared by and Return to: Yow, Fox & Mannen, LLP, 102 N. Fifth Avenue, Wilmington, NC 28401

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

**DECLARATION OF CONDOMINIUM
FOR MID-STATION, A CONDOMINIUM**

This Declaration of Condominium for MID-STATION, A CONDOMINIUM (this "Declaration") is made this 17 day of September 2020, by R.L. Blanton & Company, Inc., a North Carolina corporation ("Declarant"), pursuant to the provisions of Chapter 47C of the North Carolina General Statutes, entitled the "North Carolina Condominium Act" (the "Condominium Act").

BACKGROUND STATEMENT

Declarant is the owner Unit 2, North 421 Business Park, a Condominium, as shown in Condominium Map Book 19 at Page 127 as amended in Condominium Map Book 19 at Page 183 of the New Hanover County Registry. Unit 2 is subject to the Declaration of Condominium of North 421 Business Park, recorded in Book 6356 at Page 1552 of the New Hanover County Registry (the "N 421 Declaration"). The N 421 Declaration contemplates and expressly allows for the owner of a unit in North 421 Business Park to further subject the unit to second tier condominium instruments and thereby subdivide the unit into two or more second tier condominium units. Declarant has constructed on Unit 2 one building (the "Building") initially containing a total of 4 condominium units and certain common elements as shown on the Plat and Plan recorded in Condominium Map Book 19 at Page 184 of the New Hanover County Registry. All areas outside of the boundaries of a unit shall be common areas or limited common areas as shown on the plat and the units shall be restricted to commercial use. Declarant desires to submit Unit 2 and the improvements located on Unit 2 (collectively, the "Property") to the terms and

submitted electronically by "Yow, Fox & Mannen, LLP"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the New Hanover County Register of Deeds.

provisions of the North Carolina Condominium Act (the "Act"). This Declaration shall be subject to and subordinate to the N 421 Declaration and the Association shall be the member in the N 421 Business Park POA, Inc.

In addition, in accordance with the Act, Declarant has created a nonprofit, incorporated property owners' association to which are delegated and assigned powers of maintaining and administering the common areas and facilities on the Property, of administering and enforcing the covenants and restrictions created in this Declaration, and of levying, collecting and disbursing the assessments and charges created in this Declaration, and of taking any steps or performing any acts deemed necessary or appropriate to preserve the values of condominium units within the Property and to promote the recreation, health, safety and welfare of the Unit Owners. The Association shall have the right to attend the member meetings of N 421 Business Park POA, Inc. and shall have the right to vote the vote allocated to Unit 2, North 421 Business Park, a Condominium and shall collect from the owners of units in Mid-Station, a Condominium all assessments levied by N 421 Business Park POA, Inc.

STATEMENT OF DECLARATION

NOW, THEREFORE, Declarant hereby declares that all of the Property shall be held, transferred, sold, conveyed, encumbered, occupied, developed and used subject to the following covenants, conditions, easements, uses, limitations, obligations, and restrictions, all of which are declared and agreed to be in furtherance of a plan for the establishment of the Property as a condominium, pursuant to the Act, and which shall run with the land and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall all inure to the benefit of each owner of any interest therein. This Declaration is subject and subordinate to the N 421 Declaration and in the event of a conflict between the provisions of this Declaration and the N 421 Declaration, the N 421 Declaration shall control; provided, however, nothing contained in the N 421 Declaration shall be construed to prevent the enforcement of additional covenants, conditions and restrictions that do not contravene the provisions of the N 421 Declaration. The provisions of this Declaration shall be liberally construed in favor of the valid establishment of a condominium.

ARTICLE 1 **DEFINITIONS**

As used in the Condominium Documents, the following words and phrases shall have the following meanings:

(a) "Allocated Interests" means the undivided interest in the Common Elements and Common Expense liability, and votes in the Association, allocated to Units in the Condominium. The Allocated Interests are described in Article 7 of this Declaration and shown on Exhibit B.

(b) "Association" means Mid-Station POA, Inc., a non-profit corporation organized under Chapter 55A of the General Statutes of North Carolina. It is the Association of the Unit Owners pursuant to Section 47C-3-101 of the Condominium Act.

(c) "Bylaws" means the Bylaws of the Association, as they may be amended from time to time.

(d) "Common Elements" means all portions of the Condominium other than the Units including, but not limited to, streets, roads, detention/retention ponds and related drainage facilities as shown on the Plat and Plans.

(e) "Common Expenses" means the expenses or financial liabilities for the operation of the Condominium. These include:

- (i) expenses of administration, maintenance, repair or replacement of the Common Elements; and,
- (ii) expenses declared to be Common Expenses by the Condominium Documents or by the Condominium Act; and
- (iii) expenses agreed upon as Common Expenses by the Association; and,
- (iv) expenses and assessments of the master association N 421 Business Park POA, Inc.; and
- (v) such reasonable reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement or addition to the Common Elements or any other real or personal property acquired or held by the Association.

(f) "Condominium" means the real property described in Exhibit "A", subject to this Declaration of Condominium and specifically means Unit 2, North 421 Business Park, a Condominium, as shown in Condominium Map Book 19 at Page 127 as amended in Condominium Book 19 at Page 183 and Condominium Map Book 19 at Page 184 of the New Hanover County Registry.

(g) "Condominium Documents" means this Declaration, the Plats and Plans as the case may be recorded and filed pursuant to the provisions of the Condominium Act, the Bylaws, and the Rules and Regulations as they may be adopted and amended from time to time. Any exhibit, schedule, or certification accompanying a Condominium Document is a part of that Condominium Document.

(h) "Declarant" means R.L. Blanton & Company, Inc. its successors and assigns as defined in Section 47C-1-103(9) of the Condominium Act.

(i) "Development Rights" means the rights reserved by the Declarant under Article 6 of this Declaration to create Units, Common Elements, and Limited Common Elements within the Condominium.

- (j) "Declarant Control Period" means the period prior to the earlier of;
- (i) one hundred twenty (120) days after conveyance of seventy five percent (75%) of the Units which may be created hereunder, to Unit Owners other than a Declarant;
 - (ii) two (2) years after Declarant or its successors or assigns have ceased to offer Units for sale in the ordinary course of business;
 - (iii) five (5) years after any right to add new Units was last exercised; or
 - (iv) fifteen (15) years after the first Unit is conveyed to a Unit Owner other than a Declarant.

(k) "Director" means a member of the Executive Board.

(l) "Eligible Mortgagee"-means an institutional lender holding a first mortgage or first deed of trust ("First Mortgage") encumbering a Unit that has notified the Association in writing of its status, stating both its name and address and the Unit number or address of the Unit its First Mortgage. encumbers, and has requested all rights under the Condominium Documents. For purposes of Article 16 only, when any right is to be given to an Eligible Mortgagee, such right shall also be given to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Veterans Administration, the Federal Housing Administration, the Farmers Home Administration, the Government National Mortgage Association and any other public or private secondary mortgage market entity participating in purchasing or guarantying mortgages if the Association has notice of such participation

(m) "Executive Board" means the Board of Directors of the Association.

(n) "Improvements" means any construction, structure, fixture or facilities existing or to be constructed on the land included in the Condominium, including but not limited to, buildings, trees and shrubbery planted by the Declarant or the' Association, paving, utility lines, pipes, and light poles.

(o) "Limited Common Elements" means the portion of the Common Elements allocated for the exclusive use of more than one but fewer than all of the Units by the Declaration or by operation of Section 47C-2-102(2) and (4) of the Condominium Act. The Limited Common Elements in the Condominium are described in Article 3 of this Declaration.

(p) "Majority or Majority of Unit Owners" means the owners of more than fifty-one percent (51%) of the allocated interest in Common Elements stated as votes in the Association, as established by and set forth in Section 7.2(c) hereinbelow.

(q) "Manager" means a person, firm or corporation employed or engaged to perform management services for the Condominium and the Association.

(r) "Master Association" means N 421 Business Park POA, Inc.

(s) "Notice and Comment" means the right of a Unit Owner to receive notice of an action proposed to be taken by or on behalf of the Association, and the right to comment thereon. The procedures for Notice and Comment are set forth in Section 22.1 of this Declaration

(t) "Notice and Hearing" means the right of a Unit Owner to receive notice of an action proposed to be taken by the Association, and the right to be heard thereon. The procedures for Notice and Hearing are set forth in Section 22.2 of this Declaration

(u) "Person" means an individual, corporation, business, trust, estate, trust, partnership, association, joint venture, government, government subdivision or agency, or other legal or commercial entity.

(v) "Plats and Plans" means the Plats and Plans as the case may be recorded simultaneously with this Declaration in Condominium Book 19 at Page 184 through, and constituting a part hereof, as the same may be amended from time to time.

(w) "Property" means the land, all Improvements, easements, rights and appurtenances, which have been submitted to the provisions of the Condominium Act by this Declaration.

(x) "Public Offering Statement" means the current document which may be prepared pursuant to Section 47C-4-103 of the Condominium Act as it may be amended from time to time and provided to purchasers prior to the time of execution of a Purchase Agreement provided the Declarant elects to provide a Public Offering Statement in lieu of a waiver of the requirements of a Public Offering Statement as allowed by to Section 47C-4-101 of the Condominium Act.

(y) "Rules and Regulations" means Rules and Regulations for the use of Units and Common Elements and for the conduct of persons within the Condominium, adopted by the Executive Board pursuant to this Declaration, as amended from time to time.

(z) "Security Interest" means an interest in real estate or personal property, created by contract or conveyance which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in the Association, and any other consensual lien or title retention contract intended as security for an obligation.

(aa) "Special Declarant Rights" means the rights reserved for the benefit of a Declarant to:

- (i) complete Improvements indicated on the Plats and Plans filed with the Declaration;
- (ii) exercise any Development Rights;
- (iii) maintain sales offices, management offices, signs advertising the condominium and models;
- (iv) use easements through the Common Elements for the purpose of making improvements within the Condominium or within real estate that may be added to the Condominium;
- (v) appoint or remove any officer of the Association or any Executive Board member during the Declarant Control Period;
- (vi) to grant such easements across Common Areas as Declarant deems necessary or convenient; or
- (vii) amend the Bylaws of the Association during the period of Declarant Control.

(bb) "Trustee" means the entity which may be designated by the Executive Board as the Trustee for the receipt, administration, and disbursement of funds derived from insured losses, condemnation awards, special assessments for uninsured losses, and other like sources as defined in the Bylaws. If no Trustee has been designated, the Trustee will be the Board from time to time constituted, acting by majority vote, as executed by the President and attested by the Secretary.

(cc) "Unit" means a physical portion of the Condominium designated for separate ownership or occupancy, the boundaries of which are described in Section 2.2 of this Declaration.

(dd) "Unit Owner" means the Declarant or other Person who owns a Unit. Unit Owner does not include a Person having an interest in a Unit solely as security for an obligation. The Declarant is the initial owner of any Unit created by this Declaration.

ARTICLE 2

MAXIMUM NUMBER OF UNITS; BOUNDARIES

Section 2.1 Maximum Number of Units. The Condominium upon creation contains four (4) Units which shall be the maximum number of Units. Each of the Units may be further divided into additional units as long as the newly created units are entirely within the boundaries of the original Unit(s) by the filing of a separate declaration of condominium pursuant to Chapter 47C of the North Carolina General Statutes such that a Unit in Mid-Station, a Condominium may be divided into multiple units of a separately formed condominium. In such event, the Association shall be the Sub-Master Association to which the newly formed condominium shall be a part. The unit owners association of such newly created separate condominium shall have the same rights in the Association

as the owner of the original Unit created by this Declaration, and (i) the units into which such original Unit is divided shall not be units for the purposes of this Declaration; (ii) no increase in the Units of Mid-Station shall result; (iii) no action by the Unit Owners, the Association or the Declarant shall be necessary; (iv) a majority vote of the unit owners of the newly created condominium shall be required to vote the single vote of an original Unit in the Sub-Master Association; and, (v) no amendment to this Declaration shall be necessary to create such separate sub-condominium.

Section 2.2 Boundaries. Boundaries of each Unit created by this Declaration are shown on the Plats and Plans as numbered Units with their identifying number and are described as follows:

(a) **Upper Boundary:** The horizontal plane of the underside of the structural decking above each Unit.

(b) **Lower Boundary:** The horizontal plane of the top surface of the concrete slab within each Unit.

(c) **Vertical Boundaries:** The vertical planes which include the interior surface of the studs of all demising walls between the Unit and adjacent Units, extended to intersections with each other, and with the upper and lower boundaries. In addition, the face of the studs which create walls adjacent to common spaces such as common corridors and mechanical shafts serving the entire Building. In addition, the interior face of the studs which create the exterior walls of the Building.

(d) As provided in Section 47C-2-102(1) of the Act, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces of the perimeter walls, floors, and ceilings are part of the Unit. As provided in Section 47C-2-102(2) of the Act, if any chute, flue, duct, wire, pipe for water or sewer, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit shall be a Limited Common Element allocated to that Unit and any portion thereof serving more than one Unit, or any portion of the Common Elements, shall be a Common Element.

(e) Certain Units, as shown on the Plans, may include special pieces of equipment such as generators, air conditioning compressors, meter boxes, utility connection structures, and grease traps that serve a sole Unit but are detached or semidetached from the Unit or the Building. Unless such special pieces of equipment are specifically designated as a Limited Common Element, those shall be deemed part of the respective Unit notwithstanding their non-contiguity.

(f) **Utility Easements.** Declarant hereby declares that each Unit shall be held, sold and conveyed subject to a perpetual non-exclusive easement on, under and across all portions of the Unit on which are located Utility Facilities serving one or more of the other Units or the Common Elements for the purpose of maintaining, repairing and replacing the Utilities Facilities now or hereafter located in such areas.

(g) **Inconsistency with Plats and Plans.** If this definition is inconsistent with the Plats and Plans, then this definition will control. The provisions of this Declaration shall be liberally construed in favor of the valid establishment of a condominium.

ARTICLE 3

COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

Section 3.1 Common Elements. The Common Elements include all portions of the Condominium that are not part of the Units, including without limitation:

(a) All improvements located on the land outside of the boundaries of each Unit or Building as shown in Condominium Map Book 19 at Page 127 as amended in Condominium Map Book 19 at Page 183 and/or Condominium Map Book 19 at Page 184 of the New Hanover County Registry as the case may be, including paved entrance from US Highway 421, all paved surface parking areas, drainage areas, common trash receptacles, walkways, landscaped areas, signage, parking lot lighting.

(b) All portions of the Units located outside of the boundaries of each Unit or Building located upon a Unit as the case may be including without limitation the Limited Common Elements.

(c) All tangible personal property required for the operation and maintenance of the Condominium that may be owned by the Association.

(d) Any detention ponds and other related or necessary drainage facilities serving the Property.

(e) Any areas indicated as Common Elements on the Plats and/or Plans as the case may be.

(f) Any areas designated as Common Elements by Declarant pursuant to the exercise of Development Rights as provided in Article 6.

Section 3.2 Limited Common Elements. In determining whether materials or items are Limited Common Elements and how they should be allocated, the terms and provisions of N.C.G.S. 47C-2-102 shall apply and are incorporated herein. Notwithstanding the forgoing, Limited Common Areas are also identified on the Plats and/or Plans as the case may be and incorporated herein to be treated as Limited Common Elements. In addition, any part of a heating, ventilation and air conditioning system exclusively serving a Unit that is located outside the boundaries of the Unit is a Limited Common Element to be allocated exclusively to that Unit.

ARTICLE 4
MAINTENANCE, REPAIR AND REPLACEMENT

Section 4.1 Common Elements. The Association will maintain, repair and replace all of the Common Elements, except the portions of the Limited Common Elements which are required by this Declaration to be maintained, repaired or replaced by the Unit Owners or which are required by the N 421 Declaration and the Master Association as the case may be.

Section 4.2 Units. Each Unit Owner shall maintain, repair and replace, at his or her own expense, all portions of his or her Unit, except the portions thereof to be maintained, repaired or replaced by the Association. All window coverings on any Building constructed on a Unit will be uniform in appearance from the exterior of the Unit. The type of window coverings will be determined by the Board of Directors.

Section 4.3 Limited Common Elements. Any Common Expense associated with the maintenance, repair or replacements of heat exchanger, heat outlet, enclosures and mechanical attachments will be assessed against the Unit or Units to which the Limited Common Element is assigned or serves.

Common Expenses associated with the maintenance, repair or replacement of components and elements attached to or a part of stoops, entranceway, loading docks or bays, exterior doors, windows and other Limited Common Elements will be assessed against the Unit or Units to which the Limited Common Element is assigned. No additional component or element may be attached without consent of the Executive Board. In the event such additional component or element becomes deteriorated or unsightly or is inconsistent with conditions of installation it may be removed or repaired at the Unit Owner's expense as a Common Expense assessment under this Section, after Notice and Hearing.

If any such Limited Common Element is assigned to more than one Unit, the Common Expenses attributable to the Limited Common Element will be assessed equally among the Units to which it is assigned.

Common Expenses associated with the cleaning, maintenance, repair or replacement of all other Limited Common Elements will be assessed against all Units in accordance with their Allocated Interests in the Common Expenses.

Each Unit Owner shall be responsible for removing all snow, leaves and debris from all sidewalks in front of each such Unit, and all entrance ways, loading docks or bays, and other areas designated herein as Limited Common Elements appurtenant to his or her Unit. If any such Limited Common Element is appurtenant to two or more Units, the owners of those Units will be jointly responsible for such removal.

Section 4.4 Access. Any Person authorized by the Executive Board shall have the right of access to all portions of the Property for the purpose of correcting any condition threatening a Unit or the Common Elements, and for the purpose of performing

installations, alterations or repairs, and for the purpose of reading, repairing, replacing utility meters and related pipes, valves, wires and equipment, provided that such requests for entry are made in advance and that any such entry is at a time reasonably convenient to the affected Unit Owner. In case of an emergency, no such request or notice is required and such right of entry shall be immediate, whether or not the Unit Owner is present at the time.

Section 4.5 Repairs Resulting From Negligence. Each Unit Owner will reimburse the Association for any damages to any other Unit, to the Common Elements, or to Limited Common Elements caused intentionally, negligently or by his or her failure to properly maintain, repair or make replacements to his or her Unit or Limited Common Elements appurtenant thereto. The Association will be responsible for damage to Units caused intentionally, negligently or by its failure to maintain, repair or make replacements to the Common Elements. If such expense is caused by misconduct, it will be assessed following Notice and Hearing.

ARTICLE 5

SUBSEQUENTLY ALLOCATED LIMITED COMMON ELEMENTS

Those portions of the Common Elements now or hereafter improved as parking spaces may be subsequently allocated as Limited Common Elements in accordance with Subsection 6.1(c) and Article 10 of this Declaration, or may be assigned by Rules and Regulations of the Executive Board, or may be limited by Rules and Regulations to visitors only.

ARTICLE 6

DEVELOPMENT RIGHTS AND OTHER SPECIAL DECLARANT RIGHTS

Section 6.1 Reservation of Development Rights. The Declarant reserves the following Development Rights:

- (a) The right to construct and complete the Condominium.
- (b) The right by amendment to add and create Common Elements, and Limited Common Elements within the Condominium.
- (c) The right to construct underground utility lines, pipes, wires, ducts, conduits and other facilities across the land anywhere in the Condominium for the purpose of furnishing utility and other services to buildings and Improvements to be constructed on the land. The Declarant also reserves the right to grant easements to public utility companies and to convey Improvements within those easements anywhere in the Condominium for the above-mentioned purposes. If the Declarant grants any such easements, Exhibit A will be amended to include reference to the recorded easement.

(d) The right to use easements through the Common Elements for the purposes of making improvements within the Condominium or within real estate which may be added to the Condominium.

(e) The right to appoint or remove any officer of the Association or member of the Executive Board subject to the limitations in N.C.G.S. 47C-3-103.

(f) The right to exercise any and all other Development Rights as defined from time to time in the Condominium Act.

Section 6.2 Limitations on Development Rights. The Development Rights reserved in Section 6.1 are limited as follows:

(a) The Development Rights may be exercised at any time but not more than fifteen (15) years after the recording of this initial Declaration;

(b) The quality of construction of any buildings and Improvements to be created on the Property shall be consistent with the quality of those constructed pursuant to this Declaration as initially recorded.

(d) All Units and Common Elements created pursuant to the Development Rights will be restricted to heavy industrial (I-2) use, as permitted under the current Ordinances for the City of Wilmington as applicable in the same manner and to the same extent as the Units created under this Declaration as initially recorded.

Section 6.3 Phasing of Development Rights. No assurances are made by the Declarant regarding the portions of the areas shown as "Development Rights Reserved in this Area ", "Future Development", "May Not Be Developed", or words of similar effect on the Plats and Plans as to the portions where the Declarant will exercise its Development Rights or the order in which such portions, or all of the areas, will be developed or withdrawn. The exercise of Development Rights as to some portions will not obligate the Declarant to exercise them as to other portions, but no part of a portion may be withdrawn after a Unit in that portion has been sold or conveyed to a purchaser.

Section 6.4 Special Declarant Rights. The Declarant reserves the following Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Condominium:

(a) To complete Improvements indicated on the Plats and Plans filed with the Declaration;

(b) To exercise any Development Right reserved in the Declaration;

(c) To maintain sales offices, management offices, signs advertising the Condominium, and models;

(d) To use easements through the Common Elements for the purpose of making Improvements within the Condominium and construction on, or other uses of adjoining properties whether or not such other use is related to or associated with the Condominium development;

(e) To appoint or remove an officer of the Association or an Executive Board member during the Declarant Control Period subject to the provisions of Section 6.10 of this Declaration except as may be limited by N.C.G.S. 47C-3-106.

Section 6.5 Models, Sales Offices and Management Offices. As long as the Declarant is a Unit Owner, the Declarant and its duly authorized agents, representatives and employees may maintain any Unit owned by the Declarant or any portion of the Common Elements as a model unit or sales office or management office.

Section 6.6 Construction: Declarant's Easements. The Declarant reserves the right to perform repairs and construction work, and to store materials in secure areas, in the Units and Common Elements, and the further right to control all such work and repairs, and the right of access thereto, until its completion. All work may be performed by the Declarant without the consent or approval of the Executive Board or any Unit Owner. The Declarant has an easement through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations and for exercising Special Declarant Rights, whether arising under the Condominium Act or reserved in the Declaration. Such easement includes the right to convey utility and drainage easements to public utilities, municipalities, the State of North Carolina, adjoining property owners, riparian owners or upland owners to fulfill the plan of development.

Section 6.7 Assignment of Permits. All water, sewer land use, stormwater system and utility permits, agreements and easements between Declarant and any municipal or governmental agency or department or public or private utility company shall be assumed by the Association when assigned by Declarant. The Association shall thereafter be responsible for and assume all duties, obligations and privileges of the Declarant under such permits, agreements and easements, including all maintenance responsibilities.

Section 6.8 Signs and Marketing. The Declarant reserves the right to post signs and displays in the Common Elements to promote sales of Units, and to conduct general sales activities, in a manner as will not unreasonably disturb the rights of Unit Owners.

Section 6.9 Declarant's Personal Property. The Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction and maintenance of the Condominium that has not been represented as Property of the Association. The Declarant reserves the right to remove from the Property, any and all of the goods and Improvements used in development, marketing and construction, whether or not they have become fixtures.

Section 6.10 Declarant Control of the Association.

(a) Subject to Subsection 6.10(b), during the Declarant Control Period, a Declarant or persons designated by the Declarant may appoint and remove the officers and members of the Executive Board. A Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before the termination of the Declarant Control Period, but in the event the Declarant may require, for the duration of the Declarant Control Period, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

(b) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of all Units that may be created hereunder, to Unit Owners other than a Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by Unit Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of all Units that may be created hereunder, to Unit Owners other than a Declarant, not less than thirty-three percent (33%) of the members of the Executive Board must be elected by Unit Owners other than the Declarant.

(c) Not later than the termination of the Declarant Control Period, the Unit Owners shall elect an Executive Board of at least three (3) members, at least a majority of whom shall be Unit Owners. The Executive Board shall elect the officers. The Executive Board members and officers shall take office upon election.

(d) Notwithstanding any provision of this Declaration or the Bylaws to the contrary, following notice under Section 47C-3-108 of the Condominium Act, the Unit Owners, representing a sixty-seven percent (67%) voting interest of all persons present and entitled to vote at a meeting of the Unit Owners at which a quorum is present, may remove a member of the Executive Board with or without cause, other than a member appointed by the Declarant.

Section 6.11 Limitations on Special Declarant Rights. Unless sooner terminated by an amendment to the Declaration executed by the Declarant, any Special Declarant Right may be exercised by the Declarant until the earlier of the following:

- (i) so long as the Declarant holds a Development Right or Special Declarant Right;
- or
- (ii) so long as Declarant owns any Unit; or
- (iii) five (5) years after the Declarant has built the last unit.

Section 6.12 Interference with Special Declarant Rights. Neither the Association nor any Unit Owner may take any action or adopt any rule that will interfere with or diminish any Special Declarant Right without the prior written consent of the Declarant.

ARTICLE 7
ALLOCATED INTERESTS

Section 7.1 Allocation of Interests. The table showing Unit numbers and their Allocated Interests is attached as Exhibit "B", These interests have been allocated in accordance with the formulas set out in this Article 7. These formulas are to be used in reallocating interests if Units are added to the Condominium.

Section 7.2 Formulas for the Allocation of Interests. The interests allocated to each Unit have been calculated on the following formulas:

(a) **Undivided Interest in the Common Elements.** The percentage of the undivided interest in the Common Elements allocated to each Unit shall be determined by dividing the square foot area of each Unit as shown on the Plans by the aggregate unit area of all Units.

(b) **Liability for the Common Expenses.** Unless specifically otherwise provided for in this Declaration the percentage of the Common Expenses of the Condominium allocated to each Unit shall be the same amount as the allocated interest in the Common Elements; 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 may be assessed solely against the Unit Owners so benefitted, in such proportions as the Executive Board in its sole discretion shall determine.

(c) **Votes.** Each Unit in the Condominium shall have the same number of votes in the Association matters equal to the allocated interest in the Common Elements assigned to each Unit.

ARTICLE 8
RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY

Section 8.1 Use and Occupancy Restrictions. Subject to the Special Declarant Rights reserved under Article 6, the following use restrictions apply to all Units and to the Common Elements:

(a) Each Unit is restricted to office use, as allowed in heavy industrial (I-2) Zoning District under the current Zoning Ordinance for the City of Wilmington.

(b) The use of Units and Common Elements is subject to this Declaration, the Articles of Incorporation and Bylaws of the Association, and such Rules and Regulations as may from time to time be promulgated by the Association

(c) Owners of Units in all buildings shall have the right only to affix letter signage to the exterior door which is the Limited Common Element serving each respective Unit.

(d) Each Unit shall share a common trash receptacle. However, periodic garbage service shall be by contract between the Association and the service provider. The cost of such service shall be a Common Expense.

Section 8.2 Restrictions on Alienation. A Unit may not be leased or rented for a term of less than twelve (12) months. All leases and rental agreements shall be in writing and subject to the requirements of the Condominium Documents and the Association.

All leases of a Unit shall be deemed to include a provision that the tenant will recognize and attorn to the Association as landlord, solely for the purpose of having the power to enforce a violation of the provisions of the Condominium Documents against the tenant, provided the Association gives the landlord notice of its intent to so enforce, and a reasonable opportunity to cure the violation directly, prior to the commencement of an enforcement action.

ARTICLE 9 **EASEMENTS AND LICENSES**

Section 9.1 Reservation of Easements. The Declarant hereby reserves unto itself, its successors and assigns, such easements over all of the Common Elements as may be reasonably necessary to exercise Declarant Rights and discharge Declarant's obligations arising under the Declaration and the Act.

Section 9.2 Access by the Association. The Association, or any person authorized by it, shall have the right of access to each Unit and to the Limited Common Elements to the extent necessary for performance by the Association of its obligations of maintenance, repair, or replacement of the Property, provided that the Association shall first arrange a convenient time with the Unit Owner, and shall give the Unit Owner forty-eight (48) hours' notice except in the event of an emergency, as set forth in Section 9.5.

Section 9.3 Encroachment Easements. If any portion of the Common Elements now encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the Common Elements, or if such encroachment shall occur hereafter as a result of the settling or shifting of any Building constructed upon a Unit, there shall exist a valid easement for the encroachment and for the maintenance of same for so long as such Building shall stand. If any Building, any Unit, or any portion of the Common Elements is partially or totally destroyed by fire or other casualty or as a result of condemnation or eminent domain proceedings, and subsequently is rebuilt, any encroachment of parts of the Common Elements upon any Unit, or of parts of any Unit upon the Common Elements, due to such rebuilding shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as the Building shall stand. It being the intent of this Section that the existing physical boundaries of a Unit or the physical boundaries of a Unit reconstructed in substantial accordance with the description contained in the original declaration are to be its legal boundaries.

Section 9.4 Easements over Common Elements. Declarant, until the Property has been completely developed, and the Association, at any time, may grant