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RECORDED AND VERIFIED
REBECCA P. TUCKER
REGISTER OF DEEDS
NEW HANOVER CO. NC

Mar 20 3 51 PM '90

RETURNED TO

Floyd S. Elkins Jr.

DECLARATION
FOR
ORIOLE DRIVE STUDIO CONDOMINIUM
PURSUANT TO CHAPTER 47C OF
THE NORTH CAROLINA GENERAL STATUTES
THE NORTH CAROLINA CONDOMINIUM ACT
(New Hanover County Register of Deeds Office
Condominium Map Book 10, Pages 6, 7, 8, & 9)

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LAKEVIEW DEVELOPMENT CORP., a North Carolina corporation, with its principal office located at 605 Transylvania Avenue, Raleigh, North Carolina 27609, hereinafter the "Declarant," does hereby make, declare and establish this Declaration of Condominium as and for the Oriole Drive Studio Condominium, being the property and improvements hereinafter described.

W I T N E S S E T H:

WHEREAS, the Declarant is the owner of certain real property in the City of Wilmington, New Hanover County, North Carolina, more particularly described and defined in Exhibit "A" attached hereto and made a part hereof by reference (hereinafter called the "Property"); and

WHEREAS, the Declarant has constructed and plans to construct improvements upon the Property with the intention of dividing the improvements into Condominium Units as defined under the provisions of the North Carolina Condominium Act (Chapter 47C, North Carolina General Statutes), and to sell and convey said Units to purchasers subject to the covenants, conditions and restrictions herein reserved;

NOW, THEREFORE, Declarant hereby declares that all of the Property described in Exhibit "A" attached hereto shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, uses, limitations, and obligations in furtherance of a plan for the division of said Property into Condominium Units and which shall be deemed to run with the land and be binding on all parties having any right, title, or interest in the land or any part thereof, their heirs, successors and assigns.

1.

ESTABLISHMENT OF CONDOMINIUM OWNERSHIP

Declarant does hereby submit that Property described in Exhibit "A" attached hereto and the improvements and appurtenances thereto to the form of condominium ownership pursuant to the provisions of Chapter 47C of the General Statutes of North Carolina (North Carolina Condominium Act) as the same now exists or may be hereafter amended, and hereby declares that the Property shall be subject to the uses, restrictions, covenants, easements, limitations, obligations, and governing authority set forth in this Declaration of Condominium and as the same may be hereafter amended.

That the Property and improvements thereon shall be known as the Oriole Drive Studio Condominium (hereinafter referred to as "Condominium").

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2.

DESCRIPTION OF PROPERTY AND IMPROVEMENTS

2.01. Property. The legal description of the Property on which the buildings and improvements are located is set forth in Exhibit "A" to this Declaration, along with a list of encumbrances thereon (Exhibit "B").

2.02. Unit Designations. The unit designation of each Condominium Unit, location, floor plan and typical description are set forth on Exhibit "C" to this Declaration and on the plats and plans recorded simultaneously herewith.

2.03. Other Descriptions. Actual building locations, Limited Common Areas, Common Areas, utility lines, ground elevations, building elevations, and other land and construction information shall be found in the Condominium Unit Ownership File which number is referenced at the top of the first page of this Declaration recorded in the Office of the Register of Deeds of New Hanover County, North Carolina.

3.

DEFINITIONS

The following shall be definitions applicable to this Declaration:

3.01. "Allocated Interests" means the undivided interests in the Common Elements, the Common Expense Liability and the votes in the Association allocated to each Unit as shown on Exhibit "D" attached hereto.

3.02. "Association" or "Unit Owners' Association" means that non-profit corporation, the name of which shall be Oriole Drive Condominium Owners Association, Inc. and which shall manage the Common Elements of the Condominium as specified in this Declaration, its Articles of Incorporation and corporate Bylaws.

3.03. "Board of Directors" or "Board" means those persons elected or appointed and acting collectively as the directors of the Association, and on behalf of the Association, as prescribed in its Articles of Incorporation and Bylaws.

3.04. "Building" means a structure constructed or erected on the Property which contains one or more Condominium Units.

3.05. "Bylaws" means the Bylaws of the Association as they now or hereafter exist.

3.06. "Common Elements" shall mean and comprise all of the Condominium other than the Condominium Units as herein defined, and appurtenances thereto.

3.07. "Common Expenses" means expenditures made by, or financial liabilities of, the Association, together with any allocations to reserves, including, but not limited to:

(1) All sums lawfully assessed against the Unit Owners by the Association;

(2) Expenses of administration, maintenance, repair, or replacement of the Common Elements;

(3) Expenses agreed upon as Common Expenses by the Association;

(4) Expenses declared to be Common Expenses by the provisions of the North Carolina Condominium Act, by the Declaration or by the Bylaws;

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(5) Hazard, and such other insurance premiums as the Declaration and/or Bylaws may require the Association to purchase;

(6) Taxes and public assessments levied against the Common Elements not otherwise assessed against the Units;

(7) Any utilities which are Common Expenses as determined by the Association;

(8) The cost of installing and maintaining fire and/or burglar alarm systems if these are provided for the benefit of all Units.

3.08. "Common Expense Liability" means the liability for Common Expenses allocated to each Unit.

3.09. "Common Profits" means the balance of all assessment income and other income, rents, profits, and revenues from the Common Elements remaining after the deduction of the Common Expenses or reserves therefor.

3.10. "Common Surplus" means all funds and other assets of the Association, including excess receipts of the Association from assessments, rents, profits and revenues from whatever source in excess of the Common Expense.

3.11. "Condominium" shall mean all Condominium Units, the Common Elements and any Limited Common Elements, as said terms are herein defined, and all appurtenances, all comprising the Property described on Exhibit "A" attached hereto and the improvements thereon.

3.12 "Condominium Unit" or "Unit", as the term is used herein shall mean and comprise each of the separate numerically identified Units which are designated in Exhibit "C" attached hereto and which shall be the physical portion of the Condominium designated on that Exhibit for separate ownership or occupancy.

3.13. "Declarant" means the named Declarant on page one (1) hereof, and its successors and assigns to whom any of its rights hereunder are expressly transferred, in whole or in part, or who succeeds to any Special Declarant Right.

3.14 "Declarant Control Period" or "Period of Declarant Control" means the period commencing on the date hereof and continuing until the earlier of (i) two (2) years after all Declarants have ceased to offer units for sale in the ordinary course of business, (ii) two (2) years after any development right to add new units was last exercised, (iii) the date one hundred twenty (120) days after the Declarant has conveyed seventy-five percent (75%) of the Units (including Units which may be created pursuant to special declarant rights) to Unit Owners other than a Declarant, or (iv) five (5) years following conveyance of the first Unit.

3.15. "Declaration" means this instrument, as amended and duly recorded, by which the Property is submitted to the provisions of the North Carolina Condominium Act, and as it, from time to time, may be amended.

3.16. "Development Rights" means those rights, if any, reserved by Declarant herein to add real estate to the Condominium, to create Units, Common Elements or Limited Common Elements, or other rights as may be provided in the North Carolina Condominium Act, all as reserved in Section Five (5) herein.

3.17. "Lessee" means any person entitled to present possession of a leased Unit, whether lessee, sublessee or assignee.

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3.18. "Institutional Lender" shall be as defined in Section 31.

3.19. "Limited Common Elements" are certain portions of the Common Elements allocated or reserved by the Declaration for the use of a particular Condominium Unit or Units to the exclusion of other Units. Limited Common Elements and the Condominium Units to which they are reserved are described as follows:

(A) Any chute, flue, duct, wire, conduit, bearing wall, bearing column or other fixture which lies partially within and partially outside the boundary of a Unit and which serves only that Unit are Limited Common Elements and allotted to the Unit they serve. Any of the foregoing which lies partially within and without a Unit and serves more than one Unit is a Common Element.

(B) Any shutters, awnings, window boxes, doorsteps, stoops, decks, porches, balconies, patios, all exterior doors, windows and fixtures designed to serve a single Unit, but located outside the Unit's boundaries, as defined herein, are Limited Common Elements allotted to the Unit which they serve.

(C) All stoops serving more than one Unit are Limited Common Elements allotted to the Units which they serve.

The cost of maintenance and repair of a Limited Common Element shall be the responsibility of the Owner, or if more than one, Owners, of the Unit or Units to which it is allocated.

Any Limited Common Element may not be altered or reallocated without the unanimous consent of all Unit Owners whose Units are affected. Any Unit Owners who reallocate a Limited Common Element as among themselves shall first seek and obtain approval from the Board of Directors. Any reallocation of a Limited Common Element, upon approval by the Board, shall be evidenced by an amendment to this Declaration executed by the Unit Owners affected and evidencing executed approval by the Association which amendment shall be recorded before it shall become effective. The Unit Owners affected by the reallocation shall pay the cost and expense of preparation of the amendment and the recording thereof; however, the form and substance of the amendment shall be first approved by the Board of Directors for the Association.

Common Elements not designated or allocated as Limited Common Elements may not be so allocated to Unit Owners except upon written unanimous consent of all Unit Owners in the Condominium. Any such allocation shall be evidenced by a recorded amendment as set forth above.

3.20. "Majority" or "Majority of Unit Owners" means the owners of more than fifty percent (50%) of the aggregate allocated interests in the Common Elements as established by this Declaration, in person or by proxy at a duly called meeting of the members of the Association.

3.21. "Mortgage" means a mortgage or deed of trust.

3.22. "Mortgagee" means a mortgagee or the owner and holder of a promissory note and deed of trust which describes a Unit or Units as the secured property.

3.23. "North Carolina Condominium Act" or "Act" means the provisions of Chapter 47C of the North Carolina General Statutes as the same now exists or may hereafter be amended, or any new enactment in substitution or replacement thereof as the same by law may be applied to this Condominium.

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3.24. "Person" means any individual, corporation, partnership, association, business trust, estate, trust, joint venture, government or any subdivision or agency thereof, or other legal or commercial entity.

3.25. "Plans" means the plans of the Buildings and Property filed with this Declaration and located in the Condominium File in the Office of the Register of Deeds in the County in which this Declaration is filed showing thereon graphically all particulars of the buildings and the Units.

3.26. "Property" means the real estate described on Exhibit "A" (and the real estate described on Exhibit "A-1", when added by Declarant pursuant to rights reserved therein) together with the buildings, structures and improvements thereon, or hereafter constructed thereon and all easements, rights, privileges and appurtenances belonging thereto, or in any way pertaining thereto which is herein submitted to the provisions of the North Carolina Condominium Act.

3.27. "Special Declarant Rights" means those rights, including Development Rights, permitted by the North Carolina Condominium Act and specified in Section Six (6) herein.

3.28. "Unit Designation" means the identifying number, letter, symbol or combination thereof designating a Condominium Unit and set forth in this Declaration.

3.29. "Unit Owner" or "Owner" means Declarant or any other person, or any combination thereof, who owns a Condominium Unit, but excludes any person having an interest in a Unit solely for security purposes.

4.

OWNERSHIP OF CONDOMINIUM UNITS
AND
APPURTENANT ALLOCATED INTEREST IN COMMON ELEMENTS

4.01. Ownership Interest. Each Condominium Unit shall be held, conveyed and treated as an individual property capable of independent use and fee simple ownership, and the Owner of each Unit shall also own, as an appurtenance to the ownership of each Condominium Unit, an undivided allocated interest in the Common Elements. The undivided allocated interest appurtenant to each Condominium Unit shall be as set out in Exhibit "D" attached hereto and made a part hereof. The Allocated Interest in the Common Elements that is appurtenant to each Condominium Unit has been determined by a ratio formulated upon the approximate relation that the fair market value of each Unit at the date of the Declaration bears to the then aggregate fair market value of all of the Units having an interest in the Common Elements. In making such determination Declarant has given due consideration to the size of each Unit, the location of each Unit, the initial improvements within each Unit and the prospective marketability of each Unit. The fair market value of each Unit and the aggregate fair market value of all the Units has been determined by the Declarant, and this determination shall be binding upon all Unit Owners. The fact that one Unit may be sold at a date later than another Unit at a greater value shall not affect the Allocated Interests since it shall be conclusively presumed that the differential in price of similar Units on different sale dates shall be the result of local market appreciation.

4.02. Change in Allocated Interests. Except such reallocations as may be required by law, as may arise in the case of condemnation as set forth in Section 40 herein, or as may occur because of exercise of any Development Rights reserved by Declarant herein, if any, the Allocated Interests in the Common Elements allotted to each Unit shall not be changed except with the unanimous consent of all of the Owners of all of the Condominium Units and with the consent of all of the

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Institutional Lenders, as defined in Section 31 hereof, holding first mortgages or deeds of trust on the Condominium Units.

4.03. No Division of Common Elements. The Common Elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the Common Elements by an Owner made without the Condominium Unit to which that interest is allocated is void.

5.

DECLARANT DEVELOPMENT RIGHTS RESERVED

Declarant reserves unto itself, its successors and assigns, as Declarant, the right to add to the Condominium, and to the property described on Exhibit "A" all or any part of that real estate described on Exhibit "A-1" attached to this Declaration (hereinafter called "Additional Property"). In adding all or any part of the Additional Property, Declarant reserves the right to construct and create additional units on the Additional Property and to establish additional Common Elements and to designate additional Limited Common Elements on the Additional Property at locations determined by Declarant. In adding additional units, Common Elements and Limited Common Elements, Declarant reserves the right to grant easements, licenses and permits for utilities and other services to the Additional Property and, generally, to develop the Additional Property without encumbrance of this Declaration until such time as the Additional Property is subjected to the terms and conditions of this Declaration.

The method of adding the Additional Property, or any portion thereof, to the Condominium shall be pursuant to the provisions of G.S. 47C-2-109 and 110 of the North Carolina Condominium Act.

It is the intention of Declarant to develop the Additional Property in one additional phase (Phase 2). Phase 2 shall be completed and added to the Condominium within one (1) year from the date hereof.

The maximum number of additional Units that may be created within Phase 2 is thirty-eight (38) Units.

All additional Units created on the Additional Property will be restricted exclusively for the uses permitted in this Declaration, and all restrictions, terms, covenants and conditions in this Declaration and the Association Bylaws shall apply to any and all additional Units that may be created within the Additional Property.

Any buildings and Units that may be erected upon the Additional Property, or a portion thereof, will be compatible with the other buildings and Units in the Condominium in terms of architectural style, quality of construction, principal materials employed in construction, and size.

In addition to the buildings and Units that may be erected upon the Additional Property, or a portion thereof, the other improvements and Common Elements that may be made or created upon, or within, the Additional Property or each portion thereof which may be added to the Condominium, will be generally similar in quality and quantity to the improvements and Common Elements located in the Condominium. Phase 2 shall also contain such drainage system and retaining ponds as may be required by any governmental authority having control and jurisdiction over the Condominium.

Upon the exercise of such development rights creating new Units and additional Common Elements, Declarant shall prepare and file an Amendment to this Declaration complying with this Declaration and the Act. The Common Elements as then constituted

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shall be reallocated to the Units, both new and previously existing, based on the formula set forth in Section 4.01 hereof.

Such amendment shall:

- (a) assign an identifying number to each new Unit created;
- (b) reallocate the allocated interests among the Units;
- (c) describe all Common Elements and Limited Common Elements thereby created;
- (d) designate the Unit(s) to which each Limited Common Element is allocated.

6.

SPECIAL DECLARANT RIGHTS RESERVED

6.01. The Declarant reserves the following Special Declarant Rights with respect to the Condominium:

(A) All of those rights of Declarant, if any, reserved as Declarant Development Rights pursuant to Section 5 herein.

(B) The right to complete the Condominium in accordance with the Plans filed contemporaneously herewith as an Exhibit to this Declaration and as a part of the Unit Ownership File identified on page 1 hereof.

(C) The right to maintain sales or management offices at the Condominium along with appropriate signs for advertising the sale of Units and the location of such office. Such office shall be at a location selected by Declarant and may be a Unit occupancy or may be a separate standing office located on the Common Elements. The size of the office shall be as determined by the Declarant and may be relocated by Declarant, at its discretion. Declarant reserves the right to use a Unit for a sales office and a model for exhibition to prospective purchasers. If Declarant shall construct a sales office in the Common Elements, the same shall be removed by Declarant within thirty (30) days of the sale of the last Unit or the office shall then become part of the Common elements.

(D) The right of access, ingress and egress over the Common Elements in Phase 1 and Phase 2 for the purpose of discharging Declarant's obligations and reservation of rights hereunder.

(E) The right to elect or name persons to the Board of Directors and to name and appoint officers of the Association and to otherwise control the activities of the Board and Association until the rights of Declarant terminate, all as specified in the Bylaws or this Declaration.

7.

**RESTRICTION AGAINST FURTHER SUBDIVIDING OF
CONDOMINIUM UNITS; RELOCATION OF UNIT BOUNDARIES;
SEPARATE CONVEYANCE OF APPURTENANT COMMON ELEMENTS PROHIBITED**

7.01. No Division of Condominiums. No Condominium Unit may be divided or subdivided into a smaller Unit or Units, nor shall any Condominium Unit or portion thereof be added to or incorporated into any other Condominium Unit, except as expressly set forth below in Section 7.04. The Allocated Interest in the Common Elements declared to be an appurtenance to each

Condominium Unit shall not be conveyed, devised, encumbered or otherwise dealt with separately from said Condominium Unit, and the Allocated Interest in Common Elements appurtenant to each Condominium Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Condominium Unit even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering, or otherwise dealing with such Condominium Unit.

7.02. Instruments of Conveyance. Any conveyance, mortgage or other instrument which purports to grant any title, right, interest or lien in, to or upon a Condominium Unit shall be null, void and of no effect insofar as the same purports to affect any interest in a Condominium Unit and its appurtenant Allocated Interest in Common Elements, unless the same purports to convey, devise, encumber or otherwise trade or deal with the entire Condominium Unit. Any instrument conveying, devising, encumbering, or otherwise dealing with any Condominium Unit, without limitation or exception, shall be deemed or construed to affect the entire Condominium Unit and its appurtenant Allocated Interest in the Common Elements.

7.03. Joint Ownership Not Prohibited. Nothing herein contained shall be construed as limiting or preventing ownership of any Condominium Unit and its appurtenant Allocated Interest in the Common Elements by more than one person as tenants in common, joint tenants, or as tenants by the entirety.

7.04. Relocation of Unit Boundaries. The boundaries of Units may be relocated by the affected Unit Owners upon application to, and approval by, the Board of Directors. Any such application must be in such form and contain such data as the Board may require detailing the relocation of the boundaries of the affected Units and the reallocation of their respective Allocated Interests. Such application shall be accompanied by a plat prepared by a North Carolina licensed engineer or architect showing the relocation. The Board in its discretion may determine the relocation to be unreasonable and deny the same. If the Board shall approve the application, or if within thirty (30) days after filing the application with the Board, the Board has not denied the application, then the Board, at the expense of the Owners affected, shall have prepared an amendment to the Declaration reflecting such changes, and the same shall be filed of record in the county in which the Condominium is located, at which the time the relocation shall be effective.

8.

THE CONDOMINIUM SUBJECT TO RESTRICTIONS

The Condominium 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 of said Condominium Units, Common Elements and Limited Common Elements and setting forth the obligations and responsibilities incident to ownership of each Condominium Unit and its appurtenant Allocated Interest in the Common Elements, and said Condominium 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 Property constituting the Condominium.

9.

PERPETUAL NONEXCLUSIVE EASEMENT IN COMMON ELEMENTS

9.01. Common Elements. The Common Elements shall be, and the same are hereby declared to be, subject to a perpetual nonexclusive easement in favor of all of the Owners of Condominium Units in the Condominium for their use and the use of their employees, servants, guests, invitees and lessees, for all

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proper and normal purposes, including, but not limited to the right of access, ingress and egress to and from all public streets and public walkways and over walkways and parking areas within the Common Elements, and for the furnishing of services and facilities for which the same are reasonably intended for the enjoyment of said Owners of Condominium Units.

9.02. Rules and Regulations. Notwithstanding anything provided in this Section, the Association shall have the exclusive right to establish the rules and regulations pursuant to which the Owner of any Condominium Unit, his employees, servants, invitees, guests and lessees may be entitled to use the Common Elements, including the right to make permanent and temporary assignments of parking spaces (except such parking spaces as may be declared Limited Common Elements), and to establish regulations concerning the use thereof and to establish rules and regulations concerning the use of any recreation area.

9.03. Utilities. Each Unit Owner shall have an easement in common with the Owners of all other Units to use all chutes, flues, pipes, wires, ducts, cables, conduits, and public utilities serving his Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use the chutes, flues, pipes, ducts, cables, wires, conduits, public utility lines, and other Common Elements serving such other Units and located in such Unit. The Board of Directors, or its agents, shall have a right of access to each Unit from time to time during reasonable hours as may be necessary to inspect the same, to remove violations therefrom, and to maintain, repair, or replace the Common Elements contained therein or accessible therefrom, and to make emergency repairs therein necessary to prevent damage to the Common Elements or to maintain all components of a heating and air conditioning system serving his Unit in their present location and as shown upon the Plans attached hereto.

9.04. Structural. Every portion of a Unit, such as bearing column, and bearing wall, which contributes to the structural support of the Building shall be burdened with an easement of structural support for the benefit of all other Units and for the Common Elements.

10.

EASEMENT FOR UNINTENTIONAL AND
NON-NEGLIGENT ENCROACHMENTS

10.01. Present Encroachment. In the event that any Condominium Unit shall encroach upon any Common Element, or any other Condominium Unit or Units, for any reason not caused by the purposeful or negligent act of the Condominium Unit Owner, or agents of such Owner, then an easement appurtenant to such Condominium Unit shall exist for the continuance of such encroachment upon the Common Elements or upon a Condominium Unit for so long as such encroachment shall naturally exist; and, in the event that any portion of the Common Elements shall encroach upon any Condominium Unit, then an easement appurtenant to such Common Elements for the continuance of such encroachment upon a Unit shall exist for so long as such encroachment shall continue to exist.

10.02. Encroachments on Reconstruction. If any Condominium Unit or Common Elements shall be partially or totally destroyed as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and if upon reconstruction of such Unit or Common Elements, there exist encroachments of portions of the Common Elements upon any Condominium Unit, or of any Condominium Unit upon any other Condominium Unit or upon any portion of the Common Elements, then such encroachments shall be permitted and a valid easement for the maintenance thereof shall exist so long as such encroachments shall remain.

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11.

RESTRAINT UPON SEPARATION AND PARTITION
OF COMMON ELEMENTS

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

12.

CONVEYANCE OR ENCUMBRANCE OF COMMON ELEMENTS
BY ASSOCIATION

12.01. Conveyance or Encumbrance Permitted. Portions of the Common Elements may be conveyed or subjected to a security interest by the Association if persons entitled to cast at least eighty percent (80%) of the votes in the Association, including eighty percent (80%) of the votes allocated to Units not owned by a Declarant agree to that action; provided, that all the Owners of Units to which any Limited Common Element is allocated must agree in order to convey that Limited Common Element or subject it to a security interest. Distribution of the proceeds of the sale of a Limited Common Element shall be as provided by agreement between the Unit Owners to which it is allocated and the Association. Proceeds of the sale or financing of a Common Element (other than a Limited Common Element) shall be an asset of the Association.

12.02. Agreement Required. An agreement to convey Common Elements or subject them to a security interest must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of Unit Owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in the county in which the Condominium is situated, and is effective only upon recordation.

12.03. Contract Voidable. The Association, on behalf of the Unit Owners, may contract to convey Common Elements, or subject them to a security interest, but the contract is not enforceable against the Association until approved pursuant to Sections 12.01 and 12.02 above. Thereafter, the Association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.

12.04. Other Conveyances Void. Any purported conveyance, encumbrance, judicial sale or other voluntary transfer of Common Elements, unless made pursuant to this Section, is void.

12.05. No Limitation of Access or Support. A conveyance or encumbrance of Common Elements pursuant to this Section shall not deprive any Unit of its rights of access and support.

13.

ADMINISTRATION OF THE CONDOMINIUM

13.01. Association. To efficiently and effectively provide for the administration of the Condominium by the Owners of the Condominium Units, a non-profit North Carolina corporation (the "Association" as defined above), has been organized (or will be organized before sale of any Unit by Declarant), and said

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Association 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 Bylaws.

13.02. Members. The Owner or Owners of each Condominium Unit shall automatically become members of said Association upon his, their or its acquisition of an ownership interest in title to any Condominium Unit and its appurtenant Allocated Interest in the Common Elements, and the membership of such Owners or Owner shall terminate automatically upon such Owner or Owners being divested of such ownership interest in the title to such Condominium Unit, regardless of the means by which such ownership may be divested. No person holding any lien, mortgage or other encumbrance upon any Condominium Unit shall be entitled, by virtue of such lien, mortgage or other encumbrance, to membership in said Association or to any of the rights or privileges of such membership.

13.03. Authority. In the administration of the operation and management of the Condominium, the Association shall have, and is hereby granted, the authority and power to enforce the provisions of this Declaration of Condominium, to levy and to collect assessments in the manner hereinafter provided, and to adopt, amend, promulgate and enforce such rules and regulations governing the use of the Condominium Units and Common Elements as the Board of Directors of said Association may deem to be in the best interests of the Association.

13.04. Records Inspection. The Association shall make available at its office, or through its managing office, during normal business hours, and upon request, copies of the Declaration, Bylaws, and rules and regulations of the Association to Unit Owners, mortgage lenders or any Unit insurers, guarantors of such mortgage loans and holders of such mortgage loans, and shall make available during such time books, records and financial statements for inspection by those persons. The Association may make a reasonable charge for such copies. Upon written request, any holder of a first mortgage lien shall be provided a financial statement of the Association for the preceding fiscal year.

13.05. Enforcement. The Association and any Unit Owner shall have a right of action against any Unit Owner for failure to comply with any provision of the Declaration, Bylaws, Rules and Regulations or other related guideline for operation, maintenance and use of the Condominium; and any Unit Owner shall have a right of action against the Association for failure to comply with the Declaration, Bylaws, Rules and Regulations or other related guideline for operation, maintenance and use of the Condominium.

These rights of action for enforcement are not in derogation of existing law, but rather, to the extent needed, is in addition thereto. Such right against the Association does not, however, grant additional rights of action against the officers and directors of the Association beyond that which is permitted by law.

14.

OCCUPANCY AND USE RESTRICTIONS
APPLICABLE TO CONDOMINIUM UNITS

Each Condominium Unit is hereby restricted to use by the Owner thereof, his employees, servants, guests, invitees and lessees, to those uses set forth in the Zoning Code of the governmental authority to which the Property is subject. Unit Owners may lease the entire Unit or less than the entire Unit but all leases and subleases must be in writing. Any lease agreement shall be required to provide that the terms of the lease shall be subject to the provisions of this Declaration and the Association

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Bylaws and its rules and regulations, and that any failure of a lessee or sublessee to comply with the terms of such documents shall be a condition of default under the lease. All leases and subleases must be filed with the Association or such information from such leases or subleases as may be prescribed by the Board shall be filed with the Association.

15.

USE OF COMMON ELEMENTS SUBJECT TO RULES
OF ASSOCIATION

The use of the Common Elements, including the Limited Common Elements, by the Owner or Owners of all Condominium Units, and all other parties authorized to use the same, shall be at all times subject to such reasonable rules and regulations as may be prescribed and established governing such use, or which hereafter may be prescribed and established by the Association.

16.

THE CONDOMINIUM TO BE USED FOR LAWFUL PURPOSES:
RESTRICTION AGAINST NUISANCES

No immoral, improper, offensive, or unlawful use shall be made of any Condominium Unit or of the Common Elements, nor any part thereof, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the Condominium shall be observed. No Owner of any Condominium Unit shall permit or suffer anything to be done or kept in his Condominium Unit, or on the Common Elements, which will increase the rate of insurance thereon, or which will obstruct or interfere with the rights of other occupants of the Condominium or annoy them by unreasonable odors, vibrations, sounds or noises; nor shall any Owner undertake any use or practice which shall create and constitute a nuisance to any other Owner of a Condominium Unit, or which interferes with the peaceful possession and proper use of any other Condominium Unit or the Common Elements. The Association shall have the authority to enforce all rules and regulations concerning the ownership, use and occupancy of the Units and the Common Elements.

17.

RIGHT OF ENTRY INTO CONDOMINIUM UNITS

17.01. Emergencies. In case of any emergency originating in, or threatening, any Condominium Unit, regardless of whether the Owner is present at the time of such emergency, the Board of Directors of the Association, or any other person authorized by it, or the Managing Agent, shall have the right to enter such Condominium Unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate.

17.02. To Repair Common Elements. Whenever it may be necessary to enter any Condominium Unit for the purpose of performing any maintenance, alteration, replacement or repair to any portion of the Common Elements, the Owner of each Condominium Unit shall permit other Owners or their representatives, or the duly constituted and authorized Agent of the Association, to enter such Condominium Unit for such purpose, provided that the entry shall be made only at reasonable times and with reasonable advance notice, if the purpose shall not be considered an emergency.

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18.

RIGHT OF OWNERS TO ALTER AND MODIFY
CONDOMINIUM UNITS: NO RIGHT TO ALTER COMMON ELEMENTS

18.01. Interior Alterations. A Unit Owner may make any improvement or alteration to his Unit that does not impair the structural integrity or mechanical systems or lessen the support of any portion of the Condominium without permission of the Association or any other person.

18.02. Alterations by Owner of Adjoining Units. A Unit Owner may, after acquiring an adjoining Unit, remove or alter any intervening partition between the Units or create apertures through such partition, even if the partition is a Common Element, so long as such removal, alteration or aperture construction does not impair the structural integrity or mechanical systems or lessen the support of any portion of the Condominium. Removal or alteration of partitions or creation of apertures shall not be a change or alteration of boundaries of the Units affected. However, a Unit Owner must first obtain permission of the Association to make such alteration.

18.03. Structural Alterations. No Owner of a Condominium Unit shall cause, or permit to be made, any alteration or removal of any part of the Condominium Unit or Common Elements which would impair the structural integrity or mechanical systems of the Condominium without first having obtained permission of the Association.

18.04. Exterior Changes. No Owner shall cause any improvements or changes to be made on the exterior of the Condominium (including painting or other decoration, or the installation of electrical wiring, television or radio antennae or any other objects, machines or air conditioning units which may protrude through the walls or roof of the Condominium) or in any manner alter the appearance of the exterior portion of any Building without first having obtained permission of the Association.

18.05. Common Elements Changes. No Unit Owner shall cause any object to be fixed to the Common Elements or to any Limited Common Element (including the location or construction of fences and the planting or growing of flowers, trees, shrubs, or any other vegetation) or in any manner change the appearance of the Common Elements or Limited Common Elements without the permission of the Association being first had and obtained.

18.06. Permission of Board. The permission required of the Association in this Section shall be by written consent of the Association upon approval by a majority of the Board of Directors. The Board is authorized to appoint a Committee for the purpose of reviewing the alterations, removals and aperture construction and to make recommendations to the Board.

18.07. Standards. The Board of Directors (or any committee appointed for such purpose by the Board) in approving or disapproving any proposed change or alteration in the Condominium or any addition or change in the Common Elements shall consider such standards or criteria established by regulation, but if no regulation is issued, then shall consider whether any such change or alteration shall affect the structural or mechanical integrity of the Condominium, shall be harmonious with the appearance of the Condominium, and in congruity with the existing exterior appearance of the buildings and Common Elements, including style, color, materials, quality, texture, design, arrangement, non-obstruction of air, light, walk or drive areas and similarity with existing plantings or proposed planting plans.

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19.

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

19.01. General. The Association shall have the right to make or cause to be made such alterations or improvements to the Common Elements which do not prejudice the rights of the Owner of any Condominium Unit in the use and enjoyment of his Condominium Unit, provided the making of such alterations and improvements are approved by the Board of Directors of the Association, and the cost of such alterations or improvements shall be common expenses to be assessed and collected from all of the Owners of Condominium Units.

19.02. Special Assessments. However, where any alterations and improvements to the Common Elements are exclusively or substantially for the benefit of the Owner or Owners of a certain Condominium Unit or Units requesting the same, then the cost of such alterations or improvements shall be assessed against, and collected solely from the Owner or Owners of the Condominium Unit or Units exclusively or substantially benefitted, the assessment to be levied in such proportion as may be determined by the Board of Directors of the Association.

20.

MAINTENANCE AND REPAIR BY OWNERS OF CONDOMINIUM UNITS

20.01. General. Every Owner shall perform promptly all maintenance and repair work within his Condominium Unit, which, if omitted, would affect the Condominium, either in its entirety or in a part belonging to other Owners, every Owner being expressly responsible for the damages and liability which his failure to do so may engender. The Owner of each Condominium Unit shall be liable and responsible for the maintenance, repair and replacement, as the case may be, of all electrical, heating, air conditioning, plumbing and sewer systems within the Condominium Unit, including any fixtures and/or their connections required to provide heat, air conditioning, water, light, power, telephone, television, sewage and sanitary service to his Condominium Unit. Such Owner shall further be responsible and liable for the maintenance, repair and replacement of all walls, all ceilings, and floors within his Unit including painting, decorating, carpeting and furnishings, and all other accessories which such Owner may desire to place or maintain in his Condominium Unit.

20.02. Insured Loss. Whenever the maintenance, repair and replacement of any item for which the Owner of a Condominium Unit is obligated to maintain, replace or repair at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement, except that the Owner of such Condominium Unit 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 deductible provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, use, repair or replacement. If not promptly paid, the Association may assess the Owner therefor and the same shall become a lien against the Unit of the Owner as provided herein.

20.03. Limited Common Elements. The Unit Owner who has exclusive use of any Limited Common Element shall maintain such at his own expense; however, if more than one Unit Owner has use of a Limited Common Element, then all such Owners who have such use shall jointly maintain it at their expense. Where joint users cannot agree on the maintenance, then the Board of Directors may direct such maintenance to be done and assess the Owners therefor.

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20.04. Doors, Windows, etc. All exterior doors, window frames, door and window glass, storm windows and doors and screens, if any, are part of the respective Condominium Units and shall be maintained by the respective Unit Owners (except as to the decoration and painting of the exterior surfaces of such window frames and doors, which are the responsibility of the Association).

21.

MAINTENANCE AND REPAIR OF COMMON ELEMENTS
BY THE ASSOCIATION

21.01. General. The Association, at its expense, shall be responsible for the maintenance, repair and replacement of all of the Common Elements (except Limited Common Elements where done by the allotted Owners, and those items specifically detailed to Owners for maintenance herein), including, but not limited to, those portions thereof which contribute to the support of the Buildings, all conduits, ducts, plumbing, wiring, all water lines and sewer lines outside of public rights of way and governmental easements, and other facilities located in the Common Elements for the furnishing of utility and other services to the Condominium Units and said Common Elements, such exterior painting as may be needed as a result of normal wear and tear, and all walks, driveways and parking areas, and roofs. Should any incidental damage be caused to any Condominium 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.

21.02. Insured Loss Caused by Owner. Whenever the maintenance, repair and replacement of any item which the Association is obligated to maintain, replace or repair at its expense is occasioned by any act of a Condominium Unit Owner, his employees, servants, guests, invitees or lessees, and such loss or damage may be 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 the Unit Owner who is responsible for the act causing the damage (whether done by himself or by his employees, servants, guests, invitees or lessees) 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 deductible provision of such insurance or otherwise, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement. If not promptly paid, the Association may assess the Owner therefor and the same shall become a lien against the Unit of the Owner as provided herein.

21.03. Uninsured Loss Caused by Owner. Whenever the maintenance, repair and replacement of any item which the Association is obligated to maintain, replace or repair at its expense is occasioned by any act of a Condominium Unit Owner, his employees, servants, guests, invitees or lessees, and such loss or damage is not covered by any insurance maintained by the Association, then the Owner shall pay the cost thereof; and, if not promptly paid upon request, the Association may assess the Owner therefor and the same shall become a lien against his Unit as provided herein.

21.04. Storm Water System. It shall be the responsibility of the Association to provide the following inspection and maintenance of the storm water system: